

Department of Legislative Services
Maryland General Assembly
2022 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 979
Ways and Means

(Delegates Kaiser and Atterbeary)

Tax Sales - Homeowner Protection Program - Automatic Enrollment and Funding

This bill requires the State Department of Assessments and Taxation (SDAT) to establish, by regulation, a process to automatically enroll in the Homeowner Protection Program (HPP) specified homeowners whose dwellings are subject to being sold at a tax sale. The bill also increases the mandated appropriation to the Homeowner Protection Fund by \$20.0 million in fiscal 2024. **The bill takes effect June 1, 2023.**

Fiscal Summary

State Effect: General fund expenditures and special fund revenues increase by \$20.0 million in FY 2024 and by indeterminate amounts in future years. Special fund expenditures increase by indeterminate amounts in FY 2024 and future years. **This bill increases a mandated appropriation for FY 2024.**

Local Effect: Minimal.

Small Business Effect: Potential meaningful.

Analysis

Bill Summary: The bill requires SDAT to establish, by regulation, a process to automatically enroll in HPP each homeowner whose dwelling is subject to being sold at a tax sale and who meets the criteria of (1) residing in a dwelling that has an assessed value of \$300,000 or less and (2) having a combined income of \$60,000 or less. Enrollment into the program is effective on a date determined by SDAT that is after the homeowner's

dwelling is advertised for sale but before the homeowner's dwelling is offered for sale at a tax sale.

The bill repeals provisions relating to (1) homeowners needing to apply to enroll in the program and (2) SDAT's establishment of additional eligibility criteria and enrollment priorities for the program.

The bill increases the mandated appropriation to the Homeowner Protection Fund by \$20.0 million in fiscal 2024 and repeals a requirement that a limit on the number of homeowners enrolled in the program be established for each fiscal year based on the amount of available funding for the program in the Homeowner Protection Fund.

Current Law:

Homeowner Protection Program

Chapter 382 of 2021 established HPP administered by SDAT's tax sale ombudsman. The purpose of the program is to divert vulnerable homeowners from the private tax lien sale process into an alternative program with the primary purpose of (1) minimizing tax collection costs to homeowners; (2) assisting homeowners to pay their taxes; and (3) allowing homeowners to remain in their homes.

A tax collector must withhold from sale a dwelling of a homeowner who is enrolled in the program and must include in the notice sent to a homeowner, at least 30 days before a property is first advertised for sale, information on the availability of the program.

Eligible homeowners must (1) reside in a dwelling that has an assessed value of \$300,000 or less and (2) have a combined income of \$60,000 or less. SDAT may establish additional eligibility criteria for enrollment in the program. SDAT must establish a process to (1) give priority for enrollment in the program to homeowners who are at least 60 years old or currently receiving disability benefits from the federal Social Security Disability Insurance Program or the federal Supplemental Security Income Program and (2) ensure that homeowners are enrolled in the program who reside in each county in the State.

By June 30 of each year, SDAT must determine the maximum number of homeowners who may be enrolled in the program in the next succeeding fiscal year based on the amount of funding available for the program in the Homeowner Protection Fund. The number of homeowners enrolled in the program in a fiscal year may not exceed the maximum number determined by the department. County or municipal governments may not be required to pay any costs of the program.

If a homeowner is first enrolled in the program before the lien on the homeowner's dwelling is sold at tax sale (1) SDAT must pay the county or municipality the full amount of the tax lien and assume exclusive responsibility for collecting the outstanding tax debt and (2) the county or municipality is required to withhold the dwelling from the next tax sale.

If a homeowner is first enrolled in the program after the lien on the homeowner's dwelling is sold at tax sale, SDAT must pay the holder of the tax sale certificate the full amount required to redeem the certificate, including interest and expenses of the certificate holder, and assume exclusive responsibility for collecting the outstanding tax debt.

After a homeowner is enrolled in the program (1) SDAT must pay the county or municipality the full amount of any tax lien that subsequently becomes due on the dwelling during the entire period that the homeowner is enrolled in the program and assume exclusive responsibility for collecting the outstanding tax debt and (2) the county or municipality is required to withhold the dwelling from tax sale during the entire period that the homeowner is enrolled in the program. After SDAT purchases a tax lien on the dwelling of a homeowner, the homeowner's outstanding tax debt (1) is owed to the department and (2) is not owed to any other person.

The tax sale ombudsman must cancel the enrollment of a homeowner in the program and send specified notice of the cancellation to the homeowner, if (1) the homeowner submits a request to withdraw from the program; (2) the homeowner submitted false information in the homeowner's application for enrollment in the program; or (3) the ombudsman determines that the homeowner is not acting in good faith to pay the taxes due.

If a homeowner's enrollment in the program is canceled, the department must retain a lien on the homeowner's dwelling for the taxes owed to the department but may not initiate any collection efforts or otherwise act to enforce the lien until ownership of the dwelling is transferred.

A homeowner's enrollment in the program ends on the earliest of (1) the date the homeowner pays the full amount of the taxes owed to SDAT; (2) the date that is three years after the date the homeowner first enrolled in the program; or (3) the date the homeowner's enrollment in the program is canceled.

