

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 388 Session of 2013

INTRODUCED BY PARKER, BROWNLEE, MCGEEHAN, O'BRIEN, KORTZ, D. EVANS, KINSEY, J. HARRIS, V. BROWN, COHEN, YOUNGBLOOD, DONATUCCI, MIRANDA, WATERS, MURT, ROEBUCK, THOMAS, SIMS, NEILSON, W. KELLER AND TAYLOR, JANUARY 29, 2013

AS REPORTED FROM COMMITTEE ON URBAN AFFAIRS, HOUSE OF REPRESENTATIVES, AS AMENDED, APRIL 22, 2013

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," further providing for authorization
16 to municipalities to impose tax liens on any property
17 throughout this Commonwealth and on the funds in certain bank
18 accounts; AND PROVIDING FOR TREATMENT OF PROPERTY TAX CLAIMS <--
19 REDUCED TO JUDGMENT AS MONEY JUDGMENTS.

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

22 Section 1. Section 2 of the act of May 16, 1923 (P.L.207,
23 No.153), referred to as the Municipal Claim and Tax Lien Law, is
24 amended to read:

25 Section 2. All taxes which may hereafter be lawfully imposed

1 or assessed on any property in this Commonwealth, and all taxes
2 heretofore lawfully imposed or assessed by any municipality on
3 any property in this Commonwealth for the years one thousand
4 nine hundred and twenty-one, one thousand nine hundred and
5 twenty-two, and one thousand nine hundred and twenty-three, in
6 the manner and to the extent hereinafter set forth, shall be and
7 they are hereby declared to be a first lien on said property,
8 together with all charges, expenses, and fees added thereto for
9 failure to pay promptly; and such liens shall have priority to
10 and be fully paid and satisfied out of the proceeds of any
11 judicial sale of said property, before any other obligation,
12 judgment, claim, lien, or estate with which the said property
13 may become charged or for which it may become liable, save and
14 except only the costs of [the] any sale and of the writ upon
15 which [it] such sale is made.

16 Section 2. Section 3(a) and (a.1) of the act, amended August
17 14, 2003 (P.L.83, No.20), are amended to read:

18 Section 3. (a) (1) All municipal claims, municipal liens,
19 taxes, tax claims and tax liens which may hereafter be lawfully
20 imposed or assessed on any property in this Commonwealth, and
21 all such claims heretofore lawfully imposed or assessed within
22 six months before the passage of this act and not yet liened, in
23 the manner and to the extent hereinafter set forth, shall be and
24 they are hereby declared to be a lien on said property, together
25 with all charges, expenses, and fees incurred in the collection
26 of any delinquent account, including reasonable attorney fees
27 under subsection (a.1), added thereto for failure to pay
28 promptly; and municipal claims and municipal liens shall arise
29 when lawfully imposed and assessed and shall have priority to
30 and be fully paid and satisfied out of the proceeds of any

1 judicial sale of said property, before any other obligation,
2 judgment, claim, lien, or estate with which the said property
3 may become charged, or for which it may become liable, save and
4 except only the costs of the sale and of the writ upon which it
5 is made, and the taxes, tax claims and tax liens imposed or
6 assessed upon said property.

7 (2) (i) When any municipal tax on real property becomes
8 delinquent, such tax, together with all charges, expenses and
9 fees, including reasonable attorney fees, added thereto for
10 failure to pay promptly, shall be a lien upon all other real
11 property that is both owned by the delinquent taxpayer and
12 located within this Commonwealth. Provided, however, that with
13 respect to real property located outside the taxing
14 municipality, no lien shall exist against such real property
15 until filed with the prothonotary of the county or counties in
16 which the real property is situated.

17 (ii) A lien under this paragraph shall have the same force
18 and effect as a personal judgment against the delinquent
19 taxpayer and shall be subject to all prior claims, mortgages,
20 ground rents, charges and estates.

21 (iii) The inclusion in a lien under this paragraph of
22 charges, expenses and fees incurred in the collection of any
23 delinquent account, including reasonable attorney fees, shall be
24 subject to the requirements of subsection (a.1).

25 (a.1) It is not the intent of this [subsection] section to
26 require owners to pay, or municipalities to sanction,
27 inappropriate or unreasonable attorney fees, charges or expenses
28 for routine functions. Attorney fees incurred in the collection
29 of any delinquent account, including municipal claims, municipal
30 liens, taxes, tax claims and tax liens, shall be in an amount

1 sufficient to compensate attorneys undertaking collection and
2 representation of a municipality or its assignee in any actions
3 in law or equity involving claims arising under this act. A
4 municipality by ordinance, or by resolution if the municipality
5 is of a class which does not have the power to enact an
6 ordinance, shall adopt the schedule of attorney fees. Where
7 attorney fees are sought to be collected in connection with the
8 collection of a delinquent account, including municipal claims,
9 municipal liens, taxes, tax claims and tax liens, the owner may
10 petition the court of common pleas in the county where the
11 property subject to the municipal claim and lien, tax claim and
12 lien or taxes is located to adjudicate the reasonableness of the
13 attorney fees imposed. In the event that there is a challenge to
14 the reasonableness of the attorney fees imposed in accordance
15 with this section, the court shall consider, but not be limited
16 to, the following:

17 (1) The time and labor required, the novelty and difficulty
18 of the questions involved and the skill requisite to properly
19 undertake collection and representation of a [municipality in
20 actions arising under subsection (a)] municipality.

