

HB1211/315865/1

BY: Committee on Ways and Means

AMENDMENTS TO HOUSE BILL 1211
(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in the sponsor line, strike “and McIntosh” and substitute “McIntosh, and Carr”; in line 6, after “amount;” insert “requiring a collector to send a certain notice to a certain person within a certain time after a property is sold at a tax sale;”; in line 8, after “circumstances;” insert “providing that certain sums expended to conserve or stabilize a property become part of the redemption amount; altering how certain tax sale laws should be construed; prohibiting a holder of a certificate of sale from filing a complaint to foreclose the right of redemption until a certain amount of time after sending a certain notice to certain persons; requiring the holder of a certificate of sale to send a second notice within a certain time after sending the first notice; prohibiting certain assignees of a certificate of sale from filing a complaint to foreclose the right of redemption until a certain amount of time after sending a certain notice to certain persons; providing that certain notice provisions shall be deemed satisfied if the holder of a certificate of sale, or the attorney of the holder of a certificate of sale, files a certain affidavit; making stylistic changes; providing that the holder of a certificate of sale may be reimbursed for certain expenses under certain circumstances;”; in line 9, strike “is entitled to” and substitute “may”; in line 10, after “circumstances;” insert “providing for the application of this Act;”; in line 14, after “14-828(a),” insert “14-830, 14-832, 14-833(a),”; and after line 16, insert:

“BY adding to

Article – Tax - Property
Section 14-817.1 and 14-833(a-1)
Annotated Code of Maryland
(2007 Replacement Volume)”.

AMENDMENT NO. 2

(Over)

On page 1, after line 23, insert:

“14-817.1.

(A) WITHIN 60 DAYS AFTER A PROPERTY IS SOLD AT A TAX SALE, THE COLLECTOR SHALL SEND TO THE PERSON WHO LAST APPEARS AS OWNER OF THE PROPERTY ON THE COLLECTOR’S TAX ROLL, AT THE LAST ADDRESS SHOWN ON THE TAX ROLL, A NOTICE THAT INCLUDES:

(1) A STATEMENT THAT THE PROPERTY HAS BEEN SOLD TO SATISFY UNPAID TAXES;

(2) THE DATE OF THE TAX SALE;

(3) THE AMOUNT OF THE HIGHEST BID;

(4) THE LIEN AMOUNT ON THE PROPERTY AT THE TIME OF SALE;

(5) A STATEMENT THAT THE OWNER HAS THE RIGHT TO REDEEM THE PROPERTY UNTIL A COURT FORECLOSURES THAT RIGHT;

(6) A STATEMENT THAT THE PURCHASER OF THE PROPERTY MAY INSTITUTE AN ACTION TO FORECLOSE THE PROPERTY:

(I) AS EARLY AS 6 MONTHS FROM THE DATE OF THE SALE;

OR

(II) IF A GOVERNMENT AGENCY CERTIFIES THAT THE PROPERTY REQUIRES, OR SHALL REQUIRE, SUBSTANTIAL REPAIR TO COMPLY

WITH APPLICABLE BUILDING CODES, AS EARLY AS 60 DAYS FROM THE DATE OF THE SALE;

(7) A STATEMENT THAT IF THE PROPERTY IS REDEEMED BEFORE AN ACTION TO FORECLOSE THE RIGHT OF REDEMPTION IS FILED, THE AMOUNT THAT SHALL BE PAID TO REDEEM THE PROPERTY IS:

(I) THE TOTAL LIEN AMOUNT ON THE PROPERTY AT THE TIME OF SALE, WITH INTEREST;

(II) ANY TAXES, INTEREST, AND PENALTIES PAID BY THE HOLDER OF THE CERTIFICATE OF SALE; AND

(III) ANY TAXES, INTEREST, AND PENALTIES ACCRUING AFTER THE DATE OF THE TAX SALE;

