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COMMONWEALTH OF PENNSYLVANIA  
HOUSE OF REPRESENTATIVES  
HOUSE FINANCE COMMITTEE

RYAN OFFICE BUILDING  
ROOM 205  
HARRISBURG, PENNSYLVANIA

MONDAY, APRIL 28, 2008  
1:00 P.M.

IN RE: SENATE BILL 777

BEFORE:

- HONORABLE DAVID K. LEVDANSKY, CHAIRMAN
- HONORABLE STEVEN R. NICKOL
- HONORABLE SCOTT W. BOYD
- HONORABLE STEVEN W. CAPPELLI
- HONORABLE GORDON DENLINGER
- HONORABLE BRIAN L. ELLIS
- HONORABLE FLORINDO J. FABRIZIO
- HONORABLE DAN FRANKEL
- HONORABLE JARET GIBBONS
- HONORABLE C. ADAM HARRIS
- HONORABLE DAVID R. KESSLER

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(CONT'D)

HONORABLE WILLIAM C. KORTZ, II  
HONORABLE DARYL D. METCALFE  
HONORABLE MICHAEL PEIFER  
HONORABLE THOMAS J. QUIGLEY  
HONORABLE DANTE SANTONI, JR.  
HONORABLE MARIO M. SCAVELLO  
HONORABLE TIM SEIP

ALSO PRESENT:

ROBERT KASSOWAY, MAJORITY EXECUTIVE DIRECTOR  
ANDREW RITTER, MINORITY EXECUTIVE DIRECTOR  
ERIC MOCH, RESEARCH ANALYST

BRENDA S. HAMILTON, RPR  
REPORTER - NOTARY PUBLIC

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## P R O C E E D I N G S

- -

CHAIRMAN LEVDANSKY: Good afternoon.

I want to welcome everybody to the public hearing that we're going to have today on Senate Bill 777. This legislation deals with the interaction of two statutes governing the collection of delinquent taxes. On the one hand, the real estate tax sale law that is operated -- that is implemented by the county tax claim bureaus and, on the other hand, the Municipal Claims and Tax Lien Law and how that interacts, and how these two statutes work together for the collection of delinquent taxes.

Senate Bill 777 is -- is responding to court decisions at the state level, at the Commonwealth Court. And there are at least -- in my judgment at least three issues that are involved.

First is a question of must tax collectors and taxing jurisdictions turn over their delinquent tax records to the county tax claim bureau even if they are using a third-party collector to be collecting

1 delinquent taxes.

2           Second question that I think we have  
3 to answer are what restrictions, if any, by  
4 the state legislature should exist in law for  
5 the amount of collection or administrative  
6 fees for collection of delinquent taxes and  
7 their applicability to third-party  
8 collectors.

9           And the third issue that I think we  
10 have to struggle to answer as well is who  
11 should be responsible as the depository for  
12 public records relative to delinquent tax  
13 records?

14           This -- this subject, this  
15 legislation deals with a subject that frankly  
16 I think a lot of members, including myself,  
17 are struggling to gain an understanding and  
18 appreciation of.

19           So -- so -- so I think -- I think the  
20 people we have to testify today can shed some  
21 valuable light and help to answer some  
22 questions that we need to have answered in  
23 this legislative process.

24           And -- and -- and with that I'll turn  
25 the mike over to my colleague, Steve Nickol,

1 if you have any remarks.

2 REPRESENTATIVE NICKOL: No.

3 CHAIRMAN LEVDANSKY: And would the  
4 members of the committee please introduce  
5 themselves, starting at the far right.

6 REPRESENTATIVE CAPPELLI: Steve  
7 Cappelli, Lycoming County.

8 REPRESENTATIVE DENLINGER: Gordon  
9 Denlinger, Lancaster County.

10 REPRESENTATIVE PEIFER: Mike Peifer,  
11 139th District, Pike County.

12 REPRESENTATIVE QUIGLEY: Tom Quigley,  
13 146th District, Montgomery County.

14 REPRESENTATIVE HARRIS: Adam Harris,  
15 82nd, Juniata, Mifflin, Snyder.

16 REPRESENTATIVE NICKOL: Steve Nickol,  
17 193rd, Adams and York Counties.

18 REPRESENTATIVE SEIP: Representative  
19 Tim Seip, Cabela's and game land district.

20 REPRESENTATIVE FRANKEL:  
21 Representative Dan Frankel, 23rd District,  
22 Allegheny County.

23 REPRESENTATIVE KORTZ: Good  
24 afternoon. Bill Kortz, 38th District,  
25 Allegheny County.

1 REPRESENTATIVE FABRIZIO: Flo

2 Fabrizio, Erie County.

3 REPRESENTATIVE KESSLER: Dave

4 Kessler, 130th District, southeastern Berks.

5 REPRESENTATIVE SCAVELLO: Mario

6 Scavello, 26th District, Monroe County.

7 REPRESENTATIVE BOYD: Scott Boyd,

8 43rd, part of Lancaster County.

9 REPRESENTATIVE ELLIS: Brian Ellis,

10 11th District, Butler County.

11 CHAIRMAN LEVDANSKY: Thank you. Let  
12 me first call to testify Mr. Martin Danks, the  
13 assistant solicitor for the city of  
14 Allentown.

15 Mr. Danks.

16 MR. DANKS: Thank you, Mr. Chairman.

17 CHAIRMAN LEVDANSKY: You want to  
18 introduce yourself just for the record.

19 MR. DANKS: Yes. My name is Martin  
20 Danks, D-A-N-K-S. I'm an assistant solicitor  
21 for the city of Allentown.

22 Just by way of a little bit of  
23 background, I've been admitted to practice in  
24 New York and Pennsylvania since 1993. Worked  
25 for the city of Erie, solicitor's office when

1 Erie was the third largest municipality in the  
2 state, and currently work for the solicitor's  
3 office in Allentown, which is the third  
4 largest municipality in the state.

5 Had a period of about five years of  
6 private practice in between at which time I  
7 represented school districts, townships,  
8 planning commissions, that sort of thing. The  
9 township level municipal office.

10 CHAIRMAN LEVDANSKY: Mr. Danks, just  
11 one thing. Is your microphone on?

12 MR. DANKS: There's a green light on.  
13 Is that it?

14 CHAIRMAN LEVDANSKY: Yes. Could you  
15 just maybe move it a little closer?

16 MR. DANKS: Even closer? Okay. Is  
17 that better?

18 CHAIRMAN LEVDANSKY: Yes.

19 MR. DANKS: Okay. Been working with  
20 the city of Allentown solicitor's office since  
21 1999. Shortly after I was hired, we began  
22 collecting delinquent taxes, delinquent user  
23 fees through Portnoff Law Associates, one of  
24 the third-party -- one of the third-party law  
25 firms that uses the Municipal Claims and Tax



1 Lien Act of 1923 as a mechanism for collecting  
2 delinquent charges, either taxes or user  
3 fees.

4 I've been the principal contact  
5 person with their firm throughout the process,  
6 signing the initial contract with them,  
7 updated contracts with them, working on any of  
8 the hardship issues that came up.

9 I attend sheriff sales routinely in  
10 Lehigh County to monitor the -- you know, the  
11 final step in the process.

12 I also do -- for the city of  
13 Allentown, my principal duties are debt  
14 collection and code enforcement. And they go  
15 together like bread and butter, because you'll  
16 have delinquent properties that will typically  
17 be distressed properties with code issues.

18 And the two are a natural fit, and  
19 it's all part of the process of going through  
20 a third-party collector also in resolving some  
21 of those issues.

22 I'd invite questions. I've got a lot  
23 of practical experience in using the 1923 Act  
24 and also in working with the county under the  
25 Real Estate Tax Sale Law Act of 1947 and how

1 we interface with the tax claim bureau at the  
2 county.

3 So I could dip into any particular  
4 topic that the committee is interested in or I  
5 can answer any specific questions you might  
6 have or I can just talk about the bill in  
7 general.

8 I am here speaking on behalf of the  
9 bill. When I first read through these various  
10 decisions out of Monroe County and the progeny  
11 thereof, I just thought to myself, boy, I'm  
12 glad I'm out of the title insurance business  
13 because I don't know what is going on at this  
14 point, the practical mechanics of figuring out  
15 who's got the information for finding out  
16 about taxes.

17 There was a pretty comfortable system  
18 in place that everybody was using and that was  
19 kind of thrown into a hot hat during the  
20 course of this litigation, and this bill  
21 addresses those practical mechanical issues, I  
22 think in a really practical way, and it also  
23 cleans up a couple of other items which have  
24 cropped up over the last few years that could  
25 be done smoother and more specifically with

1 this kind of targeted, specific, mechanical  
2 legislation.

3           So as a quick overview, I think it's  
4 a great bill. It makes a lot of sense. It  
5 would be a very practical thing for the  
6 municipalities, the school districts, the tax  
7 collectors, the title people, people who own  
8 property. It would just put a lot of  
9 assurance into the whole process, which has  
10 been, I think, kind of disrupted here in the  
11 last couple of years.

12           Do you have any questions yet or  
13 should I just go into individual -- I know you  
14 had some issues you wanted to specifically  
15 address. I didn't jot them down when were  
16 speaking there, Mr. Chairman.

17           CHAIRMAN LEVDANSKY: Mr. Danks, let  
18 me -- let me -- before we turn to the  
19 questions from members, let me just throw out  
20 some questions and you can answer them and  
21 then we'll maybe have the members -- members  
22 respond.

23           I'd like you to talk a little bit  
24 about what out-of-pocket costs you have for  
25 your third-party tax collector. I'd like to

1 know the process you go through to select a  
2 third-party tax collector. I'd like you to  
3 talk a bit about the fees associated with  
4 these third-party tax collectors. What are  
5 they -- what fees do they charge? What do  
6 they collect interest on? Things like that.

7 I'd like to know, generally speaking,  
8 in Allentown how much of the tax  
9 delinquency -- you know, how much outstanding  
10 tax delinquency do you have and -- and how  
11 much of that is collected by use of  
12 third-party tax collectors?

13 If you can just elaborate maybe a  
14 little bit rather than --

15 MR. DANKS: Okay.

16 CHAIRMAN LEVDANSKY: At this point,  
17 frankly, you haven't said much for me to ask  
18 you any questions about.

19 MR. DANKS: Okay.

20 CHAIRMAN LEVDANSKY: So -- so just --  
21 you can start out, I think, just by addressing  
22 those -- those top concerns.

23 MR. DANKS: Okay. Starting about  
24 1999 tax delinquencies in the city of  
25 Allentown on about \$32 million in taxables, if

1 I'm correct, was about two-and-a-little-more  
2 million dollars. That's down now that we've  
3 started using a -- third-party collectors. I  
4 think it's right around a million dollars.  
5 It's come down significantly.

6 The difference being, when we were  
7 collecting it under the 1947 Act, it was  
8 typically three years between going delinquent  
9 and actually having to face a sale for the  
10 delinquent tax owner.

11 And Allentown is a little unique in  
12 that there's a lot of out-of-state speculator  
13 investors in rental properties, converted  
14 rental properties in the city.

15 Unlike some cities, we don't have a  
16 big vacancy. We have a lot of sort of  
17 over-built properties. So those draw people  
18 who will use them for rentals but not pay  
19 taxes and they can float for three years under  
20 the 1947 Act.

21 Using the 1923 Act, you typically  
22 bring the property to definitive sheriff's  
23 sale to -- one year. So within a year of  
24 becoming delinquent, that property is either  
25 being sold to a responsible third party or the

1 people pay up. And the most normal thing is  
2 they pay up.

3 Most of the delinquencies that we  
4 have wind up on a payment plan. There's a  
5 set -- a set policy on the payment plans in  
6 terms of like how much delinquency and how  
7 long you would have to be -- it's normally  
8 within a year because you don't want people  
9 pyramiding one delinquency on top of another.  
10 Almost everybody who is offered a payment plan  
11 takes it and they go on.

12 If people can't afford a payment  
13 plan, we have a hardship system and there's a  
14 set policy for that. We look at the people's  
15 income. Very simple income test.

16 Almost all of the people who have  
17 applied for hardships are approved. Anybody  
18 who is not approved, I look at the file before  
19 our contract attorneys send them a final  
20 determination on whether it's a hardship or  
21 not. So it gets a look by the municipality  
22 before it -- it gets rejected.

23 One of the -- one of the biggest  
24 things about using the 1923 Act is the city is  
25 in control of the debt all the time. When you

1 turn delinquency over to the county, you  
2 completely lose control of the terms of  
3 payment that people have, the ability to bring  
4 the property to sale or not bring the property  
5 to sale, or to work with the owner.

6 We've crafted a lot of individual  
7 situations to respond to the individual  
8 property owner's situation.

9 The 1947 Act doesn't have provisions  
10 for that. It's -- it's got quarterly payment  
11 plans and it's one size fits all.

12 In terms of interest and costs to the  
13 city, under the 1996 amendments to the  
14 Municipal Claims and Tax Liens Act, there's a  
15 requirement that before a delinquent taxpayer  
16 is assessed attorney fees that they get 30  
17 days' notice that if they don't pay up they'll  
18 have to -- they'll get assessed attorney's  
19 fees.

20 Now, keep in mind the city's tax  
21 bills are due in the August/September time  
22 frame. They don't go delinquent until the end  
23 of December. So it's now four months after  
24 the -- they needed to pay.

25 Then they get a letter which says,

1       okay, you got 30 days to pay up or make a  
2       payment plan and if you don't, then we're  
3       going to start assessing attorney's fees.

4               The costs to send out that letter the  
5       city has to front. It's an administrative  
6       front and we have to do it. And sometimes the  
7       city has sent out its own letters and other  
8       times we have had contract counsel send out  
9       letters.

10              The cost to do that becomes part of  
11       the debt if the debt is not paid off within  
12       the 30 days. So there is a little bit of a  
13       cost, couple thousand dollars total, I think,  
14       for the city.

15              I don't have the exact number. But  
16       that initial administrative fee is what you  
17       have to pay.

18              After that, we don't pay anything.  
19       The people who are delinquent -- and in my  
20       experience it's typically out-of-state  
21       landlords -- they end up paying the attorney's  
22       fees. The longer they wait the more expensive  
23       it gets because the more legal work needs to  
24       be done to bring the property to a sheriff's  
25       sale.



1           So at each step of the process  
2 they're told, okay, you know, we've assessed a  
3 fee of this amount. You need to pay up now or  
4 we're going to go to the next step, which you  
5 already got notice of back during the 30-day  
6 grace period.

7           Normally about half of the delinquent  
8 taxes come onto a payment plan or are paid in  
9 full during the initial 30-day period.

10           I think we've only taken actually to  
11 third-party sale 20 or 25 properties out of  
12 the city's twenty-some thousand taxables in  
13 the last, well, eight years now that I've been  
14 there that we've been using this process.  
15 Very, very, very few properties go to sale.

16           The first sale we had was a property  
17 that was worth maybe \$20,000. Had a \$40,000  
18 water bill. So the person was never going to,  
19 like, redeem the property or pay any attention  
20 to it. They just abandoned it.

21           We took it. We cleaned it up. We  
22 gave it to one of the housing nonprofits in  
23 town.

24           That's what happens to the typical  
25 distressed property that goes all the way to

1 the sale process.

2 Normally everybody gets on a payment  
3 plan in the first three or four steps of the  
4 process. They finally get religion and they  
5 realize that the gig is up and they have to  
6 pay the tax bill.

7 And then they don't fall delinquent  
8 the next year, which is the real strength of  
9 this program.

10 A couple of the other issues, you  
11 were asking about interest charges. The city  
12 gets all the interest from the delinquent  
13 taxes. As they get paid off, there's a ten  
14 percent statutory interest rate on the  
15 delinquencies. The city gets all of that.

16 When we were working with the tax  
17 claim bureau, the tax claim bureau basically  
18 kept all that money and they only gave us cash  
19 four times a year whereas we get -- I think  
20 it's either weekly or biweekly we get  
21 remittances from our contract attorneys.

22 So that's how the interest works on  
23 those -- on those delinquencies.

24 Did I miss anything there on the  
25 list?

1 CHAIRMAN LEVDANSKY: Yeah. I could  
2 follow up.

3 Any questions from members?  
4 Representative Ellis.

5 REPRESENTATIVE ELLIS: Thank you,  
6 Chairman Levdansky. I just have a couple  
7 questions.

8 MR. DANKS: Yes.

9 REPRESENTATIVE ELLIS: You can hear  
10 me all right?

11 MR. DANKS: Yes.

12 REPRESENTATIVE ELLIS: Can everybody  
13 hear? You talked about the rental units being  
14 a large portion and people speculating on  
15 properties.

16 Do you have any idea what actual  
17 percentage you're talking about?

18 MR. DANKS: I don't -- I don't have  
19 like hard statistics on that. I know I'm  
20 basing this on the initial two or three years  
21 that we were using this process where some of  
22 the out-of-state landlords would call up and  
23 complain and they wanted to know what happened  
24 to the old system.

25 Owner/occupants, typically they -- I

1 can't think of a single owner/occupant that's  
2 gone to sale or has even gone much beyond the  
3 first step. Because they'll -- they'll pay.  
4 They'll get on a payment plan. If they don't  
5 have the money in hand, we put them on a  
6 year-long payment plan. They just pay.

7 REPRESENTATIVE ELLIS: Well, then  
8 whenever you said you speed up the sale  
9 process from three years to about one year, I  
10 mean you're not doing a lot of sales.

11 MR. DANKS: No.

12 REPRESENTATIVE ELLIS: How is the  
13 process sped up?

14 MR. DANKS: Under the 1947 Act, the  
15 first year property -- a taxable delinquent  
16 on, let's say, December 31st, 2007, in 2008  
17 there's a series of letters that go from the  
18 tax claim bureau to the tax delinquent.

19 In 2009 the property will be exposed  
20 in September to an upset sale. That's a sale  
21 where the property is put up on the delinquent  
22 taxes but it's subject to all the mortgages  
23 and judgments and debts and other accumulated  
24 crud that the title of that property might  
25 have accumulated and anybody who buys at the

1       upset sale is going to take over whatever  
2       mortgages exist on the property.

3               Routinely, in the past, the  
4       property's exposed for upset sale and nobody  
5       bids. Then the tax claim bureau petitions the  
6       court with a list of all the properties and  
7       the prices that they were put up for upset  
8       sale and what the current debt is and what the  
9       fair market value is and they get a court  
10      order allowing the properties to be sold free  
11      and clear of all liens.

12              And that typically happens in  
13      September of -- now it would be 2010 for the  
14      2007 taxes.

15              At that time normally the delinquents  
16      pay the 2007 tax, take the property off of the  
17      upset -- the judicial sale list, the  
18      free-and-clear list, and then wait till next  
19      year to pay the 2008, and so on and so forth.

20              So they're always paying three years  
21      behind. So you run a three-year-long path.

22              Recently, because of the fact  
23      everybody in Lehigh County, except for, I  
24      think, one school district, has switched over  
25      to using third-party collectors, they brought

1 in a new solicitor at the tax claim bureau at  
2 Lehigh County, and he has very diligently and  
3 very -- at great difficulty managed to get the  
4 judicial sale, the free-and-clear sale in the  
5 same calendar as the September upset sale.

6 So he's reduced it to a little over  
7 two years from delinquency to judicial sale.  
8 But it's the same process. People wait until  
9 the judicial sale when they're actually going  
10 to lose the property and then they pay up or  
11 they bring their buddy in and he buys it and  
12 all the liens and everything are stripped away  
13 for whatever they can get and then he's got it  
14 for three years to run. And then it comes  
15 up.

16 And the big loser in those judicial  
17 sales, those free-and-clear sales, is the  
18 city. Because all the water rents, all of the  
19 sewage, all the trash fees, the abatement and  
20 nuisance when we go board them up, the weed  
21 cutting, all of that stuff that accumulates on  
22 those kind of distressed property, they all  
23 get wiped away and they start fresh.

24 And plus we have no control on how  
25 that's done. We could go in and bid and pay

1 everybody but then we end up paying the county  
2 and the school district with city money to get  
3 control of the property, and we really would  
4 rather just have the -- the owner pay the  
5 bill.

6 REPRESENTATIVE ELLIS: And,  
7 Mr. Chairman, if I can have just a request.  
8 Since today we're not hearing testimony from  
9 any of the third-party collectors, you had  
10 mentioned that sometimes you send out the  
11 first letter and sometimes they send out the  
12 letter.

13 Would it be possible for you to get  
14 this committee a copy of the letter that you  
15 sent out and the third-party letter that gets  
16 sent out if you don't?

17 MR. DANKS: Absolutely.

18 REPRESENTATIVE ELLIS: Because  
19 we've -- we've heard a lot of the people say  
20 that it's mean and nasty and I just want to  
21 see what kind of, you know, wording you guys  
22 use in the letter.

23 MR. DANKS: Our letter, and like the  
24 third-party collector that we're using, their  
25 letter is identical basically. It just says,

1 you know, you have a delinquent bill. This is  
2 the amount. This is what it's for. You need  
3 to pay or the attached fees are going to be  
4 charged.

