

PROJECT 70 LAND ACQUISITION AND BORROWING ACT
Act of Jun. 22, 1964, Special Session 1, P.L. 131, No. 8 Cl. 72
Special Session No. 1 of 1964
No. 1964-8

AN ACT

Authorizing the creation and liquidation of indebtedness of seventy million dollars for the acquisition of lands for recreation, conservation and historical purposes (Project 70); defining the powers and duties of certain offices, agencies and political subdivisions; providing for the allotment of proceeds hereunder including Commonwealth grants; providing for payment in lieu of taxes; prescribing standards and making appropriations.

Compiler's Note: Section 303(b) of Act 18 of 1995, which created the Department of Conservation and Natural Resources and renamed the Department of Environmental Resources as the Department of Environmental Protection, provided that the Department of Conservation and Natural Resources shall exercise the powers and duties conferred upon the Department of Forests and Waters by Act 8, Sp.Sess., of 1964.

Compiler's Note: Section 1 of Act 165 of 1970 provided that the limits heretofore imposed by Act 8 upon the rates of interest and interest costs permitted to be paid upon bonds, obligations and indebtedness issued by the Commonwealth or its agencies or instrumentalities or authorities, and by local political subdivisions or their agencies or authorities, are hereby removed for such bonds, obligations or indebtedness.

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

Section 1. Short Title.--This act shall be known and may be cited as the "Project 70 Land Acquisition and Borrowing Act."

Section 2. Findings and Declarations of Policy.--It is hereby determined and declared as a matter of legislative finding that:

(1) Fundamental to the welfare of the people of Pennsylvania are the soil and water resources of the State.

(2) Private development of public and private lands for recreational purposes should be encouraged.

(3) The provision of lands for public recreation and the conservation of natural and historical resources promotes the public health, prosperity and general welfare.

(4) The rapid growth of population in Pennsylvania's urban and suburban areas requires the acquisition of lands for recreation, conservation and historical purposes before such lands are lost forever to urban development or become prohibitively expensive.

(5) The Commonwealth of Pennsylvania must act to acquire and to assist local governments to acquire lands that are available and appropriate for such purposes so that they and the lands previously dedicated to recreation, conservation and historical use may be so preserved.

(6) The acquisition of such lands by the Commonwealth is necessary in those counties where public ownership of land for recreation purposes is less than ten per cent of the total land area or where there is an urban area of more than twenty-five thousand persons.

(7) The Commonwealth of Pennsylvania should utilize available Federal programs in order to augment the funds made available under the provisions of this act.

(8) It is the sense of this legislation that acquisition hereunder shall cause a minimum of hardship to the industry and economy of the Commonwealth of Pennsylvania.

(9) Exploration for, development, storage and transportation of oil and gas, when properly conducted, are fully compatible with uses of publicly owned land for recreation, conservation and historical purposes.

Section 3. Definitions.--The following words or phrases, as used in this act, shall have the meanings herein assigned to them unless the context clearly indicates otherwise:

(1) "Recreation and historical purposes" mean any use of land for public park, fishing, hunting, boating, open space purposes or scenic sights or preservation of sites of historical significance, or for any related public outdoor recreation or historical purpose.

(2) "Conservation purposes" mean any use of land for water supply, flood control, water quality control development, soil erosion control, reforestation, wildlife reserves or any other uses that will maintain, improve or develop the natural environment of soil, water, air, minerals or wildlife of this Commonwealth so as to assure their optimum use.

(3) "Lands" mean real property, including improvements thereof or thereon, rights of way, water, riparian, and other rights, easements, privileges, and any other physical property or rights or interests of any kind or description relating to or connected with real property.

(4) "Political subdivision" means any county, city, borough, town or township of the Commonwealth, or any official agency created by the foregoing units of government under the laws of the Commonwealth: Provided, That any of the actions of such official agency taken under the authority of this act must be first approved by the participating local governing bodies in such agency.

