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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 270 Session of  
2013

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INTRODUCED BY O'NEILL, D. COSTA, MILLARD, BRADFORD, MCCARTER,  
MURT, MILNE AND MOLCHANY, JANUARY 23, 2013

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REFERRED TO COMMITTEE ON LOCAL GOVERNMENT, JANUARY 23, 2013

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AN ACT

1 Authorizing municipalities to acquire highway corridor  
2 conservation easements; and providing for highway corridor  
3 overlay zoning and for outdoor advertising permits.

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

6 Section 1. Short title.

7 This act shall be known and may be cited as the Highway  
8 Corridor Enhancement Act.

9 Section 2. Purpose.

10 The purpose of this act is:

11 (1) To provide municipalities with alternative means to  
12 retain or protect, for the public and economic benefit, the  
13 natural, historical, architectural, archeological, cultural,  
14 scenic or open space values of real property along public  
15 highway corridors.

16 (2) To better enable municipalities to control the  
17 erection and maintenance of outdoor advertising devices in  
18 areas along the highways within this Commonwealth in order:

1 (i) To assure the reasonable, orderly and effective  
2 display of outdoor advertising while protecting the  
3 public investment in the Federal, State and local  
4 highways.

5 (ii) To promote the welfare, convenience and  
6 recreational value of public travel.

7 (iii) To preserve natural beauty.

8 Section 3. Definitions.

9 The following words and phrases when used in this act shall  
10 have the meanings given to them in this section unless the  
11 context clearly indicates otherwise:

12 "Comprehensive plan." A municipal, multimunicipal or county  
13 comprehensive plan as delineated in the act of July 31, 1968  
14 (P.L.805, No.247), known as the Pennsylvania Municipalities  
15 Planning Code.

16 "Department." The Department of Transportation of the  
17 Commonwealth.

18 "Highway." A portion of right-of-way that is open to the use  
19 of the public for purposes of vehicular travel. The term does  
20 not include an unimproved right-of-way, private road or drive.

21 "Highway corridor conservation easement." A nonpossessory  
22 interest in real property, whether appurtenant or in gross,  
23 imposing limitations or affirmative obligations, the purposes of  
24 which may include, but are not limited to:

25 (1) retaining or protecting for the public and economic  
26 benefit the natural, scenic or open space values of real  
27 property adjacent to or within view of highways;

28 (2) assuring its availability for agricultural, forest,  
29 recreational or open space use;

30 (3) protecting, conserving or managing the use of

1 natural resources;

2 (4) protecting wildlife;

3 (5) maintaining or enhancing land, air or water quality  
4 or preserving the historical, architectural, archaeological  
5 or cultural aspects of real property adjacent to, or within  
6 view of, highways. Such interest may impose limitations on  
7 the use of the property for outdoor advertising devices for  
8 such purposes.

9 "Land trust." A charitable corporation, charitable  
10 association or charitable trust that is registered with the  
11 Bureau of Charitable Organizations of the Department of State  
12 and is exempt from taxation pursuant to section 501(c)(3) of the  
13 Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. §  
14 501(c)(3)) or other Federal or Commonwealth statutes or  
15 regulations, the purposes or powers of which include:

16 (1) retaining or protecting the natural, scenic,  
17 agricultural or open space values of real property;

18 (2) assuring the availability of real property for  
19 agricultural, forest, recreational or open space use;

20 (3) protecting, conserving or managing the use of  
21 natural resources;

22 (4) protecting wildlife;

23 (5) maintaining or enhancing land, air or water quality;

24 or

25 (6) preserving the historical, architectural,  
26 archaeological or cultural aspects of real property.

27 "Municipality." Either of the following:

28 (1) a municipal corporation as defined in 1 Pa.C.S. §  
29 1991 (relating to definitions) or any similar general purpose  
30 unit of local government; or

1           (2) a unit created by joint action of two or more  
2 municipalities that is authorized to be created by the  
3 General Assembly, including cooperation by two or more  
4 municipalities in accordance with 53 Pa.C.S. Ch. 23 Subch. A  
5 (relating to intergovernmental cooperation).

