
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 301 Session of
1991

INTRODUCED BY O'DONNELL, KOSINSKI, JOSEPHS, DALEY, MELIO, PESCI,
GIGLIOTTI AND VROON, FEBRUARY 6, 1991

SENATOR GREENLEAF, JUDICIARY, IN SENATE, AS AMENDED,
JUNE 22, 1992

AN ACT

1 Amending Title 42 (Judiciary and Judicial Procedure) of the
2 Pennsylvania Consolidated Statutes, providing for municipal
3 court jurisdiction over landlord-tenant cases; FURTHER
4 PROVIDING FOR THE ESTABLISHMENT OF FEES AND CHARGES AND FOR
5 CONSTABLE FEES; AND MAKING REPEALS. <—

6 The General Assembly of the Commonwealth of Pennsylvania
7 hereby enacts as follows:

8 Section 1. Section 1123(a)(3) of Title 42 of the
9 Pennsylvania Consolidated Statutes is amended to read:

10 § 1123. Jurisdiction and venue.

11 (a) General rule.--Except as otherwise prescribed by any
12 general rule adopted pursuant to section 503 (relating to
13 reassignment of matters), the Philadelphia Municipal Court shall
14 have jurisdiction of the following matters:

15 * * *

16 (3) Matters arising under the act of April 6, 1951
17 (P.L.69, No.20), known as ["The Landlord and Tenant Act of
18 1951."] The judges of the Philadelphia Municipal Court shall

1 have the power to enter judgments exceeding \$5,000 in matters
2 arising under this subsection.

3 * * *

4 ~~Section 2. All acts and parts of acts are repealed insofar~~ <—
5 ~~as they are inconsistent with this act.~~

6 SECTION 2. SECTION 1725 OF TITLE 42 IS AMENDED BY ADDING <—
7 SUBSECTIONS TO READ:

8 § 1725. ESTABLISHMENT OF FEES AND CHARGES.

9 * * *

10 (C) COUNTIES OF THE FIRST CLASS.--IN COUNTIES OF THE FIRST
11 CLASS:

12 (1) THERE SHALL BE CHARGED AND SET APART BY THE OFFICER
13 RECEIVING THE FEES FIXED IN THIS SECTION AND REMITTED MONTHLY
14 TO THE TREASURER OF THE BAR ASSOCIATION OR OTHER NONPROFIT
15 CORPORATION OPERATING THE PUBLIC LAW LIBRARY OF SUCH COUNTY,
16 AN AMOUNT EQUAL TO 30% OF THE FILING FEES AT THE TIME IN
17 EFFECT FOR THE PROBATE OF WILLS, THE ISSUE OF LETTERS
18 TESTAMENTARY, THE ISSUE OF LETTERS OF ADMINISTRATION AND THE
19 FILING OF ACCOUNTS WITH THE REGISTER OF WILLS, THE FILING OF
20 ACCOUNTS OF TRUSTEES AND GUARDIANS IN THE COURT OF COMMON
21 PLEAS OF THE COUNTY AND OF ALL FILINGS IN THE OFFICE OF THE
22 PROTHONOTARY OF THE COUNTY.

23 (2) THE PROVISIONS OF PARAGRAPH (1) SHALL NOT APPLY TO
24 ANY ACTIONS TAKEN OR INITIATED BY ANY POLITICAL SUBDIVISION.

25 (3) THE WRITTEN RECEIPT FOR THE MONEYS OF THE TREASURER
26 OF THE BAR ASSOCIATION OR NONPROFIT CORPORATION SHALL BE THE
27 ONLY LEGAL DISCHARGE OF THE OFFICER.

