

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2224 Session of
2012

INTRODUCED BY CUTLER, DePASQUALE, DENLINGER, BOYD, CLYMER,
GEIST, HICKERNELL, HORNAMAN, MILLER, MOUL, PYLE, SWANGER,
TOOHIL, TRUITT, VULAKOVICH, BRIGGS, CREIGHTON AND MILNE,
FEBRUARY 29, 2012

AS AMENDED ON THIRD CONSIDERATION, IN SENATE, OCTOBER 1, 2012

AN ACT

1 Amending the act of December 15, 1959 (P.L.1772, No.670),
2 entitled "An act providing for the orderly disposition of
3 properties situate within political subdivisions and donated,
4 or otherwise dedicated or offered for dedication, where no
5 formal record appears as to acceptance by the political
6 subdivision, as public parks, squares or similar uses and
7 public buildings, and no longer necessary or practicable for
8 such purposes, and granting orphans' courts jurisdiction with
9 respect thereto," further providing for DEFINITIONS, FOR USE ←
10 OF TRUST PROPERTY AND FOR purchase or condemnation of
11 property.

12 The General Assembly of the Commonwealth of Pennsylvania
13 hereby enacts as follows:

14 ~~Section 1. Section 6 of the act of December 15, 1959 ←~~
15 ~~(P.L.1772, No.670), entitled "An act providing for the orderly~~
16 ~~disposition of properties situate within political subdivisions~~
17 ~~and donated, or otherwise dedicated or offered for dedication,~~
18 ~~where no formal record appears as to acceptance by the political~~
19 ~~subdivision, as public parks, squares or similar uses and public~~
20 ~~buildings, and no longer necessary or practicable for such~~
21 ~~purposes, and granting orphans' courts jurisdiction with respect~~

1 ~~thereto," is amended to read:~~

2 SECTION 1. SECTION 1 OF THE ACT OF DECEMBER 15, 1959
3 (P.L.1772, NO.670), ENTITLED "AN ACT PROVIDING FOR THE ORDERLY
4 DISPOSITION OF PROPERTIES SITUATE WITHIN POLITICAL SUBDIVISIONS
5 AND DONATED, OR OTHERWISE DEDICATED OR OFFERED FOR DEDICATION,
6 WHERE NO FORMAL RECORD APPEARS AS TO ACCEPTANCE BY THE POLITICAL
7 SUBDIVISION, AS PUBLIC PARKS, SQUARES OR SIMILAR USES AND PUBLIC
8 BUILDINGS, AND NO LONGER NECESSARY OR PRACTICABLE FOR SUCH
9 PURPOSES, AND GRANTING ORPHANS' COURTS JURISDICTION WITH RESPECT
10 THERETO," IS AMENDED BY ADDING PARAGRAPHS TO READ:

11 SECTION 1. AS USED IN THIS ACT--

12 * * *

13 (4) "LAND TRUST" SHALL MEAN A NONPROFIT CONSERVATION OR
14 PRESERVATION ORGANIZATION, CONSERVANCY OR LAND TRUST WHOSE
15 PRIMARY PURPOSE IS THE CONSERVATION AND PRESERVATION OF OPEN
16 SPACE, PARK LANDS OR NATURAL AREAS FOR PUBLIC BENEFIT. ANY
17 QUALIFIED ORGANIZATION SHALL BE TAX EXEMPT UNDER SECTION 501(C)
18 (3) OF THE INTERNAL REVENUE CODE OF 1986 (PUBLIC LAW 99-514, 26
19 U.S.C. § 501(C)(3)), REGISTERED WITH THE PENNSYLVANIA DEPARTMENT
20 OF STATE AND HAVE AN EXISTENCE FOR AT LEAST FIVE CONSECUTIVE
21 YEARS.

