
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL
No. 1076 Session of
1995

INTRODUCED BY MERRY, SCHRODER, PISTELLA, BARD, HENNESSEY, CURRY,
SANTONI, WOZNIAK, PETTIT, FEESE AND WALKO, MARCH 8, 1995

SENATOR LOEPER, RULES AND EXECUTIVE NOMINATIONS, IN SENATE, RE-
REPORTED AS AMENDED, DECEMBER 5, 1995

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," providing for attorney fees in
16 actions involving municipal claims; AND AUTHORIZING CERTIFIED <—
17 MAIL TO NOTIFY PROPERTY OWNERS OF PETITIONS OR RULES.

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

20 Section 1. Section 3(a) of the act of May 16, 1923 (P.L.207,
21 No.153), referred to as the Municipal Claim and Tax Lien Law,
22 amended December 19, 1990 (P.L.1092, No.199), is amended and the
23 section is amended by adding subsections to read:

1 Section 3. (a) All municipal claims which may hereafter be
2 lawfully imposed or assessed on any property in this
3 Commonwealth, and all such claims heretofore lawfully imposed or
4 assessed within six months before the passage of this act and
5 not yet liened, in the manner and to the extent hereinafter set
6 forth, shall be and they are hereby declared to be a lien on
7 said property, together with all charges, expenses, and fees
8 incurred in the collection of any delinquent account, including
9 reasonable attorney fees UNDER SUBSECTION (A.1), added thereto <—
10 for failure to pay promptly; and said liens shall arise when
11 lawfully imposed and assessed and shall have priority to and be
12 fully paid and satisfied out of the proceeds of any judicial
13 sale of said property, before any other obligation, judgment,
14 claim, lien, or estate with which the said property may become
15 charged, or for which it may become liable, save and except only
16 the costs of the sale and of the writ upon which it is made, and
17 the taxes imposed or assessed upon said property.

18 (a.1) IT IS NOT THE INTENT OF THIS SUBSECTION TO REQUIRE <—
19 OWNERS TO PAY, OR MUNICIPALITIES TO SANCTION, INAPPROPRIATE OR
20 UNREASONABLE ATTORNEY FEES, CHARGES OR EXPENSES FOR ROUTINE
21 FUNCTIONS. Attorney fees incurred in the collection of any
22 delinquent account shall be in an amount sufficient to
23 compensate attorneys undertaking collection and representation
24 of a municipality in actions involving claims arising under this
25 act as provided in subsection (a). In the event a delinquent <—
26 property owner challenges the amount of the attorney fee, the
27 ACT AS PROVIDED BY SUBSECTION (A). A MUNICIPALITY BY OFFICIAL <—
28 ACTION SHALL SEEK COURT APPROVAL OF THE SCHEDULE, PRIOR TO THE
29 ADOPTION OF THE SCHEDULE, OF THE AMOUNT OF ATTORNEY FEES TO BE
30 ASSESSED. THE ACT. A MUNICIPALITY BY ORDINANCE, OR BY RESOLUTION <—

1 IF THE MUNICIPALITY IS OF A CLASS WHICH DOES NOT HAVE THE POWER
2 TO ENACT AN ORDINANCE, SHALL ADOPT THE SCHEDULE OF ATTORNEY
3 FEES. WHERE ATTORNEY FEES ARE SOUGHT TO BE COLLECTED IN
4 CONNECTION WITH THE COLLECTION OF A DELINQUENT ACCOUNT, THE
5 OWNER MAY PETITION THE COURT OF COMMON PLEAS IN THE COUNTY WHERE
6 THE PROPERTY SUBJECT TO THE MUNICIPAL CLAIM AND LIEN IS LOCATED
7 TO ADJUDICATE THE REASONABLENESS OF THE ATTORNEY FEES IMPOSED.
8 IN THE EVENT THAT THERE IS A CHALLENGE TO THE REASONABLENESS OF
9 THE ATTORNEY FEES IMPOSED IN ACCORDANCE WITH THIS SECTION, THE
10 court shall consider, but not be limited to, the following:

11 (1) The time and labor required, the novelty and difficulty
12 of the questions involved and the skill requisite to properly
13 undertake collection and representation of a municipality in
14 actions arising under subsection (a).

