

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2249 Session of
2005

INTRODUCED BY DALLY, ADOLPH, ARMSTRONG, CALTAGIRONE, GINGRICH,
GODSHALL, HARPER, HARRIS, HENNESSEY, MUSTIO, REICHLEY,
SCAVELLO, E. Z. TAYLOR, THOMAS, WILT, YOUNGBLOOD AND
YUDICHAK, NOVEMBER 21, 2005

REFERRED TO COMMITTEE ON FINANCE, NOVEMBER 21, 2005

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," changing the date from which, and
16 the rate of which, interest is charged on certain delinquent
17 taxes and other municipal claims; and modernizing the law
18 relating to collection of such taxes and claims.

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

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

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

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

7 The word "delinquent," as used in this act, refers to taxes
8 that remain unpaid on December 31 of the calendar year in which
9 they were assessed; and municipal claims, other than tax claims,
10 that remain unpaid ninety days after the date of billing for
11 such claims.

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

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

17 The words "municipal claim," as used in this act, unless
18 specifically indicated otherwise, mean and include (1) the claim
19 arising out of, or resulting from, a tax assessed, service
20 supplied, work done, or improvement authorized and undertaken,
21 by a municipality, although the amount thereof be not at the
22 time definitely ascertained by the authority authorized to
23 determine the same, and a lien therefor be not filed, but
24 becomes filable within the period and in the manner herein
25 provided, (2) the claim filed to recover for the grading,
26 guttering, macadamizing, or otherwise improving, the cartways of
27 any public highway; for grading, curbing, recurbing, paving,
28 repaving, constructing, or repairing the footways thereof; for
29 laying water pipes, gas pipes, culverts, sewers, branch sewers,
30 or sewer connections therein; for assessments for benefits in

1 the opening, widening or vacation thereof; or in the changing of
2 water-courses or the construction of sewers through private
3 lands; or in highways of townships of the first class; or in the
4 acquisition of sewers and drains constructed and owned by
5 individuals or corporations, and of rights in and to use the
6 same; for the removal of nuisances; or for garbage fees,
7 recycling fees, landlord licensing and inspection fees, water
8 rates, lighting rates, or sewer rates, and (3) the claim filed
9 to recover for work, material, and services rendered or
10 furnished in the construction, improvement, maintenance, and
11 operation of a project or projects of a body politic or
12 corporate created as a Municipal Authority pursuant to law. A
13 municipal claim shall be together with and shall include all
14 penalties, interest, costs, fines, charges, expenses and fees,
15 including reasonable attorney fees, as allowed by this act and
16 all other applicable laws.

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

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

22 The word "property," as used in this act, means the real
23 estate subject to the lien and against which the claim is filed
24 as a lien.

25 The word "owner," as used in this act, means the person or
26 persons in whose name the property is registered, if registered
27 according to law, and, in all other cases, means any person or
28 persons in open, peaceable and notorious possession of the
29 property, as apparent owner or owners thereof, if any, or the
30 reputed owner or owners thereof in the neighborhood of such

1 property.

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

6 The words "charges, expenses, and fees," as used in this act,
7 include all sums paid or incurred by a municipality to file,
8 preserve and collect unpaid taxes, tax claims, tax liens,
9 municipal claims and municipal liens, including, but not limited
10 to, prothonotary and sheriff fees, postage expenses, [and] title
11 search expenses and title insurance fees. A county, city,
12 borough, incorporated town, township, school district or
13 municipal authority may also recover as "charges, expenses, and
14 fees" the charges, expenses, commissions and fees of third-party
15 collectors retained by the county, city, borough, incorporated
16 town, township, school district or municipal authority, provided
17 that the charges, expenses, commissions and fees of such third-
18 party collectors are approved by legislative action of the
19 county, city, borough, incorporated town, township, school
20 district or municipal authority which levies the unpaid taxes,
21 tax claims, tax liens, municipal claims and municipal liens.

22 Section 2. Sections 3 and 9 of the act, amended August 14,
23 2003 (P.L.83, No.20), are amended to read:

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

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

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

1 attorney fees imposed. In the event that there is a challenge to
2 the reasonableness of the attorney fees imposed in accordance
3 with this section, the court shall consider, but not be limited
4 to, the following:

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

9 (2) The customary charges of the members of the bar for
10 similar services.

11 (3) The [amount of the delinquent account collected and the]
12 benefit to the municipality from the services.

