

Department of Legislative Services

Maryland General Assembly

2002 Session

FISCAL NOTE

Senate Bill 898

(Senator Lawlah)

Budget and Taxation

Property Tax - Void Tax Sales

This emergency bill provides that if a certificate of sale becomes void more than 30 days after the date of the sale by either the tax collector or operation of law, the local government must refund the purchase price including interest, penalties, and high bid premiums to the purchaser.

Fiscal Summary

State Effect: The bill would not directly affect State operations or finances.

Local Effect: Significant increase in local government expenditures for the refund of taxes paid, interest, expenses, and high bid premiums on void tax sales. **This bill imposes a mandate on a unit of local government.**

Small Business Effect: Potential significant.

Analysis

Current Law: If a certificate of sale is declared void by a court, the amount paid with interest that accrued after the date of sale, and all expenses incurred, must be repaid to the purchaser by the county tax collector. If a certificate is found to be void before the purchaser files suit to foreclose the right of redemption, the tax collector refunds all money paid by the purchaser but is not required to pay interest on that money. The holder of a certificate of sale must generally wait six months from the date of sale to file a complaint to foreclose all rights of redemption. By operation of law, the certificate is

void unless a proceeding to foreclose the right of redemption is filed within two years of the certificate of sale.

Background: The tax collector, for a variety of reasons, may find a tax sale void but the most common is because of problems with the title of which neither the tax collector nor the purchaser were aware. This may result from a bankruptcy action that had not been recorded in the land records at the time of sale.

People who bid at tax auctions are usually investors who are seeking a return on their money. When a property is purchased at tax sale the purchaser must pay to the tax collector any delinquent taxes, penalties, sale expenses, and under certain conditions a high bid premium. The remainder of the purchase price is not paid to the collector until the purchaser forecloses the property. The property owner has the right to redeem the property within six months from the date of tax sale by paying the delinquent taxes, penalties, interest, and certain expenses of the purchaser. If the owner redeems the certificate, the purchaser is refunded the amounts paid to the collector plus the interest and expenses. If the owner does not redeem the certificate, the purchaser has the right to foreclose on the property after the six-month right of redemption period has passed. Generally within two years, if the right to foreclose is not exercised by the purchaser, the certificate is void and the purchaser is not entitled to a refund of any monies paid to the collector.

Local Expenditures: Local government expenditures would significantly increase as a result of requiring interest, expenses, and high bid premiums, to be paid on all void tax sales. Information is not available to determine the extent of such an increase in expenditures but it could be significant. In the case of sales being void by the collector, the cost could be significant. For instance, in Cecil County, a property was sold at tax sale and the purchaser foreclosed and obtained a valid deed. Two years later the assessor's office determined that the property was actually exempt from taxation and voided the sale. Under the bill, the county would have to pay interest for two years from the date of the tax sale and certain expenses incurred by the purchaser. Under current law, the county would have to repay the amount paid by the purchaser.

The most significant fiscal impact of this bill is requiring interest, expenses, and high bid premiums be paid when the certificate is void by operation of law. A certificate is void by operation of law unless a proceeding to foreclose the right of redemption is filed within two years of the certificate of sale. The majority of tax sale certificates are not foreclosed. For example, Baltimore City includes close to 8,000 properties in its annual tax sale. The purchasers never exercise the right to foreclose approximately 7,900 of those sales. Under the bill, the purchaser would be entitled to a refund of the delinquent taxes paid to the collector plus interest, expenses, and any high bid premium.

Small Business Effect: This bill would significantly affect small businesses that purchase properties at tax sale by ensuring that they would receive interest and expenses on all certificates of sale. The Department of Legislative Services does not have any information on the number of small businesses in Maryland that purchase properties at tax sale.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Assessments and Taxation, Cecil County, Prince George's County, Baltimore City, Department of Legislative Services

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