



# COUNCILWOMAN MARIA QUIÑONES-SÁNCHEZ COUNCILMAN BILL GREEN

City Hall, Room 592 & 312  
Philadelphia, PA 19107

Date: June 6, 2013

Contact: Jennifer Kates or Richard A. Doran  
Jennifer.kates@phila.gov & 215.686.3448  
richard.doran@phila.gov & 215.686.3420

## **City Council Unanimously Passes Unprecedented Tax Delinquency Reform Measure**

***“Carrot” of “clear, consistent system” of payment plans***

***“Stick” of certain foreclosure***

***Income-based plans available automatically for homeowners***

***Ends the “Culture of Non-Compliance”***

City Council today unanimously passed Bill No. 120054, an unprecedented reform designed to aid efforts to reduce the backlog of delinquent taxes and bring an end to the City’s “culture of non-compliance” with the ‘carrot’ of clear, consistent payment plans and the ‘stick’ of certain foreclosure if taxpayers default on the plans. The legislation also provides for detailed quarterly reporting requirements that will improve public oversight of tax collections.

The legislation – sponsored by Councilmembers Bill Green (D – At Large), María Quiñones-Sánchez (D – 7<sup>th</sup>), W. Wilson Goode, Jr. (D – At Large), Bobby Henon (D – 6<sup>th</sup>), David Oh (R – At Large), Curtis Jones, Jr. (D – 4<sup>th</sup>), Marian Tasco (D – 9<sup>th</sup>), Mark Squilla (D – 1<sup>st</sup>), Dennis O’Brien (R – At Large), Brian O’Neill (R – 10<sup>th</sup>) and Jannie Blackwell (D – 3<sup>rd</sup>) – was developed through close collaboration among the Administration, Council and the Legal Services community. It was originally conceived five years ago as part of then-freshman Bill Green, María Quiñones-Sánchez and Curtis Jones, Jr.’s “Freshman 15” which contained 15 ideas to save or generate \$50 million for the City annually.

“For the first time, the City of Philadelphia has adopted a comprehensive regime to ensure clear options, procedures, and consequences for property owners who are dealing with tax delinquency, a reform that will increase the fairness and efficiency of our tax collections” said Councilwoman Sánchez.

"We don't want anyone who wants to pay and is trying to pay to lose their home," said Councilman Green. "But for those who continue to pretend that paying their property taxes is not a requirement in Philadelphia, including absentee landlords, foreclosure due to delinquency must be certain if we expect to change behavior."

The Seventh Councilmatic District, represented by Councilwoman Sánchez, has among the City's highest rates of low-income homeowners, who frequently want to become tax-compliant but struggle to access or afford payment plans. Homeowners with "tangled title" problems will also benefit from new rules allowing them to make tax payments while they work to obtain clear title to their residences.

### **Creating "a clear, consistent system"**

Consistency and communication were emphasized as significant problems with the current system which a recent *Inquirer/Plan Philly* article described as "the least effective delinquent-property-tax-collection system of the nation's biggest cities."

The measure requires income-based repayment options be made available in a consistent manner to City homeowners, with specific notice requirements so that people know that they will face foreclosure after reasonable opportunities are provided for them to obtain assistance and get into an agreement.

"Right now, the same taxpayer who is income eligible for a 'financial hardship agreement' with [the City's outside collection firms Linebarger, Goggin and GRB] can still be found ineligible based on his income for an extended term agreement with the Révenue Department," Montgomery Wilson, supervising attorney for Community Legal Services testified. "This kind of variation based solely on who a taxpayer is lucky enough to be talking to is confusing and leads taxpayers to believe that the system is unfairly based on luck and 'who you know.'"

Community Legal Services, which supports the measure, was part of a working group that included members of the Nutter Administration, staff from Councilmembers Green and Quiñones-Sánchez, and other members of the legal services community which serves underprivileged communities including Philly VIP, Philadelphia Legal Assistance, and the SeniorLAW Center, as well as the collection firms Linebarger and GRB. The working group developed the legislation, which is the culmination of work by Councilmembers Green and Quiñones-Sánchez since their arrival in Council in 2008.

### **Income-based payment plans**

Homeowners with an income that is 70% or less than the Area Median Income (AMI) would automatically be eligible for the payment plans for their delinquent taxes which would be based on a sliding scale of 5-10% of the homeowner's monthly income. Taxpayers with incomes at or below 70% AMI who fulfill agreements would also be eligible for specified reductions in interest and penalties when they have completely paid their outstanding principal.

Homeowners above the 70% AMI threshold would be given agreements at the discretion of the Department of Revenue, taking into consideration evidence of financial hardship.

Owners of non-homestead properties would receive clear notice of their debt and the consequences of nonpayment, and would also be given agreements at the discretion of the Department of Revenue. The Department of Revenue would be empowered to deny payment plans to non-homestead owners who are “bad actors,” with histories of code violations.

All property owners will need to be paid up on their current taxes to be able to enter and stay in a payment plan on delinquent taxes, and the bill includes updated options for 12-month installment plans for senior citizens and residents below 50% AMI.

“This is not an amnesty plan or infinite-payment plan,” Councilman Green said. “It’s a pragmatic approach to both ends of the problem: help people who want to pay their taxes and stay in their homes get into a payment plan, and assure scofflaws how and when the City will foreclose.”

### **Ending the “culture of non-compliance”**

Much discussion at the hearing surrounded the “culture of non-compliance” in the City, where lax enforcement has led to chronic underpayment and non-payment of tax obligations. The *Inquirer/Plan Philly* article reported that the typical delinquent taxpayer is 6.5 years behind and owes over \$4,200 in taxes, penalties and interest; over 26,000 properties have been delinquent for a decade or more and 8,500 of them have not paid real estate taxes for 20 years or more.

“AVI is about tax fairness,” Councilman Green said. “Unless we enforce the laws, we’re not being fair.”

“The bill guarantees one set of transparent rules and procedures,” Councilwoman Quiñones-Sánchez said, “and a clearly defined timeline for enforcement.”

Failure to enter into a payment agreement or otherwise satisfy outstanding liabilities would result in “prompt” foreclosure action as provided under State Law. Taxpayers who default on payment plans face foreclosure within a year of the default as provided under State Law.

