

House Bill 1590 / Act 164 of 2014 Summary

The Local Tax Collection Law was recently amended to provide mandatory training for elected tax collectors and qualifications for the office. Currently, Section 4.1 of the law allows elected tax collectors the option of attending a basic training class and subsequently sit for an exam to earn the title, "Qualified Tax Collector."

MANDATORY TRAINING PROGRAM

Under Act 164, the optional training course and qualification will now be mandatory for elected tax collectors. This will now be a qualification for the office of elected tax collector. Before a person takes the oath of office for tax collector they must complete the basic training course, pass the examination and receive the qualification certificate from the Department of Community & Economic Development (DCED). The qualified tax collector designation will now be known as a Pennsylvania Qualified Municipal Collector (PQMC). If a person does not become a PQMC and file the certificate with the borough secretary before the date on which the person is scheduled to take the oath of office (as set by the borough code), the office of tax collector will be deemed vacant and the borough council will proceed to fill the vacancy.

If a vacancy occurs in the office of tax collector, the person appointed must obtain their PQMC within 60 days. If they do not obtain the PQMC within the 60 days, the office shall be deemed vacant and the borough council shall fill the vacancy. When a vacancy occurs with less than one year remaining in the term, the appointee does NOT need to obtain a PQMC, unless the appointee runs for a subsequent term at which time they will be required to be a PQMC.

Tax collectors in office as of October 22, 2015 will be grandfathered and receive a PQMC from DCED. If a grandfathered tax collector is not reelected to the next term but is elected in the future, they must take the basic training and exam to receive a PQMC. It is our understanding that the grandfathered tax collector must comply with the continuing education requirements outlined below.

PQMCs are required to obtain 6 hours of continuing education each year of their term. The individual bears the cost of the continuing education unless the political subdivision agrees to pay all or part of the fees. DCED will issue a certificate to the tax collector verifying their compliance with the continuing education requirements. Tax collectors will have 30 days from the issuance of the certificate to file it with the municipal secretary. The new act explicitly requires the completion of the continuing education AND the filing of the certificate with the municipal secretary as a qualification of the office. If the tax collector fails to take the continuing education in any year of their term and/or file the certificate with the municipal secretary, the tax collector will be deemed ineligible to be placed on the ballot for the office of tax collector at the end of their current term.

CRIMINAL HISTORY BACKGROUND CHECK FOR CANDIDATES

Act 164 also adds specific requirements for candidates to the office of tax collector. A person who files a nominating petition for the office of tax collector must include a criminal background report obtained from the Pennsylvania State Police. If a person who files has not been a resident of Pennsylvania for more than two years, they must obtain a federal criminal background report from the FBI and file it with the nominating petition.

When a write-in candidate wins the primary or general election, the person must file a criminal background report with the county board of elections within 30 days of the certification of the election. A person who does not comply with filing a criminal background report will not qualify to hold the office of tax collector.

A person with the following criminal offenses on their criminal background report are prohibited from filing a nominating petition for the office of tax collector.

- (1) An offense under any of the following:
 - (i) 18 Pa.C.S. Ch. 35 (relating to burglary and other criminal intrusion)
 - (ii) 18 Pa.C.S. Ch. 37 (relating to robbery)
 - (iii) 18 Pa.C.S. Ch. 39 (relating to theft and related offenses)
 - (iv) 18 Pa.C.S. Ch. 41 (relating to forgery and fraudulent practices)
 - (v) 18 Pa.C.S. Pt. II Art. E (relating to offenses against public administration)
 - (vi) 18 Pa.C.S. Ch. 76 Subch. B (relating to hacking and similar offenses)
- (2) A Federal or out-of-State offense similar in nature to the offenses listed in clause (1).

The county board of elections will NOT be enforcing these requirements for criminal background reports. Normal procedures for filing objections to nominating petitions will apply.

DEPUTY TAX COLLECTORS

Act 164 also provides for a deputy tax collector in times of incapacitation of the elected tax collector. Section 22 of the Act was amended to require the elected tax collector, with the approval of the tax district and their surety, to appoint a deputy tax collector who will collect and settle taxes during any incapacitation of the tax collector. The Act defines "incapacitation" as temporarily or permanently impaired by reason of physical illness, physical disability, mental illness, mental deficiency or other cause to the extent that the person lacks sufficient understanding or capacity to make or communicate responsible decisions concerning the collection and settlement of taxes.

EFFECTIVE DATE

The deputy tax collector changes take effect immediately and the rest of the Act is effective in one year on October 22, 2015.