Chapter 382 specifies the duties of the tax sale ombudsman in administering HPP, including advertising and raising awareness of the program and assisting those enrolled in the program. Information on implementation of the program and the level of enrollment in the program, and recommendations for improvements in the administration of the program, must be included in an existing report published by SDAT each year on tax sales and the ombudsman's activities. The ombudsman may forgive all or part of the tax debt owed to

the department by a homeowner enrolled in the program who faces particular hardship or has a special need. SDAT is authorized to charge an interest rate of up to 6% on unpaid taxes owed to the department. The ombudsman may set a lower interest rate or waive interest entirely at the ombudsman's discretion.

SDAT is authorized to conduct an *in rem* foreclosure and sale of a dwelling of a homeowner formerly enrolled in the program. SDAT may foreclose on and sell a dwelling of a homeowner formerly enrolled in the program only if (1) at least three years have elapsed since the homeowner first enrolled in the program and (2) all reasonable efforts to assist the homeowner to pay the taxes owed to the department have failed. Chapter 382 specifies the mechanisms and procedures for conducting an *in rem* foreclosure and sale of a dwelling at public auction.

Homeowner Protection Fund

Chapter 382 also established the Homeowner Protection Fund as a special, nonlapsing fund to finance the program, administered by SDAT. The fund consists of (1) tax and interest payments made to the department by homeowners enrolled in the program; (2) money appropriated in the State budget to the fund; (3) interest earnings; and (4) any other money from any other source accepted for the benefit of the fund. For each of fiscal 2023 through 2025, the Governor is required to include an appropriation of \$750,000 for the fund in the annual budget bill. The fund may be used only for any expenses associated with the program. The fund may not be used for any expenses of the tax sale ombudsman's office that are not directly related to the program. Expenditures from the fund may be made only in accordance with the State budget, and the fund is the exclusive source of funding for the program.

Tax Sales

Subject to certain exceptions, State law requires a tax collector to sell, through the tax sale process established in statute, all property in the county on which tax is unpaid, at the time required by local law, but in no case, except in Baltimore City, later than two years from the date the tax is in arrears.

However, State law includes various circumstances in which a property may or is required to be withheld from sale. Those circumstances include, among others:

- A tax collector is permitted to withhold from sale any property, when the total taxes owed on a property, including interest and penalties, amount to less than \$250 in any one year.

- Pursuant to Chapter 75 of 2021, during the period from June 1, 2021, through June 30, 2023, the governing body of a county or municipality is permitted to withhold from sale owner-occupied residential property.
- A tax collector is permitted to withhold from sale any residential property when the total taxes owed on a property, including interest and penalties, amount to less than \$750.
- The tax collector, in Baltimore City, is required to withhold from sale owner-occupied residential property when the total taxes on the property, including interest and penalties, amount to less than \$750. Additionally, in Baltimore City, the tax collector is required to withhold from sale a residential property or a property owned by a religious group or organization that is actually and exclusively used for public religious worship, a parsonage or convent, or educational purposes, if the taxes consist only of a lien for unpaid water and sewer charges.
- A governing body of a county or municipality may withhold from sale a dwelling owned by a homeowner who is low income, at least 65 years old, or disabled if the homeowner meets eligibility criteria established by the county or municipality.

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

State Fiscal Effect: General fund expenditures increase by \$20.0 million in fiscal 2024 because of the increased mandated appropriation under the bill. General fund expenditures also increase by an indeterminate amount in future years due to the bill’s automatic enrollment requirement and repeal of the requirement that a limit on the number of homeowners enrolled in the program be established for each fiscal year based on the amount of available funding for the program in the Homeowner Protection Fund.

For context, the [2021 Annual Maryland Tax Sale Report](#) provides the number of liens sold and the average lien amount for owner-occupied properties in 2020 (a year in which only 11 counties held tax sales due to the pandemic), in Baltimore City, Baltimore County, and Prince George’s County. Those jurisdictions accounted for 72% of the liens sold on owner-occupied properties among the 11 counties that held tax sales in 2020. Using the number of liens sold and the average lien amounts, the total dollar amount of the liens sold in the three jurisdictions on owner-occupied properties was \$10.5 million. Data is not available to determine how many of those owner-occupied properties would have met the criteria in the bill of being owned by homeowners (1) residing in a dwelling that has an assessed value of \$300,000 or less and (2) having a combined income of \$60,000 or less.

Special fund revenues for the Homeowner Protection Fund increase by \$20.0 million in fiscal 2024 and increase by indeterminate amounts in future years, due to the fund's receipt of general fund appropriations mentioned above and additional tax and interest payments by homeowners enrolled in the program and interest earnings.

Special fund expenditures increase by an indeterminate amount in fiscal 2024, and by indeterminate amounts in future years, dependent on the level of enrollment in the program. Expenditures reflect costs of administering the program, including administrative expenses and payment/purchases of enrollees' tax liens.

SDAT advises that the department does not have access to information on homeowners' income without the homeowner providing the information, which may limit the department's ability to enroll homeowners in the program, and, as a result, the level of expenditures under the program.

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): Judiciary (Administrative Office of the Courts); Department of Budget and Management; 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, 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](#)