

No. 1997-64

AN ACT

HB 959

Amending the act of June 24, 1931 (P.L.1206, No.331), entitled "An act concerning townships of the first class; amending, revising, consolidating, and changing the law relating thereto," further providing for property; and authorizing certain home rule municipalities to levy, assess and collect a mercantile tax and a business privilege tax on gross receipts or parts of gross receipts.

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

Section 1. Section 1501 of the act of June 24, 1931 (P.L.1206, No.331), known as The First Class Township Code, reenacted and amended May 27, 1949 (P.L.1955, No.569) and amended June 26, 1995 (P.L.66, No.13), is amended to read:

Section 1501. Suits; Property.—Townships of the first class may—

I. Sue and be sued.

II. Purchase, acquire by gift, or otherwise, hold, lease, let and convey, by sale or lease, such real and personal property as shall be deemed to be to the best interest of the township: Provided, That no real estate owned by the township shall be sold for a consideration in excess of one thousand five hundred dollars except to the highest bidder after due notice by advertisement for bids or advertisement of a public auction in one newspaper of general circulation in the township. Such advertisement shall be published once not less than ten days prior to the date fixed for the opening of bids or public auction, and such date for opening bids or public auction shall be announced in such advertisement. The award of contracts shall be made only by public announcement at a regular or special meeting of the board of township commissioners or at the public auction. All bids shall be accepted on the condition that payment of the purchase price in full shall be made within sixty days of the acceptance of bids.

The board of township commissioners shall have the authority to reject all bids if such bids are deemed to be less than the fair market value of the real property. In the case of a public auction, the board of township commissioners may establish a minimum bid based on the fair market value of the real property.

Except as otherwise hereinafter provided in the case of personal property of an estimated fair market value of less than one thousand dollars, no township personal property shall be disposed of, by sale or otherwise, except upon approval of the board of township commissioners, by ordinance or resolution. In cases where the board of township commissioners shall approve a sale of such property, it shall estimate the fair market value of the entire lot

to be disposed of. If the board of township commissioners shall estimate the fair market value to be one thousand dollars or more, the entire lot shall be advertised for sale once, in at least one newspaper of general circulation in the township, not less than ten days prior to the date fixed for the opening of bids or public auction, and such date of opening of bids or public auction shall be announced in such advertisement, and sale of the property so advertised shall be made to the best responsible bidder. The board of township commissioners may reject any bids received if the bids are believed to be less than the fair market value of the property. The board of township commissioners shall, by resolution, adopt a procedure for the sale of surplus personal property, either individual items or lots of items, of an estimated fair market value of less than one thousand dollars and the approval of the board of township commissioners shall not be required for any individual sale that shall be made in conformity to such procedure.

The provisions of this clause shall not be mandatory where township property is to be traded in or exchanged for new township property.

The provisions of this clause shall not prohibit the sale or exchange of township property to public utilities.

The provisions of this clause requiring advertising for bids or sale at public auction and sale to the highest bidder shall not apply where township real or personal property is to be sold to a county, city, borough, town, township, institution district, school district, volunteer fire company, volunteer ambulance service or volunteer rescue squad located within the township, or municipal authority pursuant to the Municipality Authorities Act of 1945, or to a nonprofit corporation engaged in community industrial, *commercial or affordable housing* development *or reuse* or where real property is to be sold to a person for his exclusive use in an industrial development program or where real property is to be sold to a nonprofit corporation organized as a public library, or where real property is to be sold to a nonprofit medical service corporation as authorized by clause LXXII of section 1502, or where real property is to be sold to a nonprofit housing corporation as authorized by clause LXXIII of section 1502. When real property is to be sold to a nonprofit corporation organized as a public library or to a nonprofit medical service corporation or to a nonprofit housing corporation the board of township commissioners may elect to accept such nominal consideration for such sale as it shall deem appropriate. Real property sold pursuant to this clause to a volunteer fire company, volunteer ambulance service or volunteer rescue squad, nonprofit medical service corporation or to a nonprofit housing corporation shall be subject to the condition that when the property is not used for the purposes of the company, service, squad or the corporation the property shall revert to the township.

Any officer who sells and each officer who votes in favor of selling any township property, either real or personal, without the provisions of this section having been complied with, shall be subject to surcharge in the amount of any loss sustained by the township by reason of such sale.

The exemption granted by this clause to nonprofit corporations engaged in community, industrial, commercial or affordable housing development or reuse shall not apply to property owned and operated by the township or subcontracted or operated on the behalf of the township in order to conduct existing governmental functions.

Section 2. The act is amended by adding a section to read:

Section 1709.2. Authority to Levy, Assess and Collect Mercantile and Business Privilege Taxes on Gross Receipts.—*Notwithstanding section 533(b) of the act of December 13, 1988 (P.L.1121, No.145), known as the "Local Tax Reform Act," a township of the first class or a home rule municipality that previously had been a township of the first class and that has a population exceeding 70,000 which before December 1, 1988, has levied, assessed or collected or provided for the levying, assessment or collection of a mercantile tax on gross receipts or parts of gross receipts may levy, assess and collect or provide for the levying, assessment or collection of mercantile and business privilege taxes on gross receipts or parts of gross receipts. This authority shall apply to the tax year beginning January 1, 1998, and to each tax year thereafter.*

Section 3. This act shall take effect as follows:

- (1) The addition of section 1709.2 of the act shall take effect immediately.
- (2) This section shall take effect immediately.
- (3) The remainder of this act shall take effect in 60 days.

APPROVED—The 19th day of December, A.D. 1997.

THOMAS J. RIDGE