

Department of Legislative Services
Maryland General Assembly
2007 Session

FISCAL AND POLICY NOTE

Senate Bill 353

(Senator Della)

Budget and Taxation

Tax Sales - Notice Prior to Action to Foreclose Right of Redemption

This bill prohibits a holder of a certificate of sale from filing a complaint of foreclosure on the right of redemption for property sold at a tax sale unless three months notice is given by the certificate holder to each party named as a defendant in the foreclosure action. The bill provides for the content of the notice, and prohibits the notice from being given until three months following the date of the sale.

The bill takes effect July 1, 2007, and applies to all certificates of sale issued on or after this date.

Fiscal Summary

State Effect: None.

Local Effect: The bill would not materially impact local government finances.

Small Business Effect: Overall minimal, but potential meaningful if the property subject to foreclosure is owned by a small business.

Analysis

Current Law: Generally, the holder of a certificate of sale (the plaintiff) on a property sold in a tax sale may file a complaint to foreclose all rights of redemption on the property any time after six months from the date of the sale. There are two exceptions to this, and the bill does not apply to either of them:

- If a building or structure purchased in a tax sale, is certified by the appropriate government agency to require substantial repairs (or will require them within six months), the holder of the certificate of sale may foreclose after only 60 days.
- If a purchaser acquires a certificate of sale for an abandoned property sold at a tax sale in Baltimore City for a minimum bid less than the lien amount, the certificate holder may file a complaint to foreclose at any time following the sale.

Defendants in a Foreclosure Action

Defendants in any action to foreclose the right of redemption include:

- the record title holder;
- if the property is subject to ground rent, the record title holder of the fee-simple title and the owner of the leasehold title;
- any mortgagee of the property or any assignee of the mortgagee of record;
- the trustee under any deed of trust recorded against the property or any holder of an interest in the deed of trust who files notice of interest;
- the county where the property is located; and
- the State (if appropriate).

The plaintiff may choose not to include any of the above parties as defendants. However, the rights of any party not included as a defendant are not affected by the proceedings.

Local Fiscal Effect: The bill places the burden of notifying the defendants in a foreclosure action on the holder of the certificate of sale. While there may be a minimal operational impact in ensuring that the notification requirements of the bill have been met, it is assumed that any such effect could be handled with existing resources.

Small Business Impact: While the bill does not extend the time that a holder of a certificate of sale may file a complaint of foreclosure, if the small business' property is subject to foreclosure and the owner is unaware of the foreclosure action, requiring notification of the owner of the property could potentially positively impact the small business.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): State Department of Assessments and Taxation, Judiciary (Administrative Office of the Courts), Baltimore City, Kent County, Montgomery County, Prince George's County, Washington County, Worcester County, Department of Legislative Services

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