

THE GENERAL ASSEMBLY OF PENNSYLVANIA

# HOUSE BILL

## No. 804

Session of  
1975

INTRODUCED BY DeMEDIO, LAUDADIO, PETRARCA, MRKONIC, NOVAK,  
STOUT, BRUNNER, ENGLEHART, BERSON AND WOJDAK, MARCH 18, 1975

REFERRED TO COMMITTEE ON URBAN AFFAIRS, MARCH 19, 1975

### AN ACT

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

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

10 Section 1. Whenever, heretofore, the council of any city of  
11 the third class or of any borough, or the board of commissioners  
12 of any township of the first class or the board of supervisors  
13 of any township of the second class of this Commonwealth has  
14 authorized by ordinance the grading, curbing, guttering, paving  
15 or macadamizing with concrete, brick, stone or other suitable  
16 material of any public street or thoroughfare, or portion  
17 thereof, either cartway, footwalk or gutter; and has caused such  
18 improvement to be made; and in such ordinance has authorized the  
19 advertising for bids therefor; and the assessment of benefits on  
20 the front foot rule or otherwise upon the property benefited

1 thereby; and subsequent thereto pursuant to an ordinance passed,  
2 after the passage and approval of the original ordinance  
3 providing for the improvement, has authorized the entering into  
4 a contract for the said improvement with the Secretary of  
5 Transportation of the Commonwealth of Pennsylvania and with the  
6 general contractor, who was the successful bidder with the  
7 Commonwealth for the construction of any portion of such streets  
8 or highways, without any advertising for bids on the part of the  
9 city, borough or township as provided for in the original  
10 ordinance authorizing such improvement; and has subsequent  
11 thereto brought proceedings for the appointment of viewers to  
12 assess benefits for the said improvements against the property  
13 abutting along the line of improvement in accordance with the  
14 provisions of the original ordinance authorizing the said  
15 improvement; or has by ordinance provided for the assessment  
16 against abutting property owners of benefits on the front foot  
17 rule or otherwise for such improvement; or whenever, heretofore,  
18 the council of any city of the third class or of any borough, or  
19 the board of commissioners of any township of the first class,  
20 or the board of supervisors of any township of the second class,  
21 of this Commonwealth has required by ordinance and caused to be  
22 made graded, paved, curbed or macadamized with brick, stone or  
23 other suitable material, or otherwise improved any property or  
24 public street or thoroughfare, or part thereof, either cartway,  
25 footwalk or gutter; or has covered or enclosed any watercourse  
26 or waterway in any street or thoroughfare so as to improve or  
27 extend and increase the driveway in any street or thoroughfare;  
28 or has vacated, confined, paved or altered the channel of any  
29 watercourse or waterway; or has caused any sewers whatsoever to  
30 be constructed within or without any such city, borough or

1 township; or has caused ornamental lights to be erected pursuant  
2 to any ordinance; or has heretofore in accordance with existing  
3 law assessed a portion of the cost of such sewer as a sewage tax  
4 against property abutting along the line of said improvement on  
5 the side of said street, alley or highway which is located  
6 outside the limits of the said city, borough or township, the  
7 owners of such property being given permission by the said city,  
8 borough or township to use such sewer, and such property not  
9 being then provided with sewer facilities; and has by ordinance  
10 provided for the assessment against abutting property owners of  
11 benefits on the front foot rule or otherwise for such  
12 improvement, but owing to some defect in the petition, action of  
13 council or of the board of commissioners, or board of  
14 supervisors, notice of publication, failure to make said  
15 improvement in accordance with the strict terms of any  
16 ordinance, or any other proceeding or action necessary under  
17 existing laws and ordinances to give jurisdiction to such  
18 council, board of commissioners or board of supervisors; or  
19 because of noncompliance with existing laws as to publication of  
20 copies of ordinance and posting of handbills prior to or after  
21 the final passage of such ordinance; or because of noncompliance  
22 with existing laws as to the purchasing of materials and  
23 supplies; or the awarding of contracts without advertising; or  
24 because the ordinance itself or the official record book  
25 containing the same has been lost, mislaid or destroyed; or such  
26 ordinance has not been transcribed in the official record book;  
27 or because of irregularity or error in the appointment of  
28 viewers to assess benefits against property abutting along the  
29 line of improvement; or because of the neglect of viewers,  
30 appointed to assess damages and benefits caused or accruing as a

1 result thereof, to file their report within the time required by  
2 law for the filing thereof; or because of irregularity or error  
3 in the method or procedure taken for the ascertainment of the  
4 amount of benefits to such property; or because of any  
5 irregularity or error in the ordinances or passage or approval  
6 thereof authorizing the execution of the work, the contracting  
7 therefor, and the assessing of benefits therefor, or where the  
8 right of the board of viewers to assume jurisdiction and to act  
9 in assessing the properties benefited thereby is questioned; or  
10 because of any irregularity or error in the failure to bring the  
11 proceedings for the assessment of benefits on the front foot  
12 rule or otherwise for such improvement before the board of  
13 viewers within the time provided by law; or the failure to  
14 assess the benefits therefor in the manner now provided by law;  
15 or because of any irregularity or error in arriving at or  
16 determining the benefits assessed against any such property; or  
17 because of the failure to give notice as required by law or  
18 ordinance; or the time for filing a lien or making claim for  
19 such improvement has expired; or the claim has not been filed  
20 after notice to do so; or for any other reason the costs of such  
21 improvement, or portion thereof, were not or cannot be legally  
22 assessed upon the property bounding or abutting on the line of  
23 the improvement or on the street or part thereof improved; or  
24 owing to some defect in the statement of claim filed to secure  
25 the lien, or the failure of the city, borough or township  
26 solicitor to file the lien in the court of common pleas, or to  
27 sign the name, or to have stamped thereon a facsimile signature  
28 of the said solicitor or chief executive of the claimant for the  
29 costs of such improvement, or any error made in the name of the  
30 owner or owners of the abutting property along the line of the

