Department of Legislative Services

Maryland General Assembly
2022 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 509 (Delegate Rosenberg, *et al.*)
Ways and Means

Baltimore City - Tax Sales - Nonprofit Entity-Owned Real Property

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This bill alters the list of properties that must be withheld from a tax sale in Baltimore City to include real property that is owned by a nonprofit entity that is exempt from taxation under specified provisions (applicable to property used for a charitable or educational purpose) and collects less than $750,000 in annual donations exclusive of government funds. The bill also alters the list of properties that are prohibited from being sold at a tax sale to enforce a lien for unpaid charges for water and sewer service, to include real property that is owned by a nonprofit entity that is exempt from taxation under specified provisions (applicable to property used for a charitable or educational purpose) and collects less than $750,000 in annual donations exclusive of government funds. **The bill takes effect July 1, 2022.**

Fiscal Summary

State Effect: Annuity Bond Fund (ABF) revenues are expected to decrease, beginning in FY 2023, as discussed below.

Local Effect: Baltimore City revenues are expected to decrease, potentially significantly, and expenditures may increase, beginning in FY 2023, as discussed below. **This bill imposes a mandate on a unit of local government.**

Small Business Effect: Potential meaningful.

Analysis

Current Law:

Properties Withheld From a Tax Sale in Baltimore City

In Baltimore City, owner-occupied residential property must be withheld from a tax sale when the total taxes on the property, including interest and penalties, amount to less than $750. Additionally, residential property, and property exempt from property tax because it is owned by a religious group or organization and used exclusively for public religious worship or a parsonage or convent, must be withheld from sale if the taxes on the property consist only of a lien for unpaid charges for water and sewer service.

Prohibition on Sale for Unpaid Water and Sewer Lien

The Mayor and City Council of Baltimore City are prohibited from selling a property at a tax sale to enforce a lien for unpaid charges for water and sewer service unless (1) the lien is for at least $350; (2) the property is not a residential property, or real property that is exempt from property tax because it is owned by a religious group or organization and used exclusively for public religious worship or a parsonage or convent; and (3) the unpaid charges are at least three quarters in arrears (approximately 270 days).

The mayor and city council may enforce a lien, on property other than residential property or real property that is exempt from property tax because it is owned by a religious group or organization and used exclusively for public religious worship or a parsonage or convent, for unpaid water and sewer service that is less than $350 if the property is being sold to enforce another lien.

Tax Sale Process

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

Property Tax Exemption – Charitable or Educational Purpose

Property is not subject to property tax if it:

- is necessary for and used exclusively for a charitable or educational purpose to promote the general welfare of the people of the State, including an activity or an athletic program of an educational institution; and
- is owned by (1) a nonprofit hospital; (2) a nonprofit charitable, fraternal, educational, or literary organization; (3) a corporation, limited liability company, or trustee that holds the property for the sole benefit of an organization that qualifies for an exemption; or (4) a nonprofit housing corporation.

State/Local Revenues: ABF revenues (State property tax revenues) and Baltimore City revenues are expected to decrease, beginning in fiscal 2023, due to the bill's restrictions on the city's ability to sell properties at a tax sale to recover delinquent taxes, water and sewer service charges, or other charges. Baltimore City indicates that the bill reduces or eliminates the incentive for nonprofit entities covered by the bill to pay property taxes, water and sewer charges, or other charges that would otherwise be recoverable through a tax sale (the city's primary enforcement mechanism for payment of property tax and other charges). The city indicates that properties affected by the bill can still be subject to property tax in some cases, if they are only partially exempt from property tax because the use of a portion of the property does not qualify for the exemption.

For context, Baltimore City indicates that it receives $2.9 million annually in property taxes from among the 2,855 properties in the city owned by nonprofits (not limited to those that collect less than $750,000 in annual donations exclusive of government funds). State property tax revenues from those properties should be equivalent to a small fraction of the $2.9 million. The city also estimates, based on an assumed average monthly charge of $300 per property, that it collects just over $10 million in water and sewer service revenues from those 2,855 properties owned by nonprofits (not limited to those that collect less than $750,000 in annual donations exclusive of government funds). The city indicates that there may also be additional revenues collected from those properties from other charges (that are recoverable through a tax sale if not paid). Depending on the extent to which these revenues are generated from nonprofit entities that collect less than $750,000 in annual donations and the extent to which the exemption of these properties from tax sale reduces the amount of revenues received, ABF revenues decrease, and Baltimore City revenues decrease by a potentially significant amount.

Debt service payments on the State's general obligation bonds are paid from the ABF. Revenue sources for the fund include State property taxes; premium from bond sales; and repayments from certain State agencies, subdivisions, and private organizations.

Local Expenditures: Baltimore City expenditures may increase for additional staff to administer an application process for properties to qualify for the exemption from a tax sale under the bill, showing in the application that the nonprofit entity collects less than $750,000 in annual donations exclusive of government funds. The city indicates it may need two additional staff, at a cost of $65,000 each, per year.

Small Business Effect: Small businesses that would otherwise generate revenue from sales of properties, at tax sales that no longer occur under the bill, may be meaningfully affected.

Additional Information

Prior Introductions: None.

Designated Cross File: None.

Information Source(s): Baltimore City; Judiciary (Administrative Office of the Courts); State Department of Assessments and Taxation; Department of Legislative Services

Fiscal Note History: First Reader - February 13, 2022
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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.