

Petition for
accounting.

Decrees by
orphans' court.

Compliance with
act prerequisite
to discharge.

Construction and
application of act.

orphans' court of the proper county in this Commonwealth a petition for accounting in such estate. Such official body of the domiciliary state shall, for the purpose of this act, be a party interested for the purpose of petitioning such orphans' court for such accounting, and, if such petition be filed within said period of sixty days, such orphans' court shall decree such accounting, and, upon such accounting being filed and approved, shall decree the remission to the fiduciary appointed by the domiciliary probate court of the balance of the intangible personalty after the payment of creditors and expenses of administration in this Commonwealth.

Section 3. Unless the provisions of either section one or section two of this act shall have been complied with, no such executor or administrator shall be entitled to a final accounting or discharge in any orphans' court in this Commonwealth.

Section 4. The provisions of sections one, two, and three of this act shall be liberally construed in order to insure that the state of domicile of any decedent shall receive any death taxes, together with interest and penalties thereon, due to it, and shall apply to the estate of any nonresident decedent if the laws of the state or foreign country of his domicile contain a provision of any nature, or however expressed, whereby this Commonwealth is given reasonable assurance of the collection of its death taxes, interest and penalties from the estates of decedents dying domiciled in this Commonwealth in cases where the estates of such decedents are being administered by the probate court of such other state, or if the state of domicile does not grant letters in nonresident estates until after letters have been issued by the state of domicile.

APPROVED—The 22d day of May, A. D. 1933.

GIFFORD PINCHOT

No. 148

AN ACT

To amend sections three hundred eleven, three hundred twelve, three hundred thirteen, three hundred fourteen, three hundred fifteen, three hundred sixteen, three hundred seventeen, three hundred eighteen, three hundred nineteen, three hundred twenty, three hundred twenty-one, three hundred twenty-two, three hundred twenty-three, three hundred twenty-four, three hundred twenty-five, and three hundred twenty-six, and to repeal section three hundred twenty-seven as added, of the act, approved the second day of May, one thousand nine hundred and twenty-nine (Pamphlet Laws, one thousand two hundred seventy-eight), entitled "An act relating to counties of the second, third, fourth, fifth, sixth, seventh and eighth classes; and revising, amending and consolidating the laws relating thereto," by changing the amount of contributions to the retirement fund,

the retirement age, the length of service necessary to entitle members to retirement allowance upon being totally disabled, and increasing the number of members of the retirement board, and authorizing counties of the second class and the county poor district to make appropriations to an employees' retirement fund.

Section 1. Be it enacted, &c., That sections three hundred eleven, three hundred twelve, three hundred thirteen, three hundred fourteen, three hundred fifteen, three hundred sixteen, three hundred seventeen, three hundred eighteen, three hundred nineteen, three hundred twenty, three hundred twenty-one, three hundred twenty-two, three hundred twenty-three, three hundred twenty-four, three hundred twenty-five, and three hundred twenty-six of the act, approved the second day of May, one thousand nine hundred and twenty-nine (Pamphlet Laws, one thousand two hundred seventy-eight), entitled "An act relating to counties of the second, third, fourth, fifth, sixth, seventh and eighth classes; and revising, amending and consolidating the laws relating thereto," are hereby amended to read as follows:

The General
County Law.

Retirement,
counties of
second class.

Act of May 2,
1929 (P. L.
1278), certain
sections
amended.

Section 311. "County Employee" Defined.—A county employe, for the purpose of this subdivision of this act, is any person employed by the county *or by the county poor district* at a wage or salary payable at stated intervals; that is to say, semi-monthly, monthly, quarterly, or annually. The term [does not] *may, at the option of the Retirement Board*, include any person elected by the vote of the people.

Section 312. [Pension] Retirement System and Fund to Be Established.—Each county of the second class shall provide a [pension system for such] county employes' retirement system for such county for employes of the county and the county poor district, and shall establish and regulate a [pension] retirement fund in connection therewith.

Section 313. [Pension] Retirement Board.—The [pension] retirement system shall be under the sole direction of a [pension] retirement board, hereinafter designated the board, which shall consist of the county commissioners, the treasurer, [and] the controller of the county, and two persons elected from among the members of the retirement system—one to serve for two years and one for four years. Following the completion of the initial terms, the stated terms of such members shall be four years. A vacancy occurring during the term of any member of the retirement board shall be filled for the unexpired term by the appointment or election of a successor in the same manner as his predecessor. A majority of the members of the retirement board shall constitute a quorum for the transaction of any business.

