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**Testimony of Attorney Walter M. Spader, Jr.
to be submitted to the Banking Committee
March 8, 2016
in Opposition to Senate Bill-409
AN ACT CONCERNING THE ASSIGNMENT OF CERTAIN LIENS AND
EXPANDING HOMEOWNER PROTECTIONS UNDER EMAP.**

As an attorney who handles municipal tax collection in over a dozen towns and cities, I do not believe this proposed legislation will be beneficial to our towns and cities, nor will it benefit taxpayers.

The legislation arbitrarily lowers the interest rate on delinquent taxes subject to a foreclosure to 10% and arbitrarily legislates a legal fee in foreclosure to \$1500. While there are certainly foreclosure cases that run legal fees in many thousands of dollars - the stories that make news articles ignoring contested natures of said cases - the majority of cases I am involved with generate legal fees in the \$800-\$1300 range. I represent less than 10% of the municipalities in Connecticut, but this legislation could create a slew of legal fees beyond what taxpayers are currently paying to attorneys throughout the state. When a case is contested, and goes to judgment, judges review affidavits of attorneys' fees and determine a reasonable fee based on the complexity of each case, a flat fee negates the incentive to work with taxpayers facing the difficult situation of resolving back taxes, and creates an incentive to act like a "foreclosure mill" instead of being concerned with the individual homeowners in need on a personal basis.

The interest rate on back taxes serves to compensate municipalities for the loss that occurs when revenue is not paid in a timely manner. By lowering the interest rate, this bill would provide relief to delinquent taxpayers at the expense of residents who pay their taxes on time and discourages the large majority of taxpayers who pay their taxes on time from paying them on time. Municipalities (and municipal water/sewer providers) rely on timely payments to provide services for all citizens. Lowering the interest rate on delinquencies reduces municipal revenue and ultimately causes higher tax bills on taxpayers who struggle - but ultimately do - make timely tax payments to avoid interest.

The legislation subjects tax liens to EMAP, but provides a disincentive for tax lien holders to offer payment arrangements, as the accrual of interest is halved. Be mindful that interest on taxes is unlike interest on a mortgage - they are already accruing only on the base assessment and do not compound on interest. This legislation is harmful to towns and cities, already facing cuts in state funding, by lessening the interest rate that can collect when enforcing tax liens, devalues their lien portfolio, and is a disincentive to the 98% of taxpayers who pay their taxes timely from doing so, as the financial penalty for doing so is lessened.

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The legislation also subjects condo associations to EMAP and further noticing requirements which is financially detrimental to homeowners associations. 2 years ago, the legislature only allowed condo liens 9 months of priority over mortgages, but added a 60 day noticing period to mortgage companies prior to the commencement of an action. By adding additional noticing to all lien holders (few of whom, if any, pay off the notices), the time period of priority continues to shrink. Adding EMAP time periods makes the condo association priority lien statute even less effective and all but encourages condo associations to start collection actions the day a homeowner goes delinquent so that all activities, from noticing to foreclosure sale, can occur within 9 months. This will add enormous legal fees and costs to homeowners who miss a bill of only a few hundred dollars, is very anti-homeowner, and discourages condo associations from making payment plans with its delinquent members.

The bill, as drafted, also prohibits the assignment of any lien under \$500. In general, in municipalities that assign tax liens, the balances that are due reflect multiple years of taxes, and are generally over \$500 in any event, but to restrict the municipality's ability to assign a lien based on the amount of the lien can have an unintended negative impact on the municipality's lien sale. For example: in Bridgeport, many properties have two parcels, any assignee of a lien is not going to purchase a lien on a condo if the city can't also assign them the lien on the parking space, which may be a separate \$100 lien. Side lots should not be disassembled from main lots, just as parking lots should not be disassembled from the main building just because the amount of taxes due on it is under \$500.

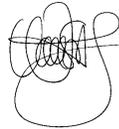
Many municipalities (Cheshire, West Haven, Milford, and South Windsor to name a few) assign sewer liens with their tax liens. The sewer lien that complements a \$5000 tax lien may only be \$250. If the taxing authority were restricted from assigning their sewer lien along with their tax lien because of its amount, they would be putting the collectability and enforceability of the sewer lien in jeopardy, as the real estate tax lien has a legal statutory priority of the sewer lien. Also, many blighted properties in large cities have tax liens under \$500 that the City may proactively want an assignee to enforce through foreclosure for the purposes of cleaning up the property and the neighborhood.

This bill would not achieve its stated goal of reducing foreclosures and protecting homeowners, but would really force enforcement proceedings onto the municipality and municipal budgets. Tax lien assignees, in general, do not purchase tax liens for the purpose of commencing foreclosure actions and generally offer longer payment plan terms with taxpayers than can be offered by the municipality. This bill would not reduce foreclosures, it would actually force municipalities to be more aggressive with their in-house collection activity, and although it wishes to encourage 24 month payment plans, when doing so reduces the interest rate, this bill actually discourages lengthy payment plans because of the lower interest rate.

An unintended consequence of this legislation retroactively impacts the tens of millions of dollars received by struggling communities such as Hartford, Bridgeport and West Haven from assignees over the past few years. A contractual warranty from the municipalities to its assignees is that the tax liens hold an 18% interest rate. This legislation breaches that warranty, and could allow each assignee to demand that the City re-purchase outstanding assigned liens. My guess is that there are probably \$15 million in outstanding liens in Hartford alone, \$15-20 million in Bridgeport, \$10 million in West Haven and millions more in towns and cities across Connecticut. With dwindling state aid, the Cities are not in the financial position to re-purchase these liens as they would be required to.

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The greatest impact the legislature can have on reducing foreclosures from local taxes and to protect homeowners is to continue to support programs such as the senior and veterans tax credits and continuing to fully fund municipalities to allow for a lower property tax burden on property owners.



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Submitted personally as a Connecticut attorney representing municipalities and tax lien assignees and sent as a member of the Legislative Committee of the National Tax Lien Association.