21 (2) The customary charges of the members of the bar for
22 similar services.

23 (3) The amount of the delinquent account collected and the
24 benefit to the municipality from the services.

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

26 * * *

27 Section 3. Section 4 of the act, amended July 28, 1953
28 (P.L.678, No.212), is amended to read:

29 Section 4. The lien for taxes shall exist in favor of[, and
30 the claim therefor may be filed against the property taxed by,]

1 any municipality to which the tax is payable and the lien may be
2 filed against the property taxed by such municipality, as well
3 as against all other property that is both owned by the person
4 who owns the property subject to the tax and located within this
5 Commonwealth.

6 The lien for the removal of nuisances shall exist in favor
7 of, and the claim therefor may be filed against the property
8 from which it is removed, or by which it is caused, by, any
9 municipality by or for which the nuisance is removed.

10 The lien for grading, guttering, paving, macadamizing, or
11 otherwise improving the cartways of any highways; for grading,
12 curbing, recurbing, paving, repaving, constructing, or repairing
13 the footways thereof; or for laying water pipes, gas pipes,
14 culverts, sewers, branch sewers, or sewer connections in any
15 highway; for assessments for benefits in the opening, widening,
16 or vacation thereof; or in the changing of watercourses or
17 construction of sewers through private lands; or in highways of
18 townships of the first class; or in the acquisition of sewers
19 and drains constructed and owned by individuals or corporations,
20 and of rights in and to use the same; or for water rates,
21 lighting rates, or sewer rates, or rates for any other service
22 furnished by a municipality,--shall exist in favor of, and the
23 claim therefor may be filed against the property thereby
24 benefited by, the municipality extending the benefit; or the
25 city, borough, or township in which the property is located, if
26 the work, material or service forming the basis of such lien was
27 supplied by a municipal authority organized by a city of the
28 second class, by a county of the second class or by a city of
29 the third class and such liens or the claim therefor has been
30 assigned to it.

1 Municipal authorities organized by cities of the second
2 class, by counties of the second class or by cities of the third
3 class are hereby authorized to assign their municipal claims and
4 their liens to the city, borough, or township in which the
5 property subject thereto is located, and cities, boroughs and
6 townships in which such property is located are hereby
7 authorized to purchase the same. Upon such assignment or
8 purchase the city, borough, or township acquiring such municipal
9 claim or lien shall have the same rights thereunder as if it had
10 supplied the work, material or service upon which such municipal
11 claim or lien is based.

12 When the contractor performing the work is to be paid by
13 assessment bills, the lien shall exist for, and the claim shall
14 be filed to, his use, and he shall under no circumstances have
15 recourse to the municipality authorizing the work.

16 SECTION 4. THE ACT IS AMENDED BY ADDING A SECTION TO READ: <--

17 SECTION 39.6. (A) A CLAIM FOR PROPERTY TAXES THAT HAS BEEN
18 REDUCED TO JUDGMENT SHALL BE ENFORCEABLE AS A LIEN AGAINST REAL
19 PROPERTY IN THE SAME MANNER AND TO THE SAME EXTENT AS A JUDGMENT
20 FOR MONEY UNDER THE GENERALLY APPLICABLE LAWS OF THIS
21 COMMONWEALTH. FOR PURPOSES OF THIS SUBSECTION, "REDUCED TO
22 JUDGMENT" MEANS CLAIMS RENDERED ABSOLUTE IN ACCORDANCE WITH
23 SECTION 311 OF THE ACT OF JULY 7, 1947 (P.L.1368, NO.542), KNOWN
24 AS THE "REAL ESTATE TAX SALE LAW," AND THOSE GIVEN THE EFFECT OF
25 A JUDGMENT IN ACCORDANCE WITH SUBSECTION (B).

26 (B) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, WHEN A
27 JUDGMENT OR LIEN UNDER THIS SECTION IS REDUCED OR SATISFIED BY
28 PAYMENT OR A SALE OF THE PROPERTY, THE JUDGMENT CREDITOR SHALL
29 SO NOTIFY THE TAX CLAIM BUREAU OR PROTHONOTARY WHERE THE
30 ORIGINAL TAX CLAIM IS DOCKETED, AND SHALL ENTER SUCH

1 SATISFACTION IN THE OFFICE OF THE CLERK OF THE COURT IN THE
2 COUNTY WHERE THE JUDGMENT IS OUTSTANDING. NO TAX CLAIM SHALL BE
3 SUBJECT TO ADDITIONAL INTEREST AS A RESULT OF ENFORCEMENT AS A
4 JUDGMENT LIEN UNDER THIS SECTION.

5 (C) A LIEN UNDER THIS SUBSECTION SHALL EXIST SEPARATE AND
6 APART FROM THE TAX LIEN. NOTHING IN THIS SECTION SHALL BE
7 CONSTRUED AS AFFECTING OTHER REMEDIES AVAILABLE TO A
8 MUNICIPALITY FOR COLLECTION OF A TAX OR THE PRIORITY OR AMOUNT
9 OF A TAX LIEN.

10 Section 4 5. This act shall take effect in 60 days.

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