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

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

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

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

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

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

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

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

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

29 (c) A writ of execution may issue directly without
30 prosecution to judgment of a writ of scire facias. Any property

1 sold in execution shall be sold in compliance with the
2 provisions of section 31.2.

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

7 Section 9. Claims for taxes, water rents or rates, lighting
8 rates, power rates, and sewer rates, must be filed in the court
9 of common pleas of the county in which the property is situated
10 unless the property is situate in the City of Philadelphia and
11 the taxes or rates do not exceed the maximum amount over which
12 the Municipal Court of Philadelphia has original jurisdiction,
13 in which event the claim must be filed in the Municipal Court of
14 Philadelphia. All such claims shall be filed on or before the
15 last day of the third calendar year after that in which the
16 taxes or rates are first payable, except that in cities and
17 school districts of the first class claims for taxes and other
18 municipal claims, which have heretofore become liens pursuant to
19 the provisions of this act or which have been entered of record
20 as liens or which have been liened and revived, shall continue
21 and remain as liens for the period of twenty years from such
22 revival, entry or lien by operation of law, whichever shall have
23 last occurred; and other municipal claims must be filed in said
24 court of common pleas or the Municipal Court of Philadelphia
25 within six months from the time the work was done in front of
26 the particular property, where the charge against the property
27 is assessed or made at the time the work is authorized; within
28 six months after the completion of the improvement, where the
29 assessment is made by the municipality upon all the properties
30 after the completion of the improvement; and within six months

1 after confirmation by the court, where confirmation is required;
2 the certificate of the surveyor, engineer, or other officer
3 supervising the improvement, filed in the proper office, being
4 conclusive of the time of completion thereof, but he being
5 personally liable to anyone injured by any false statement
6 therein. Where a borough lies in more than one county, any such
7 claim filed by such borough may be filed in each of such
8 counties. In case the real estate benefited by the improvement
9 is sold before the municipal claim is filed, the date of
10 completion in said certificate shall determine the liability for
11 the payment of the claim as between buyer and seller, unless
12 otherwise agreed upon or as above set forth. A number of years'
13 taxes or rates of different kinds if payable to the same
14 plaintiff may be included in one claim. Interest as determined
15 by the municipality at a rate not to exceed [ten] nine per cent
16 per annum shall be collectible on all tax claims and municipal
17 claims from the date [of the completion of the work after it is
18 filed as a lien, and on claims for taxes, water rents or rates,
19 lighting rates, or sewer rates from the date of the filing of
20 the lien therefor] on which such claims become delinquent:

21 Provided, however, That after the effective date of this
22 amendatory act where municipal claims are filed arising out of a
23 municipal project which required the municipality to issue bonds
24 to finance the project interest shall be collectible on such
25 claims at the rate of interest of the bond issue or at the rate
26 of twelve per cent per annum, whichever is less. Where the
27 provisions of any other act relating to claims for taxes, water
28 rents or rates, lighting rates, power rates, sewer rents or
29 rates or for any other type of municipal claim or lien utilizes
30 the procedures provided in this act and where the provisions of

1 such other act establishes a different rate of interest for such
2 claims or liens, the maximum rate of interest of ten per cent
3 per annum as provided for in this section shall be applicable to
4 the claims and liens provided for under such other acts:

5 Provided, however, That after the effective date of this
6 amendatory act where municipal claims are filed arising out of a
7 municipal project which required the municipality to issue bonds
8 to finance the project interest shall be collectible on such
9 claims at the rate of interest of the bond issue or at the rate
10 of twelve per cent per annum, whichever is less.

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

24 A number of years' taxes or rates of different kinds, if
25 payable to the same plaintiff, may be included in one claim.
26 Municipal claims shall likewise be filed within said period,
27 where any appeal is taken from the assessment for the recovery
28 of which such municipal claim is filed. In such case the lien
29 filed shall be in the form hereinafter provided, except that it
30 shall set forth the amount of the claim as an undetermined

1 amount, the amount thereof to be determined by the appeal taken
2 from the assessment upon which such municipal claim is based,
3 pending in a certain court (referring to the court and the
4 proceeding where such appeal is pending). Upon the filing of
5 such municipal claim, the claim shall be indexed by the
6 prothonotary upon the judgment index and upon the locality index
7 of the court, and the amount of the claim set forth therein as
8 an undetermined amount.

