

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2192 Session of
1993

INTRODUCED BY STETLER, BUXTON, ROONEY, DEMPSEY, STURLA,
VAN HORNE, WOZNIAK, TIGUE, CAPPABIANCA, MICHLOVIC, NICKOL,
JAROLIN, GORDNER, M. COHEN, VEON, MIHALICH, TRELLO, PISTELLA,
MELIO, PLATTS AND MUNDY, OCTOBER 13, 1993

REFERRED TO COMMITTEE ON URBAN AFFAIRS, OCTOBER 13, 1993

AN ACT

1 Amending the act of July 7, 1947 (P.L.1368, No.542), entitled,
2 as amended, "An act amending, revising and consolidating the
3 laws relating to delinquent county, city, except of the first
4 and second class and second class A, borough, town, township,
5 school district, except of the first class and school
6 districts within cities of the second class A, and
7 institution district taxes, providing when, how and upon what
8 property, and to what extent liens shall be allowed for such
9 taxes, the return and entering of claims therefor; the
10 collection and adjudication of such claims, sales of real
11 property, including seated and unseated lands, subject to the
12 lien of such tax claims; the disposition of the proceeds
13 thereof, including State taxes and municipal claims recovered
14 and the redemption of property; providing for the discharge
15 and divestiture by certain tax sales of all estates in
16 property and of mortgages and liens on such property, and the
17 proceedings therefor; creating a Tax Claim Bureau in each
18 county, except counties of the first and second class, to act
19 as agent for taxing districts; defining its powers and
20 duties, including sales of property, the management of
21 property taken in sequestration, and the management, sale and
22 disposition of property heretofore sold to the county
23 commissioners, taxing districts and trustees at tax sales;
24 providing a method for the service of process and notices;
25 imposing duties on taxing districts and their officers and on
26 tax collectors, and certain expenses on counties and for
27 their reimbursement by taxing districts; and repealing
28 existing laws," further providing for the notice of filing
29 returns and entry of claim, for the period for discharge, for
30 notice of sale, for removal of sale, for judicial sales and
31 for qualifications of purchaser.

32 The General Assembly of the Commonwealth of Pennsylvania

1 hereby enacts as follows:

2 Section 1. Section 308 of the act of July 7, 1947 (P.L.1368,
3 No.542), known as the Real Estate Tax Sale Law, amended July 3,
4 1986 (P.L.351, No.81) and August 5, 1991 (P.L.309, No.27), is
5 amended to read:

6 Section 308. Notice of Filing of Returns and Entry of
7 Claim.--(a) Not later than the thirty-first day of July of each
8 year, the bureau shall give only one notice of the return of
9 said taxes and the entry of such claim in one envelope for each
10 delinquent taxable property, by United States registered mail or
11 United States certified mail, return receipt requested, postage
12 prepaid, addressed to the owners at the same address listed on
13 the form returned by the tax collector for taxes that are
14 delinquent. In the case of property owned by joint tenants,
15 tenants in common, or husband and wife as tenants by the
16 entirety, the bureau may give the notice required by this
17 section by forwarding only one notice addressed to such joint
18 tenants, tenants in common or husband and wife at the same post
19 office address. If the owner of the property is unknown and has
20 been unknown for a period of not less than five years, such
21 notice shall be given only by posting on the property affected.
22 If no post office address of the owner is known or if a notice
23 mailed to an owner at such last known post office address is not
24 delivered by the postal authorities, then notice as herein
25 provided shall be posted on the property affected. If the
26 property owner has entered into an agreement with the bureau for
27 the payment of the delinquent taxes, the posting is not
28 necessary. Each mailed and posted notice shall, (1) show all the
29 information shown on the claim entered, (2) state that if
30 payment of the amount due the several taxing districts for said

1 taxes is not made to the bureau on or before the thirty-first
2 day of December next following, and no exceptions thereto are
3 filed, the said claim shall become absolute, (3) state that on
4 July first of the year in which such notice is given a [one (1)
5 year] six (6) month period for discharge of tax claim shall
6 commence or has commenced to run, and that if full payment of
7 taxes is not made during that period as provided by this act,
8 the property shall be advertised for and exposed to sale under
9 this act, and (4) state that there shall be no redemption after
10 the actual sale.

