

**Department of Legislative Services**  
Maryland General Assembly  
2008 Session

**FISCAL AND POLICY NOTE**

Senate Bill 406

(Senator Della)

Budget and Taxation

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

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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 the owner or any other person that has an estate or interest in the property. 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 also alters a provision of law related to the reimbursement of specified attorney's fees to the holder of a certificate of sale in a tax sale by capping the fees at \$500 unless an action to foreclose the right of redemption has been filed in which case reasonable attorney's fees may not exceed \$1,000. Under current law, the holder of the certificate of sale may be reimbursed for reasonable attorney's fees up to \$400 per certificate unless an action to foreclose the right of redemption has been filed.

The bill takes effect July 1, 2008, and applies to all certificates of sale unless an action to foreclose the right of redemption has been filed prior to this date.

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**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.

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## 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.

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 places the burden of notifying the owner or any other person that has an estate or interest in the property 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 benefit the small business.

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### **Additional Information**

**Prior Introductions:** A similar bill was introduced as SB 353 of 2007. The Senate Budget and Taxation Committee took no action on the bill.

**Cross File:** None.

**Information Source(s):** State Department of Assessments and Taxation, Frederick County, Montgomery County, Department of Legislative Services

**Fiscal Note History:** First Reader - February 7, 2008  
mam/hlb

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