CONNECTICUT GENERAL ASSEMBLY
March 8, 2016

TESTIMONY OF ADAM J. COHEN
TO THE BANKING COMMITTEE
ON SENATE BILL 408, "AN ACT CONCERNING THE PROTECTION OF DELINQUENT HOMEOWNERS"

My name is Adam J. Cohen and I am an attorney with the law firm of Pullman & Comley in Bridgeport. I have advised and represented approximately seventy towns in Connecticut, plus dozens of taxing districts and similar municipal entities, with respect to their revenue collection efforts and practices. I also serve as general counsel to the Connecticut Tax Collectors Association, a trade group primarily devoted to educating municipal revenue collectors and standardizing the procedures they use to fulfill their responsibilities.

Tax collectors have no authority over tax policy, rates, or programs. They do not decide who is responsible to pay or how much. Instead, their function is purely ministerial: they collect taxes and other charges in the amounts and manner as they are directed by assessors and legislators. They are in the unique position of working on a daily basis with the laws which set forth the procedures by which municipal taxes and other types of assessments are paid, both voluntarily and as recovered through litigation, garnishments, and similar mechanisms.

I urge this Committee to reject Senate Bill 408, "An Act Concerning the Protection of Delinquent Homeowners." This bill would create a different, lower rate of interest on delinquent real estate taxes during the pendency of a judicial foreclosure commenced by the municipality, and eliminate interest accruals entirely upon the assignment of those liens for enforcement by a third party.

Naturally, municipalities should not – and do not – depend on interest recoveries as a primary source of revenue. The statutory interest rate on unpaid municipal taxes is not punitive, but rather compensatory for the shortfall which results from underfunded budgets, the manpower needed to pursue the balances, and the higher taxes which other property owners incur to make up the difference. Interest is also the primary incentive for taxpayers to pay real estate taxes on time because, unlike many other states, in Connecticut no other late charge is permitted (other than reimbursal of actual lien and enforcement expenses). The interest rate of 1.5% per month on delinquent municipal taxes is, by state law, uniform for every town in Connecticut and comparable to that of many other states as well as most private contractual default rates. Of course, the vast majority of taxpayers pay no interest at all because they pay their tax bills on time.

Nearly every town in Connecticut eases the payment burden on taxpayers by exercising the option in General Statutes Section 12-142 to divide the annual tax into two semiannual or four quarterly installments, and also by negotiating payment plans for those with arrearages. Various state and local relief programs are available for the elderly, disabled, low-income,

veterans, and others with demonstrated need. In 2013, Public Act 13-276 (which was written and supported by the Connecticut Tax Collectors Association) streamlined statutory interest and partial payment calculations, and authorized town abatement committees to delay and reduce liability for taxes and/or interest in cases of individual need.

Only when those accommodations fail do towns resort to foreclosure. Reducing the interest rate when they must do so would create undesirable incentives such as encouraging delinquent taxpayers to drag out the litigation and incentivizing towns to rely more heavily on non-foreclosure mechanisms like bank and wage garnishments. The burden would be heaviest on the smallest towns and on special taxing districts, who would be least equipped to defer the budgeted revenue. It would also create administrative complications for municipal personnel and disparate treatment for different delinquent accounts. The fairest way to impose interest on unpaid taxes is uniformly; that is, a single rate which applies to every municipal tax and every delinquent taxpayer, in every municipality under every collection method.

The remainder of Senate Bill 408 would eliminate all interest accruals on tax liens once they are assigned to a third party in accordance with the municipal option to do so provided by General Statutes Section 12-195h. A number of Connecticut municipalities, especially the larger cities like Hartford, Bridgeport, and Danbury, rely on lien assignments as their primary method for recovering delinquent tax accounts. It is also a particularly important device whenever bankruptcy proceedings, environmental contamination, or other special circumstances make direct enforcement by the municipality itself impossible or impractical. Tax liens are often purchased by institutional investors under municipal contracts containing protections for delinquent taxpayers and then foreclosed in court. In nearly all cases, the sole reason investors are interested in purchasing these liens is the post-assignment interest accruals they earn – both as profit and to compensate for the significant time, expense, and risk of assuming responsibility for collection efforts. Eliminating the purchaser's right to recover interest would effectively repeal General Statutes Section 12-195h and deprive municipalities of a key method on which they depend for ensuring that their budgets are funded.

Senate Bill 408 would impose unnecessary and extremely undesirable changes to the tax collection laws which would detrimentally impact Connecticut's municipalities and the ability of their personnel to effectively perform their duties. I urge you to please reject Senate Bill 408.