

Plum Borough School District

Commonwealth of Pennsylvania

Resolution No. _____

A RESOLUTION OF THE PLUM BOROUGH SCHOOL DISTRICT, COUNTY OF ALLEGHENY, COMMONWEALTH OF PENNSYLVANIA, ADOPTING A SCHEDULE OF ATTORNEY FEES IN CONNECTION WITH THE COLLECTION OF TAXES, TAX CLAIMS, TAX LIENS, MUNICIPAL CLAIMS, AND MUNICIPAL 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 RESOLUTION REPEALS ANY OTHER RESOLUTIONS INCONSISTENT HERewith RELATING TO A SCHEDULE OF ATTORNEY FEES PURSUANT TO ACT 1 OF 1996

WHEREAS, the Plum Borough School District (hereinafter “School District”) is required from time-to-time to enforce by various means the collection of unpaid taxes, tax claims, tax liens, municipal claims, and municipal liens (hereinafter referred to as “Claim” or “Claims”), and

WHEREAS, the expense of such enforced collection, when absorbed by the School District, constitutes a further demand on the School District’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 School District 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 School District 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 School District desires 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 enforced collection of same; and

WHEREAS, the School District desires to repeal any prior resolutions which are inconsistent herewith.

NOW, THEREFORE, IT IS HEREBY RESOLVED AND ENACTED by the Plum Borough School District, County of Allegheny, Commonwealth of Pennsylvania, as follows:

Article I. Short Title: This Resolution shall be known as the Act 20 Resolution.

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 OUT OF POCKET

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 School District, 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. DEMAND LETTER

The sum of \$50.00 shall constitute reasonable Attorney fees for the drafting and mailing of the required Act 20 30-day notice letter.

B. PREPERATION 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 Praeipce of 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 Praeipce 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 Services 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
- C. 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 Praecipe to Enter Judgment, Notices of Judgment, Affidavit of Non-Military Status, and the Praecipe to Satisfy Judgment. This shall include Consent Judgments and Default Judgments.
- D. 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 Praecipe 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.
- E. 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 services of necessary documents, court appearances, attendance at Sale and preparation of proposed schedule of distribution of the proceeds realized from such Sale.

- F. 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.
- G. INSTALLMENT PAYMENT AGREEMENT The sum of \$150.00 shall constitute reasonable Attorney fees for the preparation of each written installment payment agreement.
- H. 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, motion 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 School District, 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. Attorneys \$100.00 per hour
- B. Paralegals \$65.00 per hour
- C. 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 School District's Claims. Counsel, whether duly employed or duly appointed by the School District, its agents or assigns, shall not deviate from this fee schedule absent a subsequent resolution 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 School District, 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 School District authorized to pursue collection of Claims pursuant to the Act, or by counsel, for the School District's 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 School District 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 Resolution 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, tax liens, municipal claims, municipal 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 School District's right to charge and collect reasonable Attorney fees pursuant to Articles III and IV of this Resolution 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 resolutions 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 Resolution, pursuant to a prior resolutions 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 Resolution shall be incurred, charged, and collected in accordance with the schedules and procedures set forth in this Resolution.

D. The charges, expenses and fees set forth in this Resolution relate to all unpaid Claims in favor of the School District, its agents and assigns and shall be retroactive to the date of each Claim.

Article VI. Assignment: The School District assigns the provisions of this Resolution to any assignee of its Claims unless the assignment limits the assignee’s ability to collect such amounts. The School District 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 Resolution in actions commenced under the Act.

Article VII. Severability: If any one or more of the provisions or terms of this Resolution shall be held invalid for any reason whatsoever, then, such provision or terms shall be deemed severable from the remaining provisions or terms of this Resolution to the maximum extent possible and shall in no way affect the validity or enforceability of any other provisions hereof.

Article VIII. Repealer: All prior resolutions are hereby repealed in whole or in part to the extent inconsistent herewith.

RESOLVED AND ENACTED THIS _____ day of _____, 2016.

ATTEST:

PLUM BOROUGH SCHOOL DISTRICT

Board Secretary

President
School District Board of Directors