

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 652 Session of
1995

INTRODUCED BY FISHER, MARCH 2, 1995

AS REPORTED FROM COMMITTEE ON URBAN AFFAIRS, HOUSE OF
REPRESENTATIVES, AS AMENDED, OCTOBER 17, 1995

AN ACT

1 Amending the act of July 28, 1953 (P.L.723, No.230), entitled,
2 as amended, "An act relating to counties of the second class
3 and second class A; amending, revising, consolidating and
4 changing the laws relating thereto," providing for the
5 collection of taxes on real property from rent payable by
6 tenants; further providing for the collection of tax and
7 municipal claims by suit and for the interest rate on
8 contributions when a person is separated from service;
9 providing for the purchase of credit for service immediately
10 following original employment; further providing for
11 eligibility for retirement allowances and for requirements
12 for credit for previous service; providing for deputy fire
13 marshals; and making a repeal.

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

16 Section 1. The act of July 28, 1953 (P.L.723, No.230), known
17 as the Second Class County Code, is amended by adding a section
18 to read:

19 Section 108.1. Collection of Tax on Real Property from Rent
20 Paid to Owner.--(a) Where the owner of any residential OR <—
21 COMMERCIAL real property which is subject to a claim pursuant to
22 the act of May 16, 1923 (P.L.207, No.153), referred to as the

1 Municipal Claim and Tax Lien Law, derives any rental income from
2 that property, the county treasurer shall notify the property
3 owner in writing of his duty to remit that rental income to the
4 office of the county treasurer. The rent so remitted is to be
5 applied to the amount of tax owed, along with any interest or
6 penalties due, until the claim is paid in full.

7 (b) The notice of the county treasurer shall include the
8 amount of the claim on the property, including interest and
9 penalties, and the date or dates the rental income is to be
10 remitted. If, after fifteen days of the date or dates specified
11 in the notice, the property owner fails to remit the rental
12 income, the county ~~shall~~ MAY immediately begin the judicial sale <—
13 process provided for in the Municipal Claim and Tax Lien Law.

14 Section 2. Section 109.1 of the act, added October 5, 1990
15 (P.L.519, No.125), is amended to read:

16 Section 109.1. Collection of Tax and Municipal Claims by
17 Suit; Limitations.--(a) In addition to the remedies provided by
18 law for the collection of tax and municipal claims, the county
19 may proceed for the recovery and collection of any tax or
20 municipal claim against any owner or owners of the property
21 owing such tax or municipal claim by a civil action or other
22 appropriate remedy. To each judgment obtained for such taxes or
23 municipal claim, there shall be added a penalty of ten per cent,
24 interest at the prevailing legal rate and costs of suit. Upon
25 judgment, execution may be issued without any stay or benefit of
26 any exemption law.

27 (b) The right of the county to collect unpaid taxes or
28 municipal claims under the provisions of this section shall not
29 be affected by the fact that such tax or municipal claims have
30 or have not been entered as liens in the office of the

1 prothonotary.

2 (c) A civil action brought to recover unpaid taxes or
3 municipal claims shall be commenced within twenty years after
4 the tax is due or after the completion of the improvement from
5 which said claim arises.

6 (d) The remedy granted under this section shall be applied
7 retroactively.

8 Section 3. Sections 1714(a) and 1715(a), (b) and (c) of the
9 act, amended December 14, 1989 (P.L.631, No.75), are amended to
10 read:

11 Section 1714. Separation from Service; Refund of
12 Contribution.--(a) Any person contributing monthly or bi-weekly
13 into the retirement fund who shall, for any cause, cease to be a
14 county employe before he or she shall be eligible to receive the
15 benefits of the retirement allowances, the total amount of the
16 contributions paid into the retirement fund by such county
17 employe shall be refunded to him or her by the board, or, in the
18 event of the death of any such county employe, the amount of
19 said contributions shall be paid to such person or persons as he
20 or she shall have designated in writing, as filed with the
21 board, as his or her beneficiary, or to his or her estate. If no
22 person or persons have been designated as his or her
23 beneficiary, or no notice has been filed with the board to pay
24 the amount of such contributions to his or her estate, as herein
25 provided, then the board is herewith authorized to pay such
26 contributions to the executor, administrator, surviving spouse,
27 or next of kin of the deceased county employe. In the event the
28 surviving spouse or next of kin of the decedent cannot be found
29 for the purpose of making distribution of such contributions for
30 a period of seven years from the death of the said county

