

**Department of Legislative Services**  
Maryland General Assembly  
2011 Session

**FISCAL AND POLICY NOTE**

House Bill 1337

(Delegate Holmes, *et al.*)

Environmental Matters

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**Real Property - Residential Property Owned by Bank or Investment Company -  
Required Maintenance**

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This bill requires a mortgage lender that lists real estate owned (REO) property on its accounting books as an asset to (1) secure the property so the property is not accessible to unauthorized individuals; and (2) maintain the property by keeping the property free from dead vegetation and an accumulation of discarded items that give the appearance of the property being vacant and not meeting neighborhood standards. The bill authorizes a county or municipal corporation to enact a local law that requires a mortgage lender to register any REO property with the county or municipal corporation and be responsible for the security and maintenance of the property. The county or municipal corporation may also enact a local law that subjects a mortgage lender to a civil penalty for failure to register or failure to secure and maintain the property. A mortgage lender is authorized to contract with a property preservation company for the security and maintenance of an REO property; however, the mortgage lender is responsible if the company fails to secure and maintain the RFO property.

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**Fiscal Summary**

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

**Local Effect:** Potential minimal increase in revenues and expenditures to the extent a county or municipal organization establishes an REO property registry and imposes civil penalties as authorized under the bill. Likewise, potential offsetting reduction in expenditures to abate nuisances.

**Small Business Effect:** Minimal.

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## Analysis

**Current Law/Background:** REO property is property acquired by a financial institution as a result of an unsuccessful foreclosure sale on the property. This acquisition often occurs when the amount of the outstanding loan owed to the financial institution is greater than the value of the property. As shown in **Exhibit 1**, 10,607 properties in Maryland were bought by financial institutions after a foreclosure auction in 2010. Six jurisdictions (Prince George's, Baltimore, Montgomery, Anne Arundel, and Frederick counties and Baltimore City) represented approximately 77% of all lender purchases.

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**Exhibit 1**  
**2010 REO Purchases in Maryland Jurisdictions by Quarter**

| <b><u>Jurisdiction</u></b> | <b><u>Q1</u></b> | <b><u>Q2</u></b> | <b><u>Q3</u></b> | <b><u>Q4</u></b> |
|----------------------------|------------------|------------------|------------------|------------------|
| Allegany                   | 14               | 17               | 10               | 15               |
| Anne Arundel               | 136              | 211              | 157              | 179              |
| Baltimore                  | 239              | 272              | 281              | 280              |
| Baltimore City             | 582              | 285              | 390              | 454              |
| Calvert                    | 29               | 25               | 24               | 51               |
| Caroline                   | 13               | 16               | 10               | 17               |
| Carroll                    | 22               | 33               | 32               | 29               |
| Cecil                      | 31               | 13               | 25               | 24               |
| Charles                    | 66               | 96               | 79               | 96               |
| Dorchester                 | 20               | 18               | 21               | 17               |
| Frederick                  | 130              | 152              | 152              | 111              |
| Garrett                    | 7                | 10               | 5                | 7                |
| Harford                    | 46               | 77               | 105              | 48               |
| Howard                     | 47               | 54               | 44               | 30               |
| Kent                       | 11               | 6                | 8                | 6                |
| Montgomery                 | 356              | 594              | 312              | 243              |
| Prince George's            | 588              | 596              | 783              | 776              |
| Queen Anne's               | 23               | 31               | 11               | 33               |
| Somerset                   | 10               | 18               | 12               | 17               |
| St. Mary's                 | 35               | 36               | 27               | 23               |
| Talbot                     | 4                | 7                | 11               | 6                |
| Washington                 | 114              | 91               | 84               | 80               |
| Wicomico                   | 36               | 42               | 33               | 27               |
| Worcester                  | 33               | 40               | 52               | 38               |
| <b>Total</b>               | <b>2,592</b>     | <b>2,740</b>     | <b>2,668</b>     | <b>2,607</b>     |

Source: Department of Housing and Community Development

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*Registration of REO Property:* State law does not require the registration of REO property or establish specific requirements for the maintenance of REO properties.

*Maintenance of Property:* The presence of dead vegetation and the accumulation of discarded items on vacant or occupied real estate property may rise to the level of a nuisance. The concept of a “nuisance” originates under common law as something that causes offense, annoyance, trouble, or injury. A private nuisance obstructs the rights of a specific individual or group, while a public nuisance is an act or omission that obstructs, damages, or inconveniences the rights of the community.

In Baltimore City and Anne Arundel, Baltimore, Harford, and Prince George’s counties, a community association, State’s Attorney, county attorney, or local city attorney may bring an action to abate a nuisance based on a local code violation.

Additionally, each county board of health is authorized to adopt and enforce rules and regulations on any nuisance or cause of disease in the county. If a county health officer investigates and finds a nuisance, the health officer is required to serve a written notice to the person who is causing the nuisance, ordering the person to abate the nuisance within a specified period of time. If the nuisance is not abated, the person may be found guilty of a misdemeanor and subject to a \$1,000 fine.

There are also several types of nuisances specifically addressed by State agencies, including all nuisances affecting the sanitary interests of the people of the State. Examples of such nuisances include an inadequately protected swimming pool, a foul pigpen, a dead animal, a contaminated water supply, a rodent harborage, and an excessive accumulation of trash or garbage. The Department of Health and Mental Hygiene (DHMH) may investigate the presence of a nuisance. DHMH may then order the offender to abate the nuisance within a specified time period. If the nuisance is not abated, the offender may be found guilty of a misdemeanor and subject to a \$1,000 fine.

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## **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Baltimore City; Office of the Attorney General (Consumer Protection Division); Judiciary (Administrative Office of the Courts); Department of Labor, Licensing, and Regulation; Maryland Association of Counties; Maryland Municipal League; Department of Housing and Community Development; Investopedia; Department of Legislative Services

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