5 And then there's a list of the -- the  
6 fees that were approved by ordinance.

7 REPRESENTATIVE ELLIS: I'd appreciate  
8 a copy.

9 MR. DANKS: Okay. I can get that for  
10 you.

11 REPRESENTATIVE ELLIS: Thank you.

12 CHAIRMAN LEVDANSKY: Before I  
13 introduce Representative Kortz for questions,  
14 we've been joined by two colleagues. Next on  
15 the far right, front row, is Representative  
16 Metcalfe from Butler County and to my left in  
17 the front row as well is Representative Dante  
18 Santoni from Berks County.

19 And just -- just for the record, just  
20 for clarification for Representative Ellis, we  
21 did extend an invitation to the -- to the one  
22 major third-party collector to invite them to  
23 testify but they chose not to. Okay?

24 Representative Bill Kortz.

25 REPRESENTATIVE KORTZ: Thank you,



1 Mr. Chairman.

2 Thank you, Mr. Danks, for your  
3 testimony. The question I have, you had  
4 mentioned that there's several different ways  
5 that the delinquent taxpayer can get the money  
6 back to it, if it's a pre-payment plan or  
7 hardship plan.

8 Could you expand on the hardship plan  
9 and what type of percentage of people fall  
10 into that category? How does that work and  
11 what's the percentage?

12 MR. DANKS: Let's see. I got some of  
13 our most recent status reports here. Let me  
14 just see how many we had on the hardship  
15 plan.

16 This one -- this report I have has a  
17 total number of the payment plans. Most  
18 people just go with the regular payment plan,  
19 which is typically, I believe, six months and  
20 it's just six equal installments.

21 With just a very little bit of  
22 effort, you could get a year-long payment  
23 plan. The hardship plan, the way we worked it  
24 initially, and I haven't seen any come through  
25 for this disapproved in the last several

1 years, so I'm going back a couple years to the  
2 last time I ever disapproved one.

3 But there was some people that just  
4 routinely send in the thing and it says, oh,  
5 yeah, I got a boat, an airplane, and two  
6 houses and my cable TV bill is, you know, \$300  
7 a month. And it's, well, this guy doesn't  
8 have a hardship.

9 Other ones you would see would be  
10 genuine hardships, and you put them -- and I  
11 would always say, what can you pay? And some  
12 of them were, you know, 25 or \$30 a month.

13 The city taxes are typically not that  
14 much on these really small houses where you  
15 find the little old ladies. We had maybe two  
16 or three of those cases, and we put them on  
17 pretty long-term hardship plans. Because you  
18 get to know the people. You go down and take  
19 a look and you can see them and you can see  
20 what they have available.

21 We'll get the money eventually. I  
22 mean it's not -- you don't have to go for the  
23 last nickel on those people.

24 CHAIRMAN LEVDANSKY: Any other  
25 members? Any other members?

1 Representative Scavello?

2 REPRESENTATIVE SCAVELLO: Mr. Danks,  
3 thank you for your testimony.

4 You talked about you guys -- that  
5 Allentown, the city of Allentown gets the  
6 interest.

7 What fees can a delinquent property  
8 owner expect outside of the -- the -- the  
9 interest that you get on each one of the bills  
10 for a late payment?

11 MR. DANKS: There's -- under the 1996  
12 amendments to the Municipal Claims and Tax  
13 Liens Act we can assess attorney's fees that  
14 are reasonable and customary and they have to  
15 be approved by ordinance.

16 So there's a fixed fee schedule that  
17 we got as far as a proposal from our  
18 third-party collector. And I don't have one  
19 in front of me right now. It's -- it's a  
20 pretty straightforward, mixed fee for each of  
21 the steps of the process of bringing it to  
22 sheriff's sale.

23 REPRESENTATIVE SCAVELLO: Any idea?  
24 Throw a number out.

25 MR. DANKS: I think it's like the

1 initial file opening and lien work and initial  
2 letter is something like a hundred or a  
3 hundred and fifty dollars. They're pretty  
4 modest, in my opinion, for being a private  
5 practice. I wouldn't take fees like that. I  
6 would go find another client.

7 REPRESENTATIVE SCAVELLO: You -- you  
8 made a comment earlier that the city of  
9 Allentown's taxes are really not that high.  
10 Am I correct? It's relatively, mostly the  
11 older properties or --

12 MR. DANKS: Well, you look at the  
13 school district's, you know, dollar value and  
14 the city's dollar value, the school district  
15 is using the same process as we are and a lot  
16 of the same taxables and it's kind of bundled  
17 together, the work that gets done, so if one  
18 of them is going to a sale.

19 The fees -- to get back to your first  
20 question -- the fees get really expensive when  
21 you have to take a property to sheriff's  
22 sale. You got to get a writ of execution.  
23 You got to pull a tax cert. You got to pull a  
24 current owner search. You got to list the  
25 property for sale. You have to front -- I

1 think a thousand dollars or something like  
2 that for the sheriff's sale to get it listed.

3 So you got to put all those in the  
4 fee schedule. So I think -- I don't know --  
5 it's \$1500 when you go from, you know, a  
6 default judgment to writ of execution and  
7 sale. It gets expensive right at the end, and  
8 that's why a lot of people stop when they  
9 realize we're serious.

10 REPRESENTATIVE SCAVELLO: You know,  
11 it's -- I'm assuming that normal property,  
12 like you mentioned the elderly lady with the  
13 property taxes, is probably about \$600 or so?

14 MR. DANKS: Even less.

15 REPRESENTATIVE SCAVELLO: Even less?

16 MR. DANKS: Even less on a row home.

17 REPRESENTATIVE SCAVELLO: But yet,  
18 you know, she's going to get hit with a  
19 hundred-dollar-and-some fee on top of that.

20 MR. DANKS: That's why more than half  
21 the people pay during the 30-day grace period  
22 or get on a payment plan.

23 The payment plan -- there's no cost  
24 to be on the payment plan. We don't get  
25 charged for the administration of that. We

1 don't charge the delinquent taxpayer for  
2 that. That's just rolled into the -- the  
3 service that we get from our attorneys.

4 REPRESENTATIVE SCAVELLO: Now, you  
5 also said that you make the hardship decisions  
6 on who is a hardship and who is not.

7 That's not in the legislation. It's  
8 what the city -- the city of Allentown does.  
9 That doesn't necessarily mean that other areas  
10 of the Commonwealth are going to look at that  
11 the same way as you.

12 MR. DANKS: No.

13 REPRESENTATIVE SCAVELLO: Am I  
14 correct?

15 MR. DANKS: Yeah. That's strictly  
16 the city of Allentown's policy and the way  
17 that we handle hardship requests.

18 Just to get back to the other  
19 question, I think I'm looking at the 2006  
20 report. We had a total -- total number of  
21 files of 1,677 delinquents and of them 126  
22 wound up on payment plans.

23 So it's -- it's -- you know, we could  
24 crunch some other numbers that way, but --

25 REPRESENTATIVE SCAVELLO: Okay.

1 Thank you.

2 CHAIRMAN LEVDANSKY: Thank you.

3 Before Representative -- I recognize  
4 Representative Nickol, 127 (sic) out of 1600?

5 MR. DANKS: Yes.

6 CHAIRMAN LEVDANSKY: Seems like a lot  
7 of people don't know about the hardship plan.

8 MR. DANKS: No, it's not the hardship  
9 plan. It's the payment plan.

10 CHAIRMAN LEVDANSKY: That's the  
11 payment plan?

12 MR. DANKS: When you get the letter  
13 and it says, hey, you better call up and make  
14 arrangements to pay or you're going to get  
15 assessed all these fees and they pick up the  
16 phone and they say either I'm sending a check  
17 or can I get -- get on a payment plan?

18 You say, okay. You have six months  
19 to pay. And that's automatic. I don't even  
20 see those. They just get on a payment plan  
21 and we just take the payments in six equal  
22 payments.

23 CHAIRMAN LEVDANSKY: So 120--some out  
24 of 1600 --

25 MR. DANKS: Right.

1                   CHAIRMAN LEVDANSKY:  -- end up on a  
2                   payment plan?  Not most.  Less than ten  
3                   percent?

4                   MR. DANKS:  Yes.

5                   CHAIRMAN LEVDANSKY:  Okay.  
6                   Representative Nickol.

7                   REPRESENTATIVE NICKOL:  Thank you.

8                   Do I understand correctly that the  
9                   city of Allentown and the School District of  
10                  Allentown use the same third-party collection  
11                  service?

12                  MR. DANKS:  Yes.

13                  REPRESENTATIVE NICKOL:  Would I be  
14                  correct in assuming the -- Lehigh County uses  
15                  the 1947 law and uses their tax claim bureau?

16                  MR. DANKS:  Yes.

17                  REPRESENTATIVE NICKOL:  Okay.  Has  
18                  anybody ever tracked -- I mean I assume when  
19                  someone is delinquent they tend to be  
20                  delinquent in all three taxes?

21                  MR. DANKS:  Yes.

22                  REPRESENTATIVE NICKOL:  Has anybody  
23                  collected or looked at the records of the --  
24                  of the two collection methods, the 1923 law  
25                  and the 1947 law, and just ascertained just



1 what the impact is of -- of using one versus  
2 another in terms of the amounts collected and  
3 the -- the time until collection?

4 MR. DANKS: We had our -- our finance  
5 director in the last administration looked at  
6 exactly that issue. The -- our current  
7 third-party collector, the tax claim bureau,  
8 and the potential of selling our tax liens to  
9 one of these third-party tax lien buyers and  
10 prepared a fairly extensive report.

11 I got one copy with me, which is  
12 maybe like a third generation copy of a fax.  
13 I can get you a better copy or I could leave  
14 that with the committee, whichever you'd  
15 like.

16 It kind of breaks out in some detail  
17 as of -- I think it was 2005 or 2006 when the  
18 report was prepared -- the advantages and  
19 disadvantages of the different methods of  
20 collection and what the recovery rate was.

21 And I -- I see the same properties at  
22 the -- I go to the tax sales, too, the county  
23 tax sales. Because they're still holding them  
24 on delinquent county taxes within the city. I  
25 see the same properties. It's just different

1 years that they're collecting. So...

2 REPRESENTATIVE NICKOL: I'm curious  
3 with the -- with the court decisions, have  
4 your -- the way in which you collect  
5 delinquent taxes, how have they changed within  
6 the last year or so since the court  
7 decisions?

8 MR. DANKS: Thankfully the effect on  
9 the city itself is not too great yet. It  
10 appears that we need to send a copy of our  
11 delinquent tax list to the county, and beyond  
12 that I'm not exactly sure what is required.

13 Because you read court decisions and  
14 sometimes they're a little ambiguous and  
15 sometimes they're -- they don't make practical  
16 sense in terms of how -- how the information  
17 is gathered, how the information can be  
18 disseminated, what's, like, a practical way to  
19 do it.

20 That's what this bill is good about,  
21 is it's got a nice clean system based on how  
22 everybody has been behaving and how they found  
23 to be the most practical way to deal with this  
24 issue, information about the delinquent taxes  
25 and collecting of delinquent taxes. It cleans

1 up some of those ambiguities.

2 I mean the judge might be looking at  
3 an issue over here, and the second or third  
4 order of facts that either are not properly  
5 before him or nobody's brought it to his  
6 attention for one reason or another.

7 This bill, with no changes, fixes all  
8 of those problems that have come up in the  
9 last couple of years.

10 REPRESENTATIVE NICKOL: With you now  
11 sending the information to the tax claim  
12 bureau, I think, as required by the court  
13 decision, has the tax claim bureau made any  
14 attempt to claim any share of costs that  
15 normally would be attributable to them if they  
16 used the '47 law?

17 MR. DANKS: Not yet. I don't know  
18 what is exactly going to happen with that.

19 The biggest problem with the 1947 Act  
20 is that the -- all of the nondelinquent  
21 taxpayers, all the responsible taxpayers end  
22 up paying a piece of the delinquent tax  
23 collection charge because our take from the  
24 delinquent taxes is reduced by five percent of  
25 the delinquencies.

1           In the tax claim bureau's vision they  
2 would be the most happy if every property in  
3 the city of Allentown was delinquent every  
4 year, because then they would have the maximum  
5 amount of income and they would have the best  
6 possible situation.

7           The city doesn't like delinquent  
8 taxes. If our tax collector, our delinquent  
9 tax collector starts falling down on the job,  
10 they're going to be gotten rid of and we're  
11 going to get somebody else who can get the  
12 work done.

13           We want the money now. We don't want  
14 it later.

15           Plus the longer a delinquent property  
16 sits waiting for final disposition the longer  
17 it becomes a haven for irresponsible,  
18 non-law-abiding people.

19           If a property is abandoned by a  
20 speculator and it's working its way through  
21 the sale process, to wait three years to bring  
22 that property to sell and get a third party in  
23 there, it's just more police runs, more  
24 ambulance runs, more fire calls, more boarding  
25 up, and the city ends up bearing all those

1 costs.

2           So -- and when we have, specifically,  
3 serious non-code compliant properties, you  
4 know, large commercial properties that are  
5 seriously delinquent, this -- using this  
6 particular statute, the 1923 statute, with us  
7 in control of the litigation at every step,  
8 versus letting the county just sort of process  
9 it along with everything else gives us another  
10 tool to try and bring the property into  
11 compliance and make it safer and stop the city  
12 expenditures. So...

13           REPRESENTATIVE NICKOL: Thank you.

14           CHAIRMAN LEVDANSKY: Any other  
15 questions from members?

16           I just have a few I'd like -- I'd  
17 like to follow up with. Just so that I --  
18 just so, Mr. Danks, I understand the magnitude  
19 of the fees, tell me if I'm incorrect with  
20 this.

21           Typically there's \$150 legal fee to  
22 open a file. Then there's another \$150 to  
23 file a lien and to send a second letter. Then  
24 there's a \$150 to prepare and file a writ.  
25 And there's a \$35 administrative cost fee.

1 I mean is that -- am I --

2 MR. DANKS: I'm looking at one of our  
3 fee schedules. We've had two different fee  
4 schedules in the last couple of years.

5 And you're consistent. You're real  
6 close to the numbers that I have here. So for  
7 ten dollars either way.

8 CHAIRMAN LEVDANSKY: So a typical  
9 case would have at least \$485 fees up-front or  
10 placed on throughout the process?

11 MR. DANKS: I'd say so.

12 CHAIRMAN LEVDANSKY: Depending on  
13 when it's resolved?

14 MR. DANKS: Right.

15 CHAIRMAN LEVDANSKY: Obviously, if  
16 it's resolved before the writ, then you don't  
17 get charged for the writ fee.

18 MR. DANKS: Yes.

19 CHAIRMAN LEVDANSKY: Okay. In  
20 Allentown's agreement with your delinquent tax  
21 collector, what are they -- what are -- what  
22 is your third-party tax collector allowed to  
23 collect interest on and when could the  
24 interest charges be applied?

25 MR. DANKS: My understanding -- and

1 I'd have to double check exactly how they do  
2 it -- but my understanding is under the law  
3 that the interest is charged when the tax goes  
4 delinquent, which would be the 31st of the  
5 year that the tax was levied, December 31st of  
6 the year the tax is levied.

7 From that point on it's ten percent  
8 of the delinquency. I may be wrong. It may  
9 be when they file the lien that there's a ten  
10 percent statutory charge.

11 If that's the case, I know in our  
12 ordinance there is interest charged for the  
13 delinquent taxes from the time that the tax  
14 bill is delinquent. So under either one,  
15 it's -- my understanding is it's ten percent  
16 from the 31st of December.

17 CHAIRMAN LEVDANSKY: Okay. Now, does  
18 that ten percent apply both to the face value  
19 of the -- of the delinquent taxes or does the  
20 interest also apply to the legal fees and  
21 other costs that are assessed along the way?

22 MR. DANKS: I'm not exactly sure.  
23 But I know the amendments to the 199 -- the  
24 1996 amendments to the Municipal Claims and  
25 Tax Liens Act talked about the attorney's fee

1 becoming part of the lien for the delinquent  
2 taxes or the delinquent user fee.

3 So without -- you know, just off the  
4 cuff here, without doing any research of any  
5 kind, I would guess that it's probably both  
6 together. But I may be wrong about that.

7 CHAIRMAN LEVDANSKY: Well, rather  
8 than guessing, could you find out, you know,  
9 with -- in your particular situation?

10 MR. DANKS: I can find out how we've  
11 been doing it. I could get that.

12 CHAIRMAN LEVDANSKY: How you do it,  
13 you know, what fees are charged, when are they  
14 charged, and what interest is charged, and on  
15 what -- on -- and on what is the interest  
16 charged?

17 MR. DANKS: I understand the  
18 question, Mr. Chairman.

19 CHAIRMAN LEVDANSKY: Okay. Another  
20 thing I just want to point out. You say you  
21 support Senate Bill 777.

22 MR. DANKS: Yes.

23 CHAIRMAN LEVDANSKY: I just want  
24 to -- do you have a copy of the bill in front  
25 of you?



1 MR. DANKS: Yes.

2 CHAIRMAN LEVDANSKY: If you would  
3 check Page 5, and before I read to you this  
4 section and ask your position on it, I have  
5 the benefit of the fees that I mentioned to  
6 you that are charged.

7 Are you aware of a recent court  
8 decision in the Court of Common Pleas in  
9 Philadelphia, Roethlein, et al., versus  
10 Portnoff Law?

11 MR. DANKS: Yes.

12 CHAIRMAN LEVDANSKY: Are you aware of  
13 that?

14 MR. DANKS: Yes.

15 CHAIRMAN LEVDANSKY: So the fees that  
16 I mentioned that were charged of a 150 for  
17 opening a file, 150 for filing a lien, 150 for  
18 filing a writ, \$35 for administrative cost  
19 fees, interest charged on -- on some, if not  
20 all, of these charges, as well as the face  
21 delinquency, that -- just by way of  
22 background, I want to call attention to Line  
23 20 through 23.

24 Existing law states: It is not the  
25 intent of this subsection to require owners to

1 pay, or municipalities to sanction,  
2 inappropriate or unreasonable attorney fees,  
3 charges or expenses for routine functions.

4 This bill would strike that language  
5 from existing law. Do you support striking  
6 that language from existing law?

7 MR. DANKS: I'm looking at printer's  
8 number 1560. I can't find the quote you're  
9 reading.

10 CHAIRMAN LEVDANSKY: Printer's number  
11 1560. Page 5.

12 REPRESENTATIVE SCAVELLO: Line 20.

13 CHAIRMAN LEVDANSKY: Line 20 through  
14 23.

15 MR. DANKS: All right. I got it.  
16 I'm sorry, Mr. Chairman.

17 CHAIRMAN LEVDANSKY: Line 20 through  
18 23. You see the -- the language beginning  
19 it's not the intent and ending functions?  
20 That sentence?

21 MR. DANKS: Okay. Yeah. I see.  
22 It's in brackets. Okay. I see that.

23 CHAIRMAN LEVDANSKY: Do you support  
24 removing that language from the existing law?  
25 And if so, why?

1           MR. DANKS: I would support removing  
2 this particular language just because it's  
3 ambiguous regarding what -- as soon as you get  
4 into -- read the word reasonable,  
5 inappropriate, routine, you know, what exactly  
6 do those mean?

7           I -- I think the legislature is  
8 capable of saying this without having a lot of  
9 ambiguity to it. And this -- this just looks  
10 like a litigation factory to me, this  
11 particular sentence. It -- it could be  
12 written a lot better. I don't -- I don't know  
13 whether there's anything in the bill that  
14 specifically addresses replacing that idea.

15           The current way that the attorney's  
16 fees are determined is that the city counsel  
17 has to pass an ordinance, and there was a lot  
18 of discussion at the time that the city of  
19 Allentown passed its ordinance regarding --

20           CHAIRMAN LEVDANSKY: Which is not  
21 sanctioned with state law. Which is in direct  
22 conflict with established state law.

23           MR. DANKS: What's that?

24           CHAIRMAN LEVDANSKY: That there is no  
25 authorizing legislation in state law that

1 authorizes a taxing body, which is -- which is  
2 an arm of the Commonwealth, we do not  
3 authorize. There is no language in existing  
4 statutory law that authorizes school districts  
5 and municipalities to enact an ordinance  
6 allowing for fees.

7 MR. DANKS: I think that was the 1969  
8 amendment. That's been my assumption for the  
9 last couple of years.

10 CHAIRMAN LEVDANSKY: Well, let me ask  
11 you this. I mean if you think the words  
12 inappropriate or unreasonable attorney's fees  
13 is too ambiguous, would you suggest then that  
14 we put, in law, limits, dollar amounts as to  
15 what third-party collectors ought to be  
16 permitted to charge for their services?

17 MR. DANKS: That's probably not a  
18 good idea. Only because I know like this  
19 particular act, the Municipal Claims and Tax  
20 Liens Act was first enacted in its basic form  
21 now in 1901 and it was -- it drew on an 1870  
22 Act and what we do today is going to be around  
23 for a good long time.

24 So, dollar value, I don't think set  
25 dollar amounts would do it because it's a

1 matter of getting somebody to do the work.  
2 There's only a limited number of these firms  
3 that are out there, and it's because to  
4 collect a municipal delinquency like this,  
5 it's got to be done in a volume fashion.  
6 There can't be -- because I did it when I was  
7 in private practice. I attempted to collect,  
8 you know, bit by bit, single municipal claims  
9 for the townships, and it's time consuming, if  
10 you're doing it on an ala carte basis.

