

INSURANCE PROGRAMS

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MEMO TO: Tax Collectors, Chief Clerks and Local Insurance Producers
of counties in the CCAP Tax Collector Bond Program

FROM: Tona Faust, Insurance Programs Services Coordinator
John Sallade, Managing Director

SUBJECT: Act 164 of 2014 – Changes to Tax Collector Procedures

DATE: November 17, 2014

House Bill 1590 was signed into law by Governor Corbett on October 22, 2014. It amends the Local Tax Collection Law to require all tax collectors to complete the Department of Community and Economic Development training and certification program, which is currently voluntary, before taking the oath of office. The Act grandfathers current tax collectors and grants them automatic certification as long as they maintain continuous service in the office. It requires candidates for the office to submit a criminal history check to the county board of elections as part of the nominating petition and lists several crimes for which conviction would render an individual ineligible for the office. The Act also requires all tax collectors to appoint a deputy tax collector who would collect and settle taxes during any incapacitation of the tax collector.

As part of the administration of CCAP's Tax Collector Bond Program, which provides the required surety bond coverage for tax collectors in 52 counties, we are providing the following updates for your action and information.

A full copy of the Act can be found at the end of this memo.

Effective date of the Act

The provisions in the Act relating to the requirement of naming a deputy tax collector took effect when the Act was signed – they were effective immediately. All other parts of the Act take effect October 22, 2015 (one year after the Act became law).

Basic and Continuing Education Programs

The Act requires the Department of Community and Economic Development (DCED) to continue programs of basic training and examination, and

continuing education to be met by anyone who wants to be a tax collector. Anyone who successfully completes the basic training and passes the basic qualification exam is then known as a qualified tax collector and receives the designation PQMC (Pennsylvania Qualified Municipal Collector). Anyone who fails the test may take it again.

The PQMC designation is certified by DCED and is good for one year from the date of issuance. It may be renewed for subsequent consecutive years if the tax collector completes mandatory continuing education. DCED is required to maintain a list, available on their website, of all qualified tax collectors.

Each qualified tax collector must obtain six hours of mandatory continuing education each year of their term in office. The Act contains topics for this education. The cost for the continuing education will be set by DCED and it is the individual's responsibility to pay these costs, unless the political subdivision agrees to pay for the cost in whole or in part. When completed, DCED will issue a renewed certificate. The tax collector has 30 days from receipt to provide a copy of the certificate to the municipal clerk or secretary where the individual was elected.

Not completing the annual continuing education, or not providing the renewed certificate to the municipality within 30 days of receipt, deems the tax collector to be ineligible to be placed on the ballot at the end of their term.

It is CCAP's understanding that online training and testing will be made available.

Current tax collectors "grandfathered"

All tax collectors in office on October 22, 2014 are considered a qualified tax collector and will be issued a qualified tax collector certificate by DCED. Those grandfathered are subject to the new mandatory continuing education requirements.

Before getting on the ballot

Incumbent tax collectors who wish to run for reelection must have completed their six hours of continuing education each year of their term, and must have provided a copy of the renewed certificate to their municipality within 30 days of having received the certificate. Any individual, whether a new candidate or the incumbent, who wishes to run for election as tax collector must include a report of criminal history record information from the Pennsylvania State Police along with their nominating petition for office.

If the individual did not live in Pennsylvania for the two years prior to the election, they need to submit a Federal criminal history record.

The criminal history report, whether Pennsylvania or federal, is considered a part of the nominating petition in accordance with the Pennsylvania Election Code (social security or other personal identification information, as defined by the Pennsylvania Right to Know Law, may be redacted from the criminal history record information).

A write-in candidate who receives sufficient votes to win election has 30 days from the date of their election certification to provide to the county board of elections the same criminal history information required from those who were on the ballot.

If the individual has any convictions for the following (see the Act for specifics), they shall not submit a nomination petition: burglary, criminal intrusion, robbery, theft and related offenses, forgery and fraudulent practices, offenses against public administration, hacking and similar offenses or a similar federal offense.

Failure to submit the required criminal history report disqualifies the individual from holding the office of tax collector.

An objection to the nomination petition based on information in the criminal background record may be filed under the Pennsylvania Election Code.

County Election Board members are not held liable for good faith action related to compliance with the criminal background records section of the Act.

Before taking the oath of office

Before taking the oath of office, a newly elected tax collector has to complete the basic training, and pass the examination. Upon obtaining their certification, a copy must be provided to the municipal clerk or secretary where the individual was elected.

