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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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# HOUSE BILL

## No. 1716

Session of  
2003

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INTRODUCED BY BARD, HERMAN, TANGRETTI, LESCOVITZ AND ROSS,  
JUNE 25, 2003

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SENATOR EARLL, FINANCE, IN SENATE, AS AMENDED, NOVEMBER 9, 2004

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AN ACT

1 Amending the act of May 25, 1945 (P.L.1050, No.394), entitled  
2 "An act relating to the collection of taxes levied by  
3 counties, county institution districts, cities of the third  
4 class, boroughs, towns, townships, certain school districts  
5 and vocational school districts; conferring powers and  
6 imposing duties on tax collectors, courts and various  
7 officers of said political subdivisions; and prescribing  
8 penalties," further providing for basic and continuing  
9 education programs for tax collectors; providing for records  
10 in possession of tax collector; further providing for  
11 expenses paid by taxing districts and for discounts,  
12 penalties and notice; providing for compensation for interim  
13 tax bills; and further providing for penalty.

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

16 Section 1. Section 4.1(a.2) and (b) of the act of May 25,  
17 1945 (P.L.1050, No.394), known as the Local Tax Collection Law,  
18 amended June 22, 2001 (P.L.377, No.25), are amended to read:

19 Section 4.1. Basic and Continuing Education Programs for Tax  
20 Collectors.--\* \* \*

21 (a.2) The department shall:

22 (1) Make certain a qualified tax collector certificate is

1 issued to an individual who passes the basic qualification  
2 examination. The certificate shall expire one year from the date  
3 of issuance but may be renewed[.] for subsequent consecutive  
4 years upon the completion of mandatory continuing education in  
5 accordance with subsection (b).

6 (2) Maintain a register that lists all qualified tax  
7 collectors. The register shall be open to public inspection and  
8 copying upon payment of a nominal fee.

9 (3) Provide once each year a list of all qualified tax  
10 collectors on the department's World Wide Web site.

11 (4) Determine and approve reasonable fees for the training  
12 program and for testing and qualification. The individual shall  
13 bear the cost of the program, testing and qualification unless  
14 the political subdivision agrees to pay for the cost in whole or  
15 in part.

16 \* \* \*

17 (b) Each qualified tax collector shall be required to obtain  
18 [ten] six hours of mandatory continuing education during each  
19 year of his term of office.

20 \* \* \*

21 Section 2. The act is amended by adding a section to read:

22 ~~Section 4.3. Records in Possession of Tax Collector. (a)~~ <—  
23 ~~The records of a tax collector are public property.~~

24 ~~(b) In addition to any other duties or responsibilities~~  
25 ~~imposed by law with regard to the records of a tax collector, it~~  
26 ~~shall be the duty of the tax collector to preserve and retain~~  
27 ~~the records in accordance with law while holding the office of~~  
28 ~~tax collector and to turn over the records and any copies in the~~  
29 ~~possession of the tax collector to the chief clerk or secretary,~~  
30 ~~as appropriate, of the respective taxing districts which shall~~

~~provide the records to the tax collector's successor in office.  
In addition to all other remedies in law or equity, an action of  
mandamus may be brought against any person who retains records  
or copies in violation of this section to compel their delivery  
to the respective taxing districts.~~

~~(c) (1) Computers and related hardware and software  
programs that have been used by a tax collector who is leaving  
office are not required to be turned over to the person  
succeeding the collector in office, if public funds were not  
used to acquire the computers and related hardware and software  
programs.~~

~~(2) If the retained computers and related hardware and  
software programs store information that is contained in the  
records required to be turned over to the respective taxing  
districts in accordance with this section, the stored  
information shall be erased from all the computers and related  
hardware and software programs that are not turned over to the  
respective taxing districts and are retained by the tax  
collector.~~

