

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 325 Session of
1997

INTRODUCED BY THOMPSON AND ULIANA, FEBRUARY 3, 1997

REFERRED TO LOCAL GOVERNMENT, FEBRUARY 3, 1997

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 lienied; 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," providing for perfection of liens by
16 municipalities for assessments payable in installments.

17 The General Assembly of the Commonwealth of Pennsylvania
18 hereby enacts as follows:

19 Section 1. Section 9 of the act of May 16, 1923 (P.L.207,
20 No.153), referred to as the Municipal Claim and Tax Lien Law,
21 amended December 13, 1982 (P.L.1196, No.274), is amended to
22 read:

23 Section 9. (a) Claims for taxes, water rents or rates,
24 lighting rates, power rates, and sewer rates, must be filed in

1 the court of common pleas of the county in which the property is
2 situated unless the property is situate in the City of
3 Philadelphia and the taxes or rates do not exceed the maximum
4 amount over which the Municipal Court of Philadelphia has
5 original jurisdiction, in which event the claim must be filed in
6 the Municipal Court of Philadelphia. All such claims shall be
7 filed on or before the last day of the third calendar year after
8 that in which the taxes or rates are first payable, except that
9 in cities and school districts of the first class claims for
10 taxes and other municipal claims, which have heretofore become
11 liens pursuant to the provisions of this act or which have been
12 entered of record as liens or which have been liened and
13 revived, shall continue and remain as liens for the period of
14 twenty years from such revival, entry or lien by operation of
15 law, whichever shall have last occurred; and other municipal
16 claims must be filed in said court of common pleas or the
17 Municipal Court of Philadelphia within six months from the time
18 the work was done in front of the particular property, where the
19 charge against the property is assessed or made at the time the
20 work is authorized; within six months after the completion of
21 the improvement, where the assessment is made by the
22 municipality upon all the properties after the completion of the
23 improvement; and within six months after confirmation by the
24 court, where confirmation is required; the certificate of the
25 surveyor, engineer, or other officer supervising the
26 improvement, filed in the proper office, being conclusive of the
27 time of completion thereof, but he being personally liable to
28 anyone injured by any false statement therein. Where a borough
29 lies in more than one county, any such claim filed by such
30 borough may be filed in each of such counties. In case the real

1 estate benefited by the improvement is sold before the municipal
2 claim is filed, the date of completion in said certificate shall
3 determine the liability for the payment of the claim as between
4 buyer and seller, unless otherwise agreed upon or as above set
5 forth. A number of years' taxes or rates of different kinds if
6 payable to the same plaintiff may be included in one claim.
7 Interest as determined by the municipality at a rate not to
8 exceed ten per cent per annum shall be collectible on all
9 municipal claims from the date of the completion of the work
10 after it is filed as a lien, and on claims for taxes, water
11 rents or rates, lighting rates, or sewer rates from the date of
12 the filing of the lien therefor: Provided, however, That after
13 the effective date of this amendatory act where municipal claims
14 are filed arising out of a municipal project which required the
15 municipality to issue bonds to finance the project interest
16 shall be collectible on such claims at the rate of interest of
17 the bond issue or at the rate of twelve per cent per annum,
18 whichever is less. Where the provisions of any other act
19 relating to claims for taxes, water rents or rates, lighting
20 rates, power rates, sewer rents or rates or for any other type
21 of municipal claim or lien utilizes the procedures provided in
22 this act and where the provisions of such other act establishes
23 a different rate of interest for such claims or liens, the
24 maximum rate of interest of ten per cent per annum as provided
25 for in this section shall be applicable to the claims and liens
26 provided for under such other acts: Provided, however, That
27 after the effective date of this amendatory act where municipal
28 claims are filed arising out of a municipal project which
29 required the municipality to issue bonds to finance the project
30 interest shall be collectible on such claims at the rate of

1 interest of the bond issue or at the rate of twelve per cent per
2 annum, whichever is less.

3 (b) Claims for taxes, water rents, or rates, lighting rates,
4 power rates and sewer rates may be in the form of written or
5 typewritten lists showing the names of the taxables and
6 descriptions of the properties against which said claims are
7 filed, together with the amount of the taxes due such
8 municipality. Such lists may be filed on behalf of a single
9 municipality, or they may cover the unpaid taxes due any two or
10 more municipalities whose taxes are collected by the same tax
11 collector, provided the amounts due each municipality are
12 separately shown. All tax claims, water rents, or rates,
13 lighting rates, power rates and sewer rates, heretofore filed in
14 such form, are hereby ratified, confirmed and made valid
15 subsisting liens as of the date of their original filing.

16 (c) In the case of assessments payable in installments
17 pursuant to the act of July 9, 1985 (P.L.187, No.47), known as
18 the "Transportation Partnership Act," or otherwise, the claims
19 shall be filed within one year of completion of the entire
20 project and shall set forth a maturity date for expiration of
21 the lien, which shall not be later than three years after the
22 payment date of the last installment. The claim must contain the
23 statement:

24 This claim is filed only to perfect the lien of
25 claimant and does not necessarily signify that any
26 portion of the claim is currently due and payable.
27 The claim shall set forth the payment schedule or the method by
28 which each installment is to be calculated. Claims for
29 assessments payable in installments may be in the form of
30 typewritten lists showing the properties assessed and names of

1 the property owners.

