

THE GENERAL ASSEMBLY OF PENNSYLVANIA

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# HOUSE BILL

## No. 2336

Session of  
2004

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INTRODUCED BY PETRONE, J. TAYLOR, D. EVANS, WHEATLEY, PRESTON,  
McGEEHAN, McCALL, CAPPELLI, PISTELLA, CRAHALLA, BROWNE,  
SAYLOR, MELIO, WASHINGTON, LEDERER, KELLER, LAUGHLIN, WALKO,  
DALEY, KIRKLAND, FABRIZIO, JAMES, THOMAS, KOTIK, GEORGE,  
DeWEESE, BEBKO-JONES, SCRIMENTI, FRANKEL AND WANSACZ,  
FEBRUARY 3, 2004

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REFERRED TO COMMITTEE ON JUDICIARY, FEBRUARY 3, 2004

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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 judicial  
16 sales; and providing for procedure for judicial sale of  
17 multiple properties.

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

20 Section 1. Section 31 of the act of May 16, 1923 (P.L.207,  
21 No.153), referred to as the Municipal Claim and Tax Lien Law,  
22 amended August 14, 2003 (P.L.83, No.20), is amended to read:

23 Section 31. The lien of a tax or a municipal claim shall not

1 be divested by any judicial sale of the property liened, where  
2 the amount due is indefinite or undetermined, or where the same  
3 is not due and payable; nor shall the lien of a tax or municipal  
4 claim be divested by any judicial sale of the property liened,  
5 as respects so much thereof as the proceeds of such sale may be  
6 insufficient to discharge; nor, except as hereinafter provided,  
7 shall a judicial sale of the property liened, under a judgment  
8 obtained on a tax or municipal claim, discharge the lien of any  
9 other tax or municipal claim than that upon which said sale is  
10 had, except to the extent that the proceeds realized are  
11 sufficient for its payment, after paying the costs, charges and  
12 fees, including reasonable attorney fees, expenses of the sale,  
13 and of the writ upon which it was made, and any other prior tax  
14 or municipal claims to which the fund may first be applicable.  
15 On any such sale being made all tax claims shall be paid out of  
16 the proceeds thereof: first, the oldest tax having priority; and  
17 municipal claims shall be paid next, the oldest in point of lien  
18 having priority. Mortgages, ground-rents, and other charges on  
19 or estates in the property which were recorded, or created where  
20 recording is not required, before any tax other than for the  
21 current year accrue, or before the actual doing of the work in  
22 front of or upon the particular property for which the municipal  
23 claim is filed, shall not be disturbed by such sale unless a  
24 prior lien is also discharged thereby.

25 In case the property be not sold for a sum sufficient to pay  
26 all taxes and municipal claims, together with the costs thereon,  
27 the plaintiff in any such claim may postpone the sale, without  
28 payment of costs, and file his petition setting forth that more  
29 than one year has elapsed since the filing of his claim; that he  
30 has exposed the property to sheriff's sale thereunder, and was

1 unable to obtain a bid sufficient to pay the upset price in  
2 full; and, if the plaintiff is not a municipality as defined in  
3 this act, that he will bid sufficient to pay the upset price,  
4 and upon the production of searches or a title insurance policy  
5 showing the state of the record and the ownership of the  
6 property, and of all tax and municipal claims, mortgages,  
7 ground-rents, or other charges on or estates in the land, the  
8 court shall grant a rule upon all parties thus shown to be  
9 interested to appear and show cause why a decree should not be  
10 made that said property be sold, freed, and cleared of their  
11 respective claims, mortgages, charges, and estates. If, upon a  
12 hearing thereafter, the court is satisfied that service has been  
13 made of said rule upon the parties respondent, in the manner  
14 provided in section 39.2, and that the facts stated in the  
15 petition be true, it shall order and decree that said property  
16 be sold at a subsequent sheriff's sale day, to be fixed by the  
17 court without further advertisement, and the court may fix a  
18 common date and place of sale for more than one of said  
19 properties if it deems a joint sale to be advantageous. All  
20 property at sheriff's sale shall be sold, clear of all claims,  
21 liens, mortgages, charges, and estates, to the highest bidder at  
22 such sale; and the proceeds realized therefrom shall be  
23 distributed in accordance with the priority of such claims; and  
24 the purchaser at such sale shall take, and forever thereafter  
25 have, an absolute title to the property sold, free, and  
26 discharged of all tax and municipal claims, liens, mortgages,  
27 charges, and estates of whatsoever kind, subject only to the  
28 right of redemption as provided by law. In counties of the  
29 second class, upon return of the writ upon which the sale was  
30 made and upon the expiration of the statutory right of