11 (a.1) (1) In addition to the requirements of subsection
12 (a)(1), (2), (3) and (4), each mailed and posted notice shall
13 state that the owner of any owner-occupied real estate can apply
14 for an extension of the period for discharge of tax claim for up
15 to twelve (12) additional months under and subject to the
16 provisions of sections 505 and 506.

17 (2) This subsection shall expire January 1, 1993.

18 (b) Notice given in the manner provided by this section
19 shall constitute proper service on the owner. A statement in the
20 claim entered that due notice of the same was given shall be
21 conclusive evidence that notice was given as required by law.
22 The notice given in the manner provided by this section shall
23 contain the following provision which shall be conspicuously
24 placed upon said notice and set in at least 10-point type in a
25 box as follows:

26 WARNING

27 "IF YOU FAIL TO PAY THIS TAX CLAIM OR FAIL TO TAKE LEGAL
28 ACTION TO CHALLENGE THIS TAX CLAIM, YOUR PROPERTY WILL BE
29 SOLD WITHOUT YOUR CONSENT AS PAYMENT FOR THESE TAXES. YOUR
30 PROPERTY MAY BE SOLD FOR A SMALL FRACTION OF ITS FAIR MARKET

1 VALUE. If YOU PAY THIS TAX CLAIM BEFORE [JULY 1] FEBRUARY 1,
2 19 , YOUR PROPERTY WILL NOT BE SOLD. IF YOU PAY THIS CLAIM
3 AFTER [JULY 1] FEBRUARY 1, 19 , BUT BEFORE ACTUAL SALE, YOUR
4 PROPERTY WILL NOT BE SOLD BUT WILL BE LISTED ON
5 ADVERTISEMENTS FOR SUCH SALE. IF YOU HAVE ANY QUESTIONS,
6 PLEASE CALL YOUR ATTORNEY, THE TAX CLAIM BUREAU AT THE
7 FOLLOWING TELEPHONE NUMBER _____, OR THE COUNTY LAWYER
8 REFERRAL SERVICE."

9 (c) The costs of such mailed and posted notices shall be
10 part of the costs of the proceedings and shall be paid by the
11 owner the same as other costs.

12 Section 2. Sections 601(a), 602, 603, 610, 612 and 616 of
13 the act, amended July 3, 1986 (P.L.351, No.81), are amended to
14 read:

15 Section 601. Date of Sale.--(a) The bureau shall schedule
16 the date of the sale no earlier than the second Monday of
17 [September] March and before [October 1] April 1, and the sale
18 may be adjourned, readjourned or continued. No additional notice
19 of sale is required when the sale is adjourned, readjourned or
20 continued if the sale is held [by the end of the calendar year]
21 within ninety (90) days. The bureau may, for convenience and
22 because of the number of properties involved, schedule sales of
23 property in various taxing districts or wards on different
24 dates. Except as otherwise provided in this article, all sales
25 shall be held by the bureau by the end of the calendar year.

26 (1) The bureau shall sell the property if all of the
27 following are met:

28 (i) A tax claim has become absolute.

29 (ii) The property has not been discharged from the tax claim
30 nor removed from sale under section 603; or a tax judgment has

1 been entered against the property prior to January 1, 1948, and
2 is unsatisfied, and a sale of the property has not been stayed
3 by agreement under this article.

4 (iii) The property is not in the possession of the
5 sequestrator.

6 (2) Property that is essential to the business of a quasi-
7 public corporation shall not be sold.

8 (3) No owner-occupied property may be sold unless the bureau
9 has given the owner occupant written notice of such sale at
10 least ten (10) days prior to the date of actual sale by personal
11 service by the sheriff or his deputy or person deputized by the
12 sheriff for this purpose unless the county commissioners, by
13 resolution, appoint a person or persons to make all personal
14 services required by this clause. The sheriff or his deputy
15 shall make a return of service to the bureau, or the persons
16 appointed by the county commissioners in lieu of the sheriff or
17 his deputy shall file with the bureau written proof of service,
18 setting forth the name of the person served, the date and time
19 and place of service, and attach a copy of the notice which was
20 served. If such personal notice cannot be served within twenty-
21 five (25) days of the request by the bureau to make such
22 personal service, the bureau may petition the court of common
23 pleas to waive the requirement of personal notice for good cause
24 shown. Personal service of notice on one of the owners shall be
25 deemed personal service on all owners.

