

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 AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES, MAY 13, 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 MUNICIPAL AND TAX <--
20 CLAIMS AND LIENS.

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

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

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

17 ~~Section 2. Section 3(a) and (a.1) of the act, amended August~~
18 ~~14, 2003 (P.L.83, No.20), are amended to read:~~

19 SECTION 1. SECTION 3(A) AND (A.1) OF THE ACT OF MAY 16, 1923 <--
20 (P.L.207, NO.153), REFERRED TO AS THE MUNICIPAL CLAIM AND TAX
21 LIEN LAW, AMENDED AUGUST 14, 2003 (P.L.83, NO.20), IS AMENDED TO
22 READ:

23 Section 3. (a) (1) All municipal claims, municipal liens,
24 taxes, tax claims and tax liens which may hereafter be lawfully
25 imposed or assessed on any property in this Commonwealth, and
26 all such claims heretofore lawfully imposed or assessed within
27 six months before the passage of this act and not yet liened, in
28 the manner and to the extent hereinafter set forth, shall be and
29 they are hereby declared to be a lien on said property, together
30 with all charges, expenses, and fees incurred in the collection

1 of any delinquent account, including reasonable attorney fees
2 under subsection (a.1), added thereto for failure to pay
3 promptly; and municipal claims and municipal liens shall arise
4 when lawfully imposed and assessed and shall have priority to
5 and be fully paid and satisfied out of the proceeds of any
6 judicial sale of said property, before any other obligation,
7 judgment, claim, lien, or estate with which the said property
8 may become charged, or for which it may become liable, save and
9 except only the costs of the sale and of the writ upon which it
10 is made, and the taxes, tax claims and tax liens imposed or
11 assessed upon said property.

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

22 ~~(ii) A lien under this paragraph shall have the same force~~
23 ~~and effect as a personal judgment against the delinquent~~
24 ~~taxpayer and shall be subject to all prior claims, mortgages,~~
25 ~~ground rents, charges and estates.~~

26 ~~(iii) The inclusion in a lien under this paragraph of~~
27 ~~charges, expenses and fees incurred in the collection of any~~
28 ~~delinquent account, including reasonable attorney fees, shall be~~
29 ~~subject to the requirements of subsection (a.1).~~

30 (2) A CLAIM FOR PROPERTY TAXES THAT HAS BEEN REDUCED TO <--

1 JUDGMENT SHALL BE ENFORCEABLE AS A LIEN AGAINST REAL PROPERTY IN
2 THE SAME MANNER AND TO THE SAME EXTENT AS A JUDGMENT FOR MONEY
3 UNDER THE GENERALLY APPLICABLE LAWS OF THIS COMMONWEALTH. FOR
4 PURPOSES OF THIS CLAUSE, "REDUCED TO JUDGMENT" MEANS A CLAIM
5 RENDERED ABSOLUTE UNDER SECTION 311 OF THE ACT OF JULY 7, 1947
6 (P.L.1368, NO.542), KNOWN AS THE REAL ESTATE TAX SALE LAW, AND
7 THOSE GIVEN THE EFFECT OF A JUDGMENT IN ACCORDANCE WITH THIS
8 ACT.

9 (3) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, WHEN A
10 JUDGMENT OR LIEN UNDER THIS SECTION IS REDUCED OR SATISFIED BY
11 PAYMENT OR A SALE OF THE PROPERTY, THE JUDGMENT CREDITOR SHALL
12 NOTIFY THE TAX CLAIM BUREAU OR PROTHONOTARY WHERE THE ORIGINAL
13 TAX CLAIM IS DOCKETED AND SHALL ENTER THE SATISFACTION IN THE
14 OFFICE OF THE CLERK OF THE COURT IN THE COUNTY WHERE THE
15 JUDGMENT IS OUTSTANDING. NO TAX CLAIM SHALL BE SUBJECT TO
16 ADDITIONAL INTEREST AS A RESULT OF ENFORCEMENT AS A JUDGMENT
17 LIEN UNDER CLAUSE (2).

18 (4) A JUDGMENT LIEN UNDER THIS SUBSECTION SHALL EXIST
19 SEPARATE AND APART FROM THE TAX LIEN.

20 (5) NOTHING IN THIS SUBSECTION SHALL BE CONSTRUED AS
21 AFFECTING OTHER REMEDIES AVAILABLE TO A MUNICIPALITY FOR
22 COLLECTION OF A TAX OR THE PRIORITY OR AMOUNT OF A TAX LIEN.

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

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

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

19 (2) The customary charges of the members of the bar for
20 similar services.

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

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

24 * * *

25 ~~Section 3. Section 4 of the act, amended July 28, 1953~~ <--
26 ~~(P.L.678, No.212), is amended to read:~~

27 ~~Section 4. The lien for taxes shall exist in favor of[, and~~
28 ~~the claim therefor may be filed against the property taxed by,]~~
29 ~~any municipality to which the tax is payable and the lien may be~~
30 ~~filed against the property taxed by such municipality, as well~~

1 ~~as against all other property that is both owned by the person~~
2 ~~who owns the property subject to the tax and located within this~~
3 ~~Commonwealth.~~

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

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

29 ~~Municipal authorities organized by cities of the second~~
30 ~~class, by counties of the second class or by cities of the third~~

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

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

14 ~~Section 4. The act is amended by adding a section to read:~~

15 ~~Section 39.6. (a) A claim for property taxes that has been~~
16 ~~reduced to judgment shall be enforceable as a lien against real~~
17 ~~property in the same manner and to the same extent as a judgment~~
18 ~~for money under the generally applicable laws of this~~
19 ~~Commonwealth. For purposes of this subsection, "reduced to~~
20 ~~judgment" means claims rendered absolute in accordance with~~
21 ~~section 311 of the act of July 7, 1947 (P.L.1368, No.542), known~~
22 ~~as the "Real Estate Tax Sale Law," and those given the effect of~~
23 ~~a judgment in accordance with subsection (b).~~

24 ~~(b) Notwithstanding any other provision of law, when a~~
25 ~~judgment or lien under this section is reduced or satisfied by~~
26 ~~payment or a sale of the property, the judgment creditor shall~~
27 ~~so notify the tax claim bureau or prothonotary where the~~
28 ~~original tax claim is docketed, and shall enter such~~
29 ~~satisfaction in the office of the clerk of the court in the~~
30 ~~county where the judgment is outstanding. No tax claim shall be~~

1 ~~subject to additional interest as a result of enforcement as a~~
2 ~~judgment lien under this section.~~

3 ~~(c) A lien under this subsection shall exist separate and~~
4 ~~apart from the tax lien. Nothing in this section shall be~~
5 ~~construed as affecting other remedies available to a~~
6 ~~municipality for collection of a tax or the priority or amount~~
7 ~~of a tax lien.~~

8 Section 5 2. This act shall take effect in 60 days.

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