

# *Butler County Board of Commissioners*

## **Property and Revenue**

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### **Commissioners**

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**Property & Revenue**  
Edward Rupert, Director

Good afternoon. My name is Edward Rupert, and I am the Director of Property & Revenue for the County of Butler. I am a Past President of the Assessors Association of Pennsylvania (AAP), as well as a Past President of the Tax Claim Bureau Association of Pennsylvania (TCBAP). I am certified by the AAP as an instructor for most Certified Pennsylvania Evaluators (C.P.E.) and certified to instruct Local Tax Collectors to obtain their hours of qualified tax collectors credits.

Thank you for the opportunity to appear before you. I would like to explain TCBAP's concerns about SB 777 and explain the current efforts the County Tax Claim Bureau are required to complete in the collection of delinquent taxes.

Let me start by saying that throughout my testimony I will be discussing example fees charged by some municipalities using third party collectors. However, some third party collectors that collect under the 2004 amendments to the RETSL (Pa. House 2003-2004 session passed HB 2638, now Act 168) use the fee schedule set forth in RETSL. These comments on fees do not apply to all municipalities utilizing third party collectors.

The primary purpose of the Real Estate Tax Sale Law of 1947 was to allow Counties to create a Bureau to promptly return properties with delinquent real estate taxes to the productive tax rolls, as well as to provide a UNIFORM system of handling such property and to help eliminate title disputes that arise from the system. This uniform system set mandatory time frames for notice provision to the reputed owners, mandatory dates of such notices as well as posting requirements, and if necessary the date of the tax sale after all provisions are met and the property has not yet been redeemed. In general, RETSL requires and provides for due process of Law through the Bureau's notification efforts and requirements.

Philadelphia and Allegheny Counties, Scranton City and Scranton School District are legislatively exempt from the Law, as specified by the General Assembly. The Act became mandatory on all other Counties by action of the General Assembly in 1977.

Typically in a county, the county assessor begins the process by establishing a market value for all real estate within a County for Ad Valorem (at value) tax purposes, and a percentage of this value is commonly known as the assessment or the assessed value. The real estate tax bill for that property is established by multiplying the taxing authority's mill rate(s) (that is one tenth of the one cent) by the assessed value to equal the face amount of a real estate tax. This amount is printed on a tax bill and

delivered to the property owner/taxpayer and/or the company that may hold the property's taxes in escrow. The taxpayer has 60 days from the date of the notice to pay the tax levy at a discounted rate. Taxing districts are required by law (Title 72 5511.10) to establish rates of discounts and penalties. The discount must be at least 2% if paid in the first two months after the notice date. The same law also requires an additional 60 days for the owner to pay the tax levy at the face amount, after that up to a 10% penalty can be added and that amount is due and payable until the end of the calendar year (or before the unpaid accounts are returned to the Tax Claim Bureau for collection) Approximately 96% of current year taxes are paid to the local tax collectors.

After the penalty period, if taxes are not paid, the unpaid taxes are returned or turned over to the Tax Claim Bureau (except in Allegheny and Philadelphia Counties) for collection. The bureau enters the claim as a tax lien against the real estate and by Statute the bureau adds an 'entry of claim fee' or 'filing fee' not to exceed \$10.00 and a satisfaction fee not to exceed \$5.00. In comparison, fees authorized for some 3<sup>rd</sup> party collectors under the MCTLA would be over \$175.00.

The "notice of the claim" process begins usually by a letter sent 1<sup>st</sup> class mail informing the taxpayer that taxes are now due and payable to the bureau. The only fee charged is the actual cost of the mailing. This notification within the 1<sup>st</sup> month after the filing typically leads to recuperation of about 40% of our current year's lien. Next, the bureau sends a certified letter to the owner of record. This certified letter must state that if the owner fails to pay this tax or take legal action to challenge the claim, the property will be sold without the owner's consent as payment of the claim. This letter must be sent to the owner(s) on or before July 31<sup>st</sup> of the year the tax was returned to the bureau. This letter also provides notice to property owners when possibly the tax was to be paid by an escrow company and was not. The cost for this mailing again is added on to the claim and the cost as required by law is only for the actual cost of the postage and the form. Fees authorized for some 3<sup>rd</sup> party collectors to add \$175.00 to the lien amount for this service, some other 3<sup>rd</sup> parties charge slightly less (\$160.00).

If, for some reason the certified notice is not successfully delivered in the U.S. mail, the same notice shall be physically posted on the property affected. The fee here can vary but is limited to the actual cost of service for this posting, in most cases under \$20.00 for a Tax Claim Bureau notice. Third parties collecting under the MCTLA charge \$175.00. Tax Claim Bureaus may also send reminder letters during the year. Every effort is made to make sure the property owner is clearly notified of the tax claim against the property to ensure due process of law.

