

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 777 Session of 2007

INTRODUCED BY BROWNE, BOSCOLA, ERICKSON, COSTA, FERLO, LOGAN, O'PAKE AND ORIE, APRIL 23, 2007

AS AMENDED ON THIRD CONSIDERATION, NOVEMBER 19, 2007

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," changing the date from which, and
16 the rate of which, interest is charged on certain delinquent
17 taxes and other municipal claims; providing for the duties of
18 third-party collectors and for adoption of ordinance for the
19 exclusive collection of taxes; further providing for locality
20 index; modernizing the law relating to collection of such
21 taxes and claims; and providing for severability.

22 The General Assembly of the Commonwealth of Pennsylvania
23 hereby enacts as follows:

24 Section 1. Section 1 of the act of May 16, 1923 (P.L.207,
25 No.153), referred to as the Municipal Claim and Tax Lien Law,
26 amended August 14, 2003 (P.L.83, No.20) and July 15, 2004
27 (P.L.726, No.83), is amended to read:

1 Section 1. Be it enacted, &c., That the word "taxes," as
2 used in this act, means any county, city, borough, incorporated
3 town, township, school, bridge, road, or poor taxes, together
4 with and including all penalties, interest, costs, charges,
5 expenses and fees, including reasonable attorney fees, as
6 allowed by this act and all other applicable laws.

7 The word "delinquent," as used in this act, except with
8 respect to county taxes in counties of the second class, refers
9 to taxes that remain unpaid on December 31 of the calendar year
10 in which they became first due and payable, except that if the
11 taxes are being paid in installments pursuant to and in
12 accordance with the provisions of any act permitting or
13 requiring installment payments, the term shall mean that portion
14 of the taxes that remains unpaid on the first day of the month
15 following the month that the last required installment payment
16 was due and payable. For municipal claims, other than tax
17 claims, the term means ninety days after the date of the initial
18 billing for the claims.

19 The word "highway," as used in this act, means the whole or
20 any part of any public street, public road, public lane, public
21 alley, or other public highway.

22 The words "tax claim," as used in this act, mean the claim
23 filed to recover taxes.

24 The words "municipal claim," as used in this act, unless
25 specifically indicated otherwise, mean and include (1) the claim
26 arising out of, or resulting from, a tax assessed, service
27 supplied, work done, or improvement authorized and undertaken,
28 by a municipality, although the amount thereof be not at the
29 time definitely ascertained by the authority authorized to
30 determine the same, and a lien therefor be not filed, but

1 becomes filable within the period and in the manner herein
2 provided, (2) the claim filed to recover for the grading,
3 guttering, macadamizing, or otherwise improving, the cartways of
4 any public highway; for grading, curbing, recurbing, paving,
5 repaving, constructing, or repairing the footways thereof; for
6 laying water pipes, gas pipes, culverts, sewers, branch sewers,
7 or sewer connections therein; for assessments for benefits in
8 the opening, widening or vacation thereof; or in the changing of
9 water-courses or the construction of sewers through private
10 lands; or in highways of townships of the first class; or in the
11 acquisition of sewers and drains constructed and owned by
12 individuals or corporations, and of rights in and to use the
13 same; for the removal of nuisances; or for garbage fees,
14 recycling fees, landlord licensing and inspection fees, water
15 rates, lighting rates, or sewer rates, and (3) the claim filed
16 to recover for work, material, and services rendered or
17 furnished in the construction, improvement, maintenance, and
18 operation of a project or projects of a body politic or
19 corporate created as a Municipal Authority pursuant to law. A
20 municipal claim shall be together with and shall include all
21 penalties, interest, costs, fines, charges, expenses and fees,
22 including reasonable attorney fees, as allowed by this act and
23 all other applicable laws.

24 The word "claimant," as used in this act, means the plaintiff
25 or use-plaintiff in whose favor the claim is filed as a lien.

26 The word "contractor," as used in this act, means the person
27 or persons who, under contract with the legal plaintiff,
28 performed the work for which the lien is given.

29 The word "property," as used in this act, means the real
30 estate subject to the lien and against which the claim is filed

1 as a lien.

2 The word "owner," as used in this act, means the person or
3 persons in whose name the property is registered, if registered
4 according to law, and, in all other cases, means any person or
5 persons in open, peaceable and notorious possession of the
6 property, as apparent owner or owners thereof, if any, or the
7 reputed owner or owners thereof in the neighborhood of such
8 property.

9 The word "municipality," as used in this act, means any
10 county, city, borough, incorporated town, township, school
11 district, or a body politic and corporate created as a Municipal
12 Authority pursuant to law and any assignees thereof.

13 The words "charges, expenses, and fees," as used in this act,
14 include all sums paid or incurred by a municipality to file,
15 preserve and collect unpaid taxes, tax claims, tax liens,
16 municipal claims and municipal liens, including, but not limited
17 to, prothonotary and sheriff fees, postage expenses, and title
18 search expenses. A county, city, borough, incorporated town,
19 township, school district or municipal authority may also
20 recover as "charges, expenses, and fees" the charges, expenses,
21 commissions and fees of third-party collectors retained by the
22 county, city, borough, incorporated town, township, school
23 district or municipal authority, provided that the charges,
24 expenses, commissions and fees of such third-party collectors
25 are approved by legislative action of the county, city, borough,
26 incorporated town, township, school district or municipal
27 authority which levies the unpaid taxes, tax claims, tax liens,
28 municipal claims and municipal liens.