9 If final judgment is not obtained upon such appeal within
10 twenty years from the filing of such municipal claim, the
11 claimant in the lien shall, within such period of twenty years,
12 file a suggestion of nonpayment, in the form hereinafter set
13 forth, which shall have the effect of continuing the lien
14 thereof for a further period of twenty years from the date of
15 filing such suggestion, except that with respect to claims for
16 taxes and other municipal claims, in cities and school districts
17 of the first class, if final judgment is not obtained upon such
18 appeal within twenty years from the filing of such municipal
19 claims, the claimant in the lien shall, within such period of
20 twenty years, file a suggestion of nonpayment in the prescribed
21 form which shall have the effect of continuing the lien thereof
22 for a further period of twenty years from the date of filing
23 such suggestion. Such municipal claim shall be revived in a
24 similar manner during each recurring period of twenty years
25 thereafter, until final judgment is entered upon said appeal and
26 the undetermined amount of such municipal claim is fixed in the
27 manner hereinafter provided, except that with respect to claims
28 for taxes and other municipal claims, in cities and school
29 districts of the first class, such municipal claims shall be
30 revived in a similar manner during each recurring period of

1 twenty years thereafter until final judgment is entered upon
2 said appeal and the undetermined amount of such municipal claim
3 is fixed in the manner hereinafter provided.

4 When the final judgment is obtained upon such appeal, the
5 court in which said municipal claim is pending shall, upon the
6 petition of any interested party, make an order fixing the
7 undetermined amount claimed in such claim at the amount
8 determined by the final judgment upon said appeal, which shall
9 bear interest from the date of the verdict upon which final
10 judgment was entered, and thereafter the amount of said claim
11 shall be the sum thus fixed. Proceedings upon said municipal
12 claim thereafter shall be as in other cases.

13 Where, on final judgment upon said appeal, it appears that no
14 amount is due upon the assessment for the recovery of which such
15 claim is filed, the court in which such municipal claim is
16 pending shall, upon the petition of any interested party, make
17 an order striking such municipal claim from the record, and
18 charge the costs upon such claim to the plaintiff in the claim
19 filed.

20 Where such appeal is discontinued, the court in which such
21 municipal claim is pending shall, upon the petition of any
22 interested party, make an order fixing the undetermined amount
23 claimed at the amount of the original assessment, which shall
24 bear interest from the date that such assessment was originally
25 payable, and thereafter the amount of such claim shall be the
26 sum thus fixed.

27 In counties of the second class and municipalities therein,
28 interest at the applicable per annum rate shall accrue monthly
29 on all taxes, tax claims and municipal claims on the first day
30 of the month for the entire month, or part thereof, in which the

1 taxes, tax claims or municipal claims are paid. Interest shall
2 not be paid on a per diem basis. In counties of the second
3 class, all county taxes after the same become delinquent, as
4 provided by law, shall include a penalty of five per centum for
5 such delinquency.

6 In counties of the second class, taxes and tax claims, when
7 collected, shall be paid into the county treasury for the use of
8 the county unless the taxes and tax claims are assigned, in
9 which event there is no requirement that the taxes and tax
10 claims collected by the assignee be paid into the county
11 treasury.

12 In counties of the second class, the county shall not be
13 required to advance or pay any fee to the prothonotary for the
14 filing of paper or electronic filing or performing any services
15 for the second class county relating to the filing,
16 satisfaction, assignment, transfer, revival, amendment,
17 enforcement and collection of taxes, tax claims and tax liens.
18 The prothonotary shall accept filings by or on behalf of the
19 second class county relating to the taxes, tax claims and tax
20 liens and note the cost for such service performed on the
21 docket, and the second class county, its employees,
22 representatives, agents and assigns shall thereafter collect
23 such fee as a cost as part of the taxes, tax claims and tax
24 liens.

25 Section 3. Sections 14 and 18 of the act are amended to
26 read:

27 Section 14. Any defendant named in the claim, or any person
28 allowed to intervene and defend thereagainst, may, at any stage
29 of the proceedings, present his petition, under oath or
30 affirmation, setting forth that he has a defense in whole or in