If by January 1<sup>st</sup> of the following year the tax remains unpaid, the claim (lien) becomes absolute and cannot be challenged...this time period between the return of the claim and the claim becoming absolute prevents the property from being sold in the same year in which the unpaid tax was returned to the bureau. Inaction by the owner puts the sale process into motion.

The first sale (for an unpaid claim) to which the property will be exposed is known as the "upset sale." The statute requests that property owner(s) have actual notice of the pending upset sale before the property can be first exposed for sale. Notice of the upset sale shall be given by the bureau at least 30 days before the date of the sale by United States certified mail, restricted delivery, return receipt requested, postage prepaid, to each owner or reputed owner as defined by the Real Estate Tax Sale Law Act of 12947, P.L. 1368, No. 542, as amended. Again the cost added to the claim is the actual cost of the mailings

This sale notice is intended to notify the owner(s) of the date and place of the sale, a description of the property being sold, the amount of the upset price, which is the minimum bid of the amount of the claim

including all taxes due and all municipal claims against the property. If the return receipt is not received from each owner, then at least 10 days before the sale, the bureau must send a similar notice of the sale by first class mail with a proof of mailing to the last known post office address of the owner(s).

The Tax Claim Bureau is further required to physically post a notice of tax sale on every property being offered for sale. The posting is required at least 10 days prior to the actual sale date, serving a two-fold purpose; first to again inform the owner of the impending sale, and secondly, to inform the public that the property will be offered for sale to achieve the highest possible bid.

In addition, if the property is deemed to be owner-occupied, a copy of the sale notice is required to be personally served to an owner. If personal service cannot be accomplished, the bureau is required to petition the Court of Common Pleas to waive the personal service requirement.

Furthermore, at least 30 days prior to a scheduled upset sale, the bureau shall give notice to not less than two newspapers of general circulation (if so many are published) and once in the legal journal, if any, designated by the court for publication of legal notices.

Now all notifications are completed by the bureau, and the total bureau costs added to the claim are around \$200.00. If you compare this to some 3<sup>rd</sup> party cost of a Sheriff sale it would be well over \$1,000.00. By exposing the property to a Sheriff's sale, this places an extra burden on the Sheriffs' office as well the County then the Sheriffs office is already over burdened by mortgage foreclosures.

An owner or the lien creditor of the owner, (by statute) has until the day and time of the sale to pay the tax due on any given property to remove it from the sale process. Although there is no "redemption" period in Pennsylvania, objections or exceptions to the sale of any specific property may be filed with Court of Common Pleas. These objections must be filed with the court within 30 days of the court's receipt of the consolidated return. These objections or exceptions result in a court-ordered review to determine whether or not all notification and procedures were performed properly. The consolidated return is a listing of properties, both sold and unsold, provided to the court for confirmation of the upset sale. This return must be filed within 60 days of the actual date of the sale.

If the property is sold at the upset sale, within 30 days of the sale the bureau is required to send a certified notice to each owner at his last known address that the property was sold. The owner is informed that he or she may file objections or exceptions with the court no later than 30 days after the court has received the consolidated return.

The Real Estate Tax Sale Law starting in Title 72 § 5860.101 is very specific about the due process of selling a person's home or property for nonpayment of tax due.

The result of the PA Real Estate Tax Sale Law (RETSL) was to consolidate all delinquent real estate tax claims into one agency as a convenience to local officials, property owners, prospective purchasers, and title searchers. This consolidation greatly helps to eliminate the accumulation of delinquent taxes and the revival of liens permitted by prior lien laws. This law replaces the county treasurers' and city treasurers' sale by a single procedure under the Tax Claim Bureau. RETSL was designed to benefit local governments in the accelerated collection of delinquent real estate taxes without causing undue hardship on the delinquent property owner. County Tax Claim Bureaus have an important responsibility to make sure this due process is followed closely. The goal is certainly not to evict peoples from their homes, but to make sure that local taxes are administered and collected fairly and equitably for the entire community.

In closing, the Pa. House in the 2003-2004 session passed HB 2638, now Act 168, which allows the sale of tax lien by a taxing district. It set forth comparable guidelines to RETSL, and requires all tax collectors to file their unpaid taxes with the tax claim bureau. This ensures the County will have current and up to date information in order to complete their duty of certifying all delinquent real estate taxes. As a representative of the TCBA, I would ask you to not amend the MCTLA when the options for assignments of a tax lien already exists under Act 168, or as another possible option, remove Section 42 of S.B. 777, and continue to allow the public record to be maintained in a public office in the Commonwealth.

Thank you for the opportunity to address you today. I will be happy to answer any questions you may have at this time.