

No. 1995-14

AN ACT

HB 437

Amending the act of May 1, 1933 (P.L.103, No.69), entitled "An act concerning townships of the second class; and amending, revising, consolidating, and changing the law relating thereto," further providing for the disposal of personal property and for letting contracts.

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

Section 1. Clause II of section 701 of the act of May 1, 1933 (P.L.103, No.69), known as The Second Class Township Code, reenacted and amended July 10, 1947 (P.L.1481, No.567) and amended December 14, 1989 (P.L.629, No.74), is amended to read:

Section 701. Suits; Property.—Any township of the second class may—
* * *

II. 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 to the best interest of the township: Provided, That no real estate owned by the township shall be sold for a consideration in excess of fifteen hundred dollars, 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. Such advertisement shall be published once not less than ten days prior to the date fixed for the opening of bids or public auction, and such date for opening bids or public auction shall be announced in such advertisement. The [acceptance] *award* of [bids] *contracts* shall be made only by public announcement at a regular or special meeting of the board of township 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.

The board of supervisors shall have the authority to reject all bids if such bids are deemed to be less than the fair market value of the real 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.

Except as otherwise hereinafter provided in the case of personal property of an estimated [sale] *fair market* value of less than [two hundred] *one thousand* dollars, no township personal property shall be disposed of, by sale or otherwise, except upon approval of the board of township supervisors, by ordinance or resolution. In cases where the board of township supervisors shall approve a sale of such property, it shall estimate the [sale] *fair market* value of the entire lot to be disposed of. If the board of township supervisors shall estimate the [sale] *fair market* 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 township, 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 board of township supervisors may reject any bids received if the bids are believed to be less than the fair market value of the property.* The board of township supervisors shall [have authority], by resolution, [to] adopt a procedure for the sale of surplus personal property, *either individual items or lots of items*, of an estimated sale value of less than [two hundred] *one thousand* dollars and the approval of the board of township supervisors shall not be required for any individual sale that shall be made in conformity to such procedure.

The provisions of this clause shall not be mandatory where township property is to be traded in or exchanged for new township property.

The provisions of this clause shall not prohibit the sale or exchange of township property to public utilities.

The provisions of this clause requiring advertising for bids or sale at public auction and sale to the highest bidder shall not apply where township 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 township, or municipal authority pursuant to the Municipality Authorities Act of 1945, or to a nonprofit 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 nonprofit corporation organized as a public library for its exclusive use as a library, or where real property is to be sold to a nonprofit medical service corporation as authorized by clause LXXI of section 702 or where real property is to be sold to a nonprofit housing corporation as authorized by clause LXXII of section 702. When real property is to be sold to a nonprofit corporation organized as a public library for its exclusive use as a library or to a nonprofit medical service corporation or to a nonprofit housing corporation the board of township supervisors may elect to accept such nominal consideration for such sale as it shall deem appropriate. Real property sold pursuant to this clause to a volunteer fire company, volunteer ambulance service or volunteer rescue squad, nonprofit medical service corporation or to a nonprofit housing corporation shall be subject to the condition that when the property is not used for the purposes of the company, service, squad or corporation the property shall revert to the township.

Any officer who sells and each officer who votes in favor of selling any township property, either real or personal, without the provisions of this section having been complied with, shall be subject to surcharge in the amount of any loss sustained by the township by reason of such sale.

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Section 2. Section 802(a) and (c) of the act, amended October 4, 1978 (P.L.1026, No.228) and July 10, 1990 (P.L.386, No.91), are amended to read:

Section 802. Letting Contracts.—(a) Each township shall have the power to make, to authorize, and to ratify, expenditures for lawful purposes from funds available therefor, by borrowing within legal limitations: Provided, That all contracts or purchases in excess of ten thousand dollars, except those hereinafter mentioned, shall not be made except with and from the lowest responsible bidder, after due notice in one newspaper of general circulation, published or circulating in the county in which the township is situated, at least two times, at intervals of not less than three days where daily newspapers of general circulation are employed for such publication, or in case weekly newspapers are employed, then the notice shall be published once a week for two successive weeks. The first advertisement shall be published not more than forty-five days and the second advertisement not less than ten days prior to the date fixed for the opening of bids. Notice of proposed contracts or purchases shall also be posted where the board of supervisors normally meets or in a conspicuous place within the township. *Advertisements for contracts or purchases shall contain the date, time and location for opening of bids.*

* * *

(c) (1) The [acceptance] award of [bids] contracts shall only be made by public announcement at the meeting at which bids are received, or at a subsequent meeting, the time and place of which shall be publicly announced when bids are received. If for any reason one or both of the above meetings shall not be held, the same business may be transacted at subsequent meetings: Provided, That at least five days' notice thereof shall be published in the newspaper aforesaid.

(2) *Notwithstanding clause (1), the board of township supervisors may direct that a committee of the board, a member of the board or a member of the township staff receive, open and review bids during normal business hours and forward the information to the board of township supervisors for subsequent award at a public meeting. Bidders shall be notified and other interested parties, upon request, shall be notified of the date, time and location of the opening of bids and may be present when the bids are opened.*

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Section 3. This act shall take effect in 60 days.

APPROVED—The 26th day of June, A.D. 1995.

THOMAS J. RIDGE