

SENATE BILL 31

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1998 Regular Session
8lr0329

(PRE-FILED)

By: **Senators Green and Boozer**
Requested: September 9, 1997
Introduced and read first time: January 14, 1998
Assigned to: Budget and Taxation

Committee Report: Favorable with amendments
Senate action: Adopted
Read second time: April 12, 1998

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 of the~~
5 ~~property that is subject to the action; and generally relating to notice to tenants~~
6 ~~of a property that is subject to an action to foreclose a right of redemption.~~

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

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

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

1

Article - Tax - Property

2 14-836.

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

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

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

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

16 (iii) any mortgagee of the property or any assignee of the mortgagee
17 of record, named as such in any unreleased mortgage recorded in the land records of
18 the county;

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

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

25 (vi) if appropriate, the State.

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

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

1 (4) (i) Notwithstanding the provisions of paragraph (3) of this
 2 subsection, the plaintiff shall send written notice of the proceeding to ~~EACH TENANT~~
 3 ~~OF THE SUBJECT PROPERTY AND:~~

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

9 2. EACH TENANT OF THE SUBJECT PROPERTY WHOSE
 10 IDENTITY IS KNOWN TO THE PLAINTIFF, AT THE TENANT'S LAST REASONABLY
 11 ASCERTAINABLE ADDRESS.

12 (ii) The notice under this subsection shall:

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

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

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

17 1. the return receipt from the notice; or

18 2. an affidavit that:

19 A. the notice provisions of this subsection have been complied
 20 with; or

21 B. the address of the holder of the subordinate interest is not
 22 reasonably ascertainable.

23 (IV) NOTWITHSTANDING ANY OTHER PROVISIONS OF THIS
 24 SUBSECTION, THE PLAINTIFF SHALL SEND WRITTEN NOTICE OF THE PROCEEDING
 25 TO ANY TENANT OF THE SUBJECT PROPERTY WHOSE OCCUPANCY OF THE PROPERTY
 26 IS REASONABLY ASCERTAINABLE BY THE PLAINTIFF, WHETHER OR NOT THE
 27 TENANT'S IDENTITY IS KNOWN:

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

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

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

36 4. ACCOMPANIED BY A COPY OF THE COMPLAINT.

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

3 "IF THE UNPAID TAXES, TOGETHER WITH COSTS AND EXPENSES, ARE NOT PAID,
4 THE COURT MAY ENTER A JUDGMENT FORECLOSING THE RIGHT OF REDEMPTION
5 THAT WOULD TERMINATE YOUR LEASE AND RIGHT TO OCCUPY THE PROPERTY. YOU
6 HAVE THE RIGHT TO PAY THE UNPAID TAXES, TOGETHER WITH COSTS AND
7 EXPENSES, AND AVOID LEASE TERMINATION AND EVICTION. A JUDGMENT
8 FORECLOSING THE RIGHT OF REDEMPTION COULD BE ENTERED WITHIN THE NEXT
9 90 DAYS AND AT THAT TIME YOU COULD BE EVICTED OR REQUIRED TO VACATE THE
10 PROPERTY."

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

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

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

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

28 (III) THE NOTICE SHALL BE SENT:

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

33 2. TO EACH SEPARATELY LEASED AREA OF THE PROPERTY
34 THAT THE PLAINTIFF CAN REASONABLY ASCERTAIN IS OCCUPIED; AND

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

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

