Department of Legislative Services

Maryland General Assembly
2015 Session

FISCAL AND POLICY NOTE

House Bill 372 (Delegate Walker)
Environment and Transportation

Real Property - Vacant and Abandoned Residential Property

This bill requires mortgage lenders to inspect residential properties for evidence of abandonment under specified circumstances, requires lenders to maintain abandoned property under specified circumstances, and requires lenders to register the property with a registry to be established and maintained by the Department of Labor, Licensing, and Regulation (DLLR). The bill authorizes the collection of registration fees, creates a special fund into which fees will be deposited, authorizes investment of the collected fees, and specifies that investment earnings must be paid into the special fund. The bill also authorizes local jurisdictions to enact a local law that imposes a civil penalty of up to $1,000 for failure to register a property.

Fiscal Summary

State Effect: General fund expenditures increase by $150,000 in FY 2016 only to establish the registry. Special fund expenditures increase by $51,000 in FY 2016 to administer and maintain the registry. This estimate assumes that general funds are used to cover initial development costs associated with the registry until sufficient fees are collected to cover ongoing operating costs, and that certain duplicative oversight duties are absorbed by existing resources. Special fund revenues increase by $110,000 in FY 2016 to reflect the collection of registration fees beginning January 1, 2016. Out-years reflect annualization and assume no changes in the fees or the number of properties registered.

(in dollars)	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020
SF Revenue	$110,000	$220,000	$220,000	$220,000	$220,000
GF Expenditure	$150,000	$0	$0	$0	$0
SF Expenditure	$51,100	$145,400	$149,100	$153,100	$157,200
Net Effect	($91,100)	$74,600	$70,800	$66,900	$62,800

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: Minimal increase in revenue if a local jurisdiction exercises its authority to impose a civil penalty for failure to register properties. Enforcement can be handled with existing resources.

Small Business Effect: None.

Analysis

Bill Summary:

Definitions

The bill defines a property as vacant and abandoned if (1) at least three monthly payments are past due on the mortgage loan *or* the property owner has provided written notice to the mortgage lender that the owner does not intend to occupy the property in the future *and* (2) the mortgage lender has reason to believe, as specified, that the property is not occupied *or* a court or a local code enforcement agency has determined that the property poses a risk to the health, safety, and welfare of the public.

The bill specifies that a property may not be considered vacant and abandoned if the property (1) is undergoing construction, renovation, or rehabilitation and is in compliance with applicable laws and ordinances; (2) is occupied on a seasonal basis; (3) is the subject of a probate action, an action to quiet title, or any other ownership dispute; (4) has been damaged by a natural disaster and the borrower intends to repair and reoccupy the property; or (5) is occupied by the property owner, a relative of the owner, or a *bona fide* tenant.

Required Registration

The bill requires that no later than seven days after the date on which two payments on a mortgage loan on a residential property become past due, the mortgage lender must begin periodic inspections of the property for evidence of abandonment. Evidence of abandonment includes (1) overgrown or dead vegetation; (2) accumulated newspapers, flyers, or mail; (3) past due utilities notices, disconnected utilities, or utilities not in use; (4) accumulated trash or debris; (5) the absence of window coverings such as curtains, blinds, or shutters; and (6) buildings or structures that are unsecured or that appear structurally unsound.

Periodic inspections must be made at least once every 30 days until the mortgage lender determines that the residential property is vacant and abandoned. At which point, the lender must register the property with the vacant and abandoned property registry established by the bill and maintain the property in a manner consistent with applicable building codes and ordinances of the local jurisdiction until a deed transferring title to the residential property has been recorded. The bill authorizes the mortgage lender to enter, or allow others to enter, the property for the purpose of carrying out the required inspections and maintenance. The bill further authorizes a person who owns property on the same block as a vacant and abandoned property, or the homeowners association or condominium in which such property is located, to seek injunctive or other equitable relief to require a mortgage lender to comply with the bill.

The Vacant and Abandoned Property Registry

The bill requires DLLR to establish and maintain an Internet-based Vacant and Abandoned Property Registry that includes (1) the information identifying the mortgage lender responsible for maintaining the vacant and abandoned property as specified; (2) the street address of the vacant and abandoned property; (3) the date on which the foreclosure action was commenced if a foreclosure action has been filed on the property; and (4) the information identifying the property owner, as specified. The bill requires the mortgage lender to submit a property registration as required by DLLR within 30 days after the mortgage lender determines that the property is vacant or abandoned. The bill establishes nonrefundable filing fees of $50 for a registration filed within the 30-day period and $100 for a registration filed after 30 days. A local jurisdiction is authorized to enact a local law that imposes a civil penalty of up to $1,000 for failure to register.