### **Payment plan details**

The bill specifies details regarding the payment agreement and what taxpayers must be told including the payment amounts, terms and explanations of the taxpayers’ rights and responsibilities. It also specifies what must be communicated to taxpayers in the notices sent warning them about their delinquencies and potential foreclosure actions.

Other features of Bill # 120054 include:

- **Universal application:** One set of rules will apply to City agencies such as the Department of Revenue and the Law Department, as well as outside agencies and law firms who are hired to assist with collections.

- **Clear, consistent notice:** The bill will require notices to include key information about payment plan options and resources such as legal services and housing counseling which may be available to assist taxpayers. Notices will be sent once taxes are late (on March 31st of a subject tax year), but before they become delinquent, to help keep taxpayers from falling into a delinquency trap.
- **Incentives to stay compliant:** Homeowners in payment plans will benefit from paying up each month as their payments will be applied to the principal amount that is owed first, before interest and penalties. This will help the tax payer chip away at the actual debt. Interest and penalties will be tolled while a plan is in effect, and previously-accrued interest and penalties will be partially abated for taxpayers who successfully complete a payment plan.
- **Fair, transparent rules:** The bill creates a clear set of rules for breach and default, and requires appropriate warning notices that advise taxpayers of the consequences of nonpayment.
- **Guidelines for eligibility:** The bill fixes longstanding confusion over which taxpayers are eligible for payment plans, and creates guidelines for offering payment plans to "equitable owners," such as heirs of "Tangled Title" properties.
- **Right to review:** The Tax Review Board (TRB) will be empowered to review decisions regarding homeowners' eligibility for, and compliance with, payment plans.
- **Clear enforcement timeline:** The bill makes clear that the City will foreclose following one full year of delinquency, consistent with state law (the "Municipal Claim and Tax Lien Law").
- **Affordable payment plan options:** All homeowners will have a right to a payment plan. Taxpayers at or below 70% **Area Median Income** (see below) will be allowed to pay a scaled percentage of their monthly household income. Taxpayers with unusually high expenses, such as medical bills, will have the option of requesting a plan based on available income after expenses.

Philadelphia County, Pennsylvania (Annual Income)									
SOURCE: HUD Area Median Income Limits for FY 2012 (March 2, 2013)									
FY 2012 Income Limit Area	Median Income	FY 2012 Income Limit Category	1 Person	2 People	3 People	4 People	5 People	6 People	7 People
Phila. County	\$81,500	30%	\$17,150	\$19,600	\$22,050	\$24,450	\$26,450	\$28,400	\$30,350
		50%	\$28,550	\$32,600	\$36,700	\$40,750	\$44,050	\$47,300	\$50,550
		70%	\$39,813	\$45,500	\$51,188	\$56,875	\$61,425	\$65,975	\$70,525
		80%	\$45,500	\$52,000	\$58,500	\$65,000	\$70,200	\$75,400	\$80,600

The measure will take effect on October 13, 2013.

\*\*\*\*\*

# City of Philadelphia



(Bill No. 120054-A)

## AN ORDINANCE

Amending Chapter 19-1300 of The Philadelphia Code, entitled "Real Estate Taxes," by providing for installment payment agreements and requiring commencement of enforcement action, all under certain terms and conditions.

WHEREAS, Tax collection and vacant land redevelopment are essential for the City's economic and community development; and

WHEREAS, Collection of municipal debt should be prompt, efficient, transparent, consistent, and effective; and

WHEREAS, The City's current delinquent property tax collection system falls short of these foundational goals and is characterized by delay, inefficiency, inconsistency, confusion, and ineffectiveness – a state of affairs that has persisted for years and across multiple administrations; and

WHEREAS, Accurate and timely reporting of data related to tax collection activities and assistance programs is necessary to evaluate their outcomes and efficacy, but generally is not now available; and

WHEREAS, As reported in a recent *Philadelphia Inquirer/PlanPhilly* special report, Philadelphia "runs the least-effective delinquent-property-tax-collection system of the nation's biggest cities," and has over 110,000 tax delinquent parcels – nearly 19% of all parcels in the City; and

WHEREAS, As also reported by the *Inquirer/PlanPhilly*, "[t]he city's typical tax delinquent is 6.5 years behind and owes \$4,249 in taxes, penalties, and interest"; the delinquency on 26,000 properties extends a decade or more; and the owners of nearly 8,500 properties have not paid real estate taxes for 20 years or more; and

WHEREAS, This high level of delinquency is due in part to barriers in accessing appropriate repayment agreements, including the "financial hardship agreements" that are supposed to be available for low-income taxpayers; again, as reported by the *Inquirer/PlanPhilly*, financial hardship agreements are in place for only about 1,000 delinquent properties; and

WHEREAS, The City's existing approach to dealing with tax delinquency allows tax debt to accumulate on many properties for years with no enforcement action

# City of Philadelphia

BILL NO. 120054-A continued

Certified Copy

by the City, thereby making it cost-prohibitive for many citizens, especially low- and moderate-income residents, to utilize the current repayment structure due to the penalties and interest that accumulate in the interim; and

WHEREAS, Restructuring of municipal debt collection practices serves valuable public policy goals, including generating revenue to support municipal services, making properties more attractive for redevelopment by preventing them from becoming "underwater" with tax debt, and building wealth in low- and moderate-income families; and

WHEREAS, Preserving owner-occupied homes by offering citizens reasonable and feasible approaches for repaying their tax delinquency also serves the City's economic interest by keeping neighborhoods and blocks stable, preventing homelessness, and ensuring that the equity of low- and moderate-income families is not lost in foreclosure; and

WHEREAS, In reforming Philadelphia's debt collection and tax foreclosure processes, the City should incorporate tested, successful practices from the contexts of private mortgage diversion and bankruptcy, including a wide range of income-based repayment options; and

WHEREAS, Also in this reform process, the City should offer citizens the opportunity to enter into omnibus repayment agreements covering all municipal charges or debt, including not only real estate taxes but also water and sewer rent charges, fees and fines owed to the Department of Licenses and Inspections, and so on; and should protect vulnerable members of our communities, particularly senior citizens, military veterans, the unemployed, and people with disabilities; and

WHEREAS, In addition to offering property owners the opportunity to enter into reasonable, feasible repayment agreements with meaningful incentives for repaying their delinquent real estate taxes, the City must also move efficiently and effectively, using all available legal means, to collect delinquent taxes from those who refuse to enter into such agreements; now, therefore

*THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:*

SECTION 1. Chapter 19-1300 of The Philadelphia Code is amended to read as follows:

## CHAPTER 19-1300. REAL ESTATE TAXES

\* \* \*

# City of Philadelphia

BILL NO. 120054-A continued

Certified Copy

§ 19-1305. Authorization for Installment Payment Agreements, Waiving Additions to Tax and Abating Interest and Penalties Otherwise Due Pursuant to Section 19-1303, and Requiring Commencement of Enforcement Action.

