

Department of Legislative Services
 Maryland General Assembly
 2019 Session

FISCAL AND POLICY NOTE
Enrolled - Revised

House Bill 1209
 Ways and Means

(Delegate Kaiser, *et al.*)

Budget and Taxation

Property Tax - Collection of Unpaid Taxes and Tax Sales

This bill (1) establishes the State Tax Sale Ombudsman within the State Department of Assessments and Taxation (SDAT); (2) authorizes counties and municipal corporations to withhold from tax sale dwellings of homeowners who are low-income, over 65 years old, or are disabled, in accordance with criteria established by the local jurisdiction; (3) expands the required contents of specified notices to include information about the tax sale process and the State Tax Sale Ombudsman; and (4) establishes various tax sale data collection and reporting requirements. The bill authorizes the Court of Appeals to adopt rules to carry out provisions of the bill related to judicial in rem tax foreclosures and specifies that the bill’s provisions related to judicial in rem tax foreclosures are only applicable to liens for unpaid taxes that attach to real property on or after July 1, 2020. **The bill takes effect January 1, 2020.**

Fiscal Summary

State Effect: General fund expenditures increase by \$212,300 in FY 2020 for SDAT to establish the State Tax Sale Ombudsman and meet the bill’s requirements. To the extent programming changes are required to assist the circuit courts to distribute funds deposited in escrow, general fund expenditures may increase.

(in dollars)	FY 2020	FY 2021	FY 2022	FY 2023	FY 2024
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	212,300	375,900	387,700	400,300	413,300
Net Effect	(\$212,300)	(\$375,900)	(\$387,700)	(\$400,300)	(\$413,300)

Note: () = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease

Local Effect: Because the bill only authorizes local jurisdictions to withhold specified properties from tax sale or establish a county tax sale ombudsman, the bill is not anticipated to have a material impact on local government finances or operations. Changes to the required notices can be accomplished with existing resources.

Small Business Effect: None.

Analysis

Bill Summary: “ As specified in § 14-801 of the Tax-Property Article, “tax” means any tax, or charge of any kind due to the State or any of its political subdivisions or to any other taxing agency, that by law is a lien against the real property on which it is imposed or assessed. Tax includes interest, penalties, and service charges. “Homeowner” means an individual who has a legal interest in a dwelling or who is an active member of an agricultural ownership entity that has a legal interest in a dwelling, as specified in § 9-105 of the Tax-Property Article.

Tax Sale Ombudsman

The State Tax Sale Ombudsman (1) must be appointed by the Director of Assessments and Taxation; (2) must be in the management service of the State personnel management system; and (3) may be removed from office only after a hearing before the department and a finding of incompetency or other good cause. The ombudsman must:

- assist eligible homeowners to understand the process for collection of delinquent taxes;
- actively assist eligible homeowners to apply for tax credits, discount programs, and other public benefits;
- refer eligible homeowners to legal services, housing counseling, and other social services;
- maintain a website that functions as a clearinghouse for information concerning (1) the process for collection of delinquent taxes; and (2) services and programs that are available to assist eligible homeowners to pay delinquent taxes and improve their financial situation; and
- maintain a toll-free telephone number that an eligible homeowner may call to obtain individualized personal assistance with delinquent taxes.

A county may, by law, establish a county tax sale ombudsman to fulfill all the responsibilities of the State Tax Sale Ombudsman with respect to eligible homeowners within the county.

Notice of Sale

The bill expands the contents that must be in a specified notice of sale to require that the mailing contain a separate insert that includes a clear, concise, and easily understandable summary of the tax sale process and a simple explanation of the steps that a property owner is required to take to retain the property at each stage in the process. The insert must also include a statement that the State Tax Sale Ombudsman or the county tax sale ombudsman, if applicable, is available to answer questions about the tax sale process and assist homeowners with applying for tax credits and other benefits that may help homeowners to pay delinquent taxes and retain their homes, and include specified contact information.

Tax Sale Reports

SDAT must conduct an annual survey of each county and any municipal corporation that conducts a tax sale by a collector to obtain specified data. SDAT must analyze and summarize the information collected through the survey annually in a report and (1) publish the report on its website and (2) on or before December 31 each year, submit the report to specified committees of the General Assembly.

Current Law:

Sale of Property to Enforce a Lien for Water and Sewer Service in Baltimore City

Chapter 714 of 2018 (1) requires the tax collector in Baltimore City to withhold residential property from sale if the taxes on the property consist only of a lien for unpaid water and sewer charges and (2) prohibits the Mayor and City Council of Baltimore City from selling a property to enforce a lien for unpaid charges for water and sewer service, unless the property is not a residential property, the lien is for at least \$350, and the unpaid charges are at least three quarters in arrears. These provisions terminate December 31, 2019.

Absent the effects of Chapter 714, in Baltimore City, the mayor and city council may not sell a property solely to enforce a lien for unpaid charges for water and sewer service unless (1) the lien is for at least \$350 for a property other than owner-occupied, residential property or (2) the lien is for at least \$750, and the unpaid charges for water and sewer service are at least three quarters in arrears for an owner-occupied, residential property.