29 Section 2. Section 3 of the act, amended August 14, 2003
30 (P.L.83, No.20), is amended to read:

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

20 (a.1) [It is not the intent of this subsection to require
21 owners to pay, or municipalities to sanction, inappropriate or
22 unreasonable attorney fees, charges or expenses for routine
23 functions.] Attorney fees incurred in the collection of any
24 delinquent account, including municipal claims, municipal liens,
25 taxes, tax claims and tax liens, shall be in an amount
26 sufficient to compensate attorneys undertaking collection and
27 representation of a municipality or its assignee in any actions
28 in law or equity involving claims arising under this act. A
29 municipality by ordinance, or by resolution if the municipality
30 is of a class which does not have the power to enact an

1 ordinance, shall adopt the schedule of attorney fees. Where
2 attorney fees are sought to be collected in connection with the
3 collection of a delinquent account, including municipal claims,
4 municipal liens, taxes, tax claims and tax liens, the owner may
5 petition the court of common pleas in the county where the
6 property subject to the municipal claim and lien, tax claim and
7 lien or taxes is located to adjudicate the reasonableness of the
8 attorney fees imposed. In the event that there is a challenge to
9 the reasonableness of the attorney fees imposed in accordance
10 with this section, the court shall consider, but not be limited
11 to, the following:

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

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

18 (3) The [amount of the delinquent account collected and the]
19 benefit to the municipality from the services.

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

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

24 (a.3) (1) At least thirty days prior to assessing or
25 imposing attorney fees in connection with the collection of a
26 delinquent account, including municipal claims, municipal liens,
27 taxes, tax claims and tax liens, a municipality shall, by United
28 States certified mail, return receipt requested, postage
29 prepaid, mail to the owner the notice required by this
30 subsection. Notwithstanding the provision of this section, a

1 reasonable fee paid or incurred by a municipality to an attorney
2 or law firm to satisfy the notice requirements of this section
3 may be assessed without providing prior notice.

4 (2) If within thirty days of mailing the notice in
5 accordance with clause (1) the certified mail is refused or
6 unclaimed or the return receipt is not received, then at least
7 ten days prior to assessing or imposing attorney fees in
8 connection with the collection of a delinquent account, a
9 municipality shall, by United States first class mail, mail to
10 the owner the notice required by this subsection.

11 (3) The notice required by this subsection shall be mailed
12 to the owner's last known post office address by virtue of the
13 knowledge and information possessed by the municipality and by
14 the county office responsible for assessments and revisions of
15 taxes. It shall be the duty of the municipality to determine the
16 owner's last post office address known to said collector and
17 county assessment office.

18 (4) The notice to the owner shall include the following:

19 (i) A statement of the municipality's intent to impose or
20 assess attorney fees within thirty days of mailing the notice
21 pursuant to clause (1) or within ten days of the mailing of the
22 notice pursuant to clause (2).

23 (ii) The manner in which the imposition or assessment of
24 attorney fees may be avoided by payment of the delinquent
25 account.

26 (b) With the exception of those claims which have been
27 assigned, any municipal claim, municipal lien, tax, tax claim or
28 tax lien, including interest, penalty and costs, imposed by a
29 city of the first class, shall be a judgment only against the
30 said property when the lien has been docketed by the

1 prothonotary. The docketing of the lien shall be given the
2 effect of a judgment against the said property only with respect
3 to which the claim is filed as a lien. The prothonotary shall
4 maintain an in rem index, the form and location of which shall
5 be within the prothonotary's discretion. All tax claims, water
6 rents or rates, lighting rates, power rates and sewer rates
7 heretofore filed are hereby ratified, confirmed and made valid
8 subsisting liens as of the date of their original filing.

9 (c) A writ of execution may issue directly without
10 prosecution to judgment of a writ of scire facias. Any property
11 sold in execution shall be sold in compliance with the
12 provisions of section 31.2.

13 (d) Attorney fees may be imposed and collected in accordance
14 with this section upon all taxes, tax claims, tax liens,
15 municipal claims, municipal liens, writs of scire facias,
16 judgments or executions filed on or after December 19, 1990.

17 Section 3. Section 9 of the act, amended February 21, 2006
18 (P.L.46, No.18), is amended to read:

19 Section 9. Claims for taxes, water rents or rates, lighting
20 rates, power rates and sewer rates must be filed in the court of
21 common pleas of the county in which the property is situated
22 unless the property is situate in the City of Philadelphia and
23 the taxes or rates do not exceed the maximum amount over which
24 the Municipal Court of Philadelphia has original jurisdiction,
25 in which event the claim must be filed in the Municipal Court of
26 Philadelphia. All such claims shall be filed on or before the
27 last day of the third calendar year after that in which the
28 taxes or rates are first payable, except that in cities and
29 school districts of the first class claims for taxes and other
30 municipal claims, which have heretofore become liens pursuant to

1 the provisions of this act or which have been entered of record
2 as liens or which have been liened and revived, shall continue
3 and remain as liens for the period of twenty years from such
4 revival, entry or lien by operation of law, whichever shall have
5 last occurred; and other municipal claims must be filed in said
6 court of common pleas or the Municipal Court of Philadelphia
7 within six months from the time the work was done in front of
8 the particular property, where the charge against the property
9 is assessed or made at the time the work is authorized; within
10 six months after the completion of the improvement, where the
11 assessment is made by the municipality upon all the properties
12 after the completion of the improvement; and within six months
13 after confirmation by the court, where confirmation is required;
14 the certificate of the surveyor, engineer, or other officer
15 supervising the improvement, filed in the proper office, being
16 conclusive of the time of completion thereof, but he being
17 personally liable to anyone injured by any false statement
18 therein. Where a borough lies in more than one county, any such
19 claim filed by such borough may be filed in each of such
20 counties. In case the real estate benefited by the improvement
21 is sold before the municipal claim is filed, the date of
22 completion in said certificate shall determine the liability for
23 the payment of the claim as between buyer and seller, unless
24 otherwise agreed upon or as above set forth. A number of years'
25 taxes or rates of different kinds if payable to the same
26 plaintiff may be included in one claim. Interest as determined
27 by the municipality at a rate not to exceed ten per cent per
28 annum shall be collectible on [all] the face and penalty amount
29 of both taxes and municipal claims from the date [of the
30 completion of the work after it is filed as a lien, and on