28 (4) THE DEPARTMENT OF GENERAL SERVICES SHALL ANNUALLY,
29 AND FREE OF CHARGE, DISTRIBUTE TO THE TREASURER OF EACH BAR
30 ASSOCIATION OR NONPROFIT CORPORATION FOR THE USE OF ITS

1 LIBRARY, 60 COPIES OF THE LAWS OF PENNSYLVANIA FOR THE
2 PURPOSE OF ENABLING THE LIBRARY TO EXCHANGE A COPY OF THE
3 LAWS FOR A COPY OF SIMILAR PUBLICATIONS OF OTHER STATES AND
4 OF THE TERRITORIES OF THE UNITED STATES.

5 (D) COUNTIES OF THE SECOND CLASS.--IN COUNTIES OF THE SECOND
6 CLASS, THE PROTHONOTARY AND THE CLERK OF THE ORPHANS' COURT
7 DIVISION SHALL SET APART FROM THE FEES FIXED IN THIS SECTION OR
8 UNDER ANY OTHER STATUTE AND COLLECTED BY THEM ON THE FOLLOWING
9 ACTIONS, PROCEEDINGS AND APPEALS AND REMIT MONTHLY THE TOTAL
10 COLLECTED TO THE COUNTY TREASURER FOR THE EXCLUSIVE USE AND
11 BENEFIT OF THE PUBLIC LAW LIBRARY IN THE COUNTY.

12 (1) THE SUM OF \$1 FOR APPEALS TO THE COURT OF COMMON
13 PLEAS FROM ANY ADMINISTRATIVE AGENCY, INDEPENDENT AGENCY,
14 GOVERNMENT UNIT, GOVERNMENT AGENCY OR COMMONWEALTH AGENCY.

15 (2) THE SUM OF \$1 FOR APPEALS THAT ARE FILED WITH OR ARE
16 TO BE HEARD BY THE COURT OF COMMON PLEAS WHICH APPEALS ARE
17 NOT SPECIFICALLY SET FORTH IN PARAGRAPH (1), INCLUDING, BUT
18 NOT LIMITED TO, APPEALS FROM DISTRICT JUSTICES, THE
19 PITTSBURGH MAGISTRATES COURT AND THE TRAFFIC COURT OF
20 PITTSBURGH.

21 (3) THE SUM OF \$1 FOR APPOINTMENTS OF BOARDS OF VIEW.

22 (4) THE SUM OF \$1 FOR CERTIORARI TO DISTRICT JUSTICES
23 AND THE PITTSBURGH MAGISTRATES COURT AND THE TRAFFIC COURT OF
24 PITTSBURGH.

25 (5) THE SUM OF \$1 FOR THE COMMENCEMENT OF A CIVIL ACTION
26 OR PROCEEDING.

27 (6) THE SUM OF \$1 FOR THE FILING OF A PRAECIPE FOR AND
28 ISSUANCE OF A WRIT OF EXECUTION OR ATTACHMENT.

29 (7) THE SUM OF \$1 FOR THE ENTRY OF A JUDGMENT BY
30 CONFESSION OR OTHERWISE.

1 (8) THE SUM OF \$1 FOR THE FILING OF ADVERSARY AND
2 AMICABLE SCIRE FACIAS PROCEEDINGS.

3 (9) THE SUM OF \$1 FOR EVERY FILING WITH RESPECT TO
4 FICTITIOUS NAMES, WHETHER INDIVIDUAL OR CORPORATE.

5 (10) THE SUM OF \$1 FOR THE PROBATE OF A WILL, THE
6 ISSUANCE OF LETTERS OF ADMINISTRATION, OR A PETITION FOR
7 DISPOSITION OF DECEDENTS ESTATES INDEPENDENT OF THE ISSUANCE
8 OF LETTERS TESTAMENTARY OR OF ADMINISTRATION.

9 (11) THE SUM OF \$1 FOR THE FILING OF AN ACCOUNT OF
10 FIDUCIARY IN THE OFFICE OF THE CLERK OF THE ORPHANS' COURT
11 DIVISION OR IN THE OFFICE OF THE PROTHONOTARY.

