



Testimony of the Pennsylvania Bar Association in Support of House Bill 1409 Before the House Urban Affairs Committee

Good morning, Chairman Gillespie, Minority Chairman Harhai, Committee members and staff. I am Forest N. Myers, Pennsylvania Bar Association President, and sitting next to me is Alan W. Fleener, Chair of our Municipal Law Section. We represent the 28,000 members of the PBA. Thank you for inviting us to testify in support of House Bill 1409.

The Bar has come to support HB 1409 as we understand it is to be amended based on three key principles: First, as our state Supreme Court has stated, "The purpose of tax sales is not to strip the taxpayer of his property but to insure the collection of taxes."¹ We want to ensure that taxing jurisdictions are able to collect real property taxes efficiently, and when necessary enable a sale of the property to a new owner in order to ease the tax burden on other taxpayers; while at the same time ensuring that the rights of those with interests in property, including persons on fixed incomes or who may be suffering temporary financial hardship, are always foremost and protected. Failure to have an open, fair, and efficient tax collection process can have a devastating effect on property owners, neighborhoods, and local governments.

Second, the Bar has long advocated the need for statutory consolidation in Pennsylvania, as we believe that we are the only state in the United States that does not have all of its law consolidated. The lack of consolidation creates a lack of clarity as to exactly what the law is, undermining the ability of lawyers and the public to readily locate and familiarize themselves with

¹ *Hess v. Westervick*, 76 A.2d 745, 748, 366 Pa. 90, 98 (Pa. 1950).

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the contents of the law and encouraging law suits. Perhaps no area of the law calls for such consolidation more than does the law governing tax sales of properties, where the relevant statutes, the Municipal Claims and Tax Lien Law (“MCTLL”) and the Real Estate Tax Sale Law (“RETSL”), partially overlap.

We believe that HB 1409 successfully addresses both of these key principles. The bill promotes a fair and efficient tax collection process, thereby diminishing the need for taxpayers to pay more than their fair share while at the same time helping local government to function well. HB 1409 streamlines the tax sale process. The bill provides that a county tax claim bureau need hold but one sale to turn the property over free of all other interests² to a new owner, as long as that owner is willing to pay the taxes and related costs that are owed. In addition, the sale can come earlier in year two after the taxes are delinquent. Moreover, the bill provides finality in the process: when property ownership is turned over, those that held an interest previously may not attempt to regain their interest but for violations of the specified process.

Nevertheless, HB 1409 at every step ensures the rights of property owners. Notice is given to the owner and as well as every individual, creditor, and entity that holds an interest in the property that will be lost at the tax sale. Should a bureau assign a tax claim to a private third party collector, the bureau is still required to maintain current information about the property on its website, and the third party collector is required to provide the notice that the bureau would have to provide. Further, the bill provides that each bureau shall have a taxpayer advocate, and requires each bureau to establish a hardship protection program for owners in order to assist

² Excluding separately taxed ground rents; easements and rights-of-way running with the land, whether public or private, including prior deed restrictions; restrictive covenants running with the land; easements by prescription; utility easements and rights-of-way; easements and rights-of-way contained on a municipal plat, plan, or map; easements and right-of-way contained in a recorded subdivision plan, land development plan or annexation plan; and easements and rights-of-way contained in a recorded instrument.

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those in need and help prevent them from losing their home. As lawyers, due process is a constant touchstone for us, and we are able to support this bill because due process is ensured.

With respect to statutory consolidation, HB 1409 clarifies what law governs the sale of tax delinquent property. Under this bill every county will have one of two choices: they can follow the provisions in HB 1409 for tax sales, or they can follow the provisions of MCTLL. We do recommend that the bill state clearly that whichever law is used, current tax records on all properties be returned to and maintained by the tax claim bureau. As practitioners and members of the public will not have to face bureaus using a piecemeal approach of using selective provisions from both RETSL and MCTLL, HB 1409 promotes legal consistency and certainty.

Third, we see this bill as a continuation of our rewarding work with this Committee to address blight in Pennsylvania. For example, we worked with the Committee on Act 90 of 2010, the Neighborhood Blight Reclamation and Revitalization Act, sponsored by Senator Argall. HB 1409, in turn, will help to ensure that property is kept in productive hands. In particular, the bill prohibits the following parties from bidding at a judicial sale of a property: those delinquent in paying real property taxes or municipal fees for services in Pennsylvania, and those in current violation of property maintenance or public health codes in Pennsylvania.

Thank you.