1 part thereto, and of what it consists; and praying that a rule
2 be granted upon the claimant to file an affidavit of the amount
3 claimed by him, and to show cause why the petitioner should not
4 have leave to pay money into court; and, in the case of a
5 municipal claim, to enter security in lieu of the claim;
6 whereupon a rule shall be granted as prayed for. Upon the
7 pleadings filed, or from the claim and the affidavit of defense,
8 and without a petition where an affidavit of defense has been
9 filed, the court shall determine how much of the claim is
10 admitted or not sufficiently denied; and shall enter a decree
11 that upon payment by such petitioner to the claimant of the
12 amount thus found to be due, with interest and costs if anything
13 be found to be due, or upon payment into court, if the claimant
14 refuses to accept the same, and upon payment into court of a sum
15 sufficient to cover the balance claimed, with interest and
16 costs, or upon the entry of approved security in the case of a
17 municipal claim, that such claim shall be wholly discharged as a
18 lien against the property described therein, and shall be
19 stricken from the judgment index. Thereafter the material,
20 disputed facts, if any, [shall] may be tried by a jury or the
21 court, without further pleadings, with the same effect as if a
22 writ of scire facias had duly issued upon said claim, to recover
23 the balance thereof; but the jury or the court shall be sworn to
24 try the issues between the claimant and the parties who paid the
25 fund into court or entered security, and verdict, judgment and
26 payment, or execution, shall follow as in other cases. The same
27 course may be pursued, at the instance of any owner, where the
28 claim has not in fact been filed, and if, in that event, the
29 petitioner complies with the decree made, the money paid into
30 court or security entered shall stand in lieu of the claim and

1 the latter shall not be filed, and if filed shall be stricken
2 off upon motion.

3 Section 18. The sheriff or other competent adult to whom the
4 scire facias is given for service shall add to the writ, as
5 parties defendant, all persons, other than those named therein,
6 who may be found in possession of the property described, or any
7 part thereof, and in case no one is found in possession by the
8 sheriff or other competent adult, he shall post a true copy of
9 the writ on the most public part of said property; and he shall
10 add to the said writ the names of any persons, not already named
11 therein, whom he may ascertain to have an interest in the
12 property described, or any part thereof, which writ shall then
13 be further served as follows:

14 (a) By serving, as in the case of a summons, such of those
15 named in the writ, or added thereto, as may be found in the
16 county in which the writ issued; and,

17 (b) Where the sheriff or other competent adult has
18 information that those named in the writ, or added thereto, or
19 any of them, may be found in any other county of this
20 Commonwealth, the said person shall be served, as in the case of
21 a summons, by one of the following:

22 (1) the sheriff of the county in which the said
23 defendants or any of them may reside, he being deputized for
24 that purpose by the sheriff of the county in which the writ
25 issues; or

26 (2) another competent adult; and,

27 (c) In case any of those named in the writ, or added
28 thereto, cannot be found by the sheriff or other competent
29 adult, or their residences within this Commonwealth are unknown
30 to him, or in case they reside without the Commonwealth or are

1 deceased, the said writ may be served by advertising a copy
2 thereof, or a brief notice of the contents of the same, once [a
3 week for three successive weeks,] in one newspaper of general
4 circulation in the county, and in the legal periodical, if any,
5 designated by the court for that purpose, and mail, by first
6 class mail, certified return receipt requested and certificate
7 of mailing to the last known post office address: Provided,
8 however, That any defendant may accept service of said writ, in
9 person or by counsel, with the same effect as if duly served
10 therewith by the sheriff. When service is made by publication
11 and mailing upon the heirs and assigns of a deceased defendant,
12 service may be made by publication against the heirs or assigns
13 generally if they are unknown.

14 Where the said writ, or the brief notice of the contents
15 thereof, have been advertised and mailed as aforesaid, the same
16 shall have the same effect as if the writ had been personally
17 served; and all those named therein, or added thereto, as to
18 whom publication [has] and mailing have been made, shall file
19 their affidavit of defense, as required by the said writ, within
20 fifteen days after [the date of the last weekly advertisement of
21 the said writ] service of said writ by advertising and mailing;
22 and all those named therein or added thereto, who have been
23 served as in case of a summons, shall file their affidavit of
24 defense, as required by said writ, within fifteen days after
25 such service. Service of any such writ may be made at any time
26 within three months from the date on which it was issued, but it
27 shall be served and returned at the earliest date possible, and
28 the plaintiff may require its return at any time, whether or not
29 it be actually served.