12 (12) THE SUM OF \$1 FOR THE FILING OF A PETITION FOR A
13 WRIT OF HABEAS CORPUS FOR THE CUSTODY OF A MINOR CHILD OR A
14 PETITION FOR THE AWARD OF CUSTODY OF A MINOR CHILD.

15 (13) THE SUM OF \$1 FOR THE FILING OF A PRAECIPE FOR THE
16 ISSUANCE OF MISCELLANEOUS WRITS, FOR THE FILING OF A PETITION
17 FOR A CITATION OR FOR THE FILING OF A CAVEAT NOT SPECIFICALLY
18 PROVIDED FOR IN THIS SUBSECTION.

19 SECTION 3. SECTION 2947 OF TITLE 42 IS REENACTED AND AMENDED
20 TO READ:

21 § 2947. FEES.

22 [(A) GENERAL RULE.--CONSTABLES AND DEPUTY CONSTABLES SHALL
23 BE COMPENSATED FOR PERFORMING JUDICIAL DUTIES BY THE PAYMENT OF
24 FEES AS SET FORTH IN THIS SECTION AND SHALL BE PAID ACCORDING TO
25 LAW FOR PERFORMING OTHER DUTIES.]

26 (B) TRAVEL OR MILEAGE.--ACTUAL MILEAGE FOR TRAVEL BY MOTOR
27 VEHICLE SHALL BE REIMBURSED AT A RATE EQUAL TO THE HIGHEST RATE
28 ALLOWED BY THE INTERNAL REVENUE SERVICE. IF TRAVEL IS BY OTHER
29 THAN MOTOR VEHICLE, REIMBURSEMENT SHALL BE FOR ACTUAL, VOUCHERED
30 TRAVEL EXPENSES.

(C) APPORTIONMENT.--IF MORE THAN ONE DEFENDANT IS TRANSPORTED SIMULTANEOUSLY, REIMBURSEMENTS SHALL BE FOR ACTUAL MILES TRAVELED, AND THE COST SHALL BE DIVIDED BETWEEN OR AMONG THE DEFENDANTS.

(D) ADDITIONAL PERSONS.--A CONSTABLE OR DEPUTY CONSTABLE, WHEN HE IS TRANSPORTING A PRISONER, SERVING A WARRANT IN A COURT CASE OR SERVING A WARRANT ON A DEFENDANT OF THE OPPOSITE SEX, MAY, AT HIS DISCRETION, BE ACCOMPANIED BY A SECOND CONSTABLE OR DEPUTY CONSTABLE [WHO IS CERTIFIED PURSUANT TO SECTION 2943 (RELATING TO CERTIFICATION) TO PERFORM JUDICIAL DUTIES]. IN SUCH CASES, EACH OFFICER SHALL RECEIVE THE FEE SET OUT IN THIS SECTION. IN ALL OTHER CIVIL AND CRIMINAL CASES, THE ISSUING AUTHORITY MAY AUTHORIZE SUCH PAYMENT TO A SECOND SUCH OFFICER.

(E) CIVIL CASES.--IN CIVIL CASES, CONSTABLE FEES MUST BE PAID IN ADVANCE TO THE COURT FOR SERVICES DESIRED TO BE PERFORMED. SUCH FEES SHALL NOT BE REFUNDABLE TO THE PLAINTIFF IF A CASE IS SETTLED OR A DEBT IS SATISFIED LESS THAN 48 HOURS PRIOR TO A SCHEDULED SALE OR EJECTMENT, IN WHICH LATTER CASE THE CONSTABLE OR DEPUTY CONSTABLE SHALL BE PAID FOR [A NONFORCIBLE] HOLDING THE SALE OR CARRYING OUT AN EJECTMENT, RESPECTIVELY.

(F) PAYMENT.--FEES SHALL BE PAID BY THE COURT TO THE CONSTABLE AS SOON AS POSSIBLE AND IN EVERY CASE NOT MORE THAN [30] 15 DAYS AFTER THE LATTER OF THE FOLLOWING OCCURS:

(1) THE SERVICE IS PERFORMED; AND

(2) THE REQUEST FOR PAYMENT IS SUBMITTED.

