

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. **598** Session of
1961

MESSRS. DISILVESTRO, WEINER, MCGINNIS AND MCCREESH,
IN PLACE, MAY 2, 1961.

AS AMENDED ON SECOND READING, AUGUST 14, 1961.

AN ACT

Enabling the Commonwealth through the Department of Forests and
Waters or any political subdivision of the Commonwealth to
acquire by purchase lease gift bequest devise or otherwise ~~ex-~~
~~cept by eminent domain property interests~~ CONSERVATION
EASEMENTS for park or reservoir purposes and providing for
the assessment and sale of such property interests

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

EXPLANATION—CAPITAL LETTERS indicate new matter added to bill. Matter stricken through
is to be omitted from bill.
Underscoring indicates new matter added to existing law. [Brackets] indicate matter
stricken from existing law.

1 Section 1 Statement of Legislative Intent It is the purpose of this
2 act to clarify and broaden the existing methods by which the Common-
3 wealth and its political subdivisions may preserve or acquire desirable
4 land for park or reservoir sites or may maintain and enhance the value
5 of existing park or reservoir sites The Legislature finds that expanded
6 park and reservoir facilities will be needed to meet demands of a grow-
7 ing population The opportunity for future enlargement of existing sites
8 or the availability for acquisition of planned new sites can sometimes
9 be secured only through the early acquisition of property interests in
10 those sites Moreover acquisition of property interests less than a fee
11 simple may secure the future availability of lands for park or reservoir
12 purposes as well as permit more effective planning by the Common-
13 wealth or by any of its political subdivisions The Legislature further
14 finds that acquisition of property interests less than a fee simple in
15 lands adjacent to existing or planned future park or reservoir sites may
16 be necessary for the protection or enhancement of those facilities The
17 acquisition of property interests authorized by this act for park or
18 reservoir purposes is therefore declared to be for the promotion of public
19 health safety morals and general welfare of the citizens of the Com-
20 monwealth

1 Section 2 1 Definitions For the purposes of this act the following
2 definitions shall apply

3 (1) "Reservoir" That which is used for purposes including but
4 not limited to water supply flood control conservation of recreation

5 (2) "Conservation easements" An easement or other property in-
6 terest by which the fee owners their heirs successors and assigns are
7 restricted from making any changes in their realty inconsistent with
8 the purposes for which property interests have been acquired as stated
9 in section 3 of this act Such an easement or property interest may
10 include but shall not be limited to restrictions against erecting destroy-
11 ing or altering buildings or other structures removing trees or other
12 planting changing existing use altering public utility facilities dumping
13 of wastes changing any features of the natural landscape or other ac-
14 tivities inconsistent with present use as a buffer or future use as a
15 site for parks or reservoirs

16 (3) "Governmental unit" The Commonwealth of Pennsylvania
17 acting through the Department of Forests and Waters or any of the
18 political subdivisions of the Commonwealth

19 (4) "Political subdivision" Any county city borough town or town-
20 ship within the Commonwealth of Pennsylvania

1 (5) "Property interest" Any right in property whatsoever includ-
2 ing but not limited to a fee simple life estate future interest lease license
3 easement (including a scenic or conservation easement) restriction or
4 covenant of any sort option or contractual interest or right concerning
5 the use of or power to transfer property

6 Section 3 2 Acquisition of Property Interests CONSERVATION
7 EASEMENTS The Commonwealth of Pennsylvania through the De-
8 partment of Forests and Waters or any political subdivision of the Com-
9 monwealth now or hereafter empowered to acquire parks or reservoirs
10 may in the exercise of such power and when they determine that it will
11 be in the public interest acquire property interests CONSERVATION
12 EASEMENTS by purchase gift bequest OR devise or otherwise except
13 by eminent domain for the following purposes (1) to reserve the land
14 as a future park or reservoir site (2) to protect an existing park or reser-
15 voir or future park or reservoir site by controlling the use of lands con-
16 tiguous or near to that park or reservoir site in order to protect the scenic
17 aesthetic or watershed qualities of the site and thereby enhance its value
18 to the public (3) to supply ingress and egress to a park or reservoir
19 facility either presently or hereafter existing (4) to expand any park or
20 reservoir site either presently or hereafter existing

