

Department of Legislative Services
Maryland General Assembly
2013 Session

FISCAL AND POLICY NOTE

House Bill 125
Ways and Means

(Delegate Stukes)

Budget and Taxation

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 up to \$1,200 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 up to \$1,200 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, 2013.

Fiscal Summary

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

Local Effect: The bill does not materially affect local government operations or finances.

Small Business Effect: Minimal.

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 up to \$1,300, if an affidavit of compliance has not been filed, or \$1,500 if the affidavit has been filed. The amount of reimbursable attorney's fees must be deemed reasonable for both the preparation and filing. The court may also approve, on a case-by-case basis, the reimbursement of other reasonable attorney's fees incurred and specifically required by the plaintiff or holder of a certificate of sale.

Finally, if the plaintiff or holder of a certificate of sale provides a signed affidavit attesting to the fact that at least one of following expenses was actually incurred, the plaintiff or holder of a certificate of sale may be reimbursed for (1) a filing fee charged by the appropriate county's circuit court; (2) a service of process fee, including any fees incurred attempting to serve process; (3) a title search fee of up to \$250; (4) a subsequent title search update fee within six months of up to \$75; (5) a publication fee charged by a newspaper of general circulation in the county in which the property is located; (6) posting fee; (7) postage and certified mail costs; (8) a substantial repair order fee, not to exceed the fee charged by the government agency issuing the certificate of substantial repair; and (9) any court-approved expense for property stabilization or conversion during the redemption period or in accordance with a county action taken against the property for a building, fire, health, or safety code violation.

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: HB 491 of 2012, a similar bill, was heard in the House Ways and Means Committee but received no further action.

Cross File: None.

Information Source(s): Harford, Montgomery, Talbot, and Wicomico counties; Baltimore City; State Department of Assessments and Taxation; Judiciary (Administrative Office of the Courts); Department of Legislative Services

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mm/kdm

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