26 * * *

27 Section 602. Notice of Sale.--(a) At least thirty (30) days
28 prior to any scheduled sale the bureau shall give notice
29 thereof, not less than once in two (2) newspapers of general
30 circulation in the county, if so many are published therein, and

1 once in the legal journal, if any, designated by the court for
2 the publication of legal notices. Such notice shall set forth
3 (1) the purposes of such sale, (2) the time of such sale, (3)
4 the place of such sale, (4) the terms of the sale including the
5 approximate upset price, (5) the descriptions of the properties
6 to be sold as stated in the claims entered and the name of the
7 owner.

8 (b) Where the owner is unknown and has been unknown for a
9 period of not less than five years, the name of the owner need
10 not be included in such description.

11 (c) The description may be given intelligible abbreviations.

12 (d) Such published notice shall be addressed to the "owners
13 of properties described in this notice and to all persons having
14 liens, judgments or municipal or other claims against such
15 properties."

16 (e) In addition to such publications, similar notice of the
17 sale shall also be given by the bureau as follows:

18 (1) At least thirty (30) days before the date of the sale,
19 by United States certified mail, restricted delivery, return
20 receipt requested, postage prepaid, to each owner as defined by
21 this act.

22 [(2) If return receipt is not received from each owner
23 pursuant to the provisions of clause (1), then, at least ten
24 (10) days before the date of the sale, similar notice of the
25 sale shall be given to each owner who failed to acknowledge the
26 first notice by United States first class mail, proof of
27 mailing, at his last known post office address by virtue of the
28 knowledge and information possessed by the bureau, by the tax
29 collector for the taxing district making the return and by the
30 county office responsible for assessments and revisions of

1 taxes. It shall be the duty of the bureau to determine the last
2 post office address known to said collector and county
3 assessment office.

4 (3)] (2) Each property scheduled for sale shall be posted at
5 least ten (10) days prior to the sale.

6 (f) The published notice, the mail notice and the posted
7 notice shall each state that the sale of any property may, at
8 the option of the bureau, be stayed if the owner thereof or any
9 lien creditor of the owner on or before the actual sale enters
10 into an agreement with the bureau to pay the taxes [in
11 instalments,] in the manner provided by this act.

12 (g) All notices required by this section other than the
13 newspaper notice and notice in the legal journal shall contain
14 the following provision which shall be conspicuously placed upon
15 said notices and set in at least 10-point type in a box as
16 follows:

17 WARNING

18 "YOUR PROPERTY IS ABOUT TO BE SOLD WITHOUT YOUR CONSENT
19 FOR DELINQUENT TAXES. YOUR PROPERTY MAY BE SOLD FOR A SMALL
20 FRACTION OF ITS FAIR MARKET VALUE. IF YOU HAVE ANY QUESTIONS
21 AS TO WHAT YOU MUST DO IN ORDER TO SAVE YOUR PROPERTY, PLEASE
22 CALL YOUR ATTORNEY, THE TAX CLAIM BUREAU AT THE FOLLOWING
23 TELEPHONE NUMBER_____, OR THE COUNTY LAWYER REFERRAL
24 SERVICE."

25 (h) In case the property of any corporation, limited
26 partnership or joint-stock association is advertised for sale,
27 the bureau shall give to the Department of Revenue, at least
28 thirty (30) days prior to the date of the scheduled sale, notice
29 of the sale by certified mail on a form provided by the
30 Department of Revenue which shall set forth (1) the name and