If the individual elected as tax collector is not a qualified tax collector on the date they are scheduled to take the oath of office, the office of tax collector is deemed vacant.

Appointing a deputy tax collector

Tax Collectors are now required to appoint a deputy tax collector who "shall collect and settle taxes during any incapacitation of the tax collector." Incapacitation means "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.”

The taxing district and the tax collector’s surety have to approve of the person named as the deputy.

Bonds for deputy tax collectors

CCAP does not believe it is necessary for the deputy tax collectors to have their own separate bond. (See “CCAP’s Travelers Bond Program” below.)

Vacancies

A person appointed to fill a vacancy in the office of tax collector has 60 days to become a qualified tax collector. If they fail to become certified, the office is deemed vacant, unless there is less than one year remaining in the term of office of the tax collector, then they do not have to become certified. Note that if the person filling the vacancy wants to run for election to the position, they must become certified prior to taking the oath for the elected position.

If an individual elected as tax collector is not a qualified tax collector on the date they are scheduled to take the oath of office, the office of tax collector is deemed vacant.

Note: The Local Tax Collection Law has a provision which allows a municipality to enter into an agreement with the county commissioners for the county treasurer to collect taxes levied by the municipality in the event of a vacancy. The amendments to the Law in Act 164 do not change that, and it appears the treasurer may not need to become certified. CCAP is working with DCED to seek clarification on whether the treasurer would need to become certified.

CCAP’s Travelers Bond Program

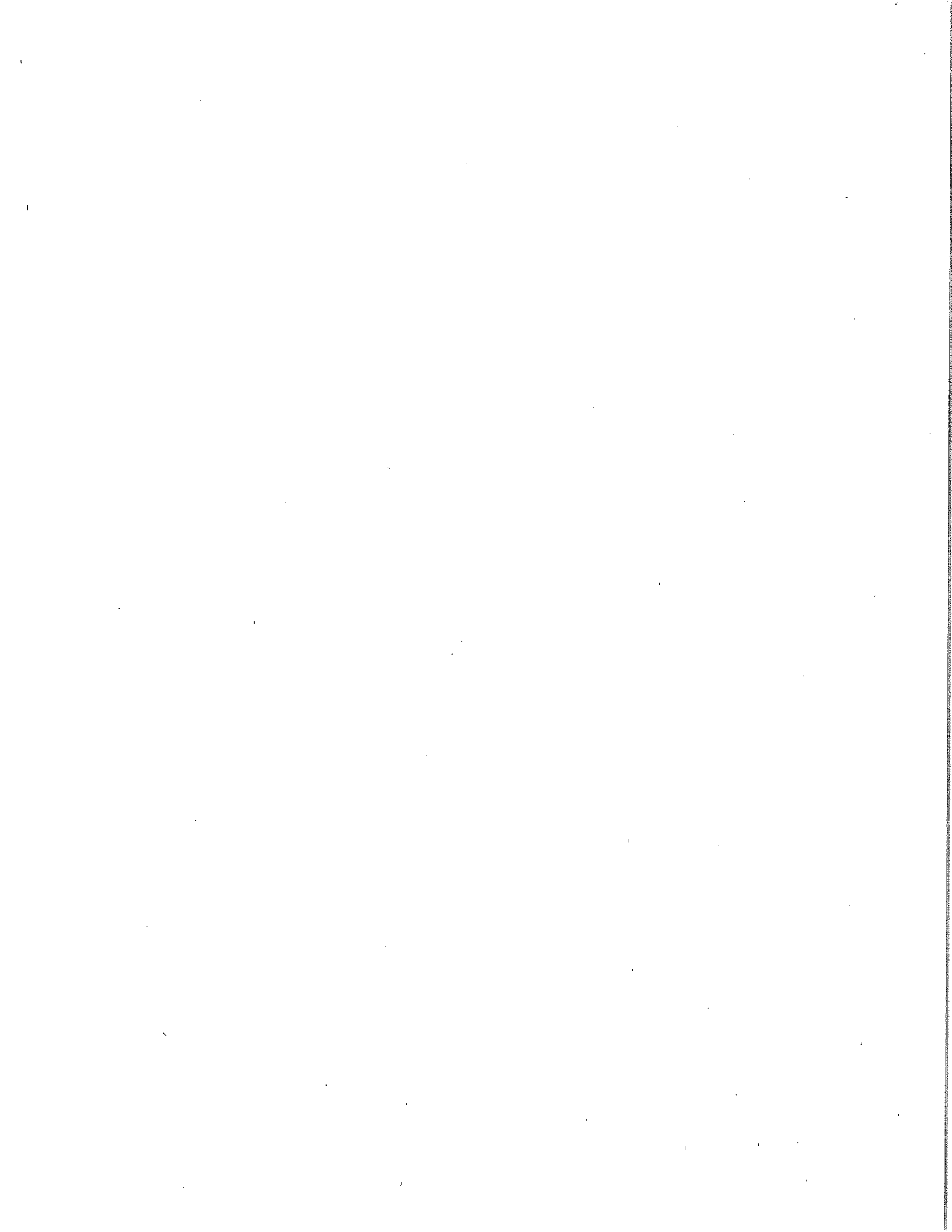
We have reviewed provisions of the new Act with the insurer for the CCAP Tax Collector Bond Program, and Travelers is very pleased with the changes made by the Act. We do not anticipate any changes in the program structure due to the Act.

