HB 243

Department of Legislative Services

Maryland General Assembly
2024 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 243 (Chair, Ways and Means Committee)(By Request - Departmental - Housing and Community Development)

Ways and Means Budget and Taxation

Property Tax - Tax Sales - Revisions

This departmental bill makes various changes to State law governing tax sales, relating to, among other things (1) properties that local governments are authorized or required to withhold from sale; (2) the redemption rate for owner-occupied residential property; and (3) the timing of the filing of a complaint to foreclose the right of redemption on owner-occupied residential property. The bill applies only prospectively and does not have any effect on or application to any tax sale certificate issued before the bill's effective date. **The bill takes effect January 1, 2025.**

Fiscal Summary

State Effect: Annuity Bond Fund (ABF) revenues are delayed and/or reduced, beginning in FY 2025, as discussed below. Expenditures are not materially affected.

Local Effect: Local government revenues are delayed and/or reduced, beginning in FY 2025, and local government expenditures may increase in at least some jurisdictions, as discussed below. **This bill imposes a mandate on a unit of local government.**

Small Business Effect: The Department of Housing and Community Development (DHCD) and the State Department of Assessments and Taxation (SDAT) have determined that this bill has minimal or no impact on small business (attached). The Department of Legislative Services disagrees with this assessment, as discussed below. (The attached assessment does not reflect amendments to the bill.)

Analysis

Bill Summary/Current Law:

Tax Sales and Withholding of Properties from Sale

Subject to certain exceptions, existing law requires a county tax collector to sell, through the tax sale process established in statute, at the time required by local law, all property in the county on which tax is in arrears. When a property in a municipality is delinquent in the payment of municipal taxes or charges levied against the property, the county collector must be notified of the unpaid taxes or charges. If the county collector does not begin the tax sale process with respect to the unpaid taxes or charges within 30 days of receiving the notice, the municipal collector may use the tax sale process to collect the unpaid taxes or charges, at any time after the 30-day period expires, to the same extent available to county collectors.

Existing law includes various circumstances in which a property may or is required to be withheld from sale, some of which are modified by the bill:

- Under existing law, the tax collector in Baltimore City is required to withhold from sale owner-occupied residential property when the total taxes on the property, including interest and penalties, amount to less than $750. The bill makes this Baltimore City requirement applicable statewide and increases the threshold amount from $750 to $1,000. The bill correspondingly modifies an existing authorization for any tax collector to withhold from sale any residential property when the total taxes on the property, including interest and penalties, amount to less than $750. The bill modifies the authorization so that it applies only to nonowner-occupied residential property.
- Under existing law, the tax collector in Baltimore City is required to withhold from sale a residential property or property owned by a religious group or organization that is actually used exclusively for public religious worship or a parsonage or convent if the taxes on the property consist only of a lien for unpaid water and sewer charges. The bill makes this requirement applicable statewide, but makes the requirement, in the case of residential property, applicable only to *owner-occupied* residential property.
- Under existing law, Baltimore City may withhold from sale property that has been designated for redevelopment purposes if the property meets objective criteria established by the Mayor and City Council of Baltimore City. The bill makes this authorization applicable statewide, to the governing body of any county (including the Mayor and City Council of Baltimore City) or municipality. Under existing law, the governing body of a county or municipality may withhold from sale property

that has been designated for redevelopment purposes if (1) the county or municipality certifies that the property is a vacant lot or has a building or structure that is vacant and unsafe or unfit for habitation; (2) the governing body of the county or municipality finds that withholding the property from sale is necessary to eliminate a blighting influence and to prevent the tax abandonment of the property; and (3) the property meets any additional objective criteria established by the governing body of the county or municipality for withholding property from sale for redevelopment purposes.

In addition, under existing law, in Baltimore City, the Mayor and City Council may not sell a property to enforce a lien for unpaid water and sewer charges unless (1) the lien is for at least $350; (2) the property is not a residential property or property owned by a religious group or organization that is actually used exclusively for public religious worship or a parsonage or convent; and (3) the unpaid charges for water and sewer service are at least three quarters in arrears. However, the Mayor and City Council may enforce a lien on property other than residential property or property owned by a religious group or organization (as specified above) for unpaid water and sewer service that is less than $350 if the property is being sold to enforce another lien. Existing statute specifies that these provisions do not affect any other right or remedy of Baltimore City for the collection of a water and sewer service charge. The bill makes these provisions applicable statewide, to the governing body of any county or municipality, but modifies the requirement that the property not be a residential property or specified property owned by a religious group or organization to instead require that the property not be an *owner-occupied* residential property or specified property owned by a religious group or organization.