~~(d) As used in this section, the term "records" shall mean  
papers, books and other documentary materials, regardless of  
physical form or characteristics, made or received by a tax  
collector in accordance with law or in connection with the  
exercise of the powers and the discharge of the duties of the  
office of tax collector. "Copy" shall mean a reproduction of a  
record made by any of the means authorized by the act of May 9,  
1949 (P.L.908, No.250), entitled, "An act relating to public  
records of political subdivisions other than cities and counties  
of the first class; authorizing the recording and copying of  
documents, plats, papers and instruments of writing by digital,~~

~~photostatic, photographic, microfilm or other process, and the  
admissibility thereof and enlargements thereof in evidence;  
providing for the storage of duplicates and sale of microfilm  
and digital copies of official records and for the destruction  
of other records deemed valueless; and providing for the  
services of the Pennsylvania Historical and Museum Commission to  
political subdivisions."~~

SECTION 4.3. TAX COLLECTION RECORDS.--(A) A TAX COLLECTOR,  
DURING THE TIME THAT HE OR SHE HOLDS THE OFFICE OF TAX  
COLLECTOR, SHALL MAINTAIN AND HAVE LEGAL CUSTODY OF TAX  
COLLECTION RECORDS THAT ARE NOT IN THE CUSTODY OF A TAXING  
DISTRICT.

(B) NOTHING IN THIS SECTION SHALL PREVENT A PERSON WHO  
FORMERLY HELD THE OFFICE OF TAX COLLECTOR FROM MAINTAINING  
COPIES OF TAX COLLECTION RECORDS THAT MAY BE NECESSARY FOR  
PURPOSES OF ANY SUBSEQUENT AUDIT, TAX CERTIFICATION OR OTHER  
REQUIRED SERVICE.

(C) THIS SECTION SHALL NOT BE CONSTRUED TO DO ANY OF THE  
FOLLOWING:

(1) MAKE A TAX COLLECTOR AN "AGENCY" OR AUTHORIZE REQUESTS  
OF THE TAX COLLECTOR FOR RECORDS PURSUANT TO THE ACT OF JUNE 21,  
1957 (P.L.390, NO.212), REFERRED TO AS THE RIGHT-TO-KNOW LAW.

(2) ALTER OR AMEND ANY LAW CONCERNING THE CONFIDENTIALITY OF  
TAX COLLECTION RECORDS.

(D) NO PERSON WHO FORMERLY HELD THE OFFICE OF TAX COLLECTOR  
SHALL INTENTIONALLY AND UNLAWFULLY DENY LEGAL CUSTODY OR  
OTHERWISE IMPAIR THE AVAILABILITY OF TAX COLLECTION RECORDS BY  
REFUSING TO TRANSFER POSSESSION OF THE RECORDS TO A TAXING  
DISTRICT OR ITS TAX COLLECTOR.

(E) AS USED IN THIS SECTION, THE TERM "TAX COLLECTION

1 RECORDS" SHALL MEAN RECORDS TO WHICH ACCESS IS REQUIRED BY A TAX  
2 COLLECTOR IN ORDER TO CARRY OUT THE DUTIES UNDER THIS ACT AND  
3 WHICH ARE AMONG THE CATEGORIES OF TAX COLLECTION RECORDS THAT  
4 ARE TO BE MAINTAINED IN CONFORMITY WITH DISPOSITION AND  
5 RETENTION SCHEDULES AND REGULATIONS THAT ARE PROMULGATED BY THE  
6 LOCAL GOVERNMENT RECORDS COMMITTEE IN ACCORDANCE WITH 53 PA.C.S.  
7 CH. 13 SUBCH. F (RELATING TO RECORDS).

8 Section 3. Section 9 of the act is amended to read:

9 Section 9. Expenses Paid by Taxing Districts.--The expenses  
10 of postage and printing of [tax notices] any notice required by  
11 this act shall be paid by the taxing districts.

