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HOUSE OF REPRESENTATIVES

FINANCE COMMITTEE

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HEARING ON
HOUSE BILL 1877 (DUNBAR)

BEFORE:

HONORABLE KERRY A. BENNINGHOFF, MAJORITY CHAIRMAN
HONORABLE PHYLLIS MUNDY, MINORITY CHAIRWOMAN
HONORABLE MATT BRADFORD
HONORABLE MARGO L. DAVIDSON
HONORABLE GORDON DENLINGER
HONORABLE GEORGE DUNBAR
HONORABLE FLO FABRIZIO
HONORABLE MATT GABLER
HONORABLE SID MICHAELS KAVULICH
HONORABLE DUANE MILNE
HONORABLE RICHARD MIRABITO
HONORABLE MIKE PEIFER
HONORABLE KATHY L. RAPP
HONORABLE MARIO M. SCAVELLO

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CHAIRMAN BENNINGHOFF: Can I have everybody's attention, please? If we can start gathering around the table and we'll get started on the hearing in reference to House Bill 1877, I'd appreciate it. Thank you. Good morning. I'd like to call this meeting to order in reference to House Bill 1877. We have another secretary. Representative Gabler will take attendance for the hearing.

(The roll was taken.)

This is a non-voting meeting. It is a hearing. We appreciate everyone joining us. House Bill 17 – pardon me, 1877, Dunbar, amends Real Estate Sales Tax Law relating to the collection of delinquent real estate taxes. Some of the Members in and out of this room have raised some questions that were raised by their constituents or county officials and others, so we decided to have a hearing on that. First gentleman joining us today, I believe, is – I apologize, George.

REPRESENTATIVE DUNBAR: That's all right.

CHAIRMAN BENNINGHOFF: Rolling down there so fast, I overlooked you. Prime Sponsor George Dunbar has been pretty gracious as we've ping ponged this thing around, and if you'd like to give us some opening comments on that, please do.

REPRESENTATIVE DUNBAR: Thank you, Mr. Chairman. Briefly. First off, I would like to thank Chairman Benninghoff and Chairwoman Mundy for allowing the hearing. As Chairman Benninghoff said, there, there has been some discussion back and forth on the, on the legislation. It essentially amends the Real Estate Tax Law by eliminating the commission paid to the tax claims bureau when the tax claim bureau does not actually participate in the collection of the real estate taxes. This is – essentially what goes on now, there's – if a local school district or municipality or a third party collects delinquent real estate taxes, they're still responsible to pay 5 percent to the, to the tax claims bureau, even though they don't collect the money. I look at this

as when taxes – tax dollars are imposed and, and collected for school districts and municipalities, the money should go there, so like I said, there’s two sides to every story, and I appreciate talking to – to hear all the stakeholders’ testimony today. Thanks.

CHAIRMAN BENNINGHOFF: Thank you, Representative Dunbar. I’ll remind the Members and those in the audience this is being videotaped, so please, if you have cell phones on, to turn them off. If our first testifier would like to begin, I’d appreciate it. Joe Lubitsky. Did I say that properly?

DIRECTOR LUBITSKY: Yes, you did. Thank you. Good morning.

CHAIRMAN BENNINGHOFF: Director of Administrative Services of Chester County. Thank you for joining us, and we appreciate your patience.

DIRECTOR LUBITSKY: You’re welcome. Good morning, Chairpersons Benninghoff and Mundy, as well as other members of the House of Representatives Finance Committee, and thank you for allowing me the opportunity to present information on House Bill – proposed House Bill 1877. My name is Joseph Lubitsky, and for the past ten years, I’ve been the Director of Administrative Services for the Chester County Intermediate Unit. Prior to joining the Intermediate Unit, I was the – I served as the Director of Business Operations with the Kennett Consolidated School District, which is also in Chester County. During my career, I’ve been actively involved with the Pennsylvania Association of School Business Officials, including committees geared towards implementing efficiencies in tax collections.

The purpose of my testimony is to present support on behalf of the public school districts for HB 1877. If passed into law, House Bill 1877 would give districts the ability to eliminate the mandated annual cost incurred for the collection of delinquent real estate property taxes by county. The tax claims bureaus of each county currently assess delinquent tax collection fees

equal to 5 percent of the delinquent real estate taxes collected each year. This amounts to over 1.2 million dollars in annual costs for the school districts in Chester County, and in my written testimony, I've included a chart that shows that this year over 25 million dollars has been submitted to the county in terms of delinquent real estate tax liens, which would generate 1.25 million dollars in fees. Statewide, it is estimated that HB 1877 would provide the opportunity for school districts to save between 25.6 million and 30.8 million dollars annually in these collection fees. These estimates represent the costs that could be nearly 100 percent avoided by school districts if they employed a third party collector who would be regulated under the provisions of the Municipal Claims and Tax Liens Act. The opportunity to avoid these unnecessary fees would provide welcome relief to the beleaguered school board members and administrators who continue to face drastic educational program cuts – cuts in the upcoming 2012-2013 budget year.

The districts have recognized and have responded to the challenges created by reduced revenue streams as a result of property assessment appeals, Act 1 limitations on millage increases, flat or declining state funding, and historically low interest earnings. The school districts have done this through extensive cost cutting in every area of school operations, including staff salaries, benefits, supplies, equipment, and outside services such as tax collections. In order to preserve educational programs, House Bill 1877 provides an opportunity for districts to continue to reduce non-educational expenses associated with delinquent property tax collection services. In Chester County, the annual fees charged to the larger districts for the collection of delinquent real estate taxes in some cases exceed over 200,000 dollars a year. The elimination of these collection fees could fund the equivalent of 25 teaching positions countywide every year, and again, in my written testimony is a chart showing that 5 districts are charged well over \$100,000 a year for these collections with Coatesville Area School District

being the highest at 218,000 dollars. When given the choice between cutting educational programs or outside tax collection costs, many school districts will welcome the opportunity to have the option of ga – of engaging a third-party tax collection agency as a cost savings alternative.

Please do not interpret my inter – testimony as a criticism of the services provided by the Chester County Government Services Office. They have proven to be a valuable partner in a number of initiatives, including educational support services, development of an extensive geographical information service, procurement of electrical services, and other intergovernmental agency collaborations. Ironically, this also includes a very successful early implementation and consolidation of earned income tax collections under Act 32. This generated a savings of over 1.3 million dollars per year in tax collection fees for the municipalities and school districts in Chester County. In the area of property – in the, in the area of delinquent property tax collections, the Chester County Tax Claim Department has leveraged its technology base and introduced other operating efficiencies to generate significant annual operating surpluses. A chart included in my testimony from page 62 of the 2011 Chester County Budget Document reflects that since 2008, the surplus of the Tax Claim Department in Chester County has generated a surplus of between 1.5 million and over 1.8 million on, on a budget of – with revenue of 2.1 million total. The local school districts applaud this type of efficiency in government. It is also an opportunity for House, House Bill 1877 to provide relief with man – from mandated tax collection costs without significantly impacting the county government’s operation.

School districts can also appreciate that, that the county is often hamstrung in their delinquent tax collection efforts by the often cumbersome mandated timelines and activities

under Act 72 Real Estate Tax Sales Laws. The prevailing regulations – these prevailing regulations limit the flexibility of both the school district and the county government in developing strategies to assist delinquent taxpayers. Private third-party tax collection agencies operating under the Municipal Claims and Tax Liens Act provide a reasonable and cost-effective alternative tax collection method. This is even more beneficial when the mandated 5 percent fees charged by the local county government are waived in recognition of the reduced responsibilities of the county tax claims bureau. This is exactly what is occurring in Montgomery County, Pennsylvania, where the county government has voluntarily waived the 5 percent fee in situations where the school district engages a third-party collection agency. The current laws interfere with free markets, competition, and achieving the lowest price for this service. If passed into law, House Bill 1877 will allow the school districts to reduce costs and improve efficiencies and in turn become less reliant on state education funding. Changing the law would ultimately move jobs out of the public sector and into the private sector, thereby reducing government spending and the burden on taxpayers.

Thank you for your consideration of House Bill 1877 and the flexibility that it would provide school districts in meeting ongoing budgetary pressures if signed into law. I would be pleased to try to answer any questions that the committee may have.

CHAIRMAN BENNINGHOFF: Thank you. We appreciate your concise comments. If the members could take one question at a time, I'd like to try to get through. First there's Representative Mundy and then Representative Mirabito.

CHAIRWOMAN MUNDY: Thank you, Mr. Chairman. Thank you for your testimony, and I am very sympathetic to the stresses and strains on local school districts and on the intermediate units. I guess my, my – here's my question. The 5 percent that you are currently

paying to the tax claim bureau in the county. Do they perform any other services for you with regard to liens or other services separate and apart from what you're paying for through this private entity that you, you've hired, you've contracted with?

DIRECTOR LUBITSKY: We have not contracted, but I believe if we did contract – if the school....

CHAIRWOMAN MUNDY: I'm sorry. I misunderstood that. I thought you were – I thought this was an issue of double-dipping. You're paying twice. You're paying your contracted entity, and then, you're paying the county.

DIRECTOR LUBITSKY: Only one school district, Tredyffrin/ Easttown School District, has chosen to contract with a third party at this time, despite the existence of the 5 percent fee. The fact that, as you said, double-dipping, the 5 percent fee has kind of made it a non-starter for many of our districts.

CHAIRWOMAN MUNDY: Well....

DIRECTOR LUBITSKY: But to answer your question, the third-party would essentially provide 100 percent of the services that the county is now providing under, under the current Act 72.

CHAIRWOMAN MUNDY: But if some school districts opt in to private contractors and some don't, you still have to have a tax claim bureau at the county level.

DIRECTOR LUBITSKY: That's correct.

CHAIRWOMAN MUNDY: And who's going to pay for that? So, you know, you have this notion of competition, but you've got duplication of services. I'm really not clear on you still have to have a tax claim bureau at the county level.

DIRECTOR LUBITSKY: If you look at my figures, the county is operating their current department, tax claim department, at a close to 1.9 million dollar surplus per year. Employs eight or nine people at this point.

CHAIRWOMAN MUNDY: Well, that's your county. I, I would say that my county probably isn't doing that well, but I guess my, my point is that regardless of whether – it, it's sort of like tuition vouchers. The fact that you're taking a certain number of students out of a classroom doesn't mean that you don't still have to pay for that classroom, so it's not a money saver for – it's like whose ox is going to get gored here? Is it going to be the county's, or is it going to be the school districts'? And I haven't decided where I come down on that yet. If you'd like to comment. I mean, from my perspective, you still have to have a county tax claim bureau. It still has to operate.