30 Section 4. Section 31 of the act, amended November 29, 2004

1 (P.L.221, No.31), is amended to read:

2 Section 31. The lien of a tax or a municipal claim shall not
3 be divested by any judicial sale of the property liened, where
4 the amount due is indefinite or undetermined, or where the same
5 is not due and payable; nor shall the lien of a tax or municipal
6 claim be divested by any judicial sale of the property liened,
7 as respects so much thereof as the proceeds of such sale may be
8 insufficient to discharge; nor, except as hereinafter provided,
9 shall a judicial sale of the property liened, under a judgment
10 obtained on a tax or municipal claim, discharge the lien of any
11 other tax or municipal claim than that upon which said sale is
12 had, except to the extent that the proceeds realized are
13 sufficient for its payment, after paying the costs, charges and
14 fees, including reasonable attorney fees, expenses of the sale,
15 and of the writ upon which it was made, and any other prior tax
16 or municipal claims to which the fund may first be applicable.
17 On any such sale being made all tax claims shall be paid out of
18 the proceeds thereof: first, the oldest tax having priority; and
19 municipal claims shall be paid next, the oldest in point of lien
20 having priority. Mortgages, ground-rents, and other charges on
21 or estates in the property which were recorded, or created where
22 recording is not required, before any tax other than for the
23 current year accrue, or before the actual doing of the work in
24 front of or upon the particular property for which the municipal
25 claim is filed, shall not be disturbed by such sale unless a
26 prior lien is also discharged thereby.

27 In case the property be not sold for a sum sufficient to pay
28 all taxes and municipal claims, together with the costs thereon,
29 the plaintiff in any such claim may [postpone] announce the
30 postponement of the sale, without payment of costs, and file his

1 petition setting forth that more than one year has elapsed since
2 the filing of his claim; that he has exposed the property to
3 sheriff's sale thereunder, and was unable to obtain a bid
4 sufficient to pay the upset price in full; and, if the plaintiff
5 is not a municipality as defined in this act, that he will bid
6 sufficient to pay the upset price, and upon the production of
7 searches or a title insurance policy showing the state of the
8 record and the ownership of the property, and of all tax and
9 municipal claims, mortgages, ground-rents, or other charges on
10 or estates in the land, the court shall grant a rule upon all
11 parties thus shown to be interested to appear and show cause why
12 a decree should not be made that said property be sold, freed,
13 and cleared of their respective claims, mortgages, charges, and
14 estates. If, upon a hearing thereafter, the court is satisfied
15 that service has been made of said rule upon the parties
16 respondent, in the manner provided in section 39.2, and that the
17 facts stated in the petition be true, it shall order and decree
18 that said property be sold at a subsequent sheriff's sale day,
19 to be fixed by the court without further advertisement, and the
20 court may fix a common date and place of sale for more than one
21 of said properties if it deems a joint sale to be advantageous.
22 All property at sheriff's sale shall be sold, clear of all
23 claims, liens, mortgages, charges, and estates, to the highest
24 bidder at such sale; and the proceeds realized therefrom shall
25 be distributed [in accordance with the priority of such
26 claims;], first, to the Commonwealth, by payment to the State
27 Treasurer through the Department of Revenue, for satisfaction of
28 tax liens of the Commonwealth; second, to the respective taxing
29 districts in proportion to the taxes due them; third, to taxing
30 districts or municipal authorities for satisfaction of municipal

1 claims in proportion to the municipal claims due them; fourth,
2 to mortgages and other lien holders, in order of their priority,
3 for satisfaction of mortgages and liens as they may appear of
4 record, whether or not discharged by the sale; fifth, to the
5 owner of the property and the purchaser at such sale shall take,
6 and forever thereafter have, an absolute title to the property
7 sold, free, and discharged of all tax and municipal claims,
8 liens, mortgages, charges, and estates of whatsoever kind,
9 subject only to the right of redemption as provided by law. In
10 counties of the second class, upon return of the writ upon which
11 the sale was made and upon the expiration of the statutory right
12 of redemption and if no petition to set aside the sale is
13 pending, the prothonotary shall satisfy all tax claims and
14 municipal claims divested by the judicial sale in accordance
15 with the order of court authorizing such sale.

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

20 For the purpose of enabling the petitioner in any such
21 proceedings to give the notice required, he may take the
22 testimony of the defendant in the claim, or of any other person
23 whom he may have reason to believe has knowledge of the
24 whereabouts of any of the parties respondent, either by
25 deposition, commission, or letters rogatory.

