

Bill No. 1338-03

No. 57-03-OR

## AN ORDINANCE

An Ordinance of the County of Allegheny, commonwealth of Pennsylvania, adopting a schedule of attorney fees in connection with the collection of taxes, tax claims and tax liens pursuant to Act 1 of 1996 and Act 20 of 2003 and adopting a schedule of charges, expenses and fees pursuant to the act of May 16, 1923, as amended, 53 p.s. §7101, §7103, and §7106, which ordinance repeals any other ordinances inconsistent herewith relating to a schedule of attorney fees pursuant to act 1 of 1996

**WHEREAS**, the County of Allegheny (hereinafter "Municipality") is required from time-to-time to enforce by various means the collection of unpaid taxes, tax claims, and tax liens through the independent Office of the County Treasurer ("Treasurer") (hereinafter referred to as "Claim" or "Claims"); and

**WHEREAS**, the expense of such enforced collection, when absorbed by the Municipality constitutes a further demand on the Municipality's resources; and

**WHEREAS**, Act 1 of 1996 (hereinafter "Act 1") and Act 20 of 2003 (hereinafter "Act 20") amend, inter alia, §3 of the Pennsylvania Municipal Claim and Tax Lien Law (hereinafter the "Act"), Act of May 16, 1923, PL 207, §3, as amended, 53 P.S. §7106 to permit a municipality as that term is defined in the Act, to recover reasonable Attorney fees in connection with the collection of Claims from the persons and property owing such Claims; and

**WHEREAS**, §1, §2, and §3 of the Act, as amended, 53 P.S. §§7101, 7103, and 7106, respectively, permit the Municipality, through its duly elected Treasurer, to recover as part of each unpaid Claim, among other things, various charges, expenses and fees, and Attorney fees relating to the failure to pay the Claims promptly and subsequent enforced collection of same; and

**WHEREAS**, the Municipality and the Treasurer desire to exercise all such legal authority in order to encourage timely payment and collection of Claims, and to reduce, if not eliminate, the expense associated with enforced collection of its Claims; and

**WHEREAS**, the Municipality and the Treasurer desire to repeal any prior ordinances which are inconsistent herewith.

**NOW, THEREFORE, IT IS HEREBY ORDAINED AND ENACTED** by the County of Allegheny, Commonwealth of Pennsylvania, as follows:

**Article I.     Short Title:**    This Ordinance shall be known as the Tax, Tax Claim and Tax Lien Attorney Fees and Servicing Charges, Expenses and Fees Ordinance.

**Article II.     Expenses Approved:**

Section 1.     **TITLE SEARCH.**

In any enforcement proceeding, the actual cost of a title search in an amount not to exceed \$250.00 shall constitute a reasonable expense for each title search necessary for the initiation of each proceeding and compliance with Pa. R.C.P. 3129. The sum not to exceed \$50.00 shall constitute a reasonable expense for each bringdown or update of the title

search in connection with entry of judgment, issuance of execution, listing for sale, or other action.

Section 2.

Actual out-of-pocket expenses in connection with any enforcement action, such as for postage, non-Sheriff's service of process, investigation of the whereabouts of interested parties and other necessary expenses shall constitute reimbursable expenses as part of each Claim recovered.

**Article III. Attorney Fees Approved:**

Section 1. FLAT FEE MATTERS

The following schedule of Attorney fees is hereby adopted and approved as reasonable Attorney fees pursuant to Act 1 and Act 20 for all matters described, which fees shall be awarded to the Municipality, its agents, counsel or assigns in each action initiated pursuant to the Act for the collection of unpaid Claims. The property owner's obligation to pay the full amount of the flat fee for each phase of each action shall accrue upon the initiation of any aspect of each phase. The full amount of each flat fee for each prior phase of the proceeding shall carry over and be due on a cumulative basis together with the flat fee for each subsequent phase.