1 redemption and if no petition to set aside the sale is pending,  
2 the prothonotary shall satisfy all tax claims and municipal  
3 claims divested by the judicial sale in accordance with the  
4 order of court authorizing such sale.

5 Any person interested may, at any time before the sale, pay  
6 the petitioner the whole of his claim, with interest, costs,  
7 charges, expenses, fees and attorney fees, whereupon the  
8 proceedings on petition shall at once determine.

9 For the purpose of enabling the petitioner in any such  
10 proceedings to give the notice required, he may take the  
11 testimony of the defendant in the claim, or of any other person  
12 whom he may have reason to believe has knowledge of the  
13 whereabouts of any of the parties respondent, either by  
14 deposition, commission, or letters rogatory.

15 Any municipality, being a claimant, shall have the right, and  
16 is hereby empowered, to bid and become the purchaser of the  
17 property at such sale; and while the said property, so  
18 purchased, is held and owned by any county, city, borough,  
19 incorporated town, township, school district or a body politic  
20 and corporate created as a municipal authority pursuant to law,  
21 it shall not be subject to tax claims, unless it be redeemed by  
22 the former owner or other person having the right to redeem, as  
23 provided by law. If, however, a municipality shall become the  
24 purchaser at said sale, the former owner or other person,  
25 desiring to redeem, shall pay all taxes and municipal claims  
26 accrued and chargeable against the property prior to the sale  
27 thereof, together with the costs and interest thereon, and also  
28 all taxes and claims, whether filed or not, which would have  
29 accrued and become chargeable against the property had the same  
30 been purchased at the sale by some party other than the

1 municipality.

2       Upon the delivery by the sheriff of a deed for any property  
3 sold under a tax or municipal claim, the judgment upon which  
4 such sale was had shall thereupon and forever thereafter be  
5 final and conclusive as to all matters of defense which could  
6 have been raised in the proceeding, including payment, and no  
7 error or irregularity in obtaining or entering of such judgment  
8 shall effect the validity thereof.

9       Section 2. The act is amended by adding a section to read:

10       Section 31.3. If, with regard to two or more properties, a  
11 municipality is authorized under section 31, 31.1 or 31.2 to  
12 petition the court for the individual sale of each property,  
13 free and clear of its respective claims, liens, mortgages,  
14 charges and estates, the municipality may join any number of the  
15 properties in a single petition and the court may grant a rule  
16 upon all parties shown to be interested in any of the properties  
17 to appear and show cause why a decree should not be made that  
18 the properties which are the subject of the petition be sold  
19 together in one sale, free and clear of their respective claims,  
20 mortgages, charges and estates. If, upon a hearing thereafter,  
21 the court is satisfied that service has been made of the rule  
22 upon the parties, in the manner provided in section 39.2, and  
23 that the facts stated in the petition be true, the court shall  
24 order and decree, subject to any applicable restrictions and  
25 limitations in section 31, 31.1 or 31.2, that the properties be  
26 sold together at one sale at a subsequent sheriff's sale day, to  
27 be fixed by the court without further advertisement, clear of  
28 all claims, liens, mortgages, charges and estates, to the  
29 highest bidder at such sale. If a judicial sale of multiple  
30 properties is ordered, any party shown to be interested in a

1 particular property may, at any time before the sale, pay the  
2 municipality the whole of its claim relating to the particular  
3 property, with interest, costs, charges, expenses, fees and  
4 attorney fees, whereupon the proceedings on petition with regard  
5 to that property shall at once determine. A judicial sale of  
6 multiple properties shall not diminish the right of redemption  
7 with regard to any particular property that is a part of the  
8 sale.

9       Section 3. This act shall take effect in 60 days.