
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 970 Session of
2013

INTRODUCED BY STACK AND FARNESE, JUNE 11, 2013

REFERRED TO FINANCE, JUNE 11, 2013

AN ACT

1 Amending the act of May 16, 1923 (P.L.207, No.153), entitled "An
2 act providing when, how, upon what property, and to what
3 extent, liens shall be allowed for taxes and for municipal
4 improvements, for the removal of nuisances, and for water
5 rents or rates, sewer rates, and lighting rates; for the
6 procedure upon claims filed therefor; the methods for
7 preserving such liens and enforcing payment of such claims;
8 the effect of judicial sales of the properties liened; the
9 distribution of the proceeds of such sales, and the
10 redemption of the property therefrom; for the lien and
11 collection of certain taxes heretofore assessed, and of
12 claims for municipal improvements made and nuisances removed,
13 within six months before the passage of this act; and for the
14 procedure on tax and municipal claims filed under other and
15 prior acts of Assembly," further providing for definitions,
16 for taxes on property to be first liens and for municipal
17 claims to be liens; providing for liens on property for
18 delinquent taxes, for attorney fees and costs and for
19 collection of costs and attorney fees associated with tax
20 collection; and further providing for lien to be in favor of
21 municipalities.

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

24 Section 1. Section 1 of the act of May 16, 1923 (P.L.207,
25 No.153), referred to as the Municipal Claim and Tax Lien Law,
26 amended August 14, 2003 (P.L.83, No.20) and July 15, 2004
27 (P.L.726, No.83), is amended to read:

28 Section 1. Be it enacted, &c., That the word "taxes," as

1 used in this act, means any county, city, borough, incorporated
2 town, township, school, bridge, road, or poor taxes, together
3 with and including all penalties, interest, costs, charges,
4 expenses and fees, including reasonable attorney fees, as
5 allowed by this act and all other applicable laws.

6 The word "highway," as used in this act, means the whole or
7 any part of any public street, public road, public lane, public
8 alley, or other public highway.

9 The words "tax claim," as used in this act, mean the claim
10 filed to recover taxes.

11 The words "municipal claim," as used in this act, unless
12 specifically indicated otherwise, mean and include (1) the claim
13 arising out of, or resulting from, a tax assessed, service
14 supplied, work done, fine imposed, or improvement authorized and
15 undertaken, by a municipality, although the amount thereof be
16 not at the time definitely ascertained by the authority
17 authorized to determine the same, and a lien therefor be not
18 filed, but becomes filable within the period and in the manner
19 herein provided, (2) the claim filed to recover for the grading,
20 guttering, macadamizing, or otherwise improving, the cartways of
21 any public highway; for grading, curbing, recurbing, paving,
22 repaving, constructing, or repairing the footways thereof; for
23 laying water pipes, gas pipes, culverts, sewers, branch sewers,
24 or sewer connections therein; for assessments for benefits in
25 the opening, widening or vacation thereof; or in the changing of
26 water-courses or the construction of sewers through private
27 lands; or in highways of townships of the first class; or in the
28 acquisition of sewers and drains constructed and owned by
29 individuals or corporations, and of rights in and to use the
30 same; for the removal of nuisances; or for water rates, lighting

1 rates, or sewer rates, and (3) the claim filed to recover for
2 work, material, and services rendered or furnished in the
3 construction, improvement, maintenance, and operation of a
4 project or projects of a body politic or corporate created as a
5 Municipal Authority pursuant to law. A municipal claim shall be
6 together with and shall include all penalties, interest, costs,
7 fines, charges, expenses and fees, including reasonable attorney
8 fees, as allowed by this act and all other applicable laws.

9 The word "claimant," as used in this act, means the plaintiff
10 or use-plaintiff in whose favor the claim is filed as a lien.

11 The word "contractor," as used in this act, means the person
12 or persons who, under contract with the legal plaintiff,
13 performed the work for which the lien is given.

14 The words "financial institution," as used in this act, mean
15 any of the following: (1) a depository institution, as defined
16 in section 3(c) of the Federal Deposit Insurance Act (64 Stat.
17 873, 12 U.S.C. § 1813(c)); (2) a Federal credit union or State
18 credit union, as defined in section 1752(1) of the Federal
19 Credit Union Act (48 Stat. 1216, 12 U.S.C. § 1752(1)); or (3) a
20 benefit association, insurance company, safe deposit company,
21 money market mutual fund or similar entity doing business in
22 this Commonwealth that holds property or maintains accounts
23 reflecting property belonging to others.