(1) Definitions. As used in this Section:

(a) Income means all *regular and periodic* income from whatever source derived, including but not limited to salaries, wages, [ bonuses, commissions, ] income from self-employment, alimony, support money, cash public assistance and relief, the net amount of any pensions or annuities including railroad retirement benefits, all benefits received under the Federal Social Security Act (except Medicare benefits), all benefits received under State employment insurance laws and veterans' disability payments, all interest received from the Federal or any State government, or any instrumentality or political subdivision thereof, [ realized capital gains, ] net income from rentals, workmen's compensation, *interest and dividends, and any regular and periodic monetary contributions from a non-household member.* [ and the gross amount of loss of time insurance benefits, life insurance benefits and proceeds (except the first ten thousand dollars (\$10,000) of the total of death benefit payment), and gifts of cash or property (other than transfers by gift between members of a household) in excess of a total value of five hundred dollars (\$500), but ] *Income shall not include overtime; back pay; severance pay; bonuses; tuition reimbursements; loan disbursements; federal or state income tax refunds; lump sum payments of benefits such as loss of time insurance benefits, death benefits, life insurance benefits and other insurance proceeds; Supplemental Nutrition Access Program ("SNAP") benefits or any other form of surplus food or other relief in kind supplied by a governmental agency; or property tax rebate.*

(b) *Total Household Income means all income received by the taxpayer and members of his or her household while residing in the homestead.* [ Household income for the calendar year 1981 and thereafter means all income received by the taxpayer and members of his or her household while residing in the homestead during the calendar year preceding the calendar year in which real property taxes are due and payable. ]

(c) Homestead means a dwelling used as a home, occupied by a taxpayer. A homestead shall also include mobile homes which are assessed as realty for local property tax purposes and the land upon which the mobile home is situated and other similar living accommodations, as well as a part of a multi-dwelling or multi-purpose building and a part of the land upon which it is built to the extent that the eligible taxpayer is chargeable by the City for property taxes. It shall also include premises occupied by an eligible taxpayer if he is required "by law" to pay a property tax by reason of his ownership or rental (including a possessory interest) in the dwelling, the land, or both; provided that the term "by law" shall not be deemed to include a contractual obligation between the eligible taxpayer and a person who would otherwise be responsible to the City for the payment of the tax. [ An owner includes a person in

## City of Philadelphia

BILL NO. 120054-A continued

Certified Copy

possession under contract of sale, deed of trust, life estate, joint tenancy or tenancy in common. ]

[ (d) Low income taxpayer means a taxpayer whose household income did not exceed the following limits:

- (1) For the calendar year 1981:
  - (a) one member in household – \$15,000;
  - (b) two members in household – \$15,500;
  - (c) three members in household – \$16,200;
  - (d) four members in household – \$17,900;
  - (e) five members in household – \$18,950;
  - (f) six members in household – \$20,000;
  - (g) seven members in household – \$21,050;
  - (h) eight members in household – \$22,100;
  - (i) nine members in household – \$23,150;
  - (j) ten or more members in household – \$24,200.

(2) For each ensuing calendar year, each income limitation in subsection (.1) of subsection (d) shall be adjusted upward by a percentage equal to three quarters of the percentage increase in the cost of living index for the Philadelphia metropolitan area in the previous calendar year. ]

(c) *Department shall mean the Philadelphia Department of Revenue, its officers, agents and employees. The term shall also include co-counsel or other entities hired or retained by the City of Philadelphia to collect property taxes owed to the City of Philadelphia. The term shall also include the Law Department or any other department or office of the City of Philadelphia, its officers, agents and employees to the extent that it is engaged or involved in the collection of property taxes covered by this Act.*

(d) *Owner shall mean both (a) an owner of record, as recorded with the Department of Records, and (b) an equitable owner, defined as a person who can demonstrate an ownership interest in a property as provided by law. An equitable owner includes, but is not limited to: a person who has inherited an interest in a property; a*



## City of Philadelphia

BILL NO. 120054-A continued

Certified Copy

*person who has entered into a contract to purchase a property; and a person who was the owner of record before a fraudulent conveyance of the property. The term "owner" shall also include a person who is a trust beneficiary and a person holding a partial ownership interest in a property such as tenancy by the entireties, joint tenancy, tenancy in common, and life estate.*

*(e) Tax liabilities shall mean both property taxes which are delinquent and property taxes which are currently due but not yet delinquent, including but not limited to associated attorneys' fees, eligible expenses, interest and penalties as allowed by law.*

\*\*\*\*

(2) Authorization for Installment Payments; Waiver of Additions to Tax; Abatement of Interest and Penalties *and Requiring Commencement of Enforcement Action.*

[ (a) Installment payment agreements with low income taxpayers are authorized for amounts due on current real estate tax liabilities on the homesteads of low income taxpayers for a term not to extend beyond December 31 of the tax year. Notwithstanding any provision of this Title to the contrary, the Department of Revenue shall waive, in accordance with rules and regulations adopted pursuant hereto, any additions to a current tax liability due on the homestead of a low income taxpayer who enters an installment payment agreement with the Department, provided that the terms of the agreement are fully complied with by the taxpayer. In order to qualify for relief pursuant to this subsection, the taxpayer shall make application to the Department no later than the 31st day of March of the year in which the tax is due and payable. Provided however that any taxpayer qualified under subsection (2) shall have until June 30, 1982 to choose to be covered hereunder without additional penalty.

