

Department of Legislative Services
Maryland General Assembly
2016 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 762
Ways and Means

(Delegate Buckel)

Tax Sales - Reimbursement for Expenses

This bill clarifies that specified costs incurred by the holder of a certificate of sale *must*, rather than *may*, be reimbursed on redemption of the property. The bill also specifies that the reimbursement must be paid directly to the attorney for the holder of the certificate of sale, or the holder, if not represented by an attorney, and may not be paid to the collector. 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 the tax sale, or seven months after the date of the tax sale for owner-occupied residential property in Baltimore City, the holder of a certificate of sale must be reimbursed for attorney's fees in the amount of \$500, which is deemed reasonable for the work performed. If an action to foreclose the right of redemption has been filed, the plaintiff or holder of a certificate of sale must be reimbursed for up to \$1,500 if an affidavit of compliance has not been filed, or \$1,750 if the affidavit has been filed, which amounts are both deemed reasonable for the work performed.

The bill takes effect July 1, 2016.

Fiscal Summary

State Effect: The bill will increase the amount of fees incurred by the Department of Housing and Community Development (DHCD) when the department acquires property through foreclosure sale for uninsured loans. However, the impact is small enough that it can be handled with existing budgeted resources.

Local Effect: The bill does not materially affect local government operations or finances.

Small Business Effect: Minimal.

Analysis

Bill Summary: Whether or not an action to foreclose the right of redemption has been filed, the holder of a certificate of a sale must be reimbursed for costs for obtaining necessary judgment reports. If the action to foreclose the right of redemption has been filed, the plaintiff or holder of a certificate of sale must provide an affidavit that the expense for obtaining necessary judgment reports was actually incurred for reimbursement. The holder of a certificate of sale may not file a complaint to foreclose the right of redemption until a specified period of time after sending a notice that includes, among other things, a statement that if the property is redeemed before an action to foreclose the right of redemption is filed, the amount that must be paid to redeem the property includes, among other things, the costs for obtaining necessary judgment reports.

In addition to specified expenses and attorney's fees, the bill states that the plaintiff or holder of a certificate of sale must be reimbursed for (1) taxes paid at the sale, with interest; (2) the high bid premium, if applicable; (3) in Baltimore City, taxes, interest, and penalties paid; and (4) costs incurred for obtaining a certificate of substantial repair for specified properties.

Current Law: With limited exceptions, upon redemption of a certificate of sale, the plaintiff or holder may be reimbursed for expenses incurred in any action, or in preparation of any action, to foreclose the right of redemption. In a majority of counties, a plaintiff or holder of a certificate of sale may not be reimbursed for expenses incurred within four months after the date of sale. In Baltimore City, a plaintiff or holder of a certificate of sale may not be reimbursed for expenses incurred within seven months after the date of sale.

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 the tax sale, or seven months after the date of sale in Baltimore City, the holder of a certificate of sale may be reimbursed for costs for recording the certificate of sale, a title search fee up to \$250, specified mailing costs, and reasonable attorney's fees up to \$500.

If an action to foreclose the right of redemption has been filed, the plaintiff or holder of a certificate of sale may be reimbursed for (1) up to \$1,300, if an affidavit of compliance has not been filed or (2) \$1,500, if the affidavit has been filed. The amount of reimbursable attorney's fees must be deemed reasonable for both the preparation and filing. The court may also approve, on a case-by-case basis, the reimbursement of other reasonable attorney's fees incurred and specifically required by the plaintiff or holder of a certificate of sale.

Finally, if the plaintiff or holder of a certificate of sale provides a signed affidavit attesting to the fact that at least one of the following expenses was actually incurred, the plaintiff or holder of a certificate of sale may be reimbursed for (1) a filing fee charged by the appropriate county's circuit court; (2) a service of process fee, including any fees incurred attempting to serve process; (3) a title search fee of up to \$250; (4) a subsequent title search update fee within six months of up to \$75; (5) a publication fee charged by a newspaper of general circulation in the county in which the property is located; (6) a posting fee; (7) postage and certified mail costs; (8) a substantial repair order fee, not to exceed the fee charged by the government agency issuing the certificate of substantial repair; (9) expenses and court costs incurred for opening an estate of a deceased defendant for purposes of service of process and notice, up to \$1,200; and (10) any court-approved expense for property stabilization or conversion during the redemption period or in accordance with a county action taken against the property for a building, fire, health, or safety code violation.

Background: 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 certain 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.

State Fiscal Effect: DHCD advises that it averages 30 transactions per year that would be impacted by the bill's provisions, and that the increased fees can be handled with existing resources.

Additional Information

Prior Introductions: HB 1144 of 2015, a similar bill, was assigned to the House Rules and Executive Nominations Committee, but no further action was taken. HB 940 of 2014, another similar bill, was withdrawn.

Cross File: None.

Information Source(s): Baltimore City; Montgomery and Talbot counties; Judiciary (Administrative Office of the Courts); Department of Housing and Community Development; Department of Labor, Licensing, and Regulation; State Department of Assessments and Taxation; Department of Legislative Services

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