

No. 1996-39

AN ACT

SB 652

Amending the act of July 28, 1953 (P.L.723, No.230), entitled, as amended, "An act relating to counties of the second class and second class A; amending, revising, consolidating and changing the laws relating thereto," providing for the collection of taxes on real property from rent payable by tenants; further providing for the collection of tax and municipal claims by suit and for the interest rate on contributions when a person is separated from service; providing for the purchase of credit for service immediately following original employment; further providing for eligibility for retirement allowances and for requirements for credit for previous service; providing for clerk of courts fees and for deputy fire marshals; and making repeals.

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

Section 1. The act of July 28, 1953 (P.L.723, No.230), known as the Second Class County Code, is amended by adding a section to read:

Section 108.1. Collection of Tax on Real Property from Rent Paid to Owner.—(a) *Where the owner of any residential or commercial real property which is subject to a claim pursuant to the act of May 16, 1923 (P.L.207, No.153), referred to as the Municipal Claim and Tax Lien Law, derives any rental income from that property, the county treasurer shall notify the property owner in writing of his duty to remit that rental income to the office of the county treasurer. The rent so remitted is to be applied to the amount of tax owed, along with any interest or penalties due, until the claim is paid in full.*

(b) *The notice of the county treasurer shall include the amount of the claim on the property, including interest and penalties, and the date or dates the rental income is to be remitted. If after fifteen days of the date or dates specified in the notice the property owner fails to remit the rental income the county may immediately begin the judicial sale process provided for in the Municipal Claim and Tax Lien Law.*

Section 2. Section 109.1 of the act, added October 5, 1990 (P.L.519, No.125), is amended to read:

Section 109.1. Collection of Tax and Municipal Claims by Suit; Limitations.—(a) In addition to the remedies provided by law for the collection of tax and municipal claims, the county may proceed for the recovery and collection of any tax or municipal claim against any owner or owners of the property owing such tax or municipal claim by a civil action or other appropriate remedy. To each judgment obtained for such taxes or municipal claim, there shall be added a penalty of ten per cent, interest at the

prevailing legal rate and costs of suit. Upon judgment, execution may be issued without any stay or benefit of any exemption law.

(b) The right of the county to collect unpaid taxes or municipal claims under the provisions of this section shall not be affected by the fact that such tax or municipal claims have or have not been entered as liens in the office of the prothonotary.

(c) A civil action brought to recover unpaid taxes or municipal claims shall be commenced within twenty years after the tax is due or after the completion of the improvement from which said claim arises.

(d) The remedy granted under this section shall be applied retroactively.

Section 3. Sections 1714(a) and 1715(a), (b) and (c) of the act, amended December 14, 1989 (P.L.631, No.75), are amended to read:

Section 1714. Separation from Service; Refund of Contribution.—(a) Any person contributing monthly or bi-weekly into the retirement fund who shall, for any cause, cease to be a county employe before he or she shall be eligible to receive the benefits of the retirement allowances, the total amount of the contributions paid into the retirement fund by such county employe shall be refunded to him or her by the board, or, in the event of the death of any such county employe, the amount of said contributions shall be paid to such person or persons as he or she shall have designated in writing, as filed with the board, as his or her beneficiary, or to his or her estate. If no person or persons have been designated as his or her beneficiary, or no notice has been filed with the board to pay the amount of such contributions to his or her estate, as herein provided, then the board is herewith authorized to pay such contributions to the executor, administrator, surviving spouse, or next of kin of the deceased county employe. In the event the surviving spouse or next of kin of the decedent cannot be found for the purpose of making distribution of such contributions for a period of seven years from the death of the said county employe, then the aforesaid contributions shall be escheated to the Commonwealth for the benefit of the retirement system. In addition thereto, simple interest shall be paid at a monthly rate of interest that is equivalent to one-twelfth of the annual rate of interest specified herein on contributions of the member made under subsection (a) of section 1708 calculated from the beginning of the month of the deposit, or withholding, or payment into the fund of those contributions through the end of the month of refund; and such interest credited to the contributions of the member made under subsection (a) of section 1708 in a prior calendar year shall receive simple interest at the monthly rate of interest that is equivalent to one-twelfth of the annual rate of interest specified herein through the end of the month of refund. The annual rate of interest shall be [three per centum prior to March 1, 1981, and five per centum thereafter] *fixed by the board*. Such contributions and interest shall be paid to a county employe provided he was employed for a period of two consecutive years or more and has made twenty-four monthly contributions to the fund and is not eligible to receive the benefits of a retirement