1 employe, then the aforesaid contributions shall be escheated to
2 the Commonwealth for the benefit of the retirement system. In
3 addition thereto, simple interest shall be paid at a monthly
4 rate of interest that is equivalent to one-twelfth of the annual
5 rate of interest specified herein on contributions of the member
6 made under subsection (a) of section 1708 calculated from the
7 beginning of the month of the deposit, or withholding, or
8 payment into the fund of those contributions through the end of
9 the month of refund; and such interest credited to the
10 contributions of the member made under subsection (a) of section
11 1708 in a prior calendar year shall receive simple interest at
12 the monthly rate of interest that is equivalent to one-twelfth
13 of the annual rate of interest specified herein through the end
14 of the month of refund. The annual rate of interest shall be
15 [three per centum prior to March 1, 1981, and five per centum
16 thereafter] fixed by the board. Such contributions and interest
17 shall be paid to a county employe provided he was employed for a
18 period of two consecutive years or more and has made twenty-four
19 monthly contributions to the fund and is not eligible to receive
20 the benefits of a retirement allowance. Notwithstanding the
21 provisions of this subsection, a member who has ceased to make
22 contributions to the fund by payroll deduction shall thereafter
23 be credited with interest only for a period of years equal to
24 his years of current service under this amendment. Any person
25 who has heretofore or who shall hereafter cease to be a county
26 employe, shall thereafter cease to be a member of the retirement
27 system, except such former county employe who may be eligible to
28 receive the benefits of a retirement allowance plus a service
29 increment if any in accordance with the provisions of sections
30 1710 and 1713.

1 * * *

2 Section 1715. Reinstatement and Requirements for Credit for
3 Previous Service.--(a) No county employe shall be permitted to
4 withdraw his or her contributions as paid into the retirement
5 fund upon transfer from one office, department or agency to
6 another. Any person who has ceased to be a county employe and
7 whose contributions as paid into the retirement fund, have been
8 refunded by the board, if such person has been reemployed by the
9 county or county institution district and desires to be given
10 credit for previous service as a county employe, he or she
11 shall[, within two years of the effective date of this
12 amendatory act, or for those who are reemployed after the
13 effective date of this amendatory act, within two years of the
14 date of reemployment,] make payment in full of the amount
15 refunded, with interest at the legal rate, the said interest to
16 be computed from the date of the refund to the date of
17 repayment. [Upon application of the employe desiring to be given
18 credit for previous service as a county employe at least sixty
19 days prior to the expiration of the period of two years from the
20 effective date of this amendatory act or the date of
21 reemployment, such employe shall be permitted to make payment in
22 full of the amount refunded, with interest at the legal rate,
23 within an additional period of one year.] Both principal and
24 interest shall be paid into the retirement fund at one time and
25 in one amount, or, upon approval of the board, both principal
26 and interest shall be consolidated into one amount and paid in
27 twenty-four or less equal monthly installments, plus interest
28 payment on monthly balances. [Whenever the time for payment in
29 full has been extended for an additional period of one year, the
30 principal and interest may be paid in a total of not more than

1 thirty-six equal monthly installments.] Upon application to the
2 board, an employe shall be permitted to pay the principal and
3 interest in thirty-six or less equal monthly installments, plus
4 interest payment on monthly balances. Full payment thereof shall
5 be a condition precedent to the county employe being eligible to
6 receive the benefits of the retirement allowance plus a service
7 increment, if any. Such county employe shall make monthly
8 payments into the retirement fund in accordance with the
9 provisions of section 1708.

10 If any person who hereafter becomes a county employe and
11 thereafter ceases to be a county employe and his or her
12 contributions as paid into the retirement fund are refunded by
13 the board, is reemployed by the county or county institution
14 district and he or she desires to be given credit for previous
15 service as a county employe, he or she shall [within two years
16 of the date of reemployment,] make payment in full of the amount
17 refunded, with interest at the legal rate, the said interest to
18 be computed from the date of refund to the date of repayment.
19 [Upon application of any person who hereafter becomes a county
20 employe and desires to be given credit for previous service as a
21 county employe, at least sixty days prior to completion of a
22 period of two years from the date of reemployment, such employe
23 shall be permitted to make payment in full of the amount
24 refunded, with interest at the legal rate, within an additional
25 period of one year.] Both principal and interest shall be paid
26 into the retirement fund at one time and in one amount, or, upon
27 approval of the board both principal and interest shall be
28 consolidated into one amount and paid in twenty-four or less
29 equal monthly installments, plus interest payments on monthly
30 balances. Whenever the time for payment in full has been

