

Department of Legislative Services
Maryland General Assembly
2008 Session

FISCAL AND POLICY NOTE
Revised

House Bill 1211
Ways and Means

(Delegates Oaks and McIntosh)

Budget and Taxation

Tax Sales - Minimum Tax Due - Redemption Payments - Reimbursement of Expenses on Redemption

This emergency bill increases the minimum amount of taxes due on a property from \$100 to \$250 by which a tax collector may withhold the property from a tax sale. The bill also alters • the manner by which a person redeeming a property must pay the collector specified expenses and fees; and • the types and amounts of expenses for which a plaintiff or holder of a certificate of sale is entitled to be reimbursed on redemption.

The bill applies 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 the bill or any preceding that relates to a tax sale held before the effective date of the bill.

Fiscal Summary

State Effect: None.

Local Effect: The bill could result in a decrease in local tax revenues to the extent properties are withheld from tax sale. Baltimore City revenues could decrease by approximately \$1.3 million beginning in FY 2009. Expenditures would not be affected.

Small Business Effect: Minimal.

Analysis

Bill Summary: The major provisions of the bill include:

- increasing the minimum amount of taxes due on a property from \$100 to \$250 by which a tax collector may withhold the property from a tax sale;
- allowing the taxing jurisdiction to determine the manner and terms by which a holder of a certificate of sale is to be paid for expenses and fees incurred;
- providing for additional notice requirements from the tax collector and the holder of a tax sale certificate to the property owner before a right of redemption may be foreclosed;
- placing caps on the amount of attorney's fees that a certificate holder can charge a property owner upon redemption, with the amount varying slightly depending on whether an affidavit of compliance has been filed; and
- itemization and caps on various expenses that a tax sale certificate holder may charge a property owner upon receiving a certificate of sale and the redemption of that certificate.

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:

- 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.

A tax collector may withhold a property from a tax sale if the total taxes on the property, including interest and penalties, are less than \$100 in any one year. The holder of the certificate of sale may be reimbursed for reasonable attorney's fees not exceeding \$400 per certificate unless an action to foreclose the right of redemption has been filed.

Background: When a property is purchased at tax sale, the purchaser must pay 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 Fiscal Effect: The bill could result in a loss of local revenue depending on the number of properties withheld from tax sale due to the increased limit.

Baltimore City indicates that the bill could result in a significant reduction in revenues as it could lead to a decline in the number of properties eligible for tax sale. Based on fiscal 2008 data, Baltimore City indicates that \$1.2 million in revenues would be lost if the tax sale threshold was raised to \$250. Increasing the threshold would exclude 6,010 properties (out of 38,723) from a tax sale resulting in a \$1.2 million reduction in liens (out of \$95.2 million). It is estimated that this amount could increase by about 5% annually beginning in fiscal 2009.

Montgomery and Allegany counties report that the bill would have little or no effect on county finances.

Additional Information

Prior Introductions: None.

Cross File: SB 854 (Senator Jones, *et al.*) – Budget and Taxation.

Information Source(s): State Department of Assessments and Taxation, Allegany County, Montgomery County, Baltimore City, Department of Legislative Services

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