allowance. Notwithstanding the provisions of this subsection, a member who has ceased to make contributions to the fund by payroll deduction shall thereafter be credited with interest only for a period of years equal to his years of current service under this amendment. Any person who has heretofore or who shall hereafter cease to be a county employe, shall thereafter cease to be a member of the retirement system, except such former county employe who may be eligible to receive the benefits of a retirement allowance plus a service increment if any in accordance with the provisions of sections 1710 and 1713.

* * *

Section 1715. Reinstatement and Requirements for Credit for Previous Service.—(a) No county employe shall be permitted to withdraw his or her contributions as paid into the retirement fund upon transfer from one office, department or agency to another. Any person who has ceased to be a county employe and whose contributions as paid into the retirement fund, have been refunded by the board, if such person has been reemployed by the county or county institution district and desires to be given credit for previous service as a county employe, he or she shall[, **within two years of the effective date of this amendatory act, or for those who are reemployed after the effective date of this amendatory act, within two years of the date of reemployment,**] make payment in full of the amount refunded, with interest at the legal rate, the said interest to be computed from the date of the refund to the date of repayment. [Upon application of the employe desiring to be given credit for previous service as a county employe at least sixty days prior to the expiration of the period of two years from the effective date of this amendatory act or the date of reemployment, such employe shall be permitted to make payment in full of the amount refunded, with interest at the legal rate, within an additional period of one year.] Both principal and interest shall be paid into the retirement fund at one time and in one amount, or, upon approval of the board, both principal and interest shall be consolidated into one amount and paid in twenty-four or less equal monthly installments, plus interest payment on monthly balances. [Whenever the time for payment in full has been extended for an additional period of one year, the principal and interest may be paid in a total of not more than thirty-six equal monthly installments.] *Upon application to the board, an employe shall be permitted to pay the principal and interest in thirty-six or less equal monthly installments, plus interest payment on monthly balances.* Full payment thereof shall be a condition precedent to the county employe being eligible to receive the benefits of the retirement allowance plus a service increment, if any. Such county employe shall make monthly payments into the retirement fund in accordance with the provisions of section 1708.

If any person who hereafter becomes a county employe and thereafter ceases to be a county employe and his or her contributions as paid into the retirement fund are refunded by the board, is reemployed by the county or

county institution district and he or she desires to be given credit for previous service as a county employe, he or she shall [within two years of the date of reemployment,] make payment in full of the amount refunded, with interest at the legal rate, the said interest to be computed from the date of refund to the date of repayment. [Upon application of any person who hereafter becomes a county employe and desires to be given credit for previous service as a county employe, at least sixty days prior to completion of a period of two years from the date of reemployment, such employe shall be permitted to make payment in full of the amount refunded, with interest at the legal rate, within an additional period of one year.] Both principal and interest shall be paid into the retirement fund at one time and in one amount, or, upon approval of the board both principal and interest shall be consolidated into one amount and paid in twenty-four or less equal monthly installments, plus interest payments on monthly balances. Whenever the time for payment in full has been extended for an additional period of one year the principal and interest may be paid in a total of not more than thirty-six equal monthly installments. Full payment thereof shall be a condition precedent to the county employe being eligible to receive the benefits of the retirement allowance plus a service increment, if any. Such county employe shall make monthly payments into the retirement fund in accordance with the provisions of section 1708. Any person who is a county employe on the effective date of this act may make payments into the retirement fund which shall cover a period of time within which such person was a county employe but was not a member of the retirement system because such membership was not compulsory.

