

No. 2008-126

AN ACT

SB 1028

Amending the act of May 1, 1933 (P.L.103, No.69), entitled, as reenacted and amended, "An act concerning townships of the second class; and amending, revising, consolidating and changing the law relating thereto," further providing for public roads.

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

Section 1. Section 2307 of the act of May 1, 1933 (P.L.103, No.69), known as The Second Class Township Code, reenacted and amended November 9, 1995 (P.L.350, No.60), is amended to read:

Section 2307. Certain Roads Declared Public Roads.—(a) Every road which has been used for public travel and maintained and kept in repair by the township for a period of at least twenty-one years is a public road having a right-of-way of thirty-three feet even though there is no public record of the laying out or dedication for public use of the road.

(b) In any proceeding pursuant to this section, any relevant oral or documentary evidence of public travel or maintenance and repairs by the township shall, if presented, be considered, including, but not limited to:

(i) Maps or surveys which are either generated by any governmental unit or are created pursuant to any judicial proceeding of the courts of this Commonwealth.

(ii) Evidence concerning the distribution of government funds to the township pursuant to the act of June 1, 1956 (1955 P.L.1944, No.655), referred to as the "Liquid Fuels Tax Municipal Allocation Law."

(iii) Approved subdivision plans, deeds or other documents containing a designation of the road as either a township road or otherwise.

(iv) Evidence that the road is an extension from a public road or public cul-de-sac, a throughway between other municipal or State roads or provides the only access to a municipal boundary line.

(v) Court orders, decisions, findings of fact or other matters of judicial record relating to public or private rights in the road.

(c) For purposes of this section:

(i) The frequency of use of a road may be considered relevant in any proceeding pursuant to this section, but, in the absence of additional findings on the purpose of such use, shall not alone be sufficient to establish that the road has been used for public travel.

(ii) The condition or sufficiency of the road surface for public travel may be considered relevant in any proceeding pursuant to this section, but, absent additional findings of actual public maintenance and repair, shall

not alone be sufficient to establish maintenance and repair by the township.

(d) Nothing in this section shall be construed as affecting the weight or persuasiveness of any evidence presented in accordance with ~~subsection (b)~~ or the relevance of any evidence presented except as otherwise provided in this section.

(e) In any proceeding in which this section is relied upon to allege the existence of a public road, the proponent of the public status of the road shall present evidence first, and the burden shall then shift to the opponent to present evidence to refute the public status of the road.

Section 2. This act shall take effect immediately.

APPROVED—The 9th day of October, A.D. 2008.

EDWARD G. RENDELL