1 extended for an additional period of one year the principal and
2 interest may be paid in a total of not more than thirty-six
3 equal monthly installments. Full payment thereof shall be a
4 condition precedent to the county employee being eligible to
5 receive the benefits of the retirement allowance plus a service
6 increment, if any. Such county employee shall make monthly
7 payments into the retirement fund in accordance with the
8 provisions of section 1708. Any person who is a county employee
9 on the effective date of this act may make payments into the
10 retirement fund which shall cover a period of time within which
11 such person was a county employee but was not a member of the
12 retirement system because such membership was not compulsory.

13 (b) Any person who has heretofore or who hereafter ceases to
14 be a county employee and whose contributions as paid into the
15 retirement fund, have heretofore or shall hereafter be refunded
16 by the board, if such person is reemployed by the county or
17 county institution district and desires to be given credit for
18 previous service as a county employee[, except as hereinafter
19 provided], he or she shall [within two years from the date of
20 such reemployment] make payment in full of the amount refunded,
21 with interest at the legal rate, the said interest to be
22 computed from the date of the refund to the date of repayment.
23 Both principal and interest shall be paid into the retirement
24 fund at one time and in one amount[, or, upon approval of the
25 board, both principal and interest shall be consolidated into
26 one amount and paid in twenty-four or less equal monthly
27 installments, plus interest payment on monthly balances]. Upon
28 application to the board, an employee shall be permitted to pay
29 the principal and interest in thirty-six or less equal monthly
30 installments, plus interest payment on monthly balances. Full

1 payment thereof shall be a condition precedent to the county
2 employe being eligible to receive the benefits of the retirement
3 allowance plus a service increment, if any. Such county employe
4 shall make monthly payments into the retirement fund in
5 accordance with the provisions of section 1708. No person
6 reemployed as a county employe in accordance with the provisions
7 of this subsection shall be eligible to receive a retirement
8 allowance by reason of total and permanent physical disability,
9 in accordance with the provisions of section 1711, unless he or
10 she shall be in employ for a period of not less than twenty
11 years, which said period of employment shall include credit
12 given for previous service, as herein provided. No person who is
13 ineligible to become a member of the retirement system shall be
14 eligible to receive credit for previous service as a county
15 employe, as hereinbefore provided.

16 (c) Any county employe who desires to be given credit for
17 previous service in the employ of the county as an elected or
18 appointed employe or official, where such service subsequent to
19 the first day of January, one thousand nine hundred forty, was
20 rendered to the county at a time when such employe or official
21 was not a member of the county employes' retirement system,
22 including a period of probation served immediately after initial
23 hiring, shall make application to the board, and upon approval
24 thereof shall pay into the retirement fund a sum equal to twice
25 the payment which such employe would have made had such person
26 been a member thereof and had the payments been made in
27 accordance with the provision of this article. In addition
28 thereto, interest at the legal rate shall be paid from the date
29 when the said monthly payment would have been made. Both
30 principal and interest shall be paid into the retirement fund at

1 one time and in one amount, or, upon approval of the board, both
2 principal and interest shall be consolidated into one amount and
3 paid in twenty-four or less equal monthly installments, plus
4 interest payment on monthly balances. Full payment thereof shall
5 be a condition precedent to the county employe being eligible to
6 receive the benefits of the retirement allowances. Such county
7 employe shall make monthly payments into the retirement fund in
8 accordance with the provisions of section 1708.