12 Section 4. Section 10 of the act, amended December 19, 1996  
13 (P.L.1474, No.188), is amended to read:

14 Section 10. Discounts; Penalties; Notice.--(a) The rates of  
15 discounts and penalties on taxes shall be established by the  
16 taxing district. All taxpayers subject to the payment of taxes,  
17 assessed by any taxing district, shall be entitled to a discount  
18 of at least two per centum from the amount of such tax upon  
19 making payment of the whole amount thereof within two months  
20 after the date of the tax notice. All taxpayers, who shall fail  
21 to make payment of any such taxes charged against them for four  
22 months after the date of the tax notice, shall be charged a  
23 penalty of up to ten per centum which penalty shall be added to  
24 the taxes by the tax collector and be collected by him. The  
25 provisions of this section shall apply to cities of the second  
26 class A.

27 (b) [Where] IF a taxpayer has not paid taxes on real estate <—  
28 within four months after the date of the tax notice [and the tax  
29 collector has reason to believe that the taxpayer is sixty years  
30 of age or older], the tax collector shall send by first class

1 mail the following notice in [large print form with eighteen  
2 point or larger text] bold print capital letters to the  
3 taxpayer:

4 [YOUR REAL ESTATE TAXES HAVE NOT BEEN PAID ON TIME AND A  
5 PENALTY HAS BEEN ADDED TO THE AMOUNT YOU OWE. IF THE  
6 PROPERTY FOR WHICH THE TAXES HAVE NOT BEEN PAID IS YOUR  
7 PRIMARY RESIDENCE AND IF YOU ARE 60 YEARS OF AGE OR  
8 OLDER, CONTACT THE AREA AGENCY ON AGING (TELEPHONE  
9 NUMBER) FOR POSSIBLE ASSISTANCE.]

10 ~~YOUR REAL ESTATE TAXES HAVE NOT BEEN PAID AND A PENALTY~~ <—  
11 ~~OF UP TO 10% HAS BEEN ADDED TO THE AMOUNT YOU OWE. IF NOT~~  
12 ~~PAID BY DECEMBER 31, YOUR REAL ESTATE TAXES WILL BE~~  
13 ~~DELINQUENT; ADDITIONAL CHARGES WILL ACCRUE; AND YOUR~~  
14 ~~PROPERTY MAY BE SOLD WITHOUT YOUR CONSENT. IF YOU HAVE~~  
15 ~~ANY QUESTIONS, PLEASE CONTACT (NAME OF TAX COLLECTOR) BY~~  
16 ~~MAIL AT (ADDRESS) OR BY TELEPHONE AT (TELEPHONE NUMBER).~~  
17 ~~YOUR REAL ESTATE TAXES HAVE NOT BEEN PAID ON TIME AND A~~ <—  
18 ~~PENALTY HAS BEEN ADDED TO THE AMOUNT YOU OWE. IF NOT PAID~~  
19 ~~BY DECEMBER 31, YOUR REAL ESTATE TAXES WILL BE~~  
20 ~~DELINQUENT. IF YOU HAVE ANY QUESTIONS, PLEASE CONTACT~~  
21 ~~(NAME OF TAX COLLECTOR) BY MAIL AT (ADDRESS) OR BY~~  
22 ~~TELEPHONE AT (TELEPHONE NUMBER).~~

23 (c) Failure to receive notice as required by subsection (b)  
24 shall not relieve any taxpayer from the payment of any taxes  
25 imposed by any taxing district.

26 ~~(d) For purposes of determining if payment is timely made in~~ <—  
27 ~~order either to qualify for a discount or to avoid a penalty,~~  
28 ~~the following shall apply:~~

29 ~~(1) Whenever the last day of a period during which payment~~  
30 ~~may be made, either at a discount or without penalty, shall fall~~

~~on Saturday or Sunday or on any day made a legal holiday by the laws of this Commonwealth or of the United States, payment shall be considered timely if it is made on the succeeding secular or business day.~~

~~(2) Payment mailed to a tax collector shall be considered as having been made when postmarked by the United States Postal Service.~~

~~(3) A tax collector shall not refuse to accept timely payment made in accordance with this subsection.~~