(b) Installment payment agreements with senior citizen low income taxpayers are authorized for amounts due on current real estate tax liabilities on the homestead of senior citizen low income taxpayers for terms extending beyond December 31 of the tax year, provided, however, that a senior citizen low income taxpayer must acknowledge in writing that he or she understands that entering into an installment payment agreement for a term extending beyond December 31 of the tax year will (1) jeopardize entitlement to the Pennsylvania Senior Citizen Real Property Tax Rebate, and (2) result in a lien against the homestead. Notwithstanding any provision of this Title to the contrary, the Department of Revenue shall waive, in accordance with rules and regulations adopted pursuant hereto, any additions to a current tax liability due on the homestead of a senior citizen low income taxpayer who enters an installment payment agreement with the Department, provided that the terms of the agreement are fully complied with by the taxpayer. Notwithstanding any provision of this Title to the contrary, any interests and penalties which shall accrue or become due and payable by any senior citizen low income taxpayer shall be abated upon successful completion of an

# City of Philadelphia

BILL NO. 120054-A continued

Certified Copy

installment payment agreement. The Department of Revenue shall suspend further collection proceedings against a senior citizen low income taxpayer during the term of an installment payment agreement, provided that the terms of the agreement are fully complied with by the taxpayer. In order to qualify for relief pursuant to this subsection, the taxpayer shall make application to the Department no later than the 31st day of March of the year in which the tax is due and payable, provided however, that said senior citizen taxpayer shall have until June 30, 1982 in calendar year 1982 to make application hereunder without addition or penalty. ]

*(a) Universal Applicability. This chapter, and all regulations and policies adopted pursuant to it, shall apply equally to the Department of Revenue, the Law Department of the City of Philadelphia, the Philadelphia Tax Review Board, any other department, agency, office or employee of the City seeking to enforce or collect property taxes, and all co-counsel or other businesses or parties hired or retained by the City to collect property taxes.*

*(b) Warning of Risk of Tax Foreclosure Action.*

*(.1) First Notice. Should a taxpayer not remit payment for current year real estate tax liabilities or enter into a payment agreement by March 31st of such tax year, within sixty (60) days the Department shall send the taxpayer a Warning of Risk of Tax Foreclosure Action containing the following information:*

*(.a) a brief description of any possible legal action and its consequences, including a clear and conspicuous statement that the taxpayer will become in danger of losing his or her home or property if he or she does not act; as to homestead properties, a statement of the right of the taxpayer to enter into an income-based payment agreement for all real estate tax liabilities on the taxpayer's homestead property; as to non-homestead properties, a statement of the right of the taxpayer to request consideration for a payment agreement for all real estate tax liabilities on the taxpayer's non-homestead property; a brief description of the available payment agreements, the steps the taxpayer must take to enter into such an agreement, and the deadline for doing so; and a brief description of any non-principal additions, charges, fees, penalties, or interest that may be imposed if the real estate tax liabilities remain outstanding;*

*(.b) the amount of current year real estate tax liability;*

*(.c) the amount of any prior year real estate tax liability, specifically indicating the amounts of such prior year liability that are principal, interest, penalty, and attorney's fees as well as any other amounts or fees;*

## City of Philadelphia

BILL NO. 120054-A continued

Certified Copy

*(d) the total amount required to pay off the tax liability in full, the date by which it must be paid, the addresses where payments can be made, and accepted forms of payment;*

*(e) a statement explaining the types of other City-related debt that may be capable of being liened against a property including, without limitation, water and sewer rent, nuisance and demolition fees and fines, and a brief explanation of how the taxpayer may request confirmation as to the existence and amounts of any such debt;*

*(f) brief, accurate information about available assistance programs including homestead exclusions, tax rebates, and tax relief; and*

*(g) lists of the free housing counseling agencies and the legal services agencies that have been trained in assisting with delinquent real estate tax matters related to homesteads and may be available to assist the taxpayer, including addresses and phone numbers.*

*(2) Second Notice. Should a taxpayer not respond to such Notice of Risk of Foreclosure Action within ninety (90) days of the date of the notice, the Department shall send a second notice containing the same information required under subsection (1) and any updates thereto, and a warning that the City may commence foreclosure proceedings against the taxpayer should he or she not pay the outstanding real estate tax liabilities or enter into a payment agreement by December 31 of such year.*

### *(c) Information for Taxpayers.*

*(1) When a taxpayer contacts the Department regarding real estate tax liabilities the Department shall ask if the property is the taxpayer's residence, and shall provide the following information:*

*(a) If the taxpayer claims to reside in the property, the Department shall inform the taxpayer of the steps to apply for homestead recognition, the right to an income-based payment agreement for homestead properties and the steps to apply for such payment agreements, and the availability of free advice and assistance from housing counseling agencies and legal services agencies for taxpayers who are eligible. The Department shall also provide written information regarding the payment agreement options for homesteads, as well as a list, including addresses and phone numbers, of housing counseling agencies and legal service agencies available to assist the taxpayer.*

*(b) If the taxpayer claims not to reside in the property, the Department shall inform the taxpayer of the right to request consideration for a payment agreement and the steps to apply for consideration for such payment agreements.*

## City of Philadelphia

BILL NO. 120054-A continued

Certified Copy

(.2) *Information Available Online.* The Department shall clearly and conspicuously post information regarding the available payment agreements and assistance programs on its website. Such information shall summarize the program and terms of the agreements and the eligibility requirements. It shall include a question-and-answer section as well as application forms, sample agreements, and copies of all notices provided for in this Chapter. The Department's website shall also clearly and conspicuously post contact information, including addresses and phone numbers, for housing counseling agencies and legal service agencies that may be available to advise or assist eligible taxpayers.

(.3) *Language Access/Non-English Speakers.* Consistent with applicable law and policy, the Department shall take reasonable steps to ensure meaningful access to payment agreements for Limited English Proficient (LEP) persons. Such steps shall include providing copies of all vital documents in English and Spanish, both on-site and on-line translations of all vital documents, including notices and agreements, as well as providing translated "taglines" on all English language notices, and advising LEP persons that telephone interpreter services are available at the Department.

(.4) *In-Person Meeting.* Any taxpayer seeking to enter into a payment agreement related to real estate tax liabilities shall have a right to an in-person meeting with the Department for the purpose of evaluating the taxpayer's payment agreement options and may have a housing counselor, attorney, or interpreter present to assist the taxpayer in such a meeting.

