



**TESTIMONY ON
SENATE BILL 775/HOUSE BILL 1559
TAX SALE BIDDER REGISTRATION**

Presented to the Senate Urban Affairs and Housing Committee
and the House Urban Affairs Committee

By
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Good morning. I am Lisa Schaefer, Acting Executive Director Appointee for the County Commissioners Association of Pennsylvania. The CCAP is a non-profit, non-partisan association providing legislative, educational, insurance, research, technology, and similar services on behalf of all of the Commonwealth's 67 counties.

We appreciate the opportunity to appear before you today to present our comments on Senate Bill 775 and House Bill 1559, legislation which would create a program in each county to have prospective tax sale bidders register before each sale and certify that they do not have delinquent taxes or outstanding code violations.

Tax Claim Bureaus and the Tax Sale Process

By way of background, under the Real Estate Tax Sale Law (RETSL), the county tax claim bureau collects delinquent property taxes on behalf of all local taxing districts – the county, the municipality and the school district. At the beginning of each year, the taxing districts are required to make a return to the bureaus of all the properties that have unpaid taxes from the prior year. The bureaus are then responsible for required notices to delinquent taxpayers, collecting delinquent taxes and distributing the revenues to the taxing districts, setting up payment plans and maintaining the public record of all delinquencies and assignments, among many other tasks.

In addition, the bureaus are the entities that most frequently take the delinquent property to sale when the tax claims cannot be settled. This includes the upset sale, which occurs approximately 21 months after the delinquent tax is first returned to the bureau by the taxing district, and for which the minimum bid price includes delinquent taxes, current taxes due and unpaid municipal amounts. A property can be removed from an upset sale by paying the delinquent taxes owed to the bureau.

If the property is not sold at upset sale, it is exposed to a judicial sale, at which time the property is sold free and clear of most liens and obligations. If a property is exposed and not sold at judicial sale it is placed in the county's repository.

For purposes of this discussion, I will also note that RETSL currently prohibits an individual who has had their landlord license revoked by any municipality from purchasing a property at a tax sale (section 601(d)), and requires purchasers to certify within 20 days post-sale that they are not delinquent in property tax payments to any taxing district where the property is located, and that they do not have outstanding municipal utility bills more than one year old. In addition, under section 619 and 619.1, a municipality can petition the court of common pleas within 15 days after a sale to prohibit the transfer of a deed if a purchaser has failed to maintain property in accordance with health and safety standards.

Current Issues

Unfortunately, tax sale properties can be tempting to "bad actors" – that is, individuals, who purchase a property but then do nothing to address code violations or other blight issues. Often, these purchasers are not local, making it difficult to track them down for compliance

enforcement. Some purchasers are chronic problem owners because they own numerous properties with code violations, but they may not be in the same municipality where the tax sale property is located, making it easier for them to fly under the radar screen. And in the event these violations are known, the law provides a process to address these matters post-sale, rather than preventing individuals from bidding at a tax sale in the first place.

And even when the county may know who these problem purchasers may be, they may register different LLCs with the state and hide behind them in order to avoid detection or problems with the law. Or, they may purchase properties in another county where they do not have current violations.

Some counties, as you will hear from the county tax claim bureau directors who will testify today, have been proactive in setting up their own pre-registration processes to assure that only eligible purchasers bid on the properties to start with. Those who have done so report that this process serves them well and they have far fewer problems with bad actors because of their pre-registration process.

Senate Bill 775 and House Bill 1559

The purpose of Senate Bill 775 and House Bill 1559 is to capture this best practice in statute, showing potential bidders that we are serious about addressing problems by giving the registration process the force of law, and in turn encourage more counties to explore this as an option to address similar issues they may be facing.

