

No. 2006-18

AN ACT

SB 640

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," providing for donation of property in lieu of taxes; further providing for claims for taxes, water rents or rates and lighting, power and sewer rates and for contents of claims; and providing for a public record of all properties against which taxes were levied and remain unpaid.

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

Section 1. The act of May 16, 1923 (P.L.207, No.153), referred to as the Municipal Claim and Tax Lien Law, is amended by adding a section to read:

Section 5.1. (a) A county, city, borough, incorporated town, township, home rule municipality, optional plan municipality or optional charter municipality may accept the donation of a property that is subject to a claim for taxes. A municipal authority, other than a redevelopment authority, or a school district may participate in a donation pursuant to subsection (g). A municipality shall provide written notice to other local municipalities or their designees under subsection (f) of a donation proposed by the owner of the property. A donation under this subsection shall not be accepted less than thirty days after notice to all other municipalities which have a claim for taxes on the subject property under this act. A donation under this subsection shall operate to divest all liens against the property possessed by the municipality accepting the donation and all other local tax liens recorded prior to the date of donation, except as otherwise provided in this section and except mortgages recorded prior to the tax liens.

(b) A municipality which receives a notice of proposed donation may request to participate in negotiations with regard to the donation and extinguishment of all or part of its liens and with regard to proposals to return the property to the tax rolls or to productive public use. A municipality which does not respond in writing to the notice within thirty days of its receipt of the notice shall waive its right to participate in the donation negotiations, and its lien shall be extinguished. A municipality participating in donation negotiations may agree to extinguish all existing

liens against the property in exchange for full or partial satisfaction of its claims upon future sale of the property by the municipality accepting the donation. Every negotiation shall consider the structure and condition of the property, the market value of the property in its current condition, the best use of the property given the neighborhood and local ordinances and the costs to cure any defects, including defects in title.

(c) A donation under this subsection shall be by deed recorded, and registered where required, with the county recorder of deeds. The deed shall be accompanied by recorded satisfactions of any and all claims for taxes which are extinguished by virtue of the donation. In all instances the satisfaction from the municipality which is accepting ownership of the property pursuant to the donation shall provide for full extinguishment of all claims under this act possessed by it. Satisfactions of liens shall provide that all claims of all municipalities in which the property is located are discharged and extinguished, unless terms are otherwise agreed upon between the owner and the municipalities participating in the donation negotiations.

(d) Property that has been donated under this section shall be exempt from claims for taxes from all the municipalities in which it is located during the time that it remains in the ownership of the county, city, borough, incorporated town, township, home rule municipality, optional plan municipality, optional charter municipality, redevelopment authority or school district to which it was donated.

(e) Notwithstanding any other provision of law, an owner who donates property under this section shall not be personally liable for the amount of claims for taxes exempted or extinguished as a result of the donation.

(f) A county, city, borough, incorporated town, township, home rule municipality, optional plan municipality or optional charter municipality in which the property is located may designate another such municipality, or a redevelopment authority in which the property is located, to act as its agent with regard to a donation under this section. A single municipality or the redevelopment authority may be selected as the agent for all municipalities holding a tax claim or lien. In returning the property to the tax rolls or to productive public use, a municipality or a redevelopment authority may seek the assistance of a community development corporation serving the area where the property is located.

(g) A school district or municipal authority, other than a redevelopment authority, may participate in the provisions of this section only if the school district or municipal authority has designated an agent in accordance with subsection (f). Nothing in this subsection shall prevent a school district or municipal authority from taking title to a donated property if it is determined during negotiations that the best manner to return the property to productive use is to allow a school district or municipal authority to use the property for purposes directly related to the mission of the district or authority.

Section 2. Section 9 of the act, amended August 14, 2003 (P.L.83, No.20), is amended to read:

