

SENATE BILL 277

N1, D3

3lr1303
CF 3lr1306

By: **Senator McKay**

Introduced and read first time: January 26, 2023

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Real Property – Sheriff’s Sales – Notice, Procedures, and Subordinate Interests**

3 FOR the purpose of requiring a judgment creditor to provide certain notice to certain
4 persons of the time, place, and terms of the sale of any real property under execution
5 before the property can be sold and to file a certain affidavit; establishing that a
6 sheriff’s sale of real property extinguishes subordinate liens on the land being sold
7 under certain circumstances; authorizing a sheriff at the time of levy for real
8 property to use the assessment record in lieu of an appraisal of the property;
9 providing that certain provisions of this Act do not impair certain liens on land; and
10 generally relating to the enforcement of liens and the sale of real property.

11 BY repealing and reenacting, with amendments,
12 Article – Courts and Judicial Proceedings
13 Section 11–502, 11–504(c), and 11–507
14 Annotated Code of Maryland
15 (2020 Replacement Volume and 2022 Supplement)

16 BY repealing and reenacting, without amendments,
17 Article – Courts and Judicial Proceedings
18 Section 11–504(a) and (b)
19 Annotated Code of Maryland
20 (2020 Replacement Volume and 2022 Supplement)

21 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
22 That the Laws of Maryland read as follows:

23 **Article – Courts and Judicial Proceedings**

24 11–502.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (a) A sheriff shall give notice of the time, place, and terms of the sale of any
2 property under execution before the property can be sold.

3 (b) In the case of a sale of an interest in property, the notice shall be posted on
4 the courthouse door or on a bulletin board in the immediate vicinity of the door of the
5 courthouse and printed in a newspaper, published in the county where the property is
6 located at least:

7 (1) Ten days before the sale of personal property; or

8 (2) 20 days before the sale of real property.

9 (c) If the sheriff gives notice by publication in a newspaper, he may recover the
10 costs of publication from the defendant. If the defendant is unable to pay the costs, the
11 sheriff may recover the costs of publication from the plaintiff.

12 **(D) IN ADDITION TO THE NOTICE REQUIREMENT UNDER SUBSECTION (A) OF**
13 **THIS SECTION, AT LEAST 20 DAYS BEFORE THE SALE OF REAL PROPERTY UNDER**
14 **EXECUTION, THE JUDGMENT CREDITOR SHALL:**

15 **(1) SEND NOTICE OF THE TIME, PLACE, AND TERMS OF THE SALE BY**
16 **CERTIFIED MAIL AND FIRST-CLASS MAIL TO:**

17 **(I) THE RECORD OWNER OF THE PROPERTY;**

18 **(II) THE HOLDER OF ANY SUBORDINATE MORTGAGE, DEED OF**
19 **TRUST, OR OTHER SUBORDINATE INTEREST, INCLUDING A JUDGMENT; AND**

20 **(III) ANY CONDOMINIUM ASSOCIATION OR HOMEOWNERS**
21 **ASSOCIATION THAT, AT LEAST 20 DAYS BEFORE THE DATE OF THE PROPOSED SALE,**
22 **HAS RECORDED A STATEMENT OF LIEN AGAINST THE PROPERTY UNDER THE**
23 **MARYLAND CONTRACT LIEN ACT; AND**

24 **(2) SEND NOTICE OF THE TIME, PLACE, AND TERMS OF THE SALE BY**
25 **FIRST-CLASS MAIL TO ALL OCCUPANTS AT THE ADDRESS OF THE PROPERTY.**

26 **(E) (1) THE MAILINGS REQUIRED UNDER SUBSECTION (D) OF THIS**
27 **SECTION SHALL BE SENT TO THE LAST KNOWN ADDRESS OF EACH PERSON,**
28 **INCLUDING TO THE LAST ADDRESS REASONABLY ASCERTAINABLE FROM A**
29 **DOCUMENT RECORDED, INDEXED, AND AVAILABLE FOR PUBLIC INSPECTION AT THE**
30 **TIME OF THE MAILING.**

31 **(2) IN THE CASE OF A SUBORDINATE MORTGAGE OR DEED OF TRUST,**
32 **THE NOTICE SHALL BE SENT TO THE LAST KNOWN HOLDER OF THE MORTGAGE, THE**
33 **LAST KNOWN BENEFICIARY OF A DEED OF TRUST, OR A TRUSTEE OR BENEFICIARY**

1 OF A DEED OF TRUST REASONABLY ASCERTAINABLE ON A REVIEW OF THE LAND
2 RECORDS FOR THE APPLICABLE COUNTY.

3 (F) THE JUDGMENT CREDITOR SHALL FILE AN AFFIDAVIT WITH THE COURT:

4 (1) STATING THAT THE INDIVIDUAL HAS COMPLIED WITH THE NOTICE
5 REQUIREMENTS UNDER SUBSECTION (D) OF THIS SECTION; OR

6 (2) (I) STATING THAT THE IDENTITY OR ADDRESS OF THE
7 BORROWER, RECORD OWNER, OR HOLDER OF A SUBORDINATE INTEREST IS NOT
8 REASONABLY ASCERTAINABLE; AND

9 (II) DESCRIBING THE REASONABLE, GOOD FAITH EFFORTS
10 THAT THE INDIVIDUAL MADE TO ASCERTAIN THE IDENTITY OR ADDRESS OF THE
11 BORROWER, RECORD OWNER, OR HOLDER OF A SUBORDINATE INTEREST.

