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May 10, 2013

The Honorable Lloyd K. Smucker, Majority Chairman  
Senate Box 203013  
351 Main Capitol Bldg.  
Harrisburg, PA 17120

The Honorable Matt Smith, Democratic Chairman  
Senate Box 203037  
352 Main Capitol Bldg.  
Harrisburg, PA 17120

In re: Senate Bill 444

Dear Senator Smith, Senator Smucker:

Signature Information Solutions LLC ("Signature") is a Pennsylvania employer that searches public records at the federal, state, county, and local level and traces its roots back to 1911. Among the services Signature provides are tax certifications and we have extensive experience with both how citizens of Pennsylvania utilize that information at real estate closings and working with elected tax collectors and public utility authorities. We read with interest Senate Bill 444 and applaud the many positive changes that are contained therein.

However, we must oppose the bill as written due to certain provisions which will negatively impact the citizens of the Commonwealth by potentially creating an undefined process for critical tax and public utility payment information. Senator Pileggi has shown himself to be a supporter and proponent of open and transparent government, particularly with regard to access to public records relative to the financial dealings of its government agencies and we trust that he, his fellow sponsors, and the Committee will carefully review our concerns and consider amendments that will address them.

Our primary concern for the reasons stated below are with SB 444 sub-sections 708(b) (5.1) and (6.1) that exempt tax and public utility payment records. Although the June 2011 Legislative Budget and Finance Committee report on "Pennsylvania's Current Real Property Tax Collection System" conducted pursuant to Senate Resolution 2010-250 ("SR250 Tax Collection Report") focused on the collection process, its comments on the issuance of tax payment information are instructive. It refers to the system as "archaic" and "inefficient". Among the cited disadvantages of the current local tax collection system:

- "Background checks are not mandatory
- Lack of security for cash being handled by tax collectors.

- Minimal internal controls: there is no segregation of duties. Typically one person collects the money, balances the daily transactions, deposits the funds and reconciles the bank statement.
- Manual systems are being used too much by tax collectors.
- Tax Collector currently must purchase and maintain tax collection database therefore the Tax Collector owns the data.
- The Local Tax Collection Law has not been obeyed by some taxing bodies within the state. Due to the misuse of the law, tax collection practices within the state are becoming fragmented, making the tax collection system less efficient."

Real estate taxes and assessments are public records, Dooley v. Luzerne County Bd. Of Assessment Appeals, 649 A.2d 728 (1994), as are the millage rates charged. There is no more fundamental a "financial record" than those records which reveal the billing, receipt and disbursement of public fees and tax dollars. Exempting tax payment records will render property tax information non-public and will subject Pennsylvanians to unreasonable costs and poor service. The Department of Community and Economic Development forms that the tax collector shares with the agency are, in fact, the only existing checks and balances system available to the public to ensure tax collectors are accurately collecting and reporting the funds they collect for agencies. In fact, many collectors do not presently comply with this legal requirement. Exempting payment records would remove this citizen protection and create an environment that may inadvertently foster fraud and embezzlement. In the last three years, there have been nine such cases totaling more than \$1.5M, including three so far this year in excess of \$500K. Clearly, this is an area of government that requires more transparency, not less.

SB 444 wisely tries to address the lack of statutory or regulatory requirement for tax collectors to provide property tax payment status by requiring tax collectors and public utility authorities to establish a "clearance certification process". However, sub-sections 708(b) (5.1) and (6.1) are overly vague and require stronger definitions. Specifically, the bill is silent on:

- When they must establish the process,
- When the information requested should be returned,
- What information should be included on the "clearance certificate", and
- What fee the requestor should be charged.

The bill mandates a process, but is woefully short on creating any meaningful implementation standards. Setting a response time such as five business days for the tax collector, authority, municipality or cooperative to respond would be extremely helpful to home buyers and mortgage refinance participants. Furthermore, we recommend the bill ensures the certificate minimally includes the payment status on individual parcels by name, address, parcel number, payment and date and whether or not the payment was made under a penalty, face, or discount rate.

Time service for payment status requests is currently inconsistent at best. Presently, some towns take many weeks to complete a simple request. One elected tax collector currently

performs his job from the state of Maine and property tax payment status requests routinely take more than a month and last year once took 69 days. Many of our requests to public officials under the current, unregulated process take a month or longer. The impact to the citizens of the Commonwealth is real. Purchasing a home is typically the single largest investment an individual makes. The process is stressful enough without the slow and unpredictable response for the required property tax payment information that too frequently causes the settlement date to move or the loan rate locks to expire.

Additionally, the proposed "reasonable fee" must be defined to protect Pennsylvania citizens from being overcharged. Tax collectors charge and, often personally retain, certification fees as high as \$100 and public utility authorities provide payment information for as much as \$90 – neither of which could possibly be considered "reasonable". The SR250 Tax Collection Report also includes comments on the current disparate state of fees charged by tax collectors: "Some collectors are charging too much for tax certifications...The PA State Tax Collectors Association has urged members to charge no more than \$10.00 per year for a certification." We concur with this recommendation as a maximum allowable charge and feel it should be added into the provisions for the Clearance Certificate. Alternatively, the rate could be set and periodically reviewed by the Office of Open Records to ensure all Pennsylvania citizens get a fair price for the information that is a public record.

The provisions in question, if adopted as written, will set Pennsylvania back in ways that did not even exist under the original version of the Right-to-Know Law passed in 1957. Property tax records will effectively be hidden from the public while a system ripe with incidence of fraud perpetrated against the citizens of the Commonwealth is nurtured. The current draft of the bill effectively creates a legislated monopoly for property tax and public utility information in the unregulated local tax collectors and utility authorities. In this system, Commonwealth citizens are forced to pay unreasonable fees and suffer from poor service. Fundamentally, one must ask what the role of government should be. Is it to facilitate commerce by providing the lowest cost information to its citizens or to create barriers for its citizens, compete with private industry, and profit from exclusive access to critical information? As drafted, SB 444 does the latter.

We welcome an opportunity to discuss our concerns and are available for any questions. We hope you will take our concerns into account as you move this important legislation forward.

Respectfully Submitted,

A handwritten signature in blue ink, appearing to read "Patrick T. Roe".

Patrick T. Roe  
General Manager

cc: Tony Crisci, *Crisci Associates*  
Senator Dominic Pileggi, *Majority Leader, Senate of Pennsylvania*