(5) "Acquisition county" means any county of the Commonwealth in which, at the time of the effective date of this act, public ownership of land for outdoor recreation purposes is less than ten per cent of the total land area or where, at the time of the effective date of this act, there is an urban area of more than twenty-five thousand individuals. The following counties are represented in this definition: Adams, Allegheny, Armstrong, Beaver, Berks, Blair, Bradford, Bucks, Butler, Cambria, Carbon, Chester, Columbia, Crawford, Cumberland,

Dauphin, Delaware, Erie, Fayette, Greene, Indiana, Lackawanna, Lancaster, Lawrence, Lebanon, Lehigh, Luzerne, Lycoming, Mercer, Montgomery, Montour, Northampton, Northumberland, Philadelphia, Schuylkill, Somerset, Susquehanna, Venango, Washington, Wayne, Westmoreland, Wyoming and York.

(6) "Development county" means any county of the Commonwealth in which, at the time of the effective date of this act, public ownership of land for outdoor recreation purposes is more than ten per cent of the total land area or where, at the time of the effective date of this act, there is not an urban area of twenty-five thousand individuals. The following counties are represented in this definition: Bedford, Cameron, Centre, Clarion, Clearfield, Clinton, Elk, Forest, Franklin, Fulton, Huntingdon, Jefferson, Juniata, McKean, Mifflin, Monroe, Perry, Pike, Potter, Snyder, Sullivan, Tioga, Union, and Warren.

(7) "Administrative expenses" mean any expenditures of funds other than for the purchase price of acquisition of land required to accomplish the purpose of this act including, but not limited to, expenditures of the Commonwealth agencies for their engineering, legal, appraisal, administrative and investigative services, interest payable on or before July 1, 1965, on notes or bonds issued pursuant to this act, and all expenses connected with borrowings under this act.

Section 4. Authorization of Incurrence of Indebtedness by Constitutional Amendment.--(a) An amendment to article IX of the Constitution of Pennsylvania was adopted by the people of the Commonwealth of Pennsylvania on November 5, 1963, which reads as follows:

"Section 24--In addition to the purposes stated in article IX, section 4 of this Constitution, the Commonwealth may be authorized by law to create debt and to issue bonds to the amount of seventy million dollars (\$70,000,000), for the acquisition of land for State parks, reservoirs and other conservation and recreation and historical preservation purposes, and for participation by the Commonwealth with political subdivisions in the acquisition of land for parks, reservoirs and other conservation and recreation and historical preservation purposes, subject to such conditions and limitations as the General Assembly may prescribe."

(b) Pursuant to the permission granted by the Constitutional amendment hereinabove set forth, the Governor, Auditor General and State Treasurer are hereby authorized and directed to borrow, from time to time, on the credit of the Commonwealth and subject to the conditions and limitations of this act, money not exceeding in the aggregate the sum of seventy million dollars (\$70,000,000), as may be found necessary to carry out the purposes of the aforesaid amendment, and statutes passed in conformity therewith.

Section 5. Temporary Financing Authorization.--(a) Pending the issuance of bonds of the Commonwealth as hereinafter authorized, the Governor, Auditor General and State Treasurer (hereinafter called the "issuing officials") are hereby authorized in accordance with the provisions hereof and on the credit of the Commonwealth to make temporary borrowings of such moneys as may from time to time be necessary to carry out the

purposes of the aforesaid amendment and of this act. In order to provide for and in connection with such temporary borrowings the issuing officials are hereby authorized in the name and on behalf of the Commonwealth to enter into any loan or credit agreement or agreements or other agreements with any banks or trust companies or other lending institutions or persons in the United States having power to enter into the same, which agreements may contain such provisions, not inconsistent with the provisions of this act, as may be customary in such instruments and as may be authorized by the issuing officials.

(b) All temporary borrowings made under the authority of this section shall be evidenced by notes of the Commonwealth, which shall be issued from time to time for such amounts not exceeding in the aggregate the sum of seventy million dollars (\$70,000,000), in such form and in such denominations, and subject to such terms and conditions of issue, prepayment or redemption and maturity, not later than December 31, 1970, rate or rates of interest, not exceeding five per cent per annum, and time of payment of interest, as the issuing officials shall direct. All notes issued under the authority of this section shall bear the facsimile signatures of the issuing officials and a facsimile of the Great Seal of the Commonwealth of Pennsylvania, and shall be countersigned by two duly authorized officers of a duly authorized loan and transfer agent of the Commonwealth.

(c) All such notes shall be funded and retired not later than December 31, 1970, by the issuance and sale of bonds of the Commonwealth as hereinafter authorized, to the extent that payment of such notes has not otherwise been made or provided for.