24 The words "personal property," as used in this act, mean
25 personal property subject to the lien and against which the
26 claim is filed as a lien.

27 The word "property," as used in this act, includes personal
28 property and real property.

29 The [word "property,"] words "real property," as used in this
30 act, [means] mean the real estate subject to the lien and

1 against which the claim is filed as a lien.

2 The word "owner," as used in this act with respect to real
3 property, means the person or persons in whose name the real
4 property is registered, if registered according to law[, and, in
5 all other cases], or, where the real property is not registered
6 means any person or persons in open, peaceable and notorious
7 possession of the real property, as apparent owner or owners
8 thereof, if any, or the reputed owner or owners thereof in the
9 neighborhood of such real property. In the case of personal
10 property, the word "owner" means the person or persons having
11 the right to possess, use and convey such property or otherwise
12 having title to it.

13 The word "municipality," as used in this act, means any
14 county, city, borough, incorporated town, township, school
15 district, or a body politic and corporate created as a Municipal
16 Authority pursuant to law and any assignees thereof.

17 The words "charges, expenses, and fees," as used in this act,
18 include all sums paid or incurred by a municipality to file,
19 preserve and collect unpaid taxes, tax claims, tax liens,
20 municipal claims and municipal liens, including, but not limited
21 to, prothonotary and sheriff fees, postage expenses, and title
22 search expenses. A county, city, borough, incorporated town,
23 township, school district or municipal authority may also
24 recover as "charges, expenses, and fees" the charges, expenses,
25 commissions and fees of third-party collectors retained by the
26 county, city, borough, incorporated town, township, school
27 district or municipal authority, provided that the charges,
28 expenses, commissions and fees of such third-party collectors
29 are approved by legislative action of the county, city, borough,
30 incorporated town, township, school district or municipal

1 authority which levies the unpaid taxes, tax claims, tax liens,
2 municipal claims and municipal liens.

3 Section 2. Section 2 of the act is amended to read:

4 Section 2. All taxes which may hereafter be lawfully imposed
5 or assessed on any property in this Commonwealth, and all taxes
6 heretofore lawfully imposed or assessed by any municipality on
7 any property in this Commonwealth for the years one thousand
8 nine hundred and twenty-one, one thousand nine hundred and
9 twenty-two, and one thousand nine hundred and twenty-three, in
10 the manner and to the extent hereinafter set forth, shall be and
11 they are hereby declared to be a first lien on said property,
12 together with all charges, expenses, and fees added thereto for
13 failure to pay promptly; and such liens shall have priority to
14 and be fully paid and satisfied out of the proceeds of any
15 judicial sale of said property, before any other obligation,
16 judgment, claim, lien, or estate with which the said property
17 may become charged or for which it may become liable, save and
18 except only the costs of [the] any sale and of the writ upon
19 which [it] such sale is made.

20 Section 3. Section 3 of the act, amended August 14, 2003
21 (P.L.83, No.20), is amended to read:

22 Section 3. (a) All municipal claims, municipal liens,
23 taxes, tax claims and tax liens which may hereafter be lawfully
24 imposed or assessed on any real property in this Commonwealth,
25 and all such claims heretofore lawfully imposed or assessed
26 within six months before the passage of this act and not yet
27 liened, in the manner and to the extent hereinafter set forth,
28 shall be and they are hereby declared to be a lien on said real
29 property, together with all charges, expenses, and fees incurred
30 in the collection of any delinquent account, including

1 reasonable attorney fees under [subsection (a.1)] section 3.3,
2 added thereto for failure to pay promptly; and municipal claims
3 and municipal liens shall arise when lawfully imposed and
4 assessed and shall have priority to and be fully paid and
5 satisfied out of the proceeds of any judicial sale of said
6 property, before any other obligation, judgment, claim, lien, or
7 estate with which the said property may become charged, or for
8 which it may become liable, save and except only the costs of
9 the sale and of the writ upon which it is made, and the taxes,
10 tax claims and tax liens imposed or assessed upon said property.