Redemption and Complaint to Foreclose the Right of Redemption

Under existing law, in general, for a period of time after a property is sold at a tax sale, up until the right of redemption has been finally foreclosed by a court judgment, the owner of the property (who remains the owner until the right of redemption is foreclosed), or other person that has an estate or interest in the property sold, has the right to redeem the property by paying (1) the total lien amount paid at the tax sale for the property, with interest; (2) taxes, interest, and penalties accruing after the tax sale; and (3) certain expenses of the purchaser.

Under existing law, for owner-occupied residential property, at any time after 9 months from the date of sale, a holder of a certificate of sale may file a complaint to foreclose the right of redemption. The bill changes that time period to 12 months after the date of sale.

Under existing law, for owner-occupied residential property in Baltimore City, taxes, interest, and penalties accruing after the date of the tax sale are not included in the redemption payment amount. The bill makes this provision applicable statewide.

Notices Sent by the Holder of the Certificate of Sale

Under existing law, subject to limited exceptions, the holder of a certificate of sale must send two specified notices before filing a complaint to foreclose the right of redemption of the property to which the certificate relates. The notices are sent to (1) the person last listed as owner of the property on the collector's tax roll and (2) the current mortgagee (or assignee of a mortgagee of record, or servicer of the current mortgage) or the current holder of a beneficial interest in a deed of trust recorded against the property. The holder of the certificate of sale may not file a complaint to foreclose the right of redemption until at least two months after sending the first notice and at least 30 days after sending the second notice.

Under existing law, for owner-occupied residential property, the first of the two notices may not be sent until 7 months after the date of sale. The bill changes that time period to 10 months after the date of sale.

Reimbursement of Expenses of the Holder of the Certificate of Sale

Under existing law, for owner-occupied residential property, 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 the tax sale, the holder of a certificate of sale may be reimbursed for the following expenses actually incurred: (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. The plaintiff (in an action to foreclose) or holder of a certificate of sale may not be reimbursed for expenses incurred within seven months after the date of sale. Existing statute specifies additional expenses and fees that the plaintiff or holder of a certificate of sale may be reimbursed for if an action to foreclose the right of redemption has been filed.

The bill changes the above time period from 7 months after the date of sale to 10 months after the date of sale.

Rate of Redemption

Under existing law, the rate of redemption (the annual interest rate on the total lien amount that must be paid to redeem the property) depends on the county, with most counties authorized to fix the rate at their discretion. The bill sets the rate of redemption for owner-occupied residential property at 10% a year.

Reversion of Certificate of Sale for Abandoned Property

Under existing law, in general, a property may not be sold at a tax sale for a sum less than the total amount of taxes, interest, and penalties owed on the property, plus the expenses incurred in making the sale. However, under existing law, abandoned property consisting of either a vacant lot or improved property cited as vacant and unfit for habitation on a housing or building violation notice may be sold for a lesser minimum bid established by the collector, and the person responsible for the taxes prior to the sale remains liable to the collector for the difference between the amount received in the tax sale and the taxes, interest, penalties, and expenses remaining after the sale. The holder of a certificate of sale for such property may file a complaint to foreclose all rights of redemption in the property at any time after the date of sale.

Under existing law, a certificate of sale for abandoned property sold with a minimum bid less than the lien amount reverts to the county or municipality and is void as to the private purchaser at tax sale (1) unless a proceeding to foreclose the right of redemption is filed within three months of the date of the certificate of sale and (2) unless granted a specified extension, the holder of the certificate secures a decree from the circuit court within 18 months of the filing of the foreclosure proceeding. The bill modifies existing statutory provisions related to this provision that only reference Baltimore City, so that they apply to any county (including Baltimore City) or municipality, including (1) a provision that authorizes the Mayor and City Council of Baltimore City, if a certificate for abandoned property reverts to the city, to file a foreclosure proceeding in its own name or resell the certificate and apply all money received on account of the sale to any outstanding balance remaining on the tax debt owed and (2) other provisions relating to abandoned property foreclosure proceedings brought by the Mayor and City Council of Baltimore City. The bill also clarifies that a certificate of sale that reverts to a county or municipality reverts to the governing body of the county, unless the property is located in a municipality, in which case it reverts to the governing body of the municipality.