(d) The proceeds of all such temporary borrowings shall be paid to the State Treasurer to be held and disposed of in accordance with the provisions of section 9 of this act.

Section 6. Bonds; Issue of Bonds and Notes; Maturity; Interest, etc.--(a) As evidence of indebtedness herein authorized, bonds of the Commonwealth shall be issued in accordance with the provisions hereof at any time, or from time to time, to fund and retire notes issued pursuant to section 5 of this act (hereinafter referred to as "funding bonds") or to provide moneys necessary to carry out the purposes of the aforesaid amendment, or both. Said bonds shall be designated as "Project 70 Land Acquisition Bonds."

(b) Funding bonds shall be issued from time to time for such total amounts as may be required to fund and retire notes issued pursuant to the provisions of section 5 of this act, as the issuing officials shall direct. Notes authorized by the provisions of section 5 of this act, and bonds, other than funding bonds and refunding bonds, shall be issued, from time to time, and in such total amounts as the Department of Forests and Waters and the Pennsylvania Fish and Game Commissions shall, with the approval of the Governor, determine.

(c) When bonds are issued from time to time, the bonds of each issue shall constitute a separate series to be designated by the issuing officials. Each series of bonds shall bear such rate or rates of interest that the aggregate amount of interest

payable over the life of such series, less the premium, if any, received upon the sale thereof, shall not exceed an amount equal to five per cent per annum computed over the life of such series as may be determined by the issuing officials. Such bonds shall be issued in such denominations and in such form or forms, whether coupon or registered as to both principal and interest, and with or without such provisions for interchangeability, as the issuing officials may determine. In case interest coupons are attached, they shall contain the facsimile signatures of the State Treasurer and the Auditor General.

(d) Except as specified in the foregoing provisions of this section 6, the terms and conditions of issue, redemption and maturity, and time of payment of interest shall be as the issuing officials shall direct: Provided, That no bonds of any series shall mature later than thirty years from the date of issuance. The issuing officials are hereby authorized to carry out the provisions of this act relating to the issuance of bonds and shall determine all matters in connection therewith subject to the provisions hereof.

(e) All bonds issued under the authority of this act shall bear the facsimile signatures of the issuing officials and a facsimile of the Great Seal of the Commonwealth of Pennsylvania, and shall be countersigned by two duly authorized officers of a duly authorized loan and transfer agent of the Commonwealth.

(f) All bonds issued under the authority of this act shall recite that they are issued for one of the purposes set forth in subsection (a) of section 6 of this act and that they are issued in pursuance of this act. In any action or proceeding involving the validity or enforceability of such bonds, such recital shall be conclusive as to their purpose and authorization.

Section 7. Limitation on Amount; Direct Obligations, Exemption from Taxation, Means of Payment.--(a) Anything contained in this act to the contrary notwithstanding, the aggregate principal amount of notes and bonds, exclusive of funding bonds and refunding bonds, which may be issued pursuant to the provisions of this act shall not exceed seventy million dollars (\$70,000,000).

(b) All notes and bonds issued in accordance with the provisions of this act shall be direct obligations of the Commonwealth of Pennsylvania, and the faith and credit of the Commonwealth are hereby pledged for the payment of the interest thereon as the same shall become due and the payment of the principal thereof at maturity. All notes and bonds issued under the provisions of this act shall be exempt from taxation for State and local purposes. The principal of and interest on such notes and bonds shall be payable in lawful money of the United States of America.

Section 8. Sale of Bonds.--(a) Whenever bonds are issued, they shall be offered for sale at not less than par and accrued interest and shall be sold by the issuing officials to the highest and best bidder or bidders after due public advertisement on such terms and conditions and upon such open competitive bidding as the issuing officials shall direct. The manner and times of advertising shall be prescribed by the issuing officials.

(b) Any portion of any bond issue so offered and not sold or subscribed for may be disposed of by private sale by the issuing officials in such manner and at such prices, not less than par and accrued interest, as the Governor shall direct. No commission shall be allowed or paid for the sale of any bonds issued under the authority of this act.

(c) Until permanent bonds can be prepared, the issuing officials may in their discretion issue in lieu of such permanent bonds, temporary bonds in such form and with such privileges as to registration and exchange for permanent bonds as may be determined by the issuing officials.