11 [(a.1) It is not the intent of this subsection to require
12 owners to pay, or municipalities to sanction, inappropriate or
13 unreasonable attorney fees, charges or expenses for routine
14 functions. Attorney fees incurred in the collection of any
15 delinquent account, including municipal claims, municipal liens,
16 taxes, tax claims and tax liens, shall be in an amount
17 sufficient to compensate attorneys undertaking collection and
18 representation of a municipality or its assignee in any actions
19 in law or equity involving claims arising under this act. A
20 municipality by ordinance, or by resolution if the municipality
21 is of a class which does not have the power to enact an
22 ordinance, shall adopt the schedule of attorney fees. Where
23 attorney fees are sought to be collected in connection with the
24 collection of a delinquent account, including municipal claims,
25 municipal liens, taxes, tax claims and tax liens, the owner may
26 petition the court of common pleas in the county where the
27 property subject to the municipal claim and lien, tax claim and
28 lien or taxes is located to adjudicate the reasonableness of the
29 attorney fees imposed. In the event that there is a challenge to
30 the reasonableness of the attorney fees imposed in accordance

1 with this section, the court shall consider, but not be limited
2 to, the following:

3 (1) The time and labor required, the novelty and difficulty
4 of the questions involved and the skill requisite to properly
5 undertake collection and representation of a municipality in
6 actions arising under subsection (a).

7 (2) The customary charges of the members of the bar for
8 similar services.

9 (3) The amount of the delinquent account collected and the
10 benefit to the municipality from the services.

11 (4) The contingency or the certainty of the compensation.

12 (a.2) Any time attorney fees are awarded pursuant to any
13 provision of law, the municipality shall not be entitled to
14 duplicate recovery of attorney fees under this section.

15 (a.3) (1) At least thirty days prior to assessing or
16 imposing attorney fees in connection with the collection of a
17 delinquent account, including municipal claims, municipal liens,
18 taxes, tax claims and tax liens, a municipality shall, by United
19 States certified mail, return receipt requested, postage
20 prepaid, mail to the owner the notice required by this
21 subsection.

22 (2) If within thirty days of mailing the notice in
23 accordance with clause (1) the certified mail is refused or
24 unclaimed or the return receipt is not received, then at least
25 ten days prior to assessing or imposing attorney fees in
26 connection with the collection of a delinquent account, a
27 municipality shall, by United States first class mail, mail to
28 the owner the notice required by this subsection.

29 (3) The notice required by this subsection shall be mailed
30 to the owner's last known post office address by virtue of the

1 knowledge and information possessed by the municipality and by
2 the county office responsible for assessments and revisions of
3 taxes. It shall be the duty of the municipality to determine the
4 owner's last post office address known to said collector and
5 county assessment office.

6 (4) The notice to the owner shall include the following:

7 (i) A statement of the municipality's intent to impose or
8 assess attorney fees within thirty days of mailing the notice
9 pursuant to clause (1) or within ten days of the mailing of the
10 notice pursuant to clause (2).

11 (ii) The manner in which the imposition or assessment of
12 attorney fees may be avoided by payment of the delinquent
13 account.

14 (b) With the exception of those claims which have been
15 assigned, any municipal claim, municipal lien, tax, tax claim or
16 tax lien, including interest, penalty and costs, imposed by a
17 city of the first class, shall be a judgment only against the
18 said property when the lien has been docketed by the
19 prothonotary. The docketing of the lien shall be given the
20 effect of a judgment against the said property only with respect
21 to which the claim is filed as a lien. The prothonotary shall
22 maintain an in rem index, the form and location of which shall
23 be within the prothonotary's discretion. All tax claims, water
24 rents or rates, lighting rates, power rates and sewer rates
25 heretofore filed are hereby ratified, confirmed and made valid
26 subsisting liens as of the date of their original filing.

27 (c) A writ of execution may issue directly without
28 prosecution to judgment of a writ of scire facias. Any property
29 sold in execution shall be sold in compliance with the
30 provisions of section 31.2.

1 (d) Attorney fees may be imposed and collected in accordance
2 with this section upon all taxes, tax claims, tax liens,
3 municipal claims, municipal liens, writs of scire facias,
4 judgments or executions filed on or after December 19, 1990.]

5 (e) All charges, expenses, and fees incurred in the
6 collection of a delinquent account may be added to the amount of
7 the tax liability, and may be collected in any way that the
8 underlying tax liability may be collected under applicable law.
9 Collection of attorney fees shall be subject to section 3.2.