15 (2) The customary charges of the members of the bar for
16 similar services.

17 ~~(3) The amount involved in the controversy and the benefits~~ <—
18 ~~resulting to the client or clients from the services.~~

19 (3) THE AMOUNT OF THE DELINQUENT ACCOUNT COLLECTED AND THE <—
20 BENEFIT TO THE MUNICIPALITY FROM THE SERVICES.

21 (4) The contingency or the certainty of the compensation.

22 (a.2) Any time attorney fees are awarded pursuant to any
23 provision of law, the municipality shall not be entitled to
24 duplicate recovery of attorney fees under this section.

25 ~~(a.3) At least thirty days prior to any imposition or~~ <—
26 ~~assessment of attorney fees in accordance with this section, the~~
27 ~~municipality shall notify the owner by first class mail of: THE~~ <—
28 ~~MANNER OF SERVICE AS PROVIDED FOR PURSUANT TO PA.R.C.P. NO.402~~
29 ~~OR BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED. IF THE CERTIFIED~~
30 ~~MAIL IS REFUSED OR UNCLAIMED, THEN NOTIFICATION SHALL BE MADE BY~~

~~FIRST CLASS MAIL. THE NOTIFICATION SHALL INCLUDE THE FOLLOWING:~~

~~(1) The municipality's intent to impose or assess attorney fees AFTER THE THIRTY DAY PERIOD HAS EXPIRED.~~

~~(2) The manner in which the imposition or assessment of attorney fees may be avoided by payment of the delinquent account AND THE PROCESS BY WHICH THE DELINQUENT PROPERTY OWNER MAY MAKE ARRANGEMENTS FOR INSTALLMENT PAYMENTS WITH THE MUNICIPALITY PRIOR TO THE IMPOSITION OR ASSESSMENT OF ATTORNEY FEES.~~

~~(3) A statement of the fixed fees and hourly rate or rates to be applied in computing the amount of attorney fees which may be imposed or assessed.~~

~~(A.3) (1) AT LEAST THIRTY DAYS PRIOR TO ASSESSING OR IMPOSING ATTORNEY FEES IN CONNECTION WITH THE COLLECTION OF A DELINQUENT ACCOUNT, A MUNICIPALITY SHALL, BY UNITED STATES CERTIFIED MAIL, RETURN RECEIPT REQUESTED, POSTAGE PREPAID, MAIL TO THE OWNER THE NOTICE REQUIRED BY THIS SUBSECTION.~~

~~(2) IF WITHIN THIRTY DAYS OF MAILING THE NOTICE IN ACCORDANCE WITH CLAUSE (1) THE CERTIFIED MAIL IS REFUSED OR UNCLAIMED OR THE RETURN RECEIPT IS NOT RECEIVED, THEN AT LEAST TEN DAYS PRIOR TO ASSESSING OR IMPOSING ATTORNEY FEES IN CONNECTION WITH THE COLLECTION OF A DELINQUENT ACCOUNT, A MUNICIPALITY SHALL, BY UNITED STATES FIRST CLASS MAIL, MAIL TO THE OWNER THE NOTICE REQUIRED BY THIS SUBSECTION.~~

~~(3) THE NOTICE REQUIRED BY THIS SUBSECTION SHALL BE MAILED TO THE OWNER'S LAST KNOWN POST OFFICE ADDRESS BY VIRTUE OF THE KNOWLEDGE AND INFORMATION POSSESSED BY THE MUNICIPALITY AND BY THE COUNTY OFFICE RESPONSIBLE FOR ASSESSMENTS AND REVISIONS OF TAXES. IT SHALL BE THE DUTY OF THE MUNICIPALITY TO DETERMINE THE OWNER'S LAST POST OFFICE ADDRESS KNOWN TO SAID COLLECTOR AND~~

1 COUNTY ASSESSMENT OFFICE.

2 (4) THE NOTICE TO THE OWNER SHALL INCLUDE THE FOLLOWING:

3 (I) A STATEMENT OF THE MUNICIPALITY'S INTENT TO IMPOSE OR
4 ASSESS ATTORNEY FEES WITHIN THIRTY DAYS OF MAILING THE NOTICE
5 PURSUANT TO CLAUSE (1) OR WITHIN TEN DAYS OF THE MAILING OF THE
6 NOTICE PURSUANT TO CLAUSE (2).

