

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1409 Session of
2013

INTRODUCED BY ROSS, PARKER, MASSER, SCHLEGEL CULVER, HARKINS,
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MAY 16, 2013

REFERRED TO COMMITTEE ON URBAN AFFAIRS, MAY 16, 2013

AN ACT

1 Amending Title 53 (Municipalities Generally) of the Pennsylvania
2 Consolidated Statutes, providing for tax foreclosure; and
3 making related repeals.

4 The General Assembly of the Commonwealth of Pennsylvania
5 hereby enacts as follows:

6 Section 1. Title 53 of the Pennsylvania Consolidated
7 Statutes is amended by adding a chapter to read:

8 CHAPTER 90

9 TAX FORECLOSURE

10 Sec.

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12 9002. Definitions.

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14 9004. Priority of liens.

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1 9009. Redemption.
2 9010. Foreclosure sale.
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4 9012. Postsale duties of bureau.
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7 § 9001. Scope of chapter.

8 Except for any law that may be used for the sale of property
9 pursuant to an assignment of a tax claim in accordance with
10 section 9006 (relating to assignment of claims), this chapter
11 shall be the sole law authorizing and governing the sale of real
12 property for the payment of delinquent taxes. The scope of this
13 chapter is limited to proceedings in rem and is not intended to
14 nor shall it be construed to affect any law respecting personal
15 liability for any encumbrance on real property.

16 § 9002. Definitions.

17 The following words and phrases when used in this chapter
18 shall have the meanings given to them in this section unless the
19 context clearly indicates otherwise:

20 "Bureau." A tax collection bureau established under section
21 9003 (relating to tax collection bureaus).

22 "County." A county-level municipality within this
23 Commonwealth. The term includes a county which has adopted a
24 home rule charter or optional plan of government under the
25 provisions of Subpart E of Part III (relating to home rule and
26 optional plan government).

27 "Hardship payment plan." The plan entered into under a
28 program under section 9013 (relating to hardship protections).

29 "Interested party." Any of the following:

30 (1) The owner or reputed owner of the subject property.

1 (2) Any person who has a recorded interest in the
2 property which may be affected by the sale of the property.

3 (3) Any person who has an interest in the property not
4 of record which is reasonably likely to be affected by the
5 sale of the property and of which the bureau has knowledge,
6 including, but not limited to, any person found in possession
7 of the property.

8 "Owner-occupant." A natural person with a legal ownership
9 interest in property which was the primary residence of the
10 person for at least three consecutive months in the year
11 preceding the date of delinquency and continuing thereafter as
12 its primary residence.

13 "Redemption amount." The full amount of delinquent ad
14 valorem real property taxes. The term includes:

- 15 (1) accrued interest;
16 (2) penalties; and
17 (3) costs incurred by the bureau in collecting the
18 taxes.

19 "Taxing district." Any county, city, borough, town,
20 township, home rule municipality, optional plan municipality,
21 optional charter municipality, school district or any similar
22 general purpose unit of government created or authorized by
23 statute which has the authority to levy ad valorem real property
24 taxes.

25 § 9003. Tax collection bureaus.

26 (a) Establishment.--The governing body of the county shall
27 establish a tax collection bureau or shall enter into a joint
28 agreement with another county or counties under Subchapter A of
29 Chapter 23 (relating to intergovernmental cooperation) to
30 establish a regional tax collection bureau. Each bureau shall

1 act as agent for the taxing districts within its jurisdiction in
2 the collection and enforcement of delinquent real property
3 taxes. Except as otherwise provided in section 9006 (relating to
4 assignment of claims), a taxing district shall not delegate the
5 power or duty to collect delinquent taxes.

6 (b) Successor.--A tax collection bureau created under
7 subsection (a) shall succeed to the authority of tax claim
8 bureaus and all similar agencies authorized and created under
9 prior law.

10 (c) Alternative collection of delinquent taxes; service
11 providers.--The bureau may provide for the appointment and
12 compensation of such agents, clerks, collectors, and other
13 assistants and employees, either under existing county
14 departments, in the private sector, or otherwise as may be
15 deemed necessary, for the collection and distribution of taxes
16 under this chapter. The bureau may delegate any or all of its
17 powers as delinquent tax collector under this chapter to any
18 agent, provided, however, that nothing in this chapter shall
19 authorize the charging of fees or the collection of commissions
20 by an appointed delinquent tax collector in excess of what would
21 otherwise be charged or collected by the bureau.