1 claims for taxes, water rents or rates, lighting rates, or sewer
2 rates from the date of the filing of the lien therefor] on which
3 the taxes or municipal claims become delinquent or for county
4 taxes in counties of the second class, as otherwise provided by
5 law: Provided, however, That after the effective date of this
6 amendatory act where municipal claims are filed arising out of a
7 municipal project which required the municipality to issue bonds
8 to finance the project interest shall be collectible on such
9 claims at the rate of interest of the bond issue or at the rate
10 of twelve per cent per annum, whichever is less. Where the
11 provisions of any other act relating to claims for taxes, water
12 rents or rates, lighting rates, power rates, sewer rents or
13 rates or for any other type of municipal claim or lien utilizes
14 the procedures provided in this act and where the provisions of
15 such other act establishes a different rate of interest for such
16 claims or liens, the maximum rate of interest of ten per cent
17 per annum as provided for in this section shall be applicable to
18 the claims and liens provided for under such other acts:

19 Provided, however, That after the effective date of this
20 amendatory act where municipal claims are filed arising out of a
21 municipal project which required the municipality to issue bonds
22 to finance the project interest shall be collectible on such
23 claims at the rate of interest of the bond issue or at the rate
24 of twelve per cent per annum, whichever is less.

25 Claims for taxes, water rents, or rates, lighting rates,
26 power rates and sewer rates may be in the form of written or
27 typewritten lists showing the names of the taxables, including
28 the name and last known address, with its zip code, of the owner
29 of each property against which a claim is being filed, and
30 descriptions of the properties against which the claims are

1 filed, together with the amount of the taxes due such
2 municipality. Such lists may be filed on behalf of a single
3 municipality, or they may cover the unpaid taxes due any two or
4 more municipalities whose taxes are collected by the same tax
5 collector, provided the amounts due each municipality are
6 separately shown. All tax claims, water rents, or rates,
7 lighting rates, power rates and sewer rates, heretofore filed in
8 such form, are hereby ratified, confirmed and made valid
9 subsisting liens as of the date of their original filing.

10 A number of years' taxes or rates of different kinds, if
11 payable to the same plaintiff, may be included in one claim.
12 Municipal claims shall likewise be filed within said period,
13 where any appeal is taken from the assessment for the recovery
14 of which such municipal claim is filed. In such case the lien
15 filed shall be in the form hereinafter provided, except that it
16 shall set forth the amount of the claim as an undetermined
17 amount, the amount thereof to be determined by the appeal taken
18 from the assessment upon which such municipal claim is based,
19 pending in a certain court (referring to the court and the
20 proceeding where such appeal is pending). Upon the filing of
21 such municipal claim, the claim shall be indexed by the
22 prothonotary upon the judgment index and upon the locality index
23 of the court, and the amount of the claim set forth therein as
24 an undetermined amount.

25 If final judgment is not obtained upon such appeal within
26 twenty years from the filing of such municipal claim, the
27 claimant in the lien shall, within such period of twenty years,
28 file a suggestion of nonpayment, in the form hereinafter set
29 forth, which shall have the effect of continuing the lien
30 thereof for a further period of twenty years from the date of

1 filing such suggestion, except that with respect to claims for
2 taxes and other municipal claims, in cities and school districts
3 of the first class, if final judgment is not obtained upon such
4 appeal within twenty years from the filing of such municipal
5 claims, the claimant in the lien shall, within such period of
6 twenty years, file a suggestion of nonpayment in the prescribed
7 form which shall have the effect of continuing the lien thereof
8 for a further period of twenty years from the date of filing
9 such suggestion. Such municipal claim shall be revived in a
10 similar manner during each recurring period of twenty years
11 thereafter, until final judgment is entered upon said appeal and
12 the undetermined amount of such municipal claim is fixed in the
13 manner hereinafter provided, except that with respect to claims
14 for taxes and other municipal claims, in cities and school
15 districts of the first class, such municipal claims shall be
16 revived in a similar manner during each recurring period of
17 twenty years thereafter until final judgment is entered upon
18 said appeal and the undetermined amount of such municipal claim
19 is fixed in the manner hereinafter provided.

20 When the final judgment is obtained upon such appeal, the
21 court in which said municipal claim is pending shall, upon the
22 petition of any interested party, make an order fixing the
23 undetermined amount claimed in such claim at the amount
24 determined by the final judgment upon said appeal, which shall
25 bear interest from the date of the verdict upon which final
26 judgment was entered, and thereafter the amount of said claim
27 shall be the sum thus fixed. Proceedings upon said municipal
28 claim thereafter shall be as in other cases.

29 Where, on final judgment upon said appeal, it appears that no
30 amount is due upon the assessment for the recovery of which such

1 claim is filed, the court in which such municipal claim is
2 pending shall, upon the petition of any interested party, make
3 an order striking such municipal claim from the record, and
4 charge the costs upon such claim to the plaintiff in the claim
5 filed.

6 Where such appeal is discontinued, the court in which such
7 municipal claim is pending shall, upon the petition of any
8 interested party, make an order fixing the undetermined amount
9 claimed at the amount of the original assessment, which shall
10 bear interest from the date that such assessment was originally
11 payable, and thereafter the amount of such claim shall be the
12 sum thus fixed.

