

HOUSE BILL 1289

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Q1

1998 Regular Session
(8lr2450)

ENROLLED BILL
-- Ways and Means/Budget and Taxation --

Introduced by ~~Delegate Howard~~ Delegates Howard, Boston, Branch, Kirk, McIntosh, Dypski, Watson, Oaks, Krysiak, McHale, Marriott, Hammen, Fulton, C. Mitchell, E. Burns, Montague, Opara, T. Murphy, Harrison, Campbell, and Barve

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this
____ day of _____ at _____ o'clock, ____ M.

Speaker.

CHAPTER _____

1 AN ACT concerning

2 **Tax Sale Procedure - Notice to Tenants**

3 ~~FOR the purpose of requiring that a plaintiff in an action to foreclose a right of~~
4 ~~redemption send a written notice in a certain manner to each tenant whose~~
5 ~~identity is known of the property that is subject to the action; requiring that a~~
6 ~~plaintiff in an action to foreclose a right of redemption send a written notice in a~~
7 ~~certain manner to each tenant of the property that is subject to the action;~~
8 ~~providing that the failure of a tenant to receive a certain notice does not~~
9 ~~invalidate a tax sale under certain circumstances; providing that a tax sale title~~
10 ~~holder takes property subject to certain rights of certain tenants, under certain~~
11 ~~circumstances; requiring that certain notice be given in a certain manner if a~~
12 ~~motion is filed requesting a writ of possession requiring that notice be provided~~
13 ~~to tenants on the status of any valid lease relevant to the subject property and~~
14 ~~the date for termination of tenancy; and generally relating to notice to tenants of~~

1 a property subject to an action to foreclose a right of redemption or motion for
 2 writ for possession of the property and the validity of leases relevant to the
 3 subject property.

4 FOR the purpose of requiring a plaintiff in an action to foreclose a right of redemption
 5 to send certain written notices of the proceeding in a certain manner to certain
 6 tenants of the property that is subject to the action; providing that the failure of a
 7 tenant to receive a certain notice does not invalidate a tax sale under certain
 8 circumstances; requiring the plaintiff in an action to foreclose a right of
 9 redemption to give tenants of the property certain written notice in a certain
 10 manner of the plaintiff's intention to possess the property and that the tenant
 11 must vacate the property; prohibiting the plaintiff from executing on a writ for
 12 possession of the property for a certain period following the issuance of the
 13 judgment foreclosing the right of redemption; and generally relating to notice to
 14 tenants of a property subject to an action to foreclose a right of redemption.

15 BY repealing and reenacting, with amendments,
 16 Article - Tax - Property
 17 Section 14-836 ~~and 14-850~~
 18 Annotated Code of Maryland
 19 (1994 Replacement Volume and 1997 Supplement)

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

22 **Article - Tax - Property**

23 14-836.

24 (a) The plaintiff in any action to foreclose the right of redemption shall be the
 25 holder of the certificate of sale.

26 (b) (1) Except as otherwise provided in this subsection, the defendants in
 27 any action to foreclose the right of redemption shall be:

28 (i) the record title holder of the property as disclosed by a search
 29 performed in accordance with generally accepted standards of title examination of the
 30 land records of the county, of the records of the register of wills of the county, and of
 31 the records of the circuit court for the county;

32 (ii) if the property is subject to a ground rent, the record title holder
 33 of the fee-simple title and the owner of the leasehold title as disclosed by a search
 34 performed in accordance with generally accepted standards of title examination of the
 35 land records of the county, of the records of the register of wills of the county and of
 36 the records of the circuit court for the county;

37 (iii) any mortgagee of the property or any assignee of the mortgagee
 38 of record, named as such in any unreleased mortgage recorded in the land records of
 39 the county;

1 (iv) the trustee under any deed of trust recorded against the
2 property or any holder of a beneficial interest in a deed of trust who files notice of the
3 interest, which notice shall include identification of the deed of trust, the book and
4 page where the deed of trust is recorded, and the address at which the holder may be
5 served with a summons;

6 (v) the county where the property is located; and

7 (vi) if appropriate, the State.