22 (d) Availability of data.--Each bureau shall create and
23 maintain an Internet website for the purpose of posting
24 information concerning the tax status of each parcel within its
25 jurisdiction and shall make the same information available for
26 inspection during regular office hours. The following shall
27 apply:

28 (1) The bureau shall be responsible for maintaining
29 current information on the Internet website; however, data
30 provided on the website or in any notice or database

1 connected to the Internet website shall not be construed to
2 constitute a guarantee or legal document, and the bureau
3 shall not be liable for direct or indirect damages resulting
4 from use of the data. For the purpose of this subsection,
5 "current" means within two weeks of receiving accurate and
6 credited payment.

7 (2) The Internet website shall include the following
8 information for each tax delinquent property:

9 (i) the address;

10 (ii) the parcel identification number;

11 (iii) the name of the owner;

12 (iv) the property type or a brief description of the
13 property;

14 (v) the acreage;

15 (vi) the deed book and page in which the property
16 appears;

17 (vii) the date of last sale if this information is
18 made available to the bureau;

19 (viii) the amount for which the property was last
20 sold if this information is made available to the bureau;

21 (ix) the taxing district;

22 (x) the tax year of the delinquency;

23 (xi) the redemption amount;

24 (xii) a notice of proceedings against the property,
25 including the docket number and the date and time
26 scheduled for any hearing or sale under this chapter;

27 (xiii) any other notices required under this
28 chapter;

29 (xiv) the name, telephone number and address of any
30 collector of delinquent taxes appointed as provided in

1 subsection (c); and

2 (xv) information relating to the assignment of a
3 claim, including the name, telephone number and address
4 of any assignee, the date of the assignment, the amount
5 of the claim assigned and any additional information
6 forwarded to the bureau as provided in paragraph (3).

7 (3) A term and condition of any assignment of claims
8 under section 9006 shall be that an assignee provide the
9 bureau with written notification of all of the following:

10 (i) The payment, compromise or other satisfaction of
11 the claim assigned within five days of the payment,
12 compromise or satisfaction.

13 (ii) The name, telephone number and address of any
14 subsequent assignee and the date of the assignment,
15 within five days of the assignment.

16 (iii) Notice of proceedings instituted by the
17 assignee against the property or against an owner for
18 recovery of an assigned claim, including the docket
19 number, date and time of any hearing or sale under this
20 chapter or any other law, rule or regulation providing
21 for the action.

22 (4) The Internet website may permit users to register to
23 receive notices related to specific properties and may also
24 provide forms, general notices and any other relevant
25 information or services.

26 (e) Binding effect of certification.--Upon the written
27 request of any person, the bureau shall issue a certification
28 showing the amount of any taxes due on the property as of the
29 date of the issuance. If any certification incorrectly indicates
30 that a tax has been paid or that less than the true and correct

1 amount is owed and any person acts in reliance upon such
2 representations by acquiring, for valuable consideration, an
3 interest in the property, no lien may be imposed on the property
4 for the amount of the error. If a tax certification is requested
5 in connection with a particular transaction, the parties to the
6 transaction shall be presumed to have acted in reliance upon the
7 representations in the certification.

8 (f) Fees.--Except where otherwise prohibited by law, a
9 bureau may require the payment of reasonable fees for services
10 under this chapter, including, but not limited to, issuing tax
11 certifications and notices and making copies of records. The
12 charges made for each service shall bear a reasonable
13 relationship to the service rendered. Such fees for services
14 shall be in addition to the 5% commission authorized in section
15 9012(c) (relating to postsale duties of bureau). Any interest
16 earned on money held by the bureau prior to distribution shall
17 also be retained by the bureau for administrative costs.

18 § 9004. Priority of liens.

19 Notwithstanding any other provision of law, all taxes on real
20 property are declared a first lien on the real property, second
21 only to a lien of the Commonwealth.

22 § 9005. Return of delinquent taxes.