12 (G) IF THE REQUIREMENTS OF THIS SECTION ARE SATISFIED AND THE
13 JUDGMENT CREDITOR HAS COMPLIED WITH ANY APPLICABLE RULES ADOPTED BY
14 THE SUPREME COURT OF MARYLAND, A SHERIFF'S SALE OF REAL PROPERTY
15 EXTINGUISHES ANY SUBORDINATE LIEN OR INTEREST ON THE LAND SUBJECT TO
16 THE SALE.

17 11-504.

18 (a) In this section, "value" means fair market value as of the date upon which the
19 execution or other judicial process becomes effective against the property of the debtor, or
20 the date of filing the petition under the federal Bankruptcy Code.

21 (b) The following items are exempt from execution on a judgment:

22 (1) Wearing apparel, books, tools, instruments, or appliances, in an amount
23 not to exceed \$5,000 in value necessary for the practice of any trade or profession except
24 those kept for sale, lease, or barter.

25 (2) Except as provided in subsection (i) of this section, money payable in
26 the event of sickness, accident, injury, or death of any person, including compensation for
27 loss of future earnings. This exemption includes but is not limited to money payable on
28 account of judgments, arbitrations, compromises, insurance, benefits, compensation, and
29 relief. Disability income benefits are not exempt if the judgment is for necessities contracted
30 for after the disability is incurred.

31 (3) Professionally prescribed health aids for the debtor or any dependent of
32 the debtor.

1 (4) The debtor's interest, not to exceed \$1,000 in value, in household
2 furnishings, household goods, wearing apparel, appliances, books, animals kept as pets,
3 and other items that are held primarily for the personal, family, or household use of the
4 debtor or any dependent of the debtor.

5 (5) Cash or property of any kind equivalent in value to \$6,000 is exempt, if
6 within 30 days from the date of the attachment or the levy by the sheriff, the debtor elects
7 to exempt cash or selected items of property in an amount not to exceed a cumulative value
8 of \$6,000.

9 (6) Money payable or paid in accordance with an agreement or court order
10 for child support.

11 (7) Money payable or paid in accordance with an agreement or court order
12 for alimony to the same extent that wages are exempt from attachment under §
13 15-601.1(b)(1)(ii) or (2)(i) of the Commercial Law Article.

14 (8) The debtor's beneficial interest in any trust property that is immune
15 from the claims of the debtor's creditors under § 14.5-511 of the Estates and Trusts Article.

16 (9) With respect to claims by a separate creditor of a husband or wife, trust
17 property that is immune from the claims of the separate creditors of the husband or wife
18 under § 14.5-511 of the Estates and Trusts Article.

19 (c) (1) **(I) [In] EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS**
20 **PARAGRAPH, IN** order to determine whether the property listed in subsection (b)(4) and
21 (5) of this section is subject to execution, the sheriff shall appraise the property at the time
22 of levy.

23 **(II) IF PROPERTY LISTED IN SUBSECTION (B)(4) AND (5) OF THIS**
24 **SECTION IS REAL PROPERTY, THE SHERIFF MAY USE THE ASSESSMENT RECORD IN**
25 **LIEU OF AN APPRAISAL.**

26 **(2)** The sheriff shall return the appraisal with the writ.

27 **[(2)] (3)** An appraisal made by the sheriff under this subsection is subject
28 to review by the court on motion of the debtor.

29 **[(3)] (4)** Procedures will be as prescribed by rules issued by the Supreme
30 Court of Maryland.

31 11-507.

32 **[The] NOTWITHSTANDING ANY OTHER PROVISION OF THIS SUBTITLE, THE**
33 provisions of this subtitle relative to exemptions do not impair a:

- 1 (1) Vendor's purchase money lien on land;
- 2 (2) Mechanics' lien;
- 3 (3) Tax lien;
- 4 (4) Mortgage; deed of trust; or other security interest; **OR**

5 **(5) LIEN ON LAND AFFECTED BY A JUDGMENT IN FAVOR OF A LOCAL**
6 **GOVERNMENT FOR REAL PROPERTY MAINTENANCE VIOLATIONS OR NUISANCE**
7 **CONDITION VIOLATIONS THAT IS INDEXED AND RECORDED IN ACCORDANCE WITH**
8 **THE MARYLAND RULES.**

9 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
10 October 1, 2023.