

No. 2008-24

AN ACT

HB 1281

Amending the act of April 28, 1978 (P.L.87, No.41), entitled "An act authorizing the Commonwealth of Pennsylvania, through the Department of Environmental Resources, to enter into such agreements and to acquire such interest as may be necessary to establish, protect and maintain the Appalachian Trail, and providing for the establishment, protection and maintenance of such trail," further providing for actions by municipalities and their powers and duties; and making editorial changes.

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

Section 1. The title and sections 3(a) and 4 of the act of April 28, 1978 (P.L.87, No.41), known as the Pennsylvania Appalachian Trail Act, are amended to read:

AN ACT

Authorizing the Commonwealth of Pennsylvania, through the Department of **[Environmental] Conservation and Natural Resources**, to enter into such agreements and to acquire such interest as may be necessary to establish, protect and maintain the Appalachian Trail, and providing for the establishment, protection and maintenance of such trail.

Section 3. Powers of department.

(a) The Commonwealth of Pennsylvania, through the Department of **[Environmental] Conservation and Natural Resources**, hereinafter referred to as the department, is authorized independent of any action by a municipality under section 4 to enter into written cooperative agreements with political subdivisions, landowners, private organizations and individuals and to acquire by agreement, gift, eminent domain or purchase, land, rights-of-way and easements for the purpose of establishing, protecting and maintaining a walking trail right-of-way across this Commonwealth, now generally known as the Appalachian Trail, under such terms and conditions, including payment by the department in lieu of property taxes on trail lands or property so acquired or subject to such use in accordance with the act of May 17, 1929 (P.L.1798, No.591) referred to as the Forest Reserves Municipal Financial Relief Law, as shall protect the interests of the actual or adjacent landowners, or land users and as shall further the purposes of this act. In the event of acquisition by eminent domain of land other than tillable farmland, the total amount of land so acquired shall not exceed an average of 125 acres per mile of trail; and in the event of acquisition by eminent domain of tillable farmland, such acquisition of such land shall be limited to a footpath with a width of not more than 25 feet across such land until the owner of such land evidences plans to convert the land to nonfarming use. Any department or agency of the Commonwealth, or any political

subdivision, may transfer to the department land or rights in land for these purposes, on terms and conditions as agreed upon, or may enter into an agreement with the department providing for the establishment and protection of the trail.

* * *

Section 4. Municipalities; powers and duties.

[Political subdivisions, including municipalities] (a) *A municipality, as defined in the Pennsylvania Municipalities Planning Code, through which the Appalachian Trail passes shall have the power and their duty shall be to take such action consistent with applicable law, as at least an interim measure, to preserve the natural, scenic, historic and esthetic values of the trail and to conserve and maintain it as a public natural resource. Such action shall include the adoption, implementation and enforcement of zoning ordinances as the governing body deems necessary to preserve those values.* Such municipalities may act hereunder in that section of the municipality through which the Appalachian Trail passes without zoning the entire municipality as required under section 605 of the Pennsylvania Municipalities Planning Code.

(b) The Department of Community and Economic Development shall assist municipalities in complying with the provisions of this section by furnishing technical assistance relating to zoning matters. The Department of Community and Economic Development shall notify each municipality which is required to comply with the provisions of subsection-(c) within 30 days of the effective date of this subsection.

(c) The Department of Conservation and Natural Resources shall assist municipalities in the identification and acquisition of property appropriate for a conservation easement or other protection measures and provide information to municipalities relating to protection measures such as conservation easements and other techniques through its grant programs, subject to availability of funding, eligibility and the terms, rules, procedures and requirements thereof.

(d) Municipalities which have not adopted zoning ordinances under subsection (a) as of the effective date of this subsection shall receive priority for grant funding under the Land Use Planning and Technical Assistance Program of the Department of Community and Economic Development.

(e) (1) Municipalities shall implement zoning ordinances under subsection (a) within one year of the effective date of this subsection.

(2) A municipality shall not be required to implement a zoning ordinance under subsection (a) if, on the effective date of this subsection, all of the property adjoining the Appalachian Trail in the municipality is:

(i) owned by the Department of Conservation and Natural Resources;
or

(ii) operated as a game preserve by a nonprofit, nonstock corporation which is qualified as an exempt organization under section 501(c) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 501(c)).

(3) If title to property under paragraph (2) is transferred or the use of such property changes, the municipality shall implement a zoning ordinance under subsection (a) within one year of the date the title to the property is transferred or the use of the property changes.

Section 2. This act shall take effect in 60 days.

APPROVED—The 11th day of June, A.D. 2008.

EDWARD G. RENDELL