22 (5) "PUBLIC HEARING" SHALL MEAN A FORMAL MEETING HELD
23 PURSUANT TO PUBLIC NOTICE BY THE GOVERNING BODY OR PLANNING
24 AGENCY, INTENDED TO INFORM AND OBTAIN PUBLIC COMMENT, PRIOR TO
25 TAKING ACTION IN ACCORDANCE WITH THIS ACT.

26 SECTION 2. SECTIONS 4 AND 6 OF THE ACT ARE AMENDED TO READ:

27 SECTION 4. WHEN, IN THE OPINION OF THE POLITICAL SUBDIVISION
28 WHICH IS THE TRUSTEE, THE CONTINUATION OF THE ORIGINAL USE OF
29 THE PARTICULAR PROPERTY HELD IN TRUST AS A PUBLIC FACILITY IS NO
30 LONGER PRACTICABLE OR POSSIBLE AND HAS CEASED TO SERVE THE

1 PUBLIC INTEREST, OR WHERE THE POLITICAL SUBDIVISION, AS TRUSTEE
2 FOR THE BENEFIT OF THE PUBLIC, IS IN DOUBT AS TO THE
3 EFFECTIVENESS OR THE VALIDITY OF AN APPARENT DEDICATION BECAUSE
4 OF THE LACK OF A RECORD OF THE ACCEPTANCE OF THE DEDICATED LAND
5 OR BUILDINGS, OR WHERE THE PARTICULAR PROPERTY HELD IN TRUST AS
6 A PUBLIC FACILITY WAS CONVEYED TO THE TRUSTEE BY A LAND TRUST,
7 THE TRUSTEE MAY APPLY TO THE ORPHANS' COURT OF THE COUNTY IN
8 WHICH IT IS LOCATED FOR APPROPRIATE RELIEF. THE COURT MAY PERMIT
9 THE TRUSTEE TO--

10 (1) SUBSTITUTE OTHER LANDS OR PROPERTY OF AT LEAST EQUAL
11 SIZE AND VALUE HELD OR TO BE ACQUIRED BY THE POLITICAL
12 SUBDIVISION IN EXCHANGE FOR THE TRUST PROPERTY IN ORDER TO CARRY
13 OUT THE TRUST PURPOSES.

14 (2) IF OTHER PROPERTY IS NOT AVAILABLE, SELL THE PROPERTY
15 AND APPLY THE PROCEEDS TO CARRY OUT THE TRUST PURPOSES.

16 (3) IN THE EVENT THE ORIGINAL TRUST PURPOSE IS NO LONGER
17 PRACTICABLE OR POSSIBLE OR IN THE PUBLIC INTEREST, APPLY THE
18 PROPERTY OR THE PROCEEDS THEREFROM IN THE CASE OF A SALE TO A
19 DIFFERENT PUBLIC PURPOSE.

20 (4) RELINQUISH, WAIVE OR OTHERWISE QUITCLAIM ALL RIGHT AND
21 TITLE OF THE PUBLIC IN AND TO SUCH LAND AND BUILDINGS AS HAVE
22 BEEN APPARENTLY DEDICATED BUT FOR WHICH NO FORMAL ACCEPTANCE
23 APPEARS OF RECORD: PROVIDED, ONLY, THAT THE COURT IS SATISFIED
24 UPON HEARING THE EVIDENCE THAT THERE IS NO ACCEPTANCE BY
25 IMPLICATION ARISING OUT OF PUBLIC USER OR OTHERWISE, THE COURT
26 SHALL ALSO DETERMINE THE CONSIDERATION, IF ANY, TO BE PAID TO
27 THE POLITICAL SUBDIVISION.