11 If you -- if you're doing it as a  
12 regular process, you can provide things like  
13 payment plans. You can provide things like  
14 hardship plans. You got that flexibility  
15 built into it. But there's only so many  
16 people that are biting at this level.

17 If we could get it done for less, we  
18 probably would. But -- so to fix a set dollar  
19 amount in the statute, is probably not the  
20 wisest thing in my humble opinion.

21 CHAIRMAN LEVDANSKY: Just -- just one  
22 point of clarification. Okay? In 2001 there  
23 was a court case, Pentlong versus GLS Capital,  
24 which was real active in purchasing tax liens  
25 in Allegheny County and the Commonwealth Court

1 upheld this section of the Municipal Claims  
2 and Tax Liens Law that permitted the addition  
3 of attorney's fees in municipal claims but did  
4 not allow attorney's fees to be added to tax  
5 claims and passed on to the delinquent  
6 taxpayer.

7 MR. DANKS: Okay. I'm aware of that  
8 and then I think there was subsequent  
9 legislation in 2003 maybe that --

10 CHAIRMAN LEVDANSKY: That was --

11 MR. DANKS: That put tax claims and  
12 municipal claims back together before the  
13 Pentlong decision.

14 That's my understanding of it. And  
15 I'm no expert. I'm just talking about  
16 Allentown here. But that's my understanding  
17 of it.

18 CHAIRMAN LEVDANSKY: Let me recognize  
19 Representative Scavello for a follow-up.

20 REPRESENTATIVE SCAVELLO: Thank you,  
21 Rep -- thank you, Mr. Chairman.

22 Mr. Danks, we talked about fees  
23 earlier. If -- right now in the county system  
24 if an abstract company wanted to find out  
25 what -- what taxes were owed on a property,

1 they could call the county and get that  
2 information. Is there a fee when you call the  
3 county?

4 MR. DANKS: Right now in Lehigh  
5 County, you can go on their website and they  
6 have a delinquent tax page you go to and it  
7 shows you by property what taxes are  
8 delinquent.

9 REPRESENTATIVE SCAVELLO: And there's  
10 no fee?

11 MR. DANKS: To look at that, no,  
12 there's no fee.

13 REPRESENTATIVE SCAVELLO: And  
14 through -- through the company that you're  
15 dealing with, is there a fee?

16 MR. DANKS: Well, you can call up and  
17 get the same information. Or -- you know, for  
18 any of these to get a certification, a tax  
19 certification --

20 REPRESENTATIVE SCAVELLO: Gotcha. A  
21 tax cert.

22 MR. DANKS: -- there is -- there is a  
23 charge. There is a charge at the county and  
24 there's a charge at -- at our third-party  
25 collector, and there's a charge from the city

1 which we've recently raised to get the tax  
2 certification from the city. And --

3 REPRESENTATIVE SCAVELLO: Are you --  
4 are you aware what the figure is at the county  
5 level versus --

6 MR. DANKS: No. I don't know what  
7 the county is charging. It's significant  
8 that, to my knowledge, tax certifications are  
9 not binding on the municipality. Normally we  
10 will honor them, just because it makes a lot  
11 of sense to have some regularity and  
12 consistency and smoothness in the process.

13 But a lot of this about tax  
14 certifications was kind of mysterious to me  
15 because I know doing title work back in  
16 private practice that tax certifications are  
17 not specifically binding on the  
18 municipalities.

19 It's very rarely you'll run into a  
20 problem but that's what the law is, from my  
21 understanding.

22 REPRESENTATIVE SCAVELLO: I've been  
23 told that the figure is significant, the  
24 difference between the company that you're  
25 referring to and the county. That that number



1 is significant. That -- and I'm sure we'll  
2 find out later when we ask the county  
3 commissioners and we have some other folks  
4 here.

5 Thank you.

6 Thank you, Mr. Chairman.

7 CHAIRMAN LEVDANSKY: Mr. Danks, I'm  
8 not going to follow up and ask any more  
9 questions. I'm going to follow up by sending  
10 you a letter and asking you very specific  
11 questions about Allentown's experience with  
12 tax delinquencies.

13 MR. DANKS: Yes.

14 CHAIRMAN LEVDANSKY: I mean frankly I  
15 had hoped that your testimony would shed some  
16 light on the city of Allentown's experience  
17 with tax delinquencies and utilization of  
18 third-party tax collectors and, you know, more  
19 specifics about your hardship program and, you  
20 know, what's the criteria -- criteria for  
21 eligibility and how many people utilize it.

22 Okay? I mean I'll follow up with a  
23 letter asking for, you know, answers to  
24 specific questions. I mean --

25 MR. DANKS: I got a couple do-outs

1 here to you, so, you know, I'll send you --

2 CHAIRMAN LEVDANSKY: Frankly I had  
3 expected --

4 MR. DANKS: -- more statistics.

5 CHAIRMAN LEVDANSKY: -- when we --  
6 when we honored your request to testify, I  
7 just assumed that you would have been  
8 providing some information that would help me  
9 understand how these two laws interface or how  
10 Allentown uses these two laws to collect  
11 delinquent taxes.

12 We're 45 minutes into the  
13 conversation and I'm less clear and more  
14 confused about how it works in Allentown.

15 So -- so I'm disappointed we haven't  
16 had any clarification here, but I'll follow up  
17 with a letter to you and -- specifically  
18 asking you, you know, for information as a  
19 follow-up.

20 MR. DANKS: Okay. Thank you.

21 Mr. Chairman.

22 CHAIRMAN LEVDANSKY: Thank you.

23 Next I'd like to call Kristen  
24 Goshorn. She's the government affairs  
25 specialist with the County Commissioners

1 Association of Pennsylvania.

2 MS. GOSHORN: Good afternoon.

3 Chairman Levdansky and Chairman Nickol and  
4 members of the committee. Thank you for the  
5 opportunity to introduce CCAP's position on  
6 Senate Bill 777. I am --

7 CHAIRMAN LEVDANSKY: Excuse me,  
8 Kristen.

9 MS. GOSHORN: Yes.

10 CHAIRMAN LEVDANSKY: Could you move  
11 the microphones a little closer?

12 MS. GOSHORN: Is that better? Okay.  
13 I'm Kristen Goshorn. I'm the government  
14 relationship manager for the County  
15 Commissioners Association of Pennsylvania, and  
16 as most of you are familiar, CCAP is a  
17 nonpartisan, non-profit organization  
18 representing all 67 counties in the state of  
19 Pennsylvania.

20 CCAP does oppose Senate Bill 777 as  
21 currently drafted. However, I want to be very  
22 clear that CCAP does not oppose third-party  
23 collection of delinquent taxes.

24 Counties themselves are also  
25 authorized under existing law to utilize

1 third-party collectors. Some of these  
2 third-party collectors seek the ability to  
3 collect taxes on behalf of municipalities  
4 exclusively under the jurisdiction of the  
5 Municipal Claim and Tax Lien Act, as you just  
6 heard, while others operate seamlessly with  
7 the Real Estate Tax Sale Law, in essence  
8 acting as a privatized tax claim bureau.

9 Blair County is an example of where  
10 this process is already in place. Tax liens  
11 have been sold to a third-party collector in  
12 bulk through a negotiated contract. And that  
13 third-party collector then follows all the  
14 procedures that would normally be followed by  
15 the tax claim bureau in doing collection in  
16 compliance with the Real Estate Tax Sale Law.

17 By way of background, I want to  
18 provide just a little bit of history on the  
19 Real Estate Tax Sale Law as that is the  
20 statute that governs the county tax claim  
21 bureaus.

22 My information comes directly from  
23 the local government commission. RETSL was  
24 enacted subsequent to the Municipal Claim and  
25 Tax Lien Act and has been amended over time

1 until a tax claim bureau is now required to be  
2 established in all counties in Pennsylvania  
3 except in Philadelphia and Allegheny  
4 Counties.

5 According to the local government  
6 commission the RETSL was developed out of a  
7 need to consolidate all delinquent real estate  
8 tax claims into one agency. The tax claim  
9 bureau's sale procedure under RETSL replaced a  
10 myriad of sales procedures that were in place  
11 by county treasurers and city treasurers.

12 RETSL is also intended to be a means  
13 for assuring that properties can be turned  
14 over to responsible taxpayers while ensuring  
15 due process for the delinquent taxpayer.

16 If you review the law, you will see  
17 that the tax claim bureaus have a very  
18 prescriptive set of procedures and timelines  
19 they must follow to collect delinquent taxes,  
20 which also impacts their overall collection  
21 rate.

22 The county is entirely responsible  
23 for the expense of operating the tax claim  
24 bureau. This includes salaries and benefits  
25 for staff, bonds for employees, mailing and

1 advertising costs.

2 Section 206 of RETSL is the matter of  
3 controversy with other local governments.

4 This section allows the county to receive a  
5 five percent commission on delinquent taxes as  
6 well as interest generated by the county while  
7 the money is held.

8 Section 206 was originally developed  
9 to reimburse the county for the expense of  
10 operating the bureau and collecting delinquent  
11 taxes by requiring a five percent commission.

12 Despite the controversy this has  
13 generated amongst some municipalities  
14 utilizing third-party collectors who argue  
15 that the county should not be entitled to a  
16 five percent commission on delinquent real  
17 estate taxes it did not collect, the General  
18 Assembly at the time of enactment of RETSL  
19 realized that without a funding source the tax  
20 claim bureau would be a huge unfunded mandate  
21 for county government.

22 Senate Bill 777 will allow  
23 municipalities using third-party collectors to  
24 bypass entirely the five percent commission.  
25 Yet those municipalities will continue to

1 receive a benefit from the tax claim bureau  
2 which is the entity that most frequently takes  
3 the property to sale when tax claims cannot be  
4 settled.

5 And you just heard a little evidence  
6 of that from our last speaker who indicated  
7 that there were only 20 to 25 properties that  
8 they have taken to sale under MCTLA.

9 Since real estate property taxes are  
10 a priority lien, the municipality ultimately  
11 receives its tax revenue regardless of whether  
12 its third-party collector is responsible for  
13 collection.

14 Some proponents of this legislation  
15 have argued that the bill gives municipalities  
16 the ability to use third-party collectors.  
17 This ability already exists under current  
18 law.

19 In fact, the General Assembly amended  
20 the Real Estate Tax Sale Law in 2004 to  
21 clarify this ability. Act 168 of 2004, which  
22 was a bill that was actually sponsored by  
23 Representative Cappelli, allows a taxing  
24 district to assign tax claims to a third-party  
25 collector.

1           In order to allow assignment, the  
2 legislator had to grant -- the legislature had  
3 to grant a claim docketed by the county tax  
4 claim bureau to be divisible. The assignee  
5 then is able to act as the municipality to  
6 collect and enforce tax claims.

7           Act 168 also clearly allows the  
8 county to assign claims whether -- while  
9 either retaining operation of the bureau or  
10 assigning duties to a third-party collector.

11           Act 168 specifically states that  
12 assignment under RETSL does not affect the  
13 five percent commission on tax claim  
14 collections and reimbursement of county  
15 charges, so as recently as 2004 the  
16 legislature has reaffirmed its intent that  
17 county tax claim bureaus not become an  
18 unfunded mandate.

19           Integrity of the public record is  
20 also an important component of RETSL, by  
21 assuring purchasers of real estate that the  
22 property is being sold free and clear of  
23 liens.

24           The county historically is the body  
25 of record which holds records for tax liens,



1 mortgages, deeds, et cetera. However, this  
2 central repository of information, which is  
3 essential to the business of real estate and  
4 title searchers, as well as necessary to  
5 maintain the public record, has been  
6 threatened by municipalities using third-party  
7 collectors who have failed to make returns to  
8 the county in order to avoid the five percent  
9 commission.

10 This failure to make a return also  
11 means that county tax records are not  
12 up-to-date.

13 One of the drivers of this piece of  
14 legislation is the Commonwealth Court ruling  
15 in the Pennsylvania Land Title Association  
16 versus East Stroudsburg Area School District.  
17 In this decision the court upheld the lower  
18 court's ruling that the school district's  
19 choice to use a third-party collector under  
20 the Municipal Claim and Tax Lien Act to  
21 collect delinquent school taxes does not  
22 relieve the standard or its third-party  
23 collectors of its responsibility to make  
24 returns to the tax claim bureau as required  
25 under the Real Estate Tax Sale Law.

1           The practice of not making returns to  
2           the county, at the very least, requires title  
3           searchers to go to multiple sources for tax  
4           certifications. In the Monroe County case, it  
5           is documented that the third-party collector  
6           would charge 25 to \$50 for unsigned written  
7           reports identified as tax certifications.  
8           Real estate attorneys and title agents lost  
9           money due to inaccuracy in the status of  
10          school taxes in county records caused by  
11          failure of the school district to report.

12           Another interesting twist is that  
13          because MCTLA requires the third-party  
14          collector to report liens into the  
15          prothonotary's office and the prothonotary has  
16          been able to report these liens to credit  
17          rating agencies, individuals were negatively  
18          impacted by the school district's failure to  
19          update record when they applied for credit.

20           In response to public record  
21          concerns, Section 26 of Senate Bill 777  
22          attempts to set a process whereby the county  
23          records can be updated annually based on  
24          reports from municipalities using third-party  
25          collectors.

1           However, this will not be a real-time  
2 process and whereas before title searchers or  
3 the public could walk into the tax claim  
4 bureau and have instant access to the records,  
5 the county will now only be able to provide  
6 this access for jurisdictions on whose behalf  
7 they are collecting delinquent taxes.

8           To get the most up-to-date record  
9 from other taxing bodies, the title searcher  
10 will have to seek a certification from the  
11 municipalities third-party collector.

12           CCAP remains opposed to Section 42 of  
13 Senate Bill 777. The language in this section  
14 broadly exempts entities collecting taxes  
15 under the MCTLA from complying with RETSL.

16           One of the basic supporting arguments  
17 in the East Stroudsburg case was that the two  
18 laws are designed to work in conjunction with  
19 one another and they are not mutually  
20 exclusive.

21           The court reasoned that because  
22 counties who opt to use other methods of  
23 collection, including the MCTLA, must at the  
24 same time comply with RETSL, it stands to  
25 reason that other taxing bodies (sic), like

1 the school districts, who have opted to use  
2 the MCTLA provisions would likewise be  
3 required to comply with the RETSL provisions.

4 CCAP believes that the court's ruling  
5 was correct and upholds the legislature's  
6 intent. And, of course, this legislation  
7 would reverse the court's ruling.

8 Finally, I would like to point out  
9 other provisions in this legislation that have  
10 not been widely discussed. The MCTLA  
11 authorizes municipalities to recover  
12 reasonable fees, including attorney fees, by  
13 passing them along to taxpayers.

14 You heard a little bit of discussion  
15 about the term reasonable by our previous  
16 testifier. That is the standard in the MCTLA  
17 law. Any taxpayer that wants to challenge the  
18 reasonableness of the fees has to pursue that  
19 through the court system. It's not spelled  
20 out any more explicitly than that.

21 While the legislation states that the  
22 municipality determines the fee by ordinance,  
23 in actuality the municipality will lose money  
24 if it does not pass along the entire amount of  
25 the fee that a third-party charges.

1           The reasonable standard of the law  
2           leaves this open to challenge by individual  
3           taxpayers through the court system and it is  
4           likely, rather than third-party collectors  
5           being challenged directly on the  
6           reasonableness of their fees, the municipality  
7           will instead assume liability and find  
8           themselves in the role of defendant in suits  
9           challenging the reasonableness of fees.

10           Also relevant to this discussion on a  
11           taxpayer's recourse under the MCTLA, Senate  
12           Bill 777 removes the current standard of  
13           judgment to be taken into consideration, which  
14           is the amount of the delinquent account.

15           This means a judge will not be able  
16           to take into account whether the claim was \$15  
17           or \$500 when determining whether the  
18           attorney's fee of \$160 for issuance of a  
19           demand letter is reasonable.

20           The Senate considered an amendment on  
21           the floor which would limit attorney fees to  
22           20 percent of the face and penalty amount, but  
23           this amendment was defeated by a vote of 24 to  
24           26.

25           In addition to fees that are

1 currently authorized under the MCTLA, Senate  
2 Bill 777 allows a reasonable fee paid to  
3 satisfy notice requirements under the act.  
4 Currently this expense is borne by the taxing  
5 district.

6 One example fee schedule that we have  
7 seen indicated that there's a charge of \$40 to  
8 issue a notice -- notice to all delinquent  
9 property owners by certified mail, plus then  
10 the cost of the certified mailing.

11 In closing, CCAP would like to  
12 acknowledge concerns raised by boroughs,  
13 cities, and school districts regarding the  
14 five percent commission that RETSL entitles  
15 the counties to. As the only local government  
16 entity that is solely reliant on the property  
17 tax, we understand the need to recover every  
18 penny.

19 Our association is willing to offer  
20 its resources to work with the General  
21 Assembly in achieving an acceptable solution  
22 that addresses their concerns, while assuring  
23 the county tax claim bureau not become an  
24 unfunded mandate.

25 We also suggest that the tax claim

1       bureaus may be better able to serve the  
2       municipalities and school districts with an  
3       update of the Real Estate Tax Sale Law in  
4       general. However, we strongly emphasize the  
5       existing problems with RETSL need to be  
6       addressed by amending RETSL, not by granting a  
7       blanket exemption to RETSL for those  
8       municipalities authorizing third-party  
9       collection under the MCTLA.

10                So thank you for the opportunity, and  
11       I'll be happy to try to answer any questions  
12       you have at this time.

13                CHAIRMAN LEVDANSKY: Representative  
14       Gordon Denlinger.

15                REPRESENTATIVE DENLINGER: Thank you,  
16       Mr. Chairman.

17                And thank you for your testimony.  
18       Could you give us a picture how many counties  
19       across the state use third-party collection?

20                MS. GOSHORN: I'm only aware of one  
21       and that being Blair County. If there are  
22       others, I don't know of them.

23                REPRESENTATIVE DENLINGER: Okay.  
24       Mr. Chairman, is that the limit of third-party  
25       collection to your knowledge?

1                   CHAIRMAN LEVDANSKY: I'm sorry,  
2 Mr. Denlinger?

3                   REPRESENTATIVE DENLINGER: I was  
4 asking how many counties use, currently use  
5 third-party collection, and Kristen shared she  
6 only knew of one. Is that where we stand to  
7 your knowledge?

8                   CHAIRMAN LEVDANSKY: How many  
9 counties use third-party collectors?

10                  MS. GOSHORN: Yeah.

11                  CHAIRMAN LEVDANSKY: She's in a far  
12 better position than I am.

13                  REPRESENTATIVE DENLINGER: Okay.

14                  MS. GOSHORN: The tax claim bureaus  
15 will come up later, too, and they probably  
16 would have an -- an answer to that question as  
17 well.

18                  REPRESENTATIVE DENLINGER: Thank you,  
19 Kristen.

20                  Thank you, Mr. Chairman.

21                  CHAIRMAN LEVDANSKY: Representative  
22 Scavello.

23                  REPRESENTATIVE SCAVELLO: Thank you,  
24 Kristen, for your testimony. I'm not going to  
25 use that.



1 Thank you, Mr. Chairman.

2 I asked an earlier question on what  
3 the -- thank you -- on what the fee is for a  
4 cert and what the county fee is and what the  
5 third party is charging.

6 And in some cases you're paying twice  
7 because, for example, if you need the county  
8 cert on the county taxes and then you need the  
9 cert for the school district, if it's just a  
10 school district that's handling -- for  
11 example, in the -- in the Allentown case, the  
12 county -- you have to call the county for a  
13 cert on their records. Am I correct? And  
14 then you'd be paying again for the cert on the  
15 school district and the -- and the city.

16 So it would be a double fee.  
17 Regardless of how much those -- those fees  
18 vary, there will be a double fee to every  
19 property owner, wouldn't there be?

20 MS. GOSHORN: Right.

21 REPRESENTATIVE SCAVELLO: Thank you.

22 CHAIRMAN LEVDANSKY: Any other  
23 members have questions?

24 Chairman Nickol.

25 REPRESENTATIVE NICKOL: I'm curious,

1 as a result of the court decision, are some --  
2 are most of the municipalities or third-party  
3 collection agencies for them now filing the  
4 missing information with the various  
5 counties?

6 MS. GOSHORN: Most of what I've heard  
7 on this is anecdotal, but it appears that by  
8 and large most of the municipalities that are  
9 using third-party bureaus are not making  
10 returns to the counties so the records  
11 continue to be out-of-date.

12 REPRESENTATIVE NICKOL: Are counties  
13 where they are being -- where third-party  
14 collectors are filing with the county tax  
15 claim bureau, is the county then also  
16 collecting the five percent commission on top  
17 of the collection fees that have already been  
18 paid by the municipality or are they waiving  
19 those because it's kind of water over the dam  
20 at this point?

21 MS. GOSHORN: I don't have a real  
22 strong sense of this. We did hear that Lehigh  
23 County is not collecting the five percent.

24 In the case of Monroe they have some  
25 issues under litigation right now, so I'm more

1 familiar with them. They're currently  
2 withholding some money from the school  
3 districts. But --

4 REPRESENTATIVE SCAVELLO:  
5 Significant?

6 REPRESENTATIVE NICKOL: I would  
7 assume there are significant amounts of money  
8 on the table. Would I be correct in that  
9 assumption?