A. PREPARATION AND SERVICE OF WRIT OF SCIRE FACIAS. The sum of \$450.00 shall constitute reasonable Attorney fees for the initiation of each proceeding and shall include preparation and filing of the Praeceptum for Writ of Scire Facias, Sheriff's direction for service, Notice pursuant to Pa. R.C.P. §237.1 and the preparation and filing of the Praeceptum to Settle and Discontinue the proceeding. The above does not include:

1. Federal Tax Liens, Judgments and Mortgages. Where there are federal tax liens, federal judgments, federal mortgages or other record federal interests, the sum of \$200.00 shall constitute reasonable Attorney fees for all matters necessary to properly notify and serve the United States with all required additional Notice and the presentation of related motions to Court.

2. Alternative Service of Legal Pleadings. In the event that a Special Order of Court is necessary to serve original process or any other pleading,

notice, court order or other document, the following amounts shall constitute reasonable attorney fees as follows:

- a. Investigation of Defendant(s) whereabouts and preparation of Affidavit of Diligent Search - \$100.00
- b. Preparation and Presentation of Motion for Alternative Service, and delivery of the Order of Court, along with appropriate directions to the Sheriff for service - \$200.00

B. ENTRY OF JUDGMENT. The sum of \$225.00 shall constitute reasonable Attorney fees in connection with entry of judgment which shall include preparation and filing of the Praeipe to Enter Judgment, Notices of Judgment, Affidavit of Non-Military Status, and the Praeipe to Satisfy Judgment.

C. WRIT OF EXECUTION - SHERIFF'S SALE OF PROPERTY. The sum of \$ 700.00 shall constitute reasonable Attorney fees for preparation of all documents necessary for each execution upon any judgment pursuant to the Act. This sum shall include the preparation and filing of the Praeipe for Writ of Execution, all Sheriff's documents, preparation and service of Notices of Sheriff's Sale, staying the writ of execution, and attendance at one (1) Sheriff's Sale.

1. Postponements. The sum of \$100.00 shall constitute reasonable attorney fees for each continuance of Sheriff's Sale at the request of the defendant.

D. SALE PURSUANT TO §31 OF THE ACT, 53 P.S. §7281. The sum of \$700.00 shall constitute reasonable Attorney fees for the sale of property pursuant to §31 of the Act, 53 P.S. §7281 including preparation and service of necessary documents, court appearances, attendance at Sale and preparation of proposed schedule of distribution of the proceeds realized from such Sale.

E. SALE PURSUANT TO §31.1 OF THE ACT, 53 P.S. §7282. The sum of \$500.00 shall constitute reasonable Attorney fees for a sale of property pursuant to §31.1 of the Act, 53 P.S. §7282, including the preparation of necessary documents, service,

court appearances, and the preparation of proposed Sheriff's Schedule of Distribution.

F. INSTALLMENT PAYMENT AGREEMENT. The sum of \$150.00 shall constitute reasonable Attorney fees for the preparation of each written installment payment agreement.

G. MOTIONS. The sum of \$200.00 shall constitute reasonable Attorney fees for the preparation, filing, and presentation of motions, other than for alternative service, which shall include, but are not limited to, motions to reassess damages, motions to amend caption, motions to continue the Sheriff's Sale.

## Section 2. HOURLY RATE MATTERS

The following schedule of Attorney fees is hereby adopted and approved as reasonable Attorney fees pursuant to Act 1 and Act 20, which fees shall be awarded to the Municipality, its agents, counsel or assigns as compensation in all contested matters, and in all other matters not specifically referenced in Article III, Section 1, above, undertaken in connection with the collection of Claims:

- A. Senior Attorneys  
(practicing law for 10 years or more) \$185.00 per hour
- B. Junior Attorneys  
(practicing law for less than 10 years) \$160.00 per hour
- C. Paralegals \$ 100.00 per hour
- D. Law Clerks \$ 65.00 per hour

each as recorded and charged in units of 1/10th of an hour for all time devoted to enforcement and collection of the Municipality's Claims. Counsel, whether duly employed or duly appointed by the Municipality, its agents or assigns, shall not deviate from this fee schedule absent a subsequent ordinance amending the same. Hourly rate matters include, but are not limited to, any matters where any defense, objection, motion, petition or appearance is entered in any phase of any proceeding by or on behalf of any Defendant or other interested party.