10 Section 4. The act is amended by adding sections to read:

11 Section 3.1. (a) When any municipal claim or tax becomes
12 delinquent, such claim or tax, together with all charges,
13 expenses and fees, including reasonable attorney fees, added
14 thereto for failure to pay promptly shall be a lien upon all
15 property that is both:

16 (1) owned by the delinquent taxpayer; and

17 (2) located within this Commonwealth or held by a financial
18 institution: Provided, however, That with respect to property
19 located outside the taxing municipality, no lien shall exist
20 against such property until filed with the prothonotary of the
21 county or counties in which the property is located.

22 (b) A lien under this section shall have the same force and
23 effect as a personal judgment against the delinquent taxpayer
24 and shall be subject to all prior claims, mortgages, ground
25 rents, charges and estates.

26 (c) The inclusion in a lien under this section of charges,
27 expenses and fees incurred in the collection of any delinquent
28 account, including reasonable attorney fees, shall be subject to
29 the requirements of section 3.2.

30 (d) This section shall not apply to any of the following:

1 (1) Any property that is subject to a lien under section 3.

2 (2) Real property that became subject to a lien by a city
3 under the act of December 1, 1959 (P.L.1673, No.616) known as
4 the "Self-Assessed Tax Lien Act," except that charges, expenses
5 and fees incurred in the collection of any delinquent account
6 under that act, including reasonable attorney fees, may be
7 included in a lien imposed under that act, in accordance with
8 the provisions of section 3.2 of this act.

9 Section 3.2. (a) It is not the intent of this section to
10 require owners to pay, or municipalities to sanction,
11 inappropriate or unreasonable attorney fees, charges or expenses
12 for routine functions. Attorney fees incurred in the collection
13 of any delinquent account, including municipal claims, municipal
14 liens, taxes, tax claims and tax liens, shall be in an amount
15 sufficient to compensate the municipality, where the
16 municipality uses attorneys who are employes of the municipality
17 or, when outside counsel is used, the municipality's outside
18 counsel, for undertaking collection and bringing any actions in
19 law or equity involving claims arising under this act on behalf
20 of the municipality or its assignee. A municipality by
21 ordinance, or by resolution if the municipality is of a class
22 which does not have the power to enact an ordinance, shall adopt
23 the schedule of attorney fees. Where attorney fees are sought to
24 be collected in connection with the collection of a delinquent
25 account, including municipal claims, municipal liens, taxes, tax
26 claims and tax liens, the owner may, in the case of real
27 property, petition the court of common pleas in the county where
28 the property subject to the municipal claim and lien, tax claim
29 and lien or taxes is located to adjudicate the reasonableness of
30 the attorney fees imposed; in the case of personal property, the

1 owner may file for such adjudication in either the court of
2 common pleas in the county encompassing the municipality that
3 imposed the tax, or the court of common pleas in the county
4 where the property subject to the municipal claim and lien, tax
5 claim and lien or taxes is usually located. In the event that
6 there is a challenge to the reasonableness of the attorney fees
7 imposed in accordance with this section, the court shall
8 consider, but not be limited to, the following:

9 (1) The time and labor required, the novelty and difficulty
10 of the questions involved and the skill requisite to properly
11 undertake collection and representation of a municipality.

12 (2) The customary charges of the members of the bar for
13 similar services.

14 (3) The amount of the delinquent account collected and the
15 benefit to the municipality from the services.

16 (4) The contingency or the certainty of the compensation.

17 (b) Any time attorney fees are awarded pursuant to any
18 provision of law, the municipality shall not be entitled to
19 duplicate recovery of attorney fees under this section.

20 (c) (1) At least thirty days prior to assessing or imposing
21 attorney fees in connection with the collection of a delinquent
22 account, including municipal claims, municipal liens, taxes, tax
23 claims and tax liens, a municipality shall, by United States
24 certified mail, return receipt requested, postage prepaid, mail
25 to the owner the notice required by this subsection.

26 (2) If within thirty days of mailing the notice in
27 accordance with clause (1) the certified mail is refused or
28 unclaimed or the return receipt is not received, then at least
29 ten days prior to assessing or imposing attorney fees in
30 connection with the collection of a delinquent account, a

1 municipality shall, by United States first class mail, mail to
2 the owner the notice required by this subsection.

