

State Legislative Center-Pennsylvania

An act relating to the fundamental rights of individuals and communities, and the related authority of municipalities, to protect the health, safety, and welfare of people, their communities, and the natural environment.

It is hereby enacted by the General Assembly of the Commonwealth of Pennsylvania:

Sec. 1. FINDINGS

Concerning the function of municipalities to protect the health, safety, and welfare of people, their communities, and the natural environment, the General Assembly finds:

- A. The U.S. Declaration of Independence recognizes that governments are instituted to secure the rights of people and derive their just powers from the consent of the governed.
- B. The Constitution of the Commonwealth of Pennsylvania recognizes, "All power is inherent in the people, and all free governments are founded on their authority and instituted for their peace, safety and happiness."
- C. These doctrines on the inherent source and scope of political power necessarily mean that the people of municipalities have an inherent and inalienable right to local self-government.
- D. The protection of the health, safety, and welfare of people, their communities, and the natural environment constitutes the highest and best use of the right to local self-government.
- E. Any interference with a municipality's authority to protect such health, safety, and welfare is an interference with the right to local self-government.
- F. Municipalities have experienced such interference from business corporations that wield certain rights and powers to override community decision making.
- G. Business corporations have used such rights and powers to impede in legislative bodies, and to overturn in judicial bodies, democratic laws at the municipal, state, and federal levels, including laws enacted to protect health, safety, and welfare.
- H. Laws that create, and judicial decisions that approve, such rights and powers of business corporations violate the people's inherent and inalienable right to local self-government, thus rendering democratically elected governments ineffective at protecting the health, safety, and welfare of people, their communities, and the natural environment.

Sec. 2. DEFINITIONS

As used in this act, these words are defined as follows:

(A) "business corporation" means any corporation, professional corporation, limited partnership, limited liability partnership, business trust, or limited liability company operated for profit, and any other business entity operated for profit that possesses government-conferred limited liability for its owners, directors, officers, and/or managers.

(B) "community" means a contiguous geographic area in which people associate to take action for the health, safety, and welfare of the area's people, society, and natural environment. It also shall include, but not be limited to, neighborhoods, districts, and other subdivisions of such a

geographic area. It also shall include, but not be limited to, the components of society in such a geographic area and in its neighborhoods, districts, and other subdivisions.

(C) “fundamental right” means a right of individuals or communities contained in the U.S. Constitution, the Constitution of the Commonwealth of Pennsylvania, a municipality’s charter or other fundamental law, or in a law adopted pursuant to this act.

(D) “individual” means a human person.

(E) “municipality” means a county, city, borough, town, or township, except in section 4 of this act, where it means a city, borough, town, or township.

(F) “natural environment” means the components and systems of nature in a municipality or in a community thereof.

(G) “people” means human persons.

Sec. 3. In the Pennsylvania Statutes, Title 16, Chapter 4, Article XX, § 11948 is added to read:

Fundamental rights of individuals and communities. Any county may enact laws to establish, expand, and enhance the fundamental rights of individuals and communities to protect the health, safety, and welfare of people, their communities, and the natural environment. Counties may do so by means of civil ordinances enacted by the board of commissioners, and by means of the process of charter adoption and amendment. Such laws may include, but shall not be limited to, establishing, defining, altering, or eliminating the rights, powers, and duties of business corporations operating, or seeking to operate, within the county, to prevent such rights and powers from usurping or otherwise conflicting with the fundamental rights of individuals and communities. Such laws are not subject to limitation by any provisions in Title XV of the Pennsylvania Statutes or Title XV of the Pennsylvania Consolidated Statutes. Such laws may provide for individual and community rights that are more expansive than those provided by state or federal law, and may provide for prohibitions necessary to secure those individual and community rights. Nothing in this section authorizes or empowers a county to enact a law that restricts the fundamental rights of individuals or communities secured by the Constitution of the Commonwealth of Pennsylvania or the U.S. Constitution, or that is less stringent than protections for individuals, communities, or the natural environment provided by state or federal law.

Sec. 4. In the Pennsylvania Statutes, Title 53, Chapter 30G is added, and in it § 11703.1 is added to read:

Fundamental rights of individuals and communities. Any municipality may enact laws to establish, expand, and enhance the fundamental rights of individuals and communities to protect the health, safety, and welfare of people, their communities, and the natural environment. Municipalities may do so by means of civil ordinances enacted by the legislative body, and, where applicable, by means of the process of charter adoption and amendment. Such laws may include, but shall not be limited to, establishing, defining, altering, or eliminating the rights, powers, and duties of business corporations operating, or seeking to operate, within the

municipality, to prevent such rights and powers from usurping or otherwise conflicting with the fundamental rights of individuals and communities. Such laws are not subject to limitation by any provisions in Title XV of the Pennsylvania Statutes or Title XV of the Pennsylvania Consolidated Statutes. Such laws may provide for individual and community rights that are more expansive than those provided by state or federal law, and may provide for prohibitions necessary to secure those individual and community rights. Nothing in this section authorizes or empowers a municipality to enact a law that restricts the fundamental rights of individuals or communities secured by the Constitution of the Commonwealth of Pennsylvania or the U.S. Constitution, or that is less stringent than protections for individuals, communities, or the natural environment provided by state or federal law.

Sec. 5 EFFECTIVE DATE

This act shall take effect on July 1, 2013.