

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 61 Session of 2023

INTRODUCED BY MERCURI, SCHLEGEL CULVER, MOUL AND PICKETT,  
MARCH 7, 2023

REFERRED TO COMMITTEE ON FINANCE, MARCH 7, 2023

AN ACT

1 Amending the act of March 4, 1971 (P.L.6, No.2), entitled "An  
2 act relating to tax reform and State taxation by codifying  
3 and enumerating certain subjects of taxation and imposing  
4 taxes thereon; providing procedures for the payment,  
5 collection, administration and enforcement thereof; providing  
6 for tax credits in certain cases; conferring powers and  
7 imposing duties upon the Department of Revenue, certain  
8 employers, fiduciaries, individuals, persons, corporations  
9 and other entities; prescribing crimes, offenses and  
10 penalties," in general provisions, providing for electronic  
11 tax lien filing and centralized repository; and making a  
12 repeal.

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

15 Section 1. The act of March 4, 1971 (P.L.6, No.2), known as  
16 the Tax Reform Code of 1971, is amended by adding a section to  
17 read:

18 Section 3003.26. Electronic Tax Lien Filing and Centralized  
19 Repository.--(a) Commonwealth taxes administered by the  
20 Department of Revenue shall be a lien upon the property,  
21 franchises and rights to property, real and personal, tangible  
22 and intangible, including after-acquired property, of a  
23 corporation, association or person upon the posting of the

1 liability under subsection (g), and shall be considered  
2 recorded, and, unless otherwise provided in this act, have  
3 priority from that point in time. The lien shall be a statutory  
4 lien, encumbering the property, franchises and rights to the  
5 property throughout this Commonwealth, without the need for the  
6 lien to be reduced to judgment, filed with a county  
7 prothonotary, or revived.

8 (b) If the property, franchises and rights to property of a  
9 corporation, association or person are sold at a judicial sale,  
10 all taxes due the Commonwealth shall be allowed and fully paid  
11 out of the proceeds of the sale before any other obligation,  
12 judgment, mortgage, claim or lien, including real estate taxes  
13 and local and municipal claims, and excepting costs of the sale  
14 and of the writ upon which the sale was made, but shall be  
15 subordinate to mortgages or other liens, including real estate  
16 taxes and local and municipal claims which had already been  
17 established by statute, or existing and duly recorded or entered  
18 of record prior to the posting of the tax lien on the  
19 repository.

20 (c) A judicial sale from a senior priority claim shall  
21 divest a Commonwealth tax lien from the property actually sold  
22 at that sale only to the extent the Commonwealth tax lien  
23 remains unpaid after all distributions have been made, but the  
24 Commonwealth tax lien shall, in all other respects, continue to  
25 encumber any and all property the corporation, association or  
26 person owns that was not included in the judicial sale,  
27 including after-acquired property, until such time as the  
28 Commonwealth tax lien is satisfied in its entirety.

29 (d) All liens filed by the Department of Revenue shall be  
30 Commonwealth tax liens, and nothing in this section shall be

1 construed to prohibit the Department of Revenue, at its  
2 discretion, from releasing a Commonwealth tax lien upon receipt  
3 of adequate consideration.

4 (e) Inheritance tax liens shall arise as of the date of  
5 death and attach to the decedent's real property and need not be  
6 included in the repository established under this section. The  
7 lien shall remain until the taxes and interest are paid in full  
8 or until the lien is released under Article XXI.

9 (f) The Department of Revenue shall not be required to file  
10 a Commonwealth tax lien with a prothonotary of this Commonwealth  
11 in order for the department to collect on the lien, via any  
12 method available at law, except for a writ of execution filed by  
13 the Commonwealth.

14 (g) The Department of Revenue shall maintain a searchable  
15 centralized repository of all Commonwealth tax liens due and  
16 owing to the Commonwealth. The repository shall be posted to the  
17 Department of Revenue's publicly accessible Internet website.  
18 Liabilities due to the Commonwealth for taxes administered by  
19 the Department of Revenue may be posted to the repository within  
20 seven days of the settlement, determination or assessment  
21 becoming final. The Department of Revenue shall not be required  
22 to refile or revive a Commonwealth tax lien. The repository  
23 shall be updated no less than once every seven days. The  
24 publication of the repository and disclosure of information  
25 contained in the repository shall be used only for official  
26 purposes under section 731 of the act of April 9, 1929 (P.L.343,  
27 No.176), known as The Fiscal Code.

28 (h) (1) In order for the Commonwealth to collect on a  
29 Commonwealth tax lien by executing on property, unless otherwise  
30 provided by law, the Commonwealth tax lien must be filed of

1 record with the prothonotary of the respective county where the  
2 property or rights to property the Department of Revenue seeks  
3 to execute upon is located. The Department of Revenue may, at  
4 any time, transmit to the prothonotary of the applicable county,  
5 where the property the department seeks to execute upon is  
6 located, a certified copy of the lien posted on the repository,  
7 to be entered of record by the prothonotary and indexed as  
8 judgments are now indexed, upon which record is lawful for writs  
9 of execution to be directly issued without the issuance and  
10 prosecution to judgment of writs of scire facias: Provided, that  
11 not less than ten days before the issuance of execution on the  
12 lien, notice of the filing and effect of the lien shall be sent  
13 by first class and registered or certified mail to the  
14 taxpayer's last known post office address.

15 (2) No prothonotary shall require as a condition precedent  
16 to the entry of the lien, payment of the costs incident to the  
17 entry.

18 (3) The indexing and filing of the Commonwealth tax lien by  
19 the prothonotary shall not change or otherwise affect the  
20 priority status of the lien, unless otherwise provided in this  
21 act.

22 (4) Nothing in this section shall be construed to require  
23 the Department of Revenue to file a Commonwealth tax lien in  
24 order to proceed with a wage garnishment under section 3003.15  
25 or a bank attachment under section 3003.22.

26 (i) A prothonotary who wilfully fails to carry out a duty  
27 imposed by this section commits a misdemeanor and shall, upon  
28 conviction, be sentenced to pay a fine not exceeding one  
29 thousand dollars (\$1,000) and costs of prosecution, or to  
30 undergo imprisonment not exceeding one year, or both.

1 Section 2. Repeals are as follows:

2 (1) The General Assembly declares that the repeal under  
3 paragraph (2) is necessary to effectuate the addition of  
4 section 3003.26 of the act.

5 (2) Section 213 of the act of April 9, 1929 (P.L.343,  
6 No.176), known as The Fiscal Code, is repealed.

7 Section 3. A tax lien of the Commonwealth created prior to  
8 January 1, 2024, shall not be impaired, shall remain in full  
9 force and effect and shall retain the priority under the  
10 provision of law imposing the tax lien, without the necessity of  
11 refiling or revival.

12 Section 4. This act shall take effect January 1, 2024.