Section 314. Treasurer and Secretary of Board.—The county treasurer shall be the treasurer of the board, and shall give such bond for the proper performance of his duties as is required by the board. The premium

on said bond shall be paid from the [pension] *retirement* fund on warrants of the board. The treasurer shall receive for his services the sum of one hundred dollars (\$100.00) per annum, from the [pension] *retirement* fund, payable on warrants of the board. *The county controller shall be the secretary of the board.*

Section 315. Register of Employes; Regulations of Board.—The board shall keep a register of employes, containing the names, ages, residence, nature of employment, time of entering the employ of the county *or of the county poor district*, and such other information as the board deems necessary in the performance of its duties. The board may adopt, amend, revise and abolish, in its discretion, such regulations, not inconsistent with law, as it deems necessary.

Section 316. List of Employes.—The head of each department or office of the county *or of the county poor district* shall file with the board a list of all employes of such department or office, with the amount of the salary or wage received by each, the age of the employe, time of entering the county *or county poor district* employ, and such other information relative to such employes as is required by the board. From time to time, and whenever requested by the board, all dismissals, appointments, resignations, transfers, changes in salaries or in employment, and other information relative to employes, shall be furnished to the board by the head of each such department or office.

Section 317. Appropriations to [Pension] *Retirement* Fund.—The county commissioners *and the directors of the poor district* shall, [annually in January, appropriate and pay into the pension fund not less than one-half of one per centum, and not more than two per centum, of all available moneys received by the county as taxes during the preceding calendar year.] *prior to February fifteenth of each year, appropriate, out of county taxes and poor taxes of said county and county poor district, a certain sum of money which shall be equal to the amount paid in by employes of said county and county poor district. The county and county poor district shall pay into the fund the full amount of their appropriation on or before August fifteenth of each year. The portion of such sum to be paid by the county and the county poor district into such fund shall be such part thereof as the amount paid by the employes of such county or county poor district bears to the total amount paid into the retirement fund by the respective employes.*

Section 318. Payment by Employes.—Each county employe shall, each month, pay into the [pension] *retirement* fund [one] *three* per centum of the amount received by him *or her* as salary or wages from the county *or the county poor district* during the preceding calendar month. *In no event, however, paying at a rate greater than eight dollars (\$8.00) a month. Such*

amount shall be collected by the county treasurer, and by him paid into the [pension] *retirement* fund. [Such monthly payments by an employe shall cease when such employe is entitled to receive the pension herein provided for.] No employe shall be entitled to a [pension] *retirement allowance* who does not make the monthly payment herein required.

Section 319. Investment or Deposit of Fund.—The board may, in its discretion, invest the money of the [pension] *retirement* fund, or any part thereof, in obligations of the United States, or of this State, or of any political subdivision of this State, or it may deposit such moneys, or any part thereof, in one or more banks or trust companies of the county selected by the board. The banks or trust companies offering to pay the highest rate of interest, and that have a paid-in capital and surplus of not less than three hundred thousand dollars, shall be selected. A contract with a depository shall be for a period covering the term of the county treasurer. No moneys shall be paid to a depository until it shall have executed to the board a bond for the proper safeguarding of the funds so deposited. The bonds shall have such surety as is approved by the court of common pleas. No moneys exceeding in the aggregate the amount of the bond shall be paid to any depository.

Section 320. Persons Entitled to [Pensions] *Retirement Allowances*.—Every person now or hereafter in the employ of the county *or the county poor district* who has reached the age of [fifty] *sixty* years or upwards, and who shall have been in the employ of the county *or the county poor district* during a period of not less than twenty years, shall, upon application to the board, be retired from service, and shall thereafter receive during life a [pension] *retirement allowance* as herein provided for. The time spent in the employ of the county *or the county poor district* need not necessarily have been continuous: *Provided, That when any employe has had twenty or more years of service and has reached the age of fifty years, and shall be or shall have been separated from the service by reason of no cause or act of his own, he shall thereafter receive during life a retirement allowance as herein provided for. The time spent in the employ of the county or the county poor district need not necessarily have been continuous.*

Section 321. Exception in Favor of Persons Totally and Permanently Disabled.—Any employe who has been in the county *or county poor district* employ for a period of not less than [ten] *fifteen* years shall be entitled to a [pension] *retirement allowance* if he or she becomes totally and permanently disabled, even though such employe has not reached the age of [fifty] *sixty* years. Proof of total and permanent disability shall be by the sworn statement of three practicing physicians of the county, designated by the board, to the effect that such

employe is totally and permanently disabled from performing the duties of his or her position or office.