13 In counties of the second class and municipalities therein,
14 interest at the applicable per annum rate shall accrue monthly
15 on all taxes, tax claims and municipal claims on the first day
16 of the month for the entire month, or part thereof, in which the
17 taxes, tax claims or municipal claims are paid. Interest shall
18 not be paid on a per diem basis. In counties of the second
19 class, all county taxes after the same become delinquent, as
20 provided by law, shall include a penalty of five per centum for
21 such delinquency.

22 In counties of the second class, taxes and tax claims, when
23 collected, shall be paid into the county treasury for the use of
24 the county unless the taxes and tax claims are assigned, in
25 which event there is no requirement that the taxes and tax
26 claims collected by the assignee be paid into the county
27 treasury.

28 In counties of the second class, the county shall not be
29 required to advance or pay any fee to the prothonotary for the
30 filing of paper or electronic filing or performing any services

1 for the second class county relating to the filing,
2 satisfaction, assignment, transfer, revival, amendment,
3 enforcement and collection of taxes, tax claims and tax liens.
4 The prothonotary shall accept filings by or on behalf of the
5 second class county relating to the taxes, tax claims and tax
6 liens and note the cost for such service performed on the
7 docket, and the second class county, its employees,
8 representatives, agents and assigns shall thereafter collect
9 such fee as a cost as part of the taxes, tax claims and tax
10 liens.

11 Section 4. Sections 14 and 18 of the act are amended to
12 read:

13 Section 14. Any defendant named in the claim, or any person
14 allowed to intervene and defend [thereagainst] there against,
15 may, at any stage of the proceedings, present his petition,
16 under oath or affirmation, setting forth that he has a defense
17 in whole or in part thereto, and of what it consists; and
18 praying that a rule be granted upon the claimant to file an
19 affidavit of the amount claimed by him, and to show cause why
20 the petitioner should not have leave to pay money into court;
21 and, in the case of a municipal claim, to enter security in lieu
22 of the claim; whereupon a rule shall be granted as prayed for.
23 Upon the pleadings filed, or from the claim and the affidavit of
24 defense, and without a petition where an affidavit of defense
25 has been filed, the court shall determine how much of the claim
26 is admitted or not sufficiently denied; and shall enter a decree
27 that upon payment by such petitioner to the claimant of the
28 amount thus found to be due, with interest and costs if anything
29 be found to be due, or upon payment into court, if the claimant
30 refuses to accept the same, and upon payment into court of a sum

1 sufficient to cover the balance claimed, with interest and
2 costs, or upon the entry of approved security in the case of a
3 municipal claim, that such claim shall be wholly discharged as a
4 lien against the property described therein, and shall be
5 stricken from the judgment index. Thereafter the material,
6 disputed facts, if any, [shall] may be tried by a jury or the
7 court, without further pleadings, with the same effect as if a
8 writ of scire facias had duly issued upon said claim, to recover
9 the balance thereof; but the jury or the court shall be sworn to
10 try the issues between the claimant and the parties who paid the
11 fund into court or entered security, and verdict, judgment and
12 payment, or execution, shall follow as in other cases. The same
13 course may be pursued, at the instance of any owner, where the
14 claim has not in fact been filed, and if, in that event, the
15 petitioner complies with the decree made, the money paid into
16 court or security entered shall stand in lieu of the claim and
17 the latter shall not be filed, and if filed shall be stricken
18 off upon motion.

19 Section 18. The sheriff to whom the scire facias is given
20 for service shall add to the writ, as parties defendant, all
21 persons, other than those named therein, who may be found in
22 possession of the property described, or any part thereof, and
23 in case no one is found in possession by the sheriff he shall
24 post a true copy of the writ on the most public part of said
25 property; and he shall add to the said writ the names of any
26 persons, not already named therein, whom he may ascertain to
27 have an interest in the property described, or any part thereof,
28 which writ shall then be further served as follows:

29 (a) By serving, as in the case of a summons, such of those
30 named in the writ, or added thereto, as may be found in the

1 county in which the writ issued; and,

2 (b) Where the sheriff has information that those named in
3 the writ, or added thereto, or any of them, may be found in any
4 other county of this Commonwealth, the said person shall be
5 served, as in the case of a summons, by the sheriff of the
6 county in which the said defendants or any of them may reside,
7 he being deputized for that purpose by the sheriff of the county
8 in which the writ issues; and,

9 (c) (1) (i) In case any of those named in the writ, or
10 added thereto, cannot be found by the sheriff, or their
11 residences within this Commonwealth are unknown to him, or in
12 case they reside without the Commonwealth or are deceased, the
13 said writ [may] shall be served [by advertising a copy thereof,
14 or a brief notice of the contents of the same, once a week for
15 three successive weeks, in one newspaper of general circulation
16 in the county, and in the legal periodical, if any, designated
17 by the court for that purpose: Provided, however, That any
18 defendant may accept service of said writ, in person or by
19 counsel, with the same effect as if duly served therewith by the
20 sheriff.] in accordance with the Pennsylvania Rules of Civil
21 Procedure for service in real property actions.

22 (ii) Notwithstanding subclause (i), any defendant may accept
23 service of said writ, in person or by counsel, with the same
24 effect as if duly served therewith by the sheriff.

