

ORDINANCE NO. 15207

FILE OF CITY COUNCIL

May 6, 2015

BILL NO. 26 – 2015

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An Ordinance

Amending Article 394, Fees for Delinquent Accounts, by adding fees associated with the Real Estate Tax Sale Law and certain penalties, interest and fees for the collection of delinquent real estate taxes as a result of the contract with Northeast Revenue.

WHEREAS, it is necessary and prudent for the City of Allentown to recover promptly its levied and unpaid delinquent real estate taxes, and if necessary, to accomplish such recovery through legal proceedings; and

WHEREAS, the Municipal Claims and Tax Liens Act, 53 P.S. §7101, et seq. (the "MCTLA"), authorizes the addition of interest, costs, charges, expenses and fees, including residents reasonable attorney fees, to the total payable with respect to unpaid taxes; and

WHEREAS, the City of Allentown has determined that it is in the best interest of all taxpayers and residents to enforce the payment of delinquent real estate taxes; and

WHEREAS, the City of Allentown has determined that the addition of interest, costs, charges, expenses and fees to the total payable with respect to unpaid taxes is reasonable and just;

NOW THEREFORE, BE IT ORDAINED BY THE City Council of the City of Allentown that the following is adopted:

Section One: That Article 394.02, Schedule of Fees be amended to include the following:

**394.02 SCHEDULE OF FEES**

A. **Administrative Charge.** Any administrative fee incurred for mailing the notice of delinquency, not to exceed Fifty (\$50) Dollars, being a cost of collection under the Municipal Claims and Tax Liens Act, shall be assessed. (14279 §1 4/22/05)

B. **Interest.** Interest will be assessed upon all delinquent real estate taxes and/or municipal claims at a rate of ten (10%) percent per annum. (14279 §1 4/22/05)

**C. Assessment of Legal Fees for Portnoff, 2012 and prior**

1. In accordance with Section One of the Municipal Claims and Tax Liens Act, the municipality hereby approves that the collection of delinquent real estate taxes and municipal claims shall

be compensated for attorneys' fees in accordance with the fee schedule set forth below. (14279 §1 4/22/05)

2. The City hereby approves the following schedule of attorney fees for services in connection with the collection of accounts, which is hereby determined to be fair and reasonable compensation for the services set forth below, all in accordance with the principles set forth in Section 3(a.1) of the Municipal Claims Law as added by Act No. 1 of 1996 (the "Act"):

<b>Legal Services</b>	<b>Fee for Services</b>
Initial review and sending first demand letter	\$160
File lien and mailing second demand letter	175
Prepare Writ of Scire Facias	175
Obtain Re-issued Writ	30
Prepare and mail letter under Pennsylvania R.C.P. §237.1	30
Prepare Motion for Alternate Service	175
Prepare Motion for Summary Judgment and Related Judgment	175
Prepare Writ of Execution	800
Attendance at Sale; Review Schedule of Distribution and Resolve Distribution Issues	400
Continue Sheriff Sale	50
Petition to Assess Damages	50
Petition for Free and Clear Sale	400
Prepare Bankruptcy Proof of Claim	100
Handling Fee for Returned Check	30
Handling Fee to Issue Refund Check	20
Bookkeeping Fee for Payment Plan of more than three (3) payments (14279 §1 4/22/05)	50

Services not covered above: An hourly rate ranging from \$60 to \$225 per hour

3. There shall be added, to the above amounts, the reasonable out-of-pocket expenses of counsel in connection with each of these services, as itemized in the applicable counsel bills, which shall be deemed to be part of the fees.

4. The amount of fees determined, as set forth above, shall be added to the City's claim in each account. (13777 §1 9/3/99)

**D. Assessment of Legal Fees for Northeast Revenue Services, current**

<b><u>Legal Services</u></b>	<b><u>Fee for Services</u></b>
<u>Open File and Issue Legal Demand Letter</u>	<u>\$140.00</u>
<u>File Lien and Send Second Demand Letter</u>	<u>\$160.00</u>
<u>Prepare and File Writ of Scire Facias</u>	<u>\$160.00</u>
<u>Obtain Re-Issued Writ</u>	<u>\$25.00</u>
<u>Prepare and Mail Correspondence per Pa. R.C.P. §237.1</u>	<u>\$25.00</u>
<u>Prepare Motion for Alternate Services</u>	<u>\$160.00</u>
<u>Prepare and File Default Judgment</u>	<u>\$160.00</u>
<u>Prepare and File Writ of Execution</u>	<u>\$700.00</u>
<u>Attendance at Sale; Review Schedule of Distribution and Resolve Distribution Issues</u>	<u>\$350.00</u>
<u>Continue Sheriff Sale</u>	<u>\$20.00</u>
<u>Petition to Assess Damages</u>	<u>\$45.00</u>
<u>Petition for Free and Clear Sale</u>	<u>\$350.00</u>
<u>Bankruptcy Proof of Claim</u>	<u>\$90.00</u>
<u>Handling Fee for Returned Check</u>	<u>\$25.00</u>
<u>Handling Fee to Issue Refund Check</u>	<u>\$20.00</u>
<u>Services not covered above:</u>	<u>At an hourly rate between \$60 - \$200 per hour</u>

**There will be added to the above amounts the reasonable out-of-pocket charges, costs, expenses, and fees such as, but not limited to, postage, title searches, prothonotary fees and sheriff fees.**

In addition to the authorization for the collection of taxes and institution of tax sales authorized by the Real Estate Tax Sales Law ("RETSL"), 72 P.S. §5860.201 et seq., the Lehigh County Tax Claim Bureau is appointed as alternative collector and is authorized and directed to file liens for existing delinquent real estate taxes with the Prothonotary of Lehigh County in accordance with the provision of the Municipal Claims and Tax Liens Act, 53 P.S. §7101, et seq.

