

Department of Legislative Services
Maryland General Assembly
2010 Session

FISCAL AND POLICY NOTE

Senate Bill 158 (Senators Brochin and Muse)
Judicial Proceedings

Foreclosures - Unpaid Water and Sanitary Charges - Prohibition

This bill prohibits the use of a tax sale, foreclosure, or other judicially approved sale as an enforcement mechanism for a lien or judgment arising from any unpaid water, sewer, or other sanitary system charges, fees, or assessments charged for a 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 to collect unpaid charges or file suit to enforce a lien through a sale of the property.

Fiscal Summary

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

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

Small Business Effect: Potential minimal.

Analysis

Current Law: When payment is at least 60 days overdue, a sanitary commission may enforce the collection of unpaid benefit assessments or other charges by (1) suing any person who was an owner of record of the parcel at any time since the benefit assessment was last paid; or (2) filing a bill in equity to enforce a lien through a decree of sale of the property against any owner of record since the benefit assessment was last paid. In Allegany, Dorchester, Garrett, and Somerset counties, the sanitary commission may also disconnect the service.

A water bill that is at least 60 days overdue becomes a lien on the property and, when recorded, serves as legal notice to any person with an interest in the property. A sanitary commission may enforce these liens in the same manner as unpaid benefit assessments. (See Environment Article § 9-658 (d), (g) – (i)).

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 fail to 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 to satisfy judgments.

Local Fiscal Effect: Under the bill, local sanitary systems are no longer able to collect unpaid sanitary system charges from delinquent property owners through existing lien-based collection methods. Sanitary systems are prohibited from seeking judgments against delinquent property owners and satisfying a judgment through a foreclosure sale of the property.

More significantly, sanitary systems experience a significant loss in revenues from the sale of liens imposed as a result of unpaid sanitary charges. Any potential purchaser of a tax lien is no longer able to collect the lien through a foreclosure action on the affected property. In Baltimore City, \$14.4 million in water and wastewater liens could be sold at an upcoming tax sale in May 2010. This value represents approximately 9.7% of the city's \$148 million fiscal 2010 budget for water and wastewater revenue.

Local governments note that the bill eliminates an effective mechanism that ultimately compels the majority of residents to pay for water and sewer services. In May 2009, Allegany County collected approximately \$83,800 from the tax sale of delinquent water and sewer liens. These funds represent 1.2% of the county's total water and wastewater revenues for the year.

Many sanitary systems either do not turn off, or are prohibited from turning off, services to collect unpaid bills. For example, Kent County reports that it does not turn off services. Instead, the county relies on the tax sales of liens to collect outstanding sanitary system charges. In fiscal 2009, Kent County's tax sales included approximately \$276,000 of delinquent sanitary system charges.

Additional Information

Prior Introductions: SB 688 of 2008 was heard by the Senate Judicial Proceedings Committee, but no further action was taken on the bill.

Cross File: None.

Information Source(s): Office of the Attorney General (Consumer Protection Division); Judiciary (Administrative Office of the Courts); Maryland Department of the Environment; Allegany, Baltimore, Garrett, Harford, Kent, and Montgomery counties; Baltimore City; Department of Legislative Services

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