

HOUSE BILL 729

N1, D3

3lr1306
CF SB 277

By: **Delegates Grossman, Buckel, Henson, and Hinebaugh**

Introduced and read first time: February 8, 2023

Assigned to: Judiciary

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 24, 2023

CHAPTER _____

1 AN ACT concerning

2 **Real Property – Sheriff’s Sales – ~~Notice, Procedures, and Subordinate Interests~~**

3 FOR the purpose of ~~requiring a judgment creditor to provide certain notice to certain~~
4 ~~persons of the time, place, and terms of the sale of any real property under execution~~
5 ~~before the property can be sold and to file a certain affidavit; establishing that a~~
6 ~~sheriff’s sale of real property extinguishes subordinate liens on the land being sold~~
7 ~~under certain circumstances; authorizing a sheriff at the time of levy for real~~
8 ~~property to use the assessment record in lieu of an appraisal of the property;~~
9 ~~providing that certain provisions of this Act do not impair certain liens on land;~~
10 authorizing the Judiciary to transfer up to a certain amount of a General Fund
11 appropriation to a certain special fund; and generally relating to the enforcement of
12 liens and the sale of real property.

13 BY repealing and reenacting, with amendments,
14 Article – Courts and Judicial Proceedings
15 Section 11–502, 11–504(c), and 11–507
16 Annotated Code of Maryland
17 (2020 Replacement Volume and 2022 Supplement)

18 BY repealing and reenacting, without amendments,
19 Article – Courts and Judicial Proceedings
20 Section 11–504(a) and (b)
21 Annotated Code of Maryland
22 (2020 Replacement Volume and 2022 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
That the Laws of Maryland read as follows:

Article – Courts and Judicial Proceedings

11–502.

(a) A sheriff shall give notice of the time, place, and terms of the sale of any property under execution before the property can be sold.

(b) In the case of a sale of an interest in property, the notice shall be posted on the courthouse door or on a bulletin board in the immediate vicinity of the door of the courthouse and printed in a newspaper, published in the county where the property is located at least:

(1) Ten days before the sale of personal property; or

(2) 20 days before the sale of real property.

(c) If the sheriff gives notice by publication in a newspaper, he may recover the costs of publication from the defendant. If the defendant is unable to pay the costs, the sheriff may recover the costs of publication from the plaintiff.

~~(D) IN ADDITION TO THE NOTICE REQUIREMENT UNDER SUBSECTION (A) OF THIS SECTION, AT LEAST 20 DAYS BEFORE THE SALE OF REAL PROPERTY UNDER EXECUTION, THE JUDGMENT CREDITOR SHALL:~~

~~(1) SEND NOTICE OF THE TIME, PLACE, AND TERMS OF THE SALE BY CERTIFIED MAIL AND FIRST CLASS MAIL TO:~~

~~(I) THE RECORD OWNER OF THE PROPERTY;~~

~~(II) THE HOLDER OF ANY SUBORDINATE MORTGAGE, DEED OF TRUST, OR OTHER SUBORDINATE INTEREST, INCLUDING A JUDGMENT; AND~~

~~(III) ANY CONDOMINIUM ASSOCIATION OR HOMEOWNERS ASSOCIATION THAT, AT LEAST 20 DAYS BEFORE THE DATE OF THE PROPOSED SALE, HAS RECORDED A STATEMENT OF LIEN AGAINST THE PROPERTY UNDER THE MARYLAND CONTRACT LIEN ACT; AND~~

~~(2) SEND NOTICE OF THE TIME, PLACE, AND TERMS OF THE SALE BY FIRST CLASS MAIL TO ALL OCCUPANTS AT THE ADDRESS OF THE PROPERTY.~~

~~(E) (1) THE MAILINGS REQUIRED UNDER SUBSECTION (D) OF THIS SECTION SHALL BE SENT TO THE LAST KNOWN ADDRESS OF EACH PERSON, INCLUDING TO THE LAST ADDRESS REASONABLY ASCERTAINABLE FROM A~~

~~DOCUMENT RECORDED, INDEXED, AND AVAILABLE FOR PUBLIC INSPECTION AT THE TIME OF THE MAILING.~~

~~(2) IN THE CASE OF A SUBORDINATE MORTGAGE OR DEED OF TRUST, THE NOTICE SHALL BE SENT TO THE LAST KNOWN HOLDER OF THE MORTGAGE, THE LAST KNOWN BENEFICIARY OF A DEED OF TRUST, OR A TRUSTEE OR BENEFICIARY OF A DEED OF TRUST REASONABLY ASCERTAINABLE ON A REVIEW OF THE LAND RECORDS FOR THE APPLICABLE COUNTY.~~

~~(F) THE JUDGMENT CREDITOR SHALL FILE AN AFFIDAVIT WITH THE COURT:~~

~~(1) STATING THAT THE INDIVIDUAL HAS COMPLIED WITH THE NOTICE REQUIREMENTS UNDER SUBSECTION (D) OF THIS SECTION; OR~~

~~(2) (i) STATING THAT THE IDENTITY OR ADDRESS OF THE BORROWER, RECORD OWNER, OR HOLDER OF A SUBORDINATE INTEREST IS NOT REASONABLY ASCERTAINABLE; AND~~

