

Department of Legislative Services
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FISCAL AND POLICY NOTE
Revised

Senate Bill 439

(Senator McFadden)(By Request - Baltimore City
Administration)

Budget and Taxation

Ways and Means

Baltimore City - Tax Sales

This bill expands redemption opportunities for owner-occupied residential property owners whose property is subject to sale for unpaid taxes or water and sewer liens in Baltimore City. The bill requires, rather than authorizes, the tax collector in Baltimore City to withhold owner-occupied residential property from a tax sale if the total taxes owed on the property, including interest and penalties, amount to less than \$750, rather than only \$250.

The Mayor and City Council of Baltimore City may establish, by law, an installment payment plan process to further increase redemption opportunities for owner-occupied residential property owners. The bill also increases the minimum threshold from \$350 to \$750 before the Baltimore City government is authorized to sell an owner-occupied residential property solely to enforce a lien for unpaid water and sewer charges.

The bill takes effect July 1, 2015, and applies only prospectively, having no effect on a tax sale certificate issued before that date.

Fiscal Summary

State Effect: None.

Local Effect: Baltimore City revenues may decrease by a significant amount due to the restrictions on tax sale proceedings for properties due to unpaid taxes and water and sewage charges. Baltimore City expenditures for debt service may increase significantly.

Small Business Effect: None.

Analysis

Bill Summary: The bill defines “owner-occupied residential property,” with respect to Baltimore City, as the principal residence of a homeowner.

Request for Payoff Amount

The bill allows an owner-occupied residential property owner to request the payoff amount required to redeem the property. A request must be sent to the holder of the certificate of sale by first-class certified mail, postage prepaid, return receipt requested. A holder of a certificate of sale must then send the owner of the property the requested payoff amount by first-class certified mail, postage prepaid, return receipt requested, within specified time limits. The payoff amount included in the reply must remain valid for 30 days from the date the holder of the certificate of sale sends the amount to the owner of the property. A holder of a certificate of sale may not file a complaint to foreclose on the property until the later of (1) 20 days after the request was received; (2) 10 days after the holder of the certificate of sale sends the payoff amount to the property owner; or (3) the date on which a holder of the certificate of sale may otherwise file a complaint to foreclose on the property. If the owner of the property sends more than two requests for the payoff amount, the restrictions on filing a complaint to foreclose the right of redemption may not apply to a third or subsequent request. Should an owner pay the requested amount to redeem the property, the bill exempts an owner-occupied residential property from the requirement that the redeemer pay any taxes, interest, and penalties that accrued after the date of the tax sale.

Timing of Complaint

The bill extends the time period before a holder of a certificate of sale may file a complaint to foreclose on an owner-occupied residential property, by specifying that the holder may not file such a complaint until nine months after the date of the tax sale and prohibiting the holder of a certificate of sale from initiating the notification process until seven months after the date of the tax sale. Existing provisions governing the second and subsequent notices remain unchanged.

Reimbursement for Expenses

For actions related to owner-occupied residential property in Baltimore City, the holder of a certificate of sale may not be reimbursed for expenses incurred within seven months after the date of sale. In addition, the bill specifies that if an action to foreclose the right of redemption has not been filed and the property is redeemed more than seven months after the date of sale, a holder of a certificate of sale in Baltimore City may be reimbursed for expenses actually incurred related to (1) the cost of recording the certificate of sale; (2) a

title search fee up to \$250; (3) the postage and certified mail costs for sending required notices; and (4) reasonable attorney's fees up to \$500.

Information Contained in Final Judgment

For a proceeding concerning an owner-occupied residential property in Baltimore City, if the court finds for the plaintiff, the final judgment must state whether there is a bid balance as a result of the tax sale. The final judgment must also state that the former owner may obtain his or her portion of the bid balance by contacting the Baltimore City Bureau of Revenue Collections.

Current Law:

Tax Sale Threshold

Local governments are authorized to withhold from a tax sale any property, when the total taxes on the property, including interest and penalties, amount to less than \$250 in any one year.

Redemption of Property Sold at Tax Sale

If a property sold at tax sale is redeemed, the person redeeming must pay the collector (1) the total lien amount paid at the tax sale with interest; (2) any taxes, interest, and penalties paid by any holder of the certificate of sale; (3) any taxes, interest, and penalties accruing after the date of the tax sale; (4) any expenses or fees the plaintiff or the holder of a certificate of sale is entitled to; and (5) for vacant and abandoned property sold for less than the amount due in back taxes, the difference between the price paid and the unpaid taxes, interest, penalties, and expenses.