26 Any municipality, being a claimant, shall have the right, and
27 is hereby empowered, to bid and become the purchaser of the
28 property at such sale; and while the said property, so
29 purchased, is held and owned by any county, city, borough,
30 incorporated town, township, school district or a body politic

1 and corporate created as a municipal authority pursuant to law,
2 it shall not be subject to tax claims, unless it be redeemed by
3 the former owner or other person having the right to redeem, as
4 provided by law. If, however, a municipality shall become the
5 purchaser at said sale, the former owner or other person,
6 desiring to redeem, shall pay all taxes and municipal claims
7 accrued and chargeable against the property prior to the sale
8 thereof, together with the costs and interest thereon, and also
9 all taxes and claims, whether filed or not, which would have
10 accrued and become chargeable against the property had the same
11 been purchased at the sale by some party other than the
12 municipality.

13 Upon the delivery by the sheriff of a deed for any property
14 sold under a tax or municipal claim, the judgment upon which
15 such sale was had shall thereupon and forever thereafter be
16 final and conclusive as to all matters of defense which could
17 have been raised in the proceeding, including payment, and no
18 error or irregularity in obtaining or entering of such judgment
19 shall effect the validity thereof.

20 Section 5. Section 31.1 of the act, amended August 14, 2003
21 (P.L.83, No.20), is amended to read:

22 Section 31.1. In addition to the remedy prescribed in
23 sections twenty-eight and thirty-one of this act, whenever a
24 claimant in any county of the first class has obtained a
25 judgment upon its tax or municipal claim, it may file its
26 petition in the court in which the proceeding is pending,
27 setting forth the facts necessary to show the right to sell,
28 together with searches or a title insurance policy, showing the
29 state of the record and the ownership of the property, and of
30 all tax and municipal claims, mortgages, ground rents, or other

1 charges on, or estates in, the land, as shown by the official
2 records of the county, or the political subdivision in which the
3 real estate is situate, and thereupon the court shall grant a
4 rule upon all parties thus shown to be interested, to appear and
5 show cause why a decree should not be made that said property be
6 sold, freed and cleared of their respective claims, mortgages,
7 ground rents, charges and estates, and without any right of
8 redemption after such sale. If upon a hearing, thereafter the
9 court is satisfied that service has been made of said rule upon
10 all interested parties in accordance with section 39.2 and that
11 the facts stated in the petition be true, it shall order and
12 decree that said property be sold at a subsequent sheriff's sale
13 at a time to be fixed thereafter by the claimant, at least one
14 year after the date of the decree, clear of all claims, liens,
15 mortgages, ground rents, charges and estates to the highest
16 bidder at such sale, and the proceeds realized therefrom, shall
17 be distributed in accordance with the priority of such claims,
18 liens, mortgages, ground rents, charges and estates, and the
19 purchaser at such sale shall take and forever thereafter have an
20 absolute title to the property sold, free and discharged of all
21 tax and municipal claims, liens, mortgages, ground rents,
22 charges and estates of whatsoever kind, and not thereafter
23 subject to any right of redemption. Advertisement of such sale
24 shall be made and the deed to the purchaser shall be executed,
25 acknowledged and delivered as in other real estate sales by the
26 sheriff: Provided, however, That any person interested may at
27 any time prior to the proposed sale pay all the costs of the
28 proceedings, including a reasonable fee for the necessary title
29 search or title insurance policy to be fixed by the court, and
30 all tax and municipal claims, penalties and interest thereon,

1 charged against the property; whereupon the proceedings on
2 petition shall at once determine, notice of this proviso shall
3 be included with each service and in each publication of the
4 aforesaid rule.

5 In addition to the remedy prescribed in section 28, whenever
6 a municipality in any county of the second class has obtained a
7 judgment on a tax or municipal claim, it may file its petition
8 in the court in which the proceeding is pending. The petition
9 shall set forth the facts necessary to show the right to sell; a
10 title search or a title insurance policy showing the state of
11 the record and the ownership of the property; and all tax and
12 municipal claims, mortgages, ground rents or other charges on,
13 or estates in, the land as shown by the official records of the
14 county or the political subdivision in which the real estate is
15 situate. The court shall issue a rule upon all parties named in
16 the petition to appear and show cause why a decree shall not be
17 made to sell the property free and clear of all claims,
18 mortgages, ground rents, charges and estates and without any
19 right of redemption after such sale. If, upon a hearing
20 thereafter, the court is satisfied that proper service has been
21 made of said rule on all interested parties in accordance with
22 section 39.2 and that the facts stated in the petition are true,
23 it shall order and decree that the property be sold at a
24 subsequent sheriff's sale at a time fixed by the claimant, clear
25 of all claims, liens, mortgages, ground rents, charges and
26 estates, to the highest bidder at such sale, and the proceeds
27 realized therefrom shall be distributed [in accordance with the
28 priority of such claims, liens, mortgages, ground rents, charges
29 and estates'] first, to the Commonwealth, by payment to the
30 State Treasurer through the Department of Revenue, for

