

Department of Legislative Services  
Maryland General Assembly  
2017 Session

FISCAL AND POLICY NOTE  
Third Reader

House Bill 220 (Baltimore County Delegation)  
Environment and Transportation

Judicial Proceedings

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Foreclosures - Baltimore County - Certificate of Vacancy or Certificate of  
Property Unfit for Human Habitation

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This bill requires Baltimore County to issue a certificate of vacancy or a certificate of property unfit for human habitation for a residential property on request from a secured party if the mortgage or deed of trust on a property is in default. The bill also requires Baltimore County to issue or deny a certificate of vacancy or a certificate of property unfit for human habitation within 14 days after the date of the request for such a certificate.

The bill takes effect January 1, 2018.

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Fiscal Summary

**State Effect:** The bill is not anticipated to affect State operations or finances.

**Local Effect:** Baltimore County revenues increase minimally due to fees for providing certificates. Baltimore County advises that its expenditures increase by approximately \$259,000 in FY 2018, and by approximately \$461,000 annually thereafter, to hire and equip four inspectors and two office assistants to carry out the bill's requirement, as discussed below. **This bill imposes a mandate on a unit of local government.**

**Small Business Effect:** Potential meaningful. To the extent that small business secured parties are able to proceed through the foreclosure process more quickly, such as by not being required to enter into foreclosure mediation, the property may be secured/repaired and resold in a shorter amount of time.

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## Analysis

**Current Law:** Baltimore County does not issue certificates of vacancy or certificates of property unfit for human habitation.

### *Certificate of Vacancy and Certificate of Property Unfit for Human Habitation*

*Request for Certificate by Secured Party:* Generally, “certificate of vacancy” means a certificate for a residential property issued by a unit of a county or municipal corporation indicating that the residential property is vacant. “Certificate of property unfit for human habitation” means a certificate for residential property indicating that the county or municipal corporation has determined that the residential property is unfit for human habitation.

In a county or municipal corporation that issues a certificate of vacancy or a certificate of property unfit for human habitation, if a mortgage or deed of trust on residential property is in default, a person with a secured interest in the residential property may request that a county or municipal corporation issue a certificate of vacancy or a certificate of property unfit for human habitation. The county or municipal corporation must issue to a secured party (1) a certificate of vacancy if the county or municipal corporation determines that the residential property is vacant and (2) a certificate of property unfit for human habitation for a residential property if it is determined that the residential property is unfit for human habitation in accordance with requirements of local, county, or State housing codes. A county or municipal corporation may establish procedures for issuing each certificate and may charge a secured party a fee of up to \$100 for each certificate.

A certificate of vacancy or certificate of property unfit for human habitation is valid for 60 days after the date the certificate is issued.

*Effect on Requirement for Foreclosure Mediation:* Generally, a secured party is required to enter into foreclosure mediation, under specified circumstances, when foreclosing on a mortgage or deed of trust. If a certificate of vacancy or certificate of property unfit for human habitation is valid at the time of filing an order to docket (OTD) or complaint to foreclose, specified foreclosure mediation requirements do not apply. A secured party filing an OTD or complaint to foreclose based on a certificate of vacancy or a certificate of property unfit for human habitation must serve the foreclosure documents in accordance with specified procedures, along with a description of the procedure to challenge the certificate and the form to be used to make the challenge. The record owner or occupant of a property may challenge the certificate of vacancy or certificate of property unfit for human habitation by notifying the circuit court of the challenge. If a challenge to the certificate is upheld, the secured party must comply with the specified mediation requirements.

## *Foreclosure Process in Maryland*

*Filing an Order to Docket or Complaint to Foreclose:* Generally, to foreclose on residential property in Maryland, the secured party must first send a notice of intent to foreclose (NOI) to the mortgagor or grantor and the record owner, and then file and serve an OTD or a complaint to foreclose. Whether an OTD or a complaint to foreclose is appropriate is based on the lien instrument held by the secured party. An action to foreclose a mortgage or deed of trust may not be filed until the later of 90 days after a default in a condition on which the mortgage or deed of trust specifies that a sale may be made, or 45 days after an NOI and accompanying loss mitigation application are sent. An OTD or complaint to foreclose must be filed with the circuit court, and a copy must be served on the mortgagor or grantor. An OTD or a complaint to foreclose must include, if applicable, the license number of both the mortgage originator and the mortgage lender. The OTD or complaint to foreclose must also contain an affidavit stating the date and nature of the default and, if applicable, that the NOI was sent and that the contents of the NOI were accurate at the time it was sent.

*Perquisites for Foreclosure Sales:* If the residential property *is not* owner occupied, a foreclosure sale may not occur until at least 45 days after specified notice is given. If the residential property *is* owner occupied and foreclosure mediation is not held, a foreclosure sale may not occur until the later of (1) at least 45 days after providing specified notice that includes a final loss mitigation affidavit or (2) at least 30 days after a final loss mitigation affidavit is mailed. Finally, if the residential property is owner-occupied residential property and postfile mediation is requested, a foreclosure sale may not occur until at least 15 days after the date the postfile mediation is held or, if no postfile mediation is held, the date the Office of Administrative Hearings files its report with the court.

**Background:** According to a recent [survey](#) of county and municipal governments conducted by the Community Development Network of Maryland, 73% of respondents indicated that their jurisdiction does not issue a certificate of vacancy, while only 7% responded that they do issue certificates of vacancy (including Harford County, which revokes a building's certificate of use and occupancy).

**Local Revenues:** Baltimore County revenues increase by up to \$100 for every certificate of vacancy or certificate of property unfit for human habitation that the county issues, should the county institute a fee for the service. As it is unknown how many requests for certificates may be submitted, additional revenues cannot be reliably estimated at this time.

**Local Expenditures:** Baltimore County advises that, in order to establish an office to issue the required certificates and to be able to meet the 14-day deadline required under the bill, the county would have to hire and equip four inspectors and two office assistants. Based on this information, the Department of Legislative Services estimates that

Baltimore County expenditures increase by approximately \$259,000 in fiscal 2018, which accounts for the bill's delayed effective date. This estimate includes the costs of equipment and software to track requests. To the extent that the demand for applications for certificates does not warrant four inspectors and two office assistants, expenditures may be reduced.

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### **Additional Information**

**Prior Introductions:** HB 712 of 2016 passed the House as amended and was referred to the Senate Judicial Proceedings Committee, where no further action was taken.

**Cross File:** None.

**Information Source(s):** Baltimore County; Office of the Attorney General (Consumer Protection Division); Judiciary (Administrative Office of the Courts); Department of Housing and Community Development; Department of Labor, Licensing, and Regulation; Community Development Network of Maryland; Maryland Association of Counties; Maryland Municipal League; Department of Legislative Services

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