

## No. 2011-13

## AN ACT

HB 374

Amending the act of May 27, 1953 (P.L.244, No.34), entitled "An act relating to and regulating the contracts of incorporated towns and providing penalties," further providing for power to convey.

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

Section 1. Section 1.1 of the act of May 27, 1953 (P.L.244, No.34), entitled "An act relating to and regulating the contracts of incorporated towns and providing penalties," added October 31, 1985 (P.L.297, No.70), is amended to read:

Section 1.1. Power to Convey.—(a) Each incorporated town may 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 in the best interest of the town: Provided, That no real estate owned by the town shall be sold for a consideration in excess of fifteen hundred dollars except to the highest bidder after due notice by advertisement for bids in one newspaper of general circulation in the town. The advertisement shall be published once, not less than ten days prior to the date fixed for the opening of bids, and the date for opening bids shall be announced in the advertisement. The acceptance of bids shall be made only by public announcement at a regular or special meeting of council. 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. *Council may reject all bids if the bids are deemed to be less than the fair market value of the real property. In the case of public auction, the council may establish a minimum bid based on the fair market value of the real property.* Real estate owned by a town may be sold at a consideration of fifteen hundred dollars or less without advertisement of competitive bidding only after council estimates the value thereof upon receipt of an appraisal by a qualified real estate appraiser.

(b) Except as otherwise hereinafter provided in the case of personal property of an estimated sale value of less than **[two hundred] one thousand** dollars, no town 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 sale value of the entire lot to be disposed of. If council shall estimate the sale value to be **[two hundred] one thousand** dollars or more, the entire lot shall be advertised for sale once, in at least one newspaper of general circulation in the town, 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. *The advertisement for electronic auction sales authorized in subsection (c.1) shall include the Internet address or means of accessing the electronic auction and the date, time and duration of the electronic auction.* Council shall have authority,

by resolution, to adopt a procedure for the sale of surplus personal property of an estimated sale value of less than **[two hundred] one thousand** dollars, and the approval of council shall not be required for any individual sale that shall be made in conformity to such procedure.

(c) The provisions of this section shall not be mandatory where town property is to be traded in or exchanged for new town property.

*(c.1) 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.*

*(c.2) A town that has complied with the advertising requirements of subsection (b) may provide additional public notice of the sale by bids or public auction in any manner deemed appropriate by council.*

*(c.3) Council may reject any bids received if the bids are believed to be less than the fair market value of the property.*

(d) The provisions of this section requiring advertising for bids and sale to the highest bidder shall not apply where town real or personal property is to be sold to a county, city, borough, town, township, institution district, school district, volunteer fire company, volunteer ambulance service or volunteer rescue squad located within the town, or **[municipal] an authority [pursuant to the act of May 2, 1945 (P.L.382, No.164), known as the "Municipality Authorities Act of 1945,"] as defined in 53 Pa.C.S. § 5602 (relating to definitions)**, or is to be sold to a non-profit corporation engaged in community industrial development or where real property is to be sold to a person for his exclusive use in an industrial development program, or where real property is to be sold to a non-profit corporation organized as a public library for its exclusive use as a library, or where real property is to be sold to a non-profit medical service corporation or to a non-profit housing corporation. 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. Real property sold pursuant to this section 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 town.

Section 2. This act shall take effect immediately.

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

TOM CORBETT