1 satisfaction of tax liens of the Commonwealth; second, to the
2 respective taxing districts in proportion to the taxes due them;
3 third, to taxing districts or municipal authorities for
4 satisfaction of municipal claims in proportion to the municipal
5 claims due them; fourth, to mortgages and other lien holders, in
6 order of their priority, for satisfaction of mortgages and liens
7 as they may appear of record, whether or not discharged by the
8 sale; fifth, to the owner of the property, and the purchaser
9 shall take and forever thereafter have an absolute title to the
10 property sold, free and discharged of all tax and municipal
11 claims, liens, mortgages, ground rents, charges and estates of
12 whatsoever kind, and not thereafter subject to any right of
13 redemption. Advertisement of such sale shall be made and the
14 deed to the purchaser shall be executed, acknowledged and
15 delivered as in other real estate sales by the sheriff. An
16 interested person may, at any time prior to the proposed sale,
17 pay all the costs, charges, expenses and fees and attorney fees
18 of the proceedings, including the cost for the title search or
19 title insurance policy, and all tax and municipal claims charged
20 against the property, whereupon the sale proceedings shall at
21 once terminate. Notice of this provision shall be included with
22 each service of the aforesaid rule. In counties of the second
23 class, upon return of the writ upon which the sale was made and
24 if no petition to set aside the sale is pending, the
25 prothonotary shall satisfy all tax claims and municipal claims
26 divested by the judicial sale.

27 For the purpose of enabling the petitioner in any such
28 proceedings to give the notice required, it may take the
29 testimony of the defendant in the claim, or of any other person
30 whom it may have reason to believe has knowledge of the

1 whereabouts of any of the parties respondent, either by
2 deposition, commission or letters rogatory.

3 Any claimant shall have the right, and is hereby empowered,
4 to bid and become the purchaser of the property at such sale,
5 and if such purchaser shall be a taxing authority within the
6 county, such property, while held and owned by such taxing
7 authority, shall not be subject to tax claims.

8 Upon the delivery by the sheriff of a deed for any property
9 sold under the provisions of this section, the judgment upon
10 which such sale was had shall thereupon and forever thereafter
11 be final and conclusive, and the validity thereof shall not be
12 questioned for any cause whatsoever.

13 Section 6. Section 39.2 of the act, amended February 7, 1996
14 (P.L.1, No.1) and August 14, 2003 (P.L.83, No.20), is amended to
15 read:

16 Section 39.2. (a) In cities of the first class, notice of a
17 rule to show cause why a property should not be sold free and
18 clear of all encumbrances issued by a court pursuant to a
19 petition filed by a claimant under section 31.2 of this act
20 shall be served by the claimant upon owners, mortgagees, holders
21 of ground rents, liens and charges or estates of whatsoever kind
22 as follows:

23 (1) By posting a true and correct copy of the petition and
24 rule on the most public part of the property;

25 (2) By mailing by first class mail to the address registered
26 by any interested party pursuant to section 39.1 of this act a
27 true and correct copy of the petition and rule; and

28 (3) By reviewing a title search, title insurance policy or
29 tax information certificate that identifies interested parties
30 of record who have not registered their addresses pursuant to

1 section 39.1 of this act, the city shall mail by first class
2 mail and either by certified mail, return receipt requested, or
3 by registered mail to such addresses as appear on the respective
4 records relating to the premises a true and correct copy of the
5 petition and rule.

6 Service of notice pursuant to this section shall be deemed
7 accomplished on the date of mailing. The city shall file an
8 affidavit of service with the court prior to seeking a decree
9 ordering the sale of the premises.

10 (a.1) In counties of the second class and municipalities
11 therein, notice of a rule to show cause why a property should
12 not be sold free and clear of all liens and encumbrances issued
13 by a court pursuant to a petition filed by a claimant under
14 sections 28 and 31.1 of this act shall be served by the claimant
15 upon owners, mortgagees, holders of ground rents, liens and
16 charges or estates of whatsoever kind as follows:

17 (1) By posting a true and correct copy of the petition and
18 rule on the most public part of the property.

