

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 134

Session of
1977

INTRODUCED BY MR. DeMEDIO, FEBRUARY 8, 1977

REFERRED TO COMMITTEE ON URBAN AFFAIRS, FEBRUARY 8, 1977

AN ACT

1 To validate certain proceedings for municipal improvements,
2 municipal assessments, municipal claims, and municipal liens
3 in the several cities of the third class, boroughs and
4 townships of this Commonwealth; and validating such
5 improvements, assessments, claims and liens; providing for
6 the filing of claims and liens therefor and the proceedings
7 for the collection of such assessments, claims and liens.

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

10 Section 1. Whenever, heretofore, the council of any city of
11 the third class or of any borough, or the board of commissioners
12 of any township of the first class or the board of supervisors
13 of any township of the second class of this Commonwealth has
14 authorized by ordinance the grading, curbing, guttering, paving
15 or macadamizing with concrete, brick, stone or other suitable
16 material of any public street or thoroughfare, or portion
17 thereof, either cartway, footwalk or gutter; and has caused such
18 improvement to be made; and in such ordinance has authorized the
19 advertising for bids therefor; and the assessment of benefits on
20 the front foot rule or otherwise upon the property benefited
21 thereby; and subsequent thereto pursuant to an ordinance passed,

1 after the passage and approval of the original ordinance
2 providing for the improvement, has authorized the entering into
3 a contract for the said improvement with the Secretary of
4 Transportation of the Commonwealth of Pennsylvania and with the
5 general contractor, who was the successful bidder with the
6 Commonwealth for the construction of any portion of such streets
7 or highways, without any advertising for bids on the part of the
8 city, borough or township as provided for in the original
9 ordinance authorizing such improvement; and has subsequent
10 thereto brought proceedings for the appointment of viewers to
11 assess benefits for the said improvements against the property
12 abutting along the line of improvement in accordance with the
13 provisions of the original ordinance authorizing the said
14 improvement; or has by ordinance provided for the assessment
15 against abutting property owners of benefits on the front foot
16 rule or otherwise for such improvement; or whenever, heretofore,
17 the council of any city of the third class or of any borough, or
18 the board of commissioners of any township of the first class,
19 or the board of supervisors of any township of the second class,
20 of this Commonwealth has required by ordinance and caused to be
21 made graded, paved, curbed or macadamized with brick, stone or
22 other suitable material, or otherwise improved any property or
23 public street or thoroughfare, or part thereof, either cartway,
24 footwalk or gutter; or has covered or enclosed any watercourse
25 or waterway in any street or thoroughfare so as to improve or
26 extend and increase the driveway in any street or thoroughfare;
27 or has vacated, confined, paved or altered the channel of any
28 watercourse or waterway; or has caused any sewers whatsoever to
29 be constructed within or without any such city, borough or
30 township; or has caused ornamental lights to be erected pursuant

1 to any ordinance; or has heretofore in accordance with existing
2 law assessed a portion of the cost of such sewer as a sewage tax
3 against property abutting along the line of said improvement on
4 the side of said street, alley or highway which is located
5 outside the limits of the said city, borough or township, the
6 owners of such property being given permission by the said city,
7 borough or township to use such sewer, and such property not
8 being then provided with sewer facilities; and has by ordinance
9 provided for the assessment against abutting property owners of
10 benefits on the front foot rule or otherwise for such
11 improvement, but owing to some defect in the petition, action of
12 council or of the board of commissioners, or board of
13 supervisors, notice of publication, failure to make said
14 improvement in accordance with the strict terms of any
15 ordinance, or any other proceeding or action necessary under
16 existing laws and ordinances to give jurisdiction to such
17 council, board of commissioners or board of supervisors; or
18 because of noncompliance with existing laws as to publication of
19 copies of ordinance and posting of handbills prior to or after
20 the final passage of such ordinance; or because of noncompliance
21 with existing laws as to the purchasing of materials and
22 supplies; or the awarding of contracts without advertising; or
23 because the ordinance itself or the official record book
24 containing the same has been lost, mislaid or destroyed; or such
25 ordinance has not been transcribed in the official record book;
26 or because of irregularity or error in the appointment of
27 viewers to assess benefits against property abutting along the
28 line of improvement; or because of the neglect of viewers,
29 appointed to assess damages and benefits caused or accruing as a
30 result thereof, to file their report within the time required by

1 law for the filing thereof; or because of irregularity or error
2 in the method or procedure taken for the ascertainment of the
3 amount of benefits to such property; or because of any
4 irregularity or error in the ordinances or passage or approval
5 thereof authorizing the execution of the work, the contracting
6 therefor, and the assessing of benefits therefor, or where the
7 right of the board of viewers to assume jurisdiction and to act
8 in assessing the properties benefited thereby is questioned; or
9 because of any irregularity or error in the failure to bring the
10 proceedings for the assessment of benefits on the front foot
11 rule or otherwise for such improvement before the board of
12 viewers within the time provided by law; or the failure to
13 assess the benefits therefor in the manner now provided by law;
14 or because of any irregularity or error in arriving at or
15 determining the benefits assessed against any such property; or
16 because of the failure to give notice as required by law or
17 ordinance; or the time for filing a lien or making claim for
18 such improvement has expired; or the claim has not been filed
19 after notice to do so; or for any other reason the costs of such
20 improvement, or portion thereof, were not or cannot be legally
21 assessed upon the property bounding or abutting on the line of
22 the improvement or on the street or part thereof improved; or
23 owing to some defect in the statement of claim filed to secure
24 the lien, or the failure of the city, borough or township
25 solicitor to file the lien in the court of common pleas, or to
26 sign the name, or to have stamped thereon a facsimile signature
27 of the said solicitor or chief executive of the claimant for the
28 costs of such improvement, or any error made in the name of the
29 owner or owners of the abutting property along the line of the
30 improvement payment thereof cannot be enforced; or if the