28 Section 6. (a) Nothing in this act shall be construed to
29 limit or affect the control by a political subdivision of public
30 lands or buildings acquired by such political subdivision by

1 purchase [or condemnation.] ~~if any of the following apply:~~ ←

2 ~~(1) The instrument of conveyance transferring title to the~~
3 ~~political subdivision is unencumbered by a restriction or~~
4 ~~covenant recorded with the county office where deeds are~~
5 ~~recorded prescribing the lands, buildings or public facilities~~
6 ~~for public use.~~

7 ~~(2) A restriction or covenant prescribing the lands,~~
8 ~~buildings or public facilities for public use which is recorded~~
9 ~~with the county office where deeds are recorded at, or~~
10 ~~subsequent to, the time of purchase by the political subdivision~~
11 ~~is duly released or removed as permitted by statute. IF THE~~ ←
12 ~~INSTRUMENT OF CONVEYANCE TRANSFERRING TITLE TO THE POLITICAL~~
13 ~~SUBDIVISION IS UNENCUMBERED BY A RESTRICTION OR COVENANT~~
14 ~~RECORDED WITH THE COUNTY OFFICE WHERE DEEDS ARE RECORDED~~
15 ~~PRESCRIBING THE LANDS, BUILDINGS OR PUBLIC FACILITIES FOR PUBLIC~~
16 ~~USE UNLESS THE RESTRICTION OR COVENANT PRESCRIBING THE LANDS,~~
17 ~~BUILDINGS OR PUBLIC FACILITIES FOR PUBLIC USE WHICH IS RECORDED~~
18 ~~WITH THE COUNTY OFFICE WHERE DEEDS ARE RECORDED AT THE TIME OF~~
19 ~~PURCHASE, OR SUBSEQUENT TO, BY THE POLITICAL SUBDIVISION IS DULY~~
20 ~~RELEASED OR REMOVED AS PERMITTED BY STATUTE. THIS SECTION SHALL~~
21 ~~NOT APPLY TO PUBLIC LANDS OR BUILDINGS CONVEYED TO THE POLITICAL~~
22 ~~SUBDIVISION BY A LAND TRUST.~~

23 ~~(A.1) IN THE EVENT A POLITICAL SUBDIVISION SEEKS TO CONVEY~~
24 ~~PUBLIC LANDS OR BUILDINGS PURCHASED BY THE POLITICAL SUBDIVISION~~
25 ~~AND NOT SUBJECT TO AN ENCUMBRANCE AS PROVIDED IN SUBSECTION (A),~~
26 ~~THE POLITICAL SUBDIVISION SHALL PUBLISH NOTICE OF A PUBLIC~~
27 ~~HEARING ON THE RECONVEYANCE OF THE PUBLIC LANDS OR BUILDINGS IN~~
28 ~~A NEWSPAPER OF GENERAL CIRCULATION IN THE POLITICAL SUBDIVISION~~
29 ~~IN WHICH THE PUBLIC LANDS OR BUILDINGS ARE SITUATE NOT LESS THAN~~
30 ~~THIRTY DAYS PRIOR TO THE DATE OF THE PUBLIC HEARING. NO PUBLIC~~

1 LANDS OR BUILDINGS SHALL BE RECONVEYED BY A POLITICAL
2 SUBDIVISION PRIOR TO THE SATISFACTION OF THE NOTICE AND HEARING
3 REQUIREMENTS IMPOSED BY THIS SUBSECTION.

4 (b) This act shall not apply to lands, buildings or public
5 facilities acquired by a political subdivision through
6 condemnation.

7 (c) Notwithstanding section 2, lands, buildings or public
8 facilities acquired by a political subdivision through purchase
9 or condemnation which are exempt under this section, if
10 dedicated to public use or not, shall not be deemed to be held
11 by the political subdivision in trust for the benefit of the
12 public and may be conveyed, sold, alienated or disposed of IN ←
13 ACCORDANCE WITH SUBSECTION (A.1) AND as permitted by statute or,
14 in the case of condemnation, 26 Pa.C.S. (relating to eminent
15 domain).

16 (d) As used in this section, purchase shall include any
17 transaction in which monetary consideration in any amount was
18 paid by the political subdivision.

19 Section 2 3. This act shall take effect immediately. ←