Section 9. Disposition and Use of Proceeds.--(a) The proceeds of all temporary borrowings made pursuant to the provisions of section 5 of this act, and the proceeds from the sale of bonds, other than funding bonds, issued pursuant to the provisions of section 6 of this act, shall be paid to the State Treasurer and be held by him in a separate fund and be deposited in such depositories as may be selected by him to the credit of such fund, which fund shall be known as the "Project 70 Land Acquisition Fund" (hereinafter referred to as the "Acquisition Fund").

(b) The moneys in the Acquisition Fund are hereby specifically dedicated to meeting the cost of public acquisition of lands for recreation, conservation and historical purposes and the Commonwealth's administrative expenses thereof as herein authorized and defined and shall not be expended except in accordance with the terms of this act.

(c) Pending their application to the purposes provided in this act, moneys in the Acquisition Fund may be invested and reinvested as are other funds in the custody of the State Treasurer in the manner provided by law. All earnings received from the investment or deposit of such funds shall be paid into the State Treasury and become a part of a sinking fund which shall be known as the "Project 70 Land Acquisition Sinking Fund," to be devoted to and to be used exclusively for the payment of interest accruing on bonds and notes issued under the authority of this act and the redemption of such bonds at maturity.

Section 10. Project 70 Land Acquisition Sinking Fund; Investments, Redemption of Bonds.--(a) All bonds issued under the authority of this act shall be redeemed at maturity and all interest due from time to time after July 1, 1965, on such bonds and on all notes issued under the authority of this act shall be paid by the Board of Finance and Revenue of the Commonwealth from the Project 70 Land Acquisition Sinking Fund. The General Assembly beginning with the fiscal year commencing July 1, 1965, shall appropriate annually the moneys necessary to pay the aforesaid interest on said bonds and notes and the principal of said bonds at maturity. All moneys so appropriated shall be paid into the Project 70 Land Acquisition Sinking Fund by the State Treasurer. All of such moneys not necessary to pay accruing interest shall be invested by the Board of Finance and Revenue in such securities as are provided by law for the investment of the sinking funds of the Commonwealth.

(b) The investment of such moneys and the accumulations

thereon in the Project 70 Land Acquisition Sinking Fund shall be devoted to and be used exclusively for the payment of the interest accruing on such bonds and notes and for the redemption of such bonds at maturity. The Board of Finance and Revenue is authorized at any time to use any of such funds for the purchase and retirement of all or any part of the bonds issued under the authority of this act. In the event that all or any part of said bonds shall be purchased by the Commonwealth, they shall be cancelled and returned to the State Treasurer, as cancelled and paid bonds and thereafter all payments of interest thereon shall cease and the cancelled bonds and coupons shall be destroyed within two years after cancellation in the presence of the issuing officials. A certificate, evidencing the destruction, satisfactory to the duly authorized loan and transfer agent of the Commonwealth, shall be furnished to it. All cancelled bonds and coupons shall be so mutilated as to make the cancelled bonds and coupons nonnegotiable.

Section 11. Reimbursement of Project 70 Land Acquisition Fund for Interest on Notes.--To the extent that interest on notes issued pursuant to the authority of this act shall have been paid out of the Acquisition Fund, the General Assembly shall in the fiscal year commencing July 1, 1965, appropriate the moneys necessary to reimburse the Acquisition Fund for the amount of such interest. All moneys so appropriated shall be paid into the Acquisition Fund by the State Treasurer.

Section 12. Refunding Bonds.--The issuing officials are hereby authorized to provide, by resolution, for the issuance of refunding bonds for the purpose of refunding any bonds issued under the provisions of this act and then outstanding, either by voluntary exchange with the holders of such outstanding bonds, or to provide funds to redeem and retire such outstanding bonds with accrued interest and any premium payable thereon, at maturity or at any call date. The issuance of such refunding bonds, the maturities and other details thereof, the rights of the holders thereof, and the duties of the issuing officials in respect to the same shall be governed by the foregoing provisions of this act insofar as the same may be applicable. Refunding bonds may be issued by the issuing officials to refund bonds originally issued or to refund bonds previously issued for refunding purposes. The proceeds of the sale of any refunding bonds shall be paid to the State Treasurer and applied to the payment of the principal of, and the accrued interest and premium, if any, on the bonds for the refunding of which such refunding bonds shall have been issued. Notwithstanding the foregoing provisions of this section 12, no refunding bonds shall be issued unless the principal amount thereof plus the interest cost thereon to maturity, as determined by the issuing officials in accordance with accepted financial practice, shall be less than the sum of the principal amount of the bonds to be refunded, plus the interest cost thereon to maturity determined as aforesaid.