25 (2) Where the said writ[, or the brief notice of the
26 contents thereof, have been advertised as aforesaid, the same
27 shall have the same effect as if the writ had been personally
28 served; and all those named therein, or added thereto, as to
29 whom publication has been made, shall file their affidavit of
30 defense, as required by the said writ, within fifteen days after

1 the date of the last weekly advertisement of the said writ;] has
2 been served under subsection (c)(1)(i), the service shall have
3 the same effect as if the writ had been personally served; and
4 all those named therein, or added thereto, shall file their
5 affidavit of defense, as required by the said writ, within
6 fifteen days after the date of service of the said writ; and all
7 those named therein or added thereto, who have been served as in
8 case of a summons, shall file their affidavit of defense, as
9 required by said writ, within fifteen days after such service.
10 Service of any such writ may be made at any time within three
11 months from the date on which it was issued, but it shall be
12 served and returned at the earliest date possible, and the
13 plaintiff may require its return at any time, whether or not it
14 be actually served.

15 Section 5. Section 26 of the act, amended February 21, 2006
16 (P.L.46, No.18), is amended to read:

17 Section 26. (a) It shall be the duty of the prothonotaries
18 of the courts of common pleas to keep a locality index, in which
19 shall be entered all tax or municipal claims hereafter filed,
20 and, upon any written order therefor, they shall give a
21 certificate of search, showing all the claims filed against any
22 property. For so doing they shall receive the sum of twenty-five
23 cents, and five cents additional for each claim certified, and
24 no more.

25 [(b) (1) In addition to the requirements of subsection (a),
26 the department or public official responsible for collection of
27 delinquent taxes in a city of the first class or other
28 municipality that utilizes this act for the collection of
29 delinquent taxes, and the county treasurer in a county of the
30 second class, shall maintain as a public record a list of all

1 properties against which taxes were levied, the whole or any
2 part of which were due and payable in a prior year and which
3 remain unpaid. This list shall describe the property and
4 identify its location, provide the name and last known address,
5 including the zip code, of the owner of the property and the
6 amount of unpaid taxes, penalties and interest due, for all
7 years other than the current tax year. If taxes on the list are
8 paid or another settlement had been agreed to or if a tax sale
9 of the property is held, this fact shall be noted on the list.

10 (2) In addition to the requirements of subsection (a), the
11 department or public official responsible for collection of
12 delinquent taxes may report any nonpayment of taxes, including
13 liens, to one or more consumer reporting agencies, as defined by
14 the Fair Credit Reporting Act (Public Law 91-508, 15 U.S.C. §
15 1681 et seq.).]

16 (b) (1) Except in cities of the first class and counties of
17 the second class, in addition to the requirements of subsection
18 (a) each county shall designate an office or department to
19 maintain a public record, by paper lists and electronically,
20 with respect to delinquent taxes. The record shall be considered
21 to be a public record under the act of June 21, 1957 (P.L.390,
22 No.212), referred to as the Right-to-Know Law, but shall not be
23 considered a certification of delinquent taxes due or paid.

24 (2) Any municipality that utilizes this act for the
25 collection of delinquent taxes in lieu of the act of July 7,
26 1947 (P.L.1368, No.542), known as the "Real Estate Tax Sale
27 Law," shall annually prepare a list of all properties against
28 which taxes were due and payable in the prior year and which
29 remain unpaid. The list shall be given upon completion by the
30 municipality on or before the last day of April each year but no

1 earlier than the first day of January of that year to the office
2 or department designated by the county under clause (1) to be
3 maintained as a public record. The list shall not be deemed a
4 return under the "Real Estate Tax Sale Law." If a municipality
5 has previously filed a return of the same delinquent taxes with
6 the county tax claim bureau under the "Real Estate Tax Sale
7 Law," it shall be exempt from filing the list required under
8 this subsection. The list shall include all of the following for
9 each property:

10 (i) The address and parcel identification number or tax
11 parcel number.

12 (ii) The owner's name.

13 (iii) The last known address, including the zip code of the
14 owner, if available.

15 (iv) The year the tax became due.

16 (v) The face amount of the tax.

17 (vi) The name and contact information for the entity
18 responsible to collect the delinquent tax.

19 (3) Within forty-five days after receipt of payment in full
20 of any delinquent tax claim, the municipality shall notify the
21 office or department designated by the county under clause (1)
22 that the tax has been paid.

23 (4) The office or department designated by the county under
24 clause (1), upon request of any person or entity, shall issue
25 certifications of delinquent taxes paid. A fee not to exceed ten
26 dollars per tax year may be charged to the person or entity
27 requesting the certification. A certification under this
28 subsection shall be binding upon the municipality to which the
29 delinquent tax is due. Except as provided under clause (5), if
30 the certification erroneously lists a delinquent tax as paid and

1 is relied upon by a bona fide purchaser, lessee or mortgagee who
2 acquires for valuable consideration an interest in real estate
3 covered by a tax certification, the municipality shall be
4 estopped from asserting a tax lien for the taxes covered by the
5 certification against the real estate that has been transferred.
6 The municipality shall retain a cause of action in assumpsit to
7 recover the delinquent tax due in accordance with the applicable
8 law.

9 (5) Nothing in this section shall affect the requirement to
10 file tax claims for delinquent taxes with the prothonotaries of
11 the several counties in this Commonwealth in accordance with
12 this act and all other applicable laws. A tax claim filed with
13 the prothonotary shall remain open and unsatisfied until the
14 delinquent taxes which are the subject of the tax claim are paid
15 or otherwise discharged or satisfied as provided by law.
16 Notwithstanding the requirements of clause (4) an erroneous
17 certification that delinquent taxes are paid shall not be
18 binding upon a municipality if a tax claim related to the
19 delinquent taxes remains open and unsatisfied on the
20 prothonotary's docket at the time that the certification is
21 issued.