1 improvement payment thereof cannot be enforced; or if the  
2 ordinance of the city, borough or township, authorizing the  
3 construction of any improvement, was in fact adopted before such  
4 city, borough or township was legally empowered to make such  
5 assessments on property within or outside the limits of such  
6 city, borough, or township, if such improvement was actually  
7 constructed, and such assessments against property within or  
8 without the limits of such city, borough or township made  
9 subsequent to the time when such city, borough or township was  
10 legally empowered to levy such assessments as was contemplated  
11 by the act or acts of General Assembly under which the  
12 improvement was attempted to be made; and statement of claim  
13 filed, now by this act such improvement is made valid and  
14 binding and also any statement of claim, heretofore filed, if  
15 any, to secure the liens therefor is also made valid and  
16 binding, and the jurisdiction of any board of viewers  
17 hereinbefore mentioned to entertain such proceedings and the  
18 assessments made pursuant to such proceedings against property  
19 within or without the limits of any such city, borough or  
20 township shall be valid and binding, and the council of such  
21 city or borough and the commissioners or supervisors of such  
22 township may cause the property, bounding or abutting along the  
23 line of the improvement or on the street, or part thereof, upon  
24 which the improvement has been made or is now being made, to be  
25 assessed in the manner now provided by law or by the board of  
26 viewers' proceedings in the manner and at the rates now provided  
27 by law with such a portion of the costs of such improvement as  
28 is contemplated by the law under which the improvement was made,  
29 or attempted to be made, or is now being made; and all such  
30 benefits and all assessments heretofore made or determined are

1 hereby ratified, confirmed, and validated; and any statement of  
2 claims heretofore filed, if any, to secure the liens therefor  
3 are also hereby ratified, confirmed, and validated. Such  
4 assessment or other assessment heretofore made or hereafter made  
5 in proceedings now pending within the time limitations specified  
6 in this act shall be a lien upon the property assessed, and any  
7 lien heretofore filed for benefits assessed or for the cost of  
8 such improvement, or any part thereof, although the report of  
9 the viewers assessing the same was not filed within the time  
10 required by law for the filing thereof, is hereby made valid and  
11 binding with the same force and effect as though such report was  
12 filed within the time required by law for filing the same. The  
13 lien shall date from the completion of the improvement for which  
14 the assessment is made whether the work was completed through  
15 one or several operations or contracts, or from the date of  
16 filing the same, and shall remain a lien until fully paid and  
17 satisfied: Provided, That the lien be revived during every  
18 period of five years after the lien is filed, either by the  
19 issuance of a writ of revival, or the filing of a suggestion of  
20 nonpayment and an averment of default: And provided further,  
21 That this act shall not validate any lien against any property  
22 which has been conveyed to a bona fide purchaser thereof  
23 subsequent to the expiration of the period prescribed by law for  
24 the filing of such liens and prior to the date of the filing  
25 thereof, or give the lien thus filed priority over any bona fide  
26 lien or liens filed, entered or recorded or which shall have  
27 otherwise attached subsequently to the time prescribed by law  
28 for the filing of such municipal lien and prior to the time of  
29 the filing thereof.

30 Section 2. The council of any city of the third class, or of

1 any borough, or the board of commissioners of any township of  
2 the first class or the board of supervisors of any township of  
3 the second class of this Commonwealth, entitled to a lien under  
4 this act, shall file a lien therefor, if not heretofore filed,  
5 in the office of the prothonotary of the county within which the  
6 property lies within six-months after the completion of work  
7 where the improvement is now in progress, or with 12 months  
8 after the confirmation absolute of the report of the viewers  
9 assessing the benefits for such improvement whether now or  
10 hereafter pending, or within 12 months after the approval of  
11 this act where the improvement is now completed if no lien has  
12 been heretofore filed for the same, or within 12 months after  
13 the passage of any councilmanic ordinance assessing benefits  
14 under the provisions of this act where the improvement is  
15 already completed, and the same shall be entered upon record as  
16 other municipal claims. Such liens shall state the name of the  
17 party claimant, which shall be the corporate name of the city,  
18 borough or township making the improvement; name of the owner or  
19 reputed owner of the property assessed; a reasonable description  
20 of the property assessed; the amount or sum claimed to be due  
21 which shall include interest on the assessment from the  
22 completion of the improvement for what improvement the claim is  
23 made; the date of its completion; the date of the assessment for  
24 which the lien is filed. Such lien, when so filed, shall be  
25 prima facie evidence of all matters therein set forth and of the  
26 right of the city, borough or township to recover the amount  
27 therein claimed to be due, together with interest from the date  
28 of the lien or completion of the improvement, costs, and an  
29 attorney's commission of 5% for collecting.

30 Section 3. The claim, when so filed, shall be proceeded upon

1 for collection by writ of scire facias: Provided, That this act  
2 shall not apply to any proceeding, suit or lien wherein a final  
3 order or judgment of any court of record has already been made  
4 or entered.