

Department of Legislative Services
Maryland General Assembly
2008 Session

FISCAL AND POLICY NOTE

Senate Bill 688

(Senator Brochin)

Judicial Proceedings

Foreclosures - Unpaid Water and Sanitary Charges - Prohibition

This bill prohibits the enforcement of a lien or judgment arising from any unpaid water, sewer, or other sanitary system charges, fees, or assessments charged for a property by a tax sale of, an action to foreclose on, or a judicially approved sale of the property. Under the bill, sanitary commissions may no longer sue any person who was an owner of record since a benefit assessment was last paid in order to collect unpaid charges or file suit to enforce a lien through a sale of property.

Fiscal Summary

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

Local Effect: Local county and municipal sanitary systems would experience a significant loss of revenue due to the bill's provisions that would prevent collection of unpaid bills through existing lien-based collection methods.

Small Business Effect: Potential minimal.

Analysis

Current Law: Under current State law, a sanitary commission may enforce the collection of unpaid benefit assessments or other charges, when payment is at least 60 days overdue, by • suing any person who was an owner of record of the parcel at any time since the benefit assessment was last paid; or • filing a bill in equity to enforce a lien through a decree of sale of property against any person who was an owner of record of

the parcel at any time since the benefit assessment was last paid. In Allegany, Dorchester, and Somerset counties, the sanitary commission may disconnect the service.

State law currently states that a water bill that has not been paid after 60 days since the bill was sent is a lien on the property. The same law permits districts and municipalities regulated under the sanitary commission laws of the Environment Article to enforce these liens in the same manner as unpaid benefit assessments.

Background: Sanitary systems may currently enforce unpaid water bills and other overdue sanitary charges by establishing liens on properties with such unpaid bills, and then selling these liens at a tax sale. Purchasers of such liens may then bring foreclosure actions against property owners who do not pay the outstanding liens. In addition, sanitary systems may sue property owners directly for the collection of unpaid charges or liens, which can lead to the sale or foreclosure of properties in order to satisfy judgments.

Local Fiscal Effect: Under the bill, local sanitary systems would no longer be able to collect unpaid sanitary system charges from delinquent property owners through the use of existing lien-based collection methods. Sanitary systems would no longer be able to sue delinquent property owners for judgments in order to obtain payment via foreclosure sale of the property. More significantly, sanitary systems would experience a significant loss in revenues from the sale of liens imposed due to unpaid sanitary charges, because any potential purchaser of such a lien would no longer be able to collect the lien through an action to foreclose the affected property. Baltimore City reports that the bill would result in a direct reduction in the city's water and waste water utility funds by decreasing the total revenues from tax sales and notes that \$13.3 million in water liens are eligible for tax sale in May 2008. This value represents approximately 4.6% of the total budget for the city's water and waste water utility funds. In addition, many sanitary systems either do not turn off or are prohibited from turning off services in order to collect unpaid bills. For example, Kent County reports that it does not turn off services, instead relying on tax sales of liens to collect outstanding sanitary system charges. In fiscal 2008, Kent County's tax sale included approximately \$125,000 of delinquent sanitary system charges.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Somerset County; Allegany County; Montgomery County; Prince George's County; Kent County; Baltimore City; Judiciary (Administrative Office of the Courts); Department of Legislative Services

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