

No. 2012-30

AN ACT

SB 730

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," in corporate powers, further providing for real property and for personal property; and, in contracts, further providing for letting contracts.

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

Section 1. Section 1503 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) and amended May 18, 2004 (P.L.219, No.29) and May 18, 2004 (P.L.226, No.33), is amended to read:

Section 1503. Real Property.—(a) No real estate owned by the township having a value in excess of fifteen hundred dollars (\$1,500) may be sold 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 township. The advertisement shall be published once not less than ten days before the date set for the opening of bids or public auction, and the date for opening bids or public auction shall be announced in the advertisement. The award of contracts shall be made only by public announcement at a regular or special meeting of the board of supervisors 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.

(b) The board of supervisors may reject all bids if the bids are deemed to be less than the fair market value of the property. In the case of a public auction, the board of supervisors may establish a minimum bid based on the fair market value of the real property.

(b.1) The board of supervisors may sell real property under the act of October 27, 1979 (P.L.241, No.78), entitled, as amended, "An act authorizing political subdivisions, municipality authorities and transportation authorities to enter into contracts for the purchase of goods and the sale of real and personal property where no bids are received," if no bids are received on real property after proper notices.

(c) The requirements of this section do not apply to conveyances or leases of real property by a township to any of the following:

- (1) A municipal corporation.
- (2) The Federal Government.
- (3) The Commonwealth.
- (4) An institution district.
- (5) A school district.
- (6) A municipality authority.
- (7) A county.
- (8) A public utility.

(9) A volunteer fire company.

(10) A nonprofit corporation engaged in community industrial, commercial or affordable housing development.

(11) A volunteer ambulance service or volunteer rescue squad located within the township.

(12) A nonprofit corporation organized as a public library.

(13) A nonprofit medical service corporation.

(14) A nonprofit housing corporation.

(15) A nonprofit organization providing community service or development activities.

(16) A nonprofit corporation established for the preservation of historical, architectural or aesthetic sites or artifacts.

(17) A nonprofit association or nonprofit corporation organized to acquire and maintain real property for the preservation, conservation and stewardship of open space.

(18) A council of government, consortium, cooperative or other similar entity created pursuant to 53 Pa.C.S. Ch. 23 Subch. A (relating to inter-governmental cooperation).

Such conveyances or leases shall be at the sole discretion of the township.

(d) When real property is sold to a nonprofit corporation organized as a public library or to a nonprofit medical service corporation, nonprofit housing corporation, volunteer fire company, volunteer ambulance service [or], volunteer rescue squad[,] ***or a council of government, consortium, cooperative or other similar entity created pursuant to 53 Pa.C.S. Ch. 23 Subch. A involving one or more of the entities listed in this subsection,*** the board of supervisors may elect to accept any nominal consideration for the property as it believes appropriate. Real property sold under this subsection is subject to the condition that when the property is not used for the purposes of the corporation or volunteer fire company, the property reverts to the township.

(e) No real estate may be purchased by a township unless the board of supervisors obtains at least one appraisal on the real property in question by a person authorized to perform an appraisal on the subject property under the act of July 10, 1990 (P.L.404, No.98), known as the "Real Estate Appraisers Certification Act," and the township supervisors may require that an environmental impact statement be prepared, indicating the potential liability of the township for any environmental problems associated with the real estate to be purchased. The person making the appraisal shall not be interested directly or indirectly in any aspect of the sale of the real estate. The price paid by the board of supervisors for the purchase of the real estate shall not exceed the price established by the appraisal: Provided, however, That if more than one appraisal is obtained, the price paid by the board of supervisors shall not exceed the average of the appraisals.

(f) When real property has been dedicated, deeded or devised to a township to be used for a designated purpose and the real property is accepted and used for that purpose, or the real property is not used for the purpose designated for a period of ten years or more, and the township supervisors determine that it is not possible or not desirable for the best interest of the township to use the real property for the purpose designated,

the township supervisors, with the prior approval of the court of common pleas, may by ordinance reconvey to the original owners or their successors, heirs or assigns, or otherwise dispose of, the real property free and clear of any public right.

Section 2. Section 1504 of the act, reenacted and amended July 10, 1947 (P.L.1481, No.567) and amended June 23, 2006 (P.L.203, No.49), is amended to read:

Section 1504. Personal Property.—(a) No personal property of the township shall be sold or disposed of without the approval of the board of supervisors. No personal property owned by the township, the estimated fair market value of which is one thousand dollars (\$1,000) or more, shall be sold except to the highest bidder after due notice by advertisement for bids or for public auction in one newspaper of general circulation in the township. The advertisement shall be published once not less than ten days before the date set for the opening of bids or public auction, and the date for opening bids or public auction shall be announced in the advertisement. The advertisement for electronic auction sales authorized in subsection (d) shall include the Internet address or means of accessing the electronic auction and the date, time and duration of the electronic auction. If after attempting twice to receive bids or if at a public auction no bid was received, the board of supervisors may by resolution adopt a procedure by which the personal property may be sold without further action of the board of supervisors. A procedure adopted pursuant to this authorization shall be subject to and shall conform with the requirements of any law governing the sale of property by municipal corporations generally when no bids have been received. The award of contracts shall be made only by public announcement at a regular or special meeting of the board of supervisors or at the public auction. Except as provided in subsection (d), all bids shall be accepted on the condition that payment of the purchase price in full is made immediately upon acceptance of the successful bid. The board of supervisors may reject any bids received if the bids are believed to be less than the fair market value of the property.