Section 13. Reporting Requirements.--The State Treasurer shall determine and report to the Budget Secretary by January first of each year the amount of money necessary for the payment of interest on the bonds and notes and of the principal of

bonds, if any, for the following fiscal year and the times and amounts of such payments.

Section 14. Registration of Bonds.--The Auditor General shall prepare the necessary registry books to be kept in the office of the duly authorized loan and transfer agent of the Commonwealth for the registration of any bonds, at the request of the owner thereof, according to the terms and conditions of issue directed by the issuing officials under subsection (d) of section 6 hereof. All bonds which are issued without interest coupons attached shall be registered in the registry books kept by the duly authorized loan and transfer agent of the Commonwealth.

Section 15. Voting Requirements.--Whenever in this act any action is to be taken or decision made by the issuing officials, and the three officers shall not be able to agree unanimously, the action or decision of the Governor and either the Auditor General or State Treasurer shall be binding and final.

Section 16. Allotment of Moneys.--(a) The moneys received by the Commonwealth from the issuance and sale of bonds and notes pursuant to this act shall be allotted and are hereby appropriated for the following specific purposes:

(1) For the cost of lands to be acquired by the Commonwealth for recreation, conservation or historical purposes and related administrative expenses, not to exceed forty million dollars (\$40,000,000).

(2) For the cost of lands to be acquired by the Commonwealth for the conservation and propagation of game threatened by development in urban areas and for other wildlife and recreation purposes and related administrative expenses, not to exceed five million dollars (\$5,000,000).

(3) For the cost of lands to be acquired by the Commonwealth for the conservation and propagation of fish and other aquatic life and for access sites on lakes and waterways for fishing and boating purposes and related administrative expenses, not to exceed five million dollars (\$5,000,000).

(4) For State aid to political subdivisions to pay fifty per cent of the cost of lands to be acquired by such political subdivisions for recreation, conservation and historical purposes, not to exceed twenty million dollars (\$20,000,000).

(5) Administrative expenses incurred by the Commonwealth in carrying out the provisions of this act shall not be paid unless the Governor or Budget Secretary shall first approve all such expenditures.

(b) Six years after the effective date of this act, the unused or unobligated balance of any amount to be expended pursuant to clause (4) of subsection (a) of this section 16, shall be allotted to the Department of Forests and Waters for acquisition of additional lands for recreation or conservation purposes in any county, or for historical purposes in any county, as selected by the Department of Forests and Waters with the approval of the Governor, in the manner provided by this act.

(c) On December 31, 1970, all funds still available for expenditure under the provisions of this act and not certified as encumbered by the Department of Forests and Waters, Fish

Commission, Game Commission and the Department of Commerce, shall be paid into the Project 70 Land Acquisition Sinking Fund, to be devoted to and to be used exclusively for the payment of interest accruing on bonds and the redemption of bonds at maturity.

Compiler's Note: The Department of Commerce, referred to in subsec. (c), was renamed the Department of Community and Economic Development by Act 58 of 1996.

Compiler's Note: The name of the Pennsylvania Fish Commission, referred to in subsec. (c), was changed to the Pennsylvania Fish and Boat Commission by Act 39 of 1991. See 30 Pa.C.S. § 308 (relating to designation of commission).

Compiler's Note: Section 2 of Reorganization Plan No.2 of 1966 provided that the functions created by subsec. (c) are transferred from the Department of Commerce to the Department of Community Affairs.

Section 17. Manner of Acquisition.--(a) Lands to be acquired by the Commonwealth for recreation, conservation or historical purposes in any county, shall be approved by the Department of Forests and Waters and acquired by purchase agreement or by eminent domain proceedings in the manner provided by applicable provisions of law which may govern land acquisitions by the Department of Forests and Waters. After approval of the acquisition of land for recreation, conservation or historical purposes by the Department of Forests and Waters, the land shall not be acquired until a public hearing is held in the county where the land is situate, at which hearing the department shall set forth the area to be taken and its proposed use. If the land is located in more than one county such hearing shall be held in the county wherein the majority of the land is situate. Notice of the public hearing shall be given at least two weeks before in a newspaper of general circulation in the county, or in the case of land located in more than one county, in a newspaper of general circulation in each county. When the land to be acquired is situate in a development county, the acquisition shall be first approved by the township supervisors, township commissioners, or borough council and the court of common pleas of the county where the land is situate. The moneys allocated for such purposes shall be paid by the State Treasurer on the audit and warrant of the Auditor General on the requisition of the Secretary of Forests and Waters.