23 (a) General rule.--Each receiver or collector of ad valorem
24 real property taxes for every taxing district shall make a
25 return to the tax collection bureau on or before a date
26 established by the bureau, which shall be not later than the
27 last day of April of each year and not earlier than the first
28 day of January of that year. The return shall be typewritten on
29 a form provided by or acceptable to the bureau and shall include
30 a list of all properties against which taxes were levied, the

1 whole or any part of which were due and payable in the calendar
2 year immediately preceding and which remain unpaid, giving the
3 description of each such property as it appears in the tax
4 duplicate and the name and address of the owner as it appears in
5 the tax duplicate, together with the amount of such unpaid taxes
6 and penalties up to the first day of the first month of
7 delinquency, at which time the taxes shall be subject to
8 penalties in accordance with section 9007 (relating to
9 delinquency). The return shall be accompanied by a signed
10 affidavit that the return is correct and complete.

11 (b) Exception.--No taxes shall be returned by any tax
12 collector where the owner is paying delinquent taxes under the
13 provisions of any State law or local ordinance abating
14 penalties, interest and costs, unless there has been a default
15 in payment by the owner, in which case, or at any time when a
16 yearly return is being made after any such default, a return
17 shall be made of the balance due as fixed by the law abating
18 penalties, interest and costs or either. The lien of all such
19 taxes shall be continued for the purpose of making a return
20 thereof and collecting the same under the provisions of this
21 chapter.

22 § 9006. Assignment of claims.

23 The bureau may assign some or all of its portion of the
24 claims, either absolutely or as collateral security, for an
25 amount to be determined by the bureau and under such terms and
26 conditions upon which the bureau and the assignee shall agree in
27 writing. Upon such an assignment, the following shall apply:

- 28 (1) Assignment shall not be deemed a discharge or
29 satisfaction of the claim or the taxes giving rise to the
30 claim and the lien of the assigned claim and taxes giving

1 rise to the claim shall continue in favor of the assignee.

2 (2) The bureau shall not commence a foreclosure action
3 or exercise any other powers under this chapter with respect
4 to the assigned tax claim.

5 (3) The assignee shall have and enjoy the same rights,
6 privileges and remedies as were held by the taxing district
7 with respect to the assigned claim and the tax giving rise to
8 the claim under the provisions of this chapter or any other
9 laws applicable to the collection and enforcement of tax
10 claims or municipal claims other than taxes, including the
11 right of the taxing district to receive the distribution of
12 moneys or the proceeds of a sale as provided in this chapter.

13 (4) The bureau may exercise its authority under section
14 9003(a) (relating to tax collection bureaus) to provide for
15 the assignee to exercise all of the duties of the bureau in
16 connection with the collection and enforcement of the tax
17 claims assigned or may provide by contract with the assignee
18 for the division or sharing of such duties between the bureau
19 or other person and the assignee with respect to the tax
20 claims assigned.

21 (5) Assignment shall not affect the 5% commission on tax
22 claim collections payable to the bureau under section 9012(c)
23 (relating to postsale duties of bureau) and reimbursement of
24 any applicable county charges.

25 § 9007. Delinquency.

26 (a) General rule.--For all taxing districts, real property
27 taxes that remain due and unpaid shall be deemed delinquent on
28 December 31 of each calendar year in which the taxes were due
29 and remain unpaid.

30 (b) Penalties.--On January 30 following the year the real

property taxes were deemed delinquent, all unpaid taxes shall be
subject to a penalty equal to an amount not less than 0.5% nor
more than 2% of the principle owed. The taxing body shall
establish the penalty for this initial delinquency by ordinance
or resolution. In addition to the penalty for initial
delinquency, for the first six months, at the end of every
subsequent month of delinquency, the unpaid taxes shall be
subject to a penalty equal to 2.5% of the principle owed.
Following those initial six months of delinquency, at the end of
every subsequent month of delinquency, the unpaid taxes shall be
subject to a penalty equal to 3.5% of the principle owed. The
penalty shall be computed and added to the total amount due
until the date upon which foreclosure proceedings are commenced,
until the delinquent taxes are paid in full or redeemed or until
the owner enrolls in a hardship payment plan.

(c) Fees.--The bureau may charge reasonable fees to a
delinquent taxpayer for actual costs incurred in the collection
and enforcement of the real estate property tax.

§ 9008. Commencement of foreclosure action.