1 SECTION 3 ACQUISITION OF CONSERVATION EASE-
2 MENTS FOR RESERVOIR PURPOSES BY EMINENT DOMAIN
3 THE COMMONWEALTH OF PENNSYLVANIA THROUGH THE
4 DEPARTMENT OF FORESTS AND WATERS OR ANY POLITI-
5 CAL SUBDIVISION OF THE COMMONWEALTH SHALL HAVE
6 THE POWER TO ACQUIRE CONSERVATION EASEMENTS FOR
7 FUTURE RESERVOIR SITES OR TO PROTECT OR EXPAND
8 RESERVOIR SITES NOW OR HEREAFTER EXISTING OR TO
9 PROVIDE INGRESS AND EGRESS TO EXISTING RESERVOIR
10 SITES BY USE OF EMINENT DOMAIN IN THE SAME MANNER
11 THAT SUCH GOVERNMENTAL UNIT ACTING AS CONDEMN-
12 OR IS NOW OR HEREAFTER MAY BE AUTHORIZED BY LAW
13 TO CONDEMN OTHER PROPERTY

14 Section 4 Assessment of ~~Property Interests~~ ~~Any property interest~~
15 CONSERVATION EASEMENTS ANY CONSERVATION EASE-
16 MENT held by a governmental unit for park or reservoir purposes shall be
17 exempt from taxation Private owners of lands in which a governmental
18 unit also owns a ~~property interest~~ CONSERVATION EASEMENT
19 under this act shall have their land assessed on a basis reflecting the land

1 use restrictions imposed by the governmentally held ~~property interests~~
2 CONSERVATION EASEMENTS
3 Section 5 Disposition of ~~Property Interests~~ CONSERVATION
4 EASEMENTS If a governmental unit holding a ~~property interest or~~
5 ~~interests~~ CONSERVATION EASEMENT for park or reservoir pur-
6 poses determines that it is no longer desirable to hold the ~~property inter-~~
7 ~~est or interests~~ CONSERVATION EASEMENT for these purposes it
8 may sell such interest ~~or interests~~ SHALL FIRST OFFER TO SELL
9 THE SAME OR ANY PORTION THEREOF to any other govern-
10 mental unit or units or to any State Federal or State-Federal agency
11 IN THE CASE OF A CONSERVATION EASEMENT FOR RESER-
12 VOIR PURPOSES WHICH WAS ACQUIRED BY EMINENT DO-
13 MAIN IF THE OFFER TO SELL SUCH CONSERVATION EASE-
14 MENT TO ANOTHER GOVERNMENTAL UNIT OR TO A STATE
15 FEDERAL OR STATE-FEDERAL AGENCY IS REJECTED THE
16 GOVERNMENTAL UNIT HOLDING SUCH CONSERVATION
17 EASEMENT SHALL THEN OFFER TO RECONVEY THE CON-
18 SERVATION EASEMENT TO THE CONDEMNEE OR HIS SUC-
19 CESSOR IN INTEREST AT THE PRICE PAID UPON CONDEM-
20 NATION ANY SUCH CONSERVATION EASEMENT NOT SOLD

1 TO ANOTHER GOVERNMENTAL UNIT OR TO A STATE FED-
2 ERAL OR STATE-FEDERAL AGENCY OR IN THE CASE OF A
3 CONSERVATION EASEMENT FOR RESERVOIR PURPOSES AC-
4 QUIRED BY EMINENT DOMAIN TO THE CONDEMNEE OR
5 HIS SUCCESSOR IN INTEREST SHALL BE SOLD AT PUBLIC
6 SALE IN THE MANNER PROVIDED BY LAW In the case of the
7 Commonwealth ANY such transfer shall be authorized by the Governor
8 upon the recommendation of the Secretary of Forests and Waters In
9 the case of any political subdivision of the Commonwealth ANY such
10 transfer shall be made by the duly authorized official or officials thereof
11 All proceeds from the sale of ~~property interests~~ CONSERVATION
12 EASEMENTS acquired for park or reservoir purposes shall be deposited
13 in the General Fund in the case of the Commonwealth or in the fund
14 comparable thereto in the case of any other governmental unit

15 SECTION 6 POWER OF EMINENT DOMAIN TO CONTINUE
16 AS HERETOFORE NOTHING HEREIN CONTAINED SHALL BE
17 CONSTRUED AS A LIMITATION UPON THE POWER OF ANY
18 GOVERNMENTAL UNIT TO ACQUIRE LAND FOR PARK PUR-
19 POSES BY MEANS OF EMINENT DOMAIN AS AUTHORIZED
20 UNDER EXISTING LAW

1 Section 6 7 Severability Inconsistent Laws If any section provision
2 or clause of this act shall be declared invalid or inapplicable to any
3 persons or circumstances such action shall not be construed to affect
4 the rest of the act or circumstances not so affected All laws or portions
5 of laws inconsistent with the policy and provisions of this act are hereby
6 repealed to that extent

7 Section 7 8 Effective Date This act shall take effect immediately

We certify that this bill has passed the Senate and the House of
Representatives.

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Chief Clerk, Senate

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President pro tempore, Senate

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Speaker, House of Representatives

Approved The day of A. D. 1961.

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Governor