

Department of Legislative Services
Maryland General Assembly
2018 Session

FISCAL AND POLICY NOTE
Third Reader

House Bill 1178
Ways and Means

(Delegate Lafferty)

Budget and Taxation

Property Tax - Liability for Payment of Tax on Leased Property

This bill specifies that a lien that is the result of unpaid property tax of the lessee of property that is owned by the federal, State, or local government does attach to any leasehold interest in any property within a specified development district, special taxing district, or a community development authority in Frederick County. This provision does not apply to any reversionary interest of the federal government, the State, a county, or a municipality, or an agency or instrumentality of the federal government, the State, a county, or a municipality.

Fiscal Summary

State Effect: None.

Local Effect: The bill does not alter the amount of unpaid taxes that may be collected by local governments. However, the bill does provide local governments with an additional mechanism by which to collect unpaid taxes in specified circumstances.

Small Business Effect: None.

Analysis

Current Law: Unless specifically exempted, an individual who leases government-owned property in connection with a for-profit business is subject to the property tax as though the individual is the owner of the property. If the individual fails to pay the property tax that is due, a lien does not attach to the property or to the interest of a holder in the property. Instead, the unpaid property tax becomes a personal debt of the holder that is recoverable by civil action in any court of competent jurisdiction.

Background: In general, a tax collector must sell, at an auction, not later than two years from the date the tax is in arrears, all property in the county on which the tax is in arrears. The time for the tax sale is established by local law. Failure of the collector to sell the property within the two-year period does not affect the validity or collectability of any tax, or the validity of any sale subsequently made. The requirement to sell property at auction not later than two years from the date the tax is in arrears does not apply in Baltimore City.

The tax collector sets specified terms for the auction and publishes public notice of the tax sale, including requirements for potential bidders.

When a property is purchased at a tax sale, the purchaser must pay to the tax collector any delinquent taxes, penalties, sale expenses, and a high-bid premium, except as otherwise specified. Except for agricultural property, when a bidder at a tax sale purchases a property in Baltimore City and Prince George's County under specified circumstances, the bidder must pay a high-bid premium that is the greater of 20% of the amount by which the highest bid exceeds the lien amount or 40% of the property's full cash value. The terms for payment of the purchase price and high-bid premiums, if any, are determined by the collector.

Generally, the property owner has the right to redeem the property within six months from the date of the tax sale by paying the total lien amount on the property, 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. Under most circumstances, if the right to foreclose is not exercised by the purchaser within two years, the certificate is void, and the purchaser is not entitled to a refund of any monies paid to the collector.

Local Fiscal Effect: The bill authorizes counties and municipalities to collect unpaid property taxes for property owned by government entities but leased to other entities if the property is located in a development district, special taxing district, or community development authority through use of the tax sale process. Previously, these unpaid property taxes did not attach as a lien to the property, and a civil proceeding was required for collection of unpaid taxes.

The bill provides local governments with an additional mechanism to collect unpaid taxes. The bill will not significantly alter the amount of unpaid taxes collected by local governments.

Additional Information

Prior Introductions: None.

Cross File: SB 925 (Senator Kasemeyer) - Budget and Taxation.

Information Source(s): Charles, Frederick, and Montgomery counties; cities of Frederick and Havre de Grace; Judiciary (Administrative Office of the Courts); Department of Legislative Services

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