

Department of Legislative Services
 Maryland General Assembly
 2023 Session

FISCAL AND POLICY NOTE
 Third Reader - Revised

House Bill 729
 Judiciary

(Delegate Grossman, *et al.*)

Judicial Proceedings

Real Property - Sheriff's Sales - Procedures and Subordinate Interests

This bill establishes that a sheriff’s sale of real property extinguishes any subordinate lien or interest on the land being sold. The bill also specifies that existing provisions related to exemptions do not impair a lien on land affected by a judgment in favor of a local government for real property maintenance violations or nuisance condition violations that is indexed and recorded in accordance with the Maryland Rules. Additionally, the bill authorizes the Judiciary to transfer up to \$12.0 million of its fiscal 2023 general fund appropriation to the Circuit Court Real Property Records Improvement Fund on or before June 30, 2023. Any amount transferred under the bill may not revert to the general fund.

Fiscal Summary

State Effect: Special fund revenues increase by up to \$12.0 million in FY 2023; general fund revenues decrease by the same amount, as discussed below. Expenditures are not affected.

(\$ in millions)	FY 2023	FY 2024	FY 2025	FY 2026	FY 2027
GF Revenue	(\$12.0)	\$0	\$0	\$0	\$0
SF Revenue	\$12.0	\$0	\$0	\$0	\$0
Expenditure	0	0	0	0	0
Net Effect	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease

Local Effect: The bill is not anticipated to materially affect local government operations or finances.

Small Business Effect: Potential meaningful.

Analysis

Bill Summary/Current law:

Money Judgments – Generally

A “money judgment” is a judgment that a specified amount of money is immediately payable to the judgment creditor. A money judgment constitutes a lien on the debtor’s interest in real or personal property located where the judgment was rendered and may be executed by a writ.

In general, statute specifically exempts specified items from execution on a money judgment, including up to \$6,000 of cash or property of any kind, if the debtor elects to exempt such cash or property within 30 days from the date of attachment or the levy by the sheriff. In order to determine whether such property is subject to execution, the sheriff must appraise the property at the time of levy.

The bill specifies that a lien on land affected by a judgment in favor of a local government for real property maintenance violations or nuisance condition violations that is indexed and recorded in accordance with the Maryland Rules is not impaired by the statutory exemptions.

A writ of execution is a court-issued document that allows a creditor to use the judgment debtor’s property to satisfy the money judgment. A writ of execution on a money judgment does not become a lien on the personal property of the debtor until an actual levy is made. The lien then extends only to the property included in the levy. Upon the issuance of a writ of execution, a sheriff or constable may seize (levy) the debtor’s property and sell the debtor’s legal or equitable interest in the real or personal property.

Sheriff’s Sale

Generally, a sheriff or constable to whom any writ of execution is directed may seize and sell the legal or equitable interest of the defendant named in the writ in real or personal property. Current law also requires a sheriff or constable to execute the writ, conduct the sale, and distribute the proceeds pursuant to the Maryland rules.

Under current law, prior to any sale, a sheriff or constable must give notice of the time, place, and terms of the sale of any property under execution before the property can be sold. If there is to be a sale of an interest in property, the notice must 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 10 days before the sale of personal property or 20 days before the sale of real property.

The bill establishes that a sheriff's sale of real property extinguishes any subordinate lien or interest on the land subject to the sale.

Circuit Court Real Property Records Improvement Fund

The Circuit Court Real Property Records Improvement Fund supports the operating and equipment expenses of the land records offices of the clerks of the circuit courts as well as the Judiciary's major information technology development projects. The fund is managed and supervised by the State Court Administrator with advice from a five-member oversight committee. Revenues for the fund are generated through a recordation surcharge on all real estate transactions and other specified court surcharges.

State Revenues: The bill authorizes the transfer of up to \$12.0 million from the Judiciary's fiscal 2023 general fund appropriation to the Circuit Court Real Property Records Improvement Fund on or before June 30, 2023. Assuming the Judiciary exercises its authority to transfer funds, special fund revenues for the Judiciary increase by up to \$12.0 million in fiscal 2023; under the assumption that, absent the bill, those funds would have reverted to the general fund, general fund revenues decrease by the same amount.

Small Business Effect: Altering procedures and requirements relating to real property sold under the conditions of the bill may impact small business judgment creditors, as well as small businesses holding subordinate interests in the subject properties.

Additional Information

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

Designated Cross File: SB 277 (Senator McKay) - Judicial Proceedings.

Information Source(s): Washington and Worcester counties; Maryland Association of Counties; Judiciary (Administrative Office of the Courts); Department of Legislative Services

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