

VALIDATE CERTAIN PROCEEDINGS FOR MUNICIPAL IMPROVEMENTS

Act of Jul. 26, 1961, P.L. 882, No. 380

Cl. 53

AN ACT

To validate certain proceedings for municipal improvements, municipal assessments, municipal claims, and municipal liens in the several cities of the third class, boroughs, and townships of this Commonwealth; and validating such improvements, assessments, claims, and liens; providing for the filing of claims and liens therefor, and the proceedings for the collection of such assessments, claims, and liens.

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

Section 1. Whenever, heretofore, the council of any city of the third class or of any borough, or the board of commissioners of any township of the first class or the board of supervisors of any township of the second class of this Commonwealth has authorized by ordinance the grading, curbing, guttering, paving or macadamizing with concrete, brick, stone or other suitable material of any public street or thoroughfare, or portion thereof, either cartway, footwalk or gutter; and has caused such improvement to be made; and in such ordinance has authorized the advertising for bids therefor; and the assessment of benefits on the front foot rule or otherwise upon the property benefited thereby; and subsequent thereto pursuant to an ordinance passed, after the passage and approval of the original ordinance providing for the improvement, has authorized the entering into a contract for the said improvement with the Secretary of Highways of the Commonwealth of Pennsylvania and with the general contractor, who was the successful bidder with the Commonwealth for the construction of any portion of such streets or highways, without any advertising for bids on the part of the city, borough or township as provided for in the original ordinance authorizing such improvement; and has subsequent thereto brought proceedings for the appointment of viewers to assess benefits for the said improvements against the property abutting along the line of improvement in accordance with the provisions of the original ordinance authorizing the said improvement; or has by ordinance provided for the assessment against abutting property owners of benefits on the front foot rule or otherwise for such improvement; or whenever, heretofore, the council of any city of the third class or of any borough, or the board of commissioners of any township of the first class, or the board of supervisors of any township of the second class, of this Commonwealth has required by ordinance and caused to be made graded, paved, curbed or macadamized with brick, stone or other suitable material, or otherwise improved any property or public street or thoroughfare, or part thereof, either cartway, footwalk or gutter; or has covered or enclosed any watercourse or waterway in any street or thoroughfare so as to improve or extend and increase the driveway in any street or thoroughfare;

or has vacated, confined, paved or altered the channel of any watercourse or waterway; or has caused any sewers whatsoever to be constructed within or without any such city, borough or township; or has caused ornamental lights to be erected pursuant to any ordinance; or has heretofore in accordance with existing law assessed a portion of the cost of such sewer as a sewage tax against property abutting along the line of said improvement on the side of said street, alley or highway which is located outside the limits of the said city, borough or township, the owners of such property being given permission by the said city, borough or township to use such sewer, and such property not being then provided with sewer facilities; and has by ordinance provided for the assessment against abutting property owners of benefits on the front foot rule or otherwise for such improvement, but owing to some defect in the petition, action of council or the board of commissioners, or board of supervisors, notice of publication failure to make said improvement in accordance with the strict terms of any ordinance, or any other proceeding or action necessary under existing laws and ordinances to give jurisdiction to such council, board of commissioners or board of supervisors; or because of noncompliance with existing laws as to publication of copies of ordinance and posting of handbills prior to or after the final passage of such ordinance; or because of noncompliance with existing laws as to the purchasing of materials and supplies; or the awarding of contracts without advertising; or because the ordinance itself or the official record book containing the same has been lost, mislaid or destroyed; or such ordinance has not been transcribed in the official record book; or because of irregularity or error in the appointment of viewers to assess benefits against property abutting along the line of improvement; or because of the neglect of viewers, appointed to assess damages and benefits caused or accruing as a result thereof, to file their report within the time required by law for the filing thereof; or because of irregularity or error in the method or procedure taken for the ascertainment of the amount of benefits to such property; or because of any irregularity or error in the ordinances or passage or approval thereof authorizing the execution of the work, the contracting therefor, and the assessing of benefits therefor, or where the right of the board of viewers to assume jurisdiction and to act in assessing the properties benefited thereby is questioned; or because of any irregularity or error in the failure to bring the proceedings for the assessment of benefits on the front foot rule or otherwise for such improvement before the board of viewers within the time provided by law; or the failure to assess the benefits therefor in the manner now provided by law; or because of any irregularity or error in arriving at or determining the benefits assessed against any such property; or because of the failure to give notice as required by law or ordinance; or the time for filing a lien or making claim for such improvement has expired; or the claim has not been filed after notice to do so; or for any other reason the costs of such improvement, or portion thereof, were not or cannot be legally assessed upon the property bounding or abutting on the line of

