

## 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 3, 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~~ SECTION 6. [NOTHING] (A) (1)  
29 EXCEPT AS SET FORTH IN PARAGRAPH (2), NOTHING in this act shall  
30 be construed to limit or affect the control by a political



1 subdivision of public lands or buildings acquired by such  
2 political subdivision by purchase [or condemnation.] ~~if any of~~  
3 ~~the following apply:~~

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

9 ~~(2) A restriction or covenant prescribing the lands,~~  
10 ~~buildings or public facilities for public use which is recorded~~  
11 ~~with the county office where deeds are recorded at, or~~  
12 ~~subsequent to, the time of purchase by the political subdivision~~  
13 ~~is duly released or removed as permitted by statute. IF THE~~  
14 ~~INSTRUMENT OF CONVEYANCE TRANSFERRING TITLE TO THE POLITICAL IF~~  
15 ~~ANY OF THE FOLLOWING APPLY:~~

16 ~~(I) THE INSTRUMENT OF CONVEYANCE TRANSFERRING TITLE TO THE~~  
17 ~~POLITICAL SUBDIVISION IS UNENCUMBERED BY A RESTRICTION OR~~  
18 ~~COVENANT RECORDED WITH THE COUNTY OFFICE WHERE DEEDS ARE~~  
19 ~~RECORDED PRESCRIBING THE LANDS, BUILDINGS OR PUBLIC FACILITIES~~  
20 ~~FOR PUBLIC USE UNLESS THE RESTRICTION OR COVENANT PRESCRIBING~~  
21 ~~THE LANDS, USE.~~

22 ~~(II) A RESTRICTION OR COVENANT PRESCRIBING THE LANDS,~~  
23 ~~BUILDINGS OR PUBLIC FACILITIES FOR PUBLIC USE WHICH IS RECORDED~~  
24 ~~WITH THE COUNTY OFFICE WHERE DEEDS ARE RECORDED AT THE TIME OF~~  
25 ~~PURCHASE, OR SUBSEQUENT TO, BY THE POLITICAL SUBDIVISION IS DULY~~  
26 ~~RELEASED OR REMOVED AS PERMITTED BY STATUTE. THIS SECTION SHALL~~  
27 ~~RELEASED OR REMOVED AS PERMITTED BY STATUTE.~~

28 ~~(2) THIS SUBSECTION SHALL NOT APPLY TO PUBLIC LANDS OR~~  
29 ~~BUILDINGS CONVEYED TO THE POLITICAL SUBDIVISION BY A LAND TRUST.~~

30 ~~(A.1) IN THE EVENT A POLITICAL SUBDIVISION SEEKS TO CONVEY~~

1 PUBLIC LANDS OR BUILDINGS PURCHASED BY THE POLITICAL SUBDIVISION  
2 AND NOT SUBJECT TO AN ENCUMBRANCE AS PROVIDED IN SUBSECTION (A),  
3 THE POLITICAL SUBDIVISION SHALL PUBLISH NOTICE OF A PUBLIC  
4 HEARING ON THE RECONVEYANCE OF THE PUBLIC LANDS OR BUILDINGS IN  
5 A NEWSPAPER OF GENERAL CIRCULATION IN THE POLITICAL SUBDIVISION  
6 IN WHICH THE PUBLIC LANDS OR BUILDINGS ARE SITUATE NOT LESS THAN  
7 THIRTY DAYS PRIOR TO THE DATE OF THE PUBLIC HEARING. NO PUBLIC  
8 LANDS OR BUILDINGS SHALL BE RECONVEYED BY A POLITICAL  
9 SUBDIVISION PRIOR TO THE SATISFACTION OF THE NOTICE AND HEARING  
10 REQUIREMENTS IMPOSED BY THIS SUBSECTION.

11 (b) This act shall not apply to lands, buildings or public  
12 facilities acquired by a political subdivision through  
13 condemnation.

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

23 (D) THE ACT OF JUNE 22, 1964 (SP.SESS., P.L.131, NO.8), ←  
24 KNOWN AS THE PROJECT 70 LAND ACQUISITION AND BORROWING ACT,  
25 SHALL CONTINUE TO APPLY TO LANDS ACQUIRED PURSUANT TO THAT ACT.

26 ~~(d)~~ (E) As used in this section, purchase shall include any ←  
27 transaction in which monetary consideration in any amount was  
28 paid by the political subdivision.

29 Section ~~2~~ 3. This act shall take effect immediately. ←