Designation of Deputy – CCAP and Travelers are developing a revised deputy tax collector acknowledgement form, which will note that the designation of a deputy means that should the deputy need to serve due to the incapacitation of the tax collector, the tax collector’s bond will cover the

deputy. As in the past, tax collectors are responsible for those they designate as deputies.

CCAP suggests that tax collectors consider naming a tax collector located near them as a deputy. This would allow easy assumption of duties in an incapacitation, and also be convenient for taxpayers.

Please note that this information is not a legal opinion. CCAP recommends counties and tax collectors consult their attorneys if further clarification is needed.



Text of Act 164

(This is the last printer's number of House Bill 1590.
A clean copy of the Act is not yet available.)

SENATE AMENDED
PRIOR PRINTER'S NOS. 2174, 3548, 3664,
3871 PRINTER'S NO. 4150

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL
No. 1590 Session of 2013

AN ACT

Amending the act of May 25, 1945 (P.L.1050, No.394), entitled "An act relating to the collection of taxes levied by counties, county institution districts, cities of the third class, boroughs, towns, townships, certain school districts and vocational school districts; conferring powers and imposing duties on tax collectors, courts and various officers of said political subdivisions; and prescribing penalties," further providing for basic and continuing education programs for tax collectors; providing for criminal history record information; and further providing for notice of taxes AND FOR DEPUTY TAX COLLECTORS.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Section 4.1 of the act of May 25, 1945 (P.L.1050, No.394), known as the Local Tax Collection Law, amended June 22, 2001 (P.L.377, No.25), July 7, 2006 (P.L.394, No.80) and October 24, 2012 (P.L.1318, No.166), is amended to read:

Section 4.1. Basic and Continuing Education Programs for Tax Collectors.--

(a) The department, in consultation with the Pennsylvania State Tax Collectors' Association, shall adopt and implement programs of basic training, examination and qualification of tax collectors and of continuing education to be met by persons qualified as tax collectors as condition for renewal. The department may contract with a third party to provide the basic training, examination, qualification and continuing education.

(a.1) (1) The basic training program shall include, but not be limited to, the following courses:

- (i) Procedures for collecting taxes.
- (ii) This act and other statutes related to the imposition and collection of taxes.
- (iii) Auditing.
- (iv) Accounting.
- (v) Ethics.
- (vi) Computerization.
- (vii) Recent court decisions affecting the imposition and collection of taxes.

(2) As a prerequisite to taking a qualification examination, the individual shall complete the basic training program authorized by the department.

(3) (i) After successfully completing the basic training program, an individual shall sit for the qualification examination relating to the basic training program.

(ii) No individual shall obtain qualification unless that individual has passed a basic qualification examination.

(iii) An individual who passes the basic qualification examination shall be known as a qualified tax collector. SUCCESSFUL COMPLETION OF THE BASIC TRAINING PROGRAM SHALL BE EVIDENCED BY A PENNSYLVANIA QUALIFIED MUNICIPAL COLLECTOR (PQMC) DESIGNATION. THE DESIGNATION SHALL BE AWARDED ONLY TO INDIVIDUALS WHO HAVE SUCCESSFULLY COMPLETED THE BASIC TRAINING PROGRAM AND PASSED THE BASIC QUALIFICATION EXAMINATION.

(a.2) The department shall:

(1) Make certain a qualified tax collector certificate is issued to an individual who passes the basic qualification examination. The certificate shall expire one year from the date of issuance but may be renewed for subsequent consecutive years upon the completion of mandatory continuing education in accordance with subsection (b).