6 "Outdoor advertising device." An outdoor sign, display,  
7 light, figure, painting, drawing, message, plaque, poster,  
8 billboard or other object that is designed, intended or used to  
9 advertise or inform. The term does not include:

10           (1) An official sign and notice that is required or  
11 authorized by law and conforms to the national standards  
12 promulgated by the Secretary of Transportation of the United  
13 States pursuant to 23 U.S.C. § 131 (relating to control of  
14 outdoor advertising).

15           (2) An outdoor advertising device that advertises the  
16 sale or lease of the real property on which it is located.

17           (3) An outdoor advertising device that advertises an  
18 activity conducted on the property on which it is located.

19           (4) A directional sign including, but not limited to, a  
20 sign pertaining to natural wonders, scenic and historical  
21 attractions and other points of interest to the traveling  
22 public that conforms to the national standards promulgated by  
23 the Secretary of Transportation of the United States pursuant  
24 to 23 U.S.C. § 131.

25           (5) An outdoor advertising device in the specific  
26 interest of the traveling public that is authorized to be  
27 erected or maintained by the Secretary of Transportation of  
28 the Commonwealth and is designed to give information in the  
29 interest of the traveling public.

30 "Right-of-way." The entire area of land contiguous with and

1 including a highway, that either:

2 (1) the Department of Transportation or a municipality  
3 has acquired for highway purposes; or

4 (2) the Department of Transportation or a municipality  
5 otherwise has lawful rights of access, occupation,  
6 construction and maintenance for highway purposes.

7 "Secretary." The Secretary of Transportation of the  
8 Commonwealth.

9 Section 4. Highway corridor conservation easements.

10 (a) Authorization.--In accordance with the act of June 22,  
11 2001 (P.L.390, No.29), known as the Conservation and  
12 Preservation Easements Act, a land trust or municipality may  
13 acquire by purchase, contract, gift or devise a highway corridor  
14 conservation easement.

15 (b) Scope.--A highway corridor conservation easement may  
16 encompass an entire fee simple interest in a parcel or real  
17 property or any portion thereof or an estate therein.

18 (c) Assessment.--

19 (1) A highway corridor conservation easement interest  
20 acquired by a municipality or a land trust under this act  
21 shall be held for public purpose and shall be exempt from  
22 taxation.

23 (2) The assessment of a private interest in land subject  
24 to a highway conservation easement interest under this act  
25 shall reflect any change in market value of the property that  
26 may result from the acquisition of a conservation easement  
27 interest by a municipality or a land trust.

28 (d) Limitations and planning requirements.--

29 (1) (i) A municipality may not acquire a highway  
30 corridor conservation easement unless the real property

1 has been designated for any of the purposes of such an  
2 easement in a park, recreation and open space plan, or  
3 its equivalent, or a comprehensive plan recommended by  
4 the planning commission of the municipality in which the  
5 real property is located and adopted by the governing  
6 body of that municipality.

7 (ii) Where the municipality in which the real  
8 property to be acquired is located has no planning  
9 commission, the municipality may not acquire a highway  
10 corridor conservation easement unless the real property  
11 has been designated for any of the purposes of such  
12 easement in a park, recreation and open space plan, or  
13 its equivalent, or a comprehensive plan approved by the  
14 planning commission of the county in which the real  
15 property is located and adopted by the governing body of  
16 the municipality wherein the real property is located.

17 (2) The use of a highway corridor conservation easement  
18 may not serve a de facto exclusionary purpose if the highway  
19 corridor conservation easement is acquired or held by a  
20 municipality.