Section 9. Claims for taxes, water rents or rates, lighting rates, power rates[,] and sewer rates[,] must be filed in the court of common pleas of the county in which the property is situated unless the property is situate in the City of Philadelphia and the taxes or rates do not exceed the maximum amount over which the Municipal Court of Philadelphia has original jurisdiction, in which event the claim must be filed in the Municipal Court of Philadelphia. All such claims shall be filed on or before the last day of the third calendar year after that in which the taxes or rates are first payable, except that in cities and school districts of the first class claims for taxes and other municipal claims, which have heretofore become liens pursuant to the provisions of this act or which have been entered of record as liens or which have been liened and revived, shall continue and remain as liens for the period of twenty years from such revival, entry or lien by operation of law, whichever shall have last occurred; and other municipal claims must be filed in said court of common pleas or the Municipal Court of Philadelphia within six months from the time the work was done in front of the particular property, where the charge against the property is assessed or made at the time the work is authorized; within six months after the completion of the improvement, where the assessment is made by the municipality upon all the properties after the completion of the improvement; and within six months after confirmation by the court, where confirmation is required; the certificate of the surveyor, engineer, or other officer supervising the improvement, filed in the proper office, being conclusive of the time of completion thereof, but he being personally liable to anyone injured by any false statement therein. Where a borough lies in more than one county, any such claim filed by such borough may be filed in each of such counties. In case the real estate benefited by the improvement is sold before the municipal claim is filed, the date of completion in said certificate shall determine the liability for the payment of the claim as between buyer and seller, unless otherwise agreed upon or as above set forth. A number of years' taxes or rates of different kinds if payable to the same plaintiff may be included in one claim. Interest as determined by the municipality at a rate not to exceed ten per cent per annum shall be collectible on all municipal claims from the date of the completion of the work after it is filed as a lien, and on claims for taxes, water rents or rates, lighting rates, or sewer rates from the date of the filing of the lien therefor: Provided, however, That after the effective date of this amendatory act where municipal claims are filed arising out of a municipal project which required the municipality to issue bonds to finance the project interest shall be collectible on such claims at the rate of interest of the bond issue or at the rate of twelve per cent per annum, whichever is less. Where the provisions of any other act relating to claims for taxes, water rents or rates, lighting rates, power rates, sewer rents or rates or for any other type of municipal claim or lien utilizes the procedures provided

in this act and where the provisions of such other act establishes a different rate of interest for such claims or liens, the maximum rate of interest of ten per cent per annum as provided for in this section shall be applicable to the claims and liens provided for under such other acts: Provided, however, That after the effective date of this amendatory act where municipal claims are filed arising out of a municipal project which required the municipality to issue bonds to finance the project interest shall be collectible on such claims at the rate of interest of the bond issue or at the rate of twelve per cent per annum, whichever is less.

Claims for taxes, water rents, or rates, lighting rates, power rates and sewer rates may be in the form of written or typewritten lists showing the names of the taxables, *including the name and last known address, with its zip code, of the owner of each property against which a claim is being filed*, and descriptions of the properties against which [said] the claims are filed, together with the amount of the taxes due such municipality. Such lists may be filed on behalf of a single municipality, or they may cover the unpaid taxes due any two or more municipalities whose taxes are collected by the same tax collector, provided the amounts due each municipality are separately shown. All tax claims, water rents, or rates, lighting rates, power rates and sewer rates, heretofore filed in such form, are hereby ratified, confirmed and made valid subsisting liens as of the date of their original filing.

A number of years' taxes or rates of different kinds, if payable to the same plaintiff, may be included in one claim. Municipal claims shall likewise be filed within said period, where any appeal is taken from the assessment for the recovery of which such municipal claim is filed. In such case the lien filed shall be in the form hereinafter provided, except that it shall set forth the amount of the claim as an undetermined amount, the amount thereof to be determined by the appeal taken from the assessment upon which such municipal claim is based, pending in a certain court (referring to the court and the proceeding where such appeal is pending). Upon the filing of such municipal claim, the claim shall be indexed by the prothonotary upon the judgment index and upon the locality index of the court, and the amount of the claim set forth therein as an undetermined amount.

If final judgment is not obtained upon such appeal within twenty years from the filing of such municipal claim, the claimant in the lien shall, within such period of twenty years, file a suggestion of nonpayment, in the form hereinafter set forth, which shall have the effect of continuing the lien thereof for a further period of twenty years from the date of filing such suggestion, except that with respect to claims for taxes and other municipal claims, in cities and school districts of the first class, if final judgment is not obtained upon such appeal within twenty years from the filing of such municipal claims, the claimant in the lien shall, within such period of twenty years, file a suggestion of nonpayment in the prescribed form which shall have the effect of continuing the lien thereof for a further period of twenty years from

the date of filing such suggestion. Such municipal claim shall be revived in a similar manner during each recurring period of twenty years thereafter, until final judgment is entered upon said appeal and the undetermined amount of such municipal claim is fixed in the manner hereinafter provided, except that with respect to claims for taxes and other municipal claims, in cities and school districts of the first class, such municipal claims shall be revived in a similar manner during each recurring period of twenty years thereafter until final judgment is entered upon said appeal and the undetermined amount of such municipal claim is fixed in the manner hereinafter provided.

