

Department of Legislative Services
Maryland General Assembly
2023 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

Senate Bill 766

(Senator Carter)(By Request - Baltimore City
Administration)

Budget and Taxation

Ways and Means

Baltimore City – Collection of Unpaid Property Taxes

This bill authorizes Baltimore City to (1) divert owner-occupied residential property from the private tax lien sale process into an alternative program for the collection of taxes in arrears; (2) withhold any owner-occupied residential property from a tax sale; (3) establish an installment payment program for taxes in arrears on owner-occupied residential property; and (4) subject to specified criteria, conduct an *in rem* foreclosure and sale of owner-occupied residential property on which taxes are in arrears. **The bill takes effect July 1, 2023.**

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:

Alternative Program and Withholding of Owner-occupied Residential Property

The bill authorizes the Mayor and City Council of Baltimore City to establish, by law, a program that diverts owner-occupied residential properties from the private tax lien sale

process into an alternative program for the collection of taxes in arrears. The program may include (1) outreach to property owners to assist the property owners to pay their taxes; (2) installment payment plans for taxes in arrears, authorized under the bill (described below); and (3) judicial *in rem* foreclosure and sale, authorized under the bill (described below).

The bill also authorizes the tax collector in Baltimore City to withhold from a tax sale any owner-occupied residential property.

Installment Payment Program

The bill authorizes the Mayor and City Council of Baltimore City to establish, by law, an installment payment program for taxes in arrears on any owner-occupied residential property in which the person who last appears as the owner of the property on the collector's tax roll may enroll. Any fee or charge on a Baltimore City property tax bill may be paid through the program. The enrollment process, and payment frequency and due dates, may be established by local law. If the program is established, Baltimore City must arrange for payment to the State of any State property taxes in arrears on enrolled properties.

Specified Authority for Judicial In Rem Tax Foreclosure

The bill authorizes Baltimore City to conduct an *in rem* foreclosure and sale of owner-occupied residential property on which taxes are in arrears if (1) the city has made at least 10 attempts to contact the property owner to offer assistance with paying the taxes in arrears and (2) there has been no active payment plan for the payment of the taxes in arrears on the property for at least the preceding 12 months.

The Mayor and City Council of Baltimore City may establish (1) objective criteria for withholding owner-occupied residential properties from foreclosure and sale and (2) a process by which a property owner may appeal the inclusion of the property owner's property in a foreclosure and sale.

To initiate an *in rem* foreclosure action, the city must follow existing procedures established in statute for judicial *in rem* foreclosure of specified property that consists of a vacant lot or improved property cited as vacant and unsafe or unfit for habitation or other authorized use on a housing or building violation notice (discussed below under Current Law).

On the entry of a judgment, the court must order that the property be sold at public auction. The property may not be sold until at least 45 days after the entry of judgment. The property must be sold to the highest bidder and if no bid is made above a minimum bid determined

by the city based on the fair market value of the property, the city may bid the minimum bid and purchase the property. Any amount by which the sale price exceeds the taxes due on the property is distributed to the interested parties.

Current Law:

Tax Sales and Withholding of Properties from Sale

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. In Calvert County, the collector must advertise and sell real property immediately after the tax becomes delinquent for one year.

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.
- The governing body of a county or municipality is permitted to withhold from sale owner-occupied residential property that meets objective criteria established by the governing body of the county or municipality.
- A tax collector is permitted to withhold from sale any residential property, when the total taxes owed on the 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 or a parsonage or convent if the taxes consist only of a lien for unpaid water and sewer charges.
- The governing body of a county or municipality may withhold from sale a residential property, or a property owned by a nonprofit organization, if the property is enrolled in a specified payment program.
- A tax collector is required to withhold from sale the dwelling of a homeowner who is enrolled in the Homeowner Protection Program administered by the State Tax Sale Ombudsman.

- The 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.
- The governing body of a county or municipality may withhold from sale property that has been designated for redevelopment purposes if specified criteria are met, including that (1) the county or municipality certifies that the property is a vacant lot or has a building or structure that is vacant and unsafe or unfit for habitation and (2) the governing body of the county or municipality finds that withholding the property from sale for redevelopment purposes is necessary to eliminate a blighting influence and to prevent the tax abandonment of the property.
- Baltimore City may withhold from sale property that has been designated for redevelopment purposes if the property meets objective criteria established by the Mayor and City Council of Baltimore City.
- A tax collector is required to withhold from sale any real property designated by the governing body of a county or municipality for foreclosure and sale under provisions (discussed below) allowing for specified *in rem* foreclosure and sale of a property.

Judicial In Rem Tax Foreclosure

Statute provides counties and municipalities with specified authority for *in rem* foreclosure and sale of real property (1) that consists of a vacant lot or improved property cited as vacant and unsafe or unfit for habitation or other authorized use on a housing or building violation notice and (2) for which the total amount of liens for unpaid taxes on the property exceeds the total value of the property. A complaint for an *in rem* foreclosure action may not be filed by a county or municipality unless (1) the tax on the real property has been delinquent for at least six months and (2) the right to appeal the notice of the property as vacant and unsafe or unfit has tolled.

A complaint for *in rem* foreclosure must be filed in the circuit court of the county where the real property is located and must meet specified criteria. An interested party has the right (1) to cure the delinquent taxes and liens on the real property by paying all past due fees, payments, and penalties at any time before the entry of the foreclosure judgment and (2) to be heard at the hearing on the complaint and contest the delinquency of the taxes and the adequacy of the proceedings.

If the court finds that the county or municipality sent sufficient notice and a copy of the complaint to each interested party and that the information in the complaint is accurate, it must enter a judgment and order that ownership of the real property be transferred to the county or municipality.

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 are expected to be affected to the extent the city uses the authority provided under the bill to (1) establish an installment payment program; (2) establish and use the specified *in rem* foreclosure and sale process; and/or (3) withhold owner-occupied residential property from a tax sale. The extent of any impact cannot be reliably estimated and depends largely on the manner in which the city uses the authority provided in the bill. The city may incur administrative/operating costs associated with an installment payment program (including payment of State property taxes in arrears on a property enrolled in the program) and the *in rem* foreclosure and sale process. The city indicates it has initiated an *in rem* foreclosure program under existing law, but presumably the bill may result in the expansion of that program or the establishment of a separate program.

While the city may incur costs, presumably they will be incurred with the purpose of improving or maintaining the use of properties in the city and/or increasing collection of tax revenues from properties in the city.

Small Business Effect: To the extent Baltimore City uses the authority under the bill, small businesses that would otherwise generate revenue from any sales of properties (at tax sales) that no longer occur under the bill may be meaningfully affected. Small businesses, however, may benefit from any demand for their goods or services for improvements to, or maintenance of, properties after foreclosure judgements and/or the opportunity to purchase properties sold after foreclosure judgments.

Additional Comments: Descriptions of the tax sale process and related subjects are included on the Office of the State Tax Sale Ombudsman [web page](#) on the State Department of Assessments and Taxation's website, along with the office's most recent annual report, which contains data on tax sales in the State. The office was established in 2020, pursuant to Chapter 730 of 2019.

Additional Information

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

Designated Cross File: HB 867 (Baltimore City Delegation) - Ways and Means.

Information Source(s): Baltimore City; Office of the Attorney General (Consumer Protection Division); Judiciary (Administrative Office of the Courts); Maryland Department of Labor; Office of Administrative Hearings; State Department of Assessments and Taxation; Department of Legislative Services

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