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By: **Delegate Howard**

Introduced and read first time: February 16, 1998

Assigned to: Rules and Executive Nominations

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A BILL ENTITLED

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 of the  
5 property that is subject to the action; providing that the failure of a tenant to  
6 receive a certain notice does not invalidate a tax sale under certain  
7 circumstances; providing that a tax sale title holder takes property subject to  
8 certain rights of certain tenants, under certain circumstances; requiring that  
9 certain notice be given in a certain manner if a motion is filed requesting a writ  
10 of possession; and generally relating to notice to tenants of a property subject to  
11 an action to foreclose a right of redemption or motion for writ for possession of  
12 the property.

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

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

20 **Article - Tax - Property**

21 14-836.

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

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

26 (i) the record title holder of the property as disclosed by a search  
27 performed in accordance with generally accepted standards of title examination of the

1 land records of the county, of the records of the register of wills of the county, and of  
2 the records of the circuit court for the county;

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

8 (iii) any mortgagee of the property or any assignee of the mortgagee  
9 of record, named as such in any unreleased mortgage recorded in the land records of  
10 the county;

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

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

17 (vi) if appropriate, the State.

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

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

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

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

37 2. EACH TENANT OF THE SUBJECT PROPERTY.

38 (ii) The notice under this subsection shall:

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

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

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

5 1. the return receipt from the notice; or

6 2. an affidavit that:

7 A. the notice provisions of this subsection have been complied  
8 with; or

9 B. the address of the holder of the subordinate interest is not  
10 reasonably ascertainable.

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

14 (II) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SUBTITLE,  
15 IF THE NOTICE REQUIRED UNDER PARAGRAPH (4) OF THIS SUBSECTION IS NOT  
16 PROVIDED TO A TENANT OF THE SUBJECT PROPERTY, THE TAX SALE TITLE HOLDER  
17 TAKES THE PROPERTY SUBJECT TO THE RIGHTS OF THE TENANT UNDER THE TERMS  
18 OF ANY VALID, WRITTEN LEASE PERTAINING TO THE PROPERTY.

19 14-850.

20 (A) [Any] EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, ANY  
21 person who acquires a deed to property under this subtitle is entitled to issuance of a  
22 writ for possession of the property under the Maryland Rules as if the person had  
23 obtained a judgment awarding possession of the property.

24 (B) (1) WHEN A PERSON WHO ACQUIRES A DEED TO PROPERTY UNDER THIS  
25 SUBTITLE FILES A MOTION UNDER THE MARYLAND RULES REQUESTING A WRIT OF  
26 POSSESSION, THE PERSON SHALL SEND A WRITTEN NOTICE OF THE MOTION TO A  
27 TENANT OF THE SUBJECT PROPERTY IF THE IDENTITY AND ADDRESS OF THE  
28 TENANT ARE REASONABLY ASCERTAINABLE.

29 (2) THE NOTICE UNDER THIS SUBSECTION SHALL:

30 (I) BE SENT BY CERTIFIED MAIL, POSTAGE PREPAID, RETURN  
31 RECEIPT REQUESTED, BEARING A POSTMARK FROM THE UNITED STATES POSTAL  
32 SERVICE; AND

33 (II) BE ACCOMPANIED BY A COPY OF THE MOTION REQUESTING  
34 THE WRIT FOR POSSESSION.

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

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