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Senator William Smith, Jr., *Chairman*
Senate Judicial Proceedings (JPR) Committee
11 Bladen Street, Miller Senate Building, 2E
Annapolis, Maryland 21401

Re: *Senate Bill 277: Real Property – Sheriff’s Sales – Notice, Procedures, & Subordinate Interests – SUPPORT*

Dear Chairman Smith and JPR Committee Members:

This submittal constitutes written testimony in the above-referenced senate bill. 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.

Generally, this measure would refine the sheriff’s sale process. Presently, there is no requirement that pre-sale notice be specifically directed to property owners and others with interests in the property being sold, there is no explanation as to how junior liens are affected by the sales, and there are no provisions distinguishing judgments on municipal infractions from judgments in general. This measure will supplement existing law by filling these holes.

Background information relative to the reasons for this legislation should be helpful in your deliberations.

The Cities, particularly Cumberland, are actively engaged in efforts to fight blight. Given the age of the Cities, it is not surprising that there are a significant number of blighted properties within them. The Cities’ City Codes include a number of measures to fight blight. This legislation will increase the practicality of the use of sheriffs’ sales as another tool in the toolbox for the fight against blight.

The West Virginia University College of Law Land Use and Sustainable Development Law Clinic prepared a Blight Action Plan for the City which helps to put the City of Cumberland’s challenges into perspective. In the course of inventorying the more than 11,000 structures in the City, the Law Clinic ascertained that 512 of them were blighted. The Law Clinic also advised that there were a significant number of additional buildings that were on their way to becoming blighted. Cumberland’s blight problem is greater than Frostburg’s.

Sheriff’s sales are a tool for the collection of judgments available to all judgment creditors. Judgments become liens against real property when they are filed in the circuit courts’ records.

Applicable law gives creditors the right to sell real and personal property at sheriffs' sales in order to collect what they are owed on such judgments.

Before a property is sold, applicable law requires posting at the courthouse and publication in a newspaper, but there is no requirement that the property owner or anyone else with an interest in the property be given notice of the time, place and terms of sale. This bill requires that a minimum of 20 days advance written notice be given to property owners and certain subordinate interest holders. This measure will greatly increase the likelihood that a judgment debtor will acquire advance notice of the sale.

Applicable law presently does not include any provisions for the stripping of subordinate liens. All sales are made subject to these liens. Unless the liens are paid, they will impair the titles of the properties being sold. Purchasers are less apt to bid on properties under these circumstances. If these liens are stripped, junior liens will cease to impede sheriffs' sales.

Presently, there is a requirement that property levied upon must be appraised before it is sold. This is an added and unnecessary cost, both for the creditor and for the debtor who wishes to pay what is owed before the sale is conducted. The cost of the appraisal must be paid from the proceeds of the sale, thereby reducing the amount a creditor (and, potentially a debtor or junior lienholder) would receive from the sale.

If local appraisers aren't available due to their workload, that will delay the sale. Conversely, real estate tax assessment records can be obtained free of charge from the State Department of Assessments and Taxations website with just a few strokes on the keyboard.

SB277 will give local government creditors one benefit that would not be available to other creditors. Presently, a debtor can utilize certain exemptions from execution to preclude the Sheriff from selling a property. SB277 will preclude debtors from claiming these exemptions in sheriff sales conducted for the purpose of collecting local governments' judgments. Given the nature of the local government lien, it should be treated more like a local government real estate tax lien (which are not subject to these exemptions) than as a lien owed to a private creditor (which are subject to these exemptions).

Execution on judgments on blighted property can benefit a local government in at least two (2) ways. First, it is a means for local governments to collect what they are owed. Second, a sheriff's sale can result in the property being transferred to a new owner (possibly a local government that successfully bids on the property) who will potentially have the means and desire to maintain the property or demolish it.

It is for these reasons that we seek this committee to give SB277 a FAVORABLE report.
Thank you for your consideration.

Very truly yours,

MICHAEL SCOTT COHEN, LLC



By: _____
Michael Scott Cohen