

2022-01-17 HB 115 (Support).pdf

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Position: FAV

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January 19, 2022

TO: The Honorable Vanessa E. Atterbeary
Chair, Ways and Means Committee

FROM: Hannibal G. Williams II Kemerer
Chief Counsel, Legislative Affairs, Office of the Attorney General

RE: HB0115 – Real Property Transfer to Heir – Exemption from Payment – **Letter of Support**

The Office of Attorney General urges this Committee to favorably report HB 115. If passed, Delegate Hill's bill will take effect on October 1, 2022. This bill eliminate real property tax prepayment requirements on instruments of writing transferring real property from the estate of a decedent to that decedent's heirs.

Real property should transfer to a decedent's heirs irrespective of when the taxes on the property are paid. Some heirs may not have the means to pay taxes prior to inheriting. If HB 115 passes, heirs can leverage the real property for loans, etc., in order to pay the necessary transfer taxes. According to the U.S. Department of Agriculture, heir property is "the leading cause of Black involuntary land loss."¹ House Bill 115 is a means of stemming the tide of such land loss and consistent with nationwide progressive trends with respect to real property laws.²

For the foregoing reasons, the Office of the Attorney General urges a favorable report of the House Bill 115.

¹ See Lizzie Presser, *Their Family Bought Land One Generation After Slavery. The Reels Brothers Spent Eight Years in Jail for Refusing to Leave It*, ProPublica, July 15, 2019, available at: <https://features.propublica.org/black-land-loss/heirs-property-rights-why-black-families-lose-land-south/>.

² See Lizzie Presser, *How to Close Heirs Property Loopholes*, ProPublica, July 15, 2019, available at <https://www.propublica.org/article/what-can-heirs-property-owners-do-to-protect-their-land-loss> (noting that advocates call for "Legislation that allows heirs' property owners to access exemptions from property taxes that are available to all homeowners.").

cc: Committee Members

Written Testimony HB 115 (tax payment exemption fo

Uploaded by: Jade McDuffie McClary

Position: FAV

HB 115

**REAL PROPERTY – TRANSFER TO HEIR – EXEMPTION FROM PREPAYMENT OF TAXES
HEARING BEFORE THE HOUSE WAYS AND MEANS COMMITTEE**

January 19, 2022

POSITION: SUPPORT

The Pro Bono Resource Center of Maryland (“PBRC”), an independent 501(c)(3) non-profit organization, is the statewide clearinghouse for