

TESTIMONY ON HOUSE HILL 1877

PRESENTED TO THE
HOUSE FINANCE COMMITTEE

BY

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February 13, 2012
Harrisburg, PA

Good morning. I am Lisa Schacfer, Government Relations Manager for the County Commissioners Association of Pennsylvania. The CCAP is a non-profit, non-partisan association providing legislative and regulatory representation, education, research, insurance, technology, and other services on behalf of all of the Commonwealth's 67 counties. We thank you for this opportunity to share with you our thoughts and comments relative to House Bill 1877.

The Real Estate Tax Sale Law (RETSL) was developed out of a need to consolidate all delinquent real estate tax claims into one agency. RETSL is also intended to be a means for assuring that properties can be turned over to responsible taxpayers while ensuring due process for the delinquent taxpayer. Under the law, tax claim bureaus have a very prescriptive set of procedures and timelines they must follow to collect delinquent property taxes, which also impacts their collection rate.

Integrity of the public record is also an important component of RETSL, by assuring purchasers of real estate that the property is being sold free and clear of liens. The county, historically and by statute, is the keeper of the public record for tax liens, mortgages and deeds. In order to meet this important responsibility, even if the tax lien is assigned later to a third party collector, the tax collection bureau must have and keep record of the lien and the assignment, as well as real estate tax levies, billing and collection. However, the accuracy of this central repository of information, which is essential to the business of real estate and title searchers, as well as necessary to maintain the public record, would be threatened by the deletion of language requiring all delinquent taxes to be paid only to the tax claim bureau, as proposed under House Bill 1877.

The county is responsible for the expense of operating the tax claim bureau, including salaries and benefits for staff, bonds for employees, mailing and advertising costs. RETSL allows the tax claim bureau to receive a five percent commission on delinquent taxes, as well as interest generated while the money is held, and was developed as a means of reimbursing the county for the expense of operating the bureau collecting delinquent taxes. Despite the controversy this has generated among some municipalities utilizing third party collectors who argue that the county should not be entitled to a five percent commission on delinquent real estate taxes it did not collect, the General Assembly realized at the time of enactment of RETSL that without a funding source, the tax claim bureau would be an unfunded mandate for county government.

The General Assembly has reaffirmed its intent that county tax claim bureaus not become an unfunded mandate as recently as 2004. Act 168 of 2004 amended RETSL to allow a taxing district to assign tax claims to a third party collector; allow the county to assign claims while either retaining operation of the bureau or assigning duties to the third party collector; and specifically states in Section 316 that assignment under RETSL does not affect the five percent commission on tax claim collections and reimbursement of county charges.

One of the drivers of House Bill 1877 is the Commonwealth Court ruling in *The Pennsylvania Land Title Association v East Stroudsburg Area School District* (2006). In this decision, the court upheld the lower court's ruling that the school district's choice to use a third party collector under the Municipal Claim and Tax Lien Act (MCTLA) to collect delinquent school taxes does not relieve the school district or its third party collectors of its responsibility to make returns to the tax claim bureau as required under RETSL. The court reasoned that because counties who

opt to use other methods of collection, including the MCTLA, must at the same time comply with RETSL, "it stands to reason that other taxing authorities like the school districts, who have opted to use the MCTLA provisions, would likewise be required to comply with the RETSL provisions." CCAP believes the court's ruling was correct and upholds the legislature's intent.

However, House Bill 1877 will allow municipalities using third party collectors to bypass entirely the five percent commission – yet, those municipalities will continue to receive a benefit from the tax claim bureau, which is the entity that most frequently takes the property to sale when the tax claims cannot be settled in addition, when a claim is assigned, the county tax claim bureau still manages all aspects of the delinquent account, including sending the notices, maintaining the files/rolls, handling payment plans, and managing bankruptcies and foreclosures as they relate to delinquent taxes.

To be clear. CCAP does not oppose third party collection of delinquent taxes. Counties themselves are also authorized under existing law to utilize third party collectors, and we would point out are subject to the five percent commission to the tax claim bureau as well. We also acknowledge concerns raised by boroughs, cities and school districts regarding the five percent commission to which RETSL entitles the counties. As the only local government entity that is solely reliant on the property tax, we understand the need to recover every penny.

County tax claim bureaus provide a valuable service to your constituents by offering a structured and low cost method for delinquent taxpayers to meet their tax bill obligations so it can be timely returned to the taxing jurisdictions. Many of the private third party collectors are not able to provide the same opportunities for re-payment at such a low cost. HB 1877 will hamper counties' ability to continue to provide these services.

Our association has offered its resources to work with the prime sponsor of the legislation and this committee in achieving an acceptable solution that addresses these concerns, while assuring that the county tax claim bureau not become an unfunded mandate. We also suggest that the tax claim bureaus may be better able to serve the municipalities and school districts with an update of RETSL in general, and to that end CCAP has been working with the chair of the House Urban Affairs Committee, Rep. Chris Ross, on House Bill 1782, updating the commonwealth's tax foreclosure laws.

We appreciate your consideration of these comments, and ask that members of the House Finance Committee oppose House Bill 1877 as currently written. Please contact us if you have questions or need additional information.