

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL**No. 730** Session of
2011

INTRODUCED BY GORDNER, EARLL, BREWSTER, WOZNIAK, M. WHITE,
ROBBINS, FONTANA, ERICKSON, YUDICHAK AND ORIE, MARCH 2, 2011

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES,
MARCH 26, 2012

AN ACT

1 Amending the act of May 1, 1933 (P.L.103, No.69), entitled, as
2 reenacted and amended, "An act concerning townships of the
3 second class; and amending, revising, consolidating and
4 changing the law relating thereto," in corporate powers,
5 further providing for real property and for personal
6 property; and, in contracts, further providing for letting
7 contracts.

8 The General Assembly of the Commonwealth of Pennsylvania
9 hereby enacts as follows:

10 Section 1. Section 1503 of the act of May 1, 1933 (P.L.103,
11 No.69), known as The Second Class Township Code, reenacted and
12 amended November 9, 1995 (P.L.350, No.60) and amended May 18,
13 2004 (P.L.219, No.29) and May 18, 2004 (P.L.226, No.33), is
14 amended to read:

15 Section 1503. Real Property.--(a) No real estate owned by
16 the township having a value in excess of fifteen hundred dollars
17 (\$1,500) may be sold except to the highest bidder after due
18 notice by advertisement for bids or advertisement of a public
19 auction in one newspaper of general circulation in the township.

1 The advertisement shall be published once not less than ten days
2 before the date set for the opening of bids or public auction,
3 and the date for opening bids or public auction shall be
4 announced in the advertisement. The award of contracts shall be
5 made only by public announcement at a regular or special meeting
6 of the board of supervisors or at the public auction. All bids
7 shall be accepted on the condition that payment of the purchase
8 price in full shall be made within sixty days of the acceptance
9 of bids.

10 (b) The board of supervisors may reject all bids if the bids
11 are deemed to be less than the fair market value of the
12 property. In the case of a public auction, the board of
13 supervisors may establish a minimum bid based on the fair market
14 value of the real property.

15 (b.1) The board of supervisors may sell real property under
16 the act of October 27, 1979 (P.L.241, No.78), entitled, as
17 amended, "An act authorizing political subdivisions,
18 municipality authorities and transportation authorities to enter
19 into contracts for the purchase of goods and the sale of real
20 and personal property where no bids are received," if no bids
21 are received on real property after proper notices.

22 (c) The requirements of this section do not apply to
23 conveyances or leases of real property by a township to any of
24 the following:

- 25 (1) A municipal corporation.
- 26 (2) The Federal Government.
- 27 (3) The Commonwealth.
- 28 (4) An institution district.
- 29 (5) A school district.
- 30 (6) A municipality authority.

1 (7) A county.

2 (8) A public utility.

3 (9) A volunteer fire company.

4 (10) A nonprofit corporation engaged in community
5 industrial, commercial or affordable housing development.

6 (11) A volunteer ambulance service or volunteer rescue squad
7 located within the township.

8 (12) A nonprofit corporation organized as a public library.

9 (13) A nonprofit medical service corporation.

10 (14) A nonprofit housing corporation.

11 (15) A nonprofit organization providing community service or
12 development activities.

13 (16) A nonprofit corporation established for the
14 preservation of historical, architectural or aesthetic sites or
15 artifacts.

16 (17) A nonprofit association or nonprofit corporation
17 organized to acquire and maintain real property for the
18 preservation, conservation and stewardship of open space.

19 (18) A council of government, consortium, cooperative or
20 other similar entity created pursuant to 53 Pa.C.S. Ch. 23
21 Subch. A (relating to intergovernmental cooperation).

22 Such conveyances or leases shall be at the sole discretion of
23 the township.

24 (d) When real property is sold to a nonprofit corporation
25 organized as a public library or to a nonprofit medical service
26 corporation, nonprofit housing corporation, volunteer fire
27 company, volunteer ambulance service [or], volunteer rescue
28 squad[,] or a council of government, consortium, cooperative or
29 other similar entity created pursuant to 53 Pa.C.S. Ch. 23
30 Subch. A involving one or more of the entities listed in this

1 subsection, the board of supervisors may elect to accept any
2 nominal consideration for the property as it believes
3 appropriate. Real property sold under this subsection is subject
4 to the condition that when the property is not used for the
5 purposes of the corporation or volunteer fire company, the
6 property reverts to the township.

