

Department of Legislative Services
Maryland General Assembly
2012 Session

FISCAL AND POLICY NOTE

Senate Bill 830 (Senator Ramirez)
Judicial Proceedings

**Real Property - Condominiums and Homeowners Associations - Abandoned
Property**

This bill authorizes a governing body of a condominium or homeowners association (HOA) to send notice to a mortgagee or agent of the mortgagee that the property subject to the mortgage is abandoned property. The notice must be made by certified mail, postage prepaid, return receipt requested, bearing a postmark from the U.S. Postal Service. It grants first lien priority on an abandoned unit or lot's unpaid fines, assessments, fees, or obligations, including interest and penalties, to a governing body of a condominium or an HOA within 60 days of sending the notice that the property has been abandoned.

Fiscal Summary

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

Local Effect: The bill does not directly affect local governmental operations or finances.

Small Business Effect: Minimal.

Analysis

Bill Summary: "Abandoned property" means vacant property in connection with which a delinquency exists with respect to the payment of a fine, assessment, fee, or obligations owed to a governing body of a condominium, an HOA, or local government in which the condominium or HOA is located.

“Vacant property” means any property located in a condominium or an HOA that has remained continuously unoccupied for 120 days or more and is not currently listed with any real estate agent or broker. The property must have been denoted as “vacant property” by (1) the governing body of the condominium or HOA; (2) a local government in which the condominium or HOA is located; or (3) a mortgagee or agent of the mortgagee holding a mortgage on the property.

Current Law:

Condominiums: The Maryland Condominium Act (MCA) authorizes the governing body of a condominium to charge up to 18% interest on any delinquent assessment or installment not paid when due. A condominium may charge a late fee of the greater of \$15 or 10% of the total amount of any delinquent assessment or installment if the delinquency has continued for at least 15 calendar days. The late charge may not be imposed more than once for the same delinquent payment.

If authorized by the bylaws, a council of unit owners may impose a lien on a unit in accordance with MCA and the Maryland Contract Lien Act (MCLA) to recover unpaid assessments, interest on unpaid assessments, late charges, collection costs, and reasonable attorney’s fees. A deficiency lawsuit following a foreclosure along with a lawsuit to recover a money judgment for unpaid assessments may be maintained in the same proceeding without waiving the right to impose such a lien.

HOAs: As provided by the HOA’s declaration, a lot owner is liable for all association assessments and charges that come due while the lot owner owns the lot. Under the Maryland Homeowners Association Act, in addition to any other available remedies, the governing body of an HOA can also enforce the payment of unpaid association assessments and charges provided in the declaration by imposing a lien on a lot in accordance with MCLA procedures.

Condominiums and HOAs: A lien may be enforced and foreclosed by the lien holder in the same manner, and subject to the same requirements, as the foreclosure of mortgages or deeds of trust on property containing a power of sale or an assent to a decree. An action to foreclose a lien must be brought within 12 years following recordation of the lien statement.

Chapter 387 of 2011 enabled a portion of a condominium’s lien or HOA’s lien to have priority over a holder of a first mortgage or deed of trust in the event of a foreclosure of a mortgage or deed of trust on a unit or lot. The portion of the contract lien that takes precedence over the claim of the holder of a first mortgage deed of trust is limited to an amount of up to four months, or the equivalent of four months, of unpaid regular assessments for common expenses up to \$1,200. The governing body of the

condominium or HOA must provide specified information to the holder of first mortgage or deed of trust upon request in order to have priority.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Kent, Worcester, and Montgomery counties; Baltimore City; State Department of Assessments and Taxation; Office of the Attorney General (Consumer Protection Division); Judiciary (Administrative Office of the Courts); Secretary of State; Department of Legislative Services

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ncs/kdm

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