(2) Maintain a register that lists all qualified tax collectors. The register shall be open to public inspection and copying upon payment of a nominal fee.

(3) Provide once each year a list of all qualified tax collectors on the department's World Wide Web site.

(4) Determine and approve reasonable fees for the training program and for testing and qualification. The individual shall bear the cost of the program, testing and qualification unless the political subdivision agrees to pay for the cost in whole or in part.

(5) Develop, implement and maintain an online training and testing program as an alternative option for individuals in lieu of in-classroom instruction and testing. The department may provide the training via compact disc. The testing shall be conducted in an online or a classroom setting. Nothing in this clause shall preclude the department from contracting with a third party to develop, implement or maintain the online training or testing program or to develop, produce or distribute the training compact disc.

(a.3) It shall be unlawful on or after the effective date of this subsection for any individual to hold himself out as being qualified in training under this section unless the individual holds a current, valid certificate.

(a.4) Nothing in this section shall prevent any individual from participating in the department's basic training program and obtaining qualification.

(a.5) (1) Except as provided in clause (3), before taking the oath of office, an individual elected to the office of tax collector shall complete the basic training program provided by the department and pass the basic qualification examination in accordance with this section. Upon successful completion of the basic qualification examination, the individual shall provide a copy of his qualified tax collector certificate to the municipal secretary or clerk of the political subdivision for which the individual has been elected.

(2) Except as provided in clause (3), it shall be a qualification of office for an individual elected to the office of tax collector to become a qualified tax collector before taking the oath of office for the office of tax collector. No individual shall become a tax collector if the individual is not a qualified tax collector on the date he is scheduled to take the oath of office as prescribed by law. If an individual is not a qualified tax collector on the date he is scheduled to take the oath, the office of tax collector shall be deemed vacant.

(3) (i) If an individual is appointed to fill a vacancy in the office of tax collector, the individual shall have sixty days to become a qualified tax collector. If the appointee fails to become a qualified tax collector within the time required, the office shall be deemed vacant.

(ii) Notwithstanding subclause (i), and if there is less than one year remaining in the term of the office of tax collector when a vacancy occurs in the office, the individual appointed as tax collector is not required to become a qualified tax collector.

(4) A tax collector subject to clause (3)(ii) that seeks reelection to the office of tax collector for a subsequent term must become a qualified tax collector.

(5) Nothing in this section shall preclude an individual

from retaking the qualification examination prior to taking the oath of office for the office of tax collector if the individual failed the qualification examination on a prior attempt.

(a.6) This section shall not preclude filling a vacancy in the office of tax collector by:

(1) A municipality entering into an agreement with the county commissioners under section 4.4 for the county treasurer to collect the taxes levied by the municipality.

(2) A taxing district forming a joint tax collection district in accordance with section 4.2.

(3) Any other method of filling a vacancy in the office of tax collector provided by law.

(A.7) (1) A tax collector in office on the effective date of this subsection shall be considered a qualified tax collector under this section and issued a qualified tax collector certificate by the department and added to the list of qualified tax collectors.

(2) A tax collector subject to clause (1) who is not reelected for the office of tax collector for the term immediately subsequent to the current term, but is reelected for the office of tax collector for a later term, shall be subject to the requirements of this section.

(b) Each qualified tax collector shall be required to obtain six hours of mandatory continuing education during each year of his term of office.

(c) The topics for continuing education shall include, but not be limited to, the following:

(1) Accounting.

(2) Auditing.

(3) Computerization.

(4) Ethics.

(5) Procedures for collecting taxes.

(6) Recent court decisions affecting the imposition and collection of taxes.

(7) The local tax collection laws and other statutes related to the imposition and collection of taxes.

(d) The department shall inform qualified tax collectors of the continuing education requirement upon issuance of certificates.

(e) (1) Renewal of qualification shall be on an annual basis upon completion of continuing education requirements as set forth in this section. The collectors shall bear the cost of the program and qualification unless the political subdivision agrees to pay for the cost in whole or in part.

(2) The department shall issue a renewed qualified tax collector certificate to each tax collector upon the tax collector's successful completion of the annual continuing education requirements.

(e.1) Within thirty days of the department issuing a renewed qualified tax collector certificate to a tax collector, the tax collector shall provide a copy of the renewed qualified tax collector certificate to the municipal secretary or clerk of the political subdivision for which the tax collector was elected.