(8) A STATEMENT THAT, IF THE PROPERTY IS REDEEMED MORE THAN 4 MONTHS AFTER THE DATE OF THE TAX SALE, AND BEFORE AN ACTION TO FORECLOSE THE RIGHT OF REDEMPTION IS FILED, THE HOLDER OF THE CERTIFICATE OF SALE MAY BE REIMBURSED FOR:

(I) ATTORNEY'S FEES FOR RECORDING THE CERTIFICATE OF SALE;

(II) A TITLE SEARCH FEE, NOT TO EXCEED \$250; AND

(III) REASONABLE ATTORNEY'S FEES, NOT TO EXCEED \$500;

(Over)

(9) A STATEMENT THAT, IF THE PROPERTY IS REDEEMED AFTER AN ACTION TO FORECLOSE THE RIGHT OF REDEMPTION HAS BEEN FILED, THE AMOUNT THAT SHALL BE PAID TO REDEEM THE PROPERTY IS THE SUM OF:

(I) THE TOTAL LIEN AMOUNT ON THE PROPERTY AT THE TIME OF SALE, WITH INTEREST;

(II) ANY TAXES, INTEREST, AND PENALTIES PAID BY THE HOLDER OF THE CERTIFICATE OF SALE;

(III) ANY TAXES, INTEREST, AND PENALTIES ACCRUING AFTER THE DATE OF THE TAX SALE; AND

(IV) ATTORNEY'S FEES AND EXPENSES TO WHICH THE HOLDER OF THE CERTIFICATE OF SALE MAY BE ENTITLED UNDER § 14-843(A)(4) AND (5) OF THIS SUBTITLE; AND

(10) THE PROVISIONS OF § 14-843(A) OF THIS SUBTITLE, REPRODUCED AS THEY APPEAR IN THE CODE.

(B) THE NOTICE REQUIRED UNDER THIS SECTION SHALL BE SENT BY FIRST-CLASS MAIL."

AMENDMENT NO. 3

On page 2, in line 2, strike "price" and substitute "LIEN AMOUNT"; after line 16, insert:

"14-830.

(A) The owner of any property sold under the provisions of this subtitle shall have the right, during the period of redemption, to continue in possession of, and to exercise all rights of ownership over the property until the right of redemption has been finally foreclosed under the provisions of this subtitle[, provided that any].

(B) **THE** holder of any certificate of sale may apply to the circuit court for the county in which the property is located for the appointment of a receiver of the property covered by the certificate, in accordance with the usual provisions of the laws and of rules and practice of the circuit courts that relate to receivers.

(C) If any certificate of sale is held by the governing body of the county or any other taxing agency, the governing body or taxing agency may make application by complaint, to the circuit court for the county for the appointment of a receiver of the property covered by the certificate of sale.

(D) The defendant, in the action brought by the governing body of the county or any other taxing agency **UNDER SUBSECTION (C) OF THIS SECTION** for the appointment of a receiver shall be the owner of the property whose name last appears as the owner on the collector's tax roll.

(E) [However]**HOWEVER**, except as to property actually occupied by the owner if a certificate of sale is held by the Mayor and City Council of Baltimore City or the governing body of a county, then the Mayor and City Council of Baltimore City or the governing body of the county has the right of immediate possession of the property represented by the certificate of sale[,] and to the rents accruing from the property from the date of sale, without the necessity of receivership proceedings[, provided that the].

(F) **THE** Mayor and City Council of Baltimore City or the governing body of the county shall make a strict accounting of any and all rents collected to the owner on

(Over)

redemption of the property, and on the redemption, shall remit the rents, less all expenses required for the property maintenance and upkeep of the property.

(G) ANY REASONABLE SUMS CAUSED TO BE EXPENDED TO CONSERVE OR STABILIZE THE PROPERTY SHALL BECOME PART OF THE REDEMPTION AMOUNT, PROVIDED THE SUMS EXPENDED AND THE NECESSITY FOR MAKING THE REPAIRS ARE APPROVED BY THE COURT.

14-832.

