

Department of Legislative Services
Maryland General Assembly
2014 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 141

(Senator Conway)

Budget and Taxation

Ways and Means

Baltimore City - Tax Sales - Nonpayment of Environmental Citations

This bill authorizes a tax sale in Baltimore City solely for nonpayment of environmental citations issued under Article 1, Subtitle 40 of the Baltimore City Code if the total amount of unpaid environmental citations is at least \$1,000. The tax sale may only be offered after exhaustion of all administrative and judicial rights of appeal. Baltimore City must submit a report to the Senate Budget and Taxation Committee and the House Ways and Means Committee on its plans for implementing the bill, including the types of unpaid environmental citations that are subject to collection through a tax sale. The jurisdiction may not offer real property at a tax sale solely for nonpayment of environmental citations until after it submits the report.

The bill only applies prospectively to violations of Article 1, Subtitle 40 of the Baltimore City Code occurring on or after the bill's October 1, 2014 effective date.

Fiscal Summary

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

Local Effect: Potential significant increase in Baltimore City revenues as a result of tax sales offered under the bill. The actual impact depends on the amount of future environmental citations and the amount of properties pursued. Any potential increase in expenditures to conduct the required study and subsequent tax sales are absorbable within existing resources.

Small Business Effect: None.

Analysis

Current Law: The Environmental Control Board of Baltimore City is authorized to enforce the sanitation, environmental, health, safety, and other quality-of-life laws under the Baltimore City Code. Citations are issued by a sanitary enforcement officer or other city employee who has been authorized to act as a special enforcement officer. A person cited under an environmental citation must either pay the prescribed prepayable fine or request a hearing on the violation. If the person fails to pay the fine or request a hearing, or if the person requests a hearing but fails to appear, the board may render a default decision and order against the person cited and impose a civil penalty of up to either the lesser of \$1,000 or three times the prepayable fine for the specified violation.

Administrative Adjudications and Judicial and Appellate Review

The board is required to conduct hearings and other proceedings for adjudicating violations of the laws, rules, and regulations enforced by it. The board has authority to render decisions and orders, as well as impose civil penalties for those violations. Unless otherwise specified, every decision of the board from which no timely appeal is taken constitutes a final decision. Any person who, after having exhausted all administrative remedies available, is aggrieved by a final decision of the board may seek judicial review of that decision by petition to the Circuit Court for Baltimore City. A party may further appeal the circuit court's final judgment to the Court of Special Appeals.

Penalty as Debt and Lien

If the offense involves real property, a civil penalty imposed by the board creates a lien on that property in favor of the city. Penalties and liens resulting from an environmental citation are collectible from and enforceable against any of the assets of the person who incurred the penalty and may be collected and are enforced in the same way that the city collects and enforces other debts due to it or liens in its favor. However, real property may not be offered for sale in a Baltimore City tax sale solely for nonpayment violations of environmental citations.

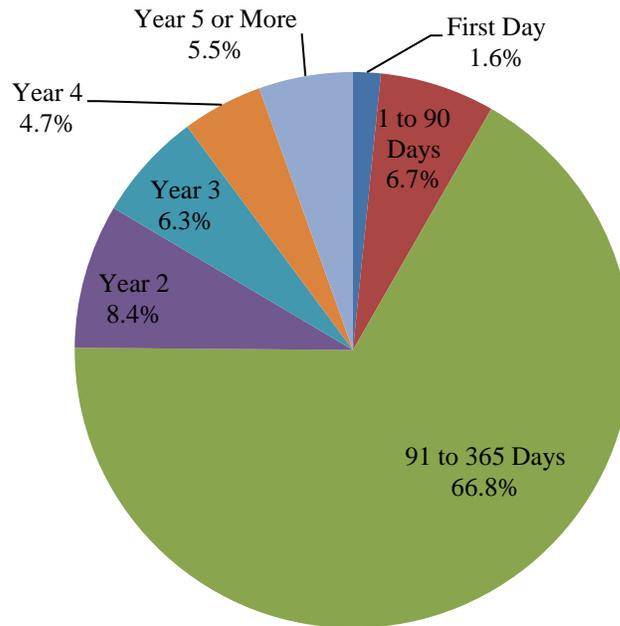
Background:

Environmental Citations

In fiscal 2013, Baltimore City issued 46,200 citations. Not all citations are subject to a lien. Baltimore City currently has 6,360 properties with outstanding balances of lienable environmental citations exceeding \$1,000. In total, these properties represent an unpaid balance of environmental citation fees and penalties of over \$14.9 million, with an average balance of \$2,347. The length of time it has taken for those properties to exceed \$1,000 varies. As shown in **Exhibit 1**, 1.6% of properties reached the \$1,000 threshold

within the first day of the first citation, and the majority of properties, nearly 67%, reached \$1,000 in unpaid citations between 91 and 365 days after the first citation.

Exhibit 1
Baltimore City Environmental Citations Exceeding \$1,000
Length of Time to Reach \$1,000 Following First Citation



Source: Baltimore City

Tax Sales

For the purposes of a tax sale, a “tax” includes a charge due to the State or a municipality that by law is a lien against the real property on which it is imposed or assessed. When a property is purchased at a tax sale, the purchaser must pay to the tax collector any delinquent taxes, penalties, sale expenses, and, under certain conditions, a high-bid premium. The remainder of the purchase price is not paid to the collector until the purchaser forecloses on the property. The property owner has the right to redeem the property within six months from the date of the tax sale by paying the delinquent taxes, penalties, interest, and specified expenses of the purchaser. If the owner redeems the certificate, the purchaser is refunded the amounts paid to the collector plus the interest and expenses. If the owner does not redeem the certificate, the purchaser has the right to foreclose on the property after the six-month right-of-redemption period has passed. Generally within two years, if the right to foreclose is not exercised by the purchaser, the certificate is void and the purchaser is not entitled to a refund of any monies paid to the collector.

If a property is offered for tax sale and there is no private purchaser, each county or other taxing agency must buy and hold the property. The governing body of a county or other taxing agency has the same rights and remedies with regard to other purchasers, including the right to foreclose.

Local Fiscal Effect: Baltimore City revenues may significantly increase as a result of the bill's provisions. The impact on Baltimore City depends on (1) the number of eligible properties in future years; (2) the extent to which the jurisdiction pursues tax sales solely for nonpayment of environmental citations exceeding \$1,000; (3) the extent to which Baltimore City would otherwise pursue eligible properties for tax sale under other eligible liens (*e.g.*, water bills, property taxes, etc.); (4) the length of time it takes for a property owner to reach \$1,000 in unpaid environmental citations; and (5) the administrative and judicial rights of appeal exercised by a property owner.

Baltimore City advises that it currently subjects all environmental liens into tax sale when there are qualifying liens to place a property into tax sale. Moreover, the jurisdiction expects to attempt to collect all eligible environmental liens under the bill by tax sale. However, the jurisdiction notes that it currently grants payment plan requests for unpaid water charges and anticipates a similar process for environmental citations. Such a practice may decrease the amount of eligible environmental liens that could otherwise be pursued through a tax sale.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Baltimore City, Maryland Department of the Environment, Judiciary (Administrative Office of the Courts), Department of Legislative Services

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ncs/kdm Revised - Senate Third Reader - March 25, 2014
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