8 (2) The plaintiff may choose not to include as a defendant any of the
9 persons enumerated in paragraph (1) of this subsection. However, the rights of any
10 person not included as a defendant are not affected by the proceedings.

11 (3) Subject to the provisions of paragraph (4) of this subsection, it is not
12 necessary to name as defendant any other person that has or claims to have any right,
13 title, interest, claim, lien or equity of redemption in the property sold by the collector.
14 Any of these persons are included as defendants by the designation "all persons that
15 have or claim to have any interest in property (giving a description of the property
16 in substantially the same form as the description that appears on the Collector's
17 certificate of tax sale)." Any of these persons may be designated throughout the
18 proceeding by the above designation and the cause may proceed against them by
19 publication under order of court as provided in this subtitle.

20 (4) (i) Notwithstanding the provisions of paragraph (3) of this
21 subsection, the plaintiff shall send written notice of the proceeding to:

22 1. all persons having a recorded interest, claim, or lien,
23 including a judgment, who have not been made a defendant in the proceeding, and, if
24 the subject property is the common areas owned by or legally dedicated to a
25 homeowners association, to the homeowners association governing the property, at
26 the last reasonably ascertainable address; AND

27 2. EACH TENANT OF THE SUBJECT PROPERTY WHOSE
28 IDENTITY IS KNOWN TO THE PLAINTIFF, AT THE TENANT'S LAST REASONABLY
29 ASCERTAINABLE ADDRESS.

30 (ii) The notice under this subsection shall:

31 1. be sent by certified mail, postage prepaid, return receipt
32 requested, bearing a postmark from the United States Postal Service; and

33 2. be accompanied by a copy of the complaint.

34 (iii) The plaintiff shall file in the action:

35 1. the return receipt from the notice; or

36 2. an affidavit that:

- 1 A. the notice provisions of this subsection have been complied
 2 with; or
- 3 B. the address of the holder of the subordinate interest is not
 4 reasonably ascertainable.

5 (IV) NOTWITHSTANDING ANY OTHER PROVISIONS OF THIS
 6 SUBSECTION, THE PLAINTIFF SHALL SEND WRITTEN NOTICE OF THE PROCEEDING
 7 TO ANY TENANT OF THE SUBJECT PROPERTY WHOSE OCCUPANCY OF THE PROPERTY
 8 IS REASONABLY ASCERTAINABLE BY THE PLAINTIFF, WHETHER OR NOT THE
 9 TENANT'S IDENTITY IS KNOWN:

10 1. BY FIRST-CLASS MAIL, POSTAGE PREPAID, BEARING A
 11 POSTMARK FROM THE UNITED STATES POSTAL SERVICE ADDRESSED TO THE
 12 TENANT BY NAME IF THE IDENTITY OF THE TENANT IS KNOWN TO THE PLAINTIFF,
 13 AND ADDRESSED TO "OCCUPANT" IF THE IDENTITY OF THE TENANT IS NOT KNOWN;

14 2. TO EACH SEPARATELY LEASED AREA OF THE PROPERTY
 15 THAT THE PLAINTIFF CAN REASONABLY ASCERTAIN IS OCCUPIED;

16 3. IN AN ENVELOPE PROMINENTLY MARKED ON THE
 17 OUTSIDE WITH THE FOLLOWING PHRASE "NOTICE OF ACTION TO FORECLOSE"; AND

18 ~~3.~~ 4. ACCOMPANIED BY A COPY OF THE COMPLAINT.

19 (V) A NOTICE TO TENANTS UNDER THIS PARAGRAPH SHALL
 20 INCLUDE THE FOLLOWING STATEMENT IN CONSPICUOUS, BOLD-FACED PRINT:

21 "IF THE UNPAID TAXES, TOGETHER WITH COSTS AND EXPENSES, ARE NOT PAID,
 22 THE COURT MAY ENTER A JUDGMENT FORECLOSING THE RIGHT OF REDEMPTION
 23 THAT WOULD TERMINATE YOUR LEASE AND RIGHT TO OCCUPY THE PROPERTY. YOU
 24 HAVE THE RIGHT TO PAY THE UNPAID TAXES, TOGETHER WITH COSTS AND
 25 EXPENSES, AND AVOID LEASE TERMINATION AND EVICTION. A JUDGMENT
 26 FORECLOSING THE RIGHT OF REDEMPTION COULD BE ENTERED WITHIN THE NEXT
 27 90 DAYS AND AT THAT TIME YOU COULD BE EVICTED OR REQUIRED TO VACATE THE
 28 PROPERTY."