(b) Lands to be acquired by the Commonwealth in any county, for the conservation and propagation of game threatened by development in urban areas and for other wildlife conservation and recreation purposes, shall be approved by the Pennsylvania Game Commission and shall be acquired by purchase agreement or by eminent domain proceedings in the manner provided by applicable provisions of law which may govern land acquisitions by the Pennsylvania Game Commission, except that any limitation upon the amount which the Pennsylvania Game Commission may pay for lands shall not apply to any purchase made with moneys provided under this act. When the land to be acquired is situate in a development county, the acquisition shall be first approved

by the township supervisors, township commissioners, or borough council and the court of common pleas of the county where the land is situate. The moneys appropriated for such purposes shall be paid by the State Treasurer on the audit and warrant of the Auditor General on the requisition of the Executive Director of the Pennsylvania Game Commission.

(c) Lands to be acquired by the Commonwealth in any county for the conservation and propagation of fish and other aquatic life and for access sites on lakes and waterways for fishing and boating purposes, shall be approved by the Pennsylvania Fish Commission and shall be acquired by purchase agreement or by eminent domain proceedings in the manner provided by applicable provisions of law which may govern land acquisitions by the Pennsylvania Fish Commission. The moneys appropriated for such purposes shall be paid by the State Treasurer on the audit and warrant of the Auditor General on the requisition of the Executive Director of the Pennsylvania Fish Commission.

(d) Lands to be acquired for recreation, conservation and historical purposes by a political subdivision shall be first approved by the governing body of said political subdivision at which time application shall be made by said governing body to the Bureau of Community Development in the Department of Commerce, Commonwealth of Pennsylvania, for approval of state aid pursuant to clause (4) of subsection (a) of section 16 of this act. In connection with its duties under the act, the Department of Commerce is hereby empowered to make studies to determine the needs for land for recreation, conservation and historical purposes in the various communities of the Commonwealth, or the advisability of granting state aid. The Bureau of Community Development, after approval, shall forward such application to the Department of Forests and Waters. Such lands shall be acquired by the political subdivision by purchase agreement or by eminent domain proceedings in the manner provided by applicable provisions of law which may govern land acquisitions for such purposes by such political subdivision. The Commonwealth's share of the cost of such lands shall be paid by the State Treasurer on the audit and warrant of the Auditor General on the requisition of the Secretary of Forests and Waters.

(e) Whenever lands to be acquired for recreation or conservation purposes have historic landmarks on or near them, the Historical and Museum Commission shall be consulted relative to the need for and the desirability of acquiring or preserving said historic landmark.

(f) Whenever the whole or any part of the right of way of a public utility or a company under the jurisdiction of the Federal Power Commission is acquired by eminent domain under the provisions of this act, the condemnor shall, at its own expense, provide a substitute right of way on another and favorable location. Such public utility or a company under the jurisdiction of the Federal Power Commission shall thereupon provide for the transfer to, or reconstruction upon, in, under or above said substitute right of way of any structures and facilities of said public utility or a company under the jurisdiction of the Federal Power Commission located upon, in,