1 address of the bureau, (2) the date of the sale, (3) the name
2 and address of each corporation, limited partnership or joint-
3 stock association, if any, whose property is scheduled for sale
4 and (4) the total number of corporations, limited partnerships
5 and joint-stock associations whose properties are scheduled for
6 sale. Upon receipt of the notice and at least seven (7) days
7 before the date of sale listed on the notice, the Department of
8 Revenue shall mail to the bureau, by certified mail, a proof of
9 claim for payment of Commonwealth taxes which are accorded
10 priority by section 1401 of the act of April 9, 1929 (P.L.343,
11 No.176), known as "The Fiscal Code." The bureau shall include in
12 the upset sale price of each said property the amount of
13 Commonwealth taxes set forth on the proof of claim received from
14 the Department of Revenue. If the bureau complies with the
15 notice of provisions of this section and the Department of
16 Revenue fails to mail to the bureau, at least seven (7) days
17 before the date of sale listed on said notice by verification by
18 the postmark, by certified mail, the proof of claim required by
19 this section, the lien upon said property shall be forever
20 discharged and divested, notwithstanding any other provision of
21 this act or other law to the contrary. If the bureau does not
22 receive a reply from the Department of Revenue prior to the
23 scheduled date of the sale, it shall be the duty of the bureau
24 to contact the department to determine if such reply was mailed.
25 The bureau may then opt to reschedule the sale if circumstances
26 warrant. No owner shall attack the validity of any sale on the
27 basis that the bureau failed to give the notice required by this
28 section.

29 No sale shall be defeated and no title to property sold shall
30 be invalidated because of proof that mail notice as herein

1 required was not received by the owner, provided such notice was
2 given as prescribed by this section.

3 (i) The costs of such advertisement and notices shall be
4 added as part of the costs of such proceedings and shall be paid
5 by the owner the same as other costs.

6 Section 603. Removal from Sale; Agreements to Stay Sale.--

7 Any owner or lien creditor of the owner may, at the option of
8 the bureau, prior to the actual sale, (1) cause the property to
9 be removed from the sale by payment in full of taxes which have
10 become absolute and of all charges and interest due on these
11 taxes to the time of payment, or (2) enter into an agreement, in
12 writing, with the bureau to stay the sale of the property upon
13 the payment of [twenty-five per centum (25%)] at least fifty per
14 centum (50%) of the amount due on all tax claims and tax
15 judgments filed or entered against such property and the
16 interest and costs on the taxes returned to date, as provided by
17 this act, and agreeing therein to pay the balance of said claims
18 and judgments and the interest and costs thereon in not more
19 than [three (3)] two (2) instalments all within [one (1) year]
20 six (6) months of the date of said agreement, the agreement to
21 specify the dates on or before which each instalment shall be
22 paid, and the amount of each instalment. So long as said
23 agreement is being fully complied with by the taxpayer, the sale
24 of the property covered by the agreement shall be stayed. But in
25 case of default in such agreement by the owner or lien creditor,
26 the bureau, after written notice of such default given by United
27 States mail, postage prepaid, to the owner or lien creditor at
28 the address stated in the agreement, shall apply all payments
29 made against the oldest delinquent taxes and costs, then against
30 the more recent. If sufficient payment has been made to

1 discharge all the taxes and claims which would have caused the
2 property to be put up for sale, the property may not be sold. If
3 sufficient payment has not been received to discharge these
4 taxes and claims, the bureau shall proceed with the sale of such
5 property in the manner herein provided either at the next
6 scheduled upset sale or at a special upset sale, either of which
7 is to be held at least ninety (90) days after such default. If a
8 party to an instalment agreement defaults on the agreement, the
9 bureau shall not enter into a new instalment agreement with that
10 person [within three (3) years of the default].

11 Section 610. Petition for Judicial Sale.--In cases where the
12 upset price shall not be bid at any such sale, the sale shall be
13 continued[, but not beyond the end of the calendar year, without
14 further advertising] within ninety (90) days, and the bureau
15 may, at any time during or after the continuance, and shall,
16 immediately at the written direction of a taxing district, file
17 its petition in the court of common pleas of the county to sell
18 the property under sections 612 and 612.1. The bureau shall set
19 forth on the petition (1) the tax claim upon which the property
20 was exposed for sale, (2) that neither the owner, his heirs or
21 legal representatives or any lien creditor, his heirs, assigns
22 or legal representatives or other person interested has caused
23 stay of sale, discharge of tax claim or removal from sale, (3)
24 that the property was exposed to public sale and the date of
25 such sale, (4) that before exposing the property to public sale
26 the bureau fixed an upset price, as herein provided, and (5)
27 that it was unable to obtain a bid sufficient to pay said upset
28 price. The petition may also request the property be sold, freed
29 and cleared of respective tax and municipal claims, liens,
30 mortgages, charges and estates if requested by a taxing

1 district. Upon the presentation of such petition, accompanied
2 with searches, showing the state of the record and the ownership
3 of the property and all tax and municipal claims, liens,
4 mortgages, ground rents, charges and estates against the same,
5 the court shall grant a rule upon all parties thus shown to be
6 interested to appear and show cause why a decree should not be
7 made that said property be sold[, freed and cleared of their
8 respective tax and municipal claims, liens, mortgages, charges
9 and estates, except separately taxed ground rents.] The rule
10 shall be made returnable in not more than thirty (30) days from
11 the date the petition was presented [or as otherwise determined
12 by the court].