~~(ii) DESCRIBING THE REASONABLE, GOOD FAITH EFFORTS THAT THE INDIVIDUAL MADE TO ASCERTAIN THE IDENTITY OR ADDRESS OF THE BORROWER, RECORD OWNER, OR HOLDER OF A SUBORDINATE INTEREST.~~

~~(G) IF THE REQUIREMENTS OF THIS SECTION ARE SATISFIED AND THE JUDGMENT CREDITOR HAS COMPLIED WITH ANY APPLICABLE RULES ADOPTED BY THE SUPREME COURT OF MARYLAND, A SHERIFF'S SALE OF REAL PROPERTY EXTINGUISHES ANY SUBORDINATE LIEN OR INTEREST ON THE LAND SUBJECT TO THE SALE.~~

11-504.

(a) In this section, "value" means fair market value as of the date upon which the execution or other judicial process becomes effective against the property of the debtor, or the date of filing the petition under the federal Bankruptcy Code.

(b) The following items are exempt from execution on a judgment:

(1) Wearing apparel, books, tools, instruments, or appliances, in an amount not to exceed \$5,000 in value necessary for the practice of any trade or profession except those kept for sale, lease, or barter.

(2) Except as provided in subsection (i) of this section, money payable in the event of sickness, accident, injury, or death of any person, including compensation for loss of future earnings. This exemption includes but is not limited to money payable on account of judgments, arbitrations, compromises, insurance, benefits, compensation, and

1 relief. Disability income benefits are not exempt if the judgment is for necessities contracted
2 for after the disability is incurred.

3 (3) Professionally prescribed health aids for the debtor or any dependent of
4 the debtor.

5 (4) The debtor's interest, not to exceed \$1,000 in value, in household
6 furnishings, household goods, wearing apparel, appliances, books, animals kept as pets,
7 and other items that are held primarily for the personal, family, or household use of the
8 debtor or any dependent of the debtor.

9 (5) Cash or property of any kind equivalent in value to \$6,000 is exempt, if
10 within 30 days from the date of the attachment or the levy by the sheriff, the debtor elects
11 to exempt cash or selected items of property in an amount not to exceed a cumulative value
12 of \$6,000.

13 (6) Money payable or paid in accordance with an agreement or court order
14 for child support.

15 (7) Money payable or paid in accordance with an agreement or court order
16 for alimony to the same extent that wages are exempt from attachment under §
17 15-601.1(b)(1)(ii) or (2)(i) of the Commercial Law Article.

18 (8) The debtor's beneficial interest in any trust property that is immune
19 from the claims of the debtor's creditors under § 14.5-511 of the Estates and Trusts Article.

20 (9) With respect to claims by a separate creditor of a husband or wife, trust
21 property that is immune from the claims of the separate creditors of the husband or wife
22 under § 14.5-511 of the Estates and Trusts Article.

23 (c) (1) ~~(1) [In] EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS~~
24 ~~PARAGRAPH, IN~~ order to determine whether the property listed in subsection (b)(4) and
25 (5) of this section is subject to execution, the sheriff shall appraise the property at the time
26 of levy.

27 ~~(II) IF PROPERTY LISTED IN SUBSECTION (B)(4) AND (5) OF THIS~~
28 ~~SECTION IS REAL PROPERTY, THE SHERIFF MAY USE THE ASSESSMENT RECORD IN~~
29 ~~LIEU OF AN APPRAISAL.~~

30 (2) The sheriff shall return the appraisal with the writ.

31 ~~(2)~~ (3) An appraisal made by the sheriff under this subsection is subject
32 to review by the court on motion of the debtor.

33 ~~(3)~~ (4) Procedures will be as prescribed by rules issued by the Supreme
34 Court of Maryland.

1 11-507.

2 [The] NOTWITHSTANDING ANY OTHER PROVISION OF THIS SUBTITLE, THE
3 provisions of this subtitle relative to exemptions do not impair a:

- 4 (1) Vendor’s purchase money lien on land;
- 5 (2) Mechanics’ lien;
- 6 (3) Tax lien;
- 7 (4) Mortgage; deed of trust; or other security interest; OR

8 (5) LIEN ON LAND AFFECTED BY A JUDGMENT IN FAVOR OF A LOCAL
9 GOVERNMENT FOR REAL PROPERTY MAINTENANCE VIOLATIONS OR NUISANCE
10 CONDITION VIOLATIONS THAT IS INDEXED AND RECORDED IN ACCORDANCE WITH
11 THE MARYLAND RULES.

12 SECTION 2. AND BE IT FURTHER ENACTED, That:

13 (a) Notwithstanding any other provision of law, on or before June 30, 2023, the
14 Judiciary may transfer up to \$12,000,000 of the fiscal year 2023 General Fund
15 appropriation for the Judiciary to the Circuit Court Real Property Records Improvement
16 Fund established under § 13-602 of the Courts and Judicial Proceedings Article.

17 (b) Notwithstanding § 7-302 of the State Finance and Procurement Article or any
18 other provision of law, any amount transferred under subsection (a) of this section may not
19 revert to the General Fund of the State.

20 SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
21 October 1, 2023.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.