under or above said original right of way at the time the same is so acquired. The condemnor is hereby authorized to enter into agreements with such public utility or a company under the jurisdiction of the Federal Power Commission to contribute toward the expense of such transfer or reconstruction, and in the event that they are unable to agree on the amount to be paid, the matter shall be referred to the Pennsylvania Public Utility Commission which shall, after hearing thereon, make a finding and order of the amount to be paid to such public utility or a company under the jurisdiction of the Federal Power Commission by the condemnor. In case of failure of such public utility or a company under the jurisdiction of the Federal Power Commission within a reasonable time, after notice so to do, to remove its facilities to such substitute right of way, the Pennsylvania Public Utility Commission shall have jurisdiction on petition of the condemnor to order such transfer or reconstruction. Any party to such proceedings shall have the right of appeal from the finding and order of the Pennsylvania Public Utility Commission. The condemnor is hereby authorized to acquire by purchase, or by the exercise of the power of eminent domain, any necessary land or right of way for the relocation of any such public utility or a company under the jurisdiction of the Federal Power Commission right of way and facilities. The substitute right of way thus acquired shall be equal in estate to the original right of way acquired from the public utility or a company under the jurisdiction of the Federal Power Commission, and the condemnor shall deliver to the public utility or a company under the jurisdiction of the Federal Power Commission a deed, duly executed and acknowledged, conveying to it an estate in the substitute right of way at least equal to that owned by the public utility or a company under the jurisdiction of the Federal Power Commission in the original right of way, or if such substitute right of way is to be acquired by purchase, the condemnor shall procure and deliver to the public utility or a company under the jurisdiction of the Federal Power Commission a deed conveying such estate to it from the owner of the land on which such substitute right of way is located. The performance by the condemnor of the duties imposed by this subsection (f) shall be in lieu of all other compensation to the public utility for the taking of the original right of way by the condemnor. This subsection (f) shall have no application to the relocation of public utility or a company under the jurisdiction of the Federal Power Commission facilities located in the beds of public streets, roads or highways.

(g) All proposals for the acquisition of lands under the provisions of this act shall be submitted to the State Planning Board for its review and approval, prior to final approval by the Governor. For the purposes of review and approval of such proposals, the Secretary of Agriculture shall be a voting member of the State Planning Board.

Compiler's Note: The Department of Commerce, referred to in subsec. (d), was renamed the Department of Community and Economic Development by Act 58 of 1996.

Compiler's Note: The name of the Pennsylvania Fish Commission, referred to in subsec. (c), was changed to the Pennsylvania Fish and Boat Commission by Act 39 of 1991. See 30 Pa.C.S. § 308 (relating to designation of commission).

Compiler's Note: Section 2(c) of Reorganization Plan No.2 of 1966 provided that the functions created by section 17(d) are transferred from the Department of Commerce to the Department of Community Affairs.

Section 18. Standards for Acquisition.--(a) Lands to be acquired by the Department of Forests and Waters shall be such that they may be utilized for recreation, conservation and historical purposes and shall contribute to the sound development of the State's recreational resources.

(b) Lands to be acquired by the Pennsylvania Fish Commission or by the Pennsylvania Game Commission shall be such that they may be utilized for game, fish, or other wildlife conservation and recreation purposes, and to the extent consistent with this primary purpose, priority in the lands to be so acquired shall be given to land which is suitable for multiple recreation utilization.

(c) Lands to be acquired by any political subdivision shall be such that they may be utilized for recreation, conservation and historical purposes, and contribute to meet the recreation or conservation needs of the community.

(d) Lands to be acquired by the Commonwealth or by any political subdivision of the Commonwealth for historical preservation purposes must, first, before acquisition, be certified by the Pennsylvania Historical and Musuem Commission, as being of substantial historical significance, and as being in accord with an orderly and comprehensive program for the development and preservation of historical sites in the Commonwealth, which program the Historical and Museum Commission is hereby directed to formulate and revise from time to time, as necessary.

Compiler's Note: The name of the Pennsylvania Fish Commission, referred to in subsec. (b), was changed to the Pennsylvania Fish and Boat Commission by Act 39 of 1991. See 30 Pa.C.S. § 308 (relating to designation of commission).

Section 19. In-lieu-of-tax Payments.--(a) Whenever an acquisition by the Commonwealth under this act reduces the taxable base within a political subdivision or school district, the officers of such political subdivision or school district, authorized by law to levy taxes, shall immediately after such acquisition request the State Tax Equalization Board to determine, and the State Tax Equalization Board upon receipt of such request, shall determine and certify, to the Auditor General and the Secretary of Forests and Waters, the prior market value of the acquired property and the prior market value of the remaining taxable real estate base. For the purposes of this section, the market value of specified property for any one year shall be ascertained by multiplying its assessed value for that year by the ratio of the aggregate market value to the aggregate assessed value of all taxable real estate located in

the political subdivision or school district. The prior market values required to be determined shall mean market values ascertained on the basis of the most recent certification of the State Tax Equalization Board prior to acquisition.

