

No. 1984-171

AN ACT

HB 1745

Establishing a system for the collection of municipal liens and tax claims in cities of the second class through the sale of real property encumbered by such liens and claims; abolishing the office of solicitor for liens for delinquent taxes, rates, claims and charges in cities of the second class; authorizing the treasurer to conduct treasurer's sales and granting the treasurer certain powers in connection therewith; providing a structure for the conduct of the sale; setting up a system whereby the properties at treasurer's sales are acquired, administered, maintained and resold for the benefit of cojurisdictional taxing bodies; providing for the redemption of the property within 90 days of sale; providing a means for establishing title to real property taken at treasurer's sale; providing for cooperation among cojurisdictional taxing bodies; and preserving rights not specifically repealed.

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

**CHAPTER 1
PRELIMINARY PROVISIONS**

Section 101. Short title.

This act shall be known and may be cited as the Second Class City Treasurer's Sale and Collection Act.

Section 102. Definitions.

The following words and phrases when used in this act shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Claim." The charge against real property, liened or unliened, held by a taxing body or an authority created by that taxing authority on account of delinquent real estate taxes, water rates, sewage charges, municipal assessments, municipal judgments, demolition liens or other amounts due to a taxing body or an authority created by that taxing authority under the act of May 16, 1923 (P.L.207, No.153), referred to as the Municipal Claim and Tax Lien Law, together with accrued interest, penalty and costs of collection; a tax claim of the cojurisdictional taxing bodies for delinquent real estate taxes, water charges and sewage rates, liened or unliened.

"Expenses." Amounts incurred in the acquisition, administration, maintenance and disposition of property involved in the treasurer's sales.

"Interested party." A person who has an interest of record in the property.

"Property." Land and structures existing on it, including mobile homes or house trailers permanently attached to the land or connected to it by water, gas, electricity or sewage facilities, located in a city of the second class which is subject to a tax lien, either inchoate or of record, or a municipal claim.

"Taxes." The levies imposed on real property located in a city of the second class by a taxing body and water rates and sewage service charges

assessed against the property. The term includes accrued penalty and interest which shall be considered part of the tax and collectible as such. Sewage service charges include delinquencies assigned to cities of the second class for which the city is liable for collection.

“Taxing bodies.” A city of the second class, a school district of the first class A and the county in which they are located.

“Taxpayer.” A party who pays the taxes, water rates or sewage service charges attributable to a property.

“Treasurer.” A fiscal officer of the city who has responsibility for the administration of tax laws and who has the authority to collect taxes, or agents of the treasurer or director of finance.

CHAPTER 2 PROCEDURE PRIOR TO TREASURER’S SALE

Section 201. Authorization and time of treasurer’s sale.

In addition to the remedies now provided by law for the collection of delinquent taxes, water rates and sewage service charges or other municipal claims and liens, the treasurer of a city of the second class is authorized to sell at public sale property upon which the assessed and levied taxes or other municipal claims and liens have not been paid and have become delinquent. The treasurer shall schedule dates for the sale of properties.

Section 202. Lien of claims.

Tax claims, including water rates and sewage service charges, shall be a first lien against the property from the date when they first become due and shall have priority over any other claim against the property including mortgages, judgment claims, liens or other obligations with which the property may have or shall become charged. The only exceptions are costs taxed as part of the sale under this act and those tax liens of the Commonwealth which have priority over local tax liens under existing statutes.

Section 203. Notice.

(a) System.—The treasurer shall establish a system of effecting notice to interested parties. The procedure shall be reasonably calculated under the circumstances to apprise the interested parties of the pendency of the sale and to afford parties the opportunity to defend their interests in the property.

(b) Service.—Service of written notice made by certified mail is complete when the notice is mailed. If the notice is not delivered or claimed, delivery is refused, the return receipt is not executed or the treasurer fails to receive information from the post office respecting the notice before the date fixed for sale, the validity of the service shall not be impaired and the sale shall proceed at the time fixed by the notice. Information or material received by the treasurer from the post office respecting the notice, whether before or after the sale, shall be included in the treasurer’s report filed with the court under section 305.

(c) Challenge.—A challenge by an owner to the inclusion of a property in the sale shall be taken by the owner within ten days after service of written notice by filing a verified objection in writing with the treasurer.