## Article IV. PROCEDURE

A. Required Notice: The Notice required by the Act, as amended, 53 P.S. §7106, shall be provided in accordance therewith and shall be incorporated into an appropriate delinquency notice or

notices sent by the Municipality, Treasurer, its agent, counsel or assigns.

B. **Fees to be Accrued and Claims to be Filed:** Fees shall accrue for all efforts in collection after the 30th day after the Notice, or after the 10th day of any required Second Notice under the Act, as amended, 53 P.S. §7106, on all accounts referred to counsel for enforcement. Fees accumulated as a result of enforced collection shall be certified by duly appointed counsel for the Treasurer authorized to pursue collection of Claims pursuant to the Act, or by counsel for the Municipality, Treasurer, or agents or assigns and, if not collected in due course with the debt as by voluntary payment, shall be included in any Claims filed on behalf of the Municipality, Treasurer, or by its agents or assigns in the course of enforcement including any Claims originally filed with the Prothonotary, any Claims filed with the Sheriff or in any other Claims filed or statements provided where attorney fees are due.

C. The amount of fees determined as set forth above shall be added to and become part of the Claim or Claims in each proceeding as provided by the Act and as provided herein.

**Article V. Effective Date and Retroactivity:**

A. This Ordinance shall take effect on the date of enactment set forth below and with respect to Attorney fees pursuant to Articles III and IV shall apply to all taxes, tax claims and tax liens, Writs of Scire Facias, Judgments, or Executions filed on or after December 19, 1990, or as otherwise provided by law.

B. In no event shall the Municipality's or Treasurer's right to charge and collect reasonable Attorney fees pursuant to Article III of this Ordinance be impaired by the fact that any Claim may also include an attorney commission of five percent (5%) for Claims filed prior to December 19, 1990. Any attorney fees assessed and collected under this or any prior ordinances pursuant to Act 1 shall be in addition to any five percent (5%) commission previously included in any Claim or judgment thereon.

C. Attorney fees and expenses incurred in pending enforcement proceedings prior to the effective date of this Ordinance, pursuant to a prior ordinances adopted under Act 1, but not collected, shall remain due and owing in accordance therewith, and shall be incorporated in any future statement, Claim, pleading, judgment, or execution. Attorney fees and expenses in any pending or new action

incurred after the effective date of this Ordinance shall be incurred, charged, and collected in accordance with the schedules and procedures set forth in this Ordinance.

**Article VI. Assignment:** The Municipality and/or Treasurer may assign the provisions of this Ordinance to any assignee of its Claims unless the assignment limits the assignee's ability to collect such amounts. The Municipality, Treasurer, and its duly authorized agents and their counsel shall retain all rights to charge reasonable Attorney fees, charges, expenses, and fees in accordance with the provisions of this Ordinance in actions commenced under the Act and for Servicing any Claims retained by the Municipality.

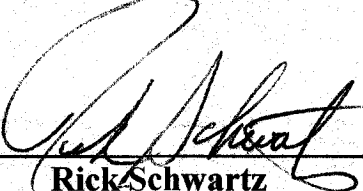
**SECTION**      *If any provision of this Ordinance shall be determined to be unlawful, invalid, void or unenforceable, then that provision shall be considered severable from the remaining provisions of this Ordinance which shall be in full force and effect.*

