

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 payment into the retirement fund in accordance with the provisions of section 1708.

APPROVED—The 28th day of December, A. D. 1959.

DAVID L. LAWRENCE

No. 745

AN ACT

Amending the act of May 16, 1923 (P. L. 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," extending the period for revival of suggestions and averments of nonpayment and default, and the time for the filing and renewal of such claims, in cities and school districts of the first class, to twenty years.

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

Section 1. Section 9, act of May 16, 1923 (P. L. 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," amended June 10, 1957 (P. L. 282) and June 28, 1957 (P. L. 416), is amended to read:

Section 9, act of
May 16, 1923,
P. L. 207,
amended June
10, 1957, P. L.
282 and June 28,
1957, P. L. 416,
further amended.

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

Time for filing
claims.

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 real estate taxes, water rents or rates, and sewer rents or rates, 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. The legal rate of interest 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.

Certificate.

Interest.

Form of claims.

Claims for taxes may be in the form of written or typewritten lists showing the names of the taxables and descriptions of the properties against which said 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, 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.

More than one year's taxes may be included in the claim.

If final judgment is not obtained upon such appeal within five years from the filing of such municipal claim, the claimant in the lien shall, within such period of five 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 five years from the date of filing such suggestion, *except that with respect to claims for real estate taxes, water rates or rents, and sewer rates or rents, 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 five 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 real estate taxes, water rates or rents, and sewer rates or rents, 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.*

Suggestion of nonpayment.

Revival of claim.

When the final judgment is obtained upon such appeal, the court in which said municipal claim is pending shall,

Final judgment.

* "recovery" in original.

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.

Striking of claim from record.

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.

Discontinuance.

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.

Section 15 of the act, amended January 14, 1952, P. L. 2025, further amended.

Section 2. Section 15 of the act, amended January 14, 1952 (P. L. 2025), is amended to read:

Term of lien.

Proviso.

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 five 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 real estate taxes, water **rates or rents, and sewer rates or rents, the period within which such liens may be revived shall be twenty years.*

Form of suggestion of non-payment and averment of default.

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,

* "undetermined" in original.
** "taxes" in original.

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; and for such services, in all counties of the fifth class and the political subdivisions in such counties, shall be entitled to a fee of one dollar, and in all other classes of counties and the political subdivisions thereof, he shall receive the following fee, to be taxed and collected as other costs in the claim.

Signature.

Docketing and indexing.

Prothonotary's fee.

Where suggestion and averment is for taxes or municipal claims for one year and is directed to be indexed in one name only one dollar (\$1);
Each additional year included one dollar (\$1);
Each additional name included twenty-five cents (\$.25).

The filing and indexing of such suggestion and averment within five 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 levavi facias shall be issued upon a claim for the purpose of exposing the property lien 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 five years, or in any city or school district of the first class within twenty years, of the issuance of the levavi 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 five 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

Force and effect of filing and indexing of suggestion of nonpayment and averment of default.

Proviso.

Claimant may issue writ of scire facias within five years from the date when lien has been revived and continued, except in city and school district of first class when writ may be issued within twenty years.

the owner to raise any defense arising since the last judgment.

Loss of Lien.

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.

Act effective immediately.

Section 3. This act shall take effect immediately.

APPROVED—The 28th day of December, A. D. 1959.

DAVID L. LAWRENCE

No. 746

AN ACT

Amending the act of January 14, 1952 (P. L. 1965), entitled, as amended, "An act imposing a permanent and a temporary State tax on fuels used within the Commonwealth in internal combustion engines for the generation of power to propel motor vehicles using the public highways; imposing a permanent tax on the fuels used in aircraft or aircraft engines; providing for the collection and lien of the tax and the distribution and use of the proceeds thereof; requiring dealer-users to secure licenses and to file bonds as a guarantee of payment of taxes, penalties, interest, fines, uncollectible check fees and Attorney General's fees, to file reports and to compile and retain certain records; requiring registration of carriers for hire; imposing duties on such persons; requiring persons selling or delivering fuels to licensed dealer-users to furnish information; imposing certain costs on counties; conferring powers and imposing duties on State officers and departments; providing for refunds of taxes, penalties and interest illegally or erroneously collected from licensees; and providing penalties," decreasing one tax for a certain period of time and clarifying certain types of aircraft.

Fuel Use Tax Act.

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

Section 4, act of January 14, 1952, P. L. 1965, amended June 1, 1959, P. L. 337, further amended.

Section 1. Section 4, act of January 14, 1952 (P. L. 1965), known as the "Fuel Use Tax Act," amended June 1, 1959 (P. L. 337), is amended to read:

Section 4. Imposition of Tax Exemptions.—A permanent excise tax at the rate of three cents (\$.03) a gallon or fractional part thereof is hereby imposed on all dealer-users upon the use of fuel within this Commonwealth, except the use of fuel in aircraft or aircraft engines, to be computed in the manner hereinafter set forth. The tax herein imposed shall not apply on fuels not within the taxing power of this Commonwealth under the Commerce Clause of the Constitution of the United States. The tax herein imposed and assessed shall be paid to the Commonwealth but once in respect to any fuels used within the Commonwealth. No tax is hereby imposed upon (1) any fuel that is used by or sold and delivered to the United States government, when