(d) *Homestead Payment Agreements.* Payment agreements with taxpayers are authorized for all amounts due on real estate tax liabilities on the homesteads of taxpayers, subject to the following terms and conditions:

(.1) *Eligibility.* Eligibility for a payment agreement under this Section and for placement in any particular Tier under this Section, shall be understood in all cases to require showing of financial hardship or inability to pay, based on individual circumstances. Taxpayers may be required to demonstrate proof of ownership including equitable ownership, residency, and up to two months of household income in order to be found eligible for a homestead payment agreement, provided however that a taxpayer shall not be required to liquidate any assets, including other real property, in order to qualify for a homestead payment agreement. The Department shall promulgate a list of documents that shall be accepted as proof for the purposes of this Section. The Department may also request a taxpayer's most recent federal tax return if applicable and, for good cause, such additional information as may be necessary to determine eligibility.

(a) *Eligibility for Equitable Owners.* Taxpayers who are equitable owners may qualify for payment agreements, provided that the Department may

## City of Philadelphia

BILL NO. 120054-A continued

Certified Copy

*discontinue such agreements after three years if it determines that the taxpayer has not made a good faith effort to obtain record title to the property covered by the agreement. The Department shall notify the taxpayer in writing of this obligation to seek title at the time of the signing of the agreement.*

*(b) The Department may deny a taxpayer's eligibility for a payment agreement for good cause, provided that such denial may be appealed pursuant to subsection (5)(a) of this Section. A taxpayer who is otherwise eligible for a payment agreement under this section shall not be denied a payment agreement based on the taxpayer's default or failure to comply with a payment agreement executed prior to the effective date of this section.*

*(.2) Payment agreements shall provide for payment of 100% of all tax liabilities, including capitalized additions, owing through the date of the agreement or March 31 of the year of the agreement, whichever is later, less any waiver of interest or penalties as provided in subsection (.5), below.*

*(.3) Monthly Payments Based on Income: Monthly payment amounts due pursuant to homestead payment agreements shall be based upon the taxpayer's monthly household income as a percentage of Area Median Income as determined annually by the United States Department of Housing and Urban Development, as follows, and shall not require initial lump sum payments or down payments unless elected by the taxpayer:*

*(a) Tier 1. For taxpayers with monthly household income above seventy percent (70%) of Area Median Income, payment agreements shall be made available at the discretion of the Department, provided that the Department shall take into consideration evidence of financial hardship submitted to it by the taxpayer.*

*(b) Tier 2. For taxpayers with monthly household income ranging from greater than fifty percent (50%) up to and including seventy percent (70%) of Area Median Income, payments shall equal ten percent (10%) of such monthly household income;*

*(c) Tier 3. For taxpayers with monthly household income ranging from greater than thirty percent (30%) up to and including fifty percent (50%) of Area Median Income, payments shall equal eight percent (8%) of such monthly household income;*

*(d) Tier 4. For taxpayers with monthly household income at or below thirty percent (30%) of Area Median Income, payments shall equal five percent (5%) of such monthly household income, provided that twenty-five dollars (\$25) is the minimum monthly payment;*

## City of Philadelphia

BILL NO. 120054-A continued

Certified Copy

*(e) Individual Financial Assessment. Taxpayers may request an individual financial assessment comparing household income and expenses, and may elect such an alternative payment amount provided that twenty-five dollars (\$25) is the minimum monthly payment.*

*(.4) Payment Agreements for Current Real Estate Tax Liabilities. Payment agreements for current year real estate tax liabilities are specially authorized for taxpayers who are senior citizens and taxpayers with monthly income up to and including fifty percent (50%) of Area Median Income for a term not to extend beyond December 31 of the tax year, except that a longer term may be granted at the discretion of the Department. Notwithstanding any provision of this Title to the contrary, for applications received no later than the 31<sup>st</sup> day of March of the year in which the tax is due and payable, the Department of Revenue shall waive any additions to a current tax liability due on the homestead of a taxpayer who enters into a payment agreement pursuant to this subsection, provided that the terms of the agreement are fully complied with by the taxpayer. Notwithstanding any provision of this Title to the contrary, any interest and penalties related to current year tax liabilities which shall accrue or become due and payable by any taxpayer shall be abated upon successful completion of a payment agreement entered into pursuant to this subsection.*

*(.5) Senior citizens and people with disabilities age 18 and older who are eligible for the Pennsylvania Senior Citizen Real Property Tax Rebate ("the rebate") shall be permitted to voluntarily assign the rebate they are entitled to receive to the Department to be credited against their property tax liabilities. The Department shall promulgate such regulations, rules, written policies, forms and other documentation deemed necessary to enable the assignment of such rebates to the Department.*

*(.6) Completion of Agreements; Forgiveness.*

*(.a) A payment agreement shall be considered completed upon payment of all tax liabilities, as provided in subsection (.3), above, less a waiver of interest or penalties, as follows:*

*(i) For taxpayers in Tier 1, no waiver of interest or penalties accrued as of the date of the agreement.*

*(ii) For taxpayers in Tier 2, waiver of one hundred percent (100%) of penalties accrued as of the date of the agreement.*

*(iii) For taxpayers in Tier 3, waiver of one hundred percent (100%) of penalties and fifty percent (50%) of all interest accrued as of the date of the agreement.*

## City of Philadelphia

BILL NO. 120054-A continued

Certified Copy

*(iv) For taxpayers in Tier 4, waiver of one hundred percent (100%) of penalties and one hundred percent (100%) of interest accrued as of the date of the agreement.*

*(v) For taxpayers who request an individual financial assessment under subsection (2)(d)(.3)(e), the amount of waiver of interest and penalties shall be determined by the Tier in which their monthly household income falls.*

*(b) Notwithstanding any provision of this Title to the contrary, within thirty (30) days of a taxpayer, who is enrolled in an income-based payment agreement, making all payments required thereunder, the Department shall:*

*(i) immediately waive, forgive, and abate all interest and penalties, as provided for in subsection (a), above;*

*(ii) certify that the entire real estate tax liability is paid in full;*

*(iii) correct any records (written, computerized, or otherwise) the City maintains regarding the taxpayer's account to reflect that the account is current; and*

*(iv) inform the taxpayer in writing by first-class mail that his or her real estate tax account is current and that the outstanding tax liabilities are paid in full.*

