

**Department of Legislative Services**

Maryland General Assembly

2024 Session

**FISCAL AND POLICY NOTE****Third Reader - Revised**

House Bill 54

(Delegate Atterbeary)

Ways and Means

Budget and Taxation

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**Property Tax - Transfer to Heir or Legatee - Payment Plans**

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This bill requires the State Tax Sale Ombudsman to contract with a vendor to operate an installment payment program available to any homeowner for the payment of property taxes, whether in advance, currently due, or in arrears. The bill also authorizes counties and municipalities to establish installment payment programs for taxes in arrears on any residential property. Finally, the bill provides exemptions – for a transfer of residential property from an estate of a decedent to an heir or legatee and for a grant of land that is subject to a property tax payment plan – from the requirement that all property taxes, assessments, and other charges due on a property be paid prior to a transfer, if the heir, legatee, or grantee enters into (or assumes the obligations under) a payment plan. **The bill takes effect July 1, 2024.**

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**Fiscal Summary**

**State Effect:** General fund expenditures are expected to increase by at least \$67,300 in FY 2025 and by ongoing amounts in future years (subject to annual increases), reaching at least \$89,900 by FY 2029. Expenditures may be higher than these minimum amounts as discussed below. Revenues are not materially affected.

**Local Effect:** The total amount of local property tax and other revenues collected is not materially affected, except to the extent local governments establish installment payment programs for taxes in arrears. Local government expenditures, and penalty and/or interest revenues, may be affected by the establishment of local government installment payment programs.

**Small Business Effect:** Minimal.

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## Analysis

### **Bill Summary:**

#### *State Tax Sale Ombudsman Installment Payment Program*

The bill requires the State Tax Sale Ombudsman to contract with a vendor to operate an installment payment program for the payment of taxes in which any homeowner may enroll. The installment payment program must allow a homeowner to (1) make advance payments of taxes; (2) make payments of taxes currently due; or (3) make payments of taxes in arrears.

A homeowner whose dwelling is subject to a deed of trust, a mortgage, or any other encumbrance that includes the escrowing of tax payments may not enroll in the installment payment program for the advance payment of taxes. An advance payment of taxes is calculated by applying the current property tax rate to the assessment of the homeowner's property for the prior year. If the advance payment is different than the taxes due as finally determined, the vendor must bill the homeowner for the unpaid balance or refund any excess tax paid. The failure by a homeowner to make an advance payment under the installment payment program may not be considered to be a failure to pay the property tax when due except as provided for otherwise applicable property tax due dates.

The ombudsman must notify the county or municipal tax collector to whom the taxes are owed when a homeowner enters into an installment payment plan. If the homeowner is in compliance with the terms of an installment payment plan, the collector may not take any action (including sale of a lien on the property at a tax sale) under Title 14, Subtitle 8 ("Collection") of the Tax-Property Article to collect any property taxes in arrears that are included in the installment payment plan. A homeowner is not in compliance with the terms of an installment payment plan if the homeowner fails to make a payment for a period of 90 days after the date the payment is due, or a longer period determined by the ombudsman. If a homeowner is not in compliance with the terms of an installment payment plan, (1) the ombudsman may terminate the installment payment plan and must notify the collector to whom the taxes are owed and (2) the collector may take action under Title 14, Subtitle 8 to collect any property taxes in arrears that were included in the installment payment plan.

The cost of the contract with the vendor to operate the installment payment program must be paid entirely by reasonable fees imposed on homeowners enrolled in the program.

#### *Local Installment Payment Programs for Taxes in Arrears*

County and municipal governments (including the Mayor and City Council of Baltimore City) are authorized to establish an installment payment program for taxes in

arrears on any residential property. Any fee or charge of any kind that is included on a property tax bill may be paid through the installment payment program. Local governments may provide for (1) any additional eligibility criteria for an installment payment program; (2) the process for enrolling in an installment payment program; (3) the frequency and due dates of installment payments; and (4) any other provision necessary to carry out the installment payment program.

