

Department of Legislative Services
Maryland General Assembly
2023 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 865
Judiciary

(Baltimore City Delegation)

Baltimore City - Residential Real Property - Disclaimed Property and Exemptions From Prepayment

This bill authorizes Baltimore City to acquire title to residential real property located in Baltimore City if it has been disclaimed from a decedent’s estate as a disclaimed interest under the Maryland Uniform Disclaimer of Property Interests Act. The bill also exempts certain transfers of property – specifically, transfers of residential real property (1) to an heir to an estate who enters into a tax payment plan with the Baltimore City Bureau of Revenue Collections or (2) to the city pursuant to its authority under the bill to acquire title to disclaimed residential real property – from a requirement to pay all real property taxes due before a transfer is recorded in the assessment books and records.

Fiscal Summary

State Effect: Annuity Bond Fund (ABF) revenues may be affected, beginning as early as FY 2024, as discussed below. Expenditures are not affected.

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

Small Business Effect: Potential meaningful.

Analysis

Bill Summary/Current Law:

Authorization to Acquire Title to Disclaimed Property

Currently, under the Maryland Uniform Disclaimer of Property Interests Act, a person may disclaim (*i.e.*, refuse to accept) in whole or in part any interest in or power over property, including a power of appointment, regardless of whether the creator of the interest or power imposed a restriction upon the transfer of, or a restriction or limitation on the right to disclaim, the interest or power.

A disclaimed interest passes according to the terms of the instrument creating the interest if it provides for the disposition of the interest if it is disclaimed, or of disclaimed interests in general. If the instrument does not provide for the disposition of a disclaimed interest, the interest passes, if the disclaimant is an individual, as if the individual had died immediately before the time of distribution of the interest, or if the disclaimant is not an individual, as if the disclaimant did not exist.

Under the bill, if residential real property has been disclaimed from a decedent's estate as a disclaimed interest under the Maryland Uniform Disclaimer of Property Interests Act, Baltimore City may acquire title to the property if (1) the residential real property is located in Baltimore City; (2) the estate was closed in Baltimore City; and (3) the appointment of the personal representative has terminated, as specified. If Baltimore City seeks to acquire title to the residential real property, the estate does not need to be reopened, and notice does not need to be provided to any interested parties.

Exemption from Payment of Property Taxes Prior to Transfer

Under current law, all property taxes, assessments, and charges currently due and owed on a property must be paid prior to a property transfer being recorded in the assessment books or records. The bill provides an exemption from the requirement to pay all real property taxes due prior to a transfer being recorded for (1) transfers of residential real property from the estate of a decedent to an heir of the decedent, if the heir of the decedent enters into a payment plan with the Baltimore City Bureau of Revenue Collections to pay all public taxes, assessments, and charges currently due and owed on that property or (2) transfers of residential real property to Baltimore City, pursuant to the city's authority under the bill to acquire title to residential real property that has been disclaimed from a decedent's estate as a disclaimed interest.

Close of Estate – Statute of Limitations

Under current law, subject to certain exceptions, the statute of limitations forever bars the right of a person to seek to recover property improperly distributed, or its value, from a distributee at the later of (1) three years from the death of the decedent or (2) one year from the time of distribution of the property. However, the statute does not bar recovery of property or its value as a result of the heir's or legatee's participation in a fraudulent distribution. The bill modifies the statute of limitations by adding residential real property acquired by Baltimore City pursuant to the bill, as an exception. The bill also forever bars the right of a person seeking to recover an interest in the disclaimed residential real property, or its value, if Baltimore City acquires title to the property pursuant to the bill.

Intestate Estate Distribution – Escheat

Reversion of property to the State, or the right of government to take ownership of estate assets or unclaimed property in the event there are no heirs or beneficiaries is known as "escheat." Subject to a specified exception, under current law, if there is no person entitled to inherit an intestate estate (an estate not distributed by a will), the net estate must be converted to cash and paid (1) to the Maryland Department of Health, if the individual was a recipient of long-term care benefits under the Maryland Medical Assistance Program at the time of the individual's death; or, otherwise, (2) to the board of education in the county where letters of administration were granted and must be applied for the use of public schools in the county. The bill creates an exception to these requirements for residential real property of a decedent's estate that is disclaimed by a person pursuant to the Maryland Uniform Disclaimer of Property Interests Act and title to which is acquired by Baltimore City pursuant to the bill.

State Revenues: ABF revenues (State property tax revenues) may be affected, beginning as early as fiscal 2024, to the extent actions taken by the city under the bill's provisions impact the timing and amount of State property tax revenues collected from affected properties in the city; however, any impact cannot be reliably estimated.

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 Fiscal Effect: Baltimore City finances may be affected to the extent the bill's provisions allow for improvement of the use of properties in the city and/or increased collection of tax revenues associated with properties in the city. If the city uses the authority in the bill to take title to properties, city finances may be affected by costs associated with maintenance and/or improvement of those properties and any revenues (including tax

revenues) or reduction in costs, resulting from any future sale or use of the properties. The extent of any fiscal impact cannot be reliably estimated.

Small Business Effect: To the extent Baltimore City uses the authority under the bill, small businesses may benefit from any demand for their goods or services for improvements to properties the city acquires pursuant to the bill and/or the opportunity to purchase any properties subsequently sold by the city.

Additional Information

Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: SB 769 (Senator Carter)(By Request - Baltimore City Administration) - Judicial Proceedings.

Information Source(s): Comptroller's Office; Judiciary (Administrative Office of the Courts); Register of Wills; State Department of Assessments and Taxation; Department of Legislative Services

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