

No. 2006-154

AN ACT

HB 183

Amending the act of January 19, 1968 (1967 P.L.992, No.442), entitled, as amended, "An act authorizing the Commonwealth of Pennsylvania and the local government units thereof to preserve, acquire or hold land for open space uses," further providing for local taxing options; and providing for land trusts.

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

Section 1. Section 7.1(a) of the act of January 19, 1968 (1967 P.L.992, No.442), entitled "An act authorizing the Commonwealth of Pennsylvania and the local government units thereof to preserve, acquire or hold land for open space uses," added December 18, 1996 (P.L.994, No.153), is amended to read:

Section 7.1. Local Taxing Options.—(a) A local government unit, excluding counties and county authorities, may by ordinance impose, in addition to the statutory rate limits on real estate taxes set forth in the municipal code of that local government unit, a tax on real property not exceeding the millage authorized by referendum under this subsection. In the alternative, a local government unit, excluding counties and county authorities, may by ordinance impose, in addition to the earned income tax rate limit set forth in the act of December 31, 1965 (P.L.1257, No.511), known as "The Local Tax Enabling Act," a tax on the earned income of the residents of that local government unit not exceeding the rate authorized by referendum under this subsection. Revenue from the levy shall be used to retire the indebtedness incurred in purchasing interests in real property or in making additional acquisitions of real property for the purpose of securing an open space benefit or benefits under the provisions of this act or the act of June 30, 1981 (P.L.128, No.43), known as the "Agricultural Area Security Law." ***Revenue from the levy may also be used for transactional fees that are incidental to acquisitions made in accordance with this act, including, but not limited to, costs of appraisals, legal services, title searches, document preparation, title insurance, closing fees and survey costs.*** The local taxing option authorized by this subsection shall not be exercised unless the governing body of the local government unit shall by ordinance first provide for a referendum on the question of the imposition at a specific rate of the additional tax to be imposed and a majority of those voting on the referendum question vote in favor of the imposition of the tax. The ordinance of the governing board of the local government unit providing for a referendum on the question shall be filed with the county board of elections. The referendum shall be governed by the provisions of the act of June 3, 1937 (P.L.1333, No.320), known as the "Pennsylvania Election Code." The

election official shall cause the question to be submitted to the electors of the local government unit at the next primary, general or municipal election occurring not less than the thirteenth Tuesday following the filing of the ordinance with the county board of elections. At such election, the question shall be submitted to the voters in the same manner as other questions are submitted under the provisions of the "Pennsylvania Election Code." The question to be placed upon the ballot shall be framed in the following form:

Do you favor the imposition of a (describe tax in millage or rate) by (local government unit) to be used to (purpose)?

* * *

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

Section 11.1. Land Trusts.—(a) *If the governing body of a local government unit deems it to be for the public benefit of the local government unit, it may:*

(1) *appropriate money to a land trust or a local land trust for the acquisition or conservation and preservation of interests in real property for the purpose of achieving open space benefits, provided that an appropriation for the acquisition or conservation and preservation of interests in real property for the purpose of achieving open space benefits within a local government unit other than the one that made the appropriation shall be made only pursuant to an intergovernmental cooperation agreement between the local government unit within which the open space benefits will be achieved and the local government unit making the appropriation; and*

(2) *transfer open space property interests to a land trust or local land trust and elect to accept any nominal consideration for the transfer it deems appropriate. Neither a land trust nor a local land trust shall acquire an interest in real property through eminent domain.*

(b) *Notwithstanding the provisions of 15 Pa.C.S. § 5302 (relating to number and qualifications of incorporators), a local government unit may incorporate a local land trust as a domestic nonprofit corporation. Whenever the governing body of a local government unit desires to create a local land trust under this section, it shall adopt an ordinance signifying its intention to do so. A local land trust shall function as a nonprofit corporation under 15 Pa.C.S. Pt. II Subpt. C Art. B (relating to domestic nonprofit corporations generally), except that the following shall apply:*

(1) *The business and affairs of a local land trust shall be managed under the direction of a board of directors who shall be chosen from the electors of the local government unit that incorporated the local land trust, and members of the board of directors of a local land trust shall serve at the pleasure of the governing body of the incorporating local government unit.*

(2) *A local land trust shall file an annual report with the governing body of the incorporating local government unit, which report shall make provisions for the accounting of revenues and expenses. The local land*

trust shall have its books, accounts and records audited annually in accordance with generally accepted auditing standards by an independent auditor who shall be a certified public accountant, and a copy of the audit report shall be attached to and be made a part of the annual report. A concise financial statement shall be published annually in a newspaper of general circulation in the county where the local land trust is located.

(3) A local land trust shall be subject to 65 Pa.C.S. Ch. 7 (relating to open meetings).

(c) Money appropriated to a land trust or a local land trust under this section may be used for related expenses.

(d) As used in this section:

(1) "Land trust." A nonprofit organization that is tax exempt under section 501(c)(3) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 501(c)(3)), is registered with the Pennsylvania Commission on Charitable Organizations and which has among its primary purposes the acquisition or conservation and preservation of interests in real property for the purpose of achieving open space benefits.

(2) "Local government unit." A local government unit as defined in section 2(5). The term does not include a county authority.

(3) "Local land trust." A land trust incorporated by a local government unit.

(4) "Related expenses." Incidental expenses incurred by a land trust as transactional fees in the acquisition of interests in real property for the purpose of achieving open space benefits, including, but not limited to, costs of appraisals, legal services, title searches, document preparation, title insurance, closing fees and survey costs.

Section 3. This act shall take effect in 60 days.

APPROVED—The 29th day of November, A.D. 2006.

EDWARD G. RENDELL