In accordance with the MCTLA and RETSL, interest shall be charged on taxes so returned from and after but not before the first day of the month following the return. Interest shall be charged at a rate of nine per centum (9%) per annum;

Pursuant to Section 7106 of the MCTLA, it is hereby established that the reasonable charges, expenses and fees incurred in the collection of any delinquent account under the MCTLA are hereby fixed at five percent (5%) of the total amount of the delinquent taxes (including interest and penalties), and that

additional reasonable attorney's fees incurred in the collection of any delinquent taxes shall be fixed at one percent (1%) of the total amount of the delinquent taxes (including interest and penalties), and that said charges for attorney's fees and for all charges, expenses and fees set forth herein, shall be paid to the County of Lehigh through the Lehigh County Tax Claim Bureau in lieu of payment of commission pursuant to Section 207 of RETSL;

The proper officials of the City of Allentown are hereby authorized and empowered to take such additional action as they may deem necessary or appropriate to implement this Ordinance.

SECTION TWO: If any section, clause, provision or portion of this Ordinance shall be held invalid or unconstitutional by and Court of competent jurisdiction, such decision shall not affect any other section, clause, provision or portion of this Ordinance so long as it remains legally enforceable minus the invalid portion. The City of Allentown reserves the right to amend this Ordinance or any portion thereof from time to time as it shall deem advisable in the best interest of the promotion of the purposes and intent of this Ordinance, and the effective administration thereof.

SECTION THREE: That this Ordinance will take effect ten (10) days after final passage.

SECTION FOUR: That all Ordinances inconsistent with the above provisions are repealed to the extent of their inconsistency.

	Yea	Nay
Joe Davis	X	
Jeanette Eichenwald	X	
Jeff Glazier	X	
Daryl Hendricks		
Cynthia Y. Mota	X	
Julio A. Guridy, VP	X	
Ray O'Connell, Pres.	X	
TOTAL	6	0

I hereby certify that the foregoing Ordinance was passed by City Council on May 20, 2015 and signed by the Mayor on May 21, 2015.

  
CITY CLERK

**What Department or bureau is Bill originating from? Where did the initiative for the bill originate?**

Finance and Law.

**Summary and Facts of the Bill**

It is to authorize a supplemental approach to collecting delinquent real estate taxes and recovering costs for the City, as a direct result of changes at the Lehigh County Tax Claim Bureau. Currently the City and its collector, Northeast Revenue, uses the Municipal Claims and Tax Liens Act of 1923. If this bill is adopted, the City and Northeast Revenue will be able to also use/invoke the Real Estate Tax Sale Law.

**Purpose – Please include the following in your explanation:**

**What does the Bill do – what are the specific goals/tasks the bill seek to accomplish**

**What are the Benefits of doing this/Down-side of doing this**

**How does this Bill related to the City’s Vision/Mission/Priorities**

Beginning January 1, 2015, Northeast Revenue became Lehigh County’s delinquent real estate tax agent on behalf of the Lehigh County Tax Claim Bureau and began collecting taxes for Lehigh County and its schools districts and municipalities simultaneously under the Real Estate Tax Sale Law (RETL) and the Municipal Claims and Tax Liens Act (MCTLA). The new tax collection system which is called the hybrid model utilizes the benefits of each act by utilizing the acts in conjunction with each other.

Prior to Lehigh County engaging Northeast Revenue, the City has only been using the MCTLA. This new Ordinance will allow Northeast Revenue to choose whether to use MCTLA or RETSLA. They can choose the one that is most efficient to collect the amounts due and owed to the City in the quickest fashion. In effect, it will increase the amounts collected on behalf of the City.

**Financial Impact – Please include the following in your explanation:**

**Cost (Initial and ongoing)**

**Benefits (initial and ongoing)**

It will benefit the City by allowing for increased collections and recovery of costs of collection. It will allow for more efficient collection of delinquent real estate taxes.

According to our Revenue and Audit Manager, the research indicates the proposed legislation would allow the City to be able to have the best of both worlds as it concerns the two tax collection acts. It seems as if the benefit of the RETSL is that the claims are paid or disposed of in a timely manner. The benefit of the MCTLA is that the City would receive 100 percent of the tax and penalty due to us, whereas the City had to sacrifice 5 percent to the tax claim bureau under RETSL. It appears that under the hybrid model, the City would be able to collect 100 percent of the tax due to us, and hopefully get the tax claims paid off by scheduling upset sales in a prompt manner.

**Funding Sources – Please include the following in your explanation:**

**If transferring funds, please make sure bill gives specific accounts; if appropriating funds from a grant list the agency awarding the grant.**

None are necessary

**Priority status/Deadlines, if any**

NA

**Why should Council unanimously support this bill?**

It will provide for better collection of delinquent real estate taxes and better collection revenues.