13 Section 612. Hearing and Order for Judicial Sale.--

14 (a) If upon hearing, the court is satisfied that service of
15 the rule has been made upon the parties named in the rule, in
16 the manner provided by this act, and that the facts stated in
17 the petition are true, it shall order and decree that said
18 property be sold at a subsequent day to be fixed by the court,
19 [freed and cleared of all tax and municipal claims, mortgages,
20 liens, charges and estates, except separately taxed ground
21 rents,] to the highest bidder, and that the purchaser at such
22 sale shall take and thereafter have an absolute title to the
23 property. [sold free and clear of all tax and municipal claims,
24 mortgages, liens, charges and estates of whatsoever kind, except
25 ground rents, separately taxed.] Out of the proceeds of such
26 sale shall be paid the costs set forth in the upset price at the
27 prior sale, and the additional costs incurred relative to this
28 sale, including the fee for title search. The court order may
29 specify that no sale shall be made except to the county unless a
30 bid equal to such costs is offered. The remainder of said

1 proceeds shall be distributed by the office designated by the
2 county commissioners under section 205. After the purchaser
3 shall have paid over the purchase price, the bureau shall make
4 and deliver a deed in the manner hereinbefore provided.

5 (b) When aforesaid petition for sale is presented within
6 three (3) months after the date of the scheduled upset sale, the
7 court, in its order, shall direct that no further advertisement
8 is required. [In cases where said petition is presented after
9 the three (3) month period has expired, the court shall, in its
10 order fixing a subsequent sale, direct that the readvertisement
11 of such sale need not be published three (3) consecutive weeks,
12 nor include a list and description of the lands to be sold, but
13 need only be advertised by one (1) insertion in one (1) or two
14 (2) newspapers as hereinbefore provided for such advertisements,
15 at least thirty (30) days prior to the sale, and include the
16 purpose, the time, the place and the terms of such sale with a
17 reference to the prior advertisement.]

18 (c) In any such petition for sale, the bureau may, if it
19 deems the same advantageous, request the court to fix the place
20 of sale at the property to be sold, and if the court is
21 convinced the taxing districts interested will be benefited
22 thereby, it shall order the sale to be held on the property to
23 be sold.

24 Section 616. Mandatory Judicial Sale.--If within the period
25 of [ten (10)] six (6) months after the date of the scheduled
26 upset sale, the bureau has not filed a petition for a judicial
27 sale under section 610 or the property has not been sold at
28 private sale, the bureau shall, within the next immediately
29 following two (2) months, file a petition for judicial sale of
30 the property in the manner set forth in section 610.

1 Section 3. The act is amended by adding sections to read:

2 Section 619. Qualification of Purchaser.--No person,
3 corporation, partnership or other entity may be a purchaser of
4 property at any upset sale, judicial sale or private sale
5 conducted under the provisions of this act if such party is
6 delinquent in the payment of taxes or liens on any property
7 which such party owns within that county or any county to which
8 it is known or can be verified within this Commonwealth. As a
9 prerequisite for being a purchaser at any such sale, a potential
10 purchaser shall be required to execute a form stating that such
11 potential purchaser is not delinquent in the payment of taxes or
12 liens on any property currently owned. The form shall also
13 contain a statement as follows:

14 "I UNDERSTAND THAT FALSE STATEMENTS HEREIN ARE MADE
15 SUBJECT TO THE PENALTIES OF 18 PA.C.S. § 4904 (RELATING TO
16 UNSWORN FALSIFICATION TO AUTHORITIES)."

17 Section 619.1. False Affidavits.--A person, corporation,
18 partnership or other entity which falsely provides a signed
19 affidavit shall cause such sale of property to be set aside.

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