10 MS. GOSHORN: Yes. Yes.

11 REPRESENTATIVE NICKOL: Thank you.

12 CHAIRMAN LEVDANSKY: Just -- I'm  
13 sorry. Representative David Kessler.

14 REPRESENTATIVE KESSLER: A homeowner  
15 has school property tax, county tax, township,  
16 or borough tax.

17 When they go delinquent, all three of  
18 those taxes go to the county. Is that  
19 correct? And the county collects all three of  
20 those taxes for them?

21 MS. GOSHORN: When they have not been  
22 assigned to a third-party collector, yes.

23 REPRESENTATIVE KESSLER: Okay. So  
24 the five percent, if the five percent of it is  
25 assigned to a collector, the five percent, is

1 the school paying that five percent, the  
2 township or -- are they splitting the five  
3 percent, two-and-a-half each?

4 MS. GOSHORN: You're -- you're asking  
5 if each jurisdiction has to remit the five  
6 percent?

7 REPRESENTATIVE KESSLER: Yes.

8 MS. GOSHORN: That's a good question  
9 for the tax claim bureaus. I believe the  
10 interpretation is, yes, each taxing district  
11 does the five percent.

12 REPRESENTATIVE KESSLER: Does pay the  
13 county --

14 MS. GOSHORN: Yes.

15 REPRESENTATIVE KESSLER: -- five  
16 percent?

17 MS. GOSHORN: Yes.

18 REPRESENTATIVE KESSLER: Thank you.

19 CHAIRMAN LEVDANSKY: All right.

20 Just -- just one question from me. You  
21 mentioned in your closing remark that you  
22 suggest that existing problems with RETSL need  
23 to be addressed by amending RETSL.

24 Any suggestions, any ideas what --  
25 what part of RETSL, any constructive

1 suggestions on what we ought to amend?

2 I know we heard earlier some comment  
3 about, you know, going two or three years, it  
4 takes two or three years before you can  
5 actually start collecting. Any -- any  
6 suggestions on -- on -- on some corrections to  
7 RETSL to address some of these concerns?

8 MS. GOSHORN: Yeah. I think in  
9 general it could be worth a sit-down just to  
10 look at timelines under the current law. And  
11 it's been 60 years since that law has been  
12 updated, so maybe the existing timelines are  
13 no longer -- they no longer need to be as long  
14 as they are.

15 I don't have an intimate knowledge of  
16 what section specifies what timeline, but the  
17 counties may be able to achieve a balance  
18 between protecting the taxpayers and being  
19 better able to serve the municipalities if the  
20 General Assembly is willing to go back and  
21 look at the timelines and whether they need to  
22 currently be as long as they are and if we can  
23 move the process along a little quicker while  
24 protecting the due process that's in RETSL  
25 right now.

1                   CHAIRMAN LEVDANSKY:  What would  
2                   according -- we'd appreciate your input, you  
3                   know, relative to reviewing that, any  
4                   suggestions you would have to make would be  
5                   appreciated.

6                   MS. GOSHORN:  Sure.

7                   CHAIRMAN LEVDANSKY:  Okay?  Thank you  
8                   very much --

9                   MS. GOSHORN:  Thank you.

10                  CHAIRMAN LEVDANSKY:  -- for your  
11                  testimony today.

12                  Next I'd like to call Mr. John Effner  
13                  with the Pennsylvania Land Title Association  
14                  and Jane Maughan, the solicitor with the  
15                  Pennsylvania Land Title Association.

16                  Did I get the pronunciation of names  
17                  correct?

18                  MS. MAUGHAN:  Maughan.

19                  CHAIRMAN LEVDANSKY:  Maughan.  Thank  
20                  you.

21                  MR. EFFNER:  Good afternoon.  The  
22                  spelling is Jon, J-O-N, Effner, E-F-F-N-E-R,  
23                  and I am the vice president and president  
24                  elect of the Pennsylvania Land Title  
25                  Association.

1           And on behalf of the 700 members of  
2           the Pennsylvania Land Title Association I  
3           would like to thank Chairman Levdansky,  
4           Chairman Nickol, and the rest of the members  
5           of the committee for the opportunity to speak  
6           to the issues that arise under section --  
7           various sections of Senate Bill 777 as they  
8           relate to the litigation that was initiated by  
9           the Pennsylvania Land Title Association in  
10          Monroe County.

11           To my right is Jane Roach Maughan who  
12          will speak to the issues as to the litigation  
13          itself. But I would like to take a moment to  
14          thank Senator Browne and his staff for the  
15          many meetings that were conducted from the  
16          point at which Senate Bill 777 was initially  
17          introduced to attempt to come to common ground  
18          as to the disparate positions that some of the  
19          groups involved in those negotiations had.

20           And we believe that the current  
21          version of the bill is a vast improvement from  
22          what was initially entered. However, we  
23          cannot support the bill in its current form.

24           We do not -- it's important that the  
25          committee understand that we do not oppose

1 private tax collectors. That is not what the  
2 litigation was about.

3 The litigation that was initiated in  
4 Monroe County was litigation over which we  
5 obtained -- thank you -- thanks mainly to the  
6 efforts of Jane, significant success.

7 In point of fact, we believe that  
8 Senate Bill 777 was introduced in direct  
9 reaction -- as a result of the success that we  
10 had in the litigation.

11 The -- as I said, we do not oppose  
12 private tax collectors. What we oppose and  
13 what the litigation was all about was abuse by  
14 private tax collectors, one particular private  
15 tax collector, which Jane will speak about.

16 And of equal importance is the taxing  
17 bodies that were involved in that particular  
18 litigation acquiescenced to that abuse. Had  
19 the taxing bodies fulfilled their mandate and  
20 reined in the private tax collector or tax --  
21 taxing entity, it probably would not have been  
22 necessary to bring this litigation.

23 This litigation was brought by  
24 Pennsylvania Land Title Association, a  
25 nonprofit organization representing members of



1 the title insurance industry, both insurers,  
2 agents, and other title professionals, across  
3 the Commonwealth of Pennsylvania.

4 We brought this action only because  
5 of the fact that it appeared that nobody else  
6 was going to attempt to get the parties  
7 involved to comply with existing law.

8 And with that I'd like to turn the  
9 microphone over to Jane to speak to the issue  
10 of the litigation.

11 MS. MAUGHAN: Thank you. I echo  
12 Jon's appreciation to the chairs and to the  
13 members for your attention today.

14 I'd like to address first the  
15 Municipal Tax Claims (sic) and Lien Act, which  
16 in our litigation came often to be called the  
17 MCTLA. And that's the term I will use.

18 It has been around for a long time,  
19 but to collect water and sewer liens, it was  
20 only with amendments to that act in the late  
21 '90s that it expanded aggressively into the  
22 area of collecting real estate taxes.

23 And it's important for all of us to  
24 keep in mind, real estate taxes move in front  
25 of first lien mortgages. Real estate taxes

1       become such a powerful priority lien on a  
2       property that they move ahead of all  
3       encumbrances, including first lien purchase  
4       money mortgages.

5                You pay your taxes late, and your  
6       property taxes are ahead of your mortgage and  
7       title. That is why records are so vitally  
8       important to the title industry.

9                After the amendments in the late  
10       '90s, there was a very aggressive marketing  
11       campaign on the part of a very successful  
12       firm, Portnoff Law Associates, to acquire  
13       clients to collect taxes for.

14               We have never disputed their  
15       entitlement to use this law. We have never  
16       disputed their entitlement to market their  
17       services and collect as many clients as they  
18       can. And they collected a lot of clients, 70  
19       clients. At least.

20               This is what we dispute, and this  
21       creates the need for me to give you a little  
22       bit of background.

23               Probably all of us have some  
24       acquaintance with real estate taxes. Usually  
25       you get a county/township tax bill in the

1 spring and you get your school tax bill in  
2 August. County/township taxes are due by  
3 December 31st. So are school taxes.

4 And the school taxes are a much  
5 bigger bill. So most of the delinquencies we  
6 see, I would say, probably across the  
7 Commonwealth, are on the school tax bill.  
8 It's the bigger bill and it comes later in the  
9 year.

10 During the first year, the year of  
11 collection, our elected tax collectors collect  
12 these bills.

13 We have a system, as you well know --  
14 you've legislated it -- for elected tax  
15 collectors. They collect the bills. They  
16 become delinquent on December 31st.

17 In 1947 this legislature passed the  
18 Real Estate Tax Sale Act. It did so in  
19 response to the collapse of tax collection in  
20 the depression.

21 There was no centralized in the  
22 counties. Each little tax collector, each  
23 municipality had to collect their taxes, and  
24 in the depression people weren't paying. So  
25 in response, and with careful thought, because

1 you didn't do it in until 1947, you passed the  
2 Real Estate Tax Sale Act, and it is a  
3 beautifully drafted act that has worked like  
4 clockwork since then.

5 The tax collectors make a return.  
6 That means they give all their original  
7 records to the tax claims bureau after  
8 December 31st.

9 Now the tax collectors are not  
10 allowed to touch those taxes. They're not  
11 allowed to collect them. The tax claim bureau  
12 can't tell what's owed and what's not if  
13 somebody else is collecting. So all the  
14 delinquencies go into the tax claim bureau and  
15 the tax claim bureau collects the taxes.

16 In the first year it's really a  
17 process of notices and in the second year,  
18 September of the second year that the tax  
19 claim bureau has had the taxes, they go to  
20 upset sale.

21 Now. I would ask you to look at the  
22 bill because I think this is -- I have some  
23 critically important things to tell you and  
24 this is one of them.

25 If we look at Page 23 of the bill,

1 you have been told that one of the advantages  
2 of private collection is that private  
3 collectors can get out of that almost two year  
4 delay.

5 First, let's question whether or not  
6 people who can't pay their taxes perhaps  
7 should be given some period of time since this  
8 lien is going in front of their mortgage. And  
9 18 months may not be too long. In the sped-up  
10 world we live in, maybe it is. But 18 months  
11 may not be too long.

12 On page 23 -- I'm sorry. I'm going  
13 to read to you because I think it's important  
14 we do this slowly. The page before it  
15 addresses taking the property to sale. The  
16 page before it says -- this is the municipal  
17 lien act here in this bill, and this is  
18 language right from the existing act.

19 The page before it says school  
20 district or taxing district gets its lien and  
21 then it's going to take the property to sale.  
22 Read here.

23 In case the property not be sold for  
24 a sum sufficient to pay all taxes and  
25 municipal claims, together with the cost

1       thereon, the plaintiff -- that's the taxing  
2       district -- in any such claim may postpone the  
3       sale -- I'm going to skip the new language --  
4       without payment of costs and file his petition  
5       setting forth that more than one year has  
6       elapsed since the filing of his claim. That  
7       he has exposed the property to sheriff's sale  
8       and was unable to obtain a bid sufficient to  
9       pay the upset price.

10               That sale provision in your existing  
11       municipal tax lien act is precisely the same  
12       as the RETSL sale provision. The only  
13       difference is this: It doesn't say 18  
14       months.

15               What it says is, first, take the  
16       property to upset sale. Second, if you don't  
17       sell it at upset sale, petition a judge for a  
18       judicial sale and tell the judge that you  
19       filed your lien a year ago.

20               They're not doing that. You just  
21       heard the city of Allentown tell you what they  
22       do is they file a writ of execution. They do  
23       that just like any other money judgment.

24               The third-party collectors right now,  
25       at least some of them, if not all of them, are

1 skipping this process. And that's why they  
2 can tell taxing districts we'll do this much  
3 faster. You've built an upset sale, followed  
4 by a judicial sale, into this law. And this  
5 is one of many examples I'm going to tell you  
6 about, how these third-party collectors who  
7 are private firms, unregulated, are running  
8 amuck among consumers right now.

9 Now, let's go back to why we brought  
10 our lawsuit. We didn't bring our lawsuit for  
11 this reason, and it wasn't until recently that  
12 we figured out that that was happening.

13 The reason we brought our lawsuit was  
14 this. When third-party collectors started to  
15 market themselves to taxing districts, they  
16 told the taxing districts, you tell your tax  
17 collectors not to make any return to the tax  
18 claim bureau. No returns.

19 In our trial we discovered the  
20 records were in the basement and in a back  
21 file cabinet of the two school districts.  
22 They weren't using them. They took them away  
23 from the bureau to prevent the bureau from  
24 getting commissions.

25 Those returns are a return of

1 delinquencies only, but it is the absence of  
2 information that lets the tax claim bureau  
3 know something important, and this is what it  
4 means.

5           When tax collectors make their  
6 returns they're telling the bureau who is  
7 delinquent. It's about a five percent rate of  
8 delinquency across the Commonwealth, give or  
9 take. Certainly more blighted areas have  
10 higher levels of delinquency. The rate of  
11 delinquency hovers around five percent.

12           So when the tax collectors make the  
13 return to the bureau, the bureau knows which  
14 five percent of the people have not paid on  
15 time. By default they know which 95 percent  
16 have paid on time.

17           Why is that important? In every real  
18 estate transaction in every one of these  
19 taxing districts that turn to private  
20 collectors, mom and pop who paid their taxes  
21 on time all their lives now could not get  
22 proof of the currency of their taxes at the  
23 time they went to refinance or sell their  
24 property.

25           And that's why we brought our



1 lawsuit. Because when the tax collectors were  
2 told don't make any returns to the bureaus,  
3 the bureaus didn't just not know who had  
4 delinquent taxes, the bureaus knew nothing.

5 We could always walk into the tax  
6 claim bureau and pay \$5 and get a tax cert.  
7 We in the title industry call them zero, zero,  
8 zero certs. Ninety-five percent of them say  
9 county zero, township zero, school zero.  
10 Because the people have always paid on time.

11 And it's three years of zero, zero,  
12 zeros, and then our underwriters will insure.  
13 We couldn't get any of it. Nothing.

14 Here's what we had to do. We had to  
15 pay \$25 to Portnoff Law Associates or 50 if we  
16 needed the information in 24 hours for every  
17 man jack who had to go to closing.

18 Now this legislature has addressed  
19 legislation on notary fees to control notary  
20 fees at real estate closings. You add a  
21 dollar to every real estate closing across the  
22 Commonwealth and you're making millions. Add  
23 25. Add 50.

24 That's why we sued. We sued because  
25 mom and pop, who paid their taxes all their

1 live, when we went to closings, we had to pay  
2 a private law firm \$25 for a fax back that  
3 said zero, zero, zero.

4 The school districts didn't get any  
5 of that money. The bureaus didn't get any of  
6 that money. The public records became a body  
7 of profiteering, and that's why we sued.

8 We sued, and we said this. Real  
9 Estate Tax Sale Law says these records all  
10 belong in the bureau so we can walk in and do  
11 what some title agents call self-certify.  
12 Meaning you send your employee over who looks  
13 at the file and fills out a form and puts it  
14 in your file. If you trust your employee,  
15 maybe you do that. Or we walk over, send the  
16 employee who maybe our underwriter just  
17 insists on it, pays \$5 to the bureau gets back  
18 the zero, zero, zero certification.

19 Judge Vican said, of course, you're  
20 entitled to that. These are public records  
21 that belong in the tax claim bureau. And he  
22 required that the records be returned to the  
23 tax claim bureau.

24 The school districts appealed. They  
25 never had any skin in the game because it is

1 absolutely undisputed that Portnoff Law  
2 Associates paid all their attorneys' fees all  
3 the way through this litigation, including  
4 right up to the contempt and through the  
5 contempt.

6 So the school districts haven't  
7 regulated, frankly, their own agent. We won  
8 the case. It went up to the Commonwealth  
9 Court. The Commonwealth Court on its  
10 initiative, without any request from us, heard  
11 the case en banc.

12 They saw right away it was an issue  
13 of statewide importance. We could have  
14 piecemeal litigation across the state. They  
15 sat en banc.

16 They thoroughly affirmed Judge  
17 Vican's decision and said public records  
18 belong in the bureau and the pay-off statement  
19 you will need from the third-party collector  
20 has to comply with the Right To Know Act. It  
21 has to be given for free or at cost.

22 A fax costs maybe two or three  
23 cents. Frankly, it costs less than it would  
24 cost to collect it.

25 So effectively Judge Vican's decision

1 says this. The records go to the bureau. The  
2 bureau is back in a position to certify.

3 And let me explain. You -- we will  
4 need pay-off statements from third-party  
5 collectors for this reason. These are dual  
6 acts.

7 The real estate tax claim -- the Real  
8 Estate Tax Sale Law empowers the tax claim  
9 bureau to collect delinquent taxes at it's  
10 18-month pace and the amendments to the MCTLA  
11 create another avenue for private collection  
12 that is faster because these liens are being  
13 filed and writs of execution are being filed  
14 before your double sale process. So it is  
15 faster.

16 We in the title industry recognize,  
17 as long as that's lawful, we need two  
18 pay-offs. We need to go to the tax claim  
19 bureau and get a certification from them, and  
20 in five percent of the cases we're going to  
21 see a delinquency.

22 Now, we need to contact Portnoff Law  
23 Associates and get a pay-off amount because  
24 we're going to need the pay-off amount. The  
25 tax claim bureau is not going to have it.

1                   Judge Vican's decision effectively  
2                   says that when they give that pay-off amount  
3                   they have to give it at their cost of  
4                   transmission.

5                   Right now none of that is happening.  
6                   It's not happening in either Monroe County or  
7                   elsewhere. The decision, although it is an en  
8                   banc decision of the Commonwealth Court, is  
9                   not being followed outside Monroe County, and  
10                  it's being marginally followed in Monroe  
11                  County.

12                  We're under a confidentiality order  
13                  of the court right now. We had a hearing date  
14                  last week. We were due to go to hearing  
15                  tomorrow. I can't speak about the status of  
16                  the case except to say that the judge is  
17                  actively involved and has imposed a  
18                  confidentiality order on us.

19                  Many of these properties are pushed  
20                  to sale by third-party collectors. They don't  
21                  go to sale because people pay to save their  
22                  homes and the sales don't actually take  
23                  place.

24                  But there's been more than 2,000  
25                  sales come through Monroe County. I looked at

1 the sheriff's figures. They've got 1100 on a  
2 chart for one year, over 1100 for another  
3 year.

4 The aggressive early scheduling of  
5 the sale produces payments. It absolutely  
6 does. But let's look -- I just ran some  
7 numbers, and I'm not very good at math or I  
8 probably would have been a thoracic surgeon.  
9 I went to law school because I couldn't go far  
10 in math.

11 Let's say we have a \$600 tax bill and  
12 it goes to the tax claim bureau. Sixty  
13 dollars' penalty. Ten percent penalty. So as  
14 of December 31st when you go delinquent on  
15 that \$600 bill, you're going to have a \$60  
16 penalty go on top of it. The tax claim bureau  
17 is going to put \$60 in interest on it.

18 By my calculations we're up to \$720.  
19 The tax claim bureau is going to impose a five  
20 percent commission. 36 bucks. And so school  
21 districts are going to get \$684 on a \$600 tax  
22 bill, because they got their penalty, their  
23 interest, minus the commission of the tax  
24 claim bureau.

25 A \$600 tax bill became a \$684 payment

1 to the taxing district when collected. If it  
2 goes into a second year there's not more  
3 penalty but there's more interest.

4 Third parties are going to get the  
5 whole \$600 tax bill, of course, plus the  
6 penalty, plus the interest. We're up to 720.  
7 That's what they're going to give to the  
8 school district, 720.

9 In the meantime they're going to make  
10 a boat load of money on tax fees from every  
11 taxpayer in the district who has to refinance  
12 or sell a property, who was never delinquent,  
13 and that taxpayer on the \$600 bill may pay 11  
14 or \$1200.

15 At our trial Michelle Portnoff  
16 testified that in three-and-a-half years of  
17 collection her firm made \$1.2 million in legal  
18 fees in Monroe County. That's two school  
19 districts.

20 That was her testimony. The  
21 transcript is here in the room for you to  
22 see.

23 And so we acknowledge that  
24 third-party collection is part of the law and  
25 that that's not going to change and doesn't

1 necessarily have to change.

2 But our decision from the  
3 Commonwealth Court is stare decisis and it's  
4 not being followed by the main collector  
5 outside our county. It is not. And it's  
6 not -- it's marginally being followed in our  
7 county.

8 What does that tell you? Here's what  
9 we learned. Government is open. Government  
10 is open and accountable, and the clerks in the  
11 tax claim bureau have absolutely no profit  
12 motive. So they're not going to put interest  
13 on interest, or interest on top of attorney's  
14 fees or interest on penalties. They're --  
15 they're going to treat people differently.

16 This legislature essentially  
17 introduced a profit motive into the collection  
18 of real estate taxes by authorizing third  
19 parties to do it.

20 And what we've learned, and what I  
21 hope we can help you see, is that we -- we  
22 can't be the watchdog.

23 My client is a nonprofit member  
24 association. The judges have given us little  
25 assurance he's going to give us attorney fees,



1 to tell you the truth. He did that in open  
2 court, so I can say that without violating the  
3 confidentiality.

