

Department of Legislative Services
Maryland General Assembly
2022 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 968 (Senator Edwards)
Budget and Taxation

Tax Sales - Foreclosure Actions - Assignment of Certificates of Sale

This bill establishes procedures that allow for the governing body of a county or municipality to petition the court to assign a certificate of sale (for a property purchased at a tax sale) to the governing body of the county or municipality in specified instances where a proceeding to foreclose the right of redemption in the property has been ongoing or inactive for a period of time. The bill applies retroactively and must be applied to and interpreted to affect any tax sale actions foreclosing the right of redemption that are pending when the bill is enacted. **The bill takes effect June 1, 2022.**

Fiscal Summary

State Effect: The bill is not anticipated to materially affect State operations or finances.

Local Effect: Local government finances may be affected, as discussed below.

Small Business Effect: Minimal.

Analysis

Bill Summary: The bill authorizes the governing body of a county or municipality to file a petition with the court requesting that a certificate of sale for a property sold in a tax sale be assigned to the governing body of the county or municipality if (1) an action to foreclose the right of redemption has been initiated by the holder of the certificate of sale and (2) the foreclosure action is subject to dismissal for a lack of prosecution under Maryland Rule 2-507 or a final order has not been entered in the foreclosure action within 18 months after the filing of the complaint, whichever is earlier.

On the filing of the petition, the court must issue a summons to require the holder of the certificate of sale to show good cause as to why the court should not grant the petition. If the holder of the certificate of sale fails to respond to the petition in accordance with the Maryland Rules, the court must grant the petition. Upon the petition being granted, the holder of the certificate of sale forfeits any rights under the certificate of sale and the amount paid to acquire the certificate of sale.

Current Law: Generally, following a tax sale, the property owner has the right to redeem the property within six months from the date of the tax sale (and beyond the six-month period if the right of redemption has not yet been foreclosed by a court decree) by paying the total lien amount on the property, delinquent taxes, penalties, interest, and certain expenses of the purchaser. If the owner redeems the property, the purchaser (holder of the certificate of sale) is refunded the amounts paid to the tax collector plus the interest and expenses. If the owner does not redeem the property, after the six-month period has passed, the purchaser may file a complaint in circuit court seeking a judgment that forecloses the right of redemption. Under most circumstances, if a complaint is not filed by the purchaser within two years, the certificate of sale is void, and the purchaser is not entitled to a refund of any monies paid to the collector.

Statute establishes procedures for an action to foreclose the right of redemption, which include the court establishing a date (by court order), not less than 60 days from the date of the order, by which a judgment foreclosing the right of redemption will be entered if persons with an interest in the property fail to appear, answer, or redeem the property. A judgment foreclosing the right of redemption vests title to the property in the plaintiff (purchaser), who must pay the balance of the purchase price, plus all taxes, interest, and penalties on the property that accrue after the tax sale, to the collector.

Any certificate of sale executed and delivered by the collector to the purchaser is assignable, and an assignment of the certificate of sale vests in the assignee, or the legal representative of the assignee, all the rights, title, and interest of the original purchaser.

For more information regarding tax sales, see the **Appendix – Tax Sale Process**.

Generally, under Maryland Rule 2-507, an action is subject to dismissal for lack of prosecution at the expiration of one year from the last docket entry.

Local Fiscal Effect: If counties or municipalities petition courts under the bill and are assigned certificates of sale, local government finances may be affected by (1) any costs associated with those assignments and/or (2) future revenues, to the extent the assignments and/or subsequent transfers of those properties allow for future tax or other revenue collection from the properties that otherwise does not occur. The extent of any impact cannot be reliably estimated.

Additional Information

Prior Introductions: None.

Designated Cross File: None.

Information Source(s): Baltimore, Carroll, Harford, Montgomery, Queen Anne's, and St. Mary's counties; Maryland Municipal League; Judiciary (Administrative Office of the Courts); Department of Housing and Community Development; Office of Administrative Hearings; 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, if any. 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 after the date of the tax sale (and beyond the six-month period if the right of redemption has not yet been foreclosed by a court decree) by paying the total lien amount on the property, delinquent taxes, penalties, interest, and certain expenses of the purchaser. However, for owner-occupied residential property in Baltimore City, any taxes, interest, and penalties accruing after the date of the tax sale may not be included in the redemption payment. Chapter 108 of 2021 altered the amount that a person must pay to a local tax collector to redeem a property sold at a tax sale in the State (other than an owner-occupied residential property in Baltimore City) by requiring that only *delinquent* taxes accruing after the date of the tax sale be paid, instead of any taxes accruing after the date of the tax sale.

If the owner redeems the property, the purchaser is refunded the amounts paid to the collector plus the interest and expenses. If the owner does not redeem the property, the purchaser has the right to foreclose the right of redemption after the six-month period has passed. Under most circumstances, if the right to foreclose is not exercised by the purchaser within two years, the certificate of sale is void, and the purchaser is not entitled to a refund of any monies paid to the collector.

Chapter 440 of 2020 requires the State Department of Assessments and Taxation (SDAT) to issue a report each year that includes an analysis and summary of the information collected through an annual tax sale survey. Each county must provide SDAT all specified information on the form that SDAT provides. For more information regarding tax sales in the State – see the [2021 Annual Maryland Tax Sale Report](#).