(e.2) Completion of the requirements in subsection (e.1) is considered a qualification of office and if the tax collector fails to successfully complete the continuing education requirements or provide a copy of the qualified tax collector certificate to the municipal secretary or clerk within thirty days of the department's issuance of the certificate, the tax collector shall be deemed ineligible to be placed on the ballot for the office of tax collector at the end of the tax collector's current term of office.

(f) A record of all qualified tax collectors shall be kept by the department and shall be open to public inspection and copying upon payment of a nominal fee.

(g) This section shall not apply to a person who has served eight or more terms as a tax collector.

(g.1) The department shall bear the costs of subsections (a.2)(5), (A.7)(1) and (e)(2) and their requirements. The Governor shall annually RECOMMEND AN APPROPRIATION TO THE GENERAL ASSEMBLY FROM THE GENERAL FUND IN AN AMOUNT SUFFICIENT to cover the costs incurred by the department in carrying out the certification and training program.

(h) The following words and phrases when used in this section shall have the meanings given to them in this subsection unless the context clearly indicates otherwise:

"Department" shall mean the Department of Community and Economic Development of the Commonwealth.

"Qualified tax collector" shall mean a person who holds a current valid certificate of qualification issued by the Department of Community and Economic Development.

"Tax collector" shall mean a person duly elected or appointed to collect real property taxes levied by a political subdivision, other than a county, including the following:

(1) A tax collector in a borough, incorporated town or township of the first or second class.

(2) A treasurer of a city of the third class in that person's capacity as tax collector.

(3) An employe or official who has been designated to collect real property taxes in a municipality, other than a county, existing or organized under 53 Pa.C.S. Pt. III Subpt. E (relating to home rule and optional plan government), which municipality has eliminated the elective office of tax collector.

Section 2. The act is amended by adding A SECTION to read:

Section 4.5. Criminal History Record Information.--(a) An individual filing a nomination petition for the office of tax collector to the county board of elections under the act of June 3, 1937 (P.L.1333, No.320), known as the "Pennsylvania Election Code," shall include the following information obtained within one year prior to filing the petition:

(1) In accordance with 18 Pa.C.S. Ch. 91 (relating to criminal history record information), a report of criminal history record information from the Pennsylvania State Police. The dissemination of criminal history record information to an individual filing a nomination petition for the office of tax collector shall be governed by 18 Pa.C.S. § 9121(b) (2) (relating to general regulations).

(2) If an individual filing a nomination petition who for the two years immediately preceding the filing of the petition has not been a resident of this Commonwealth, the individual shall submit a report of Federal criminal history record information obtained pursuant to 28 CFR Part 16, Subpart C (relating to production of FBI identification records in response to written requests by subjects thereof).

(a.1) An individual whose name did not appear on the ballot but has received sufficient votes under section 1405 of the "Pennsylvania Election Code" to be issued a certificate of election by the county board of elections as the successful candidate for the office of tax collector shall, within thirty days of the certification, provide to the county board of elections the following information obtained within one year prior to certification by the county board of elections:

(1) In accordance with 18 Pa.C.S. Ch. 91, a report of criminal history record information from the Pennsylvania State Police. The dissemination of criminal history record information to an individual certified by the county board of elections for the office of tax collector shall be governed by 18 Pa.C.S. § 9121(b)(2).

(2) If an individual who for the two years immediately preceding certification by the county board of elections for the office of tax collector has not been a resident of this Commonwealth, the individual shall submit a report of Federal criminal history record information obtained pursuant to 28 CFR Part 16, Subpart C.

(b) The criminal history record information received by the county board of elections shall be considered a part of the nomination petition in accordance with section 308 of the "Pennsylvania Election Code." A Social Security number or other personal identification information under section 708(b)(6)(i) of the act of February 14, 2008 (P.L.6, No.3), known as the "Right-to-Know Law," may be redacted from the criminal history record information.

(c) The Pennsylvania State Police may charge the individual a fee in accordance with 18 Pa.C.S. § 9161 (relating to duties of the Attorney

General) to conduct the criminal record check required under subsections (a)(1) and (a.1)(1). The Pennsylvania State Police may charge a fee of not more than the established charge by the Federal Bureau of Investigation and associated processing fees under the current State contract for the criminal history record check required under subsections (a)(2) and (a.1)(1).

(d) An individual who fails to meet the applicable requirements under subsections (a) and (a.1) shall not be qualified to hold the office of tax collector.

(e) In no case shall an individual submit a nomination petition for the office of tax collector if the individual's criminal history record information indicates the individual has been convicted of any of the following:

(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).

(f) An objection to the nomination petition based on the conditions outlined in subsection (e) may be filed in accordance with section 977 of the "Pennsylvania Election Code."

