

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 747 Session of
2009INTRODUCED BY RAFFERTY, GREENLEAF, ALLOWAY, WASHINGTON, O'PAKE,
M. WHITE AND FERLO, APRIL 3, 2009

AS AMENDED ON SECOND CONSIDERATION, MARCH 8, 2010

AN ACT

1 Authorizing the Department of Transportation to sell land under
2 certain conditions; and repealing certain provisions of The
3 Administrative Code of 1929.

4 The General Assembly of the Commonwealth of Pennsylvania
5 hereby enacts as follows:

6 Section 1. Short title.

7 This act shall be known and may be cited as the Sale of
8 Transportation Lands Act.

9 Section 2. Definitions.

10 The following words and phrases when used in this act shall
11 have the meanings given to them in this section unless the
12 context clearly indicates otherwise:

13 "Department." The Department of Transportation of the
14 Commonwealth.

15 "Fund." The Motor License Fund.

16 "Preservation of open space." ~~includes~~ THE TERM INCLUDES the
17 following:

18 (1) Protection and conservation of water resources and

1 watersheds.

2 (2) Protection and conservation of forests and land
3 being used to produce timber crops.

4 (3) Protection and conservation of farmland.

5 (4) Protection of existing or planned park, trail,
6 greenway, recreation or conservation sites.

7 (5) Protection and conservation of natural or scenic
8 resources, including beaches, streams, flood plains, steep
9 slopes and marshes.

10 (6) Protection of scenic areas for public visual
11 enjoyment from public rights-of-way.

12 (7) Preservation of sites of historic, geologic or
13 botanic interest.

14 (8) Promotion of sound, cohesive and efficient land
15 development by preserving open spaces between communities.

16 "Public agency." ~~includes~~ THE TERM INCLUDES an authority
17 and, a political subdivision AND THE FEDERAL GOVERNMENT.

18 "Secretary." The Secretary of Transportation of the
19 Commonwealth.

20 Section 3. Sale of land.

21 (a) Authorization.--Notwithstanding the act of April 9, 1929
22 (P.L.177, No.175), known as The Administrative Code of 1929, the
23 department, in accordance with appropriations and grants of
24 funds from Federal, State, regional, local or private agencies
25 and subject to subsection (b), in the exercise of its powers and
26 duties, may sell at public sale land acquired by the department
27 if the secretary determines that the land is not needed for
28 present or future transportation purposes.

29 (b) Conditions.--The following apply to a sale under
30 subsection (a):

~~(1) If the land is improved, all of the following
subparagraphs apply:~~

~~(i) (1) The land must first be offered at its fair
market value as determined by the department to other public
agencies which demonstrate a public purpose for the land,
including the preservation of open space.~~

~~(ii) If the land is not transferred to a public
agency, all of the following clauses apply:~~

~~(A) If the land is occupied by a tenant, the
land must be offered to the tenant:~~

~~(I) except as set forth in subclause (II),
at its fair market value as determined by the
department; or~~

~~(II) if the tenant is the person from whom
the department acquired the land, at the
acquisition price, less costs, expenses and
reasonable attorney fees incurred by the person
as a result of the acquisition of the land by the
department.~~

~~(B) If the land is not occupied by a tenant and
the person from whom the department acquired the land
did not receive a replacement housing payment under
26 Pa.C.S. § 903 (relating to replacement housing for
homeowners) or under former section 304.3 of the act
of June 1, 1945 (P.L.1242, No.428), known as the
State Highway Law, the land must first be offered to
that person at the acquisition price, less costs,
expenses and reasonable attorney fees incurred by the
person as a result of the acquisition of the land by
the department.~~

1 ~~(2) If the land is unimproved, all of the following~~
2 ~~subparagraphs apply:~~

3 ~~(i) The land must be offered at its fair market~~
4 ~~value as determined by the department to other public~~
5 ~~agencies which demonstrate a public purpose for the land,~~
6 ~~including the preservation of open space.~~

7 ~~(ii) If the land is not transferred to a public~~
8 ~~agency, the following apply:~~

9 ~~(A) Except as set forth in clause (B), the land~~
10 ~~must be offered to the person from whom it was~~
11 ~~acquired at its acquisition price, less costs,~~
12 ~~expenses and reasonable attorney fees incurred by the~~
13 ~~person as a result of the acquisition of the land by~~
14 ~~the department.~~

15 ~~(B) If the land abutting the land to be sold has~~
16 ~~been conveyed to another person, the land to be sold~~
17 ~~must be offered to that person at its fair market~~
18 ~~value as determined by the department.~~

19 ~~(3) For an offer under paragraph (1) or (2), all of the~~
20 ~~following apply:~~

21 ~~(i) except as set forth in subparagraph (ii), notice~~
22 ~~must be sent by certified mail;~~

23 ~~(ii) if notice cannot be effected under subparagraph~~
24 ~~(i), notice must be effected in the manner required for~~
25 ~~an in rem proceeding; or~~

26 ~~(iii) the offeree must have 120 days after receipt~~
27 ~~of notice to accept the offer in writing.~~

28 (2) THE DEPARTMENT SHALL SUBMIT FOR PUBLICATION IN THE
29 PENNSYLVANIA BULLETIN NOTICE THAT THE LAND IS CONTEMPLATED
30 FOR SALE, INVITING INTERESTED PUBLIC AGENCIES TO EXPRESS



1 THEIR INTEREST IN PURCHASING THE LAND WITHIN 30 CALENDAR DAYS
2 FROM THE DATE OF PUBLICATION OF THE NOTICE.

3 (c) Proceeds.--Proceeds from a sale of land acquired with
4 money from the fund shall be deposited into the fund.

5 Section 9. Repeals.

6 Repeals are as follows:

7 (1) The General Assembly declares that the repeal under
8 paragraph (2) is necessary to effectuate section 3.

9 (2) Section 2003(e)(7) of the act of April 9, 1929

10 (P.L.177, No.175), known as The Administrative Code of 1929,
11 is repealed.

12 Section 10. Effective date.

13 This act shall take effect in 60 days.