

No. 137

AN ACT

SB 1415

Amending the act of November 30, 1967 (P.L.658, No.305), entitled, as amended, "An act authorizing townships, boroughs, cities of the first class, cities of the second class A and cities of the third class to designate business improvement districts, create bonded or other evidences of indebtedness to acquire and finance improvements in such districts, and assess and collect special ad valorem assessments from benefited properties in such districts," making the act uniform for all municipal corporations and further providing for the method of imposing and collecting assessments for improvements.

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

Section 1. The title and sections 2 and 4, act of November 30, 1967 (P.L.658, No.305), known as the "Business Improvement District Act of 1967," amended July 18, 1974 (P.L.463, No.164), are amended to read:

AN ACT

Authorizing [townships, boroughs, cities of the first class, cities of the second class A and cities of the third class] *municipal corporations* to designate business improvement districts, create bonded or other evidences of indebtedness to acquire and finance improvements in such districts, and assess and collect special [ad valorem] assessments from benefited properties in such districts.

Section 2. Powers of Governing Body.—The governing body of every [township, borough, city of the first class, city of the second class A and city of the third class] *municipal corporation* shall have the power:

[(a)] (1) To establish within the political subdivision an area or areas designated as a business improvement district which district or districts may be designated as all or part of any sector of a community which is zoned commercial or which is used for general commercial purposes.

[(b)] (2) To appropriate and expend such amounts as may be necessary for preliminary planning or feasibility studies to determine needed improvements in such districts and to recommend improvement to individual properties and to provide where required basic design criteria. Public hearings, shall be required before passage of the enabling ordinance. At such public hearings any interested party may be heard. Notice of such hearings shall be advertised at least ten days prior thereto in a newspaper circulating in such political subdivisions. Said ordinance shall specify improvements, with respective costs, to be undertaken. "Costs of any improvement," or "total cost of improvements" as used in this act shall include but not be limited to the improvements themselves, engineering, architectural, attorney or other consulting fees, preliminary planning, feasibility studies, financing costs and all other costs necessary and

incidental to the completion of the improvement or improvements. Said ordinance shall not become effective if before the expiration of twenty days after its enactment, property owners of the proposed district whose property valuation as assessed for taxable purposes shall amount to more than fifty per cent of the total property valuation of the district, shall sign and file, in the office of the prothonotary of the court of common pleas of the county in which the district is located, a written protest against said ordinance.

[(c)] (3) To appropriate and expend in accordance with the specific provisions of the enabling ordinance such amounts as may be required to acquire by purchase or lease, real or personal property to effectuate the purposes of the improvement district including but not limited to sidewalks, retaining walls, street paving, street lighting, parking lots, parking garages, trees and shrubbery purchased and planted, pedestrian walks, sewers, water lines, rest areas, acquisition and remodeling or demolition of blighted buildings and similar or comparable structures. In no case shall improvement be made to property which has not been acquired.

[(d)] (4) To acquire by gift, purchase or eminent domain, land, real property or right of ways which may be needed for the purposes of the projected improvements within the district.

[(e)] (5) To issue bonds, notes or guarantees in accordance with the provisions of general laws authorizing borrowing by cities of the first class or in accordance with the provisions of the act of July 12, 1972 (P.L.781, No.185), known as the "Local Government Unit Debt Act," whichever is applicable in such amounts and for such periods as may be necessary to finance the projected improvements for any district.

Section 4. Method of Assessment.—**(a)** The total cost of the improvements in such district shall be assessed to all of the benefited properties in the district by either of the following methods:

[(a)] (1) By an assessment determined by multiplying the total improvement cost by the ratio of the assessed value of the benefited property to the total assessed valuation of all benefited properties in the district.

[(b)] (2) By an assessment upon the several properties in the district in proportion to benefits as ascertained by viewers appointed in accordance with law.

(3) *By an assessment upon the several properties in the district abutting on the improvements, or, where more than one type of improvement is involved, designated types thereof, by the front-foot method, with such equitable adjustments for corner properties and other cases as may be provided for in the assessment ordinance. Any property which cannot be equitably assessed by the front-foot method may be assessed by the method provided in clause (2).*

(b) The governing body may by ordinance authorize the payment of such assessment in equal annual, or more frequent installments over such

time and bearing interest at such rate **[not in excess of six per cent]** as may be specified in said ordinance provided that where bonds shall have been issued and sold, or notes or guarantees given or issued, to provide for the cost of the improvements such assessment in equal installments shall not be payable beyond the term for which such bonds, notes or guarantees are payable.

*(c) Claims to secure the assessments shall be entered in the prothonotary's office of the county at the same time and in the form and shall be collected in the same manner as municipal claims are filed and collected **[notwithstanding the provisions of this section as to installment payments] except that, where installment payments are authorized, pursuant to subsection (b), the ordinance may contain any or all of the following provisions:***

(1) Notwithstanding the filing of such claims, all assessments which are made payable in installments shall constitute liens and encumbrances upon the respective benefited properties, at the beginning of each calendar year, except as provided in clause (2), only in an amount equal to the sum of (i) the annual, or other, installments becoming payable in such year, with interest and penalties, if any, thereon, and (ii) the total of all installments, with interest and penalties thereon, which became due during prior years and which remain due and unpaid at the beginning of the current year.

(2) In the case of default in the payment of any installment and interest for a period of ninety days after the same shall become due, the assessment ordinance may provide either for the entire assessment with accrued interest and penalties to become due and become a lien from the due date of the installment, or may provide solely for the enforcement of the claim as to the overdue installment (with interest and penalties) in which case the ordinance shall further provide that if any installment or portion thereof shall remain due and unpaid for one year after it has become due and payable, then the entire assessment with accrued interest and penalties shall become due and become a lien from the due date of the installment.

(3) No action taken to enforce a claim for any installment or installments shall affect the status of any subsequent installment of the same assessment, each of which shall continue to become a lien upon the property annually pursuant to clause (1).

(4) The ordinance may contain any other provision relating to installment assessments which is not inconsistent with applicable law.

[In the case of default in the payment of any installment and interest for a period of sixty days after the same shall become due, the entire assessment and accrued interest shall become due.]

*(d) Any owner of property, against whom an assessment has been made, may pay the same in full, at any time, with accrued interest and costs thereon, and such payment shall discharge the lien of such assessment **or installments then constituting a lien, and also release the claim to any later installments.***

Section 2. This act shall take effect immediately.

APPROVED—The 9th day of July, A. D. 1976.

MILTON J. SHAPP