

No. 1992-135

AN ACT

SB 552

Amending the act of May 16, 1923 (P.L.207, No.153), entitled "An act providing when, how, upon what property, and to what extent, liens shall be allowed for taxes and for municipal improvements, for the removal of nuisances, and for water rents or rates, sewer rates, and lighting rates; for the procedure upon claims filed therefor; the methods for preserving such liens and enforcing payment of such claims; the effect of judicial sales of the properties liened; the distribution of the proceeds of such sales, and the redemption of the property therefrom; for the lien and collection of certain taxes heretofore assessed, and of claims for municipal improvements made and nuisances removed, within six months before the passage of this act; and for the procedure on tax and municipal claims filed under other and prior acts of Assembly," further providing for sale upon judgment in cities of the first class; providing for registration of interested parties, service of notice and statute of limitations in cities of the first class; and further providing for redemption of uninhabited residential property.

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

Section 1. Section 15 of the act of May 16, 1923 (P.L.207, No.153), referred to as the Municipal Claim and Tax Lien Law, amended December 13, 1982 (P.L.1196, No.274), is amended to read:

Section 15. Such tax, municipal or other claim if filed within the period aforesaid, shall remain a lien upon said properties until fully paid and satisfied: Provided, That either a suggestion of nonpayment and an averment of default, in the form hereinafter provided, be filed, either before or after judgment on the scire facias or else a writ of scire facias, in the form herein provided, be issued to revive the same, within each period of twenty years following—(a) the date on which said claim was filed, (b) the date on which a writ of scire facias was issued thereon, (c) the date on which any judgment was entered thereon, (d) the date on which a previous suggestion of nonpayment and default was filed thereon, or (e) the date on which a judgment of revival was obtained thereon, except that in cities and school districts of the first class with respect to taxes and other municipal claims, the period within which such liens may be revived shall be twenty years.

The suggestion and averment shall be in the following form, under the caption of the claim:

And now, the claimant, by, its solicitor, or by the chief of its delinquent tax bureau, or, in counties of the second class, by the county controller, suggests of record that the above claim is still due and owing to the claimant, and avers that the owner is still in default for nonpayment thereof. The prothonotary is hereby directed to enter this suggestion and averment on the municipal lien or the proper docket of the claim, and also to index it upon the judgment index and on the locality index of the court, for the purpose of continuing the lien of the claim.

Such suggestion and averment shall be signed by, or have stamped thereon a facsimile signature of, the solicitor or chief executive officer of the claimant, or the chief of its delinquent tax bureau, except in counties of the second class, in which case it shall be signed by, or have stamped thereon a facsimile signature of, the county controller. The prothonotary shall docket and index the suggestion and averments directed therein.

The filing and indexing of such suggestion and averment within twenty years, or in any city or school district of the first class within twenty years, of filing the claim or the issuing of any writ of scire facias thereon, or of any judgment thereon, or of the filing of any prior suggestion and averment of default, shall have the same force and effect, for the purposes of continuing and preserving the lien of the claim, as though a writ of scire facias had been issued or a judgment or judgment of revival had been obtained within such period: Provided, That no writ of levari facias shall be issued upon a claim for the purpose of exposing the property liened to sheriff's sale, except after a judgment shall have been duly obtained upon the claim, as provided in this section, and such judgment must have been obtained within twenty years, or in any city or school district of the first class within twenty years, of the issuance of the levari facias. Whenever the lien of a claim has been revived and continued by the filing and indexing of a suggestion and averment of default, the claimant may, at any time within twenty years therefrom, or in any city or school district of the first class within twenty years, issue a writ of scire facias thereon reciting all suggestion and averment of default filed since the filing of the claim, and shall proceed thereon, in the manner herein provided, subject to the right of the owner to raise any defense arising since the last judgment.

If a claim be not filed within the time aforesaid, or if it be not prosecuted in the manner and at the time aforesaid, its lien on real estate shall be wholly lost.