21 (e) Construction.--Nothing contained in this section shall  
22 be construed as altering, modifying or superseding either the  
23 method of creating an agricultural conservation easement or the  
24 rights, duties, powers and obligations appurtenant to such  
25 easements under the provisions of the act of December 19, 1974  
26 (P.L.973, No.319), known as the Pennsylvania Farmland and Forest  
27 Land Assessment Act of 1974, the act of June 30, 1981 (P.L.128,  
28 No.43), known as the Agricultural Area Security Law, and  
29 preservation of coal rights as provided in section 9 of the  
30 Conservation and Preservation Easements Act.

1 Section 5. Highway corridor overlay zoning.

2 (a) Establishment of highway corridor overlay districts.--

3 Pursuant to the act of July 31, 1968 (P.L.805, No.247), known as  
4 the Pennsylvania Municipalities Planning Code, a municipality  
5 may establish a highway corridor overlay district within 660  
6 feet of the nearest edge of the right-of-way of any highway or  
7 portion of a highway within the municipality in order to further  
8 promote the purposes of this act. The zoning ordinance or  
9 amendment thereto establishing the highway corridor overlay  
10 district may include, but shall not be limited to, any of the  
11 following:

12 (1) Restrictions of commercial or industrial use or  
13 development of property within the district, including  
14 limitations on the use of property for outdoor advertising  
15 devices.

16 (2) (i) Restrictions on destruction, damage,  
17 disturbance or removal of vegetation within the district  
18 for a purpose other than for agriculture, farming,  
19 forestry or parks and recreation.

20 (ii) Nothing contained in this paragraph shall be  
21 construed as altering, modifying or superseding the  
22 provisions of the act of December 20, 1983 (P.L.293,  
23 No.79), known as the Highway Vegetation Control Act.

24 (3) Provisions for the abandonment and removal of any  
25 lawful use of property deemed nonconforming by the enactment  
26 of the zoning ordinance or amendment establishing the  
27 district.

28 (b) Consent required for removal of lawful use.--Any lawful  
29 use of property deemed nonconforming by the establishment of a  
30 highway corridor overlay district and not abandoned may not be

1 removed without the consent of the owner thereof unless just  
2 compensation is paid in accordance with law.

3 (c) Limitation.--The enactment or enforcement of a zoning  
4 ordinance or amendment establishing a highway corridor overlay  
5 district may not prohibit an otherwise lawful use of property  
6 from occurring anywhere within the municipality.

7 (d) Plans required.--

8 (1) Highway corridor overlay zoning shall be designated  
9 in a park, recreation and open space plan, or its equivalent,  
10 or a comprehensive plan recommended by the planning  
11 commission of the municipality in which the real property is  
12 located and adopted by the governing body of that  
13 municipality.

14 (2) Where the municipality in which highway corridor  
15 overlay zoning is proposed has no planning commission, a  
16 municipality may not establish a highway corridor overlay  
17 district unless it has been designated in a park, recreation  
18 and open space plan, or its equivalent, or a comprehensive  
19 plan approved by the planning commission of the county in  
20 which the real property is located and adopted by the  
21 governing body of the municipality wherein the real property  
22 is located.

23 (e) Definitions.--For purposes of this section, the term  
24 "commercial or industrial use or development of property" does  
25 not include:

26 (1) Agricultural, forestry, grazing, farming and related  
27 activities, including, but not limited to, wayside fresh  
28 produce stands for which at least 50% of the commodities sold  
29 are produced on the property.

30 (2) "Official signs and notices," "public utility signs"



1 and "public service signs," as defined in the act of December  
2 15, 1971 (P.L.596, No.160), known as the Outdoor Advertising  
3 Control Act of 1971, and the regulations promulgated under  
4 that act.

5 Section 6. Outdoor advertising permits.

6 (a) Ordinances authorized.--Subject to the provisions of  
7 subsection (b), a municipality may, by ordinance, provide for  
8 permitting of outdoor advertising devices proposed, constructed  
9 or maintained within the limits of the municipality in order to  
10 promote the purposes of this act.