3 (3) The notice required by this subsection shall be mailed
4 to the owner's last known post office address by virtue of the
5 knowledge and information possessed by the municipality and by
6 the county office responsible for assessments and revisions of
7 taxes. It shall be the duty of the municipality to determine the
8 owner's last post office address known to said collector and
9 county assessment office.

10 (4) The notice to the owner shall include the following:

11 (i) A statement of the municipality's intent to impose or
12 assess attorney fees within thirty days of mailing the notice
13 pursuant to clause (1) or within ten days of the mailing of the
14 notice pursuant to clause (2).

15 (ii) The manner in which the imposition or assessment of
16 attorney fees may be avoided by payment of the delinquent
17 account.

18 (d) With the exception of those claims which have been
19 assigned, any municipal claim, municipal lien, tax, tax claim or
20 tax lien, including interest, penalty and costs imposed by a
21 city of the first class upon real property within such city,
22 shall be a judgment only against the said real property when the
23 lien has been docketed by the prothonotary. The docketing of the
24 lien shall be given the effect of a judgment against the said
25 real property. The prothonotary shall maintain an in rem index,
26 the form and location of which shall be within the
27 prothonotary's discretion. All tax claims, water rents or rates,
28 lighting rates, power rates and sewer rates heretofore filed are
29 hereby ratified, confirmed and made valid subsisting liens as of
30 the date of their original filing.

1 (e) A writ of execution may issue directly without
2 prosecution to judgment of a writ of scire facias. Any real
3 property sold in execution shall be sold in compliance with the
4 provisions of section 31.2.

5 (f) Attorney fees may be imposed and collected in accordance
6 with this section upon all taxes, tax claims, tax liens,
7 municipal claims, municipal liens, writs of scire facias,
8 judgments or executions filed on or after December 19, 1990.

9 Section 5. Section 4 of the act, amended July 28, 1953
10 (P.L.678, No.212), is amended to read:

11 Section 4. (a) The lien for taxes shall exist in favor of[,
12 and the claim therefor may be filed against the property taxed
13 by,] any municipality to which the tax is payable[.] and the
14 claim may be filed against the property taxed by such
15 municipality, as well as against all other property that is
16 both: (1) owned by the person who owns the property subject to
17 the tax; and (2) located within this Commonwealth or held by a
18 financial institution.

19 (b) The lien for the removal of nuisances shall exist in
20 favor of, and the claim therefor may be filed against the
21 property from which it is removed, or by which it is caused, by,
22 any municipality by or for which the nuisance is removed.

23 (c) The lien for grading, guttering, paving, macadamizing,
24 or otherwise improving the cartways of any highways; for
25 grading, curbing, recurbing, paving, repaving, constructing, or
26 repairing the footways thereof; or for laying water pipes, gas
27 pipes, culverts, sewers, branch sewers, or sewer connections in
28 any highway; for assessments for benefits in the opening,
29 widening, or vacation thereof; or in the changing of
30 watercourses or construction of sewers through private lands; or

1 in highways of townships of the first class; or in the
2 acquisition of sewers and drains constructed and owned by
3 individuals or corporations, and of rights in and to use the
4 same; or for water rates, lighting rates, or sewer rates, or
5 rates for any other service furnished by a municipality,--shall
6 exist in favor of, and the claim therefor may be filed against
7 the property thereby benefited by, the municipality extending
8 the benefit; or the city, borough, or township in which the
9 property is located, if the work, material or service forming
10 the basis of such lien was supplied by a municipal authority
11 organized by a city of the second class, by a county of the
12 second class or by a city of the third class and such liens or
13 the claim therefor has been assigned to it.

14 (d) Municipal authorities organized by cities of the second
15 class, by counties of the second class or by cities of the third
16 class are hereby authorized to assign their municipal claims and
17 their liens to the city, borough, or township in which the
18 property subject thereto is located, and cities, boroughs and
19 townships in which such property is located are hereby
20 authorized to purchase the same. Upon such assignment or
21 purchase the city, borough, or township acquiring such municipal
22 claim or lien shall have the same rights thereunder as if it had
23 supplied the work, material or service upon which such municipal
24 claim or lien is based.

25 (e) When the contractor performing the work is to be paid by
26 assessment bills, the lien shall exist for, and the claim shall
27 be filed to, his use, and he shall under no circumstances have
28 recourse to the municipality authorizing the work.

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