1 ordinance of the city, borough or township, authorizing the
2 construction of any improvement, was in fact adopted before such
3 city, borough or township was legally empowered to make such
4 assessments on property within or outside the limits of such
5 city, borough, or township, if such improvement was actually
6 constructed, and such assessments against property within or
7 without the limits of such city, borough or township made
8 subsequent to the time when such city, borough or township was
9 legally empowered to levy such assessments as was contemplated
10 by the act or acts of General Assembly under which the
11 improvement was attempted to be made; and statement of claim
12 filed, now by this act such improvement is made valid and
13 binding and also any statement of claim, heretofore filed, if
14 any, to secure the liens therefor is also made valid and
15 binding, and the jurisdiction of any board of viewers
16 hereinbefore mentioned to entertain such proceedings and the
17 assessments made pursuant to such proceedings against property
18 within or without the limits of any such city, borough or
19 township shall be valid and binding, and the council of such
20 city or borough and the commissioners or supervisors of such
21 township may cause the property, bounding or abutting along the
22 line of the improvement or on the street, or part thereof, upon
23 which the improvement has been made or is now being made, to be
24 assessed in the manner now provided by law or by the board of
25 viewers' proceedings in the manner and at the rates now provided
26 by law with such a portion of the costs of such improvement as
27 is contemplated by the law under which the improvement was made,
28 or attempted to be made, or is now being made; and all such
29 benefits and all assessments heretofore made or determined are
30 hereby ratified, confirmed, and validated; and any statement of

1 claims heretofore filed, if any, to secure the liens therefor
2 are also hereby ratified, confirmed, and validated. Such
3 assessment or other assessment heretofore made or hereafter made
4 in proceedings now pending within the time limitations specified
5 in this act shall be a lien upon the property assessed, and any
6 lien heretofore filed for benefits assessed or for the cost of
7 such improvement, or any part thereof, although the report of
8 the viewers assessing the same was not filed within the time
9 required by law for the filing thereof, is hereby made valid and
10 binding with the same force and effect as though such report was
11 filed within the time required by law for filing the same. The
12 lien shall date from the completion of the improvement for which
13 the assessment is made whether the work was completed through
14 one or several operations or contracts, or from the date of
15 filing the same, and shall remain a lien until fully paid and
16 satisfied: Provided, That the lien be revived during every
17 period of five years after the lien is filed, either by the
18 issuance of a writ of revival, or the filing of a suggestion of
19 nonpayment and an averment of default: And provided further,
20 That this act shall not validate any lien against any property
21 which has been conveyed to a bona fide purchaser thereof
22 subsequent to the expiration of the period prescribed by law for
23 the filing of such liens and prior to the date of the filing
24 thereof, or give the lien thus filed priority over any bona fide
25 lien or liens filed, entered or recorded or which shall have
26 otherwise attached subsequently to the time prescribed by law
27 for the filing of such municipal lien and prior to the time of
28 the filing thereof.

29 Section 2. The council of any city of the third class, or of
30 any borough, or the board of commissioners of any township of

1 the first class or the board of supervisors of any township of
2 the second class of this Commonwealth, entitled to a lien under
3 this act, shall file a lien therefor, if not heretofore filed,
4 in the office of the prothonotary of the county within which the
5 property lies within six-months after the completion of work
6 where the improvement is now in progress, or with 12 months
7 after the confirmation absolute of the report of the viewers
8 assessing the benefits for such improvement whether now or
9 hereafter pending, or within 12 months after the approval of
10 this act where the improvement is now completed if no lien has
11 been heretofore filed for the same, or within 12 months after
12 the passage of any councilmanic ordinance assessing benefits
13 under the provisions of this act where the improvement is
14 already completed, and the same shall be entered upon record as
15 other municipal claims. Such liens shall state the name of the
16 party claimant, which shall be the corporate name of the city,
17 borough or township making the improvement; name of the owner or
18 reputed owner of the property assessed; a reasonable description
19 of the property assessed; the amount or sum claimed to be due
20 which shall include interest on the assessment from the
21 completion of the improvement for what improvement the claim is
22 made; the date of its completion; the date of the assessment for
23 which the lien is filed. Such lien, when so filed, shall be
24 prima facie evidence of all matters therein set forth and of the
25 right of the city, borough or township to recover the amount
26 therein claimed to be due, together with interest from the date
27 of the lien or completion of the improvement, costs, and an
28 attorney's commission of 5% for collecting.

29 Section 3. The claim, when so filed, shall be proceeded upon
30 for collection by writ of scire facias: Provided, That this act

1 shall not apply to any proceeding, suit or lien wherein a final
2 order or judgment of any court of record has already been made
3 or entered.

4 Section 4. This act shall take effect in 60 days.