2 (d) A number of years' taxes or rates of different kinds, if
3 payable to the same plaintiff, may be included in one claim.
4 Municipal claims shall likewise be filed within said period,
5 where any appeal is taken from the assessment for the recovery
6 of which such municipal claim is filed. In such case the lien
7 filed shall be in the form hereinafter provided, except that it
8 shall set forth the amount of the claim as an undetermined
9 amount, the amount thereof to be determined by the appeal taken
10 from the assessment upon which such municipal claim is based,
11 pending in a certain court (referring to the court and the
12 proceeding where such appeal is pending). Upon the filing of
13 such municipal claim, the claim shall be indexed by the
14 prothonotary upon the judgment index and upon the locality index
15 of the court, and the amount of the claim set forth therein as
16 an undetermined amount.

17 (e) If final judgment is not obtained upon such appeal
18 within twenty years from the filing of such municipal claim, the
19 claimant in the lien shall, within such period of twenty years,
20 file a suggestion of nonpayment, in the form hereinafter set
21 forth, which shall have the effect of continuing the lien
22 thereof for a further period of twenty years from the date of
23 filing such suggestion, except that with respect to claims for
24 taxes and other municipal claims, in cities and school districts
25 of the first class, if final judgment is not obtained upon such
26 appeal within twenty years from the filing of such municipal
27 claims, the claimant in the lien shall, within such period of
28 twenty years, file a suggestion of nonpayment in the prescribed
29 form which shall have the effect of continuing the lien thereof
30 for a further period of twenty years from the date of filing

1 such suggestion. Such municipal claim shall be revived in a
2 similar manner during each recurring period of twenty years
3 thereafter, until final judgment is entered upon said appeal and
4 the undetermined amount of such municipal claim is fixed in the
5 manner hereinafter provided, except that with respect to claims
6 for taxes and other municipal claims, in cities and school
7 districts of the first class, such municipal claims shall be
8 revived in a similar manner during each recurring period of
9 twenty years thereafter until final judgment is entered upon
10 said appeal and the undetermined amount of such municipal claim
11 is fixed in the manner hereinafter provided.

12 (f) When the final judgment is obtained upon such appeal,
13 the court in which said municipal claim is pending shall, upon
14 the petition of any interested party, make an order fixing the
15 undetermined amount claimed in such claim at the amount
16 determined by the final judgment upon said appeal, which shall
17 bear interest from the date of the verdict upon which final
18 judgment was entered, and thereafter the amount of said claim
19 shall be the sum thus fixed. Proceedings upon said municipal
20 claim thereafter shall be as in other cases.

21 (g) Where, on final judgment upon said appeal, it appears
22 that no amount is due upon the assessment for the recovery of
23 which such claim is filed, the court in which such municipal
24 claim is pending shall, upon the petition of any interested
25 party, make an order striking such municipal claim from the
26 record, and charge the costs upon such claim to the plaintiff in
27 the claim filed.

28 (h) Where such appeal is discontinued, the court in which
29 such municipal claim is pending shall, upon the petition of any
30 interested party, make an order fixing the undetermined amount

1 claimed at the amount of the original assessment, which shall
2 bear interest from the date that such assessment was originally
3 payable, and thereafter the amount of such claim shall be the
4 sum thus fixed.

5 Section 2. Section 10 of the act, amended January 14, 1952
6 (1951 P.L.2025, No.567), is amended to read:

7 Section 10. (a) Said claim shall set forth:

8 1. The name of the municipality by which filed;

9 2. The name of the owner of the property against which it is
10 filed;

11 3. A description of the property against which it is filed;

12 4. The authority under or by virtue of which the tax was
13 levied or the work was done;

14 5. The time for which the tax was levied, or the date on
15 which the work was completed in front of the particular property
16 against which the claim is filed; or the date of completion of
17 the improvement, where the assessment is made after completion;
18 or the date of confirmation by the court, where confirmation is
19 required done;

20 6. If filed to the use of a contractor, the date of, and
21 parties to, the contract for doing said work; [and]

22 7. In other than tax claims, the kind and character of the
23 work done for which the claim is filed, and, if the work be such
24 as to require previous notice to the owner to do it, when and
25 how such notice was given[.]; and

26 8. In the case of assessments payable in installments, the
27 claims shall set forth the maturity date of the lien, the
28 payment schedule and either the amount of each of the payments
29 or the method by which each installment is to be calculated.

30 (b) Said claim shall be signed by, or have stamped thereon a

1 facsimile signature of, the solicitor or chief executive officer
2 of the claimant, or the chief of its delinquent tax bureau,
3 except that, in counties of the second class, said claim or
4 claims for county taxes, levies or assessments shall be signed
5 by, or have stamped thereon a facsimile signature of, the county
6 controller; and, in the case of a use-plaintiff, must be
7 accompanied by an affidavit that the facts therein set forth are
8 true to the best of his knowledge, information, and belief.

9 Section 3. The act is amended by adding a section to read:

10 Section 17.1. Where assessments are payable in installments,
11 a notice to claimant or upon claimant's counsel of record to
12 issue a scire facias may be made only upon that portion of the
13 claim which has at that time become due and payable. In the
14 event of nonpayment when due and payable of any portion of an
15 assessment payable by installments, the claimant may issue a
16 writ of scire facias only with respect to that portion of the
17 claim which shall have at that time become due and payable.

18 Section 4. This act shall take effect immediately.