7 (II) THE MANNER IN WHICH THE IMPOSITION OR ASSESSMENT OF
8 ATTORNEY FEES MAY BE AVOIDED BY PAYMENT OF THE DELINQUENT
9 ACCOUNT.

10 * * *

11 Section 2. Sections 19 and 20 of the act are amended to
12 read:

13 Section 19. If no affidavit of defense be filed within the
14 time designated, judgment may be entered and damages assessed by
15 the prothonotary by default, for want thereof. Such assessment
16 shall include a [five per cent] fee for collection to
17 plaintiff's attorney in accordance with section 3.

18 If an affidavit of defense be filed, a rule may be taken for
19 judgment for want of sufficient affidavit of defense, or for so
20 much of the claim as is insufficiently denied, with leave to
21 proceed for the residue.

22 The defendant may, by rule, require the plaintiff to reply,
23 under oath or affirmation, to the statements set forth in the
24 affidavit of defense, and after the replication has been filed
25 may move for judgment on the whole record.

26 Section 20. Tax claims and municipal claims shall be prima
27 facie evidence of the facts averred therein in all cases; and
28 the averments in both tax and municipal claims shall be
29 conclusive evidence of the facts averred therein, except in the
30 particulars in which those averments shall be specifically

1 denied by the affidavit of defense, or amendment thereof duly
2 allowed. A compulsory nonsuit, upon trial, shall be equivalent
3 to a verdict for defendant, whether the plaintiff appeared or
4 not. If plaintiff recovers a verdict, upon trial, in excess of
5 the amount admitted by the defendant in his affidavit of defense
6 or pleadings, he shall be entitled to [an attorney's fee]
7 attorney fees for collection[, equal to five per centum of such
8 excess, but not exceeding fifty dollars] in accordance with
9 section 3.

10 ~~SECTION 3. THIS ACT SHALL APPLY RETROACTIVELY TO ALL CLAIMS~~ <—
11 ~~FILED ON OR AFTER DECEMBER 19, 1990.~~

12 SECTION 3. SECTION 39.2 OF THE ACT, ADDED DECEMBER 14, 1992 <—
13 (P.L.858, NO.135), IS AMENDED TO READ:

14 SECTION 39.2. (A) IN CITIES OF THE FIRST CLASS, NOTICE OF A
15 RULE TO SHOW CAUSE WHY A PROPERTY SHOULD NOT BE SOLD FREE AND
16 CLEAR OF ALL ENCUMBRANCES ISSUED BY A COURT PURSUANT TO A
17 PETITION FILED BY A CLAIMANT UNDER SECTION 31.2 OF THIS ACT
18 SHALL BE SERVED BY THE CLAIMANT UPON OWNERS, MORTGAGEES, HOLDERS
19 OF GROUND RENTS, LIENS AND CHARGES OR ESTATES OF WHATSOEVER KIND
20 AS FOLLOWS:

21 (1) BY POSTING A TRUE AND CORRECT COPY OF THE PETITION AND
22 RULE ON THE MOST PUBLIC PART OF THE PROPERTY;

23 (2) BY MAILING BY FIRST CLASS MAIL TO THE ADDRESS REGISTERED
24 BY ANY INTERESTED PARTY PURSUANT TO SECTION 39.1 OF THIS ACT A
25 TRUE AND CORRECT COPY OF THE PETITION AND RULE; AND

26 (3) BY REVIEWING A TITLE SEARCH, TITLE INSURANCE POLICY OR
27 TAX INFORMATION CERTIFICATE THAT IDENTIFIES INTERESTED PARTIES
28 OF RECORD WHO HAVE NOT REGISTERED THEIR ADDRESSES PURSUANT TO
29 SECTION 39.1 OF THIS ACT, THE CITY SHALL MAIL BY FIRST CLASS
30 MAIL AND [BY] EITHER BY CERTIFIED MAIL, RETURN RECEIPT

1 REQUESTED, OR BY REGISTERED MAIL TO SUCH ADDRESSES AS APPEAR ON
2 THE RESPECTIVE RECORDS RELATING TO THE PREMISES A TRUE AND
3 CORRECT COPY OF THE PETITION AND RULE.