If a person is in compliance with the terms of an installment payment program, the tax collector may not take any action (including sale of a lien on the property at a tax sale) under Title 14, Subtitle 8 of the Tax-Property Article to collect any property taxes in arrears that are included in the installment payment program. A person is not in compliance with the terms of an installment payment program if the person fails to make a payment for a period of 90 days after the date the payment is due, or a longer period determined by the Mayor and City Council of Baltimore City or the governing body of a county or municipality. If a person is not in compliance with the terms of an installment payment program, the collector may (1) terminate the person's enrollment in the installment payment program and (2) take action under Title 14, Subtitle 8 to collect the property taxes in arrears that were included in the installment payment program.

#### *Exemption for a Transfer of Residential Real Property to an Heir or Legatee*

The bill provides an exemption from the requirement that all property taxes, assessments, and other charges due on a property be paid prior to the property transfer being recorded in the assessment books or records that applies to grants of land that transfer residential real property from the estate of a decedent to an heir or legatee of the decedent, if the heir or legatee of the decedent enters into a payment plan to pay all public taxes, assessments, and charges currently due and owed on the property with (1) the county or municipality to which the taxes, assessments, and charges are due or (2) the State Tax Sale Ombudsman.

The tax collector of the county or municipality to which the taxes, assessments, or charges are due must provide the heir or legatee of a decedent to whom residential real property is transferred with the toll-free telephone number and website address of the State Tax Sale Ombudsman and a brief description of the services and programs available through the ombudsman's office.

When an heir or a legatee of a decedent enters into a payment plan with a county, a municipality, or the State Tax Sale Ombudsman, the collector of taxes for the county or municipality or the State Tax Sale Ombudsman must provide the heir or legatee with an affidavit of the payment plan, which the heir or legatee must provide to the clerk of the circuit court to record an instrument transferring ownership to the heir or legatee.

The bill also makes conforming changes to a requirement relating to the semiannual payment of property taxes.

#### *Exemption for a Grant of Land That Is Subject to a Property Tax Payment Plan*

In addition to the exemption above for grants of land that transfer residential real property from the estate of a decedent to an heir or legatee, the bill also exempts a grant of land from the requirement that all property taxes, assessments, and other charges due on a property be paid prior to the property transfer being recorded in the assessment books or records if (1) the land is subject to a payment plan for property taxes with a county, a municipality, or the State Tax Sale Ombudsman and (2) the grantee enters into an agreement with the county, municipality, or the ombudsman to assume the grantor's obligations under the payment plan. The tax collector for the county or municipality or the State Tax Sale Ombudsman must provide the grantee with an affidavit of the payment plan, which the grantee must provide to the clerk of the circuit court to record an instrument transferring ownership to the grantee.

#### **Current Law:**

##### *State Tax Sale Ombudsman*

Chapter 730 of 2019 established the State Tax Sale Ombudsman within the State Department of Assessments and Taxation (SDAT) to, among other things, (1) actively assist eligible homeowners to apply for tax credits, discount programs, and other public benefits that may assist the homeowners to pay delinquent taxes and improve their financial situation; (2) refer eligible homeowners to legal services, housing counseling, and other social services that may assist the homeowners to pay delinquent taxes and improve their financial situation; and (3) maintain a toll-free telephone number that a homeowner may call to obtain individualized personal assistance with delinquent taxes.

##### *Homeowner Protection Program and Fund*

Chapter 382 of 2021 established the Homeowner Protection Program administered by the State Tax Sale Ombudsman, and the Homeowner Protection Fund to support the program. The program diverts vulnerable homeowners from the private tax lien sale process into an alternative program – through the purchase of a homeowner's lien, whether before or after the lien is sold at a tax sale – in order to (1) minimize tax collection costs to homeowners; (2) assist homeowners to pay their taxes; and (3) allow homeowners to remain in their homes.

The Homeowner Protection 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.