(b) Any person who has heretofore or who hereafter ceases to be a county employe and whose contributions as paid into the retirement fund, have heretofore or shall hereafter be refunded by the board, if such person is reemployed by the county or county institution district and desires to be given credit for previous service as a county employe[, except as hereinafter provided], he or she shall [within two years from the date of such reemployment] make payment in full of the amount refunded, with interest at the legal rate, the said interest to be computed from the date of the refund to the date of repayment. Both principal and interest shall be paid into the retirement fund at one time and in one amount[, or, upon approval of the board, both principal and interest shall be consolidated into one amount and paid in twenty-four or less equal monthly installments, plus interest payment on monthly balances]. *Upon application to the board, an employe shall be permitted to pay the principal and interest in thirty-six or less equal monthly installments, plus interest payment on monthly balances.* Full payment thereof shall be a condition precedent to the county employe being eligible to receive the benefits of the retirement allowance plus a service increment, if any. Such county employe shall make monthly payments into the retirement fund in accordance with the provisions of section 1708. No person reemployed as a county employe in accordance with the provisions of

this subsection shall be eligible to receive a retirement allowance by reason of total and permanent physical disability, in accordance with the provisions of section 1711, unless he or she shall be in employ for a period of not less than twenty years, which said period of employment shall include credit given for previous service, as herein provided. No person who is ineligible to become a member of the retirement system shall be eligible to receive credit for previous service as a county employe, as hereinbefore provided.

(c) Any county employe who desires to be given credit for previous service in the employ of the county as an elected or appointed employe or official, where such service subsequent to the first day of January, one thousand nine hundred forty, was rendered to the county at a time when such employe or official was not a member of the county employes' retirement system, *including a period of probation served immediately after initial hiring*, shall make application to the board, and upon approval thereof shall pay into the retirement fund a sum equal to twice the payment which such employe would have made had such person been a member thereof and had the payments been made in accordance with the provision of this article. In addition thereto, interest at the legal rate shall be paid from the date when the said monthly payment would have been made. Both principal and interest shall be paid into the retirement fund at one time and in one amount, or, upon approval of the board, both principal and interest shall be consolidated into one amount and paid in twenty-four or less equal monthly installments, plus interest payment on monthly balances. Full payment thereof shall be a condition precedent to the county employe being eligible to receive the benefits of the retirement allowances. Such county employe shall make monthly payments into the retirement fund in accordance with the provisions of section 1708.

* * *

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

Section 1801.1. Clerk of Courts Fees.—(a) The fees to be charged and collected by the clerk of courts in counties of the second class shall be as follows:

(1) A fee of not less than fifty dollars (\$50) nor more than one hundred fifty dollars (\$150) for all proceedings in all misdemeanor and felony cases disposed of at any time during or after trial, including the expunging of any record.

(2) A fee of not less than thirty dollars (\$30) nor more than one hundred twenty-five dollars (\$125) for all proceedings in all misdemeanor and felony cases disposed of before trial, including the expunging of any record.

(3) The fees referred to in paragraphs (1) and (2) shall be set by the clerk of courts.

(4) A fee of twenty-five dollars (\$25) for all proceedings in summary matters.

(5) A fee of ten dollars (\$10) for all certifications.

(6) *A fee of fifteen dollars (\$15) for all other matters filed in the office and for all reports prepared by the clerk except that no fee shall be charged for filing township and borough audit reports or transcripts received which indicate a final disposition by the district justice.*

(7) *A fee of forty dollars (\$40) for the filing of an appeal from a summary conviction before a district justice.*

(8) *A fee of forty-five dollars (\$45) for an appeal from the court of common pleas to an appellate court.*

(9) *A fee of five cents (5¢) per dollar for the first one thousand dollars (\$1,000) and two cents (2¢) per dollar for each additional one thousand dollars (\$1,000) or fraction thereof for the handling of money paid into court.*

(b) *In counties of the second class, the clerk of courts may establish, modify or eliminate fees and charges, including the fees set forth in subsection (a). The approval of the president judge is required for the establishment of any new fees or charges or for fees which would exceed the maximum fees set forth in subsection (a). The clerk of courts shall collect such fees and charges and may establish, with the approval of the president judge, the manner in which such fees and charges shall be collected.*

(c) *An amount not to exceed ten per centum of the fees and charges collected by the clerk of courts under this section may, at the discretion of the clerk of courts, be deposited into a special clerk of courts computer fund established in each county of the second class. In the alternative, the clerk of courts may, with the approval of the president judge, impose and collect a surcharge on some or all of the fees and charges collected under this section; and the surcharge collected shall be deposited into the special clerk of courts computer fund. Moneys in the special fund shall be used solely for the purpose of computerizing the office of the clerk of courts.*

Section 5. Section 3101 of the act, amended October 5, 1990 (P.L.519, No.125), is amended to read:

