

**THE LAW OFFICE
OF
MICHAEL SCOTT COHEN, LLC**

213 Washington Street
Cumberland, MD 21502
Telephone: (301) 724-5200
E-mail: mike@msclawllc.com

February 21, 2023

Delegate Vanessa Atterbeary, Chair
House Ways & Means Committee
6 Bladen Street, Room 131
Annapolis, Maryland 21401

Re: *House Bill 779/SB518: Tax Sales – Revisions – SUPPORT*

Dear Chairwoman Atterbeary and Members of the House Ways & Means Committee:

This submittal constitutes written testimony in support of House Bill 779, entitled: Tax Sales - Revisions. I am submitting it on behalf of the Cities of Cumberland and Frostburg (collectively, the “Cities”) in my capacity as City Solicitor for the City of Cumberland and as the City Attorney for the City of Frostburg.

This bill would effect changes to existing tax sale foreclosure law by enabling local governments to seek relief at two (2) separate stages of tax sale foreclosure cases when it appears that the foreclosing tax certificate holders have abandoned their cases. In the first instance, if a case has been pending but unresolved for an excessive amount of time, the governing body of a county or municipality may file a motion requesting that the certificate of sale be assigned to it. In the second instance, if the certificate holder does not take the steps necessary to obtain the deed from the tax collector within ninety (90) days of the entry of the final order, as is required under present law, the governing body of a county or municipality may file a motion, requesting that the final order be stricken and that the certificate be assigned to it. In both instances, if the relief sought is granted, the government entity will be able to step into the shoes of the foreclosing certificate holder, complete the proceedings, and take title to the subject property.

If HB779 is passed, the status quo will remain unchanged for the owners of properties sold at tax sale. This legislative proposal is not directed at them or the role they play in tax sale foreclosure cases.

Although the legislation is intended to address problems that can arise on account of certain tax certificate holders’ involvement in these cases, they will not suffer any adverse consequences if it is passed. Under applicable law, if a certificate holder fails to prosecute a case, it can be dismissed. If a tax sale purchaser does not comply with the terms of a final order within ninety (90) days of the date of its entry, the final order can be stricken, and the certificate holder will

almost certainly lose the right to take title to the property. These consequences will remain unchanged if HB779 is passed.

With one harmless exception, this proposal imposes no additional obligations on certificate holders. HB779 would require certificate holders to complete their cases within eighteen (18) months of the date of the filing of their complaints. This change is of no concern for tax certificate holders who have abandoned their cases. Those who have not abandoned their cases need only show good cause as to why it is taking more than eighteen (18) months to complete their cases in order to avoid the consequences of this new requirement.

Whether a tax sale foreclosure is abandoned mid-stream or at the end of the proceeding, the title to the subject property remains in the name of the original owner who, in most instances, no longer resides in the property and is not taking care of it. Since no one will be taking title to and assuming responsibility for the property, it will not be cared for and it will deteriorate. We refer to these properties as “zombie properties” because, just like the body of a zombie decays with the passage of time, the condition of a zombie property worsens the longer its title and ownership effectively remain in limbo.

The problem with zombie properties in the Cities most frequently arises from tax certificate investors’ purchases of large batches of certificates. Tax certificate investors purchase the lion’s share of the certificates for City properties which are sold to third parties at tax sales. Whether on account of the volume of the certificates they are purchasing or for other reasons, it is apparent that they are not investigating the condition of the properties in advance of the date of the tax sales. In some instances, when the investors discover that it is financially impractical to proceed further, they walk away from their cases.

Applicable law does not provide a means to address zombie properties. If passed, HB779 would enable local governments to intercede and ultimately take title to and assume responsibility for these properties. Although not a panacea, this measure would provide local governments with an additional tool for addressing blight.

It is for the foregoing reasons that we ask this committee to give HB779 a **FAVORABLE** report. Thank you for your consideration.

Very truly yours,

MICHAEL SCOTT COHEN, LLC



By: _____
Michael Scott Cohen