

## No. 1986-196

## AN ACT

## HB 293

Amending the act of August 9, 1955 (P.L.323, No.130), entitled "An act relating to counties of the third, fourth, fifth, sixth, seventh and eighth classes; amending, revising, consolidating and changing the laws relating thereto," further providing for reports of the controller or auditors and for appeals from reports.

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

Section 1. Sections 1730 and 1731 of the act of August 9, 1955 (P.L.323, No.130), known as The County Code, are amended to read:

Section 1730. Filing Reports.—(a) The reports of the controller or auditors shall be filed among the records of the court of common pleas of the county[, and from the time of such filing shall have the effect of a judgment against the real estate of the officer who shall thereby appear to be indebted either to the Commonwealth or to the county].

(b) *The amount of any balance or shortage, or of any expenditure of a kind, or made in a manner, prohibited or not authorized by statute, which causes a financial loss to the county shall be a surcharge against any officer against whom such balance or shortage shall appear, or who by vote, act or neglect, has permitted or approved such expenditure, but no elected or appointed official of a county shall be surcharged for any act, error or omission in excess of the actual financial loss sustained by the county, and any surcharge shall take into consideration as its basis the results of such act, error or omission and the results had the procedure been strictly according to law. The provisions hereof limiting the amount of any surcharge shall not apply to cases involving fraud or collusion on the part of officers, nor to any penalty enuring to the benefit or payable to the Commonwealth.*

Section 1731. Appeals from Reports.—An appeal may be taken from such reports to the court of common pleas, either by the Commonwealth, the county or the officer. Such appeal may also be taken by ten or more taxpayers in behalf of the county, in the manner and subject to the restrictions provided by article twenty-eight of this act.

Such appeal shall be entered by the Commonwealth within four months, and by the county and the officer within sixty days after the filing of the report. [If the officer is the appellant, he shall enter into a recognizance with two sufficient sureties in double the sum found due by such report, with condition to prosecute the appeal with effect and to pay the costs and such sum of money as shall appear on the final determination of the appeal to be due from him.] *Upon appeal to the court of common pleas, the controller or auditors shall be required to establish the validity of the surcharge and shall establish the loss sustained to the county. If the surcharge is upheld on appeal to the court of common pleas, the officer so surcharged shall immediately pay the costs and money due to the county.*

Section 2. This act shall be retroactive to January 1, 1978.

Section 3. This act shall take effect immediately.

APPROVED—The 17th day of December, A. D. 1986.

DICK THORNBURGH