Section 3101. Appointments; Qualifications; Salaries; Duties of [Assistant] Deputy Fire Marshals.—The county commissioners shall, on the fourth Monday of March, in the year one thousand nine hundred forty-three, and every fourth year thereafter, appoint a citizen of such county to serve as fire marshal [thereof for the term of four years or until his successor shall be appointed,] and such number of citizens of said county as the county commissioners may deem necessary to serve as [assistant] deputy fire marshals [thereof for terms of four years or until their successors shall be appointed]. In making such appointments, the county commissioner representing the minority political party in the county shall name one of the [assistant] deputy fire marshals, and as vacancies occur the commissioner representing the minority party shall name the successor to any [assistant] deputy fire marshal selected by a commissioner representing the minority party. *The fire marshal and deputy fire marshals shall serve at the pleasure*

of the board of county commissioners. The fire marshal shall report to and be subject to the supervision of the superintendent of county police or his authorized designee. The deputy fire marshals shall report to and be subject to the supervision of the fire marshal. No person shall be appointed fire marshal unless he shall have had ten years active service as a member of a fire department, and no person shall be appointed [an assistant] *a deputy* fire marshal unless he has had five years experience as an active member of a fire department. The salary of the fire marshal and the [assistant] *deputy* fire marshals appointed under the authority of this act shall be fixed by the salary board and shall be in lieu of all other salary or compensation from any source whatsoever. The [assistant] *deputy* fire marshals appointed as aforesaid shall have the same powers and shall perform the same duties as those prescribed for the fire marshal.

The salary herein authorized shall be provided for by the county commissioners and paid semi-monthly out of the county treasury.

Section 6. Sections 3102, 3103, 3105, 3106, 3107, 3108 and 3109 of the act are amended to read:

Section 3102. Offices and Supplies.—The county commissioners shall provide the fire marshal and [his assistants] *deputy fire marshals* with suitable offices, and shall pay or cause to be paid out of the treasury all the costs of maintenance thereof, including clerk and stenographic hire, and all necessary supplies, stationery, postage and other incidental expenses.

Section 3103. Oath of Office and Bond.—Before entering on the duties of his office, the fire marshal and [his assistants] *deputy fire marshals* shall take an oath of office and furnish bond as is now provided by law in the case of other county officers. The bond of the fire marshal shall be in the sum of ten thousand dollars (\$10,000) and the bonds of the [assistant] *deputy* fire marshals shall be in the sum of five thousand dollars (\$5000).

Section 3105. [Arrests and Commitment or Bail] *Investigation, Transfer to County Police for Prosecution.*—If, in any investigation, it shall appear to the fire marshal or [one of his assistants] *deputy fire marshal*, from the evidence [before him] *presented or obtained*, that any building or other property in the county has been wilfully set on fire by any person or persons, [he shall, in such case, have the same power to issue a warrant, directed to any constable of any ward, borough or township of the county, for the arrest of such person or persons and their accessories and to commit them for trial or take bail for their appearance, as a justice of the peace of the county would have upon information made before him setting forth the same facts as appear in evidence before the marshal, and in such case, the said fire marshal shall proceed in the same manner as a justice of the peace is required by law to do and with the same powers as he would have after an information duly made before him.] *the fire marshal or deputy fire marshal shall transfer the evidence presented or obtained during the course of the investigation to the county police evidence room technician, along with a recommendation to*

the superintendent of county police for criminal prosecution of the person or persons responsible for setting the fire.

Section 3106. Administration of Oaths; False Testimony; Subpoena and Attachment; Refusal to Testify or Produce Documents.—The fire marshal or [either of his assistants] *deputy fire marshal*, in order to enable [him] *them* to discharge the duties required [of him] in the foregoing section, shall have power to administer oaths and affirmations in the discharge of the duties of his office, and a wilful violation of any oath or affirmation so administered by him, or wilfully and knowingly giving false testimony before him, shall be perjury; and he shall have power to compel the attendance of any person whom he may desire to examine in relation to any fire by subpoena and attachment; and if any person shall refuse to be sworn or affirmed or to testify in relation to any of the matters in regard to which it is the duty of the fire marshal to make investigation, or shall refuse to produce before the fire marshal any books, papers or documents in their possession which the said marshal may deem necessary to enable him to ascertain the truth in any investigation then being made by him, the said marshal shall [have power to commit such person to the county jail until such person shall be willing to and shall be sworn or affirmed or testify or produce the books, papers and documents, as the case may be, and no longer] *have the power, upon the approval of the superintendent of county police and the authorized representative of the district attorney's office, to commit such person to the county jail until such person shall be willing to and shall be sworn or affirmed or testify or produce the books, papers and documents, as the case may be, and no longer*: Provided, That no testimony taken under oath or affirmation before the fire marshal, as aforesaid, shall be used in evidence against the party giving it in any civil or criminal proceedings whatsoever, except in prosecutions against such party for perjury.

