

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2358 Session of
2004

INTRODUCED BY D. EVANS, J. TAYLOR, PETRONE, MELIO, PRESTON,
BUXTON, MANDERINO, WALKO, JAMES, BROWNE, ARGALL, PISTELLA,
GOODMAN, CRAHALLA, CURRY, GEORGE, ROEBUCK, OLIVER, BEBKO-
JONES, CIVERA, DeWEESE, MUNDY, MICOZZIE, LEACH, WASHINGTON,
DALEY, FRANKEL, YUDICHAK, SCRIMENTI, THOMAS, TANGRETTI,
YOUNGBLOOD, LEVDANSKY AND NICKOL, FEBRUARY 9, 2004

REFERRED TO COMMITTEE ON FINANCE, FEBRUARY 9, 2004

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 donation of property;
16 and further providing for form of claims and for records of
17 claims and tax liens.

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

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

23 Section 5.1. Property which is donated by the owner thereof

1 to a county, city, borough, incorporated town, township, home
2 rule municipality, optional plan municipality, optional charter
3 municipality, or to a redevelopment thereof, shall be exempt
4 from claims for taxes.

5 Section 2. Section 9 of the act, amended August 14, 2003
6 (P.L.83, No.20), is amended to read:

7 Section 9. Claims for taxes, water rents or rates, lighting
8 rates, power rates, and sewer rates, must be filed in the court
9 of common pleas of the county in which the property is situated
10 unless the property is situate in the City of Philadelphia and
11 the taxes or rates do not exceed the maximum amount over which
12 the Municipal Court of Philadelphia has original jurisdiction,
13 in which event the claim must be filed in the Municipal Court of
14 Philadelphia. All such claims shall be filed on or before the
15 last day of the third calendar year after that in which the
16 taxes or rates are first payable, except that in cities and
17 school districts of the first class claims for taxes and other
18 municipal claims, which have heretofore become liens pursuant to
19 the provisions of this act or which have been entered of record
20 as liens or which have been liened and revived, shall continue
21 and remain as liens for the period of twenty years from such
22 revival, entry or lien by operation of law, whichever shall have
23 last occurred; and other municipal claims must be filed in said
24 court of common pleas or the Municipal Court of Philadelphia
25 within six months from the time the work was done in front of
26 the particular property, where the charge against the property
27 is assessed or made at the time the work is authorized; within
28 six months after the completion of the improvement, where the
29 assessment is made by the municipality upon all the properties
30 after the completion of the improvement; and within six months

1 after confirmation by the court, where confirmation is required;
2 the certificate of the surveyor, engineer, or other officer
3 supervising the improvement, filed in the proper office, being
4 conclusive of the time of completion thereof, but he being
5 personally liable to anyone injured by any false statement
6 therein. Where a borough lies in more than one county, any such
7 claim filed by such borough may be filed in each of such
8 counties. In case the real estate benefited by the improvement
9 is sold before the municipal claim is filed, the date of
10 completion in said certificate shall determine the liability for
11 the payment of the claim as between buyer and seller, unless
12 otherwise agreed upon or as above set forth. A number of years'
13 taxes or rates of different kinds if payable to the same
14 plaintiff may be included in one claim. Interest as determined
15 by the municipality at a rate not to exceed ten per cent per
16 annum shall be collectible on all municipal claims from the date
17 of the completion of the work after it is filed as a lien, and
18 on claims for taxes, water rents or rates, lighting rates, or
19 sewer rates from the date of the filing of the lien therefor:
20 Provided, however, That after the effective date of this
21 amendatory act where municipal claims are filed arising out of a
22 municipal project which required the municipality to issue bonds
23 to finance the project interest shall be collectible on such
24 claims at the rate of interest of the bond issue or at the rate
25 of twelve per cent per annum, whichever is less. Where the
26 provisions of any other act relating to claims for taxes, water
27 rents or rates, lighting rates, power rates, sewer rents or
28 rates or for any other type of municipal claim or lien utilizes
29 the procedures provided in this act and where the provisions of
30 such other act establishes a different rate of interest for such

1 claims or liens, the maximum rate of interest of ten per cent
2 per annum as provided for in this section shall be applicable to
3 the claims and liens provided for under such other acts:
4 Provided, however, That after the effective date of this
5 amendatory act where municipal claims are filed arising out of a
6 municipal project which required the municipality to issue bonds
7 to finance the project interest shall be collectible on such
8 claims at the rate of interest of the bond issue or at the rate
9 of twelve per cent per annum, whichever is less.