(b) Beginning with the fiscal year during which a political subdivision or school district requests certification of the prior market values in accordance with subsection (a) of this section, or beginning with the fiscal year starting July 1, 1965, whichever is later, and ending with the fiscal year in which the acquired land is put to use as a public facility, such political subdivision or school district shall receive an annual in-lieu-of-tax payment calculated by multiplying the total real estate taxes levied by such political subdivision or school district for the current fiscal year, by the quotient of the certified prior market value of the acquired property, divided by the sum of the certified prior market value of the acquired property plus the certified prior market value of the remaining taxable real estate base. If for any fiscal year following the fiscal year during which an acquired property is put to use as a public facility, the current market value of the remaining taxable real estate base is less than the sum of the certified prior market value of the acquired property, plus the certified prior market value of the remaining taxable real estate base, such political subdivision or school district shall receive for such fiscal year an in-lieu-of-tax payment calculated by multiplying the total real estate taxes levied by such political subdivision or school district for the current fiscal year, by the quotient of the sum of the certified prior market value of the acquired property, plus the certified prior market value of the remaining taxable real estate base, less the current market value of the remaining taxable real estate divided by the current market value of the remaining taxable real estate base: Provided, That such payment shall not exceed the product obtained by multiplying the total real estate taxes levied by such political subdivision or school district for the current fiscal year, by the quotient of the certified prior market value of the acquired property divided by the sum of the certified prior market value of the acquired property plus the certified prior market value of the remaining taxable real estate base. The payments so determined shall be paid by the State Treasurer on the audit and warrant of the Auditor General on the requisition of the Secretary of Forests and Waters.

(c) When payments by the Commonwealth cease as provided for in subsection (b) above, in-lieu-of-tax payments shall be made to political subdivisions or school districts for land acquired by the Commonwealth under this act in the manner provided by applicable provisions of law for State forest lands.

Section 20. Restrictions on Use or Alienation.--(a) Lands acquired under the provisions of this act shall be made available for the use and enjoyment of the people without restriction based upon race, color, creed or national origin.

(b) No lands acquired with funds made available under this act shall be disposed of or used for purposes other than those prescribed in this act without the express approval of the General Assembly: Provided, That the Commonwealth or a political

subdivision, as the owner of such lands, may issue permits, licenses or leases for the exploration, development, storage and removal of oil, gas or other minerals, or for the installation and use of water, gas, electric, telephone, telegraph, oil or oil products lines, under reasonable regulations prescribed by such owner consistent with the primary use of such lands for "recreation, conservation and historical purposes."

(c) The deeds of all lands acquired under the provisions of this act shall contain the following clause:

This indenture is given to provide land for recreation, conservation and historical purposes, as said purposes are defined in the "Project 70 Land Acquisition and Borrowing Act," approved June 22, 1964, P.L.131.

(d) Should the provisions of this act as they are applicable to the political subdivisions of the Commonwealth be wilfully violated, it shall be the duty of the governing body of said subdivision or of its successor to reimburse the Commonwealth in the amount of the aid rendered to it by the Commonwealth in the acquisition of the land in question plus six per cent interest compounded semi-annually from the date of receipt of said aid until the date of said reimbursement. Such reimbursement shall be paid by the State Treasurer into the Acquisition Fund if said fund is still active, or if such is not the case, into the Project 70 Land Acquisition Sinking Fund.

(e) The Commonwealth of Pennsylvania may specifically enforce the provisions of this requirement by application to a court of equity and may invoke other remedies deemed appropriate under the circumstances.

(f) Whenever any acquisition of land shall cause a dead-end public road or highway or whenever a public road or highway is cut off or terminated, suitable substitute public roads and highways shall be provided if the need therefor is determined by the governing body of the city, borough, town or township where such dead-end or cutoff occurs. If such need is established by any of the respective governing bodies they shall have the power to determine alternative routes or locations of any substitute road or highway. All determinations shall be subject to the approval or disapproval of the Secretary of Highways.

Section 21. Constitutional Construction.--The provisions of this act shall be severable and, if any of the provisions thereof shall be held unconstitutional, such decisions shall not affect the validity of any of the remaining provisions of this act. It is hereby declared as the legislative intent that this act would have been adopted had such unconstitutional provisions not been included therein.

Section 22. Effective Date.--This act shall take effect immediately.