19 (2) By reviewing a title search, title insurance policy or
20 tax information certificate that identifies interested parties
21 of record, the county or municipality shall mail by first class
22 mail and either by certified mail, return receipt requested, or
23 by certificate of mailing to such addresses as appear on the
24 respective records relating to the premises a true and correct
25 copy of the petition and rule. Notice pursuant to this section
26 shall be deemed accomplished on the date of mailing. The county
27 or municipality shall file an affidavit of service with the
28 court prior to seeking a decree ordering the sale of the
29 premises.

30 (a.2) Except in cities of the first class, counties of the

second class and municipalities located in counties of the
second class, notice of a rule to show cause why a property
should not be sold free and clear of all liens and encumbrances
issued by a court pursuant to a petition filed by a claimant
under section 31 shall be served by the claimant upon owners,
mortgagees, holders of ground rents, liens and charges or
estates of whatsoever kind as follows:

(1) By posting a true and correct copy of the petition and
rule on the most public part of the property.

(2) By reviewing a title search, title insurance policy or
tax information certificate that identifies interested parties
of record, the county or municipality shall mail by first class
mail and either by certified mail, return receipt requested, or
by certificate of mailing to such addresses as appear on the
respective records relating to the premises a true and correct
copy of the petition and rule. Notice pursuant to this
subsection shall be deemed accomplished on the date of mailing.
The county or municipality shall file an affidavit of service
with the court prior to seeking a decree ordering the sale of
the premises.

(b) No party whose interest did not appear on a title
search, title insurance policy or tax information certificate or
who failed to accurately register his interest and address
pursuant to section 39.1 of this act shall have standing to
complain of improper notice if the city shall have complied with
subsection (a) of this section. This provision shall not apply
if the mortgage or interest was otherwise properly recorded in
the Office of the Recorder of Deeds and the document contains a
current address sufficient to satisfy the notice requirements of
this section. Notwithstanding any other requirement set forth in

1 this act or any other law to the contrary, the notice required
2 by subsection (a) of this section shall constitute the only
3 notice required before a court may enter a decree ordering a tax
4 sale.

5 (b.1) No party whose interest did not appear on a title
6 search or title insurance policy, because of the party's failure
7 to record or properly record its interest, shall have standing
8 to complain of improper notice if the county or municipality
9 shall have complied with subsection (a.1). This provision shall
10 not apply if the mortgage or interest was otherwise properly
11 recorded in the Office of the Recorder of Deeds and the document
12 contains a current address sufficient to satisfy the notice
13 requirements of this section. Notwithstanding any other
14 requirement set forth by subsection (a.1), notice thereunder
15 shall constitute the only notice required before a court may
16 enter a decree ordering a tax sale free and clear of liens.

17 (b.2) If the county or municipality shall have complied with
18 subsection (a.2), no party whose interest did not appear on a
19 title search or title insurance policy because of the party's
20 failure to record or properly record its interest shall have
21 standing to complain of improper notice. This provision shall
22 not apply if the mortgage or interest was otherwise properly
23 recorded in the Office of the Recorder of Deeds and the document
24 contains a current address sufficient to satisfy the notice
25 requirements of this section. Notwithstanding any other
26 requirement of subsection (a.2), notice thereunder shall
27 constitute the only notice required before a court may enter a
28 decree ordering a tax sale free and clear of liens.

29 (c) Notice of the court's decree ordering a tax sale,
30 together with the time, place and date of the sale, shall be

1 served by first class mail on all parties served with the
2 petition and rule, on any parties whose interest appeared of
3 record after the filing of the petition but before the court's
4 decree and on any creditor who has obtained judgment against the
5 owner of the premises prior to the date of the decree. The city
6 shall file an affidavit of service of these notices prior to the
7 date of the sale.

8 (d) Except in cities of the first class, in sales pursuant
9 to a petition filed by a claimant under section 31 or 31.1,
10 notice of the court's decree ordering a tax sale, together with
11 the time, place and date of the sale, shall be served along with
12 the notice of sheriff's sale and shall be provided to all
13 parties entitled to receive notice pursuant to Pa.R.C.P.
14 No.3129.1 (relating to sale of real property; notice;
15 affidavit).

16 (e) Except in cities of the first class, in sales pursuant
17 to a petition filed by a claimant under section 28 or 31, notice
18 of the court's decree ordering a sale, together with the time,
19 place and date of the sale, shall be served by first class mail
20 upon all parties who receive notice pursuant to Pa.R.C.P.
21 No.3129.1 prior to the initial sale. Notice under this section
22 shall be provided no later than seven days prior to the
23 continued sale.

24 Section 7. This act shall take effect in 60 days.