(a) General rule.--Twelve months after the date of initial
delinquency, as determined under section 9007(a) (relating to
delinquency), the bureau shall commence foreclosure action
against the tax delinquent property, provided that the owner is
not enrolled in good standing in a hardship payment plan under
section 9013 (relating to hardship protections).

(b) Notice.--Within seven days of commencing foreclosure
action under this section, the bureau shall post visible signage
on the property and send notice by both certified mail and first
class mail, address correction requested, to the person to whom
a tax bill for property returned for delinquent taxes was last

1 sent, to the person identified as the owner of property returned
2 for delinquent taxes, to a person entitled to notice of the
3 return of delinquent taxes and to a person to whom a tax
4 certificate for property returned for delinquent taxes was
5 issued, as shown on the current records of the county. The
6 signage and mailed notice required under this subsection shall
7 include all of the following:

8 (1) The date the property will be forfeited to the
9 county treasurer, or similar office in counties operating
10 under a home rule charter.

11 (2) A statement that a person who holds a legal interest
12 in the property may lose that interest as a result of the
13 forfeiture and subsequent foreclosure proceeding.

14 (3) A legal description or parcel number of the property
15 and the street address of the property, if available.

16 (4) The person or persons to whom the notice is
17 addressed.

18 (5) The unpaid delinquent taxes, interest, penalties and
19 fees due on the property.

20 (6) A statement that unless those unpaid delinquent
21 taxes, interest, penalties and fees are paid within 30 days
22 of date of mailing by the bureau, absolute title to the
23 property shall vest in the foreclosing taxing district.

24 (c) Disallowance of claims.--The complaint for foreclosure
25 shall not include any claim related to personal property or
26 personal liability and shall relate only to the tax delinquent
27 property. No counterclaims shall be permitted.

28 (d) Complaint.--The complaint shall set forth:

29 (1) the name and address of each interested party, along
30 with a description of the interest;

1 (2) the grounds for subject matter jurisdiction, in rem
2 jurisdiction over the defendant property, and venue;

3 (3) a general description of the property, including the
4 address and tax parcel number;

5 (4) an itemized statement of the redemption amount and
6 the time and place where payment may be made; and

7 (5) a request for relief.

8 (e) Amendment of complaint.--The complaint may be amended at
9 any time prior to entry of judgment to include the amount of any
10 additional costs, fees or subsequent tax delinquency.

11 § 9009. Redemption.

12 (a) Authorization.--An interested party may redeem the
13 property from sale by paying the full redemption amount at any
14 time prior to entry of an order for the sale of the property.
15 Except as otherwise provided by Federal law, entry of an order
16 for sale shall extinguish all rights of redemption.

17 (b) Result.--Upon receipt of the redemption amount, the
18 petitioner shall notify the court of the same and shall file for
19 dismissal of the action without prejudice. Dismissal does not
20 affect the rights and interests of interested parties.

21 (c) Payment by party other than fee simple owner.--If
22 payment of the redemption amount is by a party other than a fee
23 simple owner, the bureau shall issue to the payor a certificate
24 which, when filed with the appropriate office in the county for
25 the recording of civil judgments, shall evidence possession of a
26 lien on the property for full amount of the payment. The lien,
27 when properly recorded, shall have the same priority as the lien
28 for delinquent tax. The lienholder shall not otherwise succeed
29 to the powers of the tax collection bureau under this chapter.

30 § 9010. Foreclosure sale.

1 (a) Sale.--Upon entry of judgment and order for foreclosure,
2 the property shall be exposed for sale at a public sale. The
3 sale shall not occur earlier than 45 days following the date of
4 issuance of the court's order or later than 90 days following
5 the date of the issuance of the court's order.

6 (b) Bidding.--The following shall apply:

7 (1) Any person or entity that wishes to bid at the sale
8 must first sign a sworn affidavit that the person or entity
9 is not, either personally or as a principal of any business
10 entity:

11 (i) delinquent on any real property taxes or
12 municipal fees for service in any municipality in this
13 Commonwealth;

14 (ii) in current violation of property maintenance
15 codes or public health codes in any municipality in this
16 Commonwealth; or

17 (iii) bidding on behalf of another who is not
18 eligible to bid.

19 (2) Notwithstanding any other provision of law, the
20 petitioner may bid at the sale.