Notice of Foreclosure Proceeding for Owner-occupied Property

Under existing law, the plaintiff in an action to foreclose the right of redemption must send written notice of the proceeding to persons with specified interests in the property who have not been made a defendant in the proceeding. The bill requires that the State Tax Sale Ombudsman also be sent notice of the proceeding if the subject property is owner-occupied.

Annual Survey of County Tax Sale Information – Maintenance of Records

Under existing law, SDAT is required to conduct an annual survey of each county that conducts a tax sale, to obtain specified information, including data relating to the number of properties subject to tax sale and the total and average lien amounts for those properties. Each county must provide the information on the form that SDAT provides and the department is required to issue a report each year that includes an analysis and summary of the information collected.

The bill requires each county to maintain a record of the information that must be provided in the annual survey for at least three years after the date of the tax sale.

Background: DHCD and SDAT indicate, collectively, that the bill's changes, among other things:

- apply existing protections in statute for homeowners in Baltimore City (with respect to when properties are subject to a tax sale and the redemption of properties after a tax sale) statewide, and add or enhance certain protections statewide, to help vulnerable homeowners across the State retain their properties;
- clarify and expand provisions relating to the use of the tax sale process as an avenue to move vacant and abandoned properties back into productive use;
- require the State Tax Sale Ombudsman to be notified of the initiation of an action to foreclose the right of redemption on an owner-occupied property, giving the ombudsman's office the opportunity to contact at-risk homeowners to help them understand their situation and connect them with legal services, housing and financial counseling, credits, loans and grants, and other tools to avoid foreclosure; and
- ensure that counties maintain tax sale data for three years as a resource for research on tax sale activity in each county.

State Fiscal Effect: ABF revenues (State property tax revenues) are delayed and/or reduced, beginning in fiscal 2025, to a similar, though more limited, extent as local government revenues (discussed in more detail under the Local Fiscal Effect). A portion of revenues collected in a tax sale can consist of State property taxes. The portion of an unpaid property tax lien that consists of unpaid State property taxes, however, is much less than the portion that consists of local property taxes and other local fees and charges, including water and sewer charges. For example, the State property tax rate is $0.1120 per $100 of assessable property, while county property tax rates range from $0.7434 to $2.2480 per $100 of assessable property.

Debt service payments on the State's general obligation bonds are paid from the ABF. Revenue sources for the fund include State property taxes; premium from bond sales; and repayments from certain State agencies, subdivisions, and private organizations.

Local Fiscal Effect:

Delayed and/or Reduced Revenues

Local government revenues are delayed and/or reduced, beginning in fiscal 2025, as a result of several of the bill's provisions, including (1) establishing, statewide, a threshold amount of unpaid taxes owed that must be reached before an owner-occupied residential property may be sold at a tax sale ($1,000); (2) establishing a statewide requirement that owner-occupied residential properties and specified property owned by a religious group or organization be withheld from sale if the taxes on the property consist only of a lien for unpaid water and sewer charges; and (3) establishing a statewide restriction on offering other properties for sale at a tax sale to enforce a lien for unpaid water and sewer charges unless the lien is for at least $350 and the unpaid charges are at least three quarters in arrears.

Statewide Threshold Amount

Exhibit 1 shows a summary of certain data on 2022 tax sales from the State Tax Sale Ombudsman's FY 2023 annual report, including the amount of revenue collected by counties from the 2022 tax sales ("aggregate lien amount" for "total liens sold", $44.4 million) as well as the revenue generated from owner-occupied liens sold ($7.8 million), a subset of total liens sold. The establishment of a statewide threshold amount of unpaid taxes owed that must be reached before an owner-occupied residential property may be sold at a tax sale likely delays and/or reduces some relatively small fraction of these revenues, though the relatively small fraction may nonetheless be a significant dollar amount. In addition, statute requires a tax collector to advertise a tax sale for three to four weeks, prior to the sale, and the difference between the number of owner-occupied liens advertised, shown in Exhibit 1, and the number offered for sale indicates that an approaching sale may also result in a considerable amount of revenue being collected (whether through full or partial payments) before the sale occurs.

