

No. 2011-12

AN ACT

HB 373

Amending the act of February 1, 1966 (1965 P.L.1656, No.581), entitled "An act concerning boroughs, and revising, amending and consolidating the law relating to boroughs," further providing for general powers.

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

Section 1. Section 1201 of the act of February 1, 1966 (1965 P.L.1656, No.581), known as The Borough Code, amended November 29, 2004 (P.L.1337, No.170) and June 30, 2007 (P.L.47, No.15) is amended to read:

Section 1201. General Powers.—A borough may:

(1) Have succession perpetually by its corporate name.
(2) Sue and be sued, and complain and defend in the courts of the Commonwealth.

(3) Make and use a common seal, and alter the same at pleasure.

(4) 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 borough, subject to the following restrictions, limitations or exceptions:

(i) No real estate owned by the borough shall be sold for a consideration in excess of fifteen hundred dollars (\$1500), 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 borough. 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 council 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 borough council 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 borough council may establish a minimum bid based on the fair market value of the real property. Real estate owned by a borough may be sold at a consideration of fifteen hundred dollars (\$1500) or less without advertisement or competitive bidding only after council estimates the value thereof upon receipt of an appraisal by a qualified real estate appraiser.

(ii) Except as otherwise hereinafter provided in the case of personal property of an estimated fair market value of less than one thousand dollars (\$1,000), no borough personal property shall be disposed of, by sale or otherwise, except upon approval of council, by ordinance or resolution. In cases where council shall approve a sale of such property, it shall estimate the fair market value of the entire lot to be disposed of. If council shall estimate the fair market value to be one thousand dollars (\$1,000) or more, the entire lot shall be advertised for sale once, in at least one newspaper of

general circulation in the borough, 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. *A public auction of personal property may be conducted by means of an online or electronic auction sale. During an electronic auction sale, bids shall be accepted electronically at the time and in the manner designated in the advertisement. During the electronic auction, each bidder shall have the capability to view the bidder's bid rank or the high bid price. Bidders may increase their bid prices during the electronic auction. The record of the electronic auction shall be accessible for public inspection. The purchase price shall be paid by the high bidder immediately or at a reasonable time after the conclusion of the electronic auction as determined by council. In the event that shipping costs are incurred, they shall be paid by the high bidder. A borough that has complied with the advertising requirements of this section may provide additional public notice of the sale by bids or public auction in any manner deemed appropriate by council. The advertisement for electronic auction sales authorized in this subclause shall include the Internet address or means of accessing the electronic auction and the date, time and duration of the electronic auction.* Council may reject any bids received if the bids are believed to be less than the fair market value of the property. Council 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 (\$1,000) and the approval of council shall not be required for any individual sale that shall be made in conformity to such procedure.

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

(iv) The provisions of this clause requiring advertising for bids or sale at public auction and sale to the highest bidder shall not apply where borough real or personal property is to be sold to:

(A) a county, city, borough, town, township, institution district, school district, volunteer fire company, volunteer ambulance service or volunteer rescue squad located within the borough;

(A.1) a council of government, consortium, cooperative or other similar entity created pursuant to 53 Pa.C.S. Ch. 23 (relating to intergovernmental cooperation);

(B) **[a municipal authority pursuant to the Municipality Authorities Act of 1945] an authority as defined in 53 Pa.C.S. § 5602 (relating to definitions);**

(C) a non-profit corporation engaged in community development or reuse only upon entering into a written agreement with the non-profit corporation that requires the property to be used for industrial, commercial or affordable housing purposes. This exemption shall not apply to property on which existing governmental functions are conducted;

(D) where real property is to be sold to a person for his exclusive use in an industrial development program;

(E) where real property is to be sold to a non-profit corporation organized as a public library for its exclusive use as a library;

(F) where real property is to be sold to a non-profit medical service corporation as authorized by clause (76) of section 1202;

(G) where real property is to be sold to a non-profit housing corporation as authorized by clause (77) of section 1202;

(H) where real property is to be sold to the Commonwealth or to the Federal Government; or

(I) where real property is to be sold to a non-profit museum or historical society for its exclusive use as a non-profit museum or historical society.

(v) When real property is to be sold to a non-profit corporation organized as a public library for its exclusive use as a library or to a non-profit medical service corporation or to a non-profit housing corporation, council may elect to accept such nominal consideration for such sale as it shall deem appropriate.

(vi) Real property sold pursuant to this clause to a volunteer fire company, volunteer ambulance service or volunteer rescue squad, non-profit medical service corporation or to a non-profit 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 borough.

(vii) The exemption granted under subclause (iv)(C) shall not apply to property owned and operated by the borough or subcontracted or operated on the behalf of the borough in order to conduct existing governmental functions.

(5) To invest in or purchase bonds of any municipal authority or parking authority created solely by the borough, for the purpose either of investment or of possible retirement of such bonds and acquisition of authority projects at an earlier date than originally contemplated, using for the purpose either surplus funds of the borough or money appropriated in the annual budget for the purpose.

Section 2. This act shall take effect immediately.

APPROVED—The 28th day of June, A.D. 2011

TOM CORBETT