11 (b) Contents of ordinance.--Any ordinance enacted under the  
12 authority of this section shall include, but not be limited to,  
13 any of the following:

14 (1) (i) In a municipality without zoning, reasonable,  
15 objective standards for the construction, location, size,  
16 spacing, lighting and maintenance of outdoor advertising  
17 in accordance with the act of December 15, 1971 (P.L.596,  
18 No.160), known as the Outdoor Advertising Control Act of  
19 1971, and the regulations promulgated thereunder.

20 (ii) Issuance, continuation or renewal of any permit  
21 shall be conditioned upon compliance with such standards.  
22 The ordinance shall provide that any outdoor advertising  
23 device in violation of the Outdoor Advertising Control  
24 Act of 1971 is in violation of the ordinance and subject  
25 to penalty or removal.

26 (iii) Nothing in this paragraph shall be construed  
27 to prohibit a municipality from establishing reasonable,  
28 objective standards that exceed those of this act.

29 (2) In a municipality with zoning, provisions  
30 conditioning the issuance, continuation or renewal of a

1 permit in compliance with all applicable ordinances enacted  
2 pursuant to the act of July 31, 1968 (P.L.805, No.247), known  
3 as the Pennsylvania Municipalities Planning Code.

4 (3) (i) Provisions for the submission and prompt review  
5 of an application for a permit that may require the  
6 applicant to provide drawings, design specifications,  
7 leases or other information relevant to the determination  
8 that the sign is in compliance with all applicable  
9 municipal ordinances.

10 (ii) In no event shall the review of a permit  
11 application exceed 60 days.

12 (iii) The decision to issue, renew or deny a permit  
13 shall be in writing and, in a case where a permit is  
14 denied, shall recite the appropriate sections of any  
15 ordinance upon which such denial is based.

16 (4) (i) Provisions for the designation of a sign  
17 administrator whose duties shall include, but not be  
18 limited to, the issuance of permits and written decisions  
19 as required by this section and the enforcement of any  
20 ordinance enacted under this section.

21 (ii) The sign administrator shall conduct  
22 inspections, issue citations and notices and initiate any  
23 appropriate action in accordance with law in instances of  
24 noncompliance.

25 (iii) The sign administrator may not be a member of  
26 the governing body of the municipality.

27 (5) (i) Provisions for an appeal to the governing body  
28 of the municipality for review of a decision of the sign  
29 administrator in accordance with the provisions of 2  
30 Pa.C.S. Chs. 5 Subch. B (relating to practice and

1 procedure of local agencies) and 7 Subch. B (relating to  
2 judicial review of local agency action).

3 (ii) Nothing in this paragraph shall be construed to  
4 limit the right of any party to further appeal to the  
5 court of common pleas of the county.

6 (6) Provisions for reasonable, annual permit fees.

7 (7) Provisions for the revocation of a permit, removal  
8 of an abandoned sign and the impositions of fines and  
9 penalties not to exceed \$1,000 per violation. The ordinance  
10 may provide that a separate offense arise for each day or  
11 portion thereof in which a violation is found to exist or for  
12 each section of the ordinance that is found to have been  
13 violated.

14 (c) Prohibited provisions.--No ordinance enacted pursuant to  
15 this section may:

16 (1) Regulate the content or viewpoint of an outdoor  
17 advertising device.

18 (2) Be administered or applied in such a manner as to  
19 totally prohibit outdoor advertising devices within the  
20 municipality.

21 (3) Be administered or applied to impair contracts  
22 existing on the effective date of the ordinance.

23 Section 7. Other laws.

24 The powers and duties granted to a municipality under this  
25 act shall be considered supplemental to any other municipal  
26 power and shall not be interpreted as preempted or superseded by  
27 any other act unless expressly so provided.

28 Section 8. Effective date.

29 This act shall take effect in 60 days.