

Act 93 Expands Effects of Unpaid Real Estate Taxes in PA

[On behalf of Dornish Law Offices, PC](#) | Mar 23, 2014 | [All, Real Estate Practice](#)

By Bradley S. Dornish, Esquire

In late November of 2013, a simple, four paragraph amendment to Pennsylvania's Municipal Claim and Tax Lien Law was passed by the legislature, and signed by Governor Corbett. This law, known as Act 93 of 2013, quietly became effective in late January 2014. The purpose of Act 93 was to help municipalities, school districts and counties in Pennsylvania collect overdue and unpaid real estate taxes more easily, without having to go through the tax sale processes available in PA.

Under Act 93, the lien of a municipality, school district or county for unpaid real estate taxes on any tax claim "reduced to judgment" now attaches to ALL real estate owned by the delinquent taxpayer in the county where the property is located, and attaches just like a general judgment against that individual or entity. Act 93 also provides that for its purposes, "reduced to judgment" does not require a new and separate filing with the court, but that all claims which have been rendered absolute under the Real Estate Tax Sale Law are given the effect of a judgment.

While this sounds like a good idea to collect taxes, it has created new problems for buyers and sellers of distressed properties, particularly in Allegheny and Philadelphia counties. To understand why there has been a disparate effect from this law on those types of properties in those counties, you have to understand how the different tax sale laws work in different counties, and even in different parts of Allegheny County.

Previously, unpaid real estate taxes on each property became a lien on that particular property from the date the taxes were assessed until paid, and municipalities, counties and school districts had three years to file the lien for unpaid taxes in the county court. All counties other than Philadelphia and Allegheny counties have tax claim bureaus which regularly receive unpaid real estate tax bills from their constituent municipalities, counties and school districts, and in a two year process, sell the properties for taxes unless they are paid. Those counties, and municipalities and school districts

in those counties, have to return unpaid taxes to the tax claim bureaus each year for the prior year, or they lose the right to lien. The mechanism works fairly well to get real estate taxes paid.

This means that in all 65 of those counties, there are not a lot of old, outstanding property tax liens. Some liens for a few years sit on properties going through the tax claim bureau sale process, and some older tax liens remain on properties which do not sell through the upset sale process and the subsequent judicial sale process, which properties end up on the tax claim bureau's repository list of unsold properties.

The treasurers' sales in Philadelphia County and the City of Pittsburgh, and tax sales in the Court of Common Pleas of Allegheny County for properties outside the City of Pittsburgh are not as automatic and regulated as tax claim bureau sales. The treasurers of Philadelphia and Pittsburgh select the properties to take to treasurers' sale, and in Allegheny County outside the City of Pittsburgh, the county, each municipality and each school district has the right, but not the obligation to bring a separate legal proceeding in court by writ of scire facias to sell each property on which property taxes have not been timely paid. Because city treasurers in Pittsburgh and Philadelphia, and municipalities and school districts in the rest of Allegheny County choose when to go to sale on each tax delinquent property, they consider the value of each property, the costs of going to sale, and the amount of tax outstanding when deciding to sell. Typically, cash strapped municipalities and school districts sell fewer properties, and the treasurers list properties to sell which are being actively used by their owners, have substantial outstanding tax bills, and could likely be sold for enough to cover the costs of sale and unpaid taxes. Smaller, cheaper properties and vacant properties are less likely to be sold for unpaid taxes in these places. However, the tax liens continue to accrue against these properties.

Now that Act 93 is effective, all of those old, uncollected tax liens attach not only to the particular property on which the taxes are due, but as a general lien against all other property owned by the same owner in the county. We had one recent search come back on a small property being sold for a low price with seventy nine different property tax judgments against it. Each such judgment, plus interest on the unpaid tax, and a satisfaction fee to clear the judgment must be paid to pass clear title to the property.

We have also had this problem on REO sales now pending. Keep in mind that the banks typically have not transferred title from the prior owner to

the bank, so tax liens from other properties owned by the owner on the effective date of Act 93 attach to the property being sold as an REO and must be paid by the bank to be able to pass clear title. The foreclosure process is able to wipe out liens junior to the bank's mortgage lien, but not tax liens, which are a first position lien senior to the bank's mortgage lien. Buyers need to be prepared for these new clouds on the title of properties being purchased, and sellers who owe taxes on other properties owned in the same name or entity need to get those taxes paid to avoid these problems derailing a closing.

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