29 (5) (⊕) If the filing under paragraph (4)(iii) of this subsection is made
 30 before final ratification of the sale, failure of a holder of a subordinate interest OR A
 31 TENANT to receive the notice does not invalidate the sale.

32 (H) ~~NOTWITHSTANDING ANY OTHER PROVISION OF THIS SUBTITLE,~~
 33 ~~IF THE NOTICE REQUIRED UNDER PARAGRAPH (4) OF THIS SUBSECTION IS NOT~~
 34 ~~PROVIDED TO A TENANT OF THE SUBJECT PROPERTY, THE TAX SALE TITLE HOLDER~~
 35 ~~TAKES THE PROPERTY SUBJECT TO THE RIGHTS OF THE TENANT UNDER THE TERMS~~
 36 ~~OF ANY VALID, WRITTEN LEASE PERTAINING TO THE PROPERTY EXCEPT AS~~
 37 ~~PROVIDED IN SUBPARAGRAPHS (III) AND (IV) OF THIS PARAGRAPH, THE TRANSFER OF~~
 38 ~~TITLE TO THE HOLDER OF THE CERTIFICATE OF SALE DOES NOT INVALIDATE THE~~
 39 ~~LEASE OF THE TENANT IN POSSESSION OF THE PREMISES AT THE TIME OF THE~~
 40 ~~TRANSFER.~~

1 ~~(III) A TENANT UNDER A LEASE THAT TERMINATES WITHIN A~~
2 ~~3-MONTH PERIOD, INCLUDING A PERIODIC WEEK-TO-WEEK AND A PERIODIC~~
3 ~~MONTH TO MONTH LEASE, RETAINS ALL RIGHTS UNDER THE EXISTING LEASE.~~

4 ~~(IV) A TENANT UNDER A LEASE THAT TERMINATES WITHIN A TIME~~
5 ~~PERIOD THAT IS GREATER THAN 3 MONTHS MAY CONTINUE TO POSSESS AND USE~~
6 ~~THE SUBJECT PROPERTY UNDER WHATEVER TERMS EXISTED BEFORE THE DATE ON~~
7 ~~WHICH THE JUDGMENT OF FORECLOSURE WAS ENTERED EXCEPT THAT THE LEASE~~
8 ~~MAY TERMINATE, AT THE OPTION OF THE NEW LANDLORD, AFTER A PERIOD OF 3~~
9 ~~MONTHS FROM THE DATE ON WHICH THE JUDGMENT OF FORECLOSURE IS~~
10 ~~ENTERED.~~

11 ~~(V) WHEN THE HOLDER OF THE CERTIFICATE OF SALE TAKES THE~~
12 ~~SUBJECT PROPERTY, NOTICE SHALL BE PROVIDED TO ANY TENANT COVERED UNDER~~
13 ~~SUBPARAGRAPH (II) OF THIS PARAGRAPH THROUGH FIRST CLASS MAIL THAT~~
14 ~~DESCRIBES THE LEASE TERMS APPLICABLE TO THE TENANT AND THE DATE FOR~~
15 ~~TERMINATION OF TENANCY UNDER THOSE TERMS.~~

16 ~~(6) FURTHER NOTICE OF THE PROCEEDING SHALL BE REQUIRED BY~~
17 ~~POSTING OF THE PROPERTY IN ACCORDANCE WITH APPLICABLE MARYLAND RULES~~
18 ~~OF PROCEDURE.~~

