

Department of Legislative Services
Maryland General Assembly
2005 Session

FISCAL AND POLICY NOTE

House Bill 931
Economic Matters

(Delegate Arnick)

Rules of Interpretation - "Purchaser" to Include "Lender"

This bill provides that whenever the words “bona fide purchaser for value,” “purchaser for fair consideration without notice,” or similar words describing a good faith purchaser for value are used, the word “purchaser” includes a lender, unless the construction would be unreasonable.

Fiscal Summary

State Effect: The bill would not directly affect governmental operations or finances.

Local Effect: None.

Small Business Effect: Minimal.

Analysis

Current Law: Generally, “bona fide purchaser for value,” “good faith purchaser,” or similar terms mean a person who has purchased property without any notice of any defects in the seller’s title.

Under Maryland’s insolvency debt collection provisions, if a conveyance or obligation is fraudulent as to a creditor whose claim has matured, the creditor may generally: (1) have the conveyance set aside or the obligation annulled to satisfy the claim; or (2) levy or garnish the property conveyed as if the conveyance were not made. However, these rights do not obtain against a purchaser for fair consideration without knowledge of the fraud at the time of the purchase or a person who derived title from such a purchaser. In *American Security and Trust Co. v. New Amsterdam Casualty Co.*, 246 Md. 36 (1967),

the Court of Appeals stated that a lienholder was not a purchaser and, therefore, was not afforded the protections of this statute.

Generally, real property may not be subjected to a lien (*e.g.*, a mechanic's lien or a broker's lien) if legal title to the property has transferred to a bona fide purchaser for value prior to establishing the lien.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): State Department of Assessments and Taxation; Department of General Services; Comptroller's Office; Department of Labor, Licensing, and Regulation; Department of Budget and Management; Office of the Attorney General; Department of Legislative Services

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mp/jr

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