(d) *Effect of notice.*—No sale may be set aside and no title to property sold may be invalidated if notice was given under this section.

Section 204. Advertisement and posting.

(a) *Advertisement.*—The treasurer shall advertise those properties which the treasurer intends to sell. The advertisement, which shall contain only a general description of the property, shall be made once a week for two successive weeks prior to the date set for sale in a newspaper of general circulation and in the legal newspaper printed and published in the city.

(b) *Posting.*—The treasurer shall also post a notice stating that the property will be sold at treasurer's sale for delinquent claims in a conspicuous place on, in front of or contiguous to each parcel of land advertised for sale, at least ten days prior to the day of sale. The posted notice shall contain the following information: the date, time and place at which the property shall be sold and a telephone number or address at which the owner can obtain additional information. *Posting of similar information* shall also occur at the offices of the treasurer.

(c) *Failure.*—Failure to advertise or post the property shall not set aside a sale if the owner has received notice by other means.

Section 205. Costs of notice.

The expense of advertisements, posting and notices, including search abstract costs, shall be taxed as part of the costs of the sale and shall be paid by the owner, redeemer or purchaser of the property in the same manner as other costs of sale.

Section 206. Authorization to remove from sale.

The treasurer may establish regulations concerning the removal of property from the sale prior to the date scheduled.

Section 207. Agreement to stay sale.

Prior to the date of sale, an owner or interested party may petition the treasurer to enter into a written agreement to stay the sale of the property. If the treasurer finds the execution of the agreement to be in the best interests of the taxing bodies, the treasurer may draw up an agreement which will specify the amount due on claims entered against the property; the interest, penalty and costs of the proceeding to date; and a schedule of payments. The agreement may also include a confession of judgment which includes an amount for attorneys' fees. A down payment must be made prior to execution of the agreement. The existence of an agreement shall not stay the accrual of additional penalty and interest on the balance remaining to be paid. So long as the taxpayer or other interested party complies with the agreement, the sale of the property covered by the agreement shall be stayed. In the case of a breach of the agreement by the owner or other interested party, the treasurer, in addition to any other remedy available under this act or under any other law, may give written notice of default by first class mail to the owner or interested party at the address set forth in the agreement and may place the property in the next treasurer's sale.

CHAPTER 3
TREASURER'S SALE PROCEDURE

Section 301. Sale or upset price.

The treasurer shall fix a minimum price on each property under which no bid shall be accepted. This minimum price shall be sufficient to pay the delinquent taxes, liened and unliened; water rents; sewage service charges; and other municipal claims. Calculation of additional amounts due for other municipal claims and liens, penalties, interest, lien costs and costs of sale will be completed within 30 days and transmitted by the treasurer to the purchaser for payment within 30 days from the date of the treasurer's bill.

Section 302. Payment by purchaser.

As soon as the property is sold at the treasurer's sale, the purchaser shall pay to the treasurer the full amount of the successful bid. Before delivery of the deed, the treasurer shall require payment of other charges of the taxing bodies set forth in section 301. Failure to pay these additional amounts within the 30 days following the treasurer's bill shall invalidate the sale, and the purchaser shall forfeit the minimum price already paid to the city.

Section 303. Appeal.

(a) Filing.—An interested party whose vested right in property is adversely affected by the treasurer's sale may have 30 days in which to file an appeal with the court of common pleas contesting the regularity of the sale procedure. Service of the appeal shall be made on the treasurer simultaneously with the filing of the appeal.

(b) Issues.—The appeal may question only the regularity of the proceedings of the treasurer's sale. It may not raise the legality of the taxes or the correctness of the amount of the claims for which the property was sold.

(c) Time limits.—A hearing on the appeal shall be held within 20 days after its filing. Within ten days of the hearing, the court shall enter an order either upholding the regularity of the sale or requiring the property to be listed for the next treasurer's sale.

Section 304. Redemption.

(a) Right.—Within 90 days after the date of the treasurer's sale, the owner or a person legally entitled to the property through the owner or an interested party or person legally entitled to the property through the interested party may redeem the property by payment of the full amount of the claims for which the property was sold, costs of sale, costs of improvements made to the property and current charges and municipal claims against the property.

(b) Cost of divestiture.—If the property had been purchased at the sale, the redeemer must also pay an additional 15% of the total purchase price to be paid over by the city to the divested purchaser.