DIRECTOR LUBITSKY: And I, I agree with you, and I, I believe there still would be school districts that opt to use the county tax claim bureau services. This would just give districts the option, and if they gave them the option, there would be no fees. The third-party tax collectors do not charge the school district fees, so there will a, a clear and defined savings for school districts in trying to deal with the budget. In Chester County, Chester County government is, I believe, close to a 425 million dollar annual budget. We're talking about a one department here with revenues of over 2.1 million dollars and current expenditures of about 650,000 dollars a year. We believe there's some flexibility there. Again, I, I can't speak on a county by county basis.

CHAIRWOMAN MUNDY: Okay, well, thank you for the information about Chester County.

CHAIRMAN BENNINGHOFF: Thank you, Chairwoman Mundy. Representative Mirabito.

REPRESENTATIVE MIRABITO: Thank you. You, you may have answered my question. The third-party tax collectors are basically collecting from the debtor.

DIRECTOR LUBITSKY: From the delinquent real estate – the person with the delinquent real estate taxes.

REPRESENTATIVE MIRABITO: Okay.

DIRECTOR LUBITSKY: There is a schedule of fees that obviously are escalated as, as things move into, into litigation and heavier collection methods.

REPRESENTATIVE MIRABITO: Are there – I guess what I'm trying to understand is does it – is there any methods or any other differences in what they do?

DIRECTOR LUBITSKY: I'm not an expert on third-party collections. I just – I've seen some presentations, so I, I don't – I believe there's – the timeline is faster, and there's not as many mandated requirements in terms of accelerating the collection process. Under the Municipal Claims Liens Act as opposed to Act 72.

REPRESENTATIVE MIRABITO: Okay, thank you.

CHAIRMAN BENNINGHOFF: Thank you. Next, we have Representative Gabler.

REPRESENTATIVE GABLER: Just a real quick question. I want to make sure I understand the, the concept of what's going on in the current law. The county tax claims bureau charges the school district a 5 percent fee based on the number – or based on the amount of uncollected taxes that school district has, correct?

DIRECTOR LUBITSKY: Actually, they, they charge the fee on collected taxes, so for every dollar that they collect, they remit ninety-five cents to the school district, so that's how they obtain their fees.

REPRESENTATIVE GABLER: I got it. Thank you for that clarification. Thank you.

CHAIRMAN BENNINGHOFF: Representative Scavello.

REPRESENTATIVE SCAVELLO: Thank you, Mr. Chairman, and thank you for your testimony. First question. Isn't it a fact that the regulations of the tax claim and the private, the private entity can go after a property owner much quickly because of the law? The private – they have the option of going after someone quicker? To – for, for process of, of, you know, bringing it to court sooner to, to bring the house to a tax sale?

DIRECTOR LUBITSKY: They, they have that, that ability, and I think they also have the ability to make more flexible payment arrangements.

REPRESENTATIVE SCAVELLO: And it is – is it also a fact that the property owner is going to pay a higher number, much higher fees and penalties through the private entity versus the county?

DIRECTOR LUBITSKY: I think that depends on at what phase of the collection process they, they ultimately make their payments or if they establish a payment plan.

REPRESENTATIVE SCAVELLO: And the keeper of the records? Who would keep the records? Like right now, and Chairman Mundy said that earlier. The county is going to have to keep the records.

DIRECTOR LUBITSKY: That's correct.

REPRESENTATIVE SCAVELLO: And there's a cost in keeping the records and making sure that not just the school district but the, the local municipality taxes are paid. You know, there's a cost associated with that.

DIRECTOR LUBITSKY: And I, I believe that the county tax assessments office would continue to do that anyway.

REPRESENTATIVE SCAVELLO: But what you're saying is this bill would say it's free of charge because we're not going to collect the 5 percent.

DIRECTOR LUBITSKY: The assessment office would need to, probably, maintain those records anyway just for the regular tax collections process, appeals and those type of things.

REPRESENTATIVE SCAVELLO: Okay, thank you.

CHAIRMAN BENNINGHOFF: Thank you. Any other questions? Representative Bradford.

REPRESENTATIVE BRADFORD: Real quick. Just conceptually, school boards – or the school board officials are business managers. They're basically supportive, if I understand conceptually, because of the 5 percent is in charge, it'll be more likely that more of the third-party collectors will come into that county. Is that conceptually why they support it? And obviously there's a cost savings if you can use a third-party collector?

DIRECTOR LUBITSKY: Yes, that's, that's basically it. There's a, there's an option that – and with due diligence, they could make that – they'd have the ability to possibly save over, you know, several hundred thousand dollars a year in Chester County School Districts cases.

REPRESENTATIVE BRADFORD: And what are the costs that school districts incur by not having a third-party collector?

DIRECTOR LUBITSKY: By having a third-party collector, or....?

REPRESENTATIVE BRADFORD: If – yeah, what – where do the savings come?

DIRECTOR LUBITSKY: The school di – well, like I said, for every dollar that a county collects, it only remits 95 cents to the school district, so annually, it looks like over 26, 25, 26 million dollars a year in delinquent taxes in Chester County are turned over.

REPRESENTATIVE BRADFORD: Okay, so a private collector turns over 100 percent?

DIRECTOR LUBITSKY: Yes.

REPRESENTATIVE BRADFORD: Okay, so how does – the private collector doesn't rely on the 5 percent. It relies on the collection fees to make its profit.

DIRECTOR LUBITSKY: The collection fees that are, that are charged to the delinquent property tax – the owner of that, that tax parcel.

REPRESENTATIVE BRADFORD: Okay, so the school districts realizes 100 percent, but the private collector – it only realizes 95 percent with tax claim.

DIRECTOR LUBITSKY: I believe – yeah, other than perhaps an initial set up fee of thirty or forty dollars in the examples I've seen. Everything else – all other fees and interest charges are applied to the delinquent property tax owner.

REPRESENTATIVE BRADFORD: One thing I, I think I understand. In terms of how it's collected, private collector has greater leeway in terms of collections but also has the greater ability to use delinquent fees and, and charges that the county tax claim bureau does not have.

DIRECTOR LUBITSKY: Again, I, I don't know specifically. I believe that the schedule of fees and, and charges is dictated by law under the Municipal Claims Tax Law. I believe it's....

REPRESENTATIVE BRADFORD: Gotcha.

CHAIRMAN BENNINGHOFF: Respectively, Representative Bradford, we do have some school officials coming down, and I would like kind of him to stay on his expertise of being the county administrator. I think only fair to him. If you want, we could hold some of those questions for the school – pardon me, the intermediate unit.

REPRESENTATIVE BRADFORD: That's fine. Thank you, Chairman.

CHAIRMAN BENNINGHOFF: Thank you. Any other questions for this gentleman? Representative Dunbar.

REPRESENTATIVE DUNBAR: Thank you, Mr. Chairman. Briefly, just a comment in regards to Mundy and Representative Scavello's comments of, of essentially whose ox will be gored. That's the whole idea of why we're having the public hearing is in, in doing the bill and trying to find a cost. We need to hear what the actual costs are for all the organizations, so that's why, again, thank you for the hearing. Secondly, I just had a brief question. I don't know if you know the answer to this or not. Whenever you're delinquent on your real estate taxes, there's a penalty assessed, is there not?

DIRECTOR LUBITSKY: I believe so, yes.

REPRESENTATIVE DUNBAR: Okay. If there's a penalty assessed – if the county tax claims bureau collects, do they collect the, the taxes and the penalty and then just remit 95 percent of the taxes and keep the penalty as well?

DIRECTOR LUBITSKY: I believe that the county remits 9 percent interest on top of the base, base amount that's, that's owed. Again, I'm, I'm a little rusty on that.

REPRESENTATIVE DUNBAR: We could always see if someone else knows it as well. Thank you.

CHAIRMAN BENNINGHOFF: Seeing no other further questions, Mr. Lubitsky, we appreciate your testimony.

DIRECTOR LUBITSKY: Thank you.

CHAIRMAN BENNINGHOFF: The next testifier will be Jane Roach Maughan, and as she's preparing, I want to remind the listeners that we have had other written materials presented to us for those could not testify, and that is in the Members' packets. Miss Maughan, when you're comfortable, feel free to start. She is a guest here of Representative Scavello, our friend of ---.

MS. ROACH MAUGHAN: Good morning. On behalf of my client, the Tax Claim Bureau Association of Pennsylvania, I thank the committee for the opportunity to testify on House Bill 1877. My name is Jane Roach Maughan. I'm a lawyer. I practice in Monroe County. I grew up in Chester County, and I graduated Villanova Law School and of West Chester State University. I thank Representative Scavello, in particular, and Tamara Fox for their assistance in creating this opportunity for my clients to be heard. As I said, my clients are the tax claim bureau directors of most of the Pennsylvania counties. This bill does not affect Philadelphia or Pittsburgh because they do not have tax claim bureaus.

House Bill 1877 seeks to amend the Real Estate Tax Sale Law, usually referred to as "RETSL," and I'll use that term in my testimony. The amendments actually cover three areas that I think we need to address today. The first is the 5 percent commission that my colleague

has discussed with you. Of additional serious concern to my clients is the diversion or the shifting of the control of the receipt of payments – the shifting of the control of payments away from the tax claim bureaus to private collectors is provided for in this bill. It changes RETSL, and lastly, this bill includes language on giving municipal governments, school districts, townships, boroughs, the discretion to decide whether the tax claim bureau will collect some or all of the taxes.

I will be brief, as brief as I possibly can, but it is wise for us to consider very briefly the history of RETSL. RETSL was enacted by this Legislature in response to the collapse of real estate tax collection across this Commonwealth following the Great Depression, and RETSL consolidated state tax collection of delinquent real estate taxes in tax claim bureaus in the counties. Prior to RETSL, each taxing district had to chase tax delinquents on its own, and in the Depression, of course, that became very difficult as unemployed people struggled to and couldn't pay their taxes. The tax claim bureaus are centrally located in the county courthouses, for the most part, or county administration buildings, and one of their most important functions is they are an archive of the real estate tax records.

Another important point. Real estate tax liens are the most powerful liens of all, second only to Commonwealth liens. They move ahead of mortgages. I'll say that again because it's so significant. They move ahead of mortgages, and so having an archive of the public records of the status of a property's real estate taxes is a critical function of the real estate community that we see in the courthouse, the Recorder of Deeds, the Register of Will, the Prothonotary's Office, Judgment Index.

As you probably know, the current year taxes are collected by elected tax collectors. Each municipality, township, city, borough has an elected tax collector. On December 31st of

each year, RETSL provides that the elected tax collectors close their books and hand all their records over to the tax claim bureaus. That happens December 31st of each year, and the elected tax collectors are now no longer allowed to make any collections. Your constituents who pay their taxes on a timely basis every year depend on the tax claim bureau. Here's why. If they go to refinance their property, if they go to sell their property, they need to be able to prove their taxes are paid. The only way they can prove their taxes are paid is a certification from the tax claim bureau, and so you see from tax claim bureaus a certificate that says 000. That's what we call them in my county. 0 county, 0 township, 0 school taxes. I pay my taxes on time. If I go to rein – refinance my property, and actually, I am, because rates are dropping, I'm going to need that certificate, and where I get it is the tax claim bureau.