21 (3) The minimum bid price for the sale of the property
22 shall be the redemption amount.

23 (4) The property shall be sold to the highest qualified
24 bidder. For the purposes of this paragraph, "qualified
25 bidder" means a person or entity which is in compliance with
26 paragraph (1).

27 (c) Effect.--At the conclusion of the sale, the winning
28 bidder shall pay the full amount of the bid. Failure to pay the
29 full amount of the bid shall result in the immediate reexposure
30 of the property to sale.

1 § 9011. Transfers in absence of minimum bid.

2 (a) Tax collection bureau as trustee.--If, after offering
3 the property for sale in accordance with section 9010 (relating
4 to foreclosure sale), the minimum bid is not met, all rights in
5 the property shall transfer to the bureau as trustee by
6 operation of law. The bureau shall maintain a list of such
7 properties on its Internet website and in its office. From time
8 to time, the bureau may publish a list of these properties in a
9 locally circulating newspaper. Neither the county nor the bureau
10 shall have any personal liability for the property while it is
11 acting as trustee.

12 (b) Subsequent disposition.--The bureau may, in its
13 discretion:

- 14 (1) hold another public sale;
15 (2) with the written consent of all the taxing districts
16 where the property is located, accept an offer of any price
17 for the property; or
18 (3) transfer the property to political subdivisions or
19 third parties on such terms and conditions and for such
20 consideration as are mutually acceptable to the bureau and
21 the transferee.

22 § 9012. Postsale duties of bureau.

23 (a) Deed.--The bureau shall, as trustee grantor, make and
24 deliver to the purchaser or transferee a deed in fee simple,
25 without warranties, for the property. It shall be the duty of
26 the bureau to ensure that the deed is properly recorded.

27 (b) Forms and returns.--The bureau shall file all required
28 tax returns and all other forms or declarations required by law
29 as a result of the transfer.

30 (c) Distribution of proceeds.--The following shall apply:

1 (1) Proceeds collected under this chapter shall be
2 subject, first, to offset any costs or fees for services
3 associated with the sale of the property and a commission of
4 5% of all money collected to be retained by the bureau to
5 offset costs of the administration of this chapter.

6 (2) After retention of the amount under paragraph (1),
7 the bureau shall distribute sale proceeds in accordance with
8 the amount and priority of each party's interest. If the sale
9 price exceeds the minimum bid, the bureau shall deposit into
10 an escrow account the amount of the surplus and shall publish
11 a proposed schedule of distribution. The proposed schedule
12 shall be posted in the office and on the Internet website of
13 the bureau not less than ten days before distribution.
14 Exceptions to the proposed schedule must be submitted in
15 writing to the bureau within ten days of the date of posting.

16 (3) The court with original jurisdiction over the action
17 in foreclosure shall hear any disputes arising from
18 exceptions to the proposed schedule of distribution.

19 § 9013. Hardship protections.

20 (a) Requirement.--Each bureau shall create a program to
21 alleviate undue hardship which may be caused by a claim for
22 delinquent real property taxes. In developing program policies
23 and internal guidelines, the bureau shall take into
24 consideration the important public interests of preventing
25 homelessness and avoiding property abandonment and blight.

26 (b) Eligibility.--In order to participate in a hardship
27 payment plan, an applicant must be an owner-occupant and must
28 not have defaulted on a prior hardship payment plan for
29 delinquent taxes. The bureau shall approve an application for
30 enrollment in a hardship payment plan if it determines, based on

information in the application, that the tax claim constitutes an actual hardship for the applicant and the tax has remained delinquent through no significant fault of the applicant.

(c) Application.--The application must be submitted to the bureau not later than 14 days following the date of issuance of the court's order in a foreclosure action and shall include the following:

- (1) proof that the applicant is an owner-occupant;
- (2) proof of household income and expenses;
- (3) a list of all debts of the applicant along with the amount of the debt and interest rate; and
- (4) an explanation of any extenuating circumstances which occurred or persisted during the preceding year and which significantly affected the ability of the applicant to pay the taxes as they became due.

(d) Notice and enrollment.--The bureau shall notify the applicant of its decision or shall request additional documentation of the information contained in the application within 14 days of receipt. If the application is approved, the bureau shall include with the notification a payment schedule.