Section 305. Report and confirmation of sale.

(a) Report.—Not less than 90 days after treasurer's sale, the treasurer shall present a report to the court of common pleas of the county in which the sale was made setting forth, as to each property sold and not rescheduled for sale, information required to indicate the regularity of the sale.

(b) Confirmation.—On the presentation of the report, if it appears to the court that the sale has been properly conducted under this act, the report and the sales shall be confirmed.

(c) Sale below minimum price.—The report shall list separately those properties for which the minimum price was not met. This portion of the report shall set forth that:

(1) Properties which may have been retained by the city as agent for coexisting taxing bodies may be put up for private sale under Chapter 5 or held for public purposes.

(2) Properties which the city has retained as agent shall be the subject of a petition to the court to clear title in favor of the city under section 406, if necessary.

(d) Finality.—After the court has issued its order of confirmation, there shall be no right to challenge the sale or the transfer of title judicially, in law or in equity, by the person in whose name the property was sold; the person's heirs, grantees or assigns; or an interested party or anyone claiming through an interested party. If the period of redemption has expired, the city may convey the property to a purchaser free of liens.

Section 306. Excess over upset price.

If the amount paid for the property by the purchaser is greater than the total of claims and costs which gave rise to the sale of the property, after the order of confirmation has been entered by the court, the excess shall be held for the person who owned the property just prior to the treasurer's sale, that person's heirs, assigns or other legal representatives or lien holders of record at the time of the treasurer's sale. If a properly qualified party fails to make a written and verified demand to the treasurer within two years from the date of the sale, the treasurer shall cause the excess to be placed in the agency fund established under section 403(b).

Section 307. Deed to purchaser.

(a) Delivery.—After the purchaser has paid the amount of the minimum bid and all other charges set forth in section 301 and has complied with this act, and after the court has entered an order of confirmation, the treasurer shall deliver to the purchaser a deed for the property purchased at treasurer's sale. The deed shall be acknowledged in the court of common pleas and the acknowledgment shall be entered and recorded by the prothonotary of the court in the treasurer's deed book. The prothonotary's charge for the service shall be paid by the person receiving the deed.

(b) Title.—Title issued under this act shall be equivalent to that acquired at sheriff's sale.

(c) Taxation.—Property purchased by a purchaser who receives a deed from the treasurer shall be taxable in the year following the purchase at treasurer's sale.

CHAPTER 4
MANAGEMENT OF PROPERTY ACQUIRED BY CITY
AT TREASURER'S SALE

Section 401. Title in city.

If a property has not been redeemed and has not been purchased by a third party at the treasurer's sale for the upset price or more, the city, at its option, may take title to the property as agent for taxing bodies having claims against the property. The interests of taxing bodies shall be fixed and determined as of the time of the filing of the report with the court. The interest of taxing bodies shall remain fixed without the necessity of filing or reviving liens or otherwise preserving taxes or claims.

Section 402. Agency established.

(a) **Creation.**—The mayor of the city shall designate an agency for the acquisition, administration, maintenance and disposition of property acquired by the city at treasurer's sale. The city shall act as agent for taxing bodies having claims against the property. Expenses of the agency shall be borne jointly by the taxing bodies in proportion to their respective annual revenues from the disposition of these properties by sale. Compensation for expenses shall be retained by the city from income from the sale or rental of delinquent property prior to distribution of income to the taxing bodies. If income is insufficient to pay expenses of acquisition, administration, maintenance and disposition, the taxing bodies shall make up the deficiency.

(b) **Action by city.**—The city as agent is authorized through its proper officials to do all things necessary to protect and defend the taxing bodies' rights and obligations under this act.

Section 403. Operation of agency.

(a) **Political subdivision.**—In addition to the taxing bodies, a political subdivision coexisting with the city or school district may, at the city's option, subject properties within its jurisdiction to treasurer's sale if it pays expenses of the sale of its delinquent properties.

(b) **Disposition of funds collected.**—Money collected as a result of treasurer's sales, rentals of sale property, and the resale of property and the contributions from the taxing bodies shall be placed in a fund for the support of the agency.

Section 404. Distribution.