(b) With respect to personal property, either individual items or lots of items, the fair market value of which is estimated to be less than one thousand dollars (\$1,000), the board of supervisors shall by resolution adopt a procedure by which the property may be sold without further action by the board of supervisors. The board of supervisors may arrange for the sale of the item or items at public auction.

(b.1) The board of supervisors may sell personal property under the act of October 27, 1979 (P.L.241, No.78), entitled, as amended, "An act authorizing political subdivisions, municipality authorities and transportation authorities to enter into contracts for the purchase of goods and the sale of real and personal property where no bids are received," if no bids are received on personal property after proper notices.

(c) The bidding and advertising requirements of this section do not apply to the following transactions:

(1) If personal property of the township is being traded in or exchanged for other personal property.

[(2) The sale or lease of personal property to any municipal corporation, the Federal Government, the Commonwealth or any institution district, school district, municipality authority, county, public utility, volunteer fire company, nonprofit corporation engaged in community industrial development, volunteer ambulance service or volunteer rescue squad located within the township, nonprofit corporation organized as a public library, nonprofit medical service corporation, nonprofit housing corporation, nonprofit organizations providing community service or development activities or nonprofit corporation established for the preservation of historical, architectural or aesthetical sites or artifacts.]

(2) *The sale or lease of personal property by the township to any of the following:*

- (i) *A municipal corporation.***
- (ii) *The Federal Government.***
- (iii) *The Commonwealth.***
- (iv) *An institution district.***
- (v) *A school district.***
- (vi) *A municipality authority.***
- (vii) *A county.***
- (viii) *A public utility.***
- (ix) *A volunteer fire company.***
- (x) *A nonprofit corporation engaged in community industrial, commercial or affordable housing development.***
- (xi) *A volunteer ambulance service or volunteer rescue squad located within the township.***
- (xii) *A nonprofit corporation organized as a public library.***
- (xiii) *A nonprofit medical service corporation.***
- (xiv) *A nonprofit housing corporation.***
- (xv) *A nonprofit organization providing community service or development activities.***
- (xvi) *A nonprofit corporation established for the preservation of historical, architectural or aesthetic sites or artifacts.***
- (xvii) *A council of government, consortium, cooperative or other similar entity created pursuant to 53 Pa.C.S. Ch. 23 Subch. A (relating to intergovernmental cooperation).***

(d) A "public auction" shall include 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 the township. In the event that shipping costs are incurred, they shall be paid by the high bidder.

(e) A township that has complied with the advertising requirements of subsection (a) may provide additional public notice of the sale by bids or public auction in any manner deemed appropriate by the township.

Section 3. Section 3102(h) of the act, amended November 3, 2011 (P.L.341, No.84), is amended to read:

Section 3102. Letting Contracts.—* * *

(h) The contracts or purchases made by the board of supervisors involving payments in excess of the required advertising amount, which do not require advertising, bidding or price quotations are as follows:

(1) Those made for emergency, or routine maintenance, repairs or replacements for water, electric light and other public works of the township if they do not constitute new additions, extensions or enlargements of existing facilities and equipment.

(2) Those made for improvements, repairs or maintenance of any kind made or provided by any township through its own employes. All contracts or purchases of materials used for improvement, maintenance or construction are subject to the provisions contained in subsections (a) and (b).

(3) Those involving any policies of insurance or surety company bonds, those made for public utility service, those made for electricity, natural gas or telecommunications service either directly or with an association authorized under Article XIV in which the township is a member and those made with another municipal corporation, county, school district or municipality authority, *a council of government, consortium, cooperative or other similar entity created pursuant to 53 Pa.C.S. Ch. 23 Subch. A (relating to intergovernmental cooperation)* or Federal or State Government, including the sale, leasing or loan of any supplies or materials by the Federal or State Government or their agencies.

(4) Those involving personal or professional services.

(5) Those made for materials and supplies or equipment rental under emergency conditions under 35 Pa.C.S. Pt. V (relating to emergency management services).

(6) Those contracts involving equipment rental with operators if more than fifty percent of the total labor personnel hours required for the completion of the contract is supplied by the township through its own employes.

(7) Those contracts for the purchase of repair parts or materials for use in existing township equipment or facilities if the item or material to be purchased is the sole item of its kind on the market or is manufactured as a replacement for the original item or equipment being repaired.

(8) Those for used equipment, articles, apparatus, appliances, vehicles or parts thereof being purchased from a public utility.

(9) Those where particular types, models or pieces of equipment, articles, apparatus, appliances, vehicles or parts thereof which are patented and manufactured products.

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Section 4. This act shall take effect in 60 days.

APPROVED—The 12th day of April, A.D. 2012

TOM CORBETT