9 * * *

10 Section 4. Section 3101 of the act, amended October 5, 1990
11 (P.L.519, No.125), is amended to read:

12 Section 3101. Appointments; Qualifications; Salaries; Duties
13 of [Assistant] Deputy Fire Marshals.--The county commissioners
14 shall, on the fourth Monday of March, in the year one thousand
15 nine hundred forty-three, and every fourth year thereafter,
16 appoint a citizen of such county to serve as fire marshal
17 [thereof for the term of four years or until his successor shall
18 be appointed,] and such number of citizens of said county as the
19 county commissioners may deem necessary to serve as [assistant]
20 deputy fire marshals [thereof for terms of four years or until
21 their successors shall be appointed]. In making such
22 appointments, the county commissioner representing the minority
23 political party in the county shall name one of the [assistant]
24 deputy fire marshals, and as vacancies occur the commissioner
25 representing the minority party shall name the successor to any
26 [assistant] deputy fire marshal selected by a commissioner
27 representing the minority party. The fire marshal and deputy
28 fire marshals shall serve at the pleasure of the board of county
29 commissioners. The fire marshal shall report to and be subject
30 to the supervision of the superintendent of county police or his

1 authorized designee. The deputy fire marshals shall report to
2 and be subject to the supervision of the fire marshal. No person
3 shall be appointed fire marshal unless he shall have had ten
4 years active service as a member of a fire department, and no
5 person shall be appointed [an assistant] a deputy fire marshal
6 unless he has had five years experience as an active member of a
7 fire department. The salary of the fire marshal and the
8 [assistant] deputy fire marshals appointed under the authority
9 of this act shall be fixed by the salary board and shall be in
10 lieu of all other salary or compensation from any source
11 whatsoever. The [assistant] deputy fire marshals appointed as
12 aforesaid shall have the same powers and shall perform the same
13 duties as those prescribed for the fire marshal.

14 The salary herein authorized shall be provided for by the
15 county commissioners and paid semi-monthly out of the county
16 treasury.

17 Section 5. Sections 3102, 3103, 3105, 3106, 3107, 3108, 3109
18 and 3301 of the act are amended to read:

19 Section 3102. Offices and Supplies.--The county
20 commissioners shall provide the fire marshal and [his
21 assistants] deputy fire marshals with suitable offices, and
22 shall pay or cause to be paid out of the treasury all the costs
23 of maintenance thereof, including clerk and stenographic hire,
24 and all necessary supplies, stationery, postage and other
25 incidental expenses.

26 Section 3103. Oath of Office and Bond.--Before entering on
27 the duties of his office, the fire marshal and [his assistants]
28 deputy fire marshals shall take an oath of office and furnish
29 bond as is now provided by law in the case of other county
30 officers. The bond of the fire marshal shall be in the sum of

1 ten thousand dollars (\$10,000) and the bonds of the [assistant]
2 deputy fire marshals shall be in the sum of five thousand
3 dollars (\$5000).

4 Section 3105. [Arrests and Commitment or Bail]
5 Investigation, Transfer to County Police for Prosecution.--If,
6 in any investigation, it shall appear to the fire marshal or
7 [one of his assistants] deputy fire marshal, from the evidence
8 [before him] presented or obtained, that any building or other
9 property in the county has been wilfully set on fire by any
10 person or persons, [he shall, in such case, have the same power
11 to issue a warrant, directed to any constable of any ward,
12 borough or township of the county, for the arrest of such person
13 or persons and their accessories and to commit them for trial or
14 take bail for their appearance, as a justice of the peace of the
15 county would have upon information made before him setting forth
16 the same facts as appear in evidence before the marshal, and in
17 such case, the said fire marshal shall proceed in the same
18 manner as a justice of the peace is required by law to do and
19 with the same powers as he would have after an information duly
20 made before him.] the fire marshal or deputy fire marshal shall
21 transfer the evidence presented or obtained during the course of
22 the investigation to the county police evidence room technician,
23 along with a recommendation to the superintendent of county
24 police for criminal prosecution of the person or persons
25 responsible for setting the fire.

26 Section 3106. Administration of Oaths; False Testimony;
27 Subpoena and Attachment; Refusal to Testify or Produce
28 Documents.--The fire marshal or [either of his assistants]
29 deputy fire marshal, in order to enable [him] them to discharge
30 the duties required [of him] in the foregoing section, shall