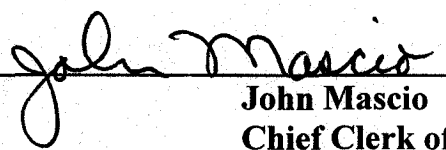
**SECTION**      *Any Resolution or Ordinance or part thereof conflicting with the provisions of this Ordinance is hereby repealed so far as the same affects this Ordinance.*

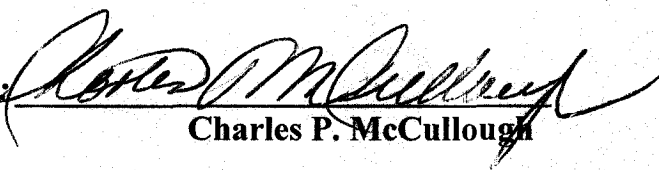
**SPONSORED BY THE COUNTY TREASURER**

Enacted in Council, this 18<sup>th</sup> day of November, 2003

Council Agenda No. 1338-03

  
Rick Schwartz  
President of Council

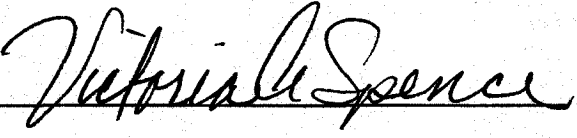
Attest:   
John Mascio  
Chief Clerk of Council

Approved as to form:   
Charles P. McCullough

County Solicitor

Chief Executive Office November 25, 2003

Approved:   
James C. Roddey  
Chief Executive

Attest:   
Victoria Spence  
Executive's Secretary



OFFICE OF THE TREASURER



JOHN K. WEINSTEIN  
TREASURER

# County of Allegheny

COURTHOUSE  
436 GRANT STREET • PITTSBURGH, PA 15219-2497  
PHONE (412) 350-4120 • FAX (412) 350-5649

## MEMORANDUM

TO: JOHN MASCIO, Chief Clerk  
County Council

FROM: JOHN WEINSTEIN  
County Treasurer

DATE: October 16, 2003

RE: Request for Agenda Item —  
Meeting of October 21, 2003

Please accept this memorandum as my request to have the attached draft ordinance placed on the upcoming agenda for the next County Council meeting of October 21, 2003.

Last month, the Governor has just signed this legislation into law which enables the county to enact Act 20 of 2003. This Act specifically entitles the county to permit outside legal counsel to charge delinquent taxpayers reasonable attorney's fees for the collection of delinquent property taxes and amends an existing County ordinance previously adopted. Once enacted, this entire collection process will be at absolutely no cost to the County and will be exclusively borne by the delinquent taxpayer which is now permissible under the law.

Should you have any questions, please feel free to contact me. Thank you for your attention to this matter.

Enclosure  
JKW/saz

**RECEIVED**

**OCT 16 2003**

Office of the Chief Clerk  
Allegheny County Council

## **MOTION TO AMEND BILL NO. 1338-03**

Motion to Amend Bill No. 1338-03 by deleting Article III, Section 1A (Title Search) in its entirety and renumbering the subsequent sections of the ordinance.

The section was inadvertently repeated. It is already contained in Article II, Section 1.

## **ALLEGHENY COUNTY COUNCIL**

**Staff Report**

**Internal Document: Council Use Only**

**Bill Nos.: 1338-03**

**Sponsor: County Treasurer**

**Introduced: October 21, 2003**

**Amendment of County Ordinance Adopting Attorney Fee Schedule**

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Ordinance No. 1338-03 amends an existing County ordinance that sets a schedule for attorney fees in connection with the collection of taxes, tax claims and tax liens. Earlier this year, legislation was enacted at the state level which allows delinquent taxpayers to be charged reasonable attorney's fees for the collection of delinquent property taxes. This privilege extends to those attorneys collecting on tax liens which have been assigned by the County. These changes will result in the cost of collection being borne by the delinquent taxpayers rather than the County itself. The ordinance updates the fee schedule from the 1996 costs to the costs reflected in Act 20 of 2003.