4 School districts paid nothing because  
5 Portnoff paid everything for them, and the  
6 county just pulled in \$1.6 million because it  
7 did grab -- essentially recouped all its  
8 commissions. It took them out of current  
9 payments out -- to school districts and it did  
10 so saying you broke the law.

11 RETSL works. Government does some  
12 things very well. Keeping public records is  
13 an essential function of government.

14 If you make these liens powerful  
15 liens and you give third parties, who have a  
16 profit motive, the power to collect them, then  
17 our request is that you regulate them because  
18 we can't afford to continue to be the primary  
19 watchdog.

20 MR. EFFNER: Yes. Just to emphasize  
21 the point that Jane just made, the action --  
22 excuse me. The action that my organization  
23 initiated in Monroe County was -- is what is  
24 known as a mandamus action. We were not  
25 seeking damages. The only thing we were

1 seeking was a court order compelling both the  
2 public entity and the private collector,  
3 third-party collector, to abide by the law.

4 That litigation started in Monroe  
5 County. Went up through Commonwealth Court  
6 where we won again. Was appealed  
7 unsuccessfully -- or rather a petition for  
8 appeal was filed unsuccessfully with the  
9 Supreme Court in Pennsylvania.

10 This has cost my organization tens of  
11 thousands of dollars. We are not in a  
12 position to continue bringing these types of  
13 actions simply because there is no teeth in  
14 the current proposed law that would oversee  
15 the actions of private third-party  
16 collectors.

17 There are provisions within the bill  
18 that we find to be admirable, positive.  
19 Section 26, particularly, of the bill, known  
20 as the certification section, creates for the  
21 first time a statutory mandate for a tax  
22 certification tied to provisions that, if the  
23 information provided in the certification is  
24 inaccurate, that the taxing authority is bound  
25 by those provisions and cannot assert --

1       assert a lien against real estate in the hands  
2       of a third-party purchaser who has relied on  
3       that certification when they purchased the  
4       property.

5               That doesn't mean they can't -- the  
6       taxing authority cannot still continue to  
7       pursue the party against whom the taxes are  
8       owed. It's simply means that they cannot,  
9       after the fact, assert a lien against the  
10      property in the hands of another party when  
11      that other party relied upon the  
12      certification.

13             The reason that we brought this  
14      action, the overriding reason that we brought  
15      this action in Monroe County, was to get the  
16      public records back in the public domain.

17             We wanted the public records, the tax  
18      records, to be maintained for the benefit of  
19      the public and to be accessible by the  
20      public.

21             The certification section contained  
22      in Section 26 of the bill goes a long way to  
23      accomplishing that fact.

24             In point of fact, I know the county  
25      organization is not overly enamored of it, but

1 we believe that, and have encouraged the  
2 counties, recommended to the counties, that  
3 when private collectors are involved, that  
4 they post on the county website those private  
5 collectors who are acting on behalf of  
6 municipalities so that members of our industry  
7 can simply go to the county website and find  
8 out who the private collector is for a  
9 particular taxing district.

10 There are provisions, however, within  
11 the bill that we find to be troublesome.  
12 Specifically, Section 42 of the bill, which  
13 would give taxing authorities a free pass on  
14 RETSL.

15 We believe that it is reasonable to  
16 compensate the counties for operating county  
17 central taxing office and for maintaining the  
18 records in question.

19 We do not believe that a five percent  
20 commission, regardless of whether the county  
21 office has collected those taxes or those  
22 taxes have been collected by a private tax  
23 collector, is unreasonable.

24 They have obligations in maintaining  
25 the office and I think those -- we think those

1 obligations should be paid and should continue  
2 to be paid through that five percent  
3 commission.

4 Section 43 of the bill to the extent  
5 that would make certain provisions within 777  
6 retroactive creates to us grave concern. The  
7 end result of those retroactive provisions  
8 would be to nullify all of the actions that  
9 the Pennsylvania Land Title Association has  
10 taken in the courts to try and get the public  
11 records back in the public domain.

12 So that for the reasons of both  
13 Sections 42 and 43, Pennsylvania Land Title  
14 Association cannot continue -- cannot support  
15 777 as currently written.

16 Thank you for the opportunity  
17 extended to my organization. I'll entertain  
18 any questions.

19 CHAIRMAN LEVDANSKY: Thank you.  
20 Representative Scavello.

21 REPRESENTATIVE SCAVELLO: Good  
22 afternoon, and thank you for your testimony.

23 Supporters of -- we've been handed  
24 this -- it's a two-page, pretty much, synopsis  
25 of the bill and it shows the supporters and it

1 has here PA Land Title Association as  
2 supporting the legislation.

3 MR. EFFNER: Well, that is  
4 incorrect. I don't know who prepared that --  
5 that item that you're looking at.

6 REPRESENTATIVE SCAVELLO: I collected  
7 the pen number as well.

8 MR. EFFNER: Yeah.

9 REPRESENTATIVE SCAVELLO: So I guess  
10 that's not accurate.

11 MR. EFFNER: We do not support the  
12 bill as currently written.

13 REPRESENTATIVE SCAVELLO: Attorney  
14 Maughan, could you please -- there was an  
15 article in yesterday's paper, in the Pocono  
16 Record, talked about the monies that were due  
17 to the county that I believe there's going to  
18 be a lawsuit now between the counties and  
19 school districts.

20 Is that the five percent that we're  
21 talking about?

22 MS. MAUGHAN: The article in the  
23 Pocono Record addressed the fact that the  
24 Monroe County Tax Bureau has, on its own  
25 initiative, withheld the five percent

1 commissions for 2002, '3, '4, '5, '6 and '7.  
2 Maybe not '7. Maybe just '02 through '06.  
3 Because the years that are the subject of our  
4 lawsuit are those years.

5 And they've taken the position  
6 they're entitled to that commission and \$1.6  
7 million is the amount of that commission,  
8 total for those years.

9 That, though, was based on the school  
10 district's estimate. Apparently -- my  
11 understanding is the county solicitor went  
12 back to correspondence or letters, testimony,  
13 positions the districts had taken about what  
14 they would lose if they paid commission.

15 Because the records came back to the  
16 tax claim bureau in a condition that the tax  
17 claim bureau is really struggling to figure  
18 out what's owed and what's not, they basically  
19 took the numbers the school districts had put  
20 on what they said they would lose to  
21 commissions.

22 REPRESENTATIVE SCAVELLO: So we still  
23 -- even though the judge's order is in place,  
24 we don't have accurate numbers in the county?

25 MS. MAUGHAN: No. And the tax claim

1 bureau director from Monroe County is here  
2 today but I think not testifying. But we do  
3 not -- there's an audit going on now because  
4 of the fact that the examination of the  
5 records as they came in disclosed a number of  
6 problems. And so independent auditors  
7 apparently have been brought in, or county  
8 auditors. I'm not sure.

9 REPRESENTATIVE SCAVELLO: Thank you.

10 MR. EFFNER: Representative Scavello,  
11 if I could just make one additional comment  
12 directed to your question of me.

13 REPRESENTATIVE SCAVELLO: Uh-huh.

14 MR. EFFNER: Bearing in mind the  
15 efforts and expense that we have gone through  
16 in the litigation, to then support a bill that  
17 would undo that entire process would not make  
18 a lot of sense from anybody's perspective.

19 REPRESENTATIVE SCAVELLO: I just  
20 wondered, you know, because this has been  
21 handed out to all the members and I just  
22 wanted to clarify that.

23 Thank you.

24 MR. EFFNER: Yeah.

25 CHAIRMAN LEVDANSKY: Thank you, Jon.



1 Representative Ellis.

2 REPRESENTATIVE ELLIS: Just so I  
3 understand, you're not -- you said there are a  
4 lot of things in there that you supported.

5 If Section 42 is eliminated, would  
6 then the position of land title association be  
7 to support it?

8 MR. EFFNER: 42 and 43, yes.

9 REPRESENTATIVE ELLIS: And 43?  
10 Okay.

11 And you had made the statement that  
12 you think five percent is a reasonable  
13 collection amount. Isn't it reasonable to  
14 assume that if they are using a third-party  
15 collector they're not quite doing the same  
16 amount of work as if they're collecting it  
17 themselves?

18 Would you support a two percent or a  
19 one percent?

20 MR. EFFNER: The association -- my  
21 association -- and bearing in mind I'm  
22 speaking on behalf of my association now -- my  
23 association does not take a position on that.

24 We believe that it is not  
25 unreasonable that the counties derive a

1 commission, even on those -- those matters  
2 that -- where they have not been the  
3 collecting entity.

4 The point we're trying to make is,  
5 whether it's five percent or some other  
6 percent, we believe that it's not unreasonable  
7 and is, in fact, necessary to maintain the  
8 county system, to maintain the county office  
9 that 777 envisions, that it's appropriate --

10 REPRESENTATIVE ELLIS: Okay.

11 MR. EFFNER: -- and necessary that  
12 the county be able to obtain that.

13 REPRESENTATIVE ELLIS: But it's not  
14 the position of your association it has to be  
15 five percent?

16 MR. EFFNER: No.

17 REPRESENTATIVE ELLIS: Okay.

18 Thank you, Mr. Chairman.

19 CHAIRMAN LEVDANSKY: Chairman Nickol.

20 REPRESENTATIVE NICKOL: You gave us a  
21 good history of the two acts. I'm just  
22 curious. I have learned up here over my 18  
23 years that Philadelphia and Allegheny County  
24 are somewhat unique and the rules are  
25 different.

1                   But why weren't Philadelphia and  
2 Allegheny County ever put under the Real  
3 Estate Tax Sales Law to begin with, number  
4 one; and, number two, I understand -- did  
5 Philadelphia and Allegheny County prior to  
6 1996 collect delinquent taxes under the 1923  
7 law?

8                   MS. MAUGHAN: Sir, I don't know. I  
9 was born in Philadelphia but haven't lived  
10 there for many years. Graduated from  
11 Villanova Law School and worked in the city.

12                   My understanding is they collect  
13 through their treasurer's office and so does  
14 Allegheny. And I really have not focused on  
15 them in our case because our case only applies  
16 to the RETSL and that does not apply to those  
17 two counties.

18                   So I don't know.

19                   REPRESENTATIVE NICKOL: Okay. Fair  
20 enough.

21                   With regard to -- I'm not sure how  
22 familiar you are with Pennsylvania's new open  
23 records law which was just passed.

24                   MS. MAUGHAN: Somewhat.

25                   REPRESENTATIVE NICKOL: Will that

1 change the status of things prospectively when  
2 that goes into effect on January 1st of next  
3 year in terms of access to tax records that  
4 heretofore school districts or others might  
5 not have been sharing?

6 MS. MAUGHAN: I think it would not.  
7 Judge Vican's order specifically references a  
8 section of the act that was amended. The  
9 amendments of the act address issues of cost  
10 and establish the Office of Open Records and  
11 gives that office the authority to set certain  
12 values.

13 The existing law, prior to the  
14 amendment, said reasonable costs and case law  
15 analyzed reasonable costs to mean costs. That  
16 you couldn't charge more than it actually cost  
17 you to produce -- reproduce the record.

18 Under the new law, it's possible that  
19 the Office of Open Records could expand the  
20 term reasonableness, but I -- there's  
21 absolutely no change that real estate tax  
22 records are included in public records.

23 REPRESENTATIVE NICKOL: Thank you.

24 CHAIRMAN LEVDANSKY: Any other  
25 questions from members?

1                   With that, Mr. Effner and  
2                   Ms. Maughan, we just, you know, appreciate  
3                   your testimony and your insights have been  
4                   very helpful.

5                   MS. MAUGHAN: Thank you.

6                   MR. EFFNER: Thank you.

7                   CHAIRMAN LEVDANSKY: Thank you.

8                   Next I'd like to call Jay Himes. Jay  
9                   is the executor director of PASBO, the  
10                  Pennsylvania Association of School Business  
11                  Officials.

12                  Jay, welcome.

13                  MR. HIMES: Thank you, Mr. Chairman.

14                  I am Jay Himes. I want to thank  
15                  Representative Levdansky, Representative  
16                  Nickol, all the members of the committee.

17                  PASBO is a 501(c)(3) organization.

18                  We have 2,000 school members that are  
19                  noninstructional administrators in our public  
20                  education system. They are noninstructional,  
21                  meaning they provide services, such as  
22                  finance, facilities, transportation, food  
23                  service, technology, purchasing,  
24                  communications, those things that support  
25                  classroom learning and hopefully help student

1 achievement.

2 Let me deviate from my written  
3 comments for a second just to take you to the  
4 attachment in the back of my prepared  
5 remarks. Attachment A shows you the current  
6 amount of school real estate taxes in the  
7 first column, and then has some additional  
8 columns showing you the amount of delinquent  
9 tax collections.

10 Now, I should clarify that those  
11 delinquent tax collection figures would be  
12 both from real estate and, in fact, can be  
13 from Act 511 sources as well. So they would  
14 represent all the delinquencies.

15 But obviously since in many cases the  
16 local property taxes is a significant source  
17 of school district finance, that is most of  
18 the delinquent tax collections, but there  
19 would be some 511 taxes in there as well.

20 On the last page of that printout  
21 shows you the big numbers statewide, \$559  
22 million collected in delinquent taxes across  
23 the board by all school districts.

24 If you use that as a percentage of  
25 real estate taxes, that would show you about

1 5.92 percent. If you took it as a percent of  
2 collection, of all taxes, you would see that  
3 delinquent taxes represent close to five  
4 percent, 4.78 percent.

5 To some degree this may be an  
6 understating of the extent of the problem, but  
7 559 million is certainly a big number.

8 To give it some context, we're going  
9 to see a distribution as a result of the new  
10 gaming law of property tax relief funds to  
11 school districts of just over \$600 million.  
12 So in terms of some relevance, it's a big  
13 number. No question. And we think this is a  
14 big problem and a big issue.

15 Again, this probably understates the  
16 problem to a degree because this shows you  
17 what's been collected. It doesn't show you  
18 what hasn't been or couldn't be collected.

19 And, again, this would show you the  
20 collections for a specific fiscal year. This  
21 is the 2005/'06 fiscal year from data from the  
22 Department of Education.

23 On Page 3 of my testimony, again, in  
24 attempting to set the stage of the  
25 significance of the problem, that chart just

1 shows you a look at what happens or  
2 potentially could happen in school budgets  
3 based on property tax revenues and a decline  
4 in the property tax collection rate of two  
5 percent.

6 I think generally if you were going  
7 to benchmark and establish best practices of  
8 school districts in terms of collection that  
9 95 percent is a good benchmark of a very  
10 effective property tax collection system.

11 I think people would say that sort of  
12 the bottom end of that scale is in the 90  
13 percent range. People below 90 percent are  
14 having significant issues in terms of the  
15 collection process and they're having a  
16 significant financial impact upon the  
17 district.

18 But even at 95 percent, losing a  
19 couple percent, depending upon the amount of  
20 your property tax revenues, has a significant  
21 impact on the budget. Particularly with --  
22 with Act 1 obviously, a change in the  
23 collection rate can have a very real budget  
24 impact. A two percent drop in collection  
25 could eliminate a significant portion of the



1 property tax millage cap that's in place under  
2 the index under Act 1.

3           Hopefully this aspect of our  
4 testimony reflects the significant  
5 consequences of delinquent tax collection and  
6 further demonstrates why our members are  
7 supportive of legislative effort to make the  
8 process more efficient.

9           There are real dollars involved. And  
10 it's incumbent upon schools to ensure that all  
11 property taxes levied are collected, at least  
12 all that's feasible to be collected.

13 Certainly there may be a small percentage of  
14 taxes that cannot be collected, but before new  
15 taxes are levied or existing taxes increased  
16 all possible steps should be taken to collect  
17 those taxes in place.

18           We would encourage as much  
19 flexibility as possible to expand the powers  
20 of schools to collect delinquent property  
21 taxes and other taxes as well.

22           Until the past several years  
23 virtually all delinquent property taxes were  
24 subject to the provisions of the Real Estate  
25 and Tax Sale Law of 1947, as you've heard, and

1 under RETSL, again, as you've been indicated,  
2 tax claim bureaus do exist in every county,  
3 except Philadelphia and Pittsburgh. And  
4 historically and traditionally what happened  
5 is schools levied their taxes, sent them out  
6 in their tax bills in July, you had a discount  
7 period, you had a face period, then you had a  
8 penalty period, and at the end of the  
9 calendar, December 31, counties, under the  
10 provisions of the Real Estate Tax Sale Law,  
11 established a some date certain which said,  
12 school districts, hand over your delinquent  
13 tax -- property taxes for collection and then  
14 that process started.

15 At the top of Page 4 our concern has  
16 been about the efficiency of the process. I  
17 think some of our members would say it's  
18 extremely slow as established by the Real  
19 Estate Tax Sale Law.

20 You turn those taxes over and that's  
21 the spring of the year following the beginning  
22 of the school fiscal year on July 1, but any  
23 sales in that process may not have occurred  
24 for two years, if at all.

25 RETSL requires two types of county

1 sales. As I think you previously heard, the  
2 upset sale would recover the cost of all liens  
3 on the property and later the tax sale, when  
4 the property is sold at whatever price a  
5 bidder is more or less willing to pay.

6 The long-term process may not result  
7 in full payment of any delinquency as well for  
8 a property that is sold at tax sale. As a  
9 result the school district may have dutifully  
10 waited years for perhaps little or even no  
11 return.

12 More so we would think that the tax  
13 claim bureau process can be the subject of  
14 some illegitimate efforts to protect  
15 taxpayers. A belief that perhaps there is a  
16 deliberate effort to extend the process to  
17 make sure that that ultimate collection never  
18 happens by making partial payments and really  
19 extending the process out for perhaps long  
20 periods of time in order to avoid the actual  
21 payment.

22 So we're concerned that in an effort  
23 to make sure there is due process for everyone  
24 we've given some people a loophole in order to  
25 assure that there isn't ultimately a sale and

1 hence no collection with delinquent taxes.

2 And, obviously, no matter how we do  
3 it there's going to be a fee somewhere,  
4 someplace, depending upon who is doing it.  
5 Nobody is going to collect delinquencies and  
6 not establish a fee in the process. It's  
7 either going to be the five percent and other  
8 fees at the county tax claim bureau level or  
9 it's going to be fees paid to third-party  
10 independent collectors.

11 Our members believe, and the reason  
12 for our support of Senate Bill 777, is that  
13 the Municipal Claim and Tax Lien Law allows  
14 for an effective and more efficient delinquent  
15 tax collection process.

16 Under the Municipal Claim and Tax  
17 Lien Law the process moves rapidly, in our  
18 opinion, for the benefit of the taxing  
19 jurisdiction, and we would say the taxpayer.  
20 The shorter time period between the end of the  
21 calendar year, in the case of school taxes,  
22 and collect activity minimizes the additional  
23 costs and fees that are added to the original  
24 delinquent amount.

25 There are several remedies for

1 delinquent tax collections that are utilized  
2 by all levels of government. The Pennsylvania  
3 Department of Revenue uses wage garnishment,  
4 attaches collection fees on delinquent taxes,  
5 and publishes names of delinquents on the  
6 Internet for sales tax purposes.

7           The Municipal Claim and Tax Lien Law  
8 allows for various methods of collection  
9 enforcement but requires that the process  
10 start with a notice and an opportunity for  
11 payment before any attorney fees are imposed  
12 on the delinquent taxpayer. Payment of the  
13 outstanding tax is the objective, not  
14 additional enforcement actions, which takes  
15 more time and eventually impose additional  
16 fees.

17           As members of this committee well  
18 know, local government in Pennsylvania is very  
19 local, subject to any number of varying  
20 demographic, geographic, economic, cultural  
21 and historic circumstances and factors.

22           It is difficult to identify a  
23 one-size-fits-all approach to any solution for  
24 more than 3,000 political subdivisions in a  
25 diverse state.

1           So we have different statutes that  
2           give local governments options, and they have  
3           been exercised differently in different parts  
4           of the Commonwealth.

5           We support the option to choose RETSL  
6           or MCTLL by school district decision-makers.  
7           In some counties there continues to be an  
8           effective working relationship between local  
9           governments and the county tax claim bureau.  
10          In other counties there has been much more  
11          activity. You heard of one case recently just  
12          in the previous testifiers where a lot of  
13          third-party collection is taking place.

14          We applaud the General Assembly for  
15          looking at Senate Bill 777 to allow these two  
16          statutes to co-exist. The one-size-fits-all  
17          approach is just not appropriate public policy  
18          when so much money is at stake for taxing  
19          jurisdiction and taxpayers.

20          I think the General Assembly has  
21          already recognized the scope of this issue and  
22          the importance of providing different tools  
23          for local governments to address delinquent  
24          taxes. You've approved legislation that has  
25          been signed into law that provides the tool to

1 sell tax liens, a 1998 statute Governor Ridge  
2 signed into law.

3           Essentially, again, the mechanism  
4 provides taxing bodies an option to make a  
5 return on their taxes in exchange for a  
6 third-party collection process.

7           A mechanism, I should say, that's  
8 just not particular to Pennsylvania. It's  
9 been used in other states as well.

10           No matter which process is chosen by  
11 school district decision-makers, a delinquency  
12 will be subject to fees for collection.  
13 Unfortunately it may seem unfair to provide  
14 additional tax burden on taxpayers who do not  
15 pay their taxes on a timely basis. There may  
16 be legitimate and compelling reasons for  
17 nonpayment of taxes.