*(e) Non-Homestead Payment Agreements. Payment agreements with taxpayers are authorized for all amounts due on real estate tax liabilities on properties other than homesteads, in the discretion of the Department.*

*(f) Terms of Payment Agreements.*

*(.1) Maintenance of Current Taxes. While enrolled in a payment agreement pursuant to this Section, a taxpayer is obligated to pay the current year real estate taxes that come due and owing during each subsequent year, which payment may be made either by a lump sum payment or installment payment agreement as permitted by law, but which payment may not be made pursuant to a payment agreement under this Section, other than an installment payment agreement as provided for under subsection (2)(d)(.4). Nothing in this paragraph shall preclude a taxpayer enrolled in a payment agreement pursuant to this Section from entering into a deferral of taxes under Section 19-1307.*

## City of Philadelphia

BILL NO. 120054-A continued

Certified Copy

(2) *Tolling of Charges.* While a taxpayer is making payments toward real estate tax liabilities under a homestead payment agreement, all amounts for additions, interest, penalties, fees, and other charges provided for under § 19-1303 will be tolled and shall not continue to accrue after the date of the agreement, provided, however, that such amounts will be added to the taxpayer's total liability should he or she fail to successfully complete the payment agreement.

(3) *Application of Payments.* Notwithstanding any provision of this Title to the contrary, unless otherwise provided in any applicable bond covenants, payments made pursuant to a payment agreement shall be credited to the taxpayer's delinquent account as follows:

(a) *Until such time as the total principal included in the taxpayer's payment agreement is repaid, one hundred percent (100%) of all payments made under the terms of such agreement shall be credited and accounted toward such total principal amount and any associated attorneys' fees, in the same proportion as the two liabilities bear to each other. No part of any payment made under the agreement may be used to pay or reduce other amounts demanded as due under § 19-1303, including, but not limited to, charges for additions, interest and penalties, or other fees, until such time as the taxpayer shall have made payments equal to the amount of the total principal due; provided that the Department may, by regulation, provide that payments may be allocated to reimbursable expenses prior to, or after, any allocation to principal and associated fees.*

(4) *Payment Agreements in Writing.* All payment agreements shall be in writing and a copy provided to the taxpayer. All agreements shall include but are not limited to the following terms:

(a) *the monthly payment amount;*

(b) *the payment due date;*

(c) *the specific address to which payment should be mailed as well as a location where payments may be made in person;*

(d) *the length or period of the agreement including the number of payments;*

(e) *the total amount agreed as due under the agreement;*

(f) *a statement of the delinquent tax years covered by the agreement as well as an itemization of the amounts due for each year specifying amounts due for principal, interest, penalties, attorney's fees and other costs or charges;*



# City of Philadelphia

BILL NO. 120054-A continued

Certified Copy

*(g) the requirement of maintenance of current property tax payments during the length of the agreement as well as an explanation of how current payments should be tendered to the Department in order to avoid misapplication of payments to delinquent tax years.*

*(h) a brief explanation regarding how payments will be applied to the delinquency;*

*(i) a brief explanation of the consequences of breach and default on agreement including possible legal action;*

*(j) a brief explanation of the taxpayer's right to cure payments missed under the agreement as well as the specific address to which cure payments should be sent;*

*(k) a brief explanation of conditional forgiveness, if applicable, and the effect of completion of the agreement; and*

*(l) a brief explanation of any additional terms or requirements, including recertification of eligibility if applicable.*

*(.5) Prohibition against Stipulated or Consent Judgments Relating to Homesteads. No payment agreement under this Section for tax liabilities due on a homestead shall contain a term requiring the taxpayer to stipulate or consent to judgment being entered against him or her in any legal action filed to collect delinquent property taxes or any other liens pertaining to his or her homestead.*

*(.6) No Waiver of Defenses. No payment agreement under this Section for tax liabilities due on a homestead shall contain a term requiring the taxpayer to waive or release all defenses or claims which the taxpayer may have in any legal action filed to collect delinquent property taxes or any other liens pertaining to his or her homestead, provided that the Department may require the taxpayer to stipulate to the total amount of tax liabilities owed.*

*(.7) The Department shall promulgate standards governing stay, postponement, and holds of pending enforcement actions to allow taxpayers time to apply for and enter into payment agreements, and to seek legal representation or assistance from housing counselors. The Department shall also promulgate standards regarding circumstances under which pending enforcement actions shall be discontinued after a taxpayer enters into a payment agreement.*

*(.8) Modification of Agreements. Upon written request of the Department no more frequently than once per year, a taxpayer must re-certify to the Department his or her income and eligibility, and the payment agreement shall be modified accordingly.*

# City of Philadelphia

BILL NO. 120054-A continued

Certified Copy

*A taxpayer may request a modification of his or her payment agreement due to a change in income or other exigent circumstances, and such a request timely received shall not constitute a breach of that agreement.*

### (3) Rules and Regulations.

(a) The Revenue Commissioner [ may prescribe ] *shall promulgate* such rules, [ and ] regulations, *written policy, forms, and other documentation* as are deemed necessary to effectuate the purpose of this Section, *including a schedule of documentation that shall be accepted as proof of equitable ownership.* [ including but not limited to rules and regulations to establish the forms and/or procedures:

(i) To enter into installment payment agreements; and

(ii) To obtain recognition as a low income or senior citizen low income taxpayer.

(4) An application made by completing the forms provided for under subsections (3)(a)(i) and (3)(a)(ii) shall become effective immediately upon filing, with no requirement for approval by the Department of Revenue.

### (5) ] (4) Prohibited Conduct [; Penalties and Additions ].

(a) *False Statements.* No person shall intentionally make any false statement when applying to enter into an installment payment agreement [ , to obtain waiver, or to be recognized as a low income taxpayer ]. If it is determined that a taxpayer entered into an installment payment agreement [ , received a waiver, or was recognized as a low income taxpayer ] on the basis of *an intentionally* false statement, the agreement shall be null and void [ , and the applicant shall be required to pay the City the outstanding tax liability and any additions to tax waived by the Department as a result of said statement ].