7 (e) No real estate may be purchased by a township unless the
8 board of supervisors obtains at least one appraisal on the real
9 property in question by a person authorized to perform an
10 appraisal on the subject property under the act of July 10, 1990
11 (P.L.404, No.98), known as the "Real Estate Appraisers
12 Certification Act," and the township supervisors may require
13 that an environmental impact statement be prepared, indicating
14 the potential liability of the township for any environmental
15 problems associated with the real estate to be purchased. The
16 person making the appraisal shall not be interested directly or
17 indirectly in any aspect of the sale of the real estate. The
18 price paid by the board of supervisors for the purchase of the
19 real estate shall not exceed the price established by the
20 appraisal: Provided, however, That if more than one appraisal is
21 obtained, the price paid by the board of supervisors shall not
22 exceed the average of the appraisals.

23 (f) When real property has been dedicated, deeded or devised
24 to a township to be used for a designated purpose and the real
25 property is accepted and used for that purpose, or the real
26 property is not used for the purpose designated for a period of
27 ten years or more, and the township supervisors determine that
28 it is not possible or not desirable for the best interest of the
29 township to use the real property for the purpose designated,
30 the township supervisors, with the prior approval of the court

1 of common pleas, may by ordinance reconvey to the original
2 owners or their successors, heirs or assigns, or otherwise
3 dispose of, the real property free and clear of any public
4 right.

5 Section 2. Section 1504 of the act, amended June 23, 2006
6 (P.L.203, No.49), is amended to read:

7 Section 1504. Personal Property.--(a) No personal property
8 of the township shall be sold or disposed of without the
9 approval of the board of supervisors. No personal property owned
10 by the township, the estimated fair market value of which is one
11 thousand dollars (\$1,000) or more, shall be sold except to the
12 highest bidder after due notice by advertisement for bids or for
13 public auction in one newspaper of general circulation in the
14 township. The advertisement shall be published once not less
15 than ten days before the date set for the opening of bids or
16 public auction, and the date for opening bids or public auction
17 shall be announced in the advertisement. The advertisement for
18 electronic auction sales authorized in subsection (d) shall
19 include the Internet address or means of accessing the
20 electronic auction and the date, time and duration of the
21 electronic auction. If after attempting twice to receive bids or
22 if at a public auction no bid was received, the board of
23 supervisors may by resolution adopt a procedure by which the
24 personal property may be sold without further action of the
25 board of supervisors. A procedure adopted pursuant to this
26 authorization shall be subject to and shall conform with the
27 requirements of any law governing the sale of property by
28 municipal corporations generally when no bids have been
29 received. The award of contracts shall be made only by public
30 announcement at a regular or special meeting of the board of

1 supervisors or at the public auction. Except as provided in
2 subsection (d), all bids shall be accepted on the condition that
3 payment of the purchase price in full is made immediately upon
4 acceptance of the successful bid. The board of supervisors may
5 reject any bids received if the bids are believed to be less
6 than the fair market value of the property.

7 (b) With respect to personal property, either individual
8 items or lots of items, the fair market value of which is
9 estimated to be less than one thousand dollars (\$1,000), the
10 board of supervisors shall by resolution adopt a procedure by
11 which the property may be sold without further action by the
12 board of supervisors. The board of supervisors may arrange for
13 the sale of the item or items at public auction.

14 (B.1) THE BOARD OF SUPERVISORS MAY SELL PERSONAL PROPERTY ←
15 UNDER THE ACT OF OCTOBER 27, 1979 (P.L.241, NO.78), ENTITLED, AS
16 AMENDED, "AN ACT AUTHORIZING POLITICAL SUBDIVISIONS,
17 MUNICIPALITY AUTHORITIES AND TRANSPORTATION AUTHORITIES TO ENTER
18 INTO CONTRACTS FOR THE PURCHASE OF GOODS AND THE SALE OF REAL
19 AND PERSONAL PROPERTY WHERE NO BIDS ARE RECEIVED," IF NO BIDS
20 ARE RECEIVED ON PERSONAL PROPERTY AFTER PROPER NOTICES.

21 (c) The bidding and advertising requirements of this section
22 do not apply to the following transactions:

23 (1) If personal property of the township is being traded in
24 or exchanged for other personal property.

25 [(2) The sale or lease of personal property to any municipal
26 corporation, the Federal Government, the Commonwealth or any
27 institution district, school district, municipality authority,
28 county, public utility, volunteer fire company, nonprofit
29 corporation engaged in community industrial development,
30 volunteer ambulance service or volunteer rescue squad located

1 within the township, nonprofit corporation organized as a public
2 library, nonprofit medical service corporation, nonprofit
3 housing corporation, nonprofit organizations providing community
4 service or development activities or nonprofit corporation
5 established for the preservation of historical, architectural or
6 aesthetical sites or artifacts.]