22 (6) In the event that the records of the office or
23 department designated by the county under clause (1) do not
24 indicate that delinquent taxes are paid or if a tax claim
25 remains open and unsatisfied in the prothonotary's docket, a
26 certification of delinquent taxes due shall be issued by or on
27 behalf of the municipality. The certification of delinquent
28 taxes due shall specify the amount due and owing through a date
29 certain and shall provide an amount to satisfy any tax claim
30 filed for the delinquent taxes. The fee for a certification of

1 taxes due shall be the same as the fee established under clause
2 (4) and shall be chargeable by or on behalf of the municipality
3 to the person or entity requesting the certification. If the
4 certified balance due through the date provided on the
5 certification is timely paid, the delinquent taxes and tax
6 claims relating to the delinquent taxes shall be satisfied. If a
7 certification erroneously states the balance due and is relied
8 upon by a bona fide purchaser, lessee or mortgagee who acquires
9 for valuable consideration an interest in real estate covered by
10 a tax certification, the municipality shall be estopped from
11 asserting a tax lien for the taxes covered by the certification
12 against the real estate that has been transferred. The
13 municipality shall retain a cause of action in assumpsit to
14 recover the delinquent taxes due in accordance with applicable
15 law. Within forty-five days after receipt of payment in full of
16 any delinquent tax claim, the municipality or its agent shall
17 satisfy the lien filed with the prothonotary's office.

18 (c) In addition to the requirements of subsection (a), any
19 municipality that utilizes this act for the collection of
20 delinquent taxes may report any nonpayment of taxes, including
21 liens, to one or more consumer reporting agencies, as defined by
22 the Fair Credit Reporting Act (Public Law 91-508, 15 U.S.C. §
23 1681 et seq.).

24 (d) Except in cities of the first class, counties of the
25 second class and municipalities in counties of the second class,
26 any certification issued under subsection (b)(4) and (6) shall
27 be subject to the time limitations set forth under section 3.4
28 and the appeal procedures set forth under section 3.5 of the act
29 of June 21, 1957 (P.L.390, No.212), referred to as the Right-to-
30 Know Law.

1 Section 6. Section 31 of the act, amended November 29, 2004
2 (P.L.1299, No.163), is amended to read:

3 Section 31. The lien of a tax or a municipal claim shall not
4 be divested by any judicial sale of the property liened, where
5 the amount due is indefinite or undetermined, or where the same
6 is not due and payable; nor shall the lien of a tax or municipal
7 claim be divested by any judicial sale of the property liened,
8 as respects so much thereof as the proceeds of such sale may be
9 insufficient to discharge; nor, except as hereinafter provided,
10 shall a judicial sale of the property liened, under a judgment
11 obtained on a tax or municipal claim, discharge the lien of any
12 other tax or municipal claim than that upon which said sale is
13 had, except to the extent that the proceeds realized are
14 sufficient for its payment, obtained on a tax or municipal
15 claim, discharge the lien of any other tax or municipal claim
16 than that upon which said sale is had, except to the extent that
17 the proceeds realized are sufficient for its payment, after
18 paying the costs, charges and fees, including reasonable
19 attorney fees, expenses of the sale, and of the writ upon which
20 it was made, and any other prior tax or municipal claims to
21 which the fund may first be applicable. On any such sale being
22 made all tax claims shall be paid out of the proceeds thereof:
23 first, the oldest tax having priority; and municipal claims
24 shall be paid next, the oldest in point of lien having priority.
25 Mortgages, ground-rents, and other charges on or estates in the
26 property which were recorded, or created where recording is not
27 required, before any tax other than for the current year accrue,
28 or before the actual doing of the work in front of or upon the
29 particular property for which the municipal claim is filed,
30 shall not be disturbed by such sale unless a prior lien is also

1 discharged thereby.

2 In case the property be not sold for a sum sufficient to pay
3 all taxes and municipal claims, together with the costs thereon,
4 the plaintiff in any such claim may postpone the sale by
5 announcement to the assembled bidders or as may otherwise be
6 provided by local rule or conditions of sale, without payment of
7 costs, and file his petition setting forth that more than one
8 year has elapsed since the filing of his claim; that he has
9 exposed the property to sheriff's sale thereunder, and was
10 unable to obtain a bid sufficient to pay the upset price in
11 full; and, if the plaintiff is not a municipality as defined in
12 this act, that he will bid sufficient to pay the upset price,
13 and upon the production of searches or a title insurance policy
14 showing the state of the record and the ownership of the
15 property, and of all tax and municipal claims, mortgages,
16 ground-rents, or other charges on or estates in the land, the
17 court shall grant a rule upon all parties thus shown to be
18 interested to appear and show cause why a decree should not be
19 made that said property be sold, freed, and cleared of their
20 respective claims, mortgages, charges, and estates. If, upon a
21 hearing thereafter, the court is satisfied that service has been
22 made of said rule upon the parties respondent, in the manner
23 provided in section 39.2, and that the facts stated in the
24 petition be true, it shall order and decree that said property
25 be sold at a subsequent sheriff's sale day, to be fixed by the
26 court without further advertisement, and the court may fix a
27 common date and place of sale for more than one of said
28 properties if it deems a joint sale to be advantageous. All
29 property at sheriff's sale shall be sold, clear of all claims,
30 liens, mortgages, charges, and estates, to the highest bidder at

1 such sale; and the proceeds realized therefrom shall be
2 distributed in accordance with the priority of such claims; and
3 the purchaser at such sale shall take, and forever thereafter
4 have, an absolute title to the property sold, free, and
5 discharged of all tax and municipal claims, liens, mortgages,
6 charges, and estates of whatsoever kind, subject only to the
7 right of redemption as provided by law. In counties of the
8 second class, upon return of the writ upon which the sale was
9 made and upon the expiration of the statutory right of
10 redemption and if no petition to set aside the sale is pending,
11 the prothonotary shall satisfy all tax claims and municipal
12 claims divested by the judicial sale in accordance with the
13 order of court authorizing such sale.