The charge for filing the claim of a municipality or municipality authority shall include the cost of marking the record paid and satisfied. When the claim and costs are paid the municipality or municipality authority shall so notify the prothonotary.

Notwithstanding any other provision of this or any other act to the contrary, all judgments in favor of cities, counties and school districts of the first class relating to self-assessed taxes as defined in section 2 of the act of December 1, 1959 (P.L.1673, No.616), known as the "Self-Assessed Tax Lien Act," may be revived in the manner provided for in this section.

Section 2. Section 31.2 of the act, added March 15, 1956 (1955 P.L.1274, No.388), is amended to read:

Section 31.2. (a) In addition to the remedies prescribed in sections 28, 31 and 31.1 of this act, in cities of the first class, whenever a claimant has **[obtained a judgment upon] filed** its tax or municipal claim *in accordance with the requirements of this act*, it may file its petition in the court in which the proceeding is pending, setting forth the facts necessary to show the right to sell, together with searches or a title insurance policy, showing the state of record and the ownership of the property, and of all tax and municipal

claims, mortgages, ground rents or other charges on, or estates in, the land, as shown by the official records of the city or county, or the political subdivision in which the real estate is situate, and thereupon the court shall grant a rule upon all parties thus shown to be interested, to appear and show cause why a decree should not be made that the property be sold, freed and cleared of their respective claims, mortgages, ground rents, charges and estates. If upon a hearing, the court is satisfied that service had been made of the rule upon the parties respondent in the manner provided in this act for the service of writs of scire facias to obtain judgments upon tax and municipal claims, and that contemporaneously with the service of the rule on the parties respondent notice of the rule has been published by the claimant in at least one newspaper of general circulation in the county, and in a legal periodical published therein, if any, and that the facts stated in the petition be true, it shall order and decree that the property be sold at a subsequent sheriff's sale at a time to be fixed thereafter by the claimant, clear of all claims, liens, mortgages, ground rents, charges and estates, to the highest bidder at such sale and after payment of the tax or municipal lien the balance of the proceeds realized therefrom, shall be distributed in accordance with the priority of the remaining claims, liens, mortgages, ground rents, charges and estates, and the purchaser at such sale shall take and forever thereafter have, an absolute title to the property sold, free and discharged of all tax and municipal claims, liens, mortgages, ground rents, charges and estates of whatsoever kind, subject only to the right of redemption as provided by law. The date of the sale shall be advertised in at least one newspaper of general circulation in the county and in the legal periodical published therein.

(b) The deed to the purchaser shall be executed, acknowledged and delivered as in other real estate sales by the sheriff. Any person interested may at any time prior to the proposed sale pay all the costs of the proceedings, including the cost for the title search or title insurance policy, and all tax and municipal claims, penalties and interest thereon, charged against the property whereupon the proceedings on petition shall at once determine.

(c) For the purpose of enabling the petitioner in any proceedings to give the notice required, it may take the testimony of the defendant in the claim, or of any other person whom it may have reason to believe has knowledge of the whereabouts of any of the parties respondent, either by deposition, commission or letters rogatory.

(d) Any claimant may bid and become the purchaser of the property at such sale, and if such purchaser shall be a taxing authority within the city or county, such property while held and owned by such taxing authority, shall not be subject to tax claims, unless it be redeemed by the former owner or other person having the right to redeem, as provided by law. If, however, a city or county, or a taxing authority within the city or county, shall become the purchaser at said sale, the former owner or other persons, desiring to redeem, shall pay all taxes and municipal claims accrued and chargeable against the property prior to the sale thereof, together with the costs and interest thereon, and also all taxes and claims, whether filed or not, which would have accrued and become chargeable against the property had the

same been purchased at the sale by some party other than the city or county, or a taxing authority within the city or county.