Filing of Complaint to Foreclose

Generally, the holder of a certificate of sale may file a complaint to foreclose on the property at any time after six months from the date of sale, unless otherwise specified. The holder seeking to foreclose must meet numerous specified requirements related to (1) providing proper notice; (2) the timing of the notice; and (3) the contents of the notice. The first of two required notices may not be sent until four months after the date of the tax sale.

Under most circumstances, if the holder fails to file a complaint to foreclose within two years of the date of the tax sale, the certificate is void. However, the holder of a certificate of sale for abandoned property in Baltimore City, where the bid was less than the lien amount, may file a complaint to foreclose at any time after the date of sale.

Additionally, when the Mayor and City Council of Baltimore City becomes the holder of a certificate of sale, the Mayor and City Council of Baltimore City may file a complaint, at any time after the date of sale, to foreclose all rights of redemption in abandoned property if the property is (1) a vacant lot or (2) a property with a building cited as vacant and unfit for habitation.

Reimbursement for Expenses

If an action to foreclose the right of redemption has not been filed, and the property is redeemed more than four months after the date of sale, a holder of a certificate of sale may be reimbursed for expenses actually incurred related to (1) the cost of recording the certificate of sale; (2) a title search fee up to \$250; (3) the postage and certified mail costs for sending required notices; and (4) reasonable attorney's fees up to \$500. In Baltimore City and all counties except Talbot, the plaintiff or holder of a certificate of sale may not be reimbursed for expenses incurred within four months after the date of sale with specified exceptions. In Baltimore City, on or after October 1 of each year, the plaintiff or holder of a certificate of sale may pay taxes, interest, and penalties that become due after the date of the sale on the property, and that have not been paid by the owner of the property.

In addition to the expenses and attorney's fees, a plaintiff or holder of a certificate of sale may be reimbursed for (1) taxes paid at the tax sale, together with redemption interest, arising after the date of sale to the date of redemption; (2) the high bid premium paid at the tax sale, if applicable; and (3) in Baltimore City only, taxes, interest, and penalties paid as well as interest at the rate of redemption provided by statute from the date of payment to the date of redemption.

Information Contained in Final Judgment

In Baltimore City, where abandoned property has been sold for a sum less than the amount due for unpaid taxes, interest, penalties, in a foreclosure proceeding brought by the Mayor and City Council, the final order may include a judgment in favor of the city and against the person liable for taxes prior to the sale, in the amount of the unpaid taxes, interest, penalties, and expenses otherwise due in a tax sale.

Unpaid Water and Sanitary Charges

Baltimore City is prohibited from selling a property at a tax sale solely to enforce a lien for unpaid charges for water and sewer service unless the lien is for at least \$350 and the unpaid charges for water and sewer service are at least three quarters overdue. However, Baltimore City may enforce a lien on a property for unpaid water and sewer service that is less than \$350 if the property is being sold to enforce another lien.

Background: In May 2013, Baltimore City sold 5,935 properties through an online tax sale auction, of which 2,099 were owner-occupied homes. Delinquent standalone water bill delinquencies accounted for 523 of the properties sold. In May 2014, 6,690 properties were sold at tax sale, 2,236 of which were owner-occupied homes.

Local Fiscal Effect: Baltimore City revenues will decrease due to the restrictions on tax sale proceedings for owner-occupied residential property with unpaid taxes and liens due to water and sewer charges. Over 6,200 total properties in Baltimore City went to tax sale solely for delinquent water and sewer charges from 2006 through 2012. The lien amounts on these properties totaled \$7.3 million. Through the threat of foreclosure and the potential for the property being sold at a tax sale, Baltimore City recovered a significant amount of delinquent water and sewer charges. Restricting the properties eligible for tax sale by expanding the property owner's right to redemption or restricting the attachment of liens is likely to reduce recoveries from unpaid taxes and unpaid water and sewer fees, perhaps significantly, and may result in decreased collections of unpaid water and sewer charges. Raising the threshold of total taxes due on the property before the tax collector may initiate a tax sale would have a similar impact.

With respect to water and sewage fees, dunning notices (a notice to a debtor demanding payment on a delinquent account) are sent out to ratepayers when delinquencies reach \$350 and unpaid charges are at least three quarters in arrears. Unpaid accounts can result in the property being referred to a tax sale proceeding. Since the bill raises the delinquency threshold for owner-occupied residential property from \$350 to \$750, the number of dunning notices sent out to delinquent ratepayers will decline beginning in fiscal 2016. Consequently, fewer properties with delinquent accounts will be referred to tax sale proceedings.

Additional Information

Prior Introductions: None.

Cross File: HB 1035 (Delegate Oaks) – Ways and Means.

Information Source(s): Baltimore City, State Department of Assessments and Taxation, Property Tax Assessment Appeals Board, Department of Housing and Community Development, Judiciary (Administrative Office of the Courts), Office of Administrative Hearings, Department of Legislative Services

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