(G) SPECIFIC FEES.--FEES IN CIVIL CASES SHALL BE AS FOLLOWS:

(1) FOR SERVING COMPLAINT, SUMMONS OR NOTICE ON SUITOR OR TENANT, EITHER PERSONALLY OR BY LEAVING A COPY, \$10 PLUS \$5 FOR EACH ADDITIONAL DEFENDANT AT THE SAME ADDRESS.

[(2) FOR SERVING SUBPOENAS, \$10 FOR THE FIRST WITNESS

1 PLUS \$2.50 FOR EACH ADDITIONAL WITNESS AT THE SAME ADDRESS.]

2 (3) FOR LEVYING GOODS, INCLUDING SCHEDULE OF PROPERTY
3 LEVIED UPON AND SET ASIDE, \$35.

4 (4) FOR ADVERTISING PERSONAL PROPERTY TO PUBLIC SALE, \$5
5 PER POSTING (MAXIMUM OF \$15) PLUS ACTUAL COST OF ADVERTISING.

6 (5) FOR SELLING GOODS LEVIED, \$35.

7 (6) FOR CLERK HIRED AT SALES, \$20.

8 (7) FOR MAKING RETURN OF NOT FOUND OR NULLA BONA (NO
9 GOODS), \$10.

10 (8) FOR EXECUTING ORDER OF POSSESSION, \$10.

11 (9) FOR [NONFORCIBLE] EJECTMENT [ON ORDER OF POSSESSION,
12 \$35], \$70.

13 (10) FOR FORCIBLE EJECTMENT, \$70.

14 (11) FOR MAKING RETURN OF SERVICE, OTHER THAN NOT FOUND
15 OR NULLA BONA (NO GOODS), \$2.50.

16 (12) FOR PROVIDING [COURT-ORDERED] COURTROOM SECURITY AS
17 ORDERED, \$10 PER HOUR, PRORATED TO THE NEAREST WHOLE DOLLAR,
18 ASSESSED AGAINST ONE OR MORE PARTIES AS DETERMINED BY THE
19 COURT.

20 (H) CRIMINAL CASES.--FEES IN CRIMINAL CASES SHALL BE AS
21 FOLLOWS:

22 (1) FOR EXECUTING A WARRANT OR FOR EFFECTUATING THE
23 PAYMENT OF FINES AND COSTS BY ATTEMPTING TO EXECUTE A
24 WARRANT, \$15 PER WARRANT.

25 (2) FOR TAKING CUSTODY OF A DEFENDANT, \$5 PER DEFENDANT.

26 (3) FOR CONVEYANCE OF DEFENDANT TO OR FROM COURT, \$5 PER
27 DEFENDANT.

28 (4) FOR ATTENDANCE AT ARRAIGNMENT OR HEARING, \$5 PER
29 DEFENDANT.

30 (5) FOR EXECUTING DISCHARGE, \$5 PER DEFENDANT.

1 (6) FOR EXECUTING COMMITMENT, \$5 PER DEFENDANT
2 (7) FOR EXECUTING RELEASE, \$5 PER DEFENDANT.
3 (8) FOR MAKING RETURNS TO THE COURT [OF PROCESS SERVED
4 OR NON EST INVENTUS (NOT FOUND)], \$2.50.

5 (9) [PURSUANT TO A POLICY ESTABLISHED BY THE PRESIDENT
6 JUDGE] FOR HOLDING A DEFENDANT WHILE AWAITING THE ARRIVAL OF
7 THE DISTRICT JUSTICE AT THE OFFICE OF THE DISTRICT JUSTICE,
8 \$10 PER DEFENDANT PER HOUR BEYOND THE FIRST HALF HOUR,
9 ASSESSED TO THE COURT.

10 (10) FOR CONVEYING DEFENDANTS FOR FINGERPRINTING, \$5 PER
11 DEFENDANT.