The bill specifies that the registry is not a public record and limits access to the registry to local jurisdictions, their agencies and representatives, and State agencies. Even so, DLLR or a local jurisdiction may disclose information about a certain property to property owners in the same block and to the homeowners association or condominium in which the property is located.

The Vacant and Abandoned Property Registry Fund

The bill establishes a Vacant and Abandoned Property Registry Fund to support the development, administration, and maintenance of the Vacant and Abandoned Property Registry established by the bill. Revenue collected from the filing fees is distributed to the fund, which is administered by DLLR.

Current Law/Background: State law does not require the registration of vacant or abandoned properties. However, a system similar to the one established in the bill was implemented under Chapter 155 of 2012, which required DLLR to establish and maintain an Internet-based Foreclosed Property Registry for information relating to foreclosure sales of residential property. The law requires a foreclosure purchaser to submit an initial registration form to DLLR within 30 days of the sale and a final registration form within

30 days after a deed transferring title to the property has been recorded. The registry is supported by a special fund.

State Fiscal Effect: Despite the bill's October 1, 2015 effective date, DLLR advises the registry cannot be operational until January 1, 2016. Given the complexity of the registry and DLLR's prior experience with similar databases, this start date is reasonable. Therefore, the Department of Legislative Services advises that additional staff is not necessary until January 1, 2016, when it is expected that the registry will be able to accept registrations and collect fees. Thus, general fund expenditures increase by $150,000 in fiscal 2016 based on the estimate from DLLR's Information Technology unit of the cost to create the registry. Special fund expenditures increase by $51,067 in fiscal 2016, beginning January 1, 2016. This estimate reflects the cost of hiring one administrative officer to review registration forms, collect registration fees, and handle an anticipated significant number of inquiries regarding vacant and abandoned properties. These estimates are based on the actual cost of creating and maintaining similar databases in past years. The expenditures also include a salary, fringe benefits, one-time start-up costs, and ongoing operating expenses.

DLLR advises that two additional staff, one administrator and one office secretary, are necessary to administer and maintain the registry. The Department of Legislative Services advises, however, that the provisions of the bill can be handled with the addition of one person. It is assumed that oversight duties associated with the registry will be similar to those required for the Foreclosed Property Registry established under Chapter 115 of 2012. Other responsibilities, such as overseeing the maintenance of the online registry system, can be absorbed by these existing resources.

Position	1
Salary and Fringe Benefits	$36,764
Registry Development	150,000
Other Operating Expenses	14,303
Total FY 2016 State Expenditures	**$201,067**

Future year expenditures reflect a full salary with annual increases, employee turnover, annual increases in ongoing operating expenses, and $50,000 annually for registry maintenance.

Special fund revenues increase by $109,975 in fiscal 2016 to reflect the collection of registration fees from mortgage lenders based on the anticipated January 1, 2016 start date for the registry. Special fund revenues increase by $219,950 in out-years, reflecting annualization and assuming no changes in registrations or fees. The bill requires a mortgage lender to submit a registration form and the $50 registration fee within 30 days after the mortgage lender determines that the property is vacant or abandoned. A registration form submitted after 30 days must be accompanied by a $100 registration fee. DLLR expects to receive 284 registration forms per month. DLLR reports that this estimate is based on Notice of Intent to Foreclose data from calendar year 2014, which identified 33,844 Maryland residential properties as being 90 days or more delinquent on their mortgage payments. DLLR estimates that 10% of these, or 3,384, are likely to be considered vacant or abandoned based on census data reported by the American Community Survey. The revenue estimate further assumes that 30% of registrants file outside of the 30-day period. To the extent that DLLR is able to establish the registry sooner, revenues may increase beyond the amount specified above, and staffing would be required to begin sooner. If additional staff are required, special fund balances are likely to be sufficient to cover any necessary increase.

Local Fiscal Effect: To the extent that a local jurisdiction exercises its authority to enact a local law that imposes a civil penalty for failure to register a property with the Vacant and Abandoned Property Registry, local revenues may increase. *For illustrative purposes only*, assuming the local jurisdiction enacts a law that imposes the maximum allowable fine of $1,000, if 10 properties are determined to meet the definition of vacant and abandoned but are not registered, local revenues could increase by $10,000.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Allegany, Montgomery, Talbot, and Wicomico counties; Town of Bladensburg; cities of Frostburg and Rockville; Baltimore City; Judiciary (Administrative Office of the Courts); Department of Labor, Licensing, and Regulation; Department of Legislative Services

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md/kdm

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