7 (2) The sale or lease of personal property by the township
8 to any of the following:

9 (i) A municipal corporation.

10 (ii) The Federal Government.

11 (iii) The Commonwealth.

12 (iv) An institution district.

13 (v) A school district.

14 (vi) A municipality authority.

15 (vii) A county.

16 (viii) A public utility.

17 (ix) A volunteer fire company.

18 (x) A nonprofit corporation engaged in community industrial,
19 commercial or affordable housing development.

20 (xi) A volunteer ambulance service or volunteer rescue squad
21 located within the township.

22 (xii) A nonprofit corporation organized as a public library.

23 (xiii) A nonprofit medical service corporation.

24 (xiv) A nonprofit housing corporation.

25 (xv) A nonprofit organization providing community service or
26 development activities.

27 (xvi) A nonprofit corporation established for the
28 preservation of historical architectural or aesthetical sites or
29 artifacts.

30 (xvii) A council of government, consortium, cooperative or

1 other similar entity created pursuant to 53 Pa.C.S. Ch. 23
2 Subch. A (relating to intergovernmental cooperation).

3 (d) A "public auction" shall include an online or electronic
4 auction sale. During an electronic auction sale, bids shall be
5 accepted electronically at the time and in the manner designated
6 in the advertisement. During the electronic auction, each bidder
7 shall have the capability to view the bidder's bid rank or the
8 high bid price. Bidders may increase their bid prices during the
9 electronic auction. The record of the electronic auction shall
10 be accessible for public inspection. The purchase price shall be
11 paid by the high bidder immediately or at a reasonable time
12 after the conclusion of the electronic auction as determined by
13 the township. In the event that shipping costs are incurred,
14 they shall be paid by the high bidder.

15 (e) A township that has complied with the advertising
16 requirements of subsection (a) may provide additional public
17 notice of the sale by bids or public auction in any manner
18 deemed appropriate by the township.

19 Section 3. Section 3102(h) of the act, amended November 3,
20 2011 (P.L.341, No.84), is amended to read:

21 Section 3102. Letting Contracts.--* * *

22 (h) The contracts or purchases made by the board of
23 supervisors involving payments in excess of the required
24 advertising amount, which do not require advertising, bidding or
25 price quotations are as follows:

26 (1) Those made for emergency, or routine maintenance,
27 repairs or replacements for water, electric light and other
28 public works of the township if they do not constitute new
29 additions, extensions or enlargements of existing facilities and
30 equipment.

1 (2) Those made for improvements, repairs or maintenance of
2 any kind made or provided by any township through its own
3 employes. All contracts or purchases of materials used for
4 improvement, maintenance or construction are subject to the
5 provisions contained in subsections (a) and (b).

6 (3) Those involving any policies of insurance or surety
7 company bonds, those made for public utility service, those made
8 for electricity, natural gas or telecommunications service
9 either directly or with an association authorized under Article
10 XIV in which the township is a member and those made with
11 another municipal corporation, county, school district or
12 municipality authority, a council of government, consortium,
13 cooperative or other similar entity created pursuant to 53
14 Pa.C.S. Ch. 23 Subch. A (relating to intergovernmental
15 cooperation) or Federal or State Government, including the sale,
16 leasing or loan of any supplies or materials by the Federal or
17 State Government or their agencies.

18 (4) Those involving personal or professional services.

19 (5) Those made for materials and supplies or equipment
20 rental under emergency conditions under 35 Pa.C.S. Pt. V
21 (relating to emergency management services).

22 (6) Those contracts involving equipment rental with
23 operators if more than fifty percent of the total labor
24 personnel hours required for the completion of the contract is
25 supplied by the township through its own employes.

26 (7) Those contracts for the purchase of repair parts or
27 materials for use in existing township equipment or facilities
28 if the item or material to be purchased is the sole item of its
29 kind on the market or is manufactured as a replacement for the
30 original item or equipment being repaired.

1 (8) Those for used equipment, articles, apparatus,
2 appliances, vehicles or parts thereof being purchased from a
3 public utility.

4 (9) Those where particular types, models or pieces of
5 equipment, articles, apparatus, appliances, vehicles or parts
6 thereof which are patented and manufactured products.

7 * * *

8 Section 4. This act shall take effect in 60 days.