(g) No member of a county board of elections shall be held civilly liable for any action directly related to good faith compliance with this section.

(h) As used in this section, the term "tax collector" shall have the same meaning as in section 4.1.

Section 3. Section 6 of the act, amended June 26, 1995 (P.L.61, No.11), is amended to read:

Section 6. Notices of Taxes.--When any duplicate of taxes assessed is issued and delivered by any taxing district to the tax collector, he shall within thirty days after receiving the tax duplicate, unless such time shall be extended by the taxing district, notify every taxable whose name appears on such duplicate: Provided, however, That a tax notice shall be sent to every taxable whose name appears on the duplicate not later than the first day of July following receipt of the tax duplicate, or not later than fifteen days after the duplicate of taxes assessed is issued and delivered by the taxing district to the tax collector if such delivery is after the sixteenth day of June: And provided further, That municipalities that have adopted a home rule charter

under the act of April 13, 1972 (P.L.184, No.62), known as the "Home Rule Charter and Optional Plans Law," may establish a different date for the sending of tax notices to taxables. Such notice shall contain--(1) the date of the tax notice; (2) the rate or rates of taxation; (3) the valuation and identification of the real property of such taxpayer; (4) the occupation valuation of such taxpayer, if any; (5) the several amounts of real and personal property and personal taxes for which said taxpayer is liable for the current year; (6) the total amount of said taxes; (7) a statement that such taxes are due and payable; [and] (8) a request for payment thereof. A separate notice shall be issued for each parcel of real property of a taxable. Personal property and personal taxes may be included on any one of such tax notices. Such notice shall further designate a place and time where the taxes shall be paid and state the time during which an abatement of tax will be allowed, when full amount of tax will be collected, and when an additional percentage will be added as a penalty. Such notice shall be mailed or delivered to the last known post office address of each of said taxables. Any such notice may include information as to taxes levied by two or more taxing districts.

The Department of Community AND ECONOMIC DEVELOPMENT shall prepare a uniform form of tax notice and supply specimen copies thereof to the county commissioners of the several counties for distribution to tax collectors.

SECTION 4. SECTION 22 OF THE ACT IS AMENDED TO READ:

SECTION 22. DEPUTY TAX COLLECTORS.--(A) A TAX COLLECTOR MAY, WITH THE APPROVAL OF A TAXING DISTRICT AND HIS SURETY, DEPUTIZE IN WRITING ONE OR MORE DEPUTY TAX COLLECTORS, WHO, WHEN SO DEPUTIZED, SHALL BE AUTHORIZED TO RECEIVE AND COLLECT ANY OR ALL OF THE TAXES IN LIKE MANNER AND WITH LIKE AUTHORITY AS THE TAX COLLECTOR APPOINTING THEM. ANY TAX COLLECTOR, APPOINTING ANY DEPUTY COLLECTOR, SHALL BE RESPONSIBLE FOR AND ACCOUNT TO THE TAXING DISTRICT FOR ALL TAXES RECEIVED OR COLLECTED BY HIS DEPUTY.

(B) AT A MINIMUM, A TAX COLLECTOR SHALL, WITH THE APPROVAL OF A TAXING DISTRICT AND THE TAX COLLECTOR'S SURETY, APPOINT A DEPUTY TAX COLLECTOR WHO SHALL COLLECT AND SETTLE TAXES DURING ANY INCAPACITATION OF THE TAX COLLECTOR. THE DEPUTY TAX COLLECTOR SHALL COLLECT AND SETTLE TAXES FOR THE DURATION OF THE TAX COLLECTOR'S INCAPACITATION, UNLESS THE TAXING DISTRICT DETERMINES ACTION UNDER SECTION 4.2 OR 4.4 IS NECESSARY. AS USED IN THIS SUBSECTION, THE TERM "INCAPACITATION" SHALL MEAN 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.

Section 5. All other acts and parts of acts are repealed insofar as they are inconsistent with this act.

Section 6. The provisions of this act are severable. If any provision of this act or its application to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this act which can be given effect without the invalid provision or application.

SECTION 7. THIS ACT SHALL TAKE EFFECT AS FOLLOWS:

(1) THE FOLLOWING SHALL TAKE EFFECT IMMEDIATELY:

(I) THE AMENDMENT OF SECTION 22 OF THE ACT.

(II) THIS SECTION.

(2) THE REMAINDER OF THIS ACT SHALL TAKE EFFECT IN ONE YEAR.