18           Our members, and certainly other  
19 local officials, understand the dilemma some  
20 taxpayers face. In order to address  
21 legitimate financial dilemmas, there are  
22 payment plan opportunities for either a Real  
23 Estate Tax Sale Law or Municipal Claim and Tax  
24 Lien Law collection process to address those  
25 temporary adverse financial circumstances.

1           On the other hand, it is difficult to  
2           justify an increase in the tax burden to those  
3           who do make timely payments. Local officials  
4           must find a balance, recognizing both  
5           perspectives.

6           We support 777 for several reasons.  
7           We believe the General Assembly intended, and  
8           state appellate courts have upheld, the  
9           authority of local governments to utilize the  
10          Municipal Claim and Tax Lien Law for  
11          collection of unpaid real estate taxes.

12          The law is a vital and effective tool  
13          to address unpaid taxes. The version of  
14          Senate Bill 777 that passed the Senate allows  
15          the MCTLL and the Real Estate Tax Sale Law to  
16          exist in concert as options for governments.

17          In addition, the bill will provide  
18          clearer statutory language so all parties can  
19          provide -- will follow the process that  
20          hopefully will not be subject to further  
21          litigation.

22          Utilization of two different statutes  
23          for delinquent local real estate tax  
24          collection does create a need for a central  
25          clearinghouse for tax record purposes.



1           Senate Bill 777 does address this  
2           issue by requiring Municipal Claim and Tax  
3           Lien Law collectors to provide tax payment  
4           records to the county and preserve a single  
5           source of tax records for public access.

6           And I would add that I would also  
7           believe that under the new open records law  
8           those -- those tax certifications would be  
9           covered as well as an open record.

10           Thank you again for the opportunity  
11           to present our comments and I'd be glad,  
12           Chairman Levdansky, to respond to any  
13           questions.

14           CHAIRMAN LEVDANSKY: Jay, before I  
15           ask other members at the table, I just want to  
16           make sure I understand your -- your Attachment  
17           A.

18           The first column is the current real  
19           estate tax collected and then the next column  
20           is the delinquent taxes collected.

21           Is that second column, delinquent  
22           taxes collected, is that different from  
23           delinquent taxes owed?

24           MR. HIMES: Yes. Exactly.

25           CHAIRMAN LEVDANSKY: SO what is owed

1 is more than what is collected?

2 MR. HIMES: Perhaps. I think you're  
3 right. And the reason I don't know if you're  
4 right is that the way the Department of  
5 Education collected the '05/'06 data. It  
6 would be irrespective of -- of multiple years  
7 of delinquent tax. I mean you could  
8 conceivably have several years of collection  
9 built in there. So you don't know that.

10 But also don't know what the current  
11 collection rate may be or not be. So I think  
12 it's a good effort to show what that is, but  
13 not necessarily the 100 percent entirety of an  
14 absolute pure statistic.

15 CHAIRMAN LEVDANSKY: So this column,  
16 delinquent taxes collected, that's the amount  
17 that was actually collected which could be --  
18 which could be delinquent taxes collected over  
19 a period of several years?

20 MR. HIMES: Yes.

21 CHAIRMAN LEVDANSKY: Not just one?

22 MR. HIMES: Well, it's --

23 CHAIRMAN LEVDANSKY: It was collected  
24 in that one year?

25 MR. HIMES: Yes.

1           CHAIRMAN LEVDANSKY: But it could  
2 have been for delinquencies that accrued over  
3 several years?

4           MR. HIMES: Precisely.

5           CHAIRMAN LEVDANSKY: Okay. Thank  
6 you.

7           Any questions from members?

8           Representative Scott Boyd.

9           REPRESENTATIVE BOYD: Thank you,  
10 Mr. Chairman.

11           I unfortunately didn't have a copy of  
12 your written testimony, but you made some --

13           MR. HIMES: I'm sorry.

14           REPRESENTATIVE BOYD: -- some  
15 interesting -- I'll use the term loosely --  
16 but allegations that under the current  
17 provisions that the tax collection agencies  
18 who are responsible for collecting the taxes,  
19 not the third party, are actually giving  
20 people a pass on purpose and not aggressively  
21 pursuing people who haven't paid their taxes  
22 and -- and creating a mechanism whereby they  
23 wouldn't have to pay, I think was your words?

24           MR. HIMES: I was trying to point out  
25 that you can sort of stifle the process by

1 sort of going down the road of nonpayment till  
2 you actually get to a sale and then having the  
3 ability to make a partial payment to delay  
4 that sale. That was my intention.

5 I don't know if I misspoke, but  
6 that's -- my intention was to show how you can  
7 stifle the process and really negate the  
8 effort to collect delinquent taxes by making  
9 payments immediately before sales and then  
10 sort of starting the timetable all over again.

11 REPRESENTATIVE BOYD: Okay. So --  
12 but that's really a strategy that would be  
13 used by a taxpayer, not necessarily the agency  
14 that's responsible for collecting the tax?

15 MR. HIMES: Oh, exactly. Exactly.

16 REPRESENTATIVE BOYD: Okay. I -- it  
17 sounded in your testimony like you were  
18 accusing the tax collectors --

19 MR. HIMES: No.

20 REPRESENTATIVE BOYD: -- of  
21 encouraging that behavior --

22 MR. HIMES: No.

23 REPRESENTATIVE BOYD: -- and not  
24 aggressively --

25 MR. HIMES: No. If I stated that, I

1 misspoke. No. It's clearly a strategy on  
2 behalf of taxpayers to allow that process to,  
3 again, continue down the road for extenuating  
4 periods of time.

5 REPRESENTATIVE BOYD: Okay. And then  
6 a -- a follow-up question. In terms of the --  
7 let's call them fees or penalties. One  
8 testifier earlier said if you're late either  
9 with your county tax or your school district  
10 tax, there's a ten percent fee.

11 In point of fact, you get a two  
12 percent discount if you pay it by a certain  
13 time. You have face value by another time.  
14 And if you're a day late, you may as well wait  
15 until the 31st of the year because you're  
16 charged the full ten percent.

17 So there's really already built in a  
18 ten percent fee on top of face value beyond  
19 the five percent fee that would then be  
20 assessed back by the agency that collects the  
21 taxes.

22 MR. HIMES: Yes.

23 REPRESENTATIVE BOYD: Okay. I just  
24 wanted to make sure that I was correct with  
25 the prior testimony. Thank you.

1 MR. HIMES: You're welcome.

2 CHAIRMAN LEVDANSKY: Chairman Nickol.

3 REPRESENTATIVE NICKOL: Thank you. I  
4 have often heard the city of York tell  
5 legislators from York County when we have  
6 meetings that one of the reasons their school  
7 taxes are so much higher, one of the reasons  
8 is delinquent taxes

9 And I see on your chart that they  
10 have a rate of 27.10 percent, which is four  
11 times as high as the next highest school  
12 district in York County.

13 Is that a fair categorization that  
14 delinquent taxes have cost all other taxpayers  
15 who are paying on time?

16 MR. HIMES: We -- we would say  
17 absolutely. The tax to RE that you're  
18 referring to, Representative Nickol, we just  
19 sorted the delinquencies collected as a  
20 percentage of total taxes to show those  
21 districts which I think amounts to 16 percent  
22 of the districts that have at least delinquent  
23 taxes in the amount of ten percent of their  
24 total taxes collected.

25 So clearly when you start getting

1 into those double digits -- and York's well  
2 beyond that -- you have a detrimental impact  
3 to other taxpayers because they're essentially  
4 carrying the large percent of delinquent taxes  
5 that are part of the school district budget.  
6 Without question.

7 REPRESENTATIVE NICKOL: What's really  
8 a mystery to me -- and I don't know who  
9 collects through third parties and who doesn't  
10 or how diligent local efforts are. I have no  
11 idea.

12 But when I look at Harrisburg at  
13 19.46, Reading at 24.8, York at 27.10,  
14 Johnstown 28.16, Altoona 18.70, then look at  
15 Allentown at 5.87, Bethlehem at 3.50, and  
16 Lancaster city at 6.20, those are huge  
17 differences of quite a significant meaning  
18 probably to other taxpayers in those  
19 districts.

20 I'd be very curious if there's any  
21 correlation between this and which tax  
22 collection law the entities use.

23 Thank you.

24 CHAIRMAN LEVDANSKY: Jay, thank you.  
25 Thank you for your testimony, your insights.

1 MR. HIMES: Thank you.

2 CHAIRMAN LEVDANSKY: Next I'd like to  
3 call Mr. John Bowden, the business  
4 administrator of the -- I don't want to  
5 butcher the pronunciation --

6 MR. BOWDEN: Pequea.

7 CHAIRMAN LEVDANSKY: Pequea --

8 REPRESENTATIVE BOYD: Pequea.

9 CHAIRMAN LEVDANSKY: -- School  
10 District and Michael Levin, the general  
11 counsel of the Pennsylvania School Boards  
12 Association.

13 MR. LEVIN: Okay. Thank you. I'm  
14 Mike Levin. I'm general counsel to the  
15 Pennsylvania School Boards Association.

16 Initially allow me to thank you for  
17 giving me the opportunity to make a  
18 presentation and provide this testimony.

19 Very briefly with respect to my  
20 background, I've been representing public  
21 school entities, intermediate units, Vo-techs,  
22 and school districts across the Commonwealth  
23 for over 32 years now.

24 Not only am I general counsel to  
25 PSBA, I'm also general counsel of the



1 Pennsylvania Association of Elementary and  
2 Secondary Principals, and I represent a number  
3 of entities that have been formed by different  
4 education groups, a couple of them with Jay  
5 Himes.

6 So I am an advocate for public  
7 education, and let me say that I do not need  
8 and no one needs to tell you folks how  
9 important it is to have a properly functioning  
10 tax collection system.

11 Because if we don't have a properly  
12 functioning tax collection system the whole  
13 system falls apart. We can't borrow funds at  
14 competitive rates. We can't pay all the folks  
15 who deserve to be paid.

16 Briefly, I'd like to comment about  
17 the litigation in Monroe County and what that  
18 means in my opinion. That as a result of the  
19 decision, the legislation needs to be  
20 changed.

21 On February 2, 2006 the Court of  
22 Common Pleas entered a mandamus order  
23 compelling the two school districts, Pleasant  
24 Valley School District and East Stroudsburg  
25 Area School District to use RETSL to collect

1 taxes, allowing the districts also to use the  
2 Municipal Claims and Tax Liens Law.

3 The school -- I did not represent the  
4 school districts in that litigation in any  
5 way, shape, or form. Instead, the law firm --  
6 the Harrisburg law firm of McNees, Wallace,  
7 and Nurick, one of the top firms in  
8 Pennsylvania, did represent the school  
9 districts and did argue strenuously that the  
10 school districts had the option of using one  
11 law or the other and if you chose the  
12 Municipal Claims and Tax Lien Law you didn't  
13 have to use RETSL.

14 No court had previously held  
15 otherwise. This case was a case of first  
16 impression.

17 So it's not like the school districts  
18 were entertaining a frivolous concept or  
19 pursuing a frivolous legal position. It was a  
20 sound legal position, and the court had to  
21 determine how to read both statutes and their  
22 choices were essentially two. Either the two  
23 statutes have to be followed concurrently or  
24 you could elect which of the two statutes to  
25 use.

1                   And the courts, using the various  
2                   rules of statutory construction, chose the  
3                   position that you had to use the two  
4                   statutes.

5                   This case was then appealed to the  
6                   Commonwealth Court and in an en banc decision  
7                   the Commonwealth Court sustained the decision  
8                   saying that a municipality, a taxing  
9                   authority, that chooses to use the Municipal  
10                  Claims and Tax Liens Act also must comply with  
11                  RETSL.

12                  Petition for allowance of appeal was  
13                  filed with the Pennsylvania Supreme Court. It  
14                  was ultimately denied, I believe, in October  
15                  or so of 2007.

16                  Petition for reconsideration was  
17                  filed but by November of '07 the orders became  
18                  final, the school districts were subject to  
19                  compliance with the orders, and the order to  
20                  which they were subject is a two-page order,  
21                  and I think this two-page order, if you  
22                  haven't seen it, we'll make sure we get a copy  
23                  as Exhibit A of why the legislation needs to  
24                  be amended.

25                  While the school districts and its

1 third-party tax collector were trying to  
2 determine how best to comply with the orders,  
3 and were making decisions as to what acts to  
4 take in order to comply, the plaintiffs in the  
5 litigation disagreed with the decisions, or at  
6 least some of the decisions that were made,  
7 and they filed a petition for contempt against  
8 the two school districts, against the two  
9 superintendents, as well as against the  
10 third-party tax collector, the Portnoff Law  
11 Associates, and Michelle Portnoff personally.

12 I was retained in February to  
13 retain -- to represent the two school  
14 districts and to represent the two  
15 superintendents in defense of the contempt  
16 proceedings whereby the way people were making  
17 arguments that the two superintendents, who  
18 have no involvement in delinquent tax  
19 collection but simply because they're the head  
20 of the organization, should be put in jail.

21 I frankly think that that's wrong. I  
22 don't think they're proper parties in the  
23 litigation but that's a different issue.

24 So my involvement in this began in  
25 February where I have been trying to defend

1 the school districts and the superintendents  
2 with respect to the contempt proceedings.

3 And, of course, the main issue in the  
4 contempt proceeding is are the school  
5 districts complying with the two-page order or  
6 are they not and what it's going to take in  
7 order to come into compliance?

8 Whatever lack of clarity the order  
9 may have -- and it arguably contains some  
10 ambiguities -- has certainly been resolved by  
11 the position of the parties and statements  
12 made in open court by the court.

13 And let me tell you how the court  
14 intends this to work since we now know we have  
15 to follow both laws.

16 The way the court intends this to  
17 work is the local tax collectors turn the --  
18 make returns, to use the technically correct  
19 term, to the tax claim bureau. And that  
20 return will include the delinquent taxes and  
21 then added are the penalties and interest.

22 In addition, since we're allowed to  
23 use Municipal Claims and Tax Liens Law, the  
24 school districts as the taxing authorities  
25 turn over the information to the third-party

1 tax collector.

2 And then what happens? The tax claim  
3 bureau wants to know nothing about the fees,  
4 interest, and attorney's fees that are allowed  
5 to be charged under the Municipal Claims and  
6 Tax Liens Law. They're only interested in  
7 what is under RETSL, the taxes, the charges  
8 under RETSL, the interest under RETSL, and, of  
9 course, their five percent fee.

10 So they want to have incomplete  
11 records. They don't want, under the current  
12 system, to have one-stop shopping even. They  
13 want to have -- and I believe Jane Maughan  
14 said that we're still going to have to go to  
15 the third-party collector.

16 That's true. Because the county tax  
17 claim bureaus are only going to take care of  
18 the RETSL charges, not the Municipal Claims  
19 and Tax Liens Law charges.

20 That's still going to accrue. That's  
21 still going to be within the delinquent tax  
22 collector under that law, whether it be a  
23 third party or whether the school district  
24 decides to do it in-house or the city decides  
25 to do it in-house.

1           So I'm not sure by keeping the  
2           current state of affair how we're stopping  
3           things.

4           In addition, the court order says  
5           that the school districts and their  
6           third-party collector are not allowed to  
7           accept payment of the taxes.

8           If a delinquent tax collector under  
9           this order sends the check for the taxes to  
10          the school district, under this court order we  
11          can't touch it. Send it back. Or send it  
12          over to the county. We're not allowed to take  
13          it.

14          Let me suggest to you that it is a  
15          bad practice, bad controls, no auditor is  
16          going to want to have more hands on the tax  
17          money than absolutely necessary, but under  
18          this order, the way it's being interpreted,  
19          what it says plainly, the school district  
20          says, don't pay us.

21          In addition, the way this is going to  
22          work is, because the tax -- the tax claim  
23          bureaus are keeping one set of books, the  
24          delinquent tax collector under the Municipal  
25          Claims and Tax Liens Law is keeping another

1 set of books, when the delinquent taxpayer  
2 goes to the county and says give me a  
3 certification, they're not giving them a  
4 certification of the entire amount. They're  
5 only giving them a certification of the RETSL  
6 amount.

7 And they're going to get a piece of  
8 paper to say, your lien is paid in full if you  
9 pay X number of dollars. Well, it's not paid  
10 in full if they pay X number of dollars,  
11 because they have to fall under the municipal  
12 claims act.

13 There's an argument or suggestion  
14 being made here, and outside of this room,  
15 that when the school districts, or other  
16 taxing authorities, like the city of  
17 Allentown, use Municipal Claims and Tax Liens  
18 Law to collect their taxes, then the public  
19 doesn't have the right for the records. Not  
20 true. The records are in the prothonotary  
21 under the Municipal Claims and Tax Liens Act.

22 I also wonder, you know, the -- the  
23 -- I heard testimony, at least I think I heard  
24 testimony, that when we go to the tax claim  
25 bureau they don't have all the records because



1 the records haven't been turned over  
2 previously.

3 Well, if the records aren't turned  
4 over to the tax claim bureau and you don't  
5 make your return in time, don't you lose your  
6 lien? And if you do lose your lien, I think  
7 you lose your lien.

8 I'm not a tax attorney. I represent  
9 tax entities. But if you do lose your lien,  
10 based the fact there's no record of any lien  
11 in the tax claim bureau, then what's the  
12 problem? You don't need anything else.

13 In addition, the benefits of the act  
14 to our clients. Because I was new to this  
15 case in February. I go meet my clients, say,  
16 you know, why -- why are you doing it? You  
17 know, why are we use using the third-party  
18 collector? Why aren't we using RETSL?

19 And the answer is easy. We get more  
20 money more quickly; therefore, we can reduce  
21 taxes to everybody else.

22 And another interesting phenomena as  
23 a result of using the Municipal Claims and Tax  
24 Liens Law is there's less delinquencies  
25 because people know that we're having an

1 aggressive tax collection process. So the  
2 delinquencies have gone down in these two  
3 school districts from what it was before they  
4 used a third-party collector.

5 So you're reducing delinquencies and  
6 with respect to delinquencies you're getting  
7 the money back faster and you're getting more  
8 money.

9 And then I guess the last thing that  
10 I would like to say is the school districts  
11 and the third-party collector -- and the  
12 fellow from the city of Allentown made note of  
13 this -- are willing to give installment plans  
14 and also hardship cases.

15 Monroe County tax claim bureau,  
16 they're not going to recognize all of those.

17 So what happens now when under the  
18 Municipal Claims and Tax Liens Law, the school  
19 district has entered into a hardship agreement  
20 and then the county collecting is going after  
21 collections?

22 Thank you very much. If you have any  
23 questions, I'd be happy to respond.

24 MR. BOWDEN: Thank you for having me  
25 here. My name is John --

1 CHAIRMAN LEVDANSKY: Excuse me.

2 Let's -- let's just break this up.

3 Any members have any questions?

4 REPRESENTATIVE SCAVELLO: Oh,  
5 certainly.

6 CHAIRMAN LEVDANSKY: Representative  
7 Scavello.

8 REPRESENTATIVE SCAVELLO: Mr. Levin.

9 MR. LEVIN: Levin.

10 REPRESENTATIVE SCAVELLO: Levin. You  
11 said Monroe County does not give installments  
12 plans?

13 MR. LEVIN: No. I said they would  
14 not honor the hardship plans or the  
15 installment agreements the school districts  
16 entered into under the Municipal Claims and  
17 Tax Liens Law.

18 REPRESENTATIVE SCAVELLO: Because if  
19 they do -- I know that they do on other tax  
20 bills.

21 Okay. You made a comment about, you  
22 know, the fact that they're able to collect  
23 the dollars much quicker. So maybe, you  
24 know -- and I'm planning to put an amendment  
25 on this bill, too -- see what you think -- to

1 have the county and the -- I'm all for private  
2 business, but I think they should all be  
3 acting off the same page, to give them both  
4 the same time spans so that the counties also  
5 can compete.

6 Because what we hear, we're talking  
7 with Representative Nickol, what Chairman  
8 Nickol said a few minutes ago on how some  
9 school districts are able to collect it so  
10 much faster. The counties are not competing  
11 here. We need to give them the opportunity to  
12 compete as well.

13 MR. LEVIN: I would not disagree that  
14 RETSL needs to re-examined. Absolutely.

15 And I don't think -- to the extent I  
16 didn't say it explicitly, my message is you  
17 have to go under one law or the other. It's  
18 an impossibility going under two and you're  
19 going to drive out business and the net effect  
20 of the decision is school districts and other  
21 municipalities aren't going to be using the  
22 Municipal Claims Act.

23 What head -- head of an entity, like  
24 a superintendent or a mayor, is going to want  
25 to use an act when they're threatened with

1 going to jail for contempt because they didn't  
2 use the two acts properly.

3 BY You also made another comment that they can  
4 get the information at the prothonotary's  
5 office.

6 MR. LEVIN: Right.

7 REPRESENTATIVE SCAVELLO: But -- but  
8 not all information. If you don't -- if  
9 there's no -- if you need a cert, you need a  
10 triple zero, you're not going -- that's not in  
11 with the prothonotary. Am I correct?

