

## No. 1982-100

## AN ACT

## HB 223

Amending the act of August 9, 1955 (P.L.323, No.130), entitled "An act relating to counties of the third, fourth, fifth, sixth, seventh and eighth classes; amending, revising, consolidating and changing the laws relating thereto," eliminating the requirement of court approval for commissioners to perform certain actions relating to institutions and to acquire, sell or lease certain lands and buildings and requiring a determination of fair market value.

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

Section 1. Section 2163, act of August 9, 1955 (P.L.323, No.130), known as "The County Code," added September 19, 1961 (P.L.1495, No.638), the introductory paragraph amended July 31, 1963 (P.L.372, No.200), is amended to read:

Section 2163. Powers and Duties.—The county commissioners of counties of the fourth, fifth, sixth, seventh and eighth classes shall have the power and their duty shall be:

(1) To erect, equip, maintain, repair, alter and add to institutions for the care of dependents, and to equip, maintain, cultivate and improve farms, using their produce for the support of dependents, or if a surplus of farm products should exist, the commissioners may sell the surplus pursuant to section 1805 of this act. Any plan for the erection or substantial alteration of an institution must be approved as to suitability by the Department of Public Welfare [and as to the amount of money to be expended by the court of common pleas].

(2) To pay the necessary expenses of land and buildings for the care of dependents and farms.

Section 2. The heading and subsection (a) of section 2305 of the act, amended July 31, 1963 (P.L.372, No.200), are amended to read:

Section 2305. Acquiring and Using Real Property; [Court Approval;] Exceptions.—(a) The county commissioners may purchase *for not more than the fair market value*, take by gift, devise or by the power of eminent domain, in accordance with the provisions of this act, such real property at the county seat or in such other places, as may be authorized by law, as they deem necessary for the purposes of a county courthouse, county jail, prison, workhouse, detention house or other county building, and in counties of the fourth, fifth, sixth, seventh and eighth classes, lands and buildings for the care of dependents and farms, either in acquisition of a building suitable for such purposes, or in the construction of a new building, or in the alteration, including enlargement, of an existing county building. [Any purchase herein authorized shall be subject to the approval of the court of common pleas of the county as to purchase price, and no such contract shall bind the county, nor shall any convey-

ance be valid until the court has so approved the purchase price.] *The fair market value of real property in the case of a purchase shall be determined by the county commissioners in consultation with the county assessor and two licensed real estate brokers doing business within the county.* [In addition to such approval, any] Any acquisition of lands and buildings for the care of dependents and farms shall be subject to approval of the Department of Public Welfare as to suitability.

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Section 3. Section 2305.1 of the act, added September 1, 1965 (P.L.452, No.230), is amended to read:

Section 2305.1. Acquiring and Developing Industrial Areas.—The county commissioners may purchase, take by gift or devise real property within the county including Federal surplus real property, for the purpose of developing the same for industrial use under a local, regional or county plan and to expend funds to bring utilities within such county industrial area and to develop such area for industrial sites. [Any purchase herein authorized shall be subject to the approval of the court of common pleas of the county as to the purchase price and no contract shall bind the county, nor shall any conveyance be valid until the court has approved the purchase price. After the court has approved the purchase price thereof, the same] *The land so purchased* may be developed as stated and may be sold only to a local industrial development corporation[, upon the approval of the court of the price at which the same is to be sold].

