

Department of Legislative Services
Maryland General Assembly
2012 Session

FISCAL AND POLICY NOTE

House Bill 491
Ways and Means

(Delegate Stukes)

Tax Sales - Reimbursement for Attorney's Fees

This bill specifies that a plaintiff or holder of a certificate of sale in a foreclosure action may be reimbursed for reasonable attorney's fees for participation in a bankruptcy proceeding or for opening an estate for purposes of service of process and notice. The bill also specifies that a plaintiff or holder of a certificate of sale in a foreclosure action may be reimbursed for expenses and costs incurred for opening an estate of a deceased defendant for purposes of service of process and notice.

The bill takes effect July 1, 2012.

Fiscal Summary

State Effect: None.

Local Effect: None. The bill does not materially affect local government operations or finances.

Small Business Effect: None.

Analysis

Current Law: Upon redemption of a certificate of sale, the plaintiff or holder may be reimbursed for expenses incurred in any action, or in preparation of any action, to foreclose the right of redemption. In a majority of counties, a plaintiff or holder of a certificate of sale may not be reimbursed for expenses incurred within four months after the date of sale.

If an action to foreclose the right of redemption has not been filed, and the property is redeemed more than four months after the date of the tax sale, the holder of a certificate of sale may be reimbursed for costs for recording the certificate of sale, a title search fee up to \$250, and reasonable attorney's fees up to \$500.

If an action to foreclose the right of redemption has been filed, the plaintiff or holder of a certificate of sale may be reimbursed for: (1) attorney's fees in the amount of \$1,300 if an affidavit of compliance has not been filed, which amount must be deemed reasonable for both the preparation and filing of the action to foreclose the right of redemption; or \$1,500 if an affidavit of compliance has been filed, which amount must be deemed reasonable for both the preparation and filing of the action to foreclose the right of redemption; (2) in exceptional circumstances, other reasonable attorney's fees incurred and specifically requested by the plaintiff or holder of a certificate of sale and approved by the court, on a case by case basis; and (3) if the plaintiff or holder of a certificate of sale provides a signed affidavit attesting to the fact that the expenses were actually incurred, the following expenses actually incurred by the plaintiff or holder of a certificate of sale: filing fee charged by the circuit court for the county in which the property is located; service of process fee, including fees incurred attempting to serve process; a title search fee, not to exceed \$250; if a second title search is conducted more than six months after the initial title search, a title search update fee, not to exceed \$75; publication fee charged by a newspaper of general circulation in the county in which the property is located; posting fee; postage and certified mail; substantial repair order fee, not to exceed the fee charged by the government agency issuing the certificate of substantial repair; and any court approved expense for stabilization or conversion of the property or in accordance with an action taken against the property by the county in which the property is located in accordance with the applicable building, fire, health, or safety codes.

Background: When a property is purchased at a tax sale, the purchaser must pay to 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 on the property. The property owner has the right to redeem the property within six months from the date of the 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.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Cecil County, Judiciary (Administrative Office of the Courts),
Property Tax Assessment Appeals Board, Department of Legislative Services

Fiscal Note History: First Reader - February 20, 2012
ncs/hlb

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