14 Any person interested may, at any time before the sale, pay
15 the petitioner the whole of his claim, with interest, costs,
16 charges, expenses, fees and attorney fees, whereupon the
17 proceedings on petition shall at once determine.

18 For the purpose of enabling the petitioner in any such
19 proceedings to give the notice required, he may take the
20 testimony of the defendant in the claim, or of any other person
21 whom he may have reason to believe has knowledge of the
22 whereabouts of any of the parties respondent, either by
23 deposition, commission, or letters rogatory.

24 Any municipality, being a claimant, shall have the right, and
25 is hereby empowered, to bid and become the purchaser of the
26 property at such sale; and while the said property, so
27 purchased, is held and owned by any county, city, borough,
28 incorporated town, township, school district or a body politic
29 and corporate created as a municipal authority pursuant to law,
30 it shall not be subject to tax claims, unless it be redeemed by

1 the former owner or other person having the right to redeem, as
2 provided by law. If, however, a municipality shall become the
3 purchaser at said sale, the former owner or other person,
4 desiring to redeem, shall pay all taxes and municipal claims
5 accrued and chargeable against the property prior to the sale
6 thereof, together with the costs and interest thereon, and also
7 all taxes and claims, whether filed or not, which would have
8 accrued and become chargeable against the property had the same
9 been purchased at the sale by some party other than the
10 municipality.

11 Upon the delivery by the sheriff of a deed for any property
12 sold under a tax or municipal claim, the judgment upon which
13 such sale was had shall thereupon and forever thereafter be
14 final and conclusive as to all matters of defense which could
15 have been raised in the proceeding, including payment, and no
16 error or irregularity in obtaining or entering of such judgment
17 shall effect the validity thereof.

18 Section 7. Section 39.2 of the act, amended February 7, 1996
19 (P.L.1, No.1) and August 14, 2003 (P.L.83, No.20), is amended to
20 read:

21 Section 39.2. (a) In cities of the first class, notice of a
22 rule to show cause why a property should not be sold free and
23 clear of all encumbrances issued by a court pursuant to a
24 petition filed by a claimant under section 31.2 of this act
25 shall be served by the claimant upon owners, mortgagees, holders
26 of ground rents, liens and charges or estates of whatsoever kind
27 as follows:

28 (1) By posting a true and correct copy of the petition and
29 rule on the most public part of the property;

30 (2) By mailing by first class mail to the address registered

1 by any interested party pursuant to section 39.1 of this act a
2 true and correct copy of the petition and rule; and

3 (3) By reviewing a title search, title insurance policy or
4 tax information certificate that identifies interested parties
5 of record who have not registered their addresses pursuant to
6 section 39.1 of this act, the city shall mail by first class
7 mail and either by certified mail, return receipt requested, or
8 by registered mail to such addresses as appear on the respective
9 records relating to the premises a true and correct copy of the
10 petition and rule.

11 Service of notice pursuant to this section shall be deemed
12 accomplished on the date of mailing. The city shall file an
13 affidavit of service with the court prior to seeking a decree
14 ordering the sale of the premises.

15 (a.1) In counties of the second class and municipalities
16 therein, notice of a rule to show cause why a property should
17 not be sold free and clear of all liens and encumbrances issued
18 by a court pursuant to a petition filed by a claimant under
19 sections [28] 31 and 31.1 of this act shall be served by the
20 claimant upon owners, mortgagees, holders of ground rents, liens
21 and charges or estates of whatsoever kind as follows:

22 (1) By posting a true and correct copy of the petition and
23 rule on the most public part of the property.

24 (2) By reviewing a title search, title insurance policy or
25 tax information certificate that identifies interested parties
26 of record, the [county or]municipality shall mail by first class
27 mail and either by certified mail, return receipt requested, or
28 by certificate of mailing to such addresses as appear on the
29 respective records relating to the premises a true and correct
30 copy of the petition and rule. Notice pursuant to this section

1 shall be deemed accomplished on the date of mailing. The [county
2 or] municipality shall file an affidavit of service with the
3 court prior to seeking a decree ordering the sale of the
4 premises[.] which shall include a list of those persons or
5 entities whose notification under this section was returned by
6 the post office as undeliverable.

7 (a.2) Except in cities of the first class, counties of the
8 second class and municipalities located in counties of the
9 second class, notice of a rule to show cause why a property
10 should not be sold free and clear of all liens and encumbrances
11 issued by a court pursuant to a petition filed by a claimant
12 under section 31 shall be served by the claimant upon owners,
13 mortgagees, holders of ground rents, liens and charges or
14 estates of whatsoever kind as follows:

15 (1) By posting a true and correct copy of the petition and
16 rule on the most public part of the property.

17 (2) By reviewing a title search, title insurance policy or
18 tax information certificate that identifies interested parties
19 of record, the municipality shall mail by first class mail and
20 either by certified mail, return receipt requested, or by
21 certificate of mailing to such addresses as appear on the
22 respective records relating to the premises a true and correct
23 copy of the petition and rule. Notice pursuant to this
24 subsection shall be deemed accomplished on the date of mailing.
25 The municipality shall file an affidavit of service with the
26 court prior to seeking a decree ordering the sale of the
27 premises which shall include a list of those persons or entities
28 whose notification under this section was returned by the post
29 office as undeliverable.

