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Senate Bill 781, Printer's Number 941

**Amending the Real Estate Tax Sale Law –
Providing for the Collection of Additional Costs
Related to Rehabilitation and Maintenance**

PURPOSAL/SUMMARY: The bill would add a new section 612.3 (Additional Costs for Rehabilitation and Maintenance) to the Real Estate Tax Sale Law, Act 542 of 1947 (RETSL). The amendment would authorize county tax claim bureaus to incur reasonably necessary costs for the rehabilitation and maintenance of property exposed to, but not sold at, an upset sale. The costs incurred would be recoverable by the county from the proceeds of any subsequent sale of the property.

The amendment would apply to all counties, except Philadelphia and Allegheny, choosing to utilize the provisions of RETSL. The intent of the bill is to provide counties an explicit mechanism to incur and recover, through the proceeds of sale, costs associated with maintaining property in a salable condition or in a condition otherwise required by municipal property maintenance codes. The amendment specifically provides that the new section is not to be interpreted as creating a duty on the part of the county or the tax claim bureau to maintain or rehabilitate property.

This proposal was requested by the County Commissioners Association of Pennsylvania in accordance with a 2009 resolution adopted by the membership of the Association. In the Commonwealth Court case of *Commonwealth v. Sprock*,¹ and related subsequent appellate cases, it was held that a tax claim bureau gains title to property after an unsuccessful upset sale of that property. Consequently, a tax claim bureau may be held responsible as an owner for compliance with municipal property maintenance ordinances. The Real Estate Tax Sale Law currently provides no method by which a tax claim bureau may incur and collect, as costs of sale, any expenses necessary to comply with property maintenance ordinances, or to otherwise incur and collect costs associated with maintaining the condition of the property. The law, at Section 206, provides the following:

Section 206. Costs, Fees and Expenses.--The county shall be liable, or initially liable for all costs, fees and expenses which shall be required to be paid to administer the affairs of the

¹ 795 A.2d 1100 (Pa. Cmwlth. 2002).

bureau and of this act, including but not limited to, costs of mailing and advertising notices, fees for the entry of claims, and proceedings thereon, and all other proceedings required by this act, except where otherwise provided by this act, the costs of repairs and alteration to, and insurance on property in sequestration or management, commissions to rental agents, advertising for rent, title searches and salaries and compensation, and the costs of bonds of officers, employes and agents of the bureau, and rental of offices, furniture, equipment, material and supplies for the use of the bureau.

All such costs, fees and expenses shall be paid as other expenses of the county are paid from appropriations made by the county, and not otherwise, and when any of such costs, fees and expenses are recovered they shall be deposited in the treasury of the county for the use of the county.²

Clarifying language is also added which states that in the case of property exposed to upset sale and not sold at upset sale, the county tax claims bureau may incur, and may recover as costs, prior to any distribution from a subsequent sale, delineated costs of rehabilitation and maintenance.

² Absent statutory language specifically authorizing otherwise, the 5% commission charged by the county tax claim bureau under Section 207 of RETSL is considered to be the sole alternative source for recovery of the costs of the “operations” of the bureau. *See Borough of Canonsburg v. Nichols*, 528 A.2d 1087 (Pa. Cmwlth. 1987); *Hargreaves v. Mid-Valley School Dist.*, 396 A.2d 894 (Pa. Cmwlth. 1979).