the improvement or on the street or part thereof improved; or owing to some defect in the statement of claim filed to secure the lien, or the failure of the city, borough or township solicitor to file the lien in the court of common pleas, or to sign the name, or to have stamped thereon a facsimile signature of the said solicitor or chief executive of the claimant for the costs of such improvement, or any error made in the name of the owner or owners of the abutting property along the line of the improvement payment thereof cannot be enforced; or if the ordinance of the city, borough or township, authorizing the construction of any improvement, was in fact adopted before such city, borough or township was legally empowered to make such assessments on property within or outside the limits of such city, borough or township, if such improvement was actually constructed, and such assessments against property within or without the limits of such city, borough or township made subsequent to the time when such city, borough or township was legally empowered to levy such assessments as was contemplated by the act or acts of General Assembly under which the improvement was attempted to be made; and statement of claim filed, now by this act such improvement is made valid and binding and also any statement of claim, heretofore filed, if any, to secure the liens therefor is also made valid and binding, the jurisdiction of any board of viewers hereinbefore mentioned to entertain such proceedings and the assessments made pursuant to such proceedings against property within or without the limits of any such city, borough or township shall be valid and binding, and the council of such city or borough and the commissioners or supervisors of such township may cause the property, bounding or abutting along the line of the improvement or on the street, or part thereof, upon which the improvement has been made or is now being made, to be assessed in the manner now provided by law or by the board of viewers' proceedings in the manner and at the rates now provided by law with such a portion of the costs of such improvement as is contemplated by the law under which the improvement was made, or attempted to be made, or is now being made; and all such benefits and all assessments heretofore made or determined are hereby ratified, confirmed, and validated; and any statement of claims heretofore filed, if any, to secure the liens therefor are also hereby ratified, confirmed, and validated. Such assessment or other assessment heretofore made or hereafter made in proceedings now pending within the time limitations specified in this act shall be a lien upon the property assessed, and any lien heretofore filed for benefits assessed or for the cost of such improvement, or any part thereof, although the report of the viewers assessing the same was not filed within the time required by law for the filing thereof, is hereby made valid and binding with the same force and effect as though such report was filed within the time required by law for filing the same. The lien shall date from the completion of the improvement for which the assessment is made whether the work was completed through one or several operations or contracts, or from the date of filing the same, and shall remain a lien until fully paid and satisfied: Provided, That a writ of scire facias is issued to revive the

same during every period of five years after the lien is filed, as hereafter provided: And provided further, That this act shall not validate any lien against any property which has been conveyed to a bona fide purchaser thereof subsequent to the expiration of the period prescribed by law for the filing of such liens and prior to the date of the filing thereof, or give the lien thus filed priority over any bona fide lien or liens filed, entered or recorded, or which shall have otherwise attached subsequently to the time prescribed by law for the filing of such municipal lien and prior to the time of the filing thereof.

Section 2. The council of any city of the third class, or of any borough, or the board of commissioners of any township of the first class or the board of supervisors of any township of the second class of this Commonwealth, entitled to a lien under this act, shall file a lien therefor, if not heretofore filed, in the office of the prothonotary of the county within which the property lies within six months after the completion of work where the improvement is now in progress, or within twelve months after the confirmation absolute of the report of the viewers assessing the benefits for such improvement whether not or hereafter pending, or within twelve months after the approval of this act where the improvement is now completed if no lien has been heretofore filed for the same, or within twelve months after the passage of any councilmanic ordinance assessing benefits under the provisions of this act where the improvement is already completed, and the same shall be entered upon record as other municipal claims. Such liens shall state the name of the party claimant, which shall be the corporate name of the city, borough or township making the improvement; name of the owner or reputed owner of the property assessed; a reasonable description of the property assessed; the amount or sum claimed to be due which shall include interest on the assessment from the completion of the improvement for what improvement the claim is made; the date of its completion; the date of the assessment for which the lien is filed. Such lien, when so filed, shall be prima facie evidence of all matters therein set forth and of the right of the city, borough or township to recover the amount therein claimed to be due, together with interest from the date of the lien or completion of the improvement, costs, and an attorney's commission of five per centum for collecting.

Section 3. The claim, when so filed, shall be proceeded upon for collection by writ of scire facias: Provided, That this act shall not apply to any proceeding, suit or lien wherein a final order or judgment of any court of record has already been made or entered.