12 (11) FOR FINGERPRINTING OR OVERSEEING THE FINGERPRINTING
13 OF DEFENDANTS AT THE DIRECTION OF THE DISTRICT JUSTICE, [\$5]
14 \$10 PER DEFENDANT, PLUS \$10 PER DEFENDANT PER HOUR BEYOND THE
15 FIRST HALF HOUR.

16 (12) FOR PROVIDING [COURT-ORDERED] COURTROOM SECURITY AS
17 ORDERED, \$10 PER HOUR, PRORATED TO THE NEAREST WHOLE DOLLAR,
18 ASSESSED AGAINST ONE OR MORE PARTIES AS DETERMINED BY THE
19 COURT.

20 (13) FOR SERVING SUBPOENAS, \$10 FOR THE FIRST WITNESS,
21 PLUS \$2.50 FOR EACH ADDITIONAL WITNESS AT THE SAME ADDRESS.
22 THE SAME FEE SHALL BE PAYABLE FOR ATTEMPTING TO SERVE A
23 SUBPOENA AT A WRONG ADDRESS SUPPLIED BY THE PARTY REQUESTING
24 THE SERVICE.

25 (I) SIMILAR FEES.--FOR CIVIL AND CRIMINAL SERVICES NOT
26 SPECIFICALLY PROVIDED FOR, THE COURT SHALL PAY THE SAME FEES AS
27 IT PAYS FOR SERVICES THAT IT DETERMINES TO BE SIMILAR TO THOSE
28 PERFORMED.

29 (J) ASSESSMENT BY COURT.--IN ALL CRIMINAL CASES WHEREIN THE
30 DEFENDANT IS DISCHARGED OR INDIGENT, OR THE CASE IS OTHERWISE

1 DISMISSED, THE COURT SHALL ASSESS TO THE COUNTY THE FEE [AND THE
2 SURCHARGE] PROVIDED IN [SUBSECTION (L)] THIS SECTION, EXCEPT
3 THAT, IN CASES OF PRIVATE CRIMINAL COMPLAINTS WHEREIN THE
4 DEFENDANT IS DISCHARGED PRIOR TO THE INDICTMENT OR THE FILING OF
5 ANY INFORMATION OR THE CASE IS OTHERWISE DISMISSED AT THE
6 SUMMARY OFFENSE HEARING, THE COURT SHALL ASSESS THE FEE [AND
7 SURCHARGE] TO THE AFFIANT.

8 [(K) ADJUSTMENT OF FEES.--THE ADMINISTRATIVE OFFICE MAY
9 RAISE THE ABOVE FEES AND ADD NEW CATEGORIES AND FEES FROM TIME
10 TO TIME AS IT DEEMS FAIR AND JUST FOR THE PERFORMANCE OF
11 JUDICIAL DUTIES PROVIDED BY LAW.

12 (L) SURCHARGE.--THERE IS HEREBY ASSESSED A SURCHARGE OF \$2
13 ON EACH FEE PAYABLE FOR THE PERFORMANCE OF JUDICIAL DUTIES TO
14 EVERY CONSTABLE OR DEPUTY CONSTABLE WHO IS CERTIFIED PURSUANT TO
15 SECTION 2943 TO PERFORM JUDICIAL DUTIES. THIS SURCHARGE IS
16 IMPOSED ON EACH INDIVIDUAL SERVICE FOR WHICH A FEE IS PROVIDED,
17 INCLUDING EACH HOUR FOR WHICH AN HOURLY RATE IS TO BE PAID.
18 MONEYS COLLECTED PURSUANT TO THIS SUBSECTION SHALL BE TURNED
19 OVER MONTHLY BY THE ISSUING AUTHORITY TO THE COUNTY TREASURER OF
20 THE COUNTY IN WHICH THE ISSUING AUTHORITY SERVES.