The mayor and city council may enforce a lien on a property other than owner-occupied, residential property for unpaid water and sewer service that is less than \$350 if the property is being sold to enforce another lien. Similarly, the mayor and city council may enforce a lien on owner-occupied, residential property for unpaid water and sewer service that is less than \$750 if the property is being sold to enforce another lien.

Sale of Property to Enforce a Lien for Unpaid Sanitary Commission Benefit Assessments

Kent County: The governing body of Kent County may authorize by local law the sale of real property to enforce a lien based on unpaid sanitary commission assessments or other charges. The procedures for establishment, notification, and enforcement of a lien must conform to specified standards in the Code of Kent County.

Allegany, Dorchester, and Somerset Counties: In Allegany, Dorchester, and Somerset counties, the sanitary commission may request the county tax collector to conduct a sale of real property to enforce a lien for unpaid sanitary commission benefit assessments or other charges. The sale must occur at a county tax sale using the same procedures governing the sale of property for delinquent property taxes.

Notice of Sale

Generally, at least 30 days before any property is first advertised for sale under the subtitle of the Tax-Property Article that addresses collection, the tax collector must mail to the person who last appears as owner of the property on the collector's tax roll a statement giving the name of the person, and the amounts of taxes due. The statement must include specified language explaining that the property will be sold at tax sale to satisfy outstanding taxes on a specified date. The mailing must include a separate insert that informs the homeowner of specified counseling programs, tax credits, and other services that may be available.

Background: For general information about the tax sale process, see the **Appendix – Tax Sale Process**.

The tax sale system in Maryland, like many states throughout the country, is designed for local counties to collect delinquent real property taxes and other unpaid charges owed to the counties (such as water or environmental liens), all of which are liens against the real property.

Each county in Maryland conducts an annual tax sale, whereby the tax liens are offered to the public at auction. Generally, the highest bidder in the auction pays the total amount of the tax liens to the county and receives a tax sale certificate from the county which gives the bidder the right to obtain ownership of the property by filing a tax sale foreclosure lawsuit.

Every owner of record of real property must pay real estate property taxes on that property, and any other fees that become liens on the property if unpaid. Real estate property taxes and fees on rental properties are the responsibility of the property owner. If there is a mortgage on the property, it is the responsibility of the property owner to send or deliver

the real estate property tax bill to the bank, building association, or other lending institution. Many times however, mortgage companies pay the real estate property tax bills. Real estate property taxes are due and payable every year even if there is no mortgage due on the property.

Generally, once properties are deemed delinquent, and the owner does not pay within a certain timeframe, the property enters tax sale. Investors purchase the liens, allowing the jurisdiction to collect on those liens and receive the outstanding amounts all at one time. The tax sale purchaser has two years to redeem the lien or foreclose on the property. Homeowners in this situation can redeem the lien by paying the purchaser the amount of the lien, plus up to 18% interest in some jurisdictions, plus various fees outlined in the current statute. In the case of vacant property liens, many are not sold at tax sale and, therefore, the liens continue to accumulate and the properties continue to be a nuisance on the community.

State Expenditures: General fund expenditures increase for SDAT by \$212,301 in fiscal 2020, which accounts for the bill’s January 1, 2020 effective date. This estimate reflects the cost of hiring one State Tax Sale Ombudsman and four regional tax sale representatives to establish and manage the ombudsman program required under the bill, actively assist eligible homeowners as specified, maintain the required website and toll-free number, conduct the annual survey, submit the required report, and develop specified expertise in (1) the tax sale processes of each county; (2) available credits and discount programs; and (3) available legal services. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses including additional communications costs associated with the toll-free number and website.

Positions	5
Salaries and Fringe Benefits	\$176,288
One-time Start-up Expenses	24,450
Ongoing Communications Costs	10,000
Ongoing Operating Expenses	<u>1,563</u>
Total FY 2020 State Expenditures	\$212,301

Future year expenditures reflect full salaries with annual increases and employee turnover and ongoing operating expenses. Future year communications costs total \$20,000 annually.

SDAT advises that special funds may be available to help cover costs. According to SDAT, total expenditures could be paid for using general funds (50%) and local-county cost reimbursement special funds (50%). The local-county cost reimbursement fund is used to fund activities that impact counties and is capitalized through an assessment collected by SDAT from the counties on a quarterly basis. The Department of Legislative Services advises that it is unclear as to whether these special funds may be used for the Tax Sale

Ombudsman program, and that general fund support may be necessary for all expenditures. Accordingly, this fiscal analysis assumes all expenditures are general funds.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Baltimore City; Montgomery and Worcester counties; City of Laurel; Maryland Municipal League; Judiciary (Administrative Office of the Courts); Department of Labor, Licensing, and Regulation; State Department of Assessments and Taxation; Department of Legislative Services

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Appendix – Tax Sale Process

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. However, this requirement does not apply in Baltimore City, and statute is silent as to any timeline for the sale. 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 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.