The provisions of §§ 14-832.1 through 14-854 of this subtitle shall be [liberally construed [as remedial legislation to encourage the foreclosure of rights of redemption by suits in the circuit courts and for the decreeing of marketable titles to property sold by the collector] TO ENSURE A BALANCE BETWEEN:

(1) THE DUE PROCESS AND REDEMPTION RIGHTS OF PERSONS THAT OWN OR HAVE AN INTEREST IN PROPERTY SOLD AT A TAX SALE; AND

(2) THE PUBLIC POLICY OF PROVIDING MARKETABLE TITLE TO PROPERTY THAT IS SOLD AT A TAX SALE THROUGH THE FORECLOSURE OF THE RIGHT OF REDEMPTION.

14-833.

(a) Except as provided in subsections [(e)](A-1), (E), and (f) of this section, at any time after 6 months from the date of sale a holder of any certificate of sale may file a complaint to foreclose all rights of redemption of the property to which the certificate relates.

(A-1) (1) THE HOLDER OF A CERTIFICATE OF SALE MAY NOT FILE A COMPLAINT TO FORECLOSE THE RIGHT OF REDEMPTION UNTIL AT LEAST 2

MONTHS AFTER SENDING THE FIRST OF TWO NOTICES REQUIRED UNDER THIS SUBSECTION TO:

(I) THE PERSON WHO LAST APPEARS AS OWNER OF THE PROPERTY ON THE COLLECTOR'S TAX ROLL; AND

(II) 1. THE CURRENT MORTGAGEE OF THE PROPERTY, ASSIGNEE OF A MORTGAGEE OF RECORD, OR SERVICER OF THE CURRENT MORTGAGE; OR

2. THE CURRENT HOLDER OF A BENEFICIAL INTEREST IN A DEED OF TRUST RECORDED AGAINST THE PROPERTY.

(2) THE HOLDER OF A CERTIFICATE OF SALE IS NOT REQUIRED TO PROVIDE THE NOTICES UNDER THIS SUBSECTION IF SUBSECTION (E) OR (F) OF THIS SECTION APPLIES TO THE PROPERTY.

(3) THE NOTICES REQUIRED UNDER THIS SUBSECTION SHALL INCLUDE AT LEAST THE FOLLOWING:

(I) A STATEMENT OF THE FACT OF THE ISSUANCE OF A CERTIFICATE OF SALE;

(II) A COPY OF THE CERTIFICATE OF SALE, IF THE HOLDER OF THE CERTIFICATE OF SALE RECEIVED THE CERTIFICATE OF SALE BEFORE THE NOTICE WAS SENT UNDER THIS PARAGRAPH;

(III) A STATEMENT THAT THE OWNER, A MORTGAGE HOLDER, OR ANY OTHER PERSON THAT HAS AN ESTATE OR INTEREST IN THE PROPERTY

(Over)

MAY REDEEM THE PROPERTY AT ANY TIME UNTIL THE RIGHT OF REDEMPTION HAS BEEN FINALLY FORECLOSED UNDER THE PROVISIONS OF THIS SUBTITLE;

(IV) A STATEMENT THAT THE HOLDER OF THE CERTIFICATE OF SALE MAY FILE AN ACTION TO FORECLOSE THE RIGHT OF REDEMPTION AT ANY TIME AFTER 2 MONTHS FROM THE DATE OF THE FIRST NOTICE;

(V) A STATEMENT THAT IF THE PROPERTY IS REDEEMED BEFORE AN ACTION TO FORECLOSE THE RIGHT OF REDEMPTION IS FILED, THE AMOUNT THAT SHALL BE PAID TO REDEEM THE PROPERTY IS:

1. THE TOTAL LIEN AMOUNT ON THE PROPERTY AT THE TIME OF SALE, WITH INTEREST;

2. ANY TAXES, INTEREST, AND PENALTIES PAID BY THE HOLDER OF THE CERTIFICATE OF SALE;

3. ANY TAXES, INTEREST, AND PENALTIES ACCRUING AFTER THE DATE OF THE TAX SALE; AND

4. THE FOLLOWING EXPENSES INCURRED BY THE HOLDER OF THE CERTIFICATE OF SALE:

A. ATTORNEY'S FEES FOR RECORDING THE CERTIFICATE OF SALE;

B. A TITLE SEARCH FEE, NOT TO EXCEED \$250; AND

C. REASONABLE ATTORNEY'S FEES, NOT TO EXCEED \$500;

(VI) A STATEMENT THAT IF THE PROPERTY IS REDEEMED AFTER AN ACTION TO FORECLOSE THE RIGHT OF REDEMPTION HAS BEEN FILED, THE AMOUNT THAT SHALL BE PAID TO REDEEM THE PROPERTY IS THE SUM OF:

1. THE TOTAL LIEN AMOUNT ON THE PROPERTY AT THE TIME OF SALE, WITH INTEREST;

2. ANY TAXES, INTEREST, AND PENALTIES PAID BY THE HOLDER OF THE CERTIFICATE OF SALE;

3. ANY TAXES, INTEREST, AND PENALTIES ACCRUING AFTER THE DATE OF THE TAX SALE; AND

4. ATTORNEY'S FEES AND EXPENSES TO WHICH THE HOLDER OF THE CERTIFICATE OF SALE MAY BE ENTITLED UNDER § 14-843(A)(4) AND (5) OF THIS SUBTITLE;

(VII) THE PROVISIONS OF § 14-843(A) OF THIS SUBTITLE, REPRODUCED AS THEY APPEAR IN THE CODE;

(VIII) A STATEMENT THAT, IN BALTIMORE CITY ONLY, THE HOLDER OF THE CERTIFICATE OF SALE IS ENTITLED TO TAXES, INTEREST, AND PENALTIES PAID IN ACCORDANCE WITH § 14-843(C) OF THIS SUBTITLE AND INTEREST AT THE RATE OF REDEMPTION UNDER § 14-820 OF THIS SUBTITLE FROM THE DATE OF PAYMENT TO THE DATE OF REDEMPTION; AND

(IX) THE NAME, ADDRESS, AND TELEPHONE NUMBER OF:

(Over)

1. THE HOLDER OF THE CERTIFICATE OF SALE, OR THE HOLDER'S AGENT OR ATTORNEY; AND

2. THE COLLECTOR WHO MADE THE SALE.

(4) (I) THE FIRST OF THE TWO NOTICES REQUIRED UNDER THIS SUBSECTION MAY NOT BE SENT UNTIL 4 MONTHS AFTER THE DATE OF SALE.

(II) THE SECOND OF THE TWO NOTICES REQUIRED UNDER THIS SECTION SHALL BE SENT:

1. TO THE PERSONS LISTED IN PARAGRAPH (1) OF THIS SUBSECTION; AND

2. NO EARLIER THAN 1 WEEK AFTER THE FIRST NOTICE REQUIRED UNDER THIS SUBSECTION IS SENT.

(5) IF A CERTIFICATE OF SALE IS ASSIGNED AFTER THE FIRST NOTICE REQUIRED UNDER THIS SUBSECTION IS SENT AND BEFORE AN ACTION TO FORECLOSE THE RIGHT OF REDEMPTION IS FILED, THE ASSIGNEE:

(I) AT ANY TIME AFTER THE ASSIGNMENT, SHALL SEND ONE ADDITIONAL NOTICE UNDER THIS SUBSECTION REFLECTING THE NEW HOLDER OF THE CERTIFICATE; AND

(II) MAY NOT FILE A COMPLAINT TO FORECLOSE THE RIGHT OF REDEMPTION UNTIL AT LEAST 2 MONTHS AFTER THE ADDITIONAL NOTICE HAS BEEN SENT.

(6) THE NOTICE REQUIRED UNDER THIS SUBSECTION SHALL BE SENT:

(I) BY FIRST-CLASS MAIL; AND

(II) IN AN ENVELOPE PROMINENTLY MARKED ON THE OUTSIDE WITH THE FOLLOWING PHRASE "NOTICE OF DELINQUENT PROPERTY TAX".