21 (M) SPECIAL ACCOUNT.--THERE IS HEREBY ESTABLISHED A SPECIAL
22 RESTRICTED RECEIPTS ACCOUNT WITHIN THE GENERAL FUND OF THE STATE
23 TREASURY, WHICH SHALL BE KNOWN AS THE CONSTABLES' EDUCATION AND
24 TRAINING ACCOUNT, FOR THE PURPOSE OF FINANCING EXPENSES AND
25 COSTS OF ADMINISTRATION BY THE BOARD AND OTHER DIRECT COSTS
26 ASSOCIATED WITH THE PROGRAM AND CONTINUING EDUCATION COURSES
27 ESTABLISHED PURSUANT TO THIS SUBCHAPTER. NO FUNDS FROM THIS
28 SPECIAL ACCOUNT SHALL BE USED EXCEPT FOR COSTS ASSOCIATED WITH
29 THE PROGRAM AND CONTINUING EDUCATION COURSES ESTABLISHED
30 PURSUANT TO THIS SUBCHAPTER AND IN NO EVENT SHALL BE USED BY THE

1 COURT ADMINISTRATOR OR THE ADMINISTRATIVE OFFICE OF THE
2 PENNSYLVANIA COURTS FOR ANY PURPOSE WHATSOEVER.

3 (N) DISPOSITION OF FUNDS.--THE MONEYS COLLECTED BY COUNTY
4 TREASURERS UNDER SUBSECTION (L) SHALL BE FORWARDED MONTHLY BY
5 EACH COUNTY TREASURER TO THE DEPARTMENT OF REVENUE FOR DEPOSIT
6 INTO THE SPECIAL ACCOUNT. NONE OF THESE MONEYS SHALL BE
7 TRANSFERRED BY THE STATE TREASURER TO ANOTHER ACCOUNT OR FUND.

8 (O) APPROPRIATIONS.--

9 (1) FOR THE 1990-1991 FISCAL YEAR, ALL MONEYS DEPOSITED
10 IN THE SPECIAL ACCOUNT ESTABLISHED UNDER SUBSECTION (M) ARE
11 HEREBY APPROPRIATED TO THE COURT ADMINISTRATOR OF
12 PENNSYLVANIA TO BE USED FOR THE CONSTABLE EDUCATION AND
13 TRAINING PROGRAM AS SET FORTH IN SUBSECTION (M).

14 (2) FOR THE FISCAL YEAR BEGINNING JULY 1, 1991, AND EACH
15 YEAR THEREAFTER, THE GENERAL ASSEMBLY SHALL APPROPRIATE TO
16 THE COURT ADMINISTRATOR OF PENNSYLVANIA FROM THE SPECIAL
17 ACCOUNT ESTABLISHED UNDER SUBSECTION (M) SUCH FUNDS AS MAY BE
18 NECESSARY TO CARRY OUT THE PROVISIONS OF THIS ACT.

19 (P) DISBURSEMENTS.--DISBURSEMENTS FROM THE ACCOUNT SHALL BE
20 MADE ONLY BY THE ADMINISTRATIVE OFFICE.

21 (Q) AUDIT.--THE AUDITOR GENERAL SHALL CONDUCT AN AUDIT OF
22 THE ACCOUNT AS HE MAY DEEM NECESSARY OR ADVISABLE FROM TIME TO
23 TIME.]

24 SECTION 4. (A) THE FOLLOWING ACTS AND PARTS OF ACTS ARE
25 REPEALED:

26 SECTION 1 OF THE ACT OF JULY 20, 1917 (P.L.1158, NO.401),
27 REFERRED TO AS THE CONSTABLE FEE LAW.

28 SECTION 24(D) AND (E) OF THE ACT OF JULY 9, 1976 (P.L.586,
29 NO.142), KNOWN AS THE JUDICIARY ACT OF 1976.

30 (B) ALL OTHER ACTS AND PARTS OF ACTS ARE REPEALED INsofar AS

1 THEY ARE INCONSISTENT WITH THIS ACT.

2 Section 3 5. This act shall take effect in 60 days.

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