(e) Right of appeal.--An applicant may appeal the decision of the bureau to the governing body of the county. All appeals must be made within 14 days after notice of the decision. The decision on appeal shall be final and binding.

(f) Terms of repayment.--The bureau shall determine the terms of a hardship payment plan in accordance with the program policies adopted under subsection (a), subject to the following limitations:

- (1) no payment schedule may incorporate any tax forgiveness or abatement not otherwise authorized by law;

1 (2) no payment schedule may exceed the duration of 24
2 months;

3 (3) the payment schedule shall permit the taxpayer to
4 make payment of the amount due in at least four separate
5 payments, spaced at least 30 days apart; and

6 (4) the initial payment shall not exceed 25% of the
7 amount of delinquent taxes.

8 (g) Default.--The bureau shall cause foreclosure proceedings
9 to be stayed for the duration of enrollment in a hardship
10 payment plan. However, proceedings shall be recommenced within
11 two weeks of any default. Two or more consecutive missed
12 payments or failure to timely pay any taxes levied on the
13 property after the date of enrollment in the hardship payment
14 plan shall constitute default under this section.

15 (h) Modification.--A request for a modification of a
16 hardship payment plan must be submitted to the bureau prior to
17 the second missed payment. Criteria for granting modification
18 include:

19 (1) loss of employment;

20 (2) involuntary reduction of work hours;

21 (3) illness requiring physician treatment; or

22 (4) death of a contributing member of the household.

23 § 9014. Taxpayer advocate.

24 (a) Appointment.--Each bureau shall appoint at least one
25 individual, who has sufficient knowledge of consumer finances,
26 as a taxpayer advocate. The taxpayer advocate may be a public
27 officer or employee or a volunteer, provided the individual
28 appointed may not have the authority to approve or disapprove an
29 application for enrollment in a hardship protection program or
30 exercise any powers of enforcement under this chapter.

1 (b) Powers.--A taxpayer advocate shall have no authority to
2 act on behalf of the taxpayer except as expressly granted in
3 writing by the taxpayer.

4 Section 2. Repeals are as follows:

5 (1) The General Assembly declares that the repeals under
6 paragraph (2) are necessary to effectuate the addition of 53
7 Pa.C.S. Ch. 90.

8 (2) The following acts and parts of acts are repealed:

9 (i) The act of May 16, 1923 (P.L.207, No.153),
10 referred to as the Municipal Claim and Tax Lien Law, is
11 repealed insofar as it is inconsistent with the addition
12 of 53 Pa.C.S. Ch. 90.

13 (ii) Article VI of the act of July 7, 1947
14 (P.L.1368, No.542), known as the Real Estate Tax Sale
15 Law, is repealed absolutely.

16 (iii) The act of June 28, 1967 (P.L.122, No.32),
17 entitled "An act authorizing and empowering city
18 treasurers of cities of the second class A to sell at
19 public sale, lands or real estate upon which the taxes,
20 assessed and levied by the city, are delinquent and
21 unpaid; fixing the interests of all taxing authorities
22 where such lands are purchased by the city; providing for
23 the distribution of moneys received as income from or
24 resale of such lands; and providing for a method of
25 reselling such lands purchased, by the city, or by the
26 city at any sale for the nonpayment of taxes, free and
27 clear of all mortgages, ground rents, interest in or
28 claims against said lands; authorizing an agreement
29 between cities of the second class A purchasing property
30 at treasurer's sales and all other taxing authorities

1 having an interest in such lands with respect to the
2 distribution of rents, income and the proceeds of the
3 resale of such lands," is repealed insofar as it is
4 inconsistent with the addition of 53 Pa.C.S. Ch. 90.

5 (iv) The act of October 11, 1984 (P.L.876, No.171),
6 known as the Second Class City Treasurer's Sale and
7 Collection Act, is repealed insofar as it is inconsistent
8 with the addition of 53 Pa.C.S. Ch. 90.

9 (3) All acts and parts of acts are repealed insofar as
10 they are inconsistent with the addition of 53 Pa.C.S. Ch. 90.

11 Section 3. The addition of 53 Pa.C.S. Ch. 90 shall apply to
12 ad valorem real property taxes which are delinquent as of July
13 1, 2014.

14 Section 4. This act shall take effect in 60 days.