The legislation before you is the result of many months of discussion, and in general CCAP supports the concept of the bills. They have several benefits for counties:

- The bills extend the prohibition on purchasing tax sale properties to individuals with outstanding code violations, delinquent taxes and municipal liens across the entire commonwealth, not just the municipality where the tax sale property is located. It is important to note this does *not* put an affirmative burden on the county to confirm violations and delinquencies across all 67 counties. However, tax claim bureau directors communicate often among themselves and know who some of these repeat offenders are, and they would now be able to use this knowledge as it comes to their attention to keep bad actors from purchasing properties in their own counties.
- Along the same lines, the bill puts the responsibility for affirming compliance with the law on the individual who submits the affidavit, and so does not put the county in the position of having to serve as judge on each individual case.
- Under the language, municipalities would receive the list of completed bidder applications in advance of a tax sale so that they may challenge the eligibility of a purchaser before the bidding process starts, rather than waiting for the sale to be complete to do so.
- Immediate family members would also be prohibited from bidding on a property at a tax sale; this addresses an issue often seen where an owner gets around the prohibition on purchasing his own property at sale by having a family member do so, only to have the family member turn around and transfer the property back to the original owner. This

would not prevent anyone, including a family member, from coming into the tax claim bureau, up to the day before an upset sale, to pay off the back taxes along with accrued costs, fees and penalties, thus removing the property from sale. In addition, it is important that this prohibition on family purchases applies only to judicial and repository sales – where it is being sold free and clear of most liens – not to the initial upset sale, so that a family member cannot wait out the process to return a property back to the original owner without any outstanding obligations.

- Finally, the bills place a time limit on taxing districts to approve sales out of the county's repository, or else the sale is deemed approved. Some counties have reported that the approval process can extend indefinitely without a response from school districts or municipalities, leaving the property in limbo instead of the hands of a willing buyer.

Additional Considerations

There are several items, though, that we believe warrant further consideration as the bills move through the process.

First, we believe the bidder registration envisioned under the legislation should be optional, rather than mandatory. From talking with our members, we know that the problems the pre-registration process is intended to address are not prevalent in all of our counties. In other cases, counties have already developed other ways of working with and cooperating with their municipalities that have been effective locally in preventing bad actors from purchasing tax sale properties.

In addition, in some counties, particularly our more rural areas, the number of bidders and the size of the sale is so low, especially compared to limited numbers of staff, that the burdens of establishing a registration system would outweigh any benefit. For instance, one of our sixth class counties reported exposing just 36 properties to upset sale in 2018, and another just 60.

At least one county has suggested they currently allow registration via mail, which is a benefit to their rural area.

Finally, because individuals can register for multiple LLCs, it would be beneficial to explore ways in which the information the Department of State has about these corporations could be made more readily available to counties so they can trace the connections between individuals.

Proposed Amendments

We have been asked to comment on two proposed amendments:

A02922 – This amendment would limit pre-registration requirements based on distance, or whether the individual is from out of state. It is not clear whether the amendment intends to calculate the distance from another real property the individual already owns, or the real property on which they intend to bid at the tax sale. In any event, a 250 mile radius from where we sit right now in Harrisburg essentially encompasses the entire state, and even 250 miles from

Pittsburgh stretches nearly the entire way to Philadelphia, and so is a de facto exemption for Pennsylvania residents in and of itself. This would undermine the intent of the bill, as counties see significant issues with bidders who purchase properties more locally and regionally.

A01950 – This amendment would allow pre-registration up to 36 hours before the sale, rather than the deadline of 14 days currently in the bill, and removes language that would allow the county tax claim bureau to establish a minimum bid price to purchase a property in repository. Any property that makes it into repository is one that remains unsold after a judicial sale, and when sold, is sold free and clear of all tax and municipal claims, mortgages, liens and so forth; the price for which the property is sold will also be deemed to be the fair market value of the property for tax assessment purposes. Thus the county has an interest both in selling the property out of its inventory, and in recovering its costs to advertise and attempt to sell the property to that point. Allowing the county to establish a minimum bid price will enable them to take these costs into account.

Thank you for your consideration of these comments. We would be pleased to answer any questions you may have.