[ (b) If a taxpayer who has entered into an installment payment agreement breaches that agreement and fails to cure the breach within a reasonable period of time established by the Department, the agreement shall be null and void. ]

(b) *Material Breach:* A taxpayer may be declared in material breach of a payment agreement if the taxpayer fails to make a required payment, provided material breach may not be declared earlier than the sixty-fifth (65<sup>th</sup>) day from the agreed-upon payment due date and the forty-fifth (45<sup>th</sup>) day from the mailing of a notice of risk of material breach, and subject to the following terms and conditions:

(.1) *Notice of Risk of Material Breach.* If a taxpayer fails to make a required payment within twenty (20) days of an agreed-upon payment due

## City of Philadelphia

BILL NO. 120054-A continued

Certified Copy

*date, the Department shall send a notice including a clear statement that the taxpayer is at risk of material breach, the entire amount required to cure the missed payment(s) as well as any payments currently due, the location where this amount may be tendered and the form(s) of payment accepted, and the process to seek a modification of the agreement based on a change in income or other exigent circumstances and any applicable deadlines to seek such a modification. The risk of material breach notice shall also state the date on which the agreement will be considered in material breach, and a brief description of the consequences of material breach of a payment agreement. If a taxpayer has two prior material breaches of a payment agreement, the notice shall additionally include a clear statement that a third material breach will put the taxpayer at risk of default and a brief description of the consequences of default.*

*(.2) Notice of Material Breach. If a taxpayer is declared in material breach of a payment agreement, the Department shall send a notice including a clear statement that the taxpayer has been declared in material breach, the date on which the material breach was declared, the entire amount required to cure the missed payment(s) as well as any payments currently due and lump sum payments that may be required, the location where this amount may be tendered and the form(s) of payment accepted, and the process to seek a modification of the agreement based on a change in income or other exigent circumstances and any applicable deadlines to seek such a modification. The material breach notice shall also include a brief description of the consequences of material breach of a payment agreement. If a taxpayer has two prior breaches of a payment agreement, the notice shall additionally include a clear statement that a third breach will put the taxpayer at risk of default and a brief description of the consequences of default.*

*(.3) Reinstatement Following Material Breach. To reinstate a payment agreement that has been materially breached, a taxpayer may be required to make a lump sum payment equal to as much as twice the regular monthly payment due.*

*(c) Default. Following the effective date of this section, a taxpayer may be declared in default by written notice sent to the taxpayer after either having failed to cure a material breach within forty-five (45) days of the date the taxpayer is declared in material breach or after having materially breached a payment agreement a third (3<sup>rd</sup>) time following two (2) cured material breaches within a thirty-six (36) month period. If a taxpayer is declared in default of a payment agreement such agreement shall be null and void. A taxpayer who has defaulted pursuant to this Section will not be entitled to additional agreements under this Section, provided that the Department may at its discretion approve additional agreements on terms which it deems suitable. The Department's refusal to approve additional agreements following default shall not be subject to administrative review or appeal.*

# City of Philadelphia

BILL NO. 120054-A continued

Certified Copy

(d) *Effect of Cure.* If payment or action sufficient to cure is received by the Department before a taxpayer is declared in material breach and/or default, the Department shall not declare the taxpayer in material breach and/or default and the payment agreement shall remain in effect, except that a payment received after a third declaration of material breach shall not preclude or cure a declaration of default.

(e) *Commencement of Enforcement Action.* In the case of taxpayers who do not enter into a payment agreement or otherwise satisfy outstanding liabilities by December 31 of the first year in which the tax is registered as delinquent, and in the case of taxpayers who default on payment agreements, the Department shall timely take all steps as provided for in the Act of 1923, May 16, P.L. 207, No. 153, § 39.4, as amended, 53 P.S. § 7193.4, or elsewhere.

(5) Review by Tax Review Board.

(a) [ The Tax Review Board is authorized to review any adverse final decision or determination of the Department relating to an individual's *initial and* continued eligibility for a waiver as provided herein, in like manner and with the same effect as a petition for waiver of interest and penalties, as provided in Chapter 19-1700 of this Title.

(b) ] The Tax Review Board is authorized to review any adverse final decision or determination of the Department relating to initial or continued eligibility for [ recognition as a low income taxpayer ] a *payment agreement* or to the taxpayer's performance of his or her obligations under [ an installment payment ] a *payment agreement* with the same effect as a petition for review pursuant to Chapter 19-1700 of this Title.

(6) *Access to payment history.*

(a) *Upon request, any taxpayer shall be provided a payment history or account history regarding his or her real estate tax payments.*

(b) *The Department shall make available in its offices and on its website a form for making such a payment history request; must accept such requests by mail, hand-delivery, or email; and must clearly indicate on the request form how to submit a request through each such means.*

(c) *Within thirty (30) days of receiving a payment history request from a taxpayer, the Department must send the taxpayer a payment history for the subject property setting forth:*

(.1) *the amount of current year real estate tax;*

(.2) *the amount of any prior year real estate tax liability, specifically indicating what amount of such prior year liability is principal, penalty, interest, and other eligible expenses including attorney's fees and costs; and*

# City of Philadelphia

BILL NO. 120054-A continued

Certified Copy

(.3) *the taxpayer's real estate tax payment history, including how each such payment by the taxpayer was applied (i.e., to principal, penalty, or interest).*

(d) *Such payment history shall be sent to the taxpayer through the means selected by the taxpayer on the request form, which must include the option of first class mail or email.*

(7) *Reporting.*

(a) *By January 31 of each year, the Department shall submit a written report to the Mayor, with a copy to the President and Chief Clerk of Council, regarding activities undertaken pursuant to this Section during the previous calendar year.*

(b) *Each such report shall include the following information for the twelve-month period covered:*

(.1) *the total number of delinquent accounts broken down by homestead and non-homestead and an aged accounts receivable for such accounts in the aggregate, breaking out amounts due for principal, penalty, and interest;*

(.2) *the number of notices sent pursuant to subsection (2)(b) and how many taxpayers contacted the Department in response to such notices, broken down by homestead and non-homestead;*

(.3) *how many taxpayer contacts resulted in new payment agreements being made and a breakdown of such payment agreements by type, term, and amount of liability covered;*

(.4) *how many taxpayer contacts did not result in payment agreements being made and a breakdown of the reasons for the same (e.g., lack of title, failure of taxpayer to follow up, and so on);*

(.5) *the total number of taxpayers referred by the Department to housing counseling agencies or legal services agencies including a breakdown of the number of referrals to each agency;*

(.6) *the total number of existing payment agreements and a breakdown of such payment agreements by type, term, and amount of liability covered, which liability shall be further broken down into principal, interest, penalties, and other fees or costs; and*

# City of Philadelphia

BILL NO. 120054-A continued

Certified Copy

*(7) the total number of payment agreements on which taxpayers defaulted during the applicable period and the reason(s) for the default.*

SECTION 2. This Ordinance shall be effective October 15, 2013.