(e) Upon the delivery by the sheriff of a deed for any property sold under the provisions of this section, the judgment upon which such sale was had shall thereupon and forever thereafter be final and conclusive, and the validity thereof shall not be questioned for any cause whatsoever.

Section 3. Section 32(c) of the act, amended December 19, 1990 (P.L.1092, No.199), is amended to read:

Section 32. * * *

(c) Notwithstanding any other provision of law to the contrary, in cities of the first class only, there shall be no redemption of **[uninhabited residential] vacant** property by any person after the date of the acknowledgment of the sheriff's deed therefor. For the purposes of this subsection, property shall be deemed to be "**[uninhabited residential] vacant** property" unless it was continuously occupied by the same individual or basic family unit *as a residence* for at least ninety days prior to the date of the sale and continues to be so occupied on the date of the acknowledgment of the sheriff's deed therefor.

* * *

Section 4. The act is amended by adding sections to read:

Section 39.1. (a) Any owner of real property located within a city of the first class, any mortgagee thereof or any person having a lien or claim thereon or interest therein shall register a notice of interest with the department of the city of the first class responsible for collection of tax and municipal claims stating his name, residence and mailing address and a description of the real property in which the person has an interest. A notice of interest shall not be required for any mortgage or interest otherwise properly recorded in the Office of the Recorder of Deeds provided the document contains a current address sufficient to satisfy the notice requirements of this section. The interested party shall file an amended registration as needed.

(b) After the completion and filing of a notice of interest, a city of the first class shall serve all petitions, rules and other notices required by this act on those interested parties at the registered address.

(c) A city of the first class may promulgate regulations for the bulk registration of notices of interest.

Section 39.2. (a) In cities of the first class, notice of a rule to show cause why a property should not be sold free and clear of all encumbrances issued by a court pursuant to a petition filed by a claimant under section 31.2 of this act shall be served by the claimant upon owners, mortgagees, holders of ground rents, liens and charges or estates of whatsoever kind as follows:

(1) By posting a true and correct copy of the petition and rule on the most public part of the property;

(2) By mailing by first class mail to the address registered by any interested party pursuant to section 39.1 of this act a true and correct copy of the petition and rule; and

(3) By reviewing a title search, title insurance policy or tax information certificate that identifies interested parties of record who have not registered

their addresses pursuant to section 39.1 of this act, the city shall mail by first class mail and by registered mail to such addresses as appear on the respective records relating to the premises a true and correct copy of the petition and rule.

The city shall file an affidavit of service with the court prior to seeking a decree ordering the sale of the premises.

(b) No party whose interest did not appear on a title search, title insurance policy or tax information certificate or who failed to accurately register his interest and address pursuant to section 39.1 of this act shall have standing to complain of improper notice if the city shall have complied with subsection (a) of this section. This provision shall not apply if the mortgage or interest was otherwise properly recorded in the Office of the Recorder of Deeds and the document contains a current address sufficient to satisfy the notice requirements of this section.

(c) Notice of the court's decree ordering a tax sale, together with the time, place and date of the sale, shall be served by first class mail on all parties served with the petition and rule, on any parties whose interest appeared of record after the filing of the petition but before the court's decree and on any creditor who has obtained judgment against the owner of the premises prior to the date of the decree. The city shall file an affidavit of service of these notices prior to the date of the sale.

Section 39.3. All parties wishing to contest the validity of any sale conducted pursuant to section 31.2 of this act, including the sufficiency of any notice, and any party claiming to have an interest in the premises which was not discharged by the sale must file a petition seeking to overturn the sale or to establish the interest within six months of the acknowledgment of the deed to the premises by the sheriff.

Section 39.4. Cities of the first class shall proceed on tax claims after one year of delinquency, unless the owner or an interested party enters into a payment agreement suitable to the claimant. The finance director of the city may preclude the sale of a property on a case-by-case basis if the sale would create an undue hardship on the property owner or occupant.

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

APPROVED—The 14th day of December, A. D. 1992.

ROBERT P. CASEY