(7) THE NOTICE REQUIRED UNDER THIS SUBSECTION SHALL BE SENT TO EACH PERSON AT THE PERSON'S LAST ADDRESS KNOWN TO THE HOLDER OF THE CERTIFICATE OF SALE, AS OBTAINED FROM:

(I) THE LAST DEED OR MORTGAGE RELATING TO THE PROPERTY RECORDED AMONG THE LAND RECORDS IN THE COUNTY IN WHICH THE PROPERTY IS LOCATED;

(II) THE TAX ROLLS OF THE COLLECTOR WHO MADE THE SALE, AS TO THE PROPERTY DESCRIBED IN THE CERTIFICATE OF SALE; AND

(III) WITH RESPECT TO THE ADDRESS OF THE RESIDENT AGENT AND THE PRINCIPAL OFFICE OF THE CURRENT MORTGAGEE OF RECORD, THE DEPARTMENT OF ASSESSMENTS AND TAXATION.

(8) IN A PROCEEDING TO FORECLOSE THE RIGHT OF REDEMPTION, IF THE HOLDER OF A CERTIFICATE OF SALE, THE HOLDER'S AGENT, OR THE ATTORNEY OF THE HOLDER OF A CERTIFICATE OF SALE, FILES AN AFFIDAVIT, BEFORE THE COURT ENTERS A FINAL JUDGMENT FORECLOSING THE RIGHT OF REDEMPTION, ATTESTING TO THE FACT THAT THE AFFIANT HAS COMPLIED WITH THE NOTICE PROVISIONS OF THIS SUBSECTION, THEN:

(Over)

(I) THE NOTICE PROVISIONS OF THIS SUBSECTION SHALL BE DEEMED SATISFIED; AND

(II) THE FAILURE OF THE OWNER, MORTGAGEE, OR BENEFICIARY OF A DEED OF TRUST TO RECEIVE THE REQUIRED NOTICE DOES NOT INVALIDATE THE PROCEEDING TO FORECLOSE THE RIGHT OF REDEMPTION OR THE FINAL JUDGMENT OF THE COURT.

AMENDMENT NO. 4

On page 2, in line 19, strike “is entitled to” and substitute “**MAY**”;

in line 32, in each instance, strike the bracket; in the same line, strike “**EXCEPT AS PROVIDED IN THIS SECTION, THE**”; and in line 33, after “expenses” insert “**OR ATTORNEY’S FEES**”.

On pages 2 through 4, strike in their entirety the lines beginning with line 35 on page 2 through line 8 on page 4, inclusive, and substitute:

“(3) IF AN ACTION TO FORECLOSE THE RIGHT OF REDEMPTION HAS NOT BEEN FILED, AND THE PROPERTY IS REDEEMED MORE THAN 4 MONTHS AFTER THE DATE OF THE TAX SALE, THE HOLDER OF A CERTIFICATE OF SALE MAY BE REIMBURSED FOR THE FOLLOWING EXPENSES ACTUALLY INCURRED:

(I) ATTORNEY’S FEES FOR RECORDING THE CERTIFICATE OF SALE;

(II) A TITLE SEARCH FEE, NOT TO EXCEED \$250; AND

(III) REASONABLE ATTORNEY’S FEES, NOT TO EXCEED \$500.

(4) IF AN ACTION TO FORECLOSE THE RIGHT OF REDEMPTION HAS BEEN FILED, THE PLAINTIFF OR HOLDER OF A CERTIFICATE OF SALE MAY BE REIMBURSED FOR:

(I) ATTORNEY'S FEES IN THE AMOUNT OF:

1. \$1,300 IF AN AFFIDAVIT OF COMPLIANCE HAS NOT BEEN FILED, WHICH AMOUNT SHALL BE DEEMED REASONABLE FOR BOTH THE PREPARATION AND FILING OF THE ACTION TO FORECLOSE THE RIGHT OF REDEMPTION; OR

2. \$1,500 IF AN AFFIDAVIT OF COMPLIANCE HAS BEEN FILED, WHICH AMOUNT SHALL BE DEEMED REASONABLE FOR BOTH THE PREPARATION AND FILING OF THE ACTION TO FORECLOSE THE RIGHT OF REDEMPTION;