~~(D) FOR PURPOSES OF DETERMINING IF PAYMENT IS TIMELY MADE, IN ORDER EITHER TO QUALIFY FOR A DISCOUNT OR TO AVOID A PENALTY, THE FOLLOWING SHALL APPLY:~~

~~(1) WHENEVER THE LAST DAY OF A PERIOD DURING WHICH PAYMENT MAY BE MADE AT A DISCOUNT OR WITHOUT PENALTY SHALL FALL ON SATURDAY OR SUNDAY OR ON ANY DAY MADE A LEGAL HOLIDAY BY THE LAWS OF THIS COMMONWEALTH OR OF THE UNITED STATES, PAYMENT SHALL BE CONSIDERED TIMELY IF IT IS TENDERED OR POSTMARKED BY THE UNITED STATES POSTAL SERVICE ON THE SUCCEEDING SECULAR OR BUSINESS DAY.~~

~~(2) A TAX COLLECTOR SHALL NOT REFUSE TO ACCEPT PAYMENT TENDERED OR POSTMARKED BY THE UNITED STATES POSTAL SERVICE IN A TIMELY MANNER PURSUANT TO THIS SUBSECTION.~~

~~(E) A TAX COLLECTOR SHALL NOT REFUSE TO ACCEPT PAYMENT TENDERED OR POSTMARKED BY THE UNITED STATES POSTAL SERVICE BY DECEMBER 31, BUT NOTHING IN THIS SECTION SHALL BE CONSTRUED AS LIMITING THE AUTHORITY OF A TAX COLLECTOR TO SET A DATE, NOT EARLIER THAN DECEMBER 15, AFTER WHICH PERSONAL CHECKS WILL NO LONGER BE ACCEPTED FOR PAYMENT OF TAXES AND PENALTY.~~

Section 5. The act is amended by adding a section to read:

~~Section 36.2. Compensation for Interim Tax Bills. A taxing~~

1 ~~district shall pay the tax collector for real estate taxes~~  
2 ~~collected and remitted for each interim tax bill issued during~~  
3 ~~each year.~~

4 SECTION 36.2. COMPENSATION FOR INTERIM TAX BILLS.--(A) IN <—  
5 FIXING TAX COLLECTOR COMPENSATION IN ACCORDANCE WITH THIS ACT, A  
6 TAXING DISTRICT SHALL PROVIDE A METHOD WHEREBY A TAX COLLECTOR  
7 WILL RECEIVE ADDITIONAL REMUNERATION FOR WORK RELATED TO  
8 COLLECTION EFFORTS WITH REGARD TO TAXES LEVIED AND ASSESSED UPON  
9 A DUPLICATE ISSUED AFTER AN INTERIM ASSESSMENT.

10 (B) THE ADDITIONAL COMPENSATION REQUIRED IN SUBSECTION (A)  
11 MAY BE BASED ON THE ISSUANCE OF AN INTERIM BILL OR CALCULATED IN  
12 ANY OTHER MANNER PERMITTED BY THIS ACT.

13 Section 6. Section 42 of the act is amended to read:

14 Section 42. Penalty.--(a) Any tax collector failing to  
15 comply with the provisions of section thirteen of this act, and  
16 any tax collector, treasurer or commissioner who violates any of  
17 the provisions of section fourteen of this act, shall be  
18 sentenced to pay a fine of not more than five hundred dollars,  
19 or be sentenced to imprisonment for not more than six months, or  
20 both, at the discretion of the court.

21 ~~(b) Any tax collector failing to comply with the provisions~~ <—  
22 ~~of section 4.3 commits a misdemeanor of the second degree.~~

23 (B) A PERSON WHO FORMERLY HELD THE OFFICE OF TAX COLLECTOR <—  
24 WHO UNLAWFULLY AND INTENTIONALLY IMPAIRS THE AVAILABILITY OF TAX  
25 COLLECTION RECORDS IN VIOLATION OF SECTION 4.3(D) COMMITS A  
26 MISDEMEANOR OF THE SECOND DEGREE.

27 Section 7. This act shall take effect in 60 days.