30 (b) No party whose interest did not appear on a title

1 search, title insurance policy or tax information certificate or
2 who failed to accurately register his interest and address
3 pursuant to section 39.1 of this act shall have standing to
4 complain of improper notice if the city shall have complied with
5 subsection (a) of this section. This provision shall not apply
6 if the mortgage or interest was otherwise properly recorded in
7 the Office of the Recorder of Deeds and the document contains a
8 current address sufficient to satisfy the notice requirements of
9 this section. Notwithstanding any other requirement set forth in
10 this act or any other law to the contrary, the notice required
11 by subsection (a) of this section shall constitute the only
12 notice required before a court may enter a decree ordering a tax
13 sale.

14 (b.1) No party whose interest did not appear on a title
15 search or title insurance policy, because of the party's failure
16 to record or properly record its interest, shall have standing
17 to complain of improper notice if the county or municipality
18 shall have complied with subsection (a.1). This provision shall
19 not apply if the mortgage or interest was otherwise properly
20 recorded in the Office of the Recorder of Deeds and the document
21 contains a current address sufficient to satisfy the notice
22 requirements of this section. Notwithstanding any other
23 requirement set forth by subsection (a.1), notice thereunder
24 shall constitute the only notice required before a court may
25 enter a decree ordering a tax sale free and clear of liens.

26 (b.2) If the municipality shall have complied with
27 subsection (a.2), no party whose interest did not appear on a
28 title search or title insurance policy because of the party's
29 failure to record or properly record its interest shall have
30 standing to complain of improper notice. This provision shall

1 not apply if the mortgage or interest was otherwise properly
2 recorded in the Office of the Recorder of Deeds and the document
3 contains a current address sufficient to satisfy the notice
4 requirements of this section. Notwithstanding any other
5 requirement of subsection (a.2), notice thereunder shall
6 constitute the only notice required before a court may enter a
7 decree ordering a tax sale free and clear of liens.

8 (c) Notice of the court's decree ordering a tax sale,
9 together with the time, place and date of the sale, shall be
10 served by first class mail on all parties served with the
11 petition and rule, on any parties whose interest appeared of
12 record after the filing of the petition but before the court's
13 decree and on any creditor who has obtained judgment against the
14 owner of the premises prior to the date of the decree. The city
15 shall file an affidavit of service of these notices prior to the
16 date of the sale.

17 (d) Except in cities of the first class, in sales pursuant
18 to a petition filed by a claimant under section 31 or 31.1,
19 notice of the court's decree ordering a tax sale, together with
20 the time, place and date of the sale, shall be served along with
21 the notice of sheriff's sale and shall be provided to all
22 parties entitled to receive notice pursuant to Pa.R.C.P.
23 No.3129.1 (relating to sale of real property; notice;
24 affidavit).

25 (e) Except in cities of the first class, in sales pursuant
26 to a petition filed by a claimant under section 28 or 31, notice
27 of the court's decree ordering a sale, together with the time,
28 place and date of the sale, shall be served by first class mail
29 upon all parties who receive notice pursuant to Pa.R.C.P.
30 No.3129.1 prior to the initial sale. Notice under this section

1 shall be provided no later than seven days prior to the
2 continued sale.

3 Section 8. The act is amended by adding sections to read:

4 Section 42. Notwithstanding any other provision of law, any
5 taxing district in this Commonwealth may adopt a resolution to
6 collect taxes under this act exclusively and independently of
7 any other statute governing the collection of taxes, including
8 the act of July 7, 1947 (P.L.1368, No.542), known as the "Real
9 Estate Tax Sale Law," and independent of any county tax claim
10 bureau. Any taxing district which adopts a resolution to collect
11 taxes under this section shall not be required to comply with
12 any of the procedures or provisions of the "Real Estate Tax Sale
13 Law," including the obligation to make annual returns to any
14 county tax claim bureau. HOWEVER, IF THE COUNTY COMMISSIONERS OF ←
15 A COUNTY WITH A TAX CLAIM BUREAU HAVE ENACTED LEGISLATION FOR
16 THE BENEFIT OF TAXPAYERS PURSUANT TO SECTION 502.1 OR 504 OF THE
17 "REAL ESTATE TAX SALE LAW," A TAXING DISTRICT LOCATED IN THAT
18 COUNTY THAT ADOPTS A RESOLUTION PURSUANT TO THIS SECTION SHALL
19 BE REQUIRED TO OFFER TAXPAYERS BENEFITS EQUAL TO OR EXCEEDING
20 THOSE AUTHORIZED BY THE COUNTY COMMISSIONERS UNDER SECTION 502.1
21 OR 504 OF THE "REAL ESTATE TAX SALE LAW." For the purposes of
22 this section, the term "taxing district" shall have the same
23 meaning as given to it under section 102 of the "Real Estate Tax
24 Sale Law."

25 Section 43. If any provision of this act or its application
26 to any person or circumstance is held invalid or unenforceable,
27 the remainder of this act or the application of the provisions
28 to other persons or circumstances shall not be affected.

29 Section 9. This act shall apply as follows:

30 (1) The amendment of section 3 of the act shall apply

1 retroactively to January 1, 2005.

2 (2) The amendment of section 26 of the act shall apply
3 retroactively to January 1, 2005.

4 (3) The addition of section 42 of the act shall apply
5 retroactively to January 1, 2005.

6 Section 10. This act shall take effect as follows:

7 (1) This section shall take effect immediately.

8 (2) The following provisions shall take effect January
9 1, 2009:

10 (i) The amendment of section 26 of the act.

11 (ii) Section 9(2) of this act.

12 (3) The remainder of this act shall take effect in 60
13 days.