(II) IN EXCEPTIONAL CIRCUMSTANCES, OTHER REASONABLE ATTORNEY'S FEES INCURRED AND SPECIFICALLY REQUESTED BY THE PLAINTIFF OR HOLDER OF A CERTIFICATE OF SALE AND APPROVED BY THE COURT, ON A CASE BY CASE BASIS; AND

(III) IF THE PLAINTIFF OR HOLDER OF A CERTIFICATE OF SALE PROVIDES A SIGNED AFFIDAVIT ATTESTING TO THE FACT THAT THE EXPENSES WERE ACTUALLY INCURRED, THE FOLLOWING EXPENSES ACTUALLY INCURRED BY THE PLAINTIFF OR HOLDER OF A CERTIFICATE OF SALE:

1. FILING FEE CHARGED BY THE CIRCUIT COURT FOR THE COUNTY IN WHICH THE PROPERTY IS LOCATED;

(Over)

2. SERVICE OF PROCESS FEE, INCLUDING FEES INCURRED ATTEMPTING TO SERVE PROCESS;

3. A TITLE SEARCH FEE, NOT TO EXCEED \$250;

4. IF A SECOND TITLE SEARCH IS CONDUCTED MORE THAN 6 MONTHS AFTER THE INITIAL TITLE SEARCH, A TITLE SEARCH UPDATE FEE, NOT TO EXCEED \$75;

5. PUBLICATION FEE CHARGED BY A NEWSPAPER OF GENERAL CIRCULATION IN THE COUNTY IN WHICH THE PROPERTY IS LOCATED;

6. POSTING FEE;

7. POSTAGE AND CERTIFIED MAIL;

8. SUBSTANTIAL REPAIR ORDER FEE, NOT TO EXCEED THE FEE CHARGED BY THE GOVERNMENT AGENCY ISSUING THE CERTIFICATE OF SUBSTANTIAL REPAIR; AND

9. ANY COURT APPROVED EXPENSE FOR STABILIZATION OR CONVERSION OF THE PROPERTY UNDER § 14-830 OF THIS SUBTITLE OR IN ACCORDANCE WITH AN ACTION TAKEN AGAINST THE PROPERTY BY THE COUNTY IN WHICH THE PROPERTY IS LOCATED IN ACCORDANCE WITH THE APPLICABLE BUILDING, FIRE, HEALTH, OR SAFETY CODES.

(5) IN ADDITION TO THE EXPENSES AND ATTORNEY'S FEES UNDER PARAGRAPH (3) OR (4) OF THIS SUBSECTION, THE PLAINTIFF OR HOLDER OF A CERTIFICATE OF SALE MAY BE REIMBURSED FOR:

(I) TAXES PAID AT THE TAX SALE, TOGETHER WITH REDEMPTION INTEREST, ARISING AFTER THE DATE OF SALE TO THE DATE OF REDEMPTION;

(II) THE HIGH BID PREMIUM PAID AT THE TAX SALE, IF APPLICABLE; AND

(III) IN BALTIMORE CITY ONLY, TAXES, INTEREST, AND PENALTIES PAID IN ACCORDANCE WITH SUBSECTION (C) OF THIS SECTION AND INTEREST AT THE RATE OF REDEMPTION PROVIDED IN § 14-820 OF THIS SUBTITLE FROM THE DATE OF PAYMENT TO THE DATE OF REDEMPTION.”.

On page 4, in line 12, after “Kent County,” insert “MONTGOMERY COUNTY,”; in line 15, strike “is” and substitute “MAY”; and in the same line, strike “entitled to”.

AMENDMENT NO. 5

On page 4, after line 25, insert:

“SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to apply only prospectively and may not be applied or interpreted to have any effect on or application to any tax sale held before the effective date of this Act or any proceeding that relates to a tax sale held before the effective date of this Act.”;

and in line 26, strike “2.” and substitute “3.”.