

Department of Legislative Services
Maryland General Assembly
2017 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 453
Ways and Means

(Delegate M. Washington, *et al.*)

Budget and Taxation

Tax Sales - Water Liens - Moratorium

This bill prohibits a collector from selling real property solely to enforce a lien for unpaid water, sewer, or sanitary system charges, fees, or assessments during the period from July 1, 2017, to July 1, 2018. The bill applies only prospectively, and may not have any effect on any liens attached to real property before the bill's effective date.

The bill takes effect July 1, 2017.

Fiscal Summary

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

Local Effect: Local government revenues, in particular the revenues of Baltimore City, may decrease by a significant amount in FY 2018 due to the bill's prohibition.

Small Business Effect: None.

Analysis

Current Law: "Collector" includes an officer of a county or municipality who has a duty to collect or remit taxes. "Tax" means any tax, or charge of any kind due to the State or any of its political subdivisions, or to any other taxing agency, that by law is a lien against the real property on which it is imposed or assessed. Tax also includes interest, penalties, and service charges.

Tax Sales Generally

In general, a tax collector must sell, at an auction, not later than two years from the date the tax is in arrears, all property in the county on which the tax is in arrears. The time for the tax sale is established by local law. Failure of the collector to sell the property within the two-year period does not affect the validity or collectability of any tax, or the validity of any sale subsequently made.

The tax collector sets specified terms for the auction and publishes public notice of the tax sale, including requirements for potential bidders.

When a property is purchased at a tax sale, the purchaser must pay to the tax collector any delinquent taxes, penalties, sale expenses, and a high-bid premium except as otherwise specified. Except for agricultural property, when a bidder at a tax sale purchases a property in Baltimore City and Prince George's County under specified circumstances, the bidder must pay a high-bid premium that is the greater of 20% of the amount by which the highest bid exceeds the lien amount or 40% of the property's full cash value. The terms for payment of the purchase price and high-bid premiums, if any, are determined by the collector.

Generally, the property owner has the right to redeem the property within six months from the date of the tax sale by paying the total lien amount on the property, 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. Under most circumstances, if the right to foreclose is not exercised by the purchaser within two years, the certificate is void and the purchaser is not entitled to a refund of any monies paid to the collector.

Sale of Property to Enforce a Lien for Water and Sewer Service in Baltimore City

In Baltimore City, the Mayor and City Council may not sell a property solely to enforce a lien for unpaid charges for water and sewer service unless (1) the lien is for at least \$350 for a property other than owner-occupied residential property, or (2) the lien is for at least \$750, and the unpaid charges for water and sewer service are at least three quarters in arrears for an owner-occupied residential property.

The mayor and city council may enforce a lien on a property other than owner-occupied residential property for unpaid water and sewer service that is less than \$350 if the property is being sold to enforce another lien. Similarly, the mayor and city council may enforce a lien on owner-occupied residential property for unpaid water and sewer service that is less than \$750 if the property is being sold to enforce another lien.

Sale of Property to Enforce a Lien for Unpaid Sanitary Commission Benefit Assessments

Kent County: The governing body of Kent County may authorize by local law the sale of real property to enforce a lien based on unpaid sanitary commission assessments or other charges. The procedures for establishment, notification, and enforcement of a lien must conform to specified standards in the Code of Kent County.

Allegany, Dorchester, and Somerset Counties: In Allegany, Dorchester, and Somerset counties, the sanitary commission may request the county tax collector to conduct a sale of real property to enforce a lien for unpaid sanitary commission benefit assessments or other charges. The sale must occur at a county tax sale using the same procedures governing the sale of property for delinquent property taxes.

Background: Statewide, it is unknown how many properties are sold at tax sale solely to enforce a lien for water and sewer services. Baltimore County advises that, in fiscal 2016, only 31 of 1,862 properties sold at tax sale were sold for water and sewer service charges only. Even so, recent legislation has sought to curtail the number of properties sold solely to enforce a lien for water and sewer services. Among other provisions, Chapter 114 of 2015 increased 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. At that time, Baltimore City advised that in 2013, 2,099 owner-occupied properties were sold through an online tax sale auction, and that standalone water bill delinquencies accounted for 523 of the properties sold.

Local Fiscal Effect: Local government revenues, in particular the revenues of Baltimore City, decrease due to the bill's one-year moratorium on the sale of property solely to enforce a lien for unpaid water, sewer, or sanitary system charges, fees, or assessments. Baltimore City advises that the moratorium would affect its May 2018 tax sale and impact its ability to collect approximately \$7 million in fees. Baltimore City advises that between fiscal 2014 and 2016, 13,100 final bills and legal notices were issued for unpaid water fees totaling approximately \$19.4 million. While most of that amount was recovered prior to tax sale, during the same period, 2,300 accounts delinquent for water fees only were sold at tax sale, resulting in the recovery of \$5.1 million.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Baltimore City; Baltimore and Montgomery counties; Judiciary (Administrative Office of the Courts); Property Tax Assessment Appeals Board; State Department of Assessments and Taxation; Department of Legislative Services

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