1 have power to administer oaths and affirmations in the discharge
2 of the duties of his office, and a wilful violation of any oath
3 or affirmation so administered by him, or wilfully and knowingly
4 giving false testimony before him, shall be perjury; and he
5 shall have power to compel the attendance of any person whom he
6 may desire to examine in relation to any fire by subpoena and
7 attachment; and if any person shall refuse to be sworn or
8 affirmed or to testify in relation to any of the matters in
9 regard to which it is the duty of the fire marshal to make
10 investigation, or shall refuse to produce before the fire
11 marshal any books, papers or documents in their possession which
12 the said marshal may deem necessary to enable him to ascertain
13 the truth in any investigation then being made by him, the said
14 marshal shall [have power to commit such person to the county
15 jail until such person shall be willing to and shall be sworn or
16 affirmed or testify or produce the books, papers and documents,
17 as the case may be, and no longer] have the power, upon the
18 approval of the superintendent of county police and the
19 authorized representative of the district attorney's office, to
20 commit such person to the county jail until such person shall be
21 willing to and shall be sworn or affirmed or testify or produce
22 the books, papers and documents, as the case may be, and no
23 longer: Provided, That no testimony taken under oath or
24 affirmation before the fire marshal, as aforesaid, shall be used
25 in evidence against the party giving it in any civil or criminal
26 proceedings whatsoever, except in prosecutions against such
27 party for perjury.

28 Section 3107. Disobedience of Orders; Refusal to Execute
29 Warrant; Hindering or Obstructing Marshal.--Any constable,
30 policeman, watchman or citizen who shall refuse or neglect to

1 obey the orders or directions of the fire marshal when called
2 upon by him to aid or assist in saving or protecting any
3 property at any fire[, or any constable who shall refuse or
4 neglect to execute any warrant of the fire marshal directed to
5 him for the arrest of any person for the crime of arson], or any
6 person or persons who shall wilfully hinder or obstruct or
7 attempt to hinder or obstruct the fire marshal in the
8 performance of his duties, shall be guilty of a misdemeanor,
9 and, upon conviction thereof in the court of [quarter session]
10 common pleas of the county, shall be punished by a fine not
11 exceeding fifty dollars (\$50) and imprisonment in the county
12 jail for a term not exceeding one (1) year.

13 Section 3108. Examination of Buildings and Structures;
14 Notice to Alter, Remove or Amend.--[It shall be the duty of the
15 marshal or one of his assistants] Upon written request of the
16 governing body of any municipality located within the county,
17 the fire marshal or a deputy fire marshal shall have the power
18 to examine the dwelling houses and any other buildings and
19 structures in the county for the purpose of ascertaining
20 whether, by reason of age or dilapidated condition or
21 accumulation of waste, rubbish, debris, explosive or inflammable
22 substance, or existence of any other fire hazard, such buildings
23 or structures are especially liable to fire, and upon finding
24 any of them defective or dangerous, said marshal [or his
25 assistants] shall direct the owner or occupants, either by
26 printed or written notice, to alter, remove or amend the same,
27 in such manner or within such reasonable time as they may deem
28 necessary, and in case of neglect or refusal to do so, the party
29 offending shall forfeit and pay, upon conviction thereof before
30 any justice of the peace, alderman or police magistrate of the

1 county, any sum not exceeding twenty-five dollars (\$25), for the
2 use of the county, to be collected as fines and forfeitures are
3 collected by law.

4 Section 3109. Expense of Removal, Alteration or Amendment;
5 Combustible or Explosive Matter.--The expense of any removal,
6 alteration or amendment, as aforesaid, shall be paid in the
7 first instance by the occupant, but shall be chargeable against
8 the owner of such dwelling house or other building and shall be
9 deducted from the rent of the same, unless such expenses be
10 rendered necessary by the act or default of such occupant or
11 unless there is a special agreement to the contrary between the
12 parties, and said marshal or [his assistants] deputy marshal or
13 either of them are hereby empowered at any and all times to
14 enter into and examine all buildings, structures or places where
15 any combustible or explosive matter may be lodged and give such
16 directions, in writing, in the premises as may be deemed
17 necessary relative to the removal thereof, and in case of
18 neglect or refusal on the part of the possessor of such
19 combustible materials or any of them to remove or secure the
20 same within the time and manner directed, the party offending
21 shall forfeit and pay, in addition to any penalty hereinbefore
22 imposed, the sum of twenty-five dollars (\$25), to be collected
23 as heretofore provided for in this act.

24 Section 3301. The following acts and parts of acts and all
25 amendments thereof are hereby repealed to the extent hereinafter
26 specified:

27 * * *

28 Section 24 of the act of May 16, 1923 (P.L.207, No.153),
29 referred to as the Municipal Claim and Tax Lien Law, is repealed
30 as it applies to second class counties.

1 * * *

2 Section 6. This act shall take effect in 60 days.