10 Claims for taxes, water rents, or rates, lighting rates,
11 power rates and sewer rates may be in the form of written or
12 typewritten lists showing the names of the taxables, including
13 the name and last known address with its zip code of the owner
14 of each property against which a claim is being filed, 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 twenty years from the filing of such municipal claim, the
12 claimant in the lien shall, within such period of twenty years,
13 file a suggestion of nonpayment, in the form hereinafter set
14 forth, which shall have the effect of continuing the lien
15 thereof for a further period of twenty years from the date of
16 filing such suggestion, except that with respect to claims for
17 taxes and other municipal claims, in cities and school districts
18 of the first class, if final judgment is not obtained upon such
19 appeal within twenty years from the filing of such municipal
20 claims, the claimant in the lien shall, within such period of
21 twenty years, file a suggestion of nonpayment in the prescribed
22 form which shall have the effect of continuing the lien thereof
23 for a further period of twenty years from the date of filing
24 such suggestion. Such municipal claim shall be revived in a
25 similar manner during each recurring period of twenty years
26 thereafter, until final judgment is entered upon said appeal and
27 the undetermined amount of such municipal claim is fixed in the
28 manner hereinafter provided, except that with respect to claims
29 for taxes and other municipal claims, in cities and school
30 districts of the first class, such municipal claims shall be

1 revived in a similar manner during each recurring period of
2 twenty years thereafter until final judgment is entered upon
3 said appeal and the undetermined amount of such municipal claim
4 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 In counties of the second class and municipalities therein,
29 interest at the applicable per annum rate shall accrue monthly
30 on all taxes, tax claims and municipal claims on the first day

1 of the month for the entire month, or part thereof, in which the
2 taxes, tax claims or municipal claims are paid. Interest shall
3 not be paid on a per diem basis. In counties of the second
4 class, all county taxes after the same become delinquent, as
5 provided by law, shall include a penalty of five per centum for
6 such delinquency.

7 In counties of the second class, taxes and tax claims, when
8 collected, shall be paid into the county treasury for the use of
9 the county unless the taxes and tax claims are assigned, in
10 which event there is no requirement that the taxes and tax
11 claims collected by the assignee be paid into the county
12 treasury.

13 In counties of the second class, the county shall not be
14 required to advance or pay any fee to the prothonotary for the
15 filing of paper or electronic filing or performing any services
16 for the second class county relating to the filing,
17 satisfaction, assignment, transfer, revival, amendment,
18 enforcement and collection of taxes, tax claims and tax liens.
19 The prothonotary shall accept filings by or on behalf of the
20 second class county relating to the taxes, tax claims and tax
21 liens and note the cost for such service performed on the
22 docket, and the second class county, its employees,
23 representatives, agents and assigns shall thereafter collect
24 such fee as a cost as part of the taxes, tax claims and tax
25 liens.

26 Section 3. Section 10 of the act, amended January 14, 1952
27 (1951 P.L.2025, No.567), is amended to read:

28 Section 10. Said claim shall set forth:

- 29 1. The name of the municipality by which filed;
- 30 2. The name and last known address including its zip code of

1 the owner of the property against which it is filed;

2 3. A description of the property against which it is filed;

3 4. The authority under or by virtue of which the tax was
4 levied or the work was done;

5 5. The time for which the tax was levied, or the date on
6 which the work was completed in front of the particular property
7 against which the claim is filed; or the date of completion of
8 the improvement, where the assessment is made after completion;
9 or the date of confirmation by the court, where confirmation is
10 required done;

11 6. If filed to the use of a contractor, the date of, and
12 parties to, the contract for doing said work; and

13 7. In other than tax claims, the kind and character of the
14 work done for which the claim is filed, and, if the work be such
15 as to require previous notice to the owner to do it, when and
16 how such notice was given.

17 Said claim shall be signed by, or have stamped thereon a
18 facsimile signature of, the solicitor or chief executive officer
19 of the claimant, or the chief of its delinquent tax bureau,
20 except that, in counties of the second class, said claim or
21 claims for county taxes, levies or assessments shall be signed
22 by, or have stamped thereon a facsimile signature of, the county
23 controller; and, in the case of a use-plaintiff, must be
24 accompanied by an affidavit that the facts therein set forth are
25 true to the best of his knowledge, information, and belief.

26 Section 4. Section 26 of the act is amended to read:

27 Section 26. (a) It shall be the duty of the prothonotaries
28 of the courts of common pleas to keep a locality index, in which
29 shall be entered all tax or municipal claims hereafter filed,
30 and, upon any written order therefor, they shall give a

1 certificate of search, showing all the claims filed against any
2 property. For so doing they shall receive the sum of twenty-five
3 cents, and five cents additional for each claim certified, and
4 no more.

5 (b) (1) In addition to the requirements of subsection (a),
6 the department or public official responsible for collection
7 of delinquent taxes in a city of the first class or other
8 municipality that utilizes this act for the collection of
9 delinquent taxes, or the county treasurer in a county of the
10 second class shall maintain as a public record a list of all
11 properties against which taxes were levied, the whole or any
12 part of which were due and payable in a prior year and which
13 remain unpaid. This list shall describe the property and
14 identify its location, provide the name and last known
15 address including the zip code of the owner of the property
16 and the amount of unpaid taxes, penalties and interest due,
17 for all years other than the current tax year. If taxes on
18 the list are paid or another settlement had been agreed to or
19 if a tax sale of the property is held, this fact shall be
20 noted on the list.

21 (2) This subsection shall not apply to a city of the
22 second class situate in a county of the second class.

23 Section 5. This act shall take effect in 60 days.