Section 3107. Disobedience of Orders; Refusal to Execute Warrant; Hindering or Obstructing Marshal.—Any constable, policeman, watchman or citizen who shall refuse or neglect to obey the orders or directions of the fire marshal when called upon by him to aid or assist in saving or protecting any property at any fire[, or any constable who shall refuse or neglect to execute any warrant of the fire marshal directed to him for the arrest of any person for the crime of arson], or any person or persons who shall wilfully hinder or obstruct or attempt to hinder or obstruct the fire marshal in the performance of his duties, shall be guilty of a misdemeanor, and, upon conviction thereof in the court of [quarter session] *common pleas* of the county, shall be punished by a fine not exceeding fifty dollars (\$50) and imprisonment in the county jail for a term not exceeding one (1) year.

Section 3108. Examination of Buildings and Structures; Notice to Alter, Remove or Amend.—[It shall be the duty of the marshal or one of his assistants] *Upon written request of the governing body of any municipality located within the county, the fire marshal or a deputy fire marshal shall have the power* to examine the dwelling houses and any other buildings and

structures in the county for the purpose of ascertaining whether, by reason of age or dilapidated condition or accumulation of waste, rubbish, debris, explosive or inflammable substance, or existence of any other fire hazard, such buildings or structures are especially liable to fire, and upon finding any of them defective or dangerous, said marshal [or his assistants] shall direct the owner or occupants, either by printed or written notice, to alter, remove or amend the same, in such manner or within such reasonable time as they may deem necessary, and in case of neglect or refusal to do so, the party offending shall forfeit and pay, upon conviction thereof before any justice of the peace, alderman or police magistrate of the county, any sum not exceeding twenty-five dollars (\$25), for the use of the county, to be collected as fines and forfeitures are collected by law.

Section 3109. Expense of Removal, Alteration or Amendment; Combustible or Explosive Matter.—The expense of any removal, alteration or amendment, as aforesaid, shall be paid in the first instance by the occupant, but shall be chargeable against the owner of such dwelling house or other building and shall be deducted from the rent of the same, unless such expenses be rendered necessary by the act or default of such occupant or unless there is a special agreement to the contrary between the parties, and said marshal or [his assistants] *deputy marshal* or either of them are hereby empowered at any and all times to enter into and examine all buildings, structures or places where any combustible or explosive matter may be lodged and give such directions, in writing, in the premises as may be deemed necessary relative to the removal thereof, and in case of neglect or refusal on the part of the possessor of such combustible materials or any of them to remove or secure the same within the time and manner directed, the party offending shall forfeit and pay, in addition to any penalty hereinbefore imposed, the sum of twenty-five dollars (\$25), to be collected as heretofore provided for in this act.

Section 7. Section 3301 of the act is amended by adding paragraphs to read:

Section 3301. The following acts and parts of acts and all amendments thereof are hereby repealed to the extent hereinafter specified:

* * *

Section 24 of the act, approved the sixteenth day of May, one thousand nine hundred twenty-three (Pamphlet Laws 207), 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,” as to counties of the second class.

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The act, approved the eighteenth day of June, one thousand nine hundred eighty-two (Pamphlet Laws 547), entitled “An act establishing the fees to be charged and collected by the clerk of courts in second, second class A, third, fourth, fifth, sixth, seventh and eighth class counties and home rule counties,” as to counties of the second class.

Section 8. All acts and parts of acts are repealed insofar as they are inconsistent with section 1801.1 of the act.

Section 9. This act shall take effect immediately.

APPROVED—The 16th day of May, A.D. 1996.

THOMAS J. RIDGE