(a) **Disbursement.**—After the expenses of the agency have been met, disbursement of excess amounts not necessary to pay the expenses of the agency shall be made to the taxing bodies in their pro rata shares on an annual basis.

(b) **Retained funds.**—Amounts retained in the fund for anticipated expenses of operation may be invested through the treasurer in the same manner as city funds.

Section 405. Action to quiet title.

After the sale has been confirmed, if no redemption has occurred, no objection has been sustained to purchase of the property by the city and the city finds that an interested party did not have notice, it may file a petition with the court to quiet title, in favor of the city to the property acquired at

treasurer's sale in favor of the city. Only those interested parties who had no prior notice may appear and protect their interest by paying claims and liens having priority senior to their interest. Liens, including tax liens and municipal claims, shall be stricken from the subject property by the order granting clear title.

CHAPTER 5 PRIVATE SALE OF PROPERTY TAKEN BY CITY AT TREASURER'S SALE

Section 501. Authorization.

The city may sell the title and interest it or a taxing body has in property acquired at treasurer's sale, sheriff's sale or sale for nonpayment of delinquent taxes or municipal claims in the same manner as if the city held sole title and interest.

Section 502. Resale to former owners.

After the period of redemption expires, the city may not resell the property to its former owner.

Section 503. Issuance of deed.

When the requirements of the prior sections of this chapter have been complied with, the treasurer shall deliver to the purchaser, as grantee, a deed for the resold property. The deed shall be acknowledged by the treasurer and entered and recorded by the prothonotary in the treasurer's deed book. The property shall be taxable in the year following its sale by the city.

Section 504. Income during agency.

If rents are collected during the redemption period and the property is redeemed under this act prior to the expiration of the redemption period, the accumulated rentals shall be delivered to the owner or a legal representative less any cost incurred by the deposed purchaser for collection of income or for improvement and maintenance of the property during the period in which the purchaser was entitled to the property unless the tenant of the city was the redeeming owner or his lienor.

CHAPTER 6 MISCELLANEOUS PROVISIONS

Section 601. Regulations.

The treasurer is authorized to promulgate regulations to aid in the administration of this act, which regulations shall have the force of law.

Section 602. Savings clause.

This act does not affect rights and obligations under the following statutes, except insofar as inconsistent with specific provisions of this act:

Act of April 15, 1834 (P.L.509, No.232), entitled "An act relating to county rates and levies and township rates and levies."

Act of May 16, 1923 (P.L.207, No.153), referred to as the Municipal Claim and Tax Lien Law.

Act of May 25, 1945 (P.L.1050, No.394), known as the Local Tax Collection Law.

Act of July 7, 1947 (P.L.1368, No.542), known as the Real Estate Tax Sale Law.

Section 603. Severability.

If any provision of this act or its application to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this act which can be given effect without the invalid provision or application.

Section 604. Repeals.

(a) Specific repeals.—The following acts are repealed:

Act of May 26, 1943 (P.L.629, No.275), entitled, as amended, “An act relating to the filing and revival of liens for taxes, water rates, sewer rates and other municipal claims and charges, in the office of the prothonotary of common pleas court on real estate within the territorial limits of cities of the second class, prescribing duties and fees of prothonotaries; establishing the office of solicitor for liens for delinquent taxes, rates, claims and charges, defining the powers and duties of said office; providing for enforced collection of said taxes, rates, claims and charges; imposing duties upon cities of the second class, and school districts within the territorial limits of cities of the second class.”

Act of July 5, 1947 (P.L.1258, No.514), entitled “An act authorizing and empowering city treasurers of cities of the second class to sell at public sale, lands or real estate upon which the taxes, assessed and levied by the city or school district, are delinquent and unpaid; fixing the interests of all taxing authorities where such lands are purchased by the city; providing for the distribution of moneys received as income from or resale of such lands; and providing for a method of reselling such lands purchased, by the city or by the city and school district within said city, at any sale for the nonpayment of taxes, free and clear of all mortgages, ground rents, interest in or claims against said lands.”

(b) General repeal.—All other acts and parts of acts are repealed insofar as they are inconsistent with this act.

Section 605. Abolition of office.

The office of solicitor for liens for delinquent rates, claims and charges is abolished.

Section 606. Effective date.

This act shall take effect in 60 days.

APPROVED—The 11th day of October, A. D. 1984.

DICK THORNBURGH