Section 4. Sections 2306 and 2311 of the act are amended to read:

Section 2306. Authority to Sell or Lease Real Property.—The board of commissioners may sell *for not less than the fair market value* or lease, either as lessor or lessee, any real property belonging to the county or to others where the county is lessee. [In the event of such sale, or of a lease as lessor under which the lessee acquires on a royalty basis or otherwise the right to drill for oil or gas or to mine or remove coal, stone or other mineral products or to cut and remove trees, stumps, wood or other forest products, the commissioners shall petition the court of common pleas, setting forth a description of the property to be sold or leased and the reason therefor.] If the commissioners know or have reason to believe that the property to be sold contains oil, gas, coal, stone, timber or other mineral or forest products of commercial value, such knowledge or belief shall be [stated together with the description. The court shall thereupon fix a day for hearing, notice of which shall be given] *advertised together with the description of the land* in at least two newspapers, in said county, of general circulation, once a week for three consecutive weeks. [After hearing, the court shall make such order and decree as shall seem right and proper.] *The fair market value of real property in the case of a sale shall be determined by the county commissioners in consultation with the county assessor and two licensed real-estate brokers doing business within the county.* In the case of any lease of county property hereunder, such property, with any and all improvements or addi-

tions thereon or thereto, shall, in the hands of the lessee, be subject to taxation by such county and any other political subdivision therein, in the same manner as other real estate located in the county. Such taxes shall be levied and assessed against and paid by the lessee. This section shall not apply to leases or sales of county property or other property which are otherwise specifically provided for by law.

Section 2311. Disposing of County Property for Other Uses; Demolition; Court Approvals.—Whenever any new county building is constructed to replace a county building no longer suitable for the purposes of its use, or whenever the county has or acquires, incident to purchase at tax sale or to any other acquisition of land authorized by law, any building, title and interest to which is in the county, and any such replaced or acquired building is deemed no longer suitable or not suitable for use as a county building or for use as an auxiliary to any county building, the county commissioners may[, **with the approval of the court of common pleas,**] devote said replaced or acquired building to such other public use or purpose as shall be found suitable and proper, including a war memorial. They may[, **with the approval of said court,**] convey all or a part of the title and interest of the county in such building, with or without the land or a part of the land upon which it is situate, either by sale or by gift, to any public or charitable institutions or to any political subdivisions singly, in common, or jointly, within the county.

The county commissioners may remove any such building from one location to another within the county, [**with the approval of the court of common pleas,**] for the purpose of enabling its use as a county building by virtue of its relocation. The commissioners may cause any such building to be demolished and removed from land of the county, if of no use to the county [, **upon the approval of the court of common pleas, upon due cause shown**].

Section 5. Subsections (a) and (b) of section 2315 of the act, subsection (b) amended April 26, 1963 (P.L.28, No.25), are amended to read:

Section 2315. Authority and Procedure for Acquiring, Constructing or Altering County Buildings; Exceptions.—(a) The county commissioners may purchase or take by gift any building at the county seat or elsewhere as authorized by law deemed suitable and proper by them for use as a county building. [**No purchase thereof shall be made unless approved by the court of common pleas of the county as to suitability and as to all terms of the contract, including the purchase price.**]

(b) The county commissioners may provide, in accordance with this section, for the construction or alteration, including enlargement of a county court house, county jail, prison, workhouse, detention house and such other county buildings, as may be required or authorized by law. Such construction or alteration shall be done at the county seat or elsewhere as authorized by law. Whenever the county commissioners undertake any such construction or alteration, they shall cause to be prepared plans and specifications therefor. [, **and shall submit such plans and specifications of any county court house, county jail, prison, workhouse**

or detention home as are approved by them to the judges of the court of common pleas for approval. If the said court, upon due consideration and such hearings and other measures as it may desire, approve the said plans and specifications as submitted or as modified, the] *The* county commissioners may secure bids for the contract or contracts involved in the construction or alteration in accordance with this act. Any such contract or contracts shall be made as provided by this act[, but shall, in addition, be subject to the approval of the court of common pleas as being in accordance with the plans and specifications approved by it, and otherwise proper and authorized by law. The said court may, in each case, follow such procedures, hear such witnesses, or call for such evidence, as shall inform its judgments regarding such approvals].

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Section 6. This act shall take effect immediately.

APPROVED—The 29th day of April, A. D. 1982.

DICK THORNBURGH