19 ~~(7) (I) SUBJECT TO SUBPARAGRAPHS (II) AND (III) OF THIS~~
20 ~~PARAGRAPH, AFTER ISSUANCE OF THE JUDGMENT FORECLOSING RIGHT OF~~
21 ~~REDEMPTION AND AT LEAST 30 DAYS BEFORE TAKING POSSESSION OF THE~~
22 ~~PROPERTY, THE PLAINTIFF SHALL GIVE ANY TENANT OF THE PROPERTY WRITTEN~~
23 ~~NOTICE OF THE PLAINTIFF'S INTENTION TO OBTAIN POSSESSION OF THE PROPERTY~~
24 ~~AND THAT THE TENANT MUST VACATE THE PROPERTY WITHIN 30 DAYS AFTER THE~~
25 ~~NOTICE.~~

26 ~~(II) DURING THE 30-DAY PERIOD IMMEDIATELY FOLLOWING~~
27 ~~ISSUANCE OF THE JUDGMENT FORECLOSING THE RIGHT OF REDEMPTION, THE~~
28 ~~PLAINTIFF MAY APPLY FOR, PROCESS, AND OBTAIN, BUT NOT EXECUTE UPON, A WRIT~~
29 ~~FOR POSSESSION OF THE PROPERTY.~~

30 ~~(III) THE NOTICE SHALL BE SENT:~~

31 ~~1. BY FIRST-CLASS MAIL, POSTAGE PREPAID, BEARING A~~
32 ~~POSTMARK FROM THE UNITED STATES POSTAL SERVICE ADDRESSED TO THE~~
33 ~~TENANT BY NAME IF THE IDENTITY OF THE TENANT IS KNOWN TO THE PLAINTIFF,~~
34 ~~AND ADDRESSED TO "OCCUPANT" IF THE IDENTITY OF THE TENANT IS NOT KNOWN;~~

35 ~~2. TO EACH SEPARATELY LEASED AREA OF THE PROPERTY~~
36 ~~THAT THE PLAINTIFF CAN REASONABLY ASCERTAIN IS OCCUPIED; AND~~

37 ~~3. IN AN ENVELOPE PROMINENTLY MARKED ON THE~~
38 ~~OUTSIDE WITH THE FOLLOWING PHRASE "NOTICE OF TAKING POSSESSION OF~~
39 ~~PROPERTY".~~

1 14-850.

2 (A) ~~[Any] EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION~~
3 ~~SUBJECT TO THE PROVISIONS OF § 14-836 OF THIS SUBTITLE, ANY~~ person who
4 acquires a deed to property under this subtitle is entitled to issuance of a writ for
5 possession of the property under the Maryland Rules as if the person had obtained a
6 judgment awarding possession of the property.

7 (B) (1) ~~WHEN A PERSON WHO ACQUIRES A DEED TO PROPERTY UNDER THIS~~
8 ~~SUBTITLE FILES A MOTION UNDER THE MARYLAND RULES REQUESTING A WRIT OF~~
9 ~~POSSESSION, THE PERSON SHALL SEND A WRITTEN NOTICE OF THE MOTION TO A~~
10 ~~TENANT OF THE SUBJECT PROPERTY IF THE IDENTITY AND ADDRESS OF THE~~
11 ~~TENANT ARE REASONABLY ASCERTAINABLE.~~

12 (2) ~~THE NOTICE UNDER THIS SUBSECTION SHALL:~~

13 (I) ~~BE SENT BY CERTIFIED MAIL, POSTAGE PREPAID, RETURN~~
14 ~~RECEIPT REQUESTED, BEARING A POSTMARK FROM THE UNITED STATES POSTAL~~
15 ~~SERVICE; AND~~

16 (II) ~~BE ACCOMPANIED BY A COPY OF THE MOTION REQUESTING~~
17 ~~THE WRIT FOR POSSESSION.~~

18 (3) ~~IF THE ADDRESS OR IDENTITY OF THE TENANT IS NOT REASONABLY~~
19 ~~ASCERTAINABLE, THE NOTICE UNDER THIS SUBSECTION SHALL BE POSTED IN A~~
20 ~~CONSPICUOUS MANNER ON THE SUBJECT PROPERTY.~~

21 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
22 July 1, 1998.