12 MR. LEVIN: Well, if the returns  
13 haven't been made to the tax claims bureau,  
14 then there's not going to a lien, I believe,  
15 and if there's not a lien, what do you need a  
16 cert --

17 REPRESENTATIVE SCAVELLO: Well,  
18 you --

19 MR. LEVIN: -- for if it's not there.

20 REPRESENTATIVE SCAVELLO: Wouldn't --  
21 wouldn't -- in order to close on a property,  
22 you would need to know -- you would need to  
23 have a document stating there's no tax due.  
24 No?

25 CHAIRMAN LEVDANSKY: If it's not --

1 if it's not in the record, it's not there.  
2 It's like when you look in the mortgage book,  
3 if it's not in the mortgage book, you don't  
4 start calling every single mortgage company to  
5 ask if there might be a mortgage there

6 REPRESENTATIVE SCAVELLO: Personal --  
7 I would -- I would be so much more -- as a  
8 property owner, I would -- and if I'm going to  
9 buy a piece of property, I'd like a document  
10 in front of me saying there's no taxes due on  
11 that property.

12 MR. LEVIN: And I'm not opposed with  
13 the idea of a central repository to, A, tell  
14 you whether the lien -- what -- what the lien  
15 is so you know who to call for the current pay  
16 out.

17 And if I may just address one other  
18 issue, the issue of charges. After the  
19 court's order, the school districts and the  
20 third-party collector put a free process in  
21 place where all you had to do was write or fax  
22 to them and they'd give the numbers for free.

23 However, in addition, over and above  
24 what the order required, they also put into  
25 place a process with these two school

1 districts where they were charging -- I forget  
2 if it was 25 or \$30, a guaranteed amount that  
3 would be good for 30 days.

4 And what you get for that is more  
5 than simply the amount. You get three  
6 things. A, all collection efforts stop for  
7 those 30 days. So if the school district was  
8 going to be involved in taking the next step  
9 in the process, they stopped it.

10 B, under the Municipal Claims and Tax  
11 Liens Act, interest is accruable on a daily  
12 basis everywhere, except in Allegheny County,  
13 where it's accruable on a monthly basis, the  
14 interest stops and the attorney's fees stop.

15 So the charge isn't for the record.  
16 The charge is to achieve those three things.  
17 And, frankly, 20 or \$25 to achieve those three  
18 things for a taxpayer, I think, is pretty  
19 cheap.

20 CHAIRMAN LEVDANSKY: No other  
21 questions from members?

22 I have a question, but I'm going to  
23 yield to my -- to my executive director.

24 MR. KASSOWAY: Under Senate Bill 777  
25 as you alluded to just now, there's a

1 requirement for a central depository being  
2 established by the county.

3 Some would say that the tax claim  
4 bureau currently is that central depository,  
5 that's where all the records come and that's  
6 where people can go and find those records.

7 Under this bill, it calls for the  
8 county establishing such a depository, but I  
9 see no funding and no fees that they could  
10 charge for it.

11 Would this not be establishing  
12 another unfunded mandate for the county?

13 MR. LEVIN: I don't know.

14 CHAIRMAN LEVDANSKY: It would be a  
15 little ironic if somebody from the School  
16 District Association would be calling for an  
17 unfunded mandate on the county.

18 Is that correct? Hypocrisy maybe?

19 MR. LEVIN: What can I say?

20 CHAIRMAN LEVDANSKY: Okay. Look,  
21 Mr. Levin, honestly, this is an  
22 extraordinarily complicated subject. You've  
23 come here without any prepared testimony.

24 MR. LEVIN: I'll be happy to --

25 CHAIRMAN LEVDANSKY: I mean if



1 your -- if your whole point was to rebut other  
2 testimony, you did a wonderful job. Frankly,  
3 for me, I had a hard time following your  
4 testimony. Okay?

5 But I'm going to read every bit of  
6 the transcript and will follow up with  
7 additional question for you.

8 MR. LEVIN: That will be fine. I  
9 didn't realize I was coming here until pretty  
10 late on Friday or I would have had prepared  
11 remarks.

12 CHAIRMAN LEVDANSKY: Thank you.

13 Mr. Bowden, business administrator  
14 with the --

15 MR. BOWDEN: Pequea.

16 CHAIRMAN LEVDANSKY: Pequea School  
17 District.

18 MR. BOWDEN: Thank you, once again,  
19 for having me here. And I don't envy your  
20 job, because I sat here and nearly fell  
21 asleep.

22 But with this, I'm here in support of  
23 Senate Bill 777, mainly from a practicality  
24 side, and I do have the written testimony and  
25 I'm not going to bore you with reading it, but

1 I want to give you some of the facts that are  
2 already in there.

3 Previously I worked for Pottstown  
4 School District in 2004. I was the assistant  
5 business manager at Pottstown School  
6 District.

7 It was at that time that the school  
8 board chose to go with the third-party  
9 collector. That collector was Portnoff Law  
10 Associates.

11 And I know one of the questions you  
12 had earlier for the gentleman from Allentown,  
13 I do have the actual letter that we sent out  
14 in 2004, and I can enter that for you, and  
15 their fee schedule that goes along with that  
16 letter. So I do have that information for  
17 you.

18 But the reason why Pottstown went  
19 with that, they are an urban school district  
20 in Montgomery County, a lot of their -- no  
21 growth. I mean we were basically landlocked.  
22 So you need to maximize as much of your real  
23 estate taxes as possible.

24 Portnoff approached the municipality  
25 and the school district with the proposal, and

1 we entered into a one-year agreement to see  
2 how this -- this would work out. And we did a  
3 lot of data analysis and I have some of that  
4 here with me.

5 Pottstown at that time turned over  
6 639 delinquent taxes amounting to \$1,649,443.  
7 This was about eight percent of their total  
8 budget got turned over.

9 Now, in Pottstown the average  
10 property is a \$75,154 property. And the  
11 average tax lien on that property, or tax  
12 gained on that property, is \$2300.

13 When we went -- when we looked at  
14 this, the third-party collector was going to  
15 charge the school district up-front \$40, plus  
16 postage in order to mail the first certified  
17 letter. That was an up-front cost. On 639  
18 properties that came out to take \$25,560.

19 Had we turned that money over to the  
20 county, we would have initially lost \$82,472.  
21 Realizing a savings right off the top of  
22 \$56,912.

23 Now, looking at a trend, the  
24 following year our delinquent taxes dropped by  
25 10.6 percent. Number of delinquents we had to

1 turn over dropped by 10.6 percent, and the  
2 following year it dropped by 1.5 percent, an  
3 additional 1.5 percent.

4 Some of the points that were -- were  
5 mentioned before, along with many other  
6 testimonies, along with Jay Himes from PASBO,  
7 we like to look at, you know, getting your  
8 money as fast as possible so we can invest  
9 it.

10 In 2004, we were investing at a rate  
11 of about five-and-a-half percent and, you  
12 know, gradually, of course, interest rates  
13 have come down. But we're losing -- on that  
14 money just at Pottstown, we could have lost  
15 about 2,000, \$3,000 worth of interest.

16 May not sound like a whole lot but  
17 when you're scraping for anything you can get,  
18 we absolutely do our best to try to make sure  
19 we maximize anything we have.

20 I came to Pequea Valley in 2006, and  
21 in that year we turned over 317 delinquent  
22 taxes. Now, Pequea Valley is a rural school,  
23 not an urban school like Pottstown. It -- 82  
24 square miles.

25 We only have about 1800 students and

1 50 percent of our students don't attend the  
2 district. They're in Amish schools or private  
3 schools. So more than 50 percent of the  
4 students don't come there.

5 But we had delinquencies of \$626,670  
6 that year. It was an increase of about 21  
7 percent from the previous year.

8 Had we gone with -- with a  
9 third-party collector at \$40 initially, it  
10 would have cost us about \$12,000 whereas the  
11 county was around 30 or \$31,000. A savings of  
12 about 18,000 right off the bat.

13 One of the things -- other things I  
14 wanted to mention too, questions that had come  
15 up, we -- we do allow for a two percent  
16 discount period, as Representative Boyd  
17 mentioned. And that goes from July 1 to  
18 August 31st.

19 Then there is a base period from  
20 September 1st to October 31st, and then  
21 there's a ten percent penalty after that.

22 What we turn over to the -- to the  
23 county for our delinquent taxes, as Pequea  
24 Valley still is using the countywide system --  
25 and I would like to say nothing against the

1 countywide system in Lancaster County, because  
2 they do a decent job.

3           Knowing, in Montgomery County,  
4 actually Montgomery County went with a  
5 third-party collector because the county  
6 wasn't doing a very good job of it. So they  
7 actually hired a third-party firm to collect  
8 the taxes right around the time we switched  
9 over. And I can't remember the name of that  
10 firm that did that.

11           Some of the other questions that --  
12 that -- that came up today, and I wanted to  
13 just address the interest charges, through  
14 Lancaster County, is three-quarters of one  
15 percent per month, is what they charge, and  
16 the school district does not see that -- that  
17 number.

18           Along with how the process speeds up,  
19 we've -- we've seen a significant --  
20 significant increase. We've gotten over 50  
21 percent -- at Pottstown we received over 50  
22 percent of the delinquents that were owed to  
23 us within the first -- before the end of that  
24 school year.

25           So by June 31st over 53 percent had

1       been collected. Prior to that we were less  
2       than 50 percent collected in that period by  
3       the county.

4               So receiving that money sooner -- now  
5       this is one school district, and one  
6       third-party collector, but with that we have  
7       seen a speed-up and a lot of that came in on  
8       that initial pay-up or that initial letter  
9       that had gone out there.

10              With that, we also have -- of the 639  
11       that year, 242 paid in full before the second  
12       letter had to go out.

13              That first letter, which means the  
14       school district up-fronted that \$40, they paid  
15       it within the tax and no second letter, no fee  
16       of a \$160 or 175, as chairman -- as was said.  
17       That never got hit onto the taxpayer.

18              Beyond that, additional fees were put  
19       through and at this point there's -- no  
20       properties have ever gone to sheriff sale.  
21       From that year there are 55 files unreserved  
22       of the 639, and of those 55 -- unresolved; I'm  
23       sorry -- 55 unresolved, it is up to the school  
24       district to determine whether or not they want  
25       to proceed and at this point the school

1 district is making that choice not to proceed  
2 because they don't believe the properties are  
3 worth what -- what the -- what the sheriff's  
4 sale would get back for the taxes. And that  
5 was coming from -- from Pottstown School  
6 District.

7           Additionally, and lastly, there's the  
8 misnomer that the taxpayer is harassed and --  
9 and -- and not worked with and so forth. And  
10 in my situation that was our biggest concern,  
11 and that's why we only entered into a one-year  
12 agreement. We -- we wanted to make sure that  
13 that didn't happen, and nothing like that has  
14 happened with Pottstown School District.

15           I can't speak for the rest of the --  
16 rest of the state, but with the Pottstown  
17 School District we actually had full control  
18 over the entire process. If we want to take  
19 it to the next step, next step, next step, we  
20 were consulted at every point.

21           You can -- with that, also there was  
22 question about the hardship and the setting up  
23 the prepayment or the payment plan. And the  
24 payment plan was set up for a six-month  
25 period, if they can make that within a



1 six-month period.

2 And that's all spelled out in the  
3 initial letter, which I'll give you a copy  
4 of.

5 And also, beyond that, then the  
6 hardship basically was if you couldn't make  
7 the payments within a six-month period, it  
8 extended it longer for up to a full year. Of  
9 the hardship, if you couldn't make payments,  
10 then they would make payments that way.

11 And I can tell you as the person that  
12 took in all the reports that came in and  
13 physically applied it to each taxpayer, there  
14 were some taxpayers that were only paying five  
15 and \$10 a week, but it was made available.  
16 There were taxpayers that were paying more  
17 than that.

18 And from what we looked at, in the  
19 past, it's been the habitual -- same habitual  
20 people and most of them were landlords of the  
21 property. They were not residents. They were  
22 not -- and -- and -- and that was a high  
23 number of repeat offenders, which is why we  
24 went with a different way of collecting,  
25 thinking that maybe this would get those

1 habitual people to continue -- to start paying  
2 their taxes.

3 I'd be happy to entertain any  
4 questions, and thank you again for having me.

5 CHAIRMAN LEVDANSKY: Thank you,  
6 Mr. Bowden.

7 Any questions from members?  
8 Representative Ellis.

9 REPRESENTATIVE ELLIS: Just real  
10 quick. You just used the phrase most of them  
11 were landlords. We had heard that in earlier  
12 testimony and then it turned out it was a much  
13 lower number than we thought.

14 What percentage is actually  
15 landlord?

16 MR. BOWDEN: I will -- I will get  
17 that information for you. I will have to  
18 contact Pottstown.

19 But it was very high because in  
20 Pottstown it's more -- unfortunately I don't  
21 know if you know the area. It is very much  
22 a -- it wasn't an area where we had a lot  
23 of -- like properties -- value properties.

24 Pequea Valley our average assessed  
25 value is 174,000 whereas Pottstown's right now

1 is around 74,000. A lot lower -- lower valued  
2 homes and, therefore, being a lot more  
3 properties.

4 So I think a lot -- a lot of our  
5 properties were also rental properties, to go  
6 with it, so it would make the same  
7 statistic -- statistic higher.

8 REPRESENTATIVE ELLIS: If you can get  
9 that, I would be great.

10 MR. BOWDEN: I'd be happy to.

11 REPRESENTATIVE ELLIS: Because in our  
12 business we can't go with the phrase most of  
13 them or a lot or we need actual numbers.

14 MR. BOWDEN: Absolutely.

15 REPRESENTATIVE ELLIS: So thank you  
16 so much and thank you for offering the letter  
17 as well. We appreciate that.

18 MR. BOWDEN: Who should I?

19 CHAIRMAN LEVDANSKY: Representative  
20 Bill Kortz.

21 REPRESENTATIVE KORTZ: Thank you,  
22 Mr. Chairman.

23 Thank you, Mr. Bowden for your  
24 testimony. You had mentioned you entered into  
25 a one-year contract. Have you continued with

1 the one-year time frame and each year it's  
2 updated or have you gone into a longer  
3 contract?

4 MR. BOWDEN: After the first year, I  
5 believe we -- they entered into a two-year  
6 contract. I left shortly after to obtain the  
7 business manager position at Pequea Valley  
8 School District.

9 But I know they were talking, since  
10 they worked out so well, Pottstown did enter  
11 into a longer term agreement. But I believe  
12 it was only a two-year agreement.

13 REPRESENTATIVE KORTZ: One last  
14 question. You said there was not one  
15 complaint?

16 MR. BOWDEN: No, sir.

17 REPRESENTATIVE KORTZ: Not one?

18 MR. BOWDEN: No, sir. Not -- not  
19 into the district. We had -- we had received  
20 no complaints at all from this -- from this  
21 firm while I was there.

22 Maybe two years after I'm gone, now  
23 that they're using it, they might have. But  
24 as I was -- as I was there there was  
25 absolutely no complaints with this system.

1           We also -- but we did alert them  
2           early in the tax process. We alerted them  
3           early that, you know, should you go into  
4           delinquency with your tax bill, we had a  
5           letter in there that said we're no longer  
6           using the tax claim bureau. We are now using  
7           Portnoff Law Associates and so forth.

8           So we alerted everybody at the  
9           beginning and then, as you will see from the  
10          letter -- hopefully you will get a copy of the  
11          letter -- it explains the whole process and  
12          fee schedule once they actually go into  
13          delinquency.

14                    REPRESENTATIVE KORTZ: Thank you.

15                    CHAIRMAN LEVDANSKY: Representative  
16           Denlinger.

17                    REPRESENTATIVE DENLINGER: Thank you,  
18           Mr. Chairman. Thank you, John. Good to see  
19           you.

20                    I'm wondering in either Pottstown or  
21           Pequea Valley about the solicitations you get  
22           from potential third-party collection.

23                    Do you regularly receive  
24           advertisements or calls from third-party  
25           collectors who would like to engage the

1 district? Is there a lot or a big market?

2 MR. BOWDEN: There really isn't. As  
3 far as I know, not really a big market right  
4 now. But I do know what we've done in Pequea  
5 Valley. It was our intermediate unit, all got  
6 together, and we brought in -- there was only  
7 two actual local firms, Portnoff and another  
8 firm out of Berks County that came in and  
9 presented to all the business managers of  
10 Lancaster/Lebanon IU-13.

11 And it was at that time, they both  
12 gave their presentations and some school  
13 districts were going to -- were going to move  
14 with Portnoff and some school districts were  
15 thinking about going with the other firm.

16 But we did a -- a -- an actual almost  
17 request for proposal and had them give a  
18 presentation of what their fees were, you  
19 know, what they would be looking at, et  
20 cetera, at that time. So that's how we --  
21 that's how we went through it.

22 At Pottstown, I can't tell you  
23 exactly how it was brought in, but I know that  
24 we had met with -- in a joint meeting with the  
25 city of Pottstown, the Borough of Pottstown,

1 and the school district met together one  
2 evening at one of the Borough chamber meetings  
3 and Portnoff gave a presentation at -- at that  
4 meeting. And that's when discussions between  
5 the two of them went together.

6 REPRESENTATIVE DENLINGER: So, to  
7 your knowledge, you mentioned two different  
8 agencies. You're not aware of three or four  
9 others that are out there?

10 MR. BOWDEN: I'm not. To begin with,  
11 I had a positive experience with Portnoff. I  
12 would have gone with Portnoff had -- had we  
13 been moving that way and if this legislation  
14 does pass, I will be absolutely moving with  
15 Portnoff Law Associates.

16 REPRESENTATIVE DENLINGER: Very  
17 good. Thank you.

18 Thank you, Mr. Chairman.

19 CHAIRMAN LEVDANSKY: From this, a  
20 couple questions. One is in terms of both at  
21 the school district in Pottstown and at Pequea  
22 Valley School District where you're at right  
23 now, in both of those counties who -- who  
24 keeps the records? You know, if both school  
25 districts use third parties, who keeps

1 delinquency records?

2 MR. BOWDEN: I'm sorry, Chairman.  
3 Actually Pequea Valley does not use a third  
4 party. We would -- we would be waiting for  
5 this bill to pass in order to go that -- that  
6 route.

7 CHAIRMAN LEVDANSKY: How about in  
8 Pottstown?

9 MR. BOWDEN: Pottstown, I believe  
10 they were held at Portnoff Law Associates.  
11 And the school district itself also had -- we  
12 had various copies of what has been, what's  
13 still owed, and et cetera like that, but  
14 cert -- cert-wise, it was at Portnoff Law  
15 Associates.

16 CHAIRMAN LEVDANSKY: Okay. Also in  
17 terms of -- back to the Pottstown School  
18 District, the attachment that you're  
19 submitting for the record, does it indicate --  
20 so it indicates the typical fees and charges  
21 that Portnoff charges.

22 But do you have attached or another  
23 attachment that indicates, you know -- you  
24 know, with each parcel and each delinquent  
25 account how much fees and penalties were --



1 and interest were assessed on each one of  
2 them?

3 MR. BOWDEN: No. I don't have that  
4 information.

5 CHAIRMAN LEVDANSKY: Get it. Is it  
6 possible to get that?

7 MR. BOWDEN: I will try.

8 CHAIRMAN LEVDANSKY: Okay.

9 MR. BOWDEN: And can you repeat  
10 exactly? You wanted it for that year, 2004  
11 delinquents, how much each parcel was --

12 CHAIRMAN LEVDANSKY: Each parcel.

13 MR. BOWDEN: Broken out?

14 CHAIRMAN LEVDANSKY: Each parcel, if  
15 you just break it out in terms of how much,  
16 you know --

17 MR. BOWDEN: I have -- I do have --

18 CHAIRMAN LEVDANSKY: -- legal fees.

19 MR. BOWDEN: I do have -- I do have  
20 at each step the number of people who paid in  
21 full by that step, so that would -- that would  
22 get you that information.

23 Like I said, 242 paid in full after  
24 the first sending of the notice. 81 of them  
25 did a legal demand letter. 74 required the

1       lien. 125 were paid up to the point after the  
2       writ of scire facias, 45 on default judgment,  
3       and 17 on the writ of execution, which was the  
4       last stage.

5               CHAIRMAN LEVDANSKY:  What's the total  
6       amount of -- of delinquent taxes collected?

7               MR. BOWDEN:  Total amount that --  
8       that were collected of the 1.6 million was  
9       1,557,496, which represents about  
10       94.43 percent.

11              CHAIRMAN LEVDANSKY:  So about 1.5  
12       million in delinquent taxes collected.  And  
13       how much in fees and interest and penalties  
14       and fines --

15              MR. BOWDEN:  That I don't have broken  
16       out.

17              CHAIRMAN LEVDANSKY:  -- on top of  
18       that?  Yeah.  I'd appreciate to know, just to  
19       gain some understanding of -- of what the  
20       proportion of -- of taxes owed and assessments  
21       thereafter.  Okay?

22              Thank you very much --

23              MR. BOWDEN:  Thank you so much.

24              CHAIRMAN LEVDANSKY:  -- for your  
25       testimony.  We're running a little bit late.

1 Our final panel is Mr. Ed Rupert, the director  
2 of property and revenue from Butler County and  
3 Mr. Tom Heap, the tax claim bureau director of  
4 Lycoming County.

