
By: **Delegate Barve**

Introduced and read first time: February 23, 1998

Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **Tax Sale Procedure - Rights of Tenants and Purchasers at Tax Sales**

3 FOR the purpose of providing that the purchaser of real property sold at a tax sale
4 has the same rights and remedies against the tenants of the property as the
5 property owner had on the date of the tax sale and that the tenants of the
6 property have the same rights and remedies against the purchaser as they
7 would have had against the property owner on the date of the tax sale; providing
8 that a judgment foreclosing a right of redemption vests in the plaintiff of an
9 action to foreclose a right of redemption title to the property subject to the rights
10 and remedies of the tenant on the date of the tax sale; requiring the plaintiff to
11 send a written notice in a certain manner to certain tenants of the property; and
12 generally relating to rights of tenants and purchasers of real property sold at a
13 tax sale.

14 BY adding to
15 Article - Tax - Property
16 Section 14-816.1
17 Annotated Code of Maryland
18 (1994 Replacement Volume and 1997 Supplement)

19 BY repealing and reenacting, with amendments,
20 Article - Tax - Property
21 Section 14-836 and 14-844
22 Annotated Code of Maryland
23 (1994 Replacement Volume and 1997 Supplement)

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

1 **Article - Tax - Property**

2 14-816.1.

3 ON FORECLOSURE OF A PROPERTY OWNER'S RIGHT OF REDEMPTION, THE
4 PURCHASER OF REAL PROPERTY AT A SALE UNDER THIS SUBTITLE HAS THE SAME
5 RIGHTS AND REMEDIES AGAINST THE TENANTS OF THE PROPERTY OWNER AS THE
6 PROPERTY OWNER HAD ON THE DATE OF THE SALE, AND THE TENANTS HAVE THE
7 SAME RIGHTS AND REMEDIES AGAINST THE PURCHASER AT A SALE UNDER THIS
8 SUBTITLE AS THEY WOULD HAVE HAD AGAINST THE PROPERTY OWNER ON THE
9 DATE OF THE SALE.

10 14-836.

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

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

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

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

24 (iii) any mortgagee of the property or any assignee of the mortgagee
25 of record, named as such in any unreleased mortgage recorded in the land records of
26 the county;

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

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

33 (vi) if appropriate, the State.

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

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

10 (4) (i) Notwithstanding the provisions of paragraph (3) of this
 11 subsection, the plaintiff shall send written notice of the proceeding to EACH TENANT
 12 OF THE SUBJECT PROPERTY AND all persons having a recorded interest, claim, or
 13 lien, including a judgment, who have not been made a defendant in the proceeding,
 14 and, if the subject property is the common areas owned by or legally dedicated to a
 15 homeowners association, to the homeowners association governing the property, at
 16 the last reasonably ascertainable address.

17 (ii) The notice under this subsection shall:

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

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

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

22 1. the return receipt from the notice; or

23 2. an affidavit that:

24 A. the notice provisions of this subsection have been complied
 25 with; or

26 B. the address of the holder of the subordinate interest is not
 27 reasonably ascertainable.

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

31 14-844.

32 (a) After the time limit set in the order of publication and in the summons
 33 expires, the court shall enter judgment foreclosing the right of redemption. An
 34 interlocutory order is not necessary. The judgment is final and conclusive on the
 35 defendants, their heirs, devisees, and personal representatives and they or any of
 36 their heirs, devisees, executors, administrators, assigns, or successors in right, title,
 37 or interest, and all defendants are bound by the judgment as if they had been named
 38 in the proceedings and personally served with process.

1 (b) [If] EXCEPT AS PROVIDED IN SUBSECTIONS (C) AND (D) OF THIS SECTION,
2 IF the court finds for the plaintiff, the judgment vests in the plaintiff an absolute and
3 indefeasible title in fee simple in the property, free and clear of all alienations and
4 descents of the property occurring before the date of the judgment and encumbrances
5 on the property, except taxes that accrue after the date of sale and easements of
6 record and any other easement that may be observed by an inspection of the property
7 to which the property is subject.

8 (c) If the collector sold the property subject to a ground rent or the plaintiff
9 elected not to include the ground rent holder as a party, the judgment vests a
10 leasehold interest in the plaintiff.

11 (D) IF THE COLLECTOR SOLD THE PROPERTY SUBJECT TO RIGHTS AND
12 REMEDIES OF A TENANT OF THE PROPERTY, THE JUDGMENT VESTS IN THE
13 PLAINTIFF TITLE SUBJECT TO THE RIGHTS AND REMEDIES OF THE TENANT THAT
14 EXISTED ON THE DATE OF THE SALE UNDER THIS SUBTITLE.

15 [(d)] (E) Once a judgment is granted, the plaintiff immediately becomes liable
16 for the payment of all taxes due and payable after the judgment. The plaintiff may be
17 sued in an action under § 14-864 of this title to collect all taxes due and payable after
18 the judgment and it is not a defense that a deed to the property has not been recorded.
19 On the entry of judgment, the plaintiff shall pay the collector any surplus bid and all
20 taxes together with interest and penalties on the taxes due on the property.

21 [(e)] (F) (1) In Baltimore City, in the event that the person liable for taxes
22 prior to the tax sale has been personally served with process, where vacant and
23 abandoned property has been sold for a sum less than the amount due under § 14-817
24 of this subtitle, the final order shall include a judgment in favor of the City and
25 against the person liable for taxes prior to the sale, in the amount of the unpaid taxes,
26 interest, penalties, and expenses otherwise due in a tax sale.

27 (2) A judgment pursuant to this subsection may not be executed against
28 the primary personal residence of the judgment debtor. This paragraph does not limit
29 or restrict any other right or remedy available to the City for the collection or
30 enforcement of taxes or other amounts due from the debtor.

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