Since approximately 1999 across the state, a new wave till I – collecting taxes emerged, and I can tell you, and I'll really try to be brief. Here is exactly how it happened. In 1996 and in 2003, the MCTLA, a different law, the Municipal Tax Claims and Lien Act, usually used to collect water and sewer liens, nuisance liens, but capable of use collecting taxes because it was used back in the Depression. That law was amended by this legislature to permit something hugely new, the addition of attorney's fees onto municipal tax liens. Now, by the amendments in 1996 and 2003, a law firm collecting taxes can add its fees onto the lien. That was purposed toward, and succeeded in, creating a new opportunity for private law firms, and there aren't a lot of law firms in this. There are only a very, very small handful to go into the business of collecting real estate taxes. Immediately, they disregarded the mandates of RETSL, the law that created the tax claim bureaus, and they did several things.

First of all, they told the tax collectors to take the records and give them to them, to the private law firms, so the records immediately disappeared out of the bureaus. I represented the

State Title Insurance Association in a lawsuit brought in Monroe County, which eventually went to the Supreme Court of Pennsylvania, which resulted, not unexpectedly and obviously, in the return of the records to the bureaus, but there are bureaus in the Commonwealth who still have not been able to afford, really, to fight about it, and I can't, as I sit here, tell you whether all the records are back in the bureaus, but in the litigation that I brought, the records were required to be returned, simply because it violated RETSL to take them out.

The other thing that happened almost immediately is that private counsel took control of the payment stream, and when private counsel took control of the payment stream of the taxes they were hired to collect, the payments didn't go through the bureaus, and the bureaus' records of what was paid and what was unpaid were in a terrible mess. In many of these municipalities across our Commonwealth right now as a result of activities that started in 2007, the records are really pretty much in a shambles. There is something even more important, though, that I think this committee needs to be very aware of in considering this bill. There has been a systematic approach of private collection council to aggressively sell off delinquent properties, actually in violation of both Acts. There was some talk before, and I think I should clarify it. I'll sort of depart from my written testimony briefly.

Under RETSL, tax claim bureaus cannot sell someone's property right away. They take the records from the, the tax collectors on December 31st. Actually, they get them the first week of January or so, and some don't get them till later in the month, but RETSL has a very structured system where the tax claim bureau sends out a notice promptly. "You didn't pay your taxes." The tax claim bureau directors, if they were here, would tell you this. There's a huge payment that comes in in the first couple months of the year, very huge payment because there's a 10 percent penalty. Actually, the taxes were already in penalty, because if you think of your

tax bill, you have a discount, a regular, and a penalty phase. Ten percent penalty went on in the fall of the previous year. The tax claim bureau adds 9 percent interest, so payment is rapid. There is some blighted parts of this Commonwealth where there's a real collapse of real estate tax collection. My understanding is Reading is having some terrible problems, as is York. I'm not an expert on that, but the vast majority of people pay on time. Between 90 and 95 percent in most counties, with the exceptions of some counties having real problems. The tax claim bureau then perfects the claim by the summer. That's just a paperwork process, and I'll cut to the chase. After several other notices of posting the property, the tax claim bureau sells the property in the following fall, the fall of the second year of delinquency, so it is a slow process, but if a senior citizen or an unemployed person or a family with problems has this tax lien jumped ahead of their mortgage or if lenders are going to take risks in our Commonwealth, we don't want to sell people's property in the first three months of the year.

The MCTLA is not a whole lot prettier, frankly, for the school districts, but private collection council disregards it. The MCTLA says – I won't read it to you. I'll tell you, and if anyone has questions, I'll read it to you. The MCTLA says this. Hold an upset sale. An upset sale is one where the person who purchases buys under and subject to all the liens of record. As you would expect, upset sales don't produce a lot of buyers. The MCTLA then says, "If you fail at upset sale to sell the property and the MCTLA is the governing law for private collectors, if you fail, petition the court. In the petition say the taxes are unpaid. In the petition say you tried an upset sale, and in the petition say it's been a year since you filed the lien." Private collectors are taking these properties to sale in the fall of the first year. I don't know why. I can tell you what I think why. The sale provision is buried at the back of the law in a particularly long passage that is particularly difficult to read, but when you read it, and I could read it aloud to

you, all of us in this room would understand it. When private collectors go to school districts and say, “We can do it faster. We can do it cheaper. We can do it better,” the cost is this: the outright destruction of the public archive of records for the taxpayers in the community who depend on it. The lawyers, the bankers, the lenders, the title agents, and a rush to justice that is an absolute violation of the law. Why is it happening? Because mom and pop don’t know that you can’t sell my property off in the fall. When they get letters from the lawyer that says, “We’re selling your property off when sheriff sales start,” and bluntly, sheriffs don’t know. The sheriffs of our counties aren’t experts on the MCTLA. When they see a writ of execution come into their office, they schedule that property for sale.

We have two collections systems right now, and actually, they, they can work together. It’s up to this Legislature whether we have two collections systems. If we have two collections systems, which system is going to take the money? Only one can take the money. My husband and I share six children. He served in the Marines, and he is a Controller by profession. You can bet our checkbook is perfect, and you can also bet this. There’s one hand in it. We don’t – we bicker over who has to do the work because the kids are coming to us all the time, but we don’t both put our hands in that checkbook because we know disaster would reign. Right now, by an innocent amendment to the MCTLA that this Legislature passed several years ago with no notion of the impact that would roll out, by putting attorneys’ fees in the MCTLA, you have essentially unleashed forces on school districts who need their money faster, bluntly, they think, and those forces have really systematically violated the law, even the very law that they’re supposed to follow in their collection process.

My school district is 200 mill – is 20 million dollars in the red right now. I live in Representative Scavello’s district. The Pocono Mountain School District is 20 million dollars

short. They don't know where they're going to get it. There's tremendous pressure on school districts right now, but that pressure should not, then, fall onto taxpayers whose rights to – I'm not the Joan of Arc of delinquent taxpayers. People should pay their taxes on time, and school districts need to be able to count on it, but when you're dealing with a 5 percent delinquency, while that's a lot of money to a school district, let's all keep in mind it's 5 percent, and I operate a small business. Cash flow's critical. I need to be able to pay my bills and pay my staff, but again, we have to look at the really, frankly, I say this not with purposes to demonize, but I'm being honest with you. The insidious aspects to this bill are the continued destruction of the archives. It's like you're saying, "Go record your deed with a private law firm," and when somebody buys that property years later, they're going to have to go find them.

I departed from my testimony. It's available for you to read, but there is one last very important issue that you need to understand. Follow the money. How many times have we all, when we can't understand something, followed the money? Follow the money because the destruction of the archives created an opportunity.

In addition to the lawsuit where I was lead counsel for the State Title Insurance Agents, I represented Carbon County in a lawsuit in Carbon County. Carbon County sued the Panther Valley School District for the return of records to the bureau because they still had not been returned even after my Monroe County lawsuit, and they also sued for the commissions. The commissions were not at issue in the Monroe County case because that was a case by title agents to return records to the bureaus. In the Carbon County trial, I got the answer to the question that I'd been trying to get the answer to from the very beginning of my involvement in this issue in 2002 or [200]3, and I'll cut right to the chase. Over a period – I think my testimony says six years, and I correct myself. I believe it's nine. I have the testimony here today, and I'll read it to

you if you need. Over a period of nine years, Portnoff Law Associates made six million dollars on fax fees. What are fax fees? People paying them to tell them whether their real estate taxes were paid or not. Not delinquent taxpayers. And the archives gone, when the archive is gone, private counsel has all the information, and Mrs. Portnoff, who's present in the room today, testified under my questioning to the figures, and they continued through to 2010. The Monroe County case to restore the archives was concluded in 2007. Even after that, private collectors don't give this money to the school districts. They keep it because if I lived in a school district where private counsel was collecting, and I go to a real estate closing, I have to pay. That trial in Carbon County, the testimony was this. "We give certificates that are free." The title agent who testified said, "I don't use them because there's language on it that says, 'We don't guarantee the accuracy of this.'" When I'm going to a real estate closing, the title agent said, who was their witness, not my witness, he said, "I, I can't have something in my file that says" – he didn't use all these words, but basically, he said, "I go for the one you pay for," so someone today might tell you that private collection council now offers this information for free because the Commonwealth Court resoundingly said, "These are public records. No one can sell them." They're still being sold because up to 2010, if you say to me, "I'll write this down on two pieces of paper. One, I'll say it's accurate. The other one I won't. One's free. The other one's twenty-five dollars." Which one are you going to take?

In conclusion, I would say this. We, we live at a time right now where there is a broad and robust and sometimes angry debate about government. What is the role of government? We've got 1 percenters and 99 percenters and R[epublican]'s and D[emocrat]'s and I[ndependent]'s and Tea Partiers and college partiers, and we have all kinds of people with opinions. Everyone seems to be able to agree on this stuff, that the function of government is to

protect our infrastructure, make roads, declare war, and collect taxes. Even people who think we shouldn't be taxed don't think that it should be jobbed out to the private sector, and I think the kind of abuses I've talked to you about here exactly what happens when that happens.

This bill, by diverting payments out of the bureaus, this bill diverts payments out of the bureaus to collection council. That will guarantee the continued damage to the archive. The records will be there, but nobody will be able to say what's out. Nobody will be able to say what the balance is due. When the private collection council is in control of payments, then, the archive is illusory. If the tax collectors put the records back in the archives, but the private collection council control the payment stream, the archive is damaged, and a damaged archive is useless. This bill does that. It moves the payment to the private collectors.

I think that there are ways for these two laws to work together. I absolutely do. It's not my purpose here to demonize. I think that there are ways they can work together. I think this bill does not accomplish them, and I appreciate the opportunity to testify on behalf of my clients.

CHAIRMAN BENNINGHOFF: Thank you, Miss Maughan. I actually had one quick comment. I [am] still having trouble following how this particular bill is doing anything that's currently not a rev – occurring in law. I mean, municipalities and schools currently can choose to collect their own taxes or go to a third party. This is basically just saying counties aren't going to get paid for something they aren't doing. I think we have some per fiduciary responsibility to not be paying fees to people that aren't doing something. As far as the archive, I've having a hard time understanding that someone, regardless who's collecting this, eventually remits the money to the entities that's due this money. Why isn't that the record to show that these taxes are, are paid? I mean, it seems like you're saying they're handing over Monopoly money and saying, "Don't ask where it came from. You know, here's your money," but the

reality is, they're should have some report with saying that they got this from Kerry Benninghoff or Representative Scavello or whoever it was that was delinquent that they collected money from, so I don't understand how that hurts the archives.