### *Payment of Property Taxes*

Property taxes for owner-occupied residential property and certain small business property are due on a semiannual schedule. The first installment is due on July 1 and may be paid without interest on or before September 30. The second installment is due on December 1 and may be paid without interest on or before December 31. Local governments may add a service charge to the second installment to pay for administrative costs and lost interest between September 30 and December 31. Homeowners and certain small business owners may elect to pay the full year's property tax on or before September 30 to avoid the service charge.

Chapter 647 of 2019 authorizes local governments to provide, by law, for an optional installment payment schedule for county, municipal, or special taxing district real property taxes and any local fees or other charges included on a tax bill.

An installment payment schedule may be scheduled in advance of the property tax bill and may include any number of due dates scheduled on or after January 1 and on or before otherwise applicable due dates (see the semiannual due dates above for owner-occupied residential property and certain small business property). For any installment payment scheduled after July 1, the local government may impose a service charge.

Local governments are prohibited from authorizing advance payment or an installment payment schedule for property taxes imposed on real property that is subject to a deed of trust, a mortgage, or any other encumbrance that includes the escrowing of property tax payments.

### *Payment Before Recordation of a Transfer*

Prior to a property transfer being recorded in the assessment books or records, all property taxes and other charges due on the property must be paid. At the time of transfer of real property subject to a semiannual payment schedule for the payment of property taxes (owner-occupied residential property and certain small business property), only those semiannual payments that are due for the current taxable year must be paid prior to the transfer of the property.

**State Revenues:** The bill may affect the timing of the collection of State property taxes, but the total amount of State property taxes collected is not expected to be materially affected.

**State Expenditures:** General fund expenditures are expected to increase, beginning in fiscal 2025, for (1) an additional position within the State Tax Sale Ombudsman’s Office to manage the installment payment program and contract and (2) potentially for State funding to support the contract to operate the installment payment program. It is assumed, for the purposes of this fiscal and policy note, that general funds are needed to cover costs associated with the program not covered by fees charged under the contract because the bill does not explicitly authorize the use of special funds to administer the program.

#### *Program Manager*

General fund expenditures increase by \$67,271 in fiscal 2025, which accounts for a 90-day start-up delay, to hire one program manager to manage work related to the installment payment program not covered under the contract. SDAT advises that the work likely includes contract monitoring and handling customer service inquiries, financial reconciliations, and dispute resolution. The estimate includes a salary, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Positions	1.0
Salaries and Fringe Benefits	\$60,015
Other Operating Costs	<u>7,256</u>
<b>Total FY 2025 Personnel Expenditures</b>	<b>\$67,271</b>

Future year expenditures reflect a full salary with annual increases and employee turnover as well as annual increases in ongoing operating expenses, reaching \$89,900 by fiscal 2029.

#### *Additional State Funding*

The bill requires the cost of the contract to be paid entirely by reasonable fees imposed on homeowners enrolled in the program; however, it appears that the contract/program may need some amount of State funding support (assumed to be general funds). State funding support may at least be needed in order for a vendor to operate the program in a manner that provides payment plans that would be beneficial to homeowners whose taxes are in arrears.

**Local Fiscal Effect:** The timing of the collection of local property taxes and other charges may be affected by the bill’s provisions that (1) require the State Tax Sale Ombudsman to contract with a vendor to operate an installment payment program (and prohibit any collection efforts while a homeowner is in compliance with the terms of an installment payment plan under the program) and (2) establish the specified exemptions for a transfer to an heir or legatee and a grant of land that is subject to a property tax payment plan. However, the total amount of local property tax and other revenues collected is not expected to be materially affected by those provisions.

To the extent local governments establish installment payment programs for taxes in arrears on residential property, (1) local government expenditures may increase to establish and operate the programs and (2) local government revenues may be affected to the extent the programs involve reduction in penalties and/or interest for taxpayers enrolled in the programs.

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### **Additional Information**

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

**Designated Cross File:** None.

**Information Source(s):** Baltimore City; Anne Arundel and Frederick counties; City of College Park; Judiciary (Administrative Office of the Courts); Register of Wills; State Department of Assessments and Taxation; Department of Legislative Services

**Fiscal Note History:** First Reader - February 4, 2024  
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