When the final judgment is obtained upon such appeal, the court in which said municipal claim is pending shall, upon the petition of any interested party, make an order fixing the undetermined amount claimed in such claim at the amount determined by the final judgment upon said appeal, which shall bear interest from the date of the verdict upon which final judgment was entered, and thereafter the amount of said claim shall be the sum thus fixed. Proceedings upon said municipal claim thereafter shall be as in other cases.

Where, on final judgment upon said appeal, it appears that no amount is due upon the assessment for the recovery of which such claim is filed, the court in which such municipal claim is pending shall, upon the petition of any interested party, make an order striking such municipal claim from the record, and charge the costs upon such claim to the plaintiff in the claim filed.

Where such appeal is discontinued, the court in which such municipal claim is pending shall, upon the petition of any interested party, make an order fixing the undetermined amount claimed at the amount of the original assessment, which shall bear interest from the date that such assessment was originally payable, and thereafter the amount of such claim shall be the sum thus fixed.

In counties of the second class and municipalities therein, interest at the applicable per annum rate shall accrue monthly on all taxes, tax claims and municipal claims on the first day of the month for the entire month, or part thereof, in which the taxes, tax claims or municipal claims are paid. Interest shall not be paid on a per diem basis. In counties of the second class, all county taxes after the same become delinquent, as provided by law, shall include a penalty of five per centum for such delinquency.

In counties of the second class, taxes and tax claims, when collected, shall be paid into the county treasury for the use of the county unless the taxes and tax claims are assigned, in which event there is no requirement that the taxes and tax claims collected by the assignee be paid into the county treasury.

In counties of the second class, the county shall not be required to advance or pay any fee to the prothonotary for the filing of paper or electronic filing or performing any services for the second class county relating to the filing, satisfaction, assignment, transfer, revival, amendment, enforcement and collection of taxes, tax claims and tax liens. The prothonotary shall accept filings by or on behalf of the second class county

relating to the taxes, tax claims and tax liens and note the cost for such service performed on the docket, and the second class county, its employees, representatives, agents and assigns shall thereafter collect such fee as a cost as part of the taxes, tax claims and tax liens.

Section 3. Section 10 of the act, amended January 14, 1952 (1951 P.L.2025, No.567), is amended to read:

Section 10. Said claim shall set forth:

1. The name of the municipality by which filed;
2. The name *and last known address, including its zip code*, of the owner of the property against which it is filed;
3. A description of the property against which it is filed;
4. The authority under or by virtue of which the tax was levied or the work was done;
5. The time for which the tax was levied, or the date on which the work was completed in front of the particular property against which the claim is filed; or the date of completion of the improvement, where the assessment is made after completion; or the date of confirmation by the court, where confirmation is required done;
6. If filed to the use of a contractor, the date of, and parties to, the contract for doing said work; and
7. In other than tax claims, the kind and character of the work done for which the claim is filed, and, if the work be such as to require previous notice to the owner to do it, when and how such notice was given.

Said claim 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 that, in counties of the second class, said claim or claims for county taxes, levies or assessments shall be signed by, or have stamped thereon a facsimile signature of, the county controller; and, in the case of a use-plaintiff, must be accompanied by an affidavit that the facts therein set forth are true to the best of his knowledge, information, and belief.

Section 4. Section 26 of the act is amended to read:

Section 26. (a) It shall be the duty of the prothonotaries of the courts of common pleas to keep a locality index, in which shall be entered all tax or municipal claims hereafter filed, and, upon any written order therefor, they shall give a certificate of search, showing all the claims filed against any property. For so doing they shall receive the sum of twenty-five cents, and five cents additional for each claim certified, and no more.

(b) (1) *In addition to the requirements of subsection (a), the department or public official responsible for collection of delinquent taxes in a city of the first class or other municipality that utilizes this act for the collection of delinquent taxes, and the county treasurer in a county of the second class, shall maintain as a public record a list of all properties against which taxes were levied, the whole or any part of which were due and payable in a prior year and which remain unpaid. This list shall*

describe the property and identify its location, provide the name and last known address, including the zip code, of the owner of the property and the amount of unpaid taxes, penalties and interest due, for all years other than the current tax year. If taxes on the list are paid or another settlement had been agreed to or if a tax sale of the property is held, this fact shall be noted on the list.

(2) In addition to the requirements of subsection (a), the department or public official responsible for collection of delinquent taxes may report any nonpayment of taxes, including liens, to one or more consumer reporting agencies, as defined by the Fair Credit Reporting Act (Public Law 91-508, 15 U.S.C. § 1681 et seq.).

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

APPROVED—The 21st day of February, A.D. 2006.

EDWARD G. RENDELL