---

**Explanation:**

[Brackets] indicates matter deleted.  
*Italics* indicate new matter added.

# City of Philadelphia

BILL NO. 120054-A continued

Certified Copy

## City of Philadelphia

BILL NO. 120054-A continued

Certified Copy

**CERTIFICATION:** This is a true and correct copy of the original Bill, Passed by the City Council on June 6, 2013. The Bill was Signed by the Mayor on June 17, 2013.



**Michael A. Decker**  
Chief Clerk of the City Council



**Background- RETSL =Real Estate Tax Sale Law**

**TCB = Tax Claim Bureau**

**Followed by all counties in PA, except Philadelphia County, Allegheny County and the City of Scranton**

### **Statistics for Berks County**

#### **CURRENTLY UNDER RETSL (REAL Estate Tax Sale Law)**

**157,000 properties in Berks County that are taxable**

**10,000 properties are turned over delinquent each year\*\*\*\*Of that 10000- 2500 are located in the City of Reading (an economically depressed city)**

**A Property is first exposed to the Upset Sale (21 months after it is turned over to tax claim bureau)**

**Berks County exposes approx 300 properties to its Upset Sale, therefore 9700 properties either paid the taxes, are on Agreements (currently have 1800 agreements), or filed bankruptcy**

**(26-30 months) after delinquency – a property is exposed to Judicial (Free & Clear) sale- Berks County exposes approx 150 properties to free & clear sale**

**Therefore Berks County has a 98 ½ % collection rate**

**Tax Claim collects 50% the first year and 50% during the second year**

### **Collection:**

**For calendar year 2012, Berks County Tax Claim received unpaid 2011 taxes totaling \$23.98 million**

**For calendar year 2012 Berks County Tax Claim collected \$24.7 million in real estate taxes. (5% of 24 million is \$1.2 million, tax claim expenses are \$1 million)**

### **Benefits to Keep RETSL:**

- 1) Cashflow**
- 2) Only 100-150 homes are exposed to a tax sale – idea is to collect taxes not sell homes**
- 3) Cost to tax claim bureau's is reasonable/affordable, tax claim keeps 5% commission which allow tax claim to function as the central collector for the county**

To implement HB1409, the TCB cost and workload would increase dramatically:

**1) Title Searches HB 1409 Section 9008 (a)**

Currently, under RETSL, Judicial Sale process starts at 22 months, title searches ordered on approx. 250 properties (approx 3 months to complete) and the total cost is \$40,000.00

Under HB1409 Judicial Sale process would start at 12 months, title searches would be ordered on approx 7000+ properties at \$150 each (\$1 million). Another concern is hiring a title company to conduct 7,000 title searches? Hiring someone to review 7000 title searches?

**2) Notices are mailed certified/restricted delivery at approx \$9.54 per piece**

Currently, under RETSL I mail Notice of Upset Tax Sale to all owners on record (Berks County mailed 3,892 notices, 1900 WERE RETURNED UNCLAIMED (cost was \$37,129.60)

Under HB 1409 Section 9008 (a) notice will need to be sent to all owners and ALL INTERESTED parties (all mortgage companies, lien holders, judgments holders) I'm not sure how to predict how many notices would be mailed? I will need to document how many notices were mailed for each property so that I may properly charge each account accurately

HB 1409 Section 9008(a)(3)(v) I will have less than 60 days to complete the additional notification section , because the Petition will be filed 60 days after the notice is mailed

Also, if I have 2500 properties on my list in the city of Reading with unpaid water liens, I will need to mail 2,500 certified mail notices to the Reading Area Water Authority?

**3) Sheriff Posting and Services**

Under HB1409 section 9008(a)(1)(iv) property to be posted . My Sheriff would have a 60 day window to post 5000+ properties

Currently under RETSL, my Sheriff Post 2800 properties and cost is \$100,000 and it takes 75 days to complete

Under HB1409 section 9008(c)(2) Service of the Rule is to be completed in 30 days (approx 2500+ properties).

Currently, under RETSL my Sheriff takes 90 days to serve the rule for approx 250 properties

**4) Redemption Amount/Final Order- HB1409 Section 9009 (a)**

Once Petition and Rule are filed and before court order is issued- Taxpayer may redeem property by paying "Redemption Amount"- this is the amount of all delinquent taxes in system (this could be 2yrs worth of back taxes plus the current taxes (how is the tax claim bureau suppose to collect

current taxes when tax collectors do that?) (also, how are we going to make delinquent taxpayer pay 3 years worth of taxes when they could not afford to pay one)

**\*\*I believe, the taxpayer should only have to pay the delinquent taxes subjecting them to sale in order to be removed as indicated on Notice of Judicial Sale Action**

**Once Order is executed/filed no redemption is allowed.**

If my Order is executed in May and my sale is not until July. I cannot accept any payments during this time period? Currently, under RETSL, I collect approx \$1 million the 2 days before my Upset Tax Sale.

### **5)Hardship Payment Plan**

**HB1409-Section 9008(a)(3)(vi)/9014 (c) taxpayer must apply for hardship payment plan WITHIN 30 days from the date the notice is mailed**

I don't believe this is enough time to allow taxpayers or tax claim bureau's to implement. (I mail 3900 notices on July 1 and I receive unclaimed notices until mid September from my post office. Under this bill, the volume of notices will increase drastically therefore it will take taxpayers longer to receive them.

The hardship plan requires a lot of paperwork and approval

Currently I have 1800 taxpayers on a payment plan in Berks County

**Section 4 . This bill is to be effective 60 days after signed. We need to address all the delinquent taxes that are currently with tax claim bureau's in different stages? Maybe the bill should be effective for the unpaid 2013 real estate taxes being turned over to the tax claim bureau's in January 2014?**