Section 322. Amount of [Pensions] *Retirement Payment*.—The [pension] *retirement allowance* paid under the provisions of this act shall equal annually fifty per centum of the average annual amount received by the employe as salary or wages during the two years immediately preceding the date of retirement of the employe receiving the [pension] *retirement allowance*, *except that ten per centum of such amount shall be deducted in equal monthly instalments and be paid into the retirement fund, as the contribution of the person receiving such retirement allowance to the said fund, for such length of time as may be required by the retirement board.* No [pension] *retirement allowance* shall exceed the sum of one hundred dollars per month. [Pensions] *Retirement allowances* shall be paid in monthly instalments on warrant on the board.

Section 323. [Pension] *Retirement Allowance After Leaving County or County Poor District Service*.—If any employe, after twenty years in the county or county poor district employ, is dismissed, or retires voluntarily, or is in any other manner deprived of his or her employment, before attaining the age of fifty or sixty years, *as the case may be*, such employe, if he continues to contribute to the [pension] *retirement fund* monthly a sum equal to the last monthly contribution paid while in the county or county poor district employ, shall, when he or she reaches the age of fifty or sixty years, *as the case may be*, be entitled to a [pension] *retirement allowance*.

Section 324. Refund of Contributions.—If any county or county poor district employe, contributing monthly to the [pension] *retirement fund*, shall, for any cause, cease to be an employe of the county or county poor district before [the expiration of the twenty-year period] *he shall receive the benefits of the retirement allowances*, the total amount of the contributions paid into the [pension] *retirement fund* by such employe shall, upon demand in writing, be repaid to him or her, or to his or her personal representatives, *or to such person or persons as are legally entitled thereto*, out of the fund.

Section 325. Reinstatement.—Should any county or county poor district employe, who has withdrawn his contribution paid into the [pension] *retirement fund*, desire to be reinstated, and again become a beneficiary, he or she may do so by the payment in full of the amount withdrawn, and by paying the assessments provided for in section three hundred and eighteen of this act.

Section 326. [Pension] *Retirement Allowance Not Subject to Attachment or Assignment; Suspension of Retirement Allowance*.—No [pensions] *retirement allowance* herein provided for shall be subject to execution or to attachment. It shall be payable only to the beneficiary herein provided for, and shall not be subject to assign-

ment or transfer. *If any member of the retirement system is receiving a retirement allowance and he or she shall or may hereafter be employed by the government of the United States, or the Commonwealth of Pennsylvania, or any political subdivision thereof, then the retirement board shall, and is hereby given the authority to, suspend the retirement allowance to such member of the retirement system during such employment.*

Section 2. That section three hundred twenty-seven of said act, as added by section ten of the act approved the ninth day of June, one thousand nine hundred and thirty-one (Pamphlet Laws, four hundred one), is hereby repealed.

Section 327, as added by act of June 9, 1931 (P. L. 401), repealed.

Section 3. This act shall become effective on the first day of the month next following its final enactment.

When effective.

APPROVED—The 22d day of May, A. D. 1933.

GIFFORD PINCHOT

No. 149

AN ACT

Regulating actions of scire facias sur mechanics liens, and prescribing the pleadings and procedure to be observed therein.

Section 1. Be it enacted, &c., That from and after the passage of this act, in all actions of scire facias sur mechanics liens, there shall be filed by plaintiff, with the præcipe for such writ, an affidavit, which affidavit shall set forth only (a) the name of the parties plaintiff and defendant, (b) the amount claimed to be due, (c) the name or names of the real owners of the property against which such mechanics lien is filed, (d) a specific reference to the mechanics lien upon which such writ of scire facias is based, which mechanics lien shall, by such reference, be deemed to be a part of such affidavit. The affidavit of service of notice of having filed such mechanics lien shall be deemed to be a part of the record of such mechanics lien.

Scire facias sur mechanics lien.

Affidavit to be filed with præcipe.
Contents.

Affidavit of service of notice.

Section 2. There shall be served, upon each defendant named in such writ, with the writ a copy of such affidavit.

Service of affidavit with writ.

Section 3. Every allegation of fact in such affidavit and in the mechanics lien, if not specifically or by necessary implication denied in the affidavit of defense, shall be taken to be admitted, and such allegation in such affidavit and mechanics lien so not denied may be offered in evidence.

Facts alleged and not denied.

Section 4. The affidavit of defense shall answer specifically each allegation of fact in the affidavit filed with such præcipe and in the mechanics lien; and the defendant may, by notice to plaintiff, require plaintiff to file a replication to such affidavit of defense within fifteen days from service of such notice.

Affidavit of defense.

Replication.