

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL
No. 1138 Session of
1979

INTRODUCED BY WEIDNER, LEVI, A. C. FOSTER, JR. AND FRYER,
MAY 2, 1979

REFERRED TO COMMITTEE ON LOCAL GOVERNMENT, MAY 2, 1979

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 liened; 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," extending the period for revival of
16 suggestions and averments of nonpayment and default and the
17 time for filing and renewal of all taxes and municipal claims
18 to twenty years and further providing for satisfaction of
19 liens.

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

22 Section 1. Section 9, act of May 16, 1923 (P.L.207, No.153),
23 referred to as the Municipal Claim and Tax Lien Law, amended
24 June 7, 1961 (P.L.263, No.154) and August 2, 1963 (P.L.489,
25 No.254) is amended to read:

26 Section 9. Claims for taxes, water rents or rates, lighting

1 rates, power rates, and sewer rates, must be filed in the court
2 of common pleas of the county in which the property is situated
3 unless the property is situate in the City of Philadelphia and
4 the taxes or rates do not exceed the maximum amount over which
5 the Municipal Court of Philadelphia has original jurisdiction,
6 in which event the claim must be filed in the Municipal Court of
7 Philadelphia. All such claims shall be filed on or before the
8 last day of the third calendar year after that in which the
9 taxes or rates are first payable, except that in cities and
10 school districts of the first class claims for taxes and other
11 municipal claims, which have heretofore become liens pursuant to
12 the provisions of this act or which have been entered of record
13 as liens or which have been liened and revived, shall continue
14 and remain as liens for the period of twenty years from such
15 revival, entry or lien by operation of law, whichever shall have
16 last occurred; and other municipal claims must be filed in said
17 court of common pleas or the Municipal Court of Philadelphia
18 within six months from the time the work was done in front of
19 the particular property, where the charge against the property
20 is assessed or made at the time the work is authorized; within
21 six months after the completion of the improvement, where the
22 assessment is made by the municipality upon all the properties
23 after the completion of the improvement; and within six months
24 after confirmation by the court, where confirmation is required;
25 the certificate of the surveyor, engineer, or other officer
26 supervising the improvement, filed in the proper office, being
27 conclusive of the time of completion thereof, but he being
28 personally liable to anyone injured by any false statement
29 therein. Where a borough lies in more than one county, any such
30 claim filed by such borough may be filed in each of such

1 counties. In case the real estate benefited by the improvement
2 is sold before the municipal claim is filed, the date of
3 completion in said certificate shall determine the liability for
4 the payment of the claim as between buyer and seller, unless
5 otherwise agreed upon or as above set forth. A number of years'
6 taxes or rates of different kinds if payable to the same
7 plaintiff may be included in one claim. The legal rate of
8 interest shall be collectible on all municipal claims from the
9 date of the completion of the work after it is filed as a lien,
10 and on claims for taxes, water rents or rates, lighting rates,
11 or sewer rates from the date of the filing of the lien therefor.

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

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

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

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

1 claims shall be revived in a similar manner during each
2 recurring period of twenty years thereafter until final judgment
3 is entered upon said appeal and the undetermined amount of such
4 municipal claim is fixed in the manner hereinafter provided.

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

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

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

28 Section 2. Section 15 of the act, amended June 7, 1961
29 (P.L.263, No.154), is amended to read:

30 Section 15. Such tax, municipal or other claim if filed

1 within the period aforesaid, shall remain a lien upon said
2 properties until fully paid and satisfied: Provided, That either
3 a suggestion of nonpayment and an averment of default, in the
4 form hereinafter provided, be filed, either before or after
5 judgment on the scire facias or else a writ of scire facias, in
6 the form herein provided, be issued to revive the same, within
7 each period of [five] twenty years following--(a) the date on
8 which said claim was filed, (b) the date on which a writ of
9 scire facias was issued thereon, (c) the date on which any
10 judgment was entered thereon, (d) the date on which a previous
11 suggestion of nonpayment and default was filed thereon, or (e)
12 the date on which a judgment of revival was obtained thereon,
13 except that in cities and school districts of the first class
14 with respect to taxes and other municipal claims, the period
15 within which such liens may be revived shall be twenty years.

16 The suggestion and averment shall be in the following form,
17 under the caption of the claim:

18 And now, the claimant, by
19, its solicitor, or by the chief
20 of its delinquent tax bureau, or, in counties of the second
21 class, by the county controller, suggests of record that the
22 above claim is still due and owing to the claimant, and avers
23 that the owner is still in default for nonpayment thereof. The
24 prothonotary is hereby directed to enter this suggestion and
25 averment on the municipal lien or the proper docket of the
26 claim, and also to index it upon the judgment index and on the
27 locality index of the court, for the purpose of continuing the
28 lien of the claim.

29 Such suggestion and averment shall be signed by, or have
30 stamped thereon a facsimile signature of, the solicitor or chief

1 executive officer of the claimant, or the chief of its
2 delinquent tax bureau, except in counties of the second class,
3 in which case it shall be signed by, or have stamped thereon a
4 facsimile signature of, the county controller. The prothonotary
5 shall docket and index the suggestion and averments directed
6 therein.

7 The filing and indexing of such suggestion and averment
8 [within five years, or in any city or school district of the
9 first class] within twenty years, of filing the claim or the
10 issuing of any writ of scire facias thereon, or of any judgment
11 thereon, or of the filing of any prior suggestion and averment
12 of default, shall have the same force and effect, for the
13 purposes of continuing and preserving the lien of the claim, as
14 though a writ of scire facias had been issued or a judgment or
15 judgment of revival had been obtained within such period:
16 Provided, That no writ of levam facias shall be issued upon a
17 claim for the purpose of exposing the property lien to
18 sheriff's sale, except after a judgment shall have been duly
19 obtained upon the claim, as provided in this section, and such
20 judgment must have been obtained [within five years, or in any
21 city or school district of the first class] within twenty years,
22 of the issuance of the levam facias. Whenever the lien of a
23 claim has been revived and continued by the filing and indexing
24 of a suggestion and averment of default, the claimant may, at
25 any time [within five years therefrom, or in any city or school
26 district of the first class] within twenty years, issue a writ
27 of scire facias thereon reciting all suggestion and averment of
28 default filed since the filing of the claim, and shall proceed
29 thereon, in the manner herein provided, subject to the right of
30 the owner to raise any defense arising since the last payment.

1 If a claim be not filed within the time aforesaid, or if it
2 be not prosecuted in the manner and at the time aforesaid, its
3 lien on real estate shall be wholly lost.

4 The charge for filing the claim of a municipality or
5 municipality authority shall include the cost of marking the
6 record paid and satisfied. When the claim and costs are paid the
7 municipality or municipality authority shall so notify the
8 prothonotary.

9 Section 3. This act shall take effect immediately.