

No. 2012-12

AN ACT

HB 1582

Amending Title 53 (Municipalities Generally) of the Pennsylvania Consolidated Statutes, in municipal authorities, further providing for purposes and powers.

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

Section 1. Section 5607(d)(27) and (g) of Title 53 of the Pennsylvania Consolidated Statutes are amended to read:

§ 5607. Purposes and powers.

* * *

(d) Powers.—Every authority may exercise all powers necessary or convenient for the carrying out of the purposes set forth in this section, including, but without limiting the generality of the foregoing, the following rights and powers:

* * *

(27) (i) In the case of an authority created to provide business improvements and administrative services, to impose an assessment on each benefited property within a business improvement district. This assessment shall be based upon the estimated cost of the improvements **[or] and** services in the district stated in the planning or feasibility study and shall be determined by one of the following methods:

(A) **[By] *The authority may determine*** an assessment determined by multiplying the total improvement **[or] and** service cost by the ratio of the assessed value ***for real estate tax purposes*** of the benefited property to the total assessed **[valuation] value** of all benefited properties in the district.

(B) **[By an assessment] *The authority may determine assessments*** upon the several properties in the district in proportion to benefits as ascertained by viewers appointed in accordance with municipal law.

(C) ***If the district served by the authority contains single-family residential properties, including those that are part of a planned unit development, residential cooperative properties or condominium properties formed under 68 Pa.C.S. Pt. II Subpt. B (relating to condominiums) and other properties, the authority may elect to calculate assessments based on all of the following:***

(I) ***The business improvement district assessed value of each benefited single-family or residential cooperative property shall be one-half of the assessed value of the property for real estate tax purposes.***

(II) ***In the case of a condominium, the unit owners' association formed under 68 Pa.C.S. Pt. II Subpt. B shall be assessed. Individual units may not be assessed. The business***

improvement district assessed value of the unit owners' association shall be the sum of the assessed value for real estate tax purposes of any real estate owned by the association and such assessed value of all units, including their undivided interests in the common elements and any limited common elements, except that the value of any single-family residential unit shall be one-half of such assessed value of the unit for real estate tax purposes. The authority shall provide to the unit owners' association the calculation of the business improvement district assessed value of the unit owners' association, itemizing the assessed value of each unit as provided in this clause. The unit owners' association shall add to the condominium fee charged to a unit owner the amount of the district assessment attributable to the unit which amount shall be separately itemized on any assessment, invoice, bill or other document presented to the unit owner for payment of the condominium fee.

(III) The district assessment shall be calculated on each benefited single-family residential property, benefited residential cooperative property and benefited unit owners' association by multiplying in each case the total improvement and services cost by the ratio of the district assessed value of the benefited single-family residential property, benefited residential cooperative property or benefited unit owners' association to the sum of the district assessed value of all benefited single-family residential properties, the district assessed value of all residential cooperative properties, the district assessed value of all benefited unit owners' associations and the assessed value of all remaining benefited properties in the business improvement district.

(IV) The remaining benefited properties shall be assessed by multiplying in each case the total improvement and services cost by the ratio of the assessed value of the remaining benefited property to the sum of the district assessed value of all benefited single-family residential properties, the district assessed value of all residential cooperative properties, the district assessed value of all benefited unit owners' associations and the assessed value of all remaining benefited properties in the business improvement district.

(V) An election by an authority under this clause shall not be revoked except through the procedures stated in subparagraph (ii) and subsection (g).

(ii) An assessment or charge may not be made unless:

(A) An authority submits a plan for business improvements and administrative services, together with estimated costs and the proposed method of assessments for business improvements and

charges for administrative services, to the municipality in which the project is to be undertaken.

(B) The municipality approves the plan, the estimated costs and the proposed method of assessment and charges.

(iii) An authority may not assess charges against the improved properties in an aggregate amount in excess of the estimated cost.

(iv) An authority may by resolution authorize payment of an assessment or charge in equal, annual or more frequent installments over a fixed period of time and bearing interest of 6% or less. If bonds, notes or guarantees are used to raise revenue to provide for the cost of improvements or services, the installments shall not be payable beyond the term for which the bonds, notes or guarantees are payable.

(v) Claims to secure the payment of assessments shall be entered in the prothonotary's office of the county at the same time and in the same 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.

(vi) In case of default of 60 days or more after an installment is due, the entire assessment and interest shall be due.

(vii) An owner of property against whom an assessment has been made may pay the assessment in full at any time along with accrued interest and costs. Upon proof of payment the lien shall be discharged.

(viii) For purposes of determining assessments in accordance with subparagraph (i)(A) and (C), the assessed value of a benefited property shall be without reduction for any value attributable to improvements for which an exemption or abatement has been granted under law.

(ix) Any claim entered to secure the payment of an assessment against a unit owners' association shall be enforceable as a judgment for money against the unit owners' association within the meaning of and under the provisions of 68 Pa.C.S. § 3319 (relating to other liens affecting the condominium), provided that if an assessment against a unit owners' association is paid in part and the unit owners' association specifies in writing to the authority the units with respect to which full payment was made, the claim shall not be enforceable against units with respect to which full payment was made or against the unit owners' association. An authority shall discharge a lien against a unit owners' association to the extent that it constitutes a lien on a particular unit upon proof of payment, either to the unit owners' association or to the authority, by the owner of the particular unit of his itemized share of the assessment on the unit owners' association.

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(g) Authorization to make business improvements and provide administrative services.—An authority may be established to make business improvements or provide administrative services in districts designated by a municipality or by municipalities acting jointly and zoned commercial or used for general commercial purposes or in contiguous areas if the inclusion

of a contiguous area is directly related to the improvements and services proposed by the authority. The authority shall make planning or feasibility studies to determine needed improvements or administrative services. ***The following shall also apply:***

(1) The authority shall be required to hold a public hearing on the proposed improvement or service, the estimated costs thereof and the proposed method of assessment and charges. Notice of the hearing shall be advertised at least ten days before it occurs in a newspaper whose circulation is within the municipality where the authority is established. At the public hearing any interested party may be heard.

(2) Written notice of the proposed improvement or service, its estimated cost, the proposed method of assessment and charges and project cost to individual property owners shall be given to each property owner and commercial lessee in benefited properties in the district at least 30 days prior to the public hearing.

(3) ***[The] Except as otherwise provided in paragraph (4), the authority shall take no action on proposed improvement or service if objection is made in writing by:***

(i) persons representing the ownership of one-third of the benefited properties in the district; or [by]

(ii) property owners of the proposed district whose property valuation as assessed for taxable purposes shall amount to more than one-third of the total property valuation of the district.

(4) In the case of an authority that has elected to make assessments under subsection (d)(27)(i)(C), the objections in writing must be made by either:

(i) one-third of the owners of benefited commercial properties;
or

(ii) owners of properties representing one-third of the amount of all business improvement district assessments for the first year of the proposed plan and budget after the reduction in district assessments under subsection (d)(27)(i)(C).

For purposes of calculating one-third of the benefited commercial properties, the term benefited commercial properties shall include all nonresidential property, each condominium association formed under 68 Pa.C.S. Pt. II Subpt. B as one property and may not include any individual condominium so formed nor any single-family residential property.

(5) Objection ***[shall] must*** be made within 45 days after the conclusion of the public hearing. Objections must be in writing, signed and filed in the office of the governing body of the municipality in which the district is located and in the registered office of the authority.

Section 2. This act shall take effect in 60 days.

APPROVED—The 14th day of February, A.D. 2012

TOM CORBETT