MS. ROACH MAUGHAN: I think it hurts the status of the archive when I can't walk into the tax claim bureau today and know the status of properties in a district that is being collected privately.

CHAIRMAN BENNINGHOFF: But you will at the time that the money is remitted.

MS. ROACH MAUGHAN: Under this bill the money will not be remitted to the tax claim bureau. It will be collected by the private law firm and given to the school district. School districts....

CHAIRMAN BENNINGHOFF: And that's currently happening in many places in Pennsylvania already. Those records, to my knowledge, have not been decimated because of it. I mean, one of my own municipalities has a third party collected, and the county still has record who collected money. Who paid what, and they got their fee, and taxes ultimately got paid. I don't understand how that automatically – you make it seem like it's almost automatic that it abolishes those records, and I don't buy that if it's a current practice.

MS. ROACH MAUGHAN: My clients are the tax claim bureau directors, and I sit here and tell you that it has. I, I don't know if I would use the word "abolish" the record, sir, but where private collectors collect and remit directly to the township, school district, or borough and do not bring the tax claim bureau into the loop, then there's nothing in the tax claim bureau. Tax claim bureau may be collecting county taxes or township taxes for that municipality but not the school. There are many instances where, for instance, the tax claim bureaus are taking properties to sale on county and township taxes, and they are actually collecting the school taxes

where the private collector didn't move quickly, because one of the things the private collectors are doing is, and my clients are concerned about it, they're cherry picking. They will sell the most valuable properties. They'll sell the properties that perhaps are most profitable for themselves, and I think that's buried in the language of this bill, too, because this bill suggests that school districts, collection councils should be able to say whether they will collect some or all of the taxes. Please note that. It doesn't say – in the last page of the bill, it doesn't say, "When a school district chooses private collection council, private collection council's going to collect the taxes." It says, "some or all."

CHAIRMAN BENNINGHOFF: Correct.

MS. ROACH MAUGHAN: They don't want to do all. All is too much work. Some properties are not going to generate very much money at sale, and so my clients, the tax claim bureau directors, are struggling with stuff falling into their repository with uncollected taxes on it that private collectors were supposed to collect and didn't finish. They're driven by different motives, understandably. They're a private entity. They're driven by more purposeful profit motives. The county tax claim bureau's going to take every property to sale at the regular time. It has not been the history of private collectors that they do, so I almost think I, I feel like perhaps I've been inarticulate. I think perhaps you need to be in the tax claim bureau offices to really see the problem, but the real estate industry, title agents, tax claim bureau directors, they, they know of the problem. I wouldn't be here if there wasn't one.

CHAIRMAN BENNINGHOFF: I appreciate your testimony, and I don't want to monopolize the time. One thing I would suggest is if your association has time, you said there's concerns with sheriffs conducting possibly – I don't want to say "inappropriate," but sales that should not occur. Those associations meet on a monthly basis. They have an annual event every

year. I would recommend your association meets with them and help educate them. I suspect some of them are relatively new within their positions and maybe not be aware of that. Other Members, questions? Representative Mirabito.

REPRESENTATIVE MIRABITO: [no sound]

MS. ROACH MAUGHAN: I, I see your point. I don't know that I would articulate it precisely that way. I see our taxpayers and your constituents as very vulnerable. I think that the guidelines in both of these laws – under the MCTLA, the earliest sale that should be possible, really, is the spring to early summer of the second year. Under the Tax Claim Act, it is the fall of the next year. I think the money belongs to the school districts. I don't dispute that. They are entitled to that money, and they need that money, and they've budgeted that money, but quite frankly, they know the pattern of delinquency. They've budgeted for delinquency. They do know it. I think one of the deeper issues is that it's possible in some counties that the rate of delinquency and the cost of the taxes does make it that that particular tax claim bureau's getting more than it needs and is a revenue office for the county, but I also wouldn't come right on – comment on budgets till I saw the whole budget. Does it include absolutely everything for the tax claim bureau? I don't know, and in some counties, the county is carrying the tax claim bureau a little bit. I think the broader question is these – the burdensome process by which a powerful lien can move ahead of a mortgage. Isn't that better in the hands of government? Because I know of no tax claim bureau director who has systematically violated the law the way we see here, and I think some of this may well be innocent, too, to be perfectly honest. Again, I'm not purposed for demonizing. This private collection took off and took off at a time when sheriffs didn't understand it and tax claim bureaus didn't understand it, and I think it's, it's been chaotic. It definitely has.

CHAIRMAN BENNINGHOFF: Again, I thank you for your insightful testimony. Any other questions? Thank you for taking time to share with us and be here in representing your organization. Next we will have James Himes of PASBO, Pennsylvania School Business Officers. Tim, when you're ready, please join us.

DIRECTOR HIMES: Thank you, Chairman Benninghoff, and thank you, Chairwoman Mundy, for the opportunity to present testimony. I presume I can summarize my testimony in light of the time and the number of other testifiers to follow if that'd be okay.

CHAIRMAN BENNINGHOFF: Much appreciated, but we've still also read it in depth ourselves, but thank you.

DIRECTOR HIMES: Abso – okay. Clearly, I think many people have alluded to already schools under – are under very increased scrutiny for trying to impose cost reductions to prevent additional personnel and program cuts. We are in a no dollar left behind mode, so every revenue source and every effort to reduce expenditures is important. On the top of page two of my testimony, I gave you a chart that shows the amount of school delinquent tax revenues across the state. It is, again, not an accurate reflection of all the delinquencies because this is delinquencies collected, not the total amount of delinquencies that are out there, and obviously we would think that since it's on a delayed basis that some of the amounts of money that have become subject to delinquency may have increased, but to put those dollars in context, 141 million in [20]09-[20]10, 126 million in [200]5-[200]6. I mean, that's – in the good old days, so to speak, that's roughly the amount of the increase in the basic education subsidies, so I mean, we're talking a significant amount of dollars that are at stake, and it's no wonder schools want to pursue them as vigorously and as rapidly as possible.

That does two things. It makes sure that the tax collection process has fairness to it and represents all taxpayers, those who pay on time and those who don't by some process, and it also, again, obviously provides revenue that benefits all taxpayers for the schools to collect it. You've heard a little bit about the two options the General Assembly's provided to schools and to municipalities. You have RETSL, Real Estate Tax Sale Law, and you have the Municipal Claim and Tax Lien Law. The bill doesn't change anything about those two laws. They are still there. There're still two options. There'll be two options. What it does is address the fee situation. I think our members would generally believe that RETSL provides a lengthy, complicated, cumbersome process, and it's of different caliber depending upon which county you're in. Clearly, some counties do this well, and I think our members would say they might continue to do that because, again, this would provide two options for schools and municipalities, but the General Assembly did provide an option, and that option can work better and quicker and help to not only provide additional revenue but perhaps deter additional delinquencies, as well, so again, the bill's – doesn't provide any changes to the two options. They're still there. What the bill does is simply address the fee situation, and what our organization would say is it's really essentially a tax on the tax. It's delinquent taxes given to the county that requires the – a loss of revenue to the school district to all taxpayers, and again, in an interest of providing revenue to the district, they may be pursuing a third-party collector in which they will pay for a contract to collect those, as well. So even with the 5 percent, schools have found that there's still in some situations and some counties a very deliberate reason to pursue the option the General Assembly has provided. So we think getting rid of the mandate for a service that may not wanted, may not be utilized, and may not provide any benefit is not unreasonable.

Now, to the question of, “Well, [what] happens to the county tax claim bureau?” Again, I can’t, I can’t tell you. If I told you, you probably wouldn’t believe me anyways that I spent all 66 county budgets and can tell you what their county tax claim bureaus do in terms of the revenue. I did look at a couple, and assuming that information’s accurate, you see 8.1 million dollars in revenue, 942,000 dollars in expenditures in one county. Another county, 3.1 million dollars in revenue, 242,000 dollars in expenditures. Another county, 2 million dollars in revenue, 617,000 dollars in expenditures, so I don’t know that we’re going to bankrupt county tax claim bureaus. We are going to adjust the fee that’s going to save school district taxpayers dollars. That’s clear. Again, 1877’s relatively straightforward. It just addresses this 5 percent.

In regards to the issue of records, tax records by school districts and municipalities are public records. They’re required to be maintained. They’re required to be given under, under the Right to Know law. It’s a public document. The issue comes in about certifications, and that’s a little bit different than simply requesting a public record, admittedly, but in the, in the process of trying to determine where delinquencies exist and who has paid taxes and who hasn’t paid taxes, you have to contact the school district anyways. You have to know what the current tax collections are, so it seems relatively easy in terms of trying to determine both delinquent and current where those tax collections are in terms of their status, so are the county records inaccurate? Well, I don’t think we have schools withholding data from, from the county tax claim bureau. It’s a question of should they be required to pay a fee that they – for a service they may not want or utilize when they have another option given to the General Assembly, and that’s about as clear and simple as I can make it, and I’d be glad to respond to any questions you have.

CHAIRMAN BENNINGHOFF: You did a good job. I was trying to read along, and you were going faster than I could read, so good job summarizing.

DIRECTOR HIMES: Sorry, sorry.

CHAIRMAN BENNINGHOFF: No, thank you. Representative Gabler has a question.

REPRESENTATIVE GABLER: Just a very quick question. I thank you for your testimony, and I apologize if maybe there might be a more appropriate person to ask the question to, but you mentioned in the county budgets what you had seen was the revenues of the county tax claims bureaus far exceeding the expenses of those bureaus. Are you familiar with any provisions within, within the county code or anything that would limit or determine what counties are allowed to spend those excess revenues on, or is that just kind of – is that allowed to be cross subsidized to any part of county operations? How, how are those additional funds utilized?

DIRECTOR HIMES: Well, I'm not sure, but my answer would likely be that there's revenue that the county determines how they spend it. I don't, I don't know of any restriction on their expenditures.

REPRESENTATIVE GABLER: I'm just kind of curious, but thank you very much.

CHAIRMAN BENNINGHOFF: Good question. My guess it probably goes in a general fund. As a former county coroner – yeah, coroner, that's what it is.

REPRESENTATIVE SCAVELLO: Yeah, coroner.

CHAIRMAN BENNINGHOFF: Professional. We'll let Representative Scavello....

REPRESENTATIVE SCAVELLO: It's General Fund money, and if they don't have that revenue, they'll be raising taxes to offset the revenue, so, you know, it's revenue that they need, you know, so. My, my – I'm, I'm listening to this, and you know what? You've got two different laws here, and the county tax claim office is working under an archaic law. Maybe both should be a level, level playing fields, and we wouldn't be having this issue because it's not

level playing fields. The private guy can go after someone much sooner, can charge for attorney fees and all that, and just think about your taxpayer, the one that's having trouble today trying to survive and hold onto their home, how quick are they going to lose that house, and the fees and the added fees and the added burdens put on their, on their shoulders.