4 THE CITY SHALL FILE AN AFFIDAVIT OF SERVICE WITH THE COURT PRIOR
5 TO SEEKING A DECREE ORDERING THE SALE OF THE PREMISES.

6 (B) NO PARTY WHOSE INTEREST DID NOT APPEAR ON A TITLE
7 SEARCH, TITLE INSURANCE POLICY OR TAX INFORMATION CERTIFICATE OR
8 WHO FAILED TO ACCURATELY REGISTER HIS INTEREST AND ADDRESS
9 PURSUANT TO SECTION 39.1 OF THIS ACT SHALL HAVE STANDING TO
10 COMPLAIN OF IMPROPER NOTICE IF THE CITY SHALL HAVE COMPLIED WITH
11 SUBSECTION (A) OF THIS SECTION. THIS PROVISION SHALL NOT APPLY
12 IF THE MORTGAGE OR INTEREST WAS OTHERWISE PROPERLY RECORDED IN
13 THE OFFICE OF THE RECORDER OF DEEDS AND THE DOCUMENT CONTAINS A
14 CURRENT ADDRESS SUFFICIENT TO SATISFY THE NOTICE REQUIREMENTS OF
15 THIS SECTION. NOTWITHSTANDING ANY OTHER REQUIREMENT SET FORTH IN <—
16 THIS ACT OR ANY OTHER LAW TO THE CONTRARY, THE NOTICE REQUIRED
17 BY SUBSECTION (A) OF THIS SECTION SHALL CONSTITUTE THE ONLY
18 NOTICE REQUIRED BEFORE A COURT MAY ENTER A DECREE ORDERING A TAX
19 SALE.

20 (C) NOTICE OF THE COURT'S DECREE ORDERING A TAX SALE,
21 TOGETHER WITH THE TIME, PLACE AND DATE OF THE SALE, SHALL BE
22 SERVED BY FIRST CLASS MAIL ON ALL PARTIES SERVED WITH THE
23 PETITION AND RULE, ON ANY PARTIES WHOSE INTEREST APPEARED OF
24 RECORD AFTER THE FILING OF THE PETITION BUT BEFORE THE COURT'S
25 DECREE AND ON ANY CREDITOR WHO HAS OBTAINED JUDGMENT AGAINST THE
26 OWNER OF THE PREMISES PRIOR TO THE DATE OF THE DECREE. THE CITY
27 SHALL FILE AN AFFIDAVIT OF SERVICE OF THESE NOTICES PRIOR TO THE
28 DATE OF THE SALE.

29 SECTION 4. (A) THIS ACT SHALL APPLY AS FOLLOWS:

30 (1) EXCEPT AS PROVIDED IN PARAGRAPH (2), THIS ACT SHALL

1 APPLY RETROACTIVELY TO ALL CLAIMS FILED ON OR AFTER DECEMBER
2 19, 1990.

3 (2) PARAGRAPH (1) SHALL NOT APPLY TO THE ADDITION OF
4 SECTION 3(A.1) OF THE ACT PERTAINING TO ~~THE COURT APPROVAL~~ <—
5 MUNICIPAL ADOPTION OF THE SCHEDULE OR TO THE ADDITION OF <—
6 SECTION 3(A.3) OF THE ACT.

7 (3) NO MUNICIPALITY SHALL BE LIABLE TO ANY ATTORNEY FOR
8 THE AMOUNT OF ANY ATTORNEY FEES FOUND TO BE UNREASONABLE BY
9 THE COURT IN CONNECTION WITH THE ADDITION OF SECTION 3(A.1)
10 OF THE ACT.

11 (B) IN THE EVENT A DELINQUENT PROPERTY OWNER FILES A
12 CHALLENGE OVER THE AMOUNT OF THE ATTORNEY FEES INCURRED DURING
13 THE RETROACTIVITY PERIOD, THE COURT SHALL CONSIDER, BUT NOT BE
14 LIMITED TO, THE PROVISIONS OF SECTION 3(A.1)(1), (2), (3) AND
15 (4) OF THE ACT.

16 Section ~~3-4~~ 5. This act shall take effect in 60 days. <—