5 MR. RUPERT: Good afternoon.

6 MR. HEAP: Good afternoon.

7 CHAIRMAN LEVDANSKY: Identify  
8 yourself.

9 MR. HEAP: Chairman Levdansky and  
10 Chairman Nickol, I come to you not -- not as  
11 the county tax claim director of Lycoming  
12 County but also -- I should say I also wear  
13 the hat of the currently elected president of  
14 the County Tax Claim Bureau Association of the  
15 Commonwealth of PA.

16 So my -- my remarks will be brief. I  
17 want to touch on some -- some testimony,  
18 remarks that you've heard today. Some  
19 questions that were asked of some individuals  
20 that gave testimony today.

21 And specifically it was one key thing  
22 that I want to pick up on was -- a question  
23 was asked on the competitiveness between the  
24 county tax claim bureaus under the guise of  
25 the Real Estate Tax Sale Law and Municipal

1 Claim Law.

2 And that is an important issue with  
3 the Tax Claim Bureau Association of this state  
4 in the sense that we need to be competitive  
5 with that.

6 We have a legislative committee in  
7 the association that has recommended some  
8 changes to RETSL to be more competitive, to  
9 get the school districts -- which you heard a  
10 lot today concerning the collection rate of --  
11 of their delinquent school real estate taxes,  
12 not only for the school but also the boroughs  
13 and the townships throughout the state.

14 In particular it would be the five  
15 percent delinquency fee in lieu of the  
16 commissions that's paid to the county tax  
17 claim bureaus.

18 In an effort that -- when you heard  
19 the term today returns to the county, that to  
20 the returns be added a five percent  
21 delinquency fee.

22 If you think about an unpaid real  
23 estate tax sale bill in a normal year, that  
24 July 1st we talked about, school district  
25 bills today. On -- on November 1st, there's a

1 ten percent penalty added.

2 Under the RETSL, there is no  
3 additional penalty with the -- with the  
4 exception of additional interest of  
5 three-quarters of a percent a month that's  
6 added onto a tax claim bill once it returns to  
7 the county tax claim office.

8 So we feel as an association that the  
9 five percent delinquency fee would encourage  
10 two things.

11 Number one, a quicker rate of return  
12 that's actually paid to the -- to the tax  
13 collector in that current year, and also as a  
14 deterrent for it not to go delinquent, and to  
15 offset in return a hundred percent of the  
16 monies to the school districts.

17 Keep in mind, it's important to note,  
18 that we are -- we are following the law of  
19 the -- real estate tax sale laws. We are  
20 following the guidelines that are given to  
21 us.

22 Eighteen months is the normal  
23 turnaround period. You didn't hear much  
24 mention today of the -- of nine percent a year  
25 that's added on a delinquent tax bill.

1           So if you'd look at 18 months of a  
2           normal turnaround time, that's what it takes  
3           to get to a sale, the worst case scenario of  
4           being an 18 month. I mean it goes to  
5           September.

6           That's 13-and-a-half percent that's  
7           been added to that delinquent bill in the  
8           county tax claim bureaus. The county will  
9           keep five percent of that money and return it  
10          to the school district.

11          You heard testimony today that  
12          there's -- 2004, I think in the Pottstown  
13          School District, there was 659 delinquent tax  
14          bills. I'm not sure how -- how current  
15          Mr. Bowden's numbers were, but 55 unresolved  
16          cases that you heard today.

17          That's a lot if you -- in the tax  
18          claim bureau world, that's a lot of property  
19          still unresolved.

20          That does not happen under RETSL.  
21          Because you have the sale process. Okay?

22          I have 2007 real estate taxes in  
23          Lycoming County. I had 5500 properties, which  
24          equals ten percent of the parcels in Lycoming  
25          County that were delinquent in some form of

1 that. Either county, township, or a school  
2 district bill.

3 April 15th, I had a 30 percent  
4 collection rate on those bills simply by one  
5 41 cent letter.

6 That's the process that the county  
7 tax claim bureaus are following. We're  
8 encouraging as an association, to the  
9 directors, to step up, get together, find out  
10 better collection methods.

11 Not to say that the third-party  
12 collectors are doing -- we're not going to get  
13 into the issues of whether or not it's the  
14 mean-spirited letters or whatever. We are  
15 following RETSL. We have to justify our  
16 collection rates. That's what's happening to  
17 us, is to justify our collection rates and why  
18 we have one or two percent delinquent after  
19 this -- what we call the sale here.

20 5700 properties in 2006 in Lycoming  
21 County were delinquent, returned to my  
22 office. I have a 72 percent collection rate  
23 on April 15th. So that's less than -- less  
24 than the 18-month period. Or you're looking  
25 at -- they're returned by January 31st in our

1 county. So you're looking at about 14 months  
2 with a 72 percent collection rate.

3 By the time I get to the sale -- the  
4 sale year, this year being 2006. By the time  
5 I get to the sale, I'll be down to 100  
6 properties out of the 5700 that were turned  
7 over to me that were -- actually be able --  
8 managed the sale.

9 Now, granted in Lycoming today, on  
10 the way down I phoned -- I have 360 payment  
11 plans in my -- in my county today and that  
12 represents 6,300 parcels that are delinquent.

13 So I -- I want to talk numbers with  
14 you. I think it is encouraging. I think we  
15 must address some issues in RETSL. We are in  
16 favor of that -- of that as an association.

17 We fall under the county  
18 commissioners. They appoint us as directors.  
19 We don't have the solicitors. We don't have  
20 the individuals stepping up and saying, look,  
21 I'm going to lobby this for you today, other  
22 than CCAP.

23 So that's what we had recommended to  
24 CCAP that we do. We're beginning to open up  
25 some discussions.



1 I had early discussions with the  
2 president-elect of PASBO three weeks ago in  
3 favor of some changes to RETSL.

4 So thank you for hearing me. If you  
5 have any questions you want to ask.

6 CHAIRMAN LEVDANSKY: Let me just  
7 suggest we hold the questions until after  
8 Mr. Rupert presents his testimony as well.

9 MR. RUPERT: Thank you and good  
10 afternoon. Can you hear me all right?

11 CHAIRMAN LEVDANSKY: Yes.

12 MR. RUPERT: My name is Ed Rupert and  
13 I'm director of property and revenue for the  
14 county of Butler. I'm the past president of  
15 the Assessors Association of Pennsylvania and  
16 also a past president of the Tax Claim Bureau  
17 Association.

18 Throughout the state I teach  
19 qualified tax collectors for continuing  
20 education tax credits and I am also a  
21 certified instructor for the Assessors  
22 Association of Pennsylvania.

23 But that's not why I'm here today.  
24 I'm here today to explain to you what the tax  
25 claim bureaus' goals and duties are according

1 to the law.

2 Let me -- let me start by saying that  
3 whenever I mention third parties, it's not all  
4 third parties. Some third parties work under  
5 RETSL.

6 They use the same fee schedules that  
7 we do, as referenced earlier in Blair County  
8 and I believe Montgomery County somebody  
9 referenced. They have the same fee schedule  
10 and the same time frames that we have.

11 Other third parties, as was brought  
12 out earlier, seem to circumvent the law by not  
13 waiting the year to take the property to  
14 sale.

15 So whenever I'm talking about third  
16 parties, I'm not talking about the ones under  
17 RETSL and their fees. I'm talking about the  
18 third parties that work under the municipal  
19 claim law.

20 The purpose of the Real Estate Tax  
21 Sale Law of 1947 was to allow the tax claim  
22 bureaus to promptly return delinquent property  
23 taxes to the taxing districts and return the  
24 delinquent properties to the rolls. This was  
25 to provide -- as well to provide a uniform

1 system in handling such properties and to help  
2 eliminate title disputes arising from this  
3 system.

4 This uniform system set mandatory  
5 time frames for notice provisions to the  
6 reputed owners, mandatory sale dates, and  
7 mandatory notices as well. And, if necessary,  
8 after the sale, for properties that have not  
9 been redeemed, we could put them up through a  
10 judicial sale or a repository sale.

11 This holds true everywhere except  
12 Allegheny and Philadelphia Counties. They  
13 were written out and exempted from the law.

14 In a typical county, the assessment  
15 office or assessor begins the process by going  
16 out and measuring and listing a property.

17 He sets the assessed value for ad  
18 valorem tax purposes. From that, the taxing  
19 districts set their millage rates and then  
20 there is a bill produced.

21 Most counties produce their own  
22 bills. Some school districts and some taxing  
23 districts produce their bills.

24 On that bill by law they're required  
25 to have a discount, a face, and a penalty. A

1 discount, by law, can be no less than two  
2 percent, and that's what most taxing districts  
3 do. The penalty can be no more than ten  
4 percent. That's what most taxing districts  
5 do.

6 Now, if everybody paid their taxes at  
7 two percent discount, by the time you took  
8 that two percent discount off the face, you  
9 lose two percent.

10 By the time you paid your local tax  
11 collector two percent, or whatever to collect  
12 that, there's another two percent loss.

13 Whenever it comes into the tax claim  
14 bureau, we add -- I'm sorry -- whenever the  
15 taxing district doesn't get their payment  
16 during the first 60 days of discount, it goes  
17 into face.

18 Whenever they don't get their payment  
19 within the next 60 days of face, it goes into  
20 penalty of ten percent. We receive that face,  
21 plus the ten percent penalty.

22 So that five percent of that is -- is  
23 very little compared to what you already may  
24 have paid if they were paid on time.

25 In our county, we -- our current year

1 tax collectors collect about 96 percent of all  
2 tax liens or of all taxes levied, leaving  
3 about four percent for us to collect.

4 By the end of our two-year cycle, we  
5 return about a 106 percent of what was liened  
6 into us back to our school districts and  
7 taxing districts. So in our -- in our county  
8 the tax claim bureau seems to work very well.

9 But after the penalty period, the  
10 taxes are liened into the tax claims bureau,  
11 which starts the process. They can either be  
12 called -- returned to claims or liened into  
13 the bureau.

14 The first notice we send out is the  
15 return of claim notice, which is sent by first  
16 class mail, certified return receipt  
17 requested.

18 For that, according to the act, we're  
19 allowed to charge a \$5 fee, or the actual cost  
20 of the certified mail piece.

21 If -- if for some reason the  
22 certified mail did not get successfully  
23 delivered by the U.S. post office, we're  
24 required to physically post the property, all  
25 in order to ensure actual notice.

1           Because we don't want to sell a  
2           property down the road in case -- in case the  
3           actual owner or the property owner or  
4           owner/occupant doesn't have actual notice of  
5           the property. For that, again, we can charge  
6           actual costs.

7           In some of the literature that I've  
8           seen on third-party collectors, just for that  
9           return of claim fee and the notice to send it  
10          out and the follow-up, \$160. Tax claim  
11          bureaus, we have to charge the actual cost.

12          If by January 1st of the next year  
13          the property is not paid off, it becomes  
14          absolute and that starts the actual sale  
15          process.

16          We're then required to send out  
17          certified mail, return receipt, restricted  
18          delivery mail, to each owner of the property.  
19          So if there's six owners, we have to notify  
20          each of those six owners by their own  
21          individual certified restricted delivery  
22          mail.

23          Again, by -- by statute we charge  
24          just the actual cost. Third parties \$175 for  
25          that notice, just for the one notice.

1           We are also required to advertise in  
2           the newspapers, two newspapers, if there are  
3           two within -- general circulation within the  
4           county. We're also to advertise in the county  
5           legal journal, if there is one.

6           All these costs the county has to  
7           bear up-front before we recoup that from the  
8           taxes collected. Again, why we need our five  
9           percent commission.

10           After all notifications, the  
11           advertising -- the law also says we can have  
12           no sales sooner than the second Monday of  
13           September. So for this year and a half, all  
14           we're doing is prepping, making sure we have  
15           actual notice, making sure we're trying to not  
16           threaten the people, trying to notify them of  
17           their rights that they have a tax that is due  
18           and it is -- and it needs paid.

19           As Tom said earlier we're allowed to  
20           charge three-quarters per annum or nine  
21           percent per year in interest.

22           Whenever we collect those funds, we  
23           return them. In my county I do monthly  
24           distributions through wire transfers. So the  
25           tax districts aren't waiting three months for

1 their money. They get the money we collected,  
2 plus interest on the money, plus the penalty,  
3 the ten percent penalty.

4 The sales notice is intended to  
5 notify the owner of the impending sale. After  
6 all notifications are complete, and we come  
7 time for the sale, in my county we start with  
8 around 8,000 delinquent property owners.

9 By the time we have -- on the day of  
10 the sale, we normally have about 30 to 40  
11 properties up for sale. Whenever these are  
12 owner-occupied properties, we're required to  
13 do court-ordered postings and personal service  
14 on these people.

15 As a result of the Real Estate Tax  
16 Sale Law was consolidated that all delinquent  
17 taxes are claimed into the one agency and --  
18 as a convenient place for local officials,  
19 property owners, prospective purchasers, and  
20 title searchers. This consolidation greatly  
21 helps to eliminate the accumulation of  
22 delinquent taxes and the revitalization of  
23 liens permitted under prior laws.

24 This law replaces the old county  
25 treasurers' law and the city treasurers' sales



1 by a single procedure under the tax claim  
2 bureau known as RETSL. It was designed to  
3 benefit the governments in the acceleration  
4 and collection of their delinquent real estate  
5 taxes without causing undue -- undue hardship  
6 on the delinquent property owners.

7 The tax claim bureau has an important  
8 responsibility to make sure all this due  
9 process is closely followed. The goal is  
10 certainly not to evict people from their  
11 homes, but to make sure the local taxes are  
12 administered and collected fairly and  
13 equitably throughout the community.

14 In closing, the PA House in the  
15 2003/2004 session passed House Bill 2638, now  
16 Act 168, which allows for the sale of liens by  
17 the taxing districts to third parties. So we  
18 don't need to adapt the Municipal Claim Law  
19 whenever this law already exists in RETSL.

20 It set forth the guidelines in RETSL  
21 and requires the collected -- collectors file  
22 their unpaid taxes to the tax claim bureau.  
23 This insures the county will have current and  
24 updated information in order to complete their  
25 duty in certifying all delinquent real estate

1 taxes.

2 As a member of the Tax Claim Bureau  
3 Association, I would ask you not to amend the  
4 Municipal Claim Law when the option for the  
5 assignments already exists in the Real Estate  
6 Tax Sale Law. Or if that's not possible, at  
7 least remove Section 42 and Section 43.

8 As we talked, Section 42 is where the  
9 third party does not -- or the taxing  
10 districts do not have to lien their taxes into  
11 the bureau.

12 At that point we lost public  
13 information. That's what we're concerned  
14 with, collecting taxes and public  
15 information.

16 Section 43 makes it retroactive back  
17 to -- the last time I looked it was '99, for  
18 some difference, and then that would be bad.  
19 That would be against the court case, the  
20 Supreme Court case from out of Monroe County  
21 by Pennsylvania Land Titles.

22 Thanks for giving me the opportunity  
23 to talk to you today, and if you have any  
24 questions, I'd like to...

25 CHAIRMAN LEVDANSKY: Thank you.

1 Thank you, Mr. Rupert.

2 Any -- any questions?

3 Representative Ellis.

4 REPRESENTATIVE ELLIS: Thank you,  
5 Chairman Levdansky. Ed --

6 MR. RUPERT: Yes.

7 REPRESENTATIVE ELLIS: -- thank you  
8 for calling me on this issue, and thank you  
9 for making the trip. Anybody that drives out  
10 here from Butler, I appreciate that. It's  
11 always nice to see friendly faces.

12 Going back to our conversation on --  
13 on the telephone and now getting into what you  
14 testified today, a couple things that I have  
15 questions about.

16 How much specifically in Butler  
17 County does your office collect in  
18 delinquencies? Last year how many dollars did  
19 we collect?

20 MR. RUPERT: We collected \$8 million  
21 last year.

22 REPRESENTATIVE ELLIS: \$8 million?

23 MR. RUPERT: Yes.

24 REPRESENTATIVE ELLIS: So you're  
25 looking at \$400,000, if you take the five

1 percent, minus our costs and everything like  
2 that.

3 What -- does that money go to the  
4 county's general budget or does that come to  
5 you to operate your -- your operation or do  
6 you get an allocation from the county?

7 MR. RUPERT: The statute says it goes  
8 into the county general fund to fund the  
9 bureau for its operations.

10 REPRESENTATIVE ELLIS: Okay. Now,  
11 does it cost you \$400,000 to operate in a  
12 given year?

13 MR. RUPERT: It does not cost us  
14 \$400,000 to operate in a given year. But if  
15 you take the computerization over the years,  
16 if you take the public records over the years,  
17 the old -- the old paper trail, so to speak,  
18 that we had to have, that we still have, it's  
19 probably more like 350,000.

20 REPRESENTATIVE ELLIS: So it's pretty  
21 close?

22 MR. RUPERT: Not quite 400,000. One  
23 thing, the advertisement, whenever you  
24 advertise in the paper, we have three or four  
25 pages of tax sale ads that we advertise.

1       \$36,000 last year for one paper. The legal  
2       journal, 15,000.

3               A few years ago whenever they added  
4       the tag and that to the certified mail piece  
5       and the certified mail numbers, our forms went  
6       up \$3 apiece.

7               The postal increases every year.  
8       Now, we get to pass the postal increases off  
9       onto the taxpayers. But for the county to  
10      up-front that money, the bureaus wouldn't be  
11      in operation.

12              REPRESENTATIVE ELLIS: So is it safe  
13      to say that every county collects the five  
14      percent? You're allowed to collect up to five  
15      percent. Does every county go that way?

16              When we passed like the municipal  
17      service taxes, it was up to \$52. Not every  
18      taxing authority went to \$52, but I'm assuming  
19      that all 50 -- 65 counties, minus Philadelphia  
20      and Allegheny County, are at five percent?

21              MR. RUPERT: I -- I believe the act  
22      says the tax claims bureau shall keep five  
23      percent of all monies collected.

24              REPRESENTATIVE ELLIS: So what do you  
25      guys actually charge to the delinquent

1 taxpayer? What -- what penalties are they  
2 paying?

3 MR. RUPERT: They pay a \$10 filing  
4 fee and a \$5 satisfaction fee.

5 REPRESENTATIVE ELLIS: Okay. So the  
6 way it stands right now, if you go delinquent  
7 on your taxes, through the county you're only  
8 paying a \$15 penalty?

9 MR. RUPERT: They're paying that and  
10 our cost to start off with.

11 REPRESENTATIVE ELLIS: Okay.

12 MR. RUPERT: And then each month,  
13 starting the month after the lien is returned,  
14 there's three-quarters of one percent interest  
15 added on. Whenever we send out the certified  
16 mail.

17 We, in our county, in February, we  
18 send out a courtesy letter to try to get  
19 payments in quicker, and it works. 42 cents  
20 and we collect a lot of money.

21 Then whenever we send out the  
22 certified mail, we have to add that fee on.  
23 So depending on when they pay, it could vary  
24 slightly. The only thing that's added every  
25 month, is the interest.

1           REPRESENTATIVE ELLIS:  And you had  
2           said after the first letter it's roughly about  
3           72 percent after -- I mean by one year, you  
4           collected about 72 percent or entered into  
5           arrangements.

6                    Is that a pretty universal number  
7           across all the counties?  Is that a common  
8           rate, about 72 percent?

9                    MR. RUPERT:  I --

10                   REPRESENTATIVE ELLIS:  And I guess  
11           what I want to know is how does that compare  
12           to the third-party collectors?  Are they,  
13           after a year's time, at 85 percent or at 60  
14           percent?  Where are they?

15                    I think it would be great for the  
16           committee to somehow come up with that.  
17           Chairman Levdansky, if we could get that  
18           information, I think that would better our  
19           conversation as well.

20                    MR. RUPERT:  I checked right before I  
21           came out in my county and we had -- liens came  
22           in on January 15th.  We send out -- we send  
23           out our letters February 3rd, I believe, and  
24           we are at 50 percent collection already.

25                    REPRESENTATIVE ELLIS:  Great.

1 MR. RUPERT: I talked to a county  
2 that has a third party that did not return  
3 their claims to the bureau, and they  
4 haven't -- that third party has not even sent  
5 out letters yet.

6 REPRESENTATIVE ELLIS: Okay.

7 MR. RUPERT: So we've already  
8 collected 50 percent, and the people in that  
9 county don't know where they're to pay their  
10 taxes yet.

11 REPRESENTATIVE ELLIS: Okay. Thank  
12 you very much for coming out, gentlemen.

13 MR. RUPERT: Thank you.

14 CHAIRMAN LEVDANSKY: Any other  
15 questions from any members?

16 Mr. Rupert and Mr. Heap, thank you  
17 very much for your testimony --

18 MR. RUPERT: Thank you.

19 CHAIRMAN LEVDANSKY: -- and your  
20 insights.

21 MR. HEAP: Thank you.

22 CHAIRMAN LEVDANSKY: That concludes  
23 this hearing on Senate Bill 777.

24 (The proceedings were concluded at  
25 4:12 p.m.)



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I hereby certify that the proceedings  
and evidence are contained fully and  
accurately in the notes taken by me on the  
within proceedings and that this is a correct  
transcript of the same.

\_\_\_\_\_  
Brenda S. Hamilton, RPR  
Reporter - Notary Public