

No. 2004-163

AN ACT

HB 2336

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," further providing for judicial sales; and providing for procedure for judicial sale of multiple properties.

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

Section 1. Section 31 of the act of May 16, 1923 (P.L.207, No.153), referred to as the Municipal Claim and Tax Lien Law, amended August 14, 2003 (P.L.83, No.20), is amended to read:

Section 31. The lien of a tax or a municipal claim shall not be divested by any judicial sale of the property liened, where the amount due is indefinite or undetermined, or where the same is not due and payable; nor shall the lien of a tax or municipal claim be divested by any judicial sale of the property liened, as respects so much thereof as the proceeds of such sale may be insufficient to discharge; nor, except as hereinafter provided, shall a judicial sale of the property liened, under a judgment obtained on a tax or municipal claim, discharge the lien of any other tax or municipal claim than that upon which said sale is had, except to the extent that the proceeds realized are sufficient for its payment, after paying the costs, charges and fees, including reasonable attorney fees, expenses of the sale, and of the writ upon which it was made, and any other prior tax or municipal claims to which the fund may first be applicable. On any such sale being made all tax claims shall be paid out of the proceeds thereof: first, the oldest tax having priority; and municipal claims shall be paid next, the oldest in point of lien having priority. Mortgages, ground-rents, and other charges on or estates in the property which were recorded, or created where recording is not required, before any tax other than for the current year accrue, or before the actual doing of the work in front of or upon the particular property for which the municipal claim is filed, shall not be disturbed by such sale unless a prior lien is also discharged thereby.

In case the property be not sold for a sum sufficient to pay all taxes and municipal claims, together with the costs thereon, the plaintiff in any such claim may postpone the sale, without payment of costs, and file his petition setting forth that more than one year has elapsed since the filing of his claim;

that he has exposed the property to sheriff's sale thereunder, and was unable to obtain a bid sufficient to pay the upset price in full; and, if the plaintiff is not a municipality as defined in this act, that he will bid sufficient to pay the upset price, and upon the production of searches or a title insurance policy showing the state of the record and the ownership of the property, and of all tax and municipal claims, mortgages, ground-rents, or other charges on or estates in the land, the court shall grant a rule upon all parties thus shown to be interested to appear and show cause why a decree should not be made that said property be sold, freed, and cleared of their respective claims, mortgages, charges, and estates. If, upon a hearing thereafter, the court is satisfied that service has been made of said rule upon the parties respondent, in the manner provided in section 39.2, and that the facts stated in the petition be true, it shall order and decree that said property be sold at a subsequent sheriff's sale day, to be fixed by the court without further advertisement, ***and the court may fix a common date and place of sale for more than one of said properties if it deems a joint sale to be advantageous.*** All property at sheriff's sale shall be sold, clear of all claims, liens, mortgages, charges, and estates, to the highest bidder at such sale; and the proceeds realized therefrom shall be distributed in accordance with the priority of such claims; and the purchaser at such sale shall take, and forever thereafter have, an absolute title to the property sold, free, and discharged of all tax and municipal claims, liens, mortgages, charges, and estates of whatsoever kind, subject only to the right of redemption as provided by law. In counties of the second class, upon return of the writ upon which the sale was made and upon the expiration of the statutory right of redemption and if no petition to set aside the sale is pending, the prothonotary shall satisfy all tax claims and municipal claims divested by the judicial sale in accordance with the order of court authorizing such sale.

Any person interested may, at any time before the sale, pay the petitioner the whole of his claim, with interest, costs, charges, expenses, fees and attorney fees, whereupon the proceedings on petition shall at once determine.

For the purpose of enabling the petitioner in any such proceedings to give the notice required, he may take the testimony of the defendant in the claim, or of any other person whom he may have reason to believe has knowledge of the whereabouts of any of the parties respondent, either by deposition, commission, or letters rogatory.

Any municipality, being a claimant, shall have the right, and is hereby empowered, to bid and become the purchaser of the property at such sale; and while the said property, so purchased, is held and owned by any county, city, borough, incorporated town, township, school district or a body politic and corporate created as a municipal authority pursuant to law, it shall not be subject to tax claims, unless it be redeemed by the former owner or other person having the right to redeem, as provided by law. If, however, a municipality shall become the purchaser at said sale, the former owner or other person, desiring to redeem, shall pay all taxes and municipal claims

accrued and chargeable against the property prior to the sale thereof, together with the costs and interest thereon, and also all taxes and claims, whether filed or not, which would have accrued and become chargeable against the property had the same been purchased at the sale by some party other than the municipality.

Upon the delivery by the sheriff of a deed for any property sold under a tax or municipal claim, the judgment upon which such sale was had shall thereupon and forever thereafter be final and conclusive as to all matters of defense which could have been raised in the proceeding, including payment, and no error or irregularity in obtaining or entering of such judgment shall effect the validity thereof.

Section 2. The act is amended by adding a section to read:

Section 31.3. If with regard to two or more properties a municipality is authorized under section 31, 31.1 or 31.2 to petition the court for the individual sale of each property, free and clear of its respective claims, liens, mortgages, charges and estates, the municipality may join any number of the properties in a single petition, and the court may grant a rule upon all parties shown to be interested in any of the properties to appear and show cause why a decree should not be made that the properties which are the subject of the petition be sold together in one sale, free and clear of their respective claims, mortgages, charges and estates. If upon a hearing thereafter the court is satisfied that service has been made of the rule upon the parties in the manner provided in section 39.2 and that the facts stated in the petition be true, the court shall order and decree, subject to any applicable restrictions and limitations in section 31, 31.1 or 31.2, that the properties be sold together at one sale at a subsequent sheriff's sale day, to be fixed by the court without further advertisement, clear of all claims, liens, mortgages, charges and estates, to the highest bidder at such sale. If a judicial sale of multiple properties is ordered, any party shown to be interested in a particular property may, at any time before the sale, pay the municipality the whole of its claim relating to the particular property, with interest, costs, charges, expenses, fees and attorney fees, whereupon the proceedings on petition with regard to that property shall at once determine. A judicial sale of multiple properties shall not diminish the right of redemption with regard to any particular property that is a part of the sale.

Section 3. This act shall take effect in 60 days.

APPROVED—The 29th day of November, A.D. 2004.

EDWARD G. RENDELL