Counties' existing threshold amounts for residential property range from $0 to $750 (see page 17 of the ombudsman's annual report, linked above, for information on the thresholds in each county).

Exhibit 1
2022 Tax Sales

Category	No. of Liens	Aggregate Lien Amount	Average Lien Amount
Total Liens Sold	12,004	$44,399,045	$3,699
Owner-occupied Liens Advertised*	8,104	$24,931,262	$3,076
Owner-occupied Liens Offered for Sale	3,653	$11,717,427	$3,208
Owner-occupied Liens Sold	2,708	$7,826,516	$2,890
Water/Sewer-only Liens Offered for Sale	915	$2,872,810	$3,140
Owner-occupied Water/Sewer-only Liens Offered for Sale	578	$570,840	$988

* In counties that offered owner-occupied liens for sale (excludes Baltimore City, which advertised liens for sale but ultimately did not offer owner-occupied liens for sale).

Source: State Tax Sale Ombudsman, *Annual State Tax Sale Ombudsman Report* (FY 2023); Department of Legislative Services

Restrictions on Sale of Liens Consisting Only of Water and Sewer Charges

As shown in Exhibit 1, a relatively significant amount of revenues from the sale of liens consisting only of unpaid water and sewer charges will be delayed or reduced as a result of the bill. The State Tax Sale Ombudsman's annual report does not contain data on the amount of liens consisting only of unpaid water and sewer charges that were sold in 2022 tax sales but the amounts offered for all properties and for *owner-occupied* properties, respectively, were $2.9 million and $570,840.

Redemption Rate for Owner-occupied Residential Properties

Any impact that the bill's establishment of a statewide 10% redemption rate for owner-occupied residential property may have on local government revenues cannot be reliably determined and depends in part on (1) how the 10% rate compares to the current redemption rates that apply to owner-occupied residential properties across the State and (2) the extent to which the establishment of the 10% statewide rate affects the incentive(s) for private purchasers to purchase tax liens on owner-occupied residential properties (and, consequently, the number of tax liens offered for sale that are sold). The State Tax Sale Ombudsman's annual report lists current redemption rates (page 15, linked above), which range from 6% to 20%; however, the report indicates (on page 7) that some counties may have different redemption rates for owner-occupied residential property compared to other properties and the redemption rates listed in the report presumably may not reflect the redemption rate for owner-occupied residential property in all cases.

Any impact, however, only affects the sale of liens on owner-occupied residential property and, as shown in Exhibit 1, the overall value (aggregate lien amount) of owner-occupied liens sold in 2022 was a relatively small fraction of the overall value of all liens sold.

Expenditures

Local government expenditures may increase in at least some jurisdictions to implement the bill's statewide limitations on the sale of certain owner-occupied residential properties at a tax sale. Programming and/or personnel costs may be incurred to differentiate between owner-occupied and nonowner-occupied residential properties in the tax sale process, in jurisdictions that do not currently do so.

Small Business Effect: Small businesses that generate revenue from tax sales in the State may be meaningfully affected to the extent the bill's changes affect the number of liens offered for sale at tax sales in the State and/or the amount of revenue that those businesses can generate from liens they purchase at the sales.

Additional Comments: Descriptions of the tax sale process and related subjects are included on the Office of the State Tax Sale Ombudsman web page on SDAT's website, along with the office's most recent annual report (referenced above), which contains data on tax sales in the State.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: None.

Information Source(s): Baltimore City; Anne Arundel, Frederick, and Montgomery counties; City of Annapolis; Maryland Municipal League; Judiciary (Administrative Office of the Courts); Department of Housing and Community Development; State Department of Assessments and Taxation; Maryland Association of Counties; Department of Legislative Services

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ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Property Tax - Tax Sales - Revisions

BILL NUMBER: HB0243

PREPARED BY: DHCD and SDAT

PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

_X_ WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND SMALL BUSINESS

OR

____ WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND SMALL BUSINESSES

PART B. ECONOMIC IMPACT ANALYSIS