

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL
No. 2321 Session of
1978

INTRODUCED BY WAGNER, APRIL 5, 1978

REFERRED TO COMMITTEE ON LOCAL GOVERNMENT, APRIL 5, 1978

AN ACT

1 To quiet title to real estate and mineral rights in this
2 Commonwealth and facilitate alienation or encumbering
3 thereof; requiring the filing of certain prior claims
4 relating to liens and encumbrances or affecting title to real
5 estate and mineral rights within a certain period of time;
6 prohibiting the enforcement of unfiled claims against real
7 estate and mineral rights in certain cases; and providing for
8 priority of future claims over unfiled prior claims.

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

11 Section 1. Definitions.

12 The following words and phrases when used in this act shall
13 have, unless the context clearly indicates otherwise, the
14 meanings given to them in this section:

15 "Claim." Any lien or encumbrance on real estate or any right
16 which affects good and marketable title to real estate, and has
17 been entered of record. The term includes, but shall not be
18 limited to liens, encumbrances, or rights created by or in the
19 nature of mortgages, judgments, dower, curtesy, entails, ground
20 rents, easements, mineral rights, charges on land and
21 restrictions or limitations on use of land.

1 "Claimant." The person or persons in whose favor the lien,
2 encumbrance, restriction or right was created or established and
3 shall include the successors, assignees, heirs, beneficiaries
4 and legal representatives of such person or persons.

5 "Entered of record." The recording or filing in the manner
6 provided by law in the office of the recorder of deeds, office
7 of the prothonotary, office of the clerk of courts, office of
8 the register of wills, or any other county office or any office
9 in a political subdivision in the county authorized to record or
10 file a record of a deed, lien, encumbrance or other instrument
11 or claim.

12 "Inactive claim." A claim which has not been used, paid
13 upon, or for which no legal action has been instituted within 21
14 years.

15 "Open or unsatisfied of record." Any claim for which a
16 satisfaction or release has not been entered of record or any
17 claim which is not directly or indirectly disclosed, referred to
18 or incorporated into a deed, agreement of sale, lease, easement,
19 court decree or other document entered of record.

20 "Restrictions." Any charge on the land, or restriction or
21 limitation on the use of the land.

22 Section 2. Priority of future conveyance and claims.

23 (a) Any conveyance or agreement for the sale of real estate
24 or mineral rights for valid consideration or pursuant to
25 specific statutory authority or a decree of court shall vest
26 legal or equitable title to the grantee free and clear of any
27 inactive claim and all restrictions which are not entered of
28 record pursuant to this act prior to the date of the deed,
29 agreement, or other instrument evidencing such conveyance or
30 agreement of sale provided such deed, agreement or other

1 instrument is entered of record in the manner provided by law
2 within 30 days of such date or within such other period of time
3 as shall be prescribed by law or decree of court.

4 (b) Any mortgage, judgment, easement, restrictions or
5 limitations on the use of land or other claim given or
6 established in exchange for valid consideration or pursuant to
7 specific statutory authority or a decree of court shall have
8 priority over any inactive claim and all restrictions which are
9 not entered of record pursuant to this act prior to the date of
10 the mortgage, judgment, easement, restrictions or limitations on
11 the use of land or other instrument evidencing such claim
12 provided such mortgage, judgment, easement, restrictions or
13 limitations on the use of land or other instrument is entered of
14 record in the manner provided by law within 30 days of such date
15 or within such other period of time as shall be prescribed by
16 law or decree of court.

17 (c) For the purposes of this section, an undated instrument
18 shall be presumed to have been dated as of the date of an
19 acknowledgment contained in or accompanying such instrument or,
20 in the absence of such acknowledgment, as of 30 days prior to
21 the date the instrument is entered of record.

22 Section 3. Filing of open or unsatisfied claims.

23 (a) Any claimant holding or asserting an inactive claim or
24 restriction, which remains open or unsatisfied of record within
25 21 years of the effective date of this act shall file in the
26 office of the recorder of deeds of the county or counties where
27 the affected real estate or minerals subject to mineral rights
28 is or are located, a notice of claim for each separate claim in
29 the form prescribed in subsection (b).

30 (b) The recorder of deeds of each county shall provide forms

1 for the filing of notices of claims which shall contain, in
2 addition to other information required by the Department of
3 Community Affairs of the Commonwealth, the following:

4 (1) The name and address of the claimant filing the
5 notice.

6 (2) The nature and amount of the claim.

7 (3) The term, number, date of record, proper volume and
8 page of book or docket, and office or other place of record
9 of the claim.

10 (4) The name of the original claimant and the person or
11 persons against whom the claim was entered of record.

12 (5) The location and short description of the real
13 estate or mineral rights alleged to be subject to or affected
14 by such claim, together with a reference to the proper volume
15 and page of the book or docket containing such description.

16 (c) The notice of claim shall be acknowledged in the manner
17 and form provided by law for the recording of instruments prior
18 to its acceptance and filing by the recorder of deeds. The claim
19 shall be included in a separate docket book and shall be indexed
20 in such docket book or a separate index by the names of the
21 original claimant and the person against whom the claim was
22 entered.

23 (d) In order to continue priority and effectiveness against
24 subsequent transfers, inactive claims and all restrictions must
25 be refiled or reentered of record within 21 years of the prior
26 entry.

27 Section 4. Effect of failure to file claims.

28 (a) Except as provided in subsection (b), the failure to
29 file notice of an open or unsatisfied inactive claim and
30 restrictions within the time specified in section 3 of this act

1 shall result in the priority of future conveyances, agreements
2 and claims to the extent provided in this act.

3 (b) Notice of an open or unsatisfied inactive claim and
4 restriction filed after the time specified in section 3 of this
5 act shall have priority only over conveyances, agreements and
6 claims dated after the filing of the inactive claim and
7 restrictions and entered of record within 30 days of such date
8 or within such other period of time as shall be prescribed by
9 law or decree of court.

10 (c) Except as provided in section 2 of this act, the filing
11 of or failure to file notice of an open or unsatisfied inactive
12 claim and restriction shall not be determinative of the validity
13 of such claim or restriction which shall continue to be
14 determined in the manner provided by law or rule of court.

15 Section 5. Duty of Department of Community Affairs.

16 (a) Within 30 days of the final enactment of this act, the
17 Department of Community Affairs shall publish this act in the
18 Pennsylvania Bulletin and shall submit a copy of this act to
19 each recorder of deeds in this Commonwealth.

20 (b) The department shall prepare a suitable form and
21 instructions for the notice of inactive claim and restriction
22 provided for in this act and shall provide copies to each
23 recorder of deeds and may charge a reasonable fee to cover the
24 cost of preparation of such forms and instructions.

25 (c) The department shall prepare a form of a notice suitable
26 for publication in newspapers and legal periodicals which shall
27 set forth a summary of the provisions of this act in sufficient
28 detail to enable claimants and other persons to understand the
29 filing provisions and the effect of failure to file notice of
30 claims. The notice to be published by the recorder of deeds

1 shall specify that notices of claims shall be filed within six
2 months from the date of such publication. Four copies of such
3 notice shall be submitted to each recorder of deeds. The
4 department shall publish the notice in the Pennsylvania
5 Bulletin.

6 (d) The department may promulgate such rules and regulations
7 as it deems necessary to carry out the provisions of this act
8 which shall be published in the Pennsylvania Bulletin in
9 accordance with the "Commonwealth Documents Law."

10 Section 6. Effective date.

11 This act shall take effect in 60 days.