CHAIRMAN BENNINGHOFF: Thank you, Representative Scavello. Representative Mundy, Chairwoman Mundy, pardon me.

CHAIRWOMAN MUNDY: I am still very confused about the records issue. When money comes into the tax claim bureau to pay delinquent taxes, there is an official record that the taxes were paid or that the property was sold or whatever the outcome of that is. What is the requirement, and is it on the part of the private indi – private entity that you've contracted with to collect the tax, or is it a burden on the school district to report to the tax claim bureau? Or maybe nobody's required to report to the tax claim bureau, which is an even bigger problem. The outcome of that delinquent tax situation. Do you understand my question?

DIRECTOR HIMES: I do. I, I try to answer it this way. What I believe, Representative Mundy, is that that information can be transmitted to the county by school districts and municipalities for purposes of record keeping.

CHAIRWOMAN MUNDY: But when you say, "It can be," is it?

DIRECTOR HIMES: Well, I don't – I can't answer that in specific circumstances. I, I believe in an effort to try and make sure there's a records archive that that does happen. I don't know that it happens in every case. I can't....

CHAIRWOMAN MUNDY: Well, that's a huge problem for the average person who has paid their taxes, even if they might have been delinquent. This notion that you're going to have more than one entity responsible, where does the bank go to know the status of that property?

Where does the, the real estate agent go or, or whoever else might need to know the status of that property? If you can't go to the tax claim bureau in the county where the property is, that, that's a huge problem, as far as I'm concerned, so I think maybe we can amend the bill to address that issue, although, again, you know, I still believe that the tax claim bureau should be the central location for record keeping, and that costs money. In – you know, there may be excess revenue in a lot of counties that goes into the general fund. That's because they're desperate for revenue, and the bottom line is that many counties need to upgrade their computer systems and don't have the money to do it, and that's probably where they could use that extra 5 percent that they aren't getting because some private entities are collecting it, and it's going into the General Fund instead of to paying for the upgrades in computer systems, etc., in the tax claim bureau as it, as it should, but I think the records issue is very, very important to the individual property owner that I represent, so unless we can address that issue to my satisfaction, I'm going to have a really hard time supporting this bill.

CHAIRMAN BENNINGHOFF: Representative Dunbar.

REPRESENTATIVE DUNBAR: Thank you, Mr. Chairman, and, and again, like Chairman Benninghoff had said earlier, this bill isn't changing anything. That, that exists presently already, so this bill does not change that, but if we want to sit down and discuss maybe making the bill better to include that, I'd be more than willing to do that, Chairwoman Mundy, but this bill specifically does not change that. That exists right now anyhow.

CHAIRWOMAN MUNDY: Well, but it, again, it, it seems to me to exacerbate the problem because, because now you're going to have more school districts and go out and hire contractors to "save money," to the detriment of the, the person who's looking for the record and can't find it. Do you understand what I mean?

REPRESENTATIVE DUNBAR: Certainly.

CHAIRWOMAN MUNDY: Yeah, so....

REPRESENTATIVE DUNBAR: And I do agree with you, and that's – and again, that's what I said. That's what we're here today to try and get all these things taken care of.

CHAIRWOMAN MUNDY: Right, well I'd be happy to work with you on an amendment or a, or a change in the bill somehow.

CHAIRMAN BENNINGHOFF: Thank you, Chairwoman Mundy, and I'd also add a comment to the tax claim bureau's directors. If you have examples of where this records are not – or a percentage across the state that are disappearing or whatever it is as far as affecting archives, I'd be interested in knowing that because it just seems to me that I can't imagine a bank releasing a mortgage. I can't image a sheriff producing a sale and all of a sudden any paperwork that had associations with that just not being available. Ultimately, somebody has to be reporting those records. It's fiduciary responsibility, and everybody involved in the process, and if anyone in this room's ever sold a piece of property, you know how many millions of pieces of paper you got to sign that it just is very difficult for me to believe that that is a massive problem, and I'd be glad to talk to that association later on that, but if you could provide specific examples and the percentage of times this is occurring across the Commonwealth, it could be helpful to pinpoint that for the committee. Any further questions? Representative Mirabito.

REPRESENTATIVE MIRABITO: Quick comment to Representative Dunbar. Maybe in the process is a, a way to work out a system where we rebate back to the school districts money that's been collected in excess of what's necessary to run the tax claim bureau. I don't know if that's what you were suggesting, Chairman Mundy. But in other words, when you have worker's comp[ensation] insurance, you, you pay a certain premium, and at the end of the year,

they, they audit you, and, and, you know, you're either refunded, or, or you pay more. I think to be fair to the taxpayers if, if it's not necessary to have 5 percent to run the tax claim bureau, maybe that should go back to the school districts, but there must be enough there so that we have a solid system of recordkeeping.

CHAIRMAN BENNINGHOFF: I think if you want to work with Representative Dunbar on that, it might be beneficial. I'd be skeptical of a rebate program only because it probably costs money to produce a rebate versus not collecting it to begin with, but George could probably address that better than I can.

REPRESENTATIVE DUNBAR: And, and just briefly. We certainly will sit down and discuss it. Is 5 percent the right number? Should it be a lower number? What? I think there's room for compromise here, and I think we will likely sit down and get to that.

CHAIRMAN BENNINGHOFF: Well, that's the purpose of these hearings. Mr. Himes, thank you very much for your testimony.

DIRECTOR HIMES: Thank you.

CHAIRMAN BENNINGHOFF: Next we have Matthew Malinowski, Business Manager of a school district's name that I cannot say any better than I can his last name. Is that Cheltenham?

MR. MALINOWSKI: Yes.

CHAIRMAN BENNINGHOFF: Thank you. Did I butcher your name or that name?

MR. MALINOWSKI: It's fine. Thank you.

CHAIRMAN BENNINGHOFF: Great. You're also here on behalf of PSBA [Pennsylvania School Boards Association], correct?

MR. MALINOWSKI: Yes. On behalf of PSBA, I'm Matt Malinowski. I'm the Business Manager for the schools of Cheltenham Township in Montgomery County. I, too, will summarize if you want to follow around – along in my printed testimony. PSBA supports House Bill 1877, which allows school districts to collect their own delinquent property taxes and forgo the 5 percent commission paid to their local county tax claim bureau. If you look on page two of my testimony, we are still required right now, even if we use an outside collector, in the third paragraph to pay to the tax claim bureau a 5 percent commission for work that the county does not do to collect these delinquent taxes but yet still receives a portion of revenue. Cheltenham Township School District utilizes an outside delinquent tax collector. The firm's ability to work through a legal process and work with residents relative to delinquent collections is highly efficient and effective when compared to other collection options at the county level.

Since 2008, over 5 million dollars in delinquent property taxes have been recovered. Without this, our programs would be negatively impacted. We have attached to the testimony. You'll see our delinquent tax collection records. They represent what has been collected and paid and what our 5 percent commission would be, had we had to pay that to our county collection bureau. Our county currently does not require us to pay over this commission. However, we have received notification within the past month that we will soon be required to pay that 5 percent commission were this not to move forward to full fruition.

Second paragraph on page three, I researched again my Montgomery County's 2012 general fund budget. It indicates the operating expenditures the tax claim department are 441,827 dollars and revenue for the tax claim bureau currently is 1.7 million dollars. What this data shows is that the bureau does not require Montgomery County school districts and municipalities to pay a 5 percent fee for its annual operating expenditures. Thereby, the letter

that I've recently received, if I can add that, would require us, would essentially be superfluous revenue from a school district to the county and would place a burden on my taxpayers to have to pay a quarter million dollars plus over a five year period to the county for, again, not providing a service.

In closing, House Bill 1877 protects school districts' right to utilize the services of entities other than the local tax claim office for the collection of delinquent real estate taxes in their district. By removing this unnecessary mandate, it no longer provides a disincentive to school districts to collect their own property taxes and ensures that they maintain flexibility to appoint a delinquent tax collector if it's appropriate for their district. I'm happy to answer any questions.

CHAIRMAN BENNINGHOFF: You win the prize for brevity. Very efficient. Just a quick question.

MR. MALINOWSKI: Yep.

CHAIRMAN BENNINGHOFF: It was said earlier that this could be a loss of revenue for the counties. Isn't currently not a loss of revenue for the schools?

MR. MALINOWSKI: It, it currently is not. Again, with Montgomery County, we are not required to pay that commission right now. Were we to start to pay that commission, it would be a loss off of us, and we'd have to levy additional taxes to make that payment because we would, again, be paying two entities to collect our delinquent taxes.

CHAIRMAN BENNINGHOFF: Have you seen any efficiency in the tax collection by going to that third party?

MR. MALINOWSKI: Through the third party, I've seen that they work with residents. We have placed numerous residents on payment plans relative to hardship applications. We,

again, follow the legal process relative to the collection of those taxes in working and reaching out to those constituents that do have certain issues to make that repayment, and so it's been a successful process for us in recovering revenue we need while meeting the understandable economic situation that some of our constituents face with being able to pay their school property taxes.

CHAIRMAN BENNINGHOFF: And able to keep a majority of them in their homes, then.

MR. MALINOWSKI: Overall, based upon a case by case basis, we actually review within various criteria relative to what's submitted to us for income verification and other, other statuses. You know, when it's somebody's primary place of residence.

CHAIRMAN BENNINGHOFF: Thank you. Other questions? Chairwoman Mundy.

CHAIRWOMAN MUNDY: Perhaps you as, as someone who, whose school district contracts out this service. Perhaps you could speak to the issue of the records. Does your school district report to the tax claim bureau, or does the private entity that's collecting your taxes make that report, and what is the certification requirement that this is accurate information?

MR. MALINOWSKI: That's a great question. We actually at our local office house a list that's updated regularly relative to those properties that are outstanding as far as delinquencies. There is something in this process that's called a lien that is actually filed at the county's level in the prothonotary's office, and so when payment has been made and that lien is satisfied, that is then recorded back to the county's office just the same way it would be if payment was made to the county's tax claim bureau as I understand it. Certifications as I understand it within my district still float through, actually, our local tax collector relative to certifications. He informs them just the same way as he would if the county had held our taxes,

that Portnoff or an organization holds our taxes and that they then get a certification from that other entity.

CHAIRWOMAN MUNDY: That sounds really like a complex system to me. Where – if I'm going to buy a property that I believe was delinquent in its property taxes, where do I go?

MR. MALINOWSKI: The county also directs people and actually has information posted on their website relative to those entities that have an outside collector.

CHAIRWOMAN MUNDY: Where, where does the county get that information? Sounds like it's here. It's there. It's everywhere. It's not in one, central location.

MR. MALINOWSKI: Well, actually our county does not do any of the collections themselves as a claim bureau. They actually contract out the service to a third party themselves, so with the Montgomery County we have the option of either contracting with that third party that the county went to or contracting with another third party.

CHAIRWOMAN MUNDY: So what does Montgomery County's tax claim bureau do and where are the...?

MR. MALINOWSKI: I'm not a representative for the tax claim bureau.

CHAIRWOMAN MUNDY: So you don't know the answer to that question, so what is their function? Where is the central location? If I'm someone who needs information, where do I go in Montgomery County? It sounds like I have to go to the school district, to go to the prothonotary's office. I mean, I don't know where I'd go.

MR. MALINOWSKI: I don't know what the county claim bureau would say on that. Can't speak to that.

CHAIRWOMAN MUNDY: All right, well, let, well let's get back to your responsibility with regard to this, and, and just tell me one more time. You contract out the service, so is it you

who has the, the jurisdiction of those records as to what's been paid and what hasn't? And you're getting that from the entity that is collecting your taxes, so you have all of those records in your school district's, I guess, administrative office. Does that ever get remitted to the tax claim bureau in the county?

MR. MALINOWSKI: The local tax collector turns over to the school district a copy of all the outstanding taxes that are due as the penalty period. We in turn have that in our records, as well as we turn that list over to our third party collector. Third party collector maintains that list and provides us regular reporting intervals back that we then provide and is available to any member of our public who wants to know what currently is, is outstanding.

CHAIRWOMAN MUNDY: So if I live in your county and I want to buy a property and I don't know the status of the taxes, where do I go?

MR. MALINOWSKI: Well, yeah, I can't speak for the county as a whole. For our school district....

CHAIRWOMAN MUNDY: All right, now, in your school district.

MR. MALINOWSKI: The, the certifications for tax purposes flow through our local tax collector, regardless of whether they are serviced by our third party, the county's third party, or imagine if our county had their own tax claim bureau, the certification process begins with our local collector who informs relative to where final certifications need to be obtained.

CHAIRWOMAN MUNDY: That's clear as mud, and I don't consider myself a stupid person. I'm still not clear. So your local tax collector in your school district has those records.

MR. MALINOWSKI: The local school collector acts as the gatekeeper relative to certifications, relative to buying and selling in which certifications are ordinarily obtained relative to county, township, and school district taxes.

CHAIRWOMAN MUNDY: And is that true in each school district?

MR. MALINOWSKI: I can only speak to how my school district operates.

CHAIRWOMAN MUNDY: Okay, well, we don't make laws just for one school district, so I, I need a much clearer picture of how this would work statewide. Thank you.

CHAIRMAN BENNINGHOFF: Thank you, Madam Chairwoman. Any other questions? I want to thank you for your testimony, but I, I have to ask the question for clarification.

MR. MALINOWSKI: Sure.

CHAIRMAN BENNINGHOFF: Do you tell me that your county's tax claim bureau subcontracts out to a third party?

MR. MALINOWSKI: Yes, that is my understanding. They, they contract out to a third party.

CHAIRMAN BENNINGHOFF: Thank you, and I appreciate you taking questions both on behalf of the county and School Board Association.

MR. MALINOWSKI: Thank you.

CHAIRMAN BENNINGHOFF: Ruch. I'm going to enunciate as "Ruch." I apologize if I'm saying it wrong. Business Manager.

MS. RUCH: It is "rook."

CHAIRMAN BENNINGHOFF: Ruch. My apologies. If you just want to say who you are, who you represent, and we'll go from there.

MS. RUCH: I'm Jill Ruch. I am the Business Administrator for Palisades School District, which is in Upper Bucks County, Pennsylvania. I want to thank you for allowing me to testify today, and I'm in support of House Bill 1877. On my paper that I submitted I have three

talking points, one being that Palisades currently uses a third party collector, which is Portnoff Law Associates, to collect our delinquent real estate taxes, and we have used them as a collector since 2006. They have collected and remitted more than 5.6 million dollars to the school district, of which 5 percent of those commission fees would have been paid to Bucks County, which results in 280,000 dollars, and Bucks County did not provide any services for those collection fees. Additionally, that would be 280,000 dollars less that we would have to support our programs and services.

My second talking point is that Palisades, since 2006, has received timelier payments by having Portnoff collect our delinquent real estate taxes. We have increased cash flow and also increased our interest income by having the monies in our banks soon, sooner.

My third point is that Palisades has accelerated their collections since 2006. I attached an exhibit from the Sunday's *Intelligencer* from the year 2008. Whereas the county was – had an article on that they were going to send out their liens as of February 21. At that point, we had already received seven days after that roughly 147,000 dollars, so once again, we have increased our cash flow and our interest income by moving to a third party collector.

So in summary, I'm asking on behalf of my school district to support House Bill 1877 to allow districts to choose their own delinquent tax collector without the liability of remitting 5 percent commission fees to the county.

CHAIRMAN BENNINGHOFF: Thank you. Questions from the Members?
Representative – Chairwoman Mundy.

CHAIRWOMAN MUNDY: Thank you. Perhaps you in Bucks County can give us an idea of where the central records compository is.

MS. RUCH: What we do is having our third party administrator, Portnoff Law Associates, collect our taxes. They are remitted to the county on a monthly basis, so the county does have records so in case somebody would be going out for a mortgage, they can verify with the county what – whether or not there are any liens against the property. Also, there's a difference between delinquent taxes and current taxes, so if we were in a current tax period, we would also direct those, those people who are looking for a mortgage to go to their curr – our current tax collectors.

CHAIRWOMAN MUNDY: So, so the county is providing a service to your school district.

MS. RUCH: That is correct.

CHAIRWOMAN MUNDY: In that it keeps the records of who's current and who's delinquent.

MS. RUCH: Yes, we do remit to them. Portnoff Law Associates does send them a monthly file, so they do have a record.

CHAIRWOMAN MUNDY: And, and you think that the county should do this for you for free?

MS. RUCH: These are services provided by anyone that's going out for a mortgage. We are submitting them a file, but they do not collect any of our delinquent taxes.

CHAIRWOMAN MUNDY: I understand that, but they are the repository. I said “compository.” The repository for the records for the properties in your school district. Correct?

MS. RUCH: They do hold our records as who has paid their delinquent taxes.

CHAIRWOMAN MUNDY: Thank you.

CHAIRMAN BENNINGHOFF: I had a couple questions if no one else does. If I come in your agency and ask for copies of records, whether I'm an attorney, individual, do I not pay a fee to get those? Copying fees, some kind of fee?

MS. RUCH: If you would want a, a record to see, for example, for a mortgage, we would send you to our local tax collector to inquire with them, and then we'd also have you check Portnoff Law Associates and also the county to make sure that there isn't any liens out there in case you have municipal taxes due or local taxes.

CHAIRMAN BENNINGHOFF: But a lot of times when I've gone to the county to get records, anytime I request a copy of something, I'm paying a fee for them, so that they are recouping some of their costs for those additional fees locally.

MS. RUCH: That is correct, yes.

CHAIRMAN BENNINGHOFF: That's what I was curious about.

MS. RUCH: Same thing with the tax collectors locally.

CHAIRMAN BENNINGHOFF: I find it kind of frustrating. We're kind of debating whether or not it's more important that school taxpayers get their money or the county taxpayers get their money. In reality, all – the reality is it's the same people, and so I don't see how you can say, "Well, this is going to hurt the county because they're not going to be getting this money," when it's the same people paying the bills at the school district, and I think it's important that we're cognizant of that and prudent on how those, you know, fiduciaries responsibilities are carried out. We're not talking about a couple dollars. I think your estimates were 280,000 dollars.

MS. RUCH: That's correct.

CHAIRMAN BENNINGHOFF: And that seems like an awful lot of money to pay anybody, private or public, for not providing any service, and I, I just have a difficulty with that. Any other members have any questions? We appreciate your testimony. We appreciate you giving it to us as brief as you did, and for your other examples. Next we have Dennis Cawley, Business Manager of North Pocono School District. Dennis, when you are ready, we are ready for you.

MR. CAWLEY: Good morning, Chairman Benninghoff, Chairwoman Mundy, and distinguished members of the House Finance Committee. I do want to take this opportunity to thank you for presenting my comments regarding the merits of House Bill 1877. My name's Dennis Cawley. I'm the Business Manager for the North Pocono School District, located in northeastern Pennsylvania. Prior to joining Pricewaterhouse – to joining North Pocono School District, I was a director of the audit department for PricewaterhouseCoopers located in New York City.

I am going to go away from my notes and spare you doing all this. I want to cut right to the chase. If you go to page three, there I start talking about what a benefit it's been to outsource our delinquent tax collection to a third party. Our third-party collector's Portnoff. We went to them in 2005. Back then, I had joined North Pocono in 2004, and I noticed that our current tax collections along with delinquencies were lagging. I went around. I shopped around and ended up bringing Portnoff in. They made a presentation to our board of education, which ended up approving the fee schedule, elected members of the board approving the fee schedule that Portnoff uses, and we began to outsource the collection of our delinquent taxes.

The biggest benefit, you think, "Okay, delinquent tax collections are going to go up." What has happened in North Pocono is prior to going to Portnoff, our current tax collections

were 85 percent. 85 percent of current real estate bills that went out paid on time. Now, after 6 years with Portnoff, our current tax collection rate is up to 93 percent, an 8 percent increase, and what does that mean dollar-wise for the North Pocono School District? It means 1.6 million dollars a year. Now, on a budget of – our 42 million dollar budget, 1.6 million is roughly 4 percent of our revenues. If we were to go back to the way it was prior to outsourcing to Portnoff, we would risk losing that additional revenue, and in terms of millage, it's roughly ten mills. To make up that difference, we would have to raise our taxes by 8 percent. Now, our index for 2012-2013 is 2.2 percent. We could never make up that difference, so our switch from the county tax claim bureau to Portnoff has dramatically improved our current tax collections.

This also sent a message to those people who were out there who took advantage of the Real Estate Tax Law through the twenty-one month period where nothing was being done by the county, and no collections were coming in. If people wanted to be delinquent, they were delinquent. Well, that doesn't happen anymore. Portnoff immediately follows up. We turn it over in January, and by February, letters are out to the delinquent taxpayer, notified them – notifying them of their delinquency and what the fees are, and we have seen, again, a dramatic improvement.

I'd also like to answer some of the questions that were asked by various members of the committee here. Control of the cash, I believe, was asked by Chairwoman Mundy. We get weekly remittances from Portnoff. Every single week, we have a direct deposit, so when the money – Portnoff gets the money. No later than one week later, that money is in our bank account. Certification of taxes paid. Again, it happens two ways. For delinquencies, that's Portnoff. Portnoff has the records. They take care of it. For current taxpayers, those who are current, they go to our local tax collector. That's where they get the certification. A question

was asked regarding the elderly might be hurt by this. We do have hardship cases. Hardship applications are sent in, and we evaluate them, and I can't – I don't believe we ever sent anyone who's in the hardship application to a tax sale. That hasn't happened in North Pocono.

CHAIRWOMAN MUNDY: Excuse me. Do you, do you also do that for people who are currently unemployed? Short-term unemployed people?

MR. CAWLEY: We will, we will look on it case by case basis.

CHAIRWOMAN MUNDY: Okay, so it's not just elderly, it's....

MR. CAWLEY: So if someone was unemployed – yes. To answer your question, yes. I'm trying to – some of the other questions that were asked as far as information being provided to the county, our collector reports everything to the county on a monthly basis.

CHAIRWOMAN MUNDY: Now, when you say “your collector,” are you talking about your tax collector or Portnoff?

MR. CAWLEY: I'm talking about, I'm talking about Portnoff, yes.

CHAIRWOMAN MUNDY: Because it sounded to me like that was not the case in other counties that use him.

MR. CAWLEY: Well, Portnoff does – they send the report in monthly to our county tax claim bureau.

CHAIRWOMAN MUNDY: Okay, but the county tax claim bureau does archive your records.

MR. CAWLEY: They have a record. Portnoff has a record, and also, our, our local tax collectors have a record.

CHAIRWOMAN MUNDY: Tax collectors.

CHAIRMAN BENNINGHOFF: Other additional questions? Representative Mirabito, go ahead.

REPRESENTATIVE MIRABITO: Quick question. By the way, I'm completely sympathetic to the problem of people not paying their bills, although I'm, I'm sort of curious. What is the cost, do you think, to the typical taxpayer who, who winds up going through Portnoff?

MR. CAWLEY: It depends upon how early in the collection process they pay the bill.

REPRESENTATIVE MIRABITO: Well, let me – like, for example, you say a letter's sent out in February. Is that basically like a form letter?

MR. CAWLEY: It's a form letter. There's a fee.

REPRESENTATIVE MIRABITO: What's the fee that we charge the taxpayer?

MR. CAWLEY: It is forty-five dollars.

REPRESENTATIVE MIRABITO: Okay. I mean, I guess one of the things that I'm curious about is why is it the school district can't necessarily do some of this – you know, in other words, couldn't even with the other procedure couldn't they stay on top of it, also?

MR. CAWLEY: It's – prior to going to Portnoff, the process was handled by the tax claim bureau. They're supposed to do the follow up.

REPRESENTATIVE MIRABITO: And they weren't doing it?

MR. CAWLEY: No, there was that twenty-one month period before they could go to tax sale.

REPRESENTATIVE MIRABITO: Okay.

MR. CAWLEY: And, okay, if they send a letter out, even today, if they sent a letter in February, there's no teeth behind it.

REPRESENTATIVE MIRABITO: So really the, the increase in the efficiency is because you're using a different statute.

MR. CAWLEY: Yes.

REPRESENTATIVE MIRABITO: Okay.

CHAIRMAN BENNINGHOFF: Thank you, Representative Mirabito. A couple points of clarification for myself, too. It seems to me the tax claim bureau's obviously been around for a long time. To me, maybe there's an issue of inefficiency that these entities, counties decided – pardon me, school districts to go outside of that. I mean, in almost every other aspect of our life, I go in my physician's office. He doesn't send me a bill anymore. It's coming from somewhere else. They found that they could do better patient care by spending their time taking care of patients than sending out bills. I'm not sure why we wouldn't want to do that, and frankly, it seems to me it's almost self-diagnostic when you see the efficiency that's going on through these different third-party agencies when past practices weren't working. I guess my only question along that lines would be are you seeing any reduction in the redundancy of the same person being delinquent after you've exercised this practice? And if so, I mean, to me that's a behavioral change, which is what we would want to see.

MR. CAWLEY: Well, living in the district where I'm the Business Manager.

CHAIRMAN BENNINGHOFF: You got a tough challenge. I...

MR. CAWLEY: Yes, it is, and I did – I knew people on the list that once this process started, they were no longer delinquent.

CHAIRMAN BENNINGHOFF: What I thought was impressive. The last testifier was within days of that article in the paper. Boom, all of a sudden they're starting to see remission, and within, I think, two, three week period....

MR. CAWLEY: Yes.

CHAIRMAN BENNINGHOFF: ...and almost 150,000 dollars remitted, and maybe it's an effort to remind people about the taxes. Maybe it's an effort of giving the inertia to prioritize that expenditure in their life, but the bottom line is, if we are not collecting these, who ultimately pays that? Those who are currently paying on time, and to me, it boils down to an issue of fairness to those that are remitting. I don't like paying property taxes any more than anyone else does, but I enjoy owning my home, and the fact is you folks have been, you know, diligent enough to try to set up payment plans, work with people whether they're unemployed, whether they're elderly. It says to me you're not just bringing a hammer down. You are trying to help them change a behavior to get to that point of efficiency without being so punitive, and I think you said that you've put very few to any properties up for sale. I think that's very commendable. Representative – pardon me. Chairwoman Mundy.

CHAIRWOMAN MUNDY: Thank you. I, I don't disagree with the notion that we should be collecting delinquent taxes from those who can pay them, and if people are simply not paying them as a way to help their cash flow or, you know, save, save – I don't – can't imagine they're getting a lot on any investments they're making with that money at the moment. I'm certainly not, but I guess my, my concern really has to do with the repository of the records. You still have to have a county tax claim bureau, and, and frankly, I don't like the notion that, that a private entity should be keeping tax claim records, so I'm – and really the only reason that you're being able to be more efficient in collecting is because we require the county to do – use one procedure, and we're allowing the private entity to use another one, so if the goal is to collect delinquent taxes from those who are being – simply being deadbeats, maybe we give the counties the same leeway that we're giving the private entity, and that way, all of the records go through

the tax claim bureau. The, the timeline is shortened, and then it's up to the counties to use the, the new law.

CHAIRMAN BENNINGHOFF: That's a possibility. One suggestion that I've heard people mention is similar to what was happened with Act 32 where we centralized earned income tax collection across the counties. Well, this might be something to do with delinquent tax collection to set up a process similar to Act 32 where you put a committee together, you go out and study the issue, you go out and you, you solicit, and you do a request for proposal, and you select the firm that's best meet, meets the needs of that county. Something to consider.

CHAIRWOMAN MUNDY: Well, again, you know, my, my issue – well, first of all, the fees, I think, are – you know, I would love to know the impact on people who truly are already having problems because they're elderly or unemployed and are having problems paying their property taxes. Now they have all these fees added to a bill that they already couldn't pay. You know, we talk a lot about property taxes as being an unfair tax because it's not based on your ability to pay, and here it seems to me that we're potentially exacerbating the problem by piling fees on, and, and again, you know, I mean, I'm most willing to work with Representative Dunbar to come up with a solution to the delinquent property tax issue. We certainly don't want deadbeats gaming the system just to, you know, delay payment, but by the same token, the iss – you still have to have a tax claim bureau to keep the records. They should be in a single place so that anybody who needs those records can go there and, and have access to them, and that way we also know that they're accurate. Seems to me we know that they're really accurate records, so look forward to working on this bill a little more and, and maybe clarifying what some – I'm now curious as to what my county does and what Luzerne County's situation is with regard to this. Thank you very much for your testimony.

MR. CAWLEY: You're welcome.

CHAIRMAN BENNINGHOFF: Thank you, Chairwoman Mundy, and I will appreciate your testimony as well, Dennis. Our last testifier is Chris Heagele, Director of Finance, City of Easton. Chris, I apologize if I enunciated that wrong. Please correct me.

MR. HEAGELE: That's fine. I'm – my name is often mispronounced. It's pronounced "Hae-gel." Rhymes with "bagel."

CHAIRMAN BENNINGHOFF: Learn a new thing every day.

MR. HEAGELE: I've heard a lot of stories on that over the years, but I'm not going to share them with you today.

CHAIRMAN BENNINGHOFF: Well, with a name like Benninghoff, you can imagine it's been butchered every way to Wednesday, so my apologies.

MR. HEAGELE: No problem. No problem. I, too, am going to do my best to summarize my testimony today. I, I can see the committee is shedding itself a little bit, and I, I want to go hit on some points that I think are very important. One of the, one of the differences between myself and some of the other testifiers here is that I'm actually a municipal official. To date, the discussion has been around school districts and counties, and I think I offer the third, you know, corner, angle in that triangle, which is municipalities. There are three local taxing jurisdictions in, in Pennsylvania. The municipality is the third.

We're unique. I'm going to get into some of my testimony, too, in that we levy fees in addition to property taxes, which are the only avenue to collect those two, the delinquent property tax proc – is, is through the municipal claim process, the process that we use Portnoff for, so even if, even if all property taxes went through the tax claim bureau, municipalities would still be using the municipal claims process to, to collect delinquent utility charges, trash charges,

whatever charges they charge as user fees, so there's always going to be that extra step for municipalities claim when you're looking at taxes, but I'm going to go into my testimony, so there is a little bit of a difference, so for that reason I'm going to go through a lot of my testimony. I apologize in advance that I'm going to go through a lot of it.

I have been the Director of Finance at the City of Easton since 2008. I've been there about four years. Before that, I was an employee at Plymouth Pa – Plymouth Park Tax Services, which is a entity also known as EXPAND, which, among other things, was the tax claim bureau provider for Montgomery County back when I left, and I assume they're still are, as well as Blair County, which is where Altoona is. In addition to doing those services, we collected taxes in about eight to ten different states. We bought. We serviced. We did a lot of work in this area, so I'm well-versed in, in both public tax collection, given my position now as the Director of Finance at the city, but also how private entity can do this and do this very well.

Prior to working at, at Plymouth Park, I was a student at Harvard, graduated there with a master's in public policy. Prior to that, graduated from the University of Pennsylvania's Wharton School of Business. I'm testifying before you today. My strong support of House Bill 1877, and I encourage you to adopt this bill at your, at your earliest convenience. Really, there's four – I'm going to add a fourth reason for, for my, for my support of this measure. Its cost, its efficiency, its choice, and in my mind it really comes down to an element of fairness, and I'm going to start with the fairness first and then hit at some of the other purposes.

I believe, and this comes from both my public sector and my private sector background in this area. Delinquent tax collection expenses should be borne by the delinquent taxpayer. In Easton, our rate of collection – we're a third-class city, not unlike Reading, not unlike Harrisburg, like York, some of those really tough to collect areas is at 97 percent. It was 94

when I came to the city. We're now at 97 percent. That 3 percent that we see – this is before we send it off to Portnoff. This is work that we're doing in our office to collect this. That 3 percent that I see are usually failed housing developments that just have made a business decision not to pay their taxes. There're people in bankruptcy, many of whom play the bankruptcy law to their benefit to delay taxes, and, and in most cases, they are owners of rental properties and not, not the poor residents that you think they are. Do we come across poor taxpayers who are having trouble making their bills? Yes, we do, but we normally see them as a course of collecting utility charges, which are normally borne by the residents. Our collection rate in utility charges is in the high 80's, which is a vast improvement before coming, but just to put it into perspective, each year, we turn over anywhere between 350 and 400,000 dollars in property taxes to Portnoff. On the other side of 2010, we turned over 1.1 million dollars in unpaid utility charges to go through the municipal claims process, which is not what we're talking about today and not why my, not why my testimony doesn't deal with that, but why that's important is as you're trying to figure out where to go to figure out who has the records. Even if you fix all the problems we're talking about today, you're still going to have to have some research done as a title agent or whoever and looking at records on municipal claims, and the way we deal with this at the city is when, when we have a very good relationship with all of our, with all of our title agents. In fact, one of them, instead of calling me the "Director of Finance," he calls me the "Minister of Finance," because we really straightened things out, and they know they're getting good information from us. They haven't had one problem with us other than complaining about fees, but I'm getting the sense having been a Director of Finance now for four years that everybody complains about fees. It's just not the title agents. Nobody wants to pay any more than they

have to, and that's just the matter of, of the way things are for a lot of, a lot of our residents and our business people.

So even if you solve all the problems that are being discussed today on the municipal level, this is not an issue for school districts. I don't believe it's an issue for counties, but for municipalities, we also have to deal with the problem of our delinquent utility charges and trash charges and other fees for service that are not dealt with with this rule, but I'm going to set that aside for now. Sure.

CHAIRWOMAN MUNDY: When you talk about utility charges, what utility charges are you talking about? You...

MR. HEAGELE: Sewer.

CHAIRWOMAN MUNDY: Sewer.

MR. HEAGELE: Water, trash, these are p....

CHAIRWOMAN MUNDY: Water.

MR. HEAGELE: Water.

CHAIRWOMAN MUNDY: What kind of water charges are you talking about? I thought public utilities in Easton would charge....

MR. HEAGELE: We have a, we have – the city has a Department of Public Works. The Department of Public Works, we actually have an authority that handles water. We used to handle water up to 2007. We still have some water charges on our books. In addition to that, we, we have to pay a sewer authority for services there. We charge our residents that on a, on a rate basis. The more you use, the more you pay. It encourages conservation that way.

CHAIRWOMAN MUNDY: But, but I mean, I'm still confused as to why you're talking about utility charges in connection with this bill.

MR. HEAGELE: The reason I'm talking – you're, you're ask – you asked a question about who, who keeps the records and, and where is all the information when I want to take out a mortgage or buy a property.

CHAIRWOMAN MUNDY: Right.

MR. HEAGELE: Let's assume all of the problems that have been identified today as it relates to tax, tax claim bureau are solved, and there's one house for who paid their real estate taxes. There are going to be claims, municipal liens for unpaid municipal charges that have the same weight as a tax claim on properties, so if a, if a title agent only looks at school taxes, county taxes, and city taxes and fails to look at municipal liens, there would be a problem in that there might be monies owed, so what we do in the city of Easton? And this kind of gets to the, the crux of things. We send out four letters. I'm not going to speak to other jurisdictions. This is based on my background as a private tax collector. We send out four letters to our property owners as they get into the penalty phase. We send one out in June. We send one out in September/ October. It depends on our workload, which is pretty heavy in the fall. We send one out in December, and we send one out in early January before we send liens – unpaid taxes to Portnoff. Each letter – this is a standard collections process. We do it at our own expense, and it slowly ratchets up the language. First it's a reminder. Second, it's – you know, you're in the penalty phase. Now's the time to pay. Third is the end of the year's coming. We're going to be referring to these, those to our agent. The fourth one is actually one from our solicitor giving them a deadline as to when we're going to send it to Portnoff. If they pay the taxes as a – in response to one of those four letters, they don't owe us what – not one dollar more than they would have paid per, per the law. We don't throw on any fees. There's no fees in our ordinance. It is a freebie. They get four chances at it. That's actually what's reduced – increased our rate

from [19]94 to [19]97 are those letters. Then it goes to Portnoff sometime in January or February. It depends on when we can process the information and get it together. What Portnoff does for us at that point is they send out their letter. They actually charge the city forty-two dollars. It's thirty-five dollars plus the cost of postage, which is about six or seven bucks, and once that letter's sent out, it's a city cost that we can recover. If the, if the money is paid after that letter is sent, so there's your fifth, fifth opportunity to pay, and the only additional fee is forty dollars.

At that point, they start their proceedings, and they get to be costly. I know you're trying to figure out how costly they are, but at that point based on my information that I've seen, 98 to 99 percent of our taxpayers have paid. They're paying for fire service, police service, plowing streets, paving streets, parks. We provide a whole lot of services to our residents. I look at our tax – our tax dollars are really high, high value add-on for our residents. We do a lot with a little bit of money, and I don't think it's fair, and this kind of gets to the issue of fairness, that somebody who is paying their taxes on time, following the rules, and doing everything they need to do should pay and subsidize, essentially, through this 5 percent fee that would go to the county for those that aren't paying. Instead, the system that we've set up through Portnoff is only those that go delinquent are paying the delinquency fee, and what we've found is as you put that burden and you put consequences on people, they, they change their priorities, and they pay. Maybe they're not paying a different bill as opposed to the tax bill, but I'm in, I'm in the business of collecting money so we can pay our firefighters, pay our police officers, pay our public works staff, pay our code enforcement officers, and provide economic development assistance. Our city is a third-class city like I think there's about thirty-nine in the state. They've got a lot of financial problems. Ours, ours has its struggles, but our bond rating went up

this – this past year to an A-. I know other third-class cities are having serious, serious problems where they're in Act 47, and I know one is thinking about bankruptcy. These practices and looking hard at how we collect money really helps us bottom line our interest costs – you were talking about the debt associated with the RCAPs. Our ability to, to go to the capital markets is a lot less than it used to be. We can borrow more if we need to. It costs us less. We just did a great refinance because of that bond, bond rating increase, and it's because of practices like these.

Now, there's really two costs to collections. What it costs, the fees involved, and that burden's placed on the other, the other group, and the way I look at it is the cost to collection should really be borne by the delinquent taxpayer and not, not aggregated into, to, to the full general fund. I am fortunate that I don't have a school district that, that pays 1.2 or 1.6 million dollars in fees like this. If we did it, it would have probably amounted to about 25,000 dollars, and, and given – you know, one thing I have to do is I have to give props to the county of Northampton. They don't charge us this fee, but like all of us, they're looking under the couch cushions for money, and they're going to go where they can, and if they charge it to us, we have no choice but to pass it on to our taxpayers. They're currently not charging it, and that's in my testimony, but they are thinking about it.

The last thing I'd like to – and actually, I'm going to go to my testimony on this is choice. I – because of my background both as a private sector person that worked for public sector entities and a public sector official. I'm on page three. I didn't put page numbers on. I apologize. I like choice, but I – but it needs to be a fair choice, and, and an organization like Plymouth, the one I used to work for, or – because we put in our business model when we would look at this. The 5 percent fee was part of our business model. We were able to return less

money to municipalities because that 5 percent fee was there, whether it's Plymouth, the company I used to work for, or Portnoff, the company I utilize services from now. They, they are competing against one another for the ability to collect taxes and earn a living for their families. The tax claim bureau is also that competition. They – but they have an unfair advantage in that if I want to use another method, I still have to pay them. That's not fair. It's like going to Best Buy to buy a tv and still having to pay H. H. Gregg a 5 percent commission on the tv I just bought. You wouldn't do that, but, but it's written in our law that that's allowed, and to our county's credit, they haven't done that.

Now, Chairperson Mundy, I want to get to your comments on recordkeeping, and, and – in the county. My understanding, and I'm not a lawyer. I've got a lot of academic credentials, not one of them is a law degree, and I'm to a certain extent proud of that because it means I'm just focusing on getting things done, and I know there's probably a lot of lawyers in this, this room, and I'm probably not making friends if I say this, but, but so I don't know the laws. I just wanted to make sure I, I could pick on my lawyers to get things done.

CHAIRWOMAN MUNDY: Portnoff is a law firm.

MR. HEAGELE: I understand that, and I have very, very competent solicitors in my city that get things done, and I go to them for advice, but I'm not giving my understanding of the law. I'm just sort of telling you what, what it is that we do. Choice with fairness is critical, and a level playing field, and I believe the elimination of the 5 percent commission provides for a level playing field. We have not had one complaint from any of the, the title insurers that we work with, and they have access to information, and what happens in our community. When they – when they're looking for information on a, on a property, they will come to us and ask us, "Has this property ever gone to Portnoff?" whether it's for municipal lien or for real estate taxes. If

the answer's no, they don't have to go and ask questions about it because we keep good records about that. The state law here in Pennsylvania's set up where records are kept all over the place on property taxes. There are tax collectors everywhere. It's very unique. I could give you information – I could give you some suggestions on states to model after if you want to make some changes on this, but we have the system that we have, and it's a system where you have to go and dig to find out information. There's no one central repository, and I think there only would be one after some significant changes to the law as it stands today. I completely ignored my written testimony. I – but I wanted to address. Actually, it's nice going last. Unfortunately, I'm talking to somewhat – just a portion of the committee, but I got to listen to everybody else's thoughts and respond to those, and, you know, I'm open for questions.

CHAIRMAN BENNINGHOFF: Going last does not diminish the impact of your comments. The Members will all have the ability to review this. This is also being videotaped, and we appreciate your testimony. I think it's very thorough. I actually agree with your four points, and I thought adding fairness in there is something that should not be overlooked because there are people, very readily, in your area paying on time, and we should not expect anything else. Other Members, questions, comments? Madam Chairwoman.

MR. HEAGELE: It's important to point out, too, that our poverty rate in Easton's about 15 to 16 percent, so we have that 97 percent collection rate despite the fact that we have people in our, in our city that are struggling to make ends meet, so it's important to point out.

CHAIRMAN BENNINGHOFF: Any time you get a second, I'd appreciate you shooting me a note or an email regarding the number of delinquent properties that are not primary residences. I thought that was an interesting point that you raised there, and oftentimes, probably absentee landlords within those communities.

MR. HEAGELE: I'd be happy to do that. I can just tell you there's 46 percent of our properties are, are tenant-occupied.

CHAIRMAN BENNINGHOFF: Wow. It'd be interesting of what percentage of those are owned by people that don't live in your community and don't have the vested interest in paying their taxes on a timely manner.

MR. HEAGELE: I can tell you quite a bit.

CHAIRMAN BENNINGHOFF: Okay. I look forward to those emails. We're all available on the web.

MR. HEAGELE: No problem. Thank you for your time.

CHAIRMAN BENNINGHOFF: Seeing no further comments, this hearing is adjourned, and we appreciate everyone's participation. Have a good day.

Meeting is adjourned.

(Whereupon, the meeting adjourned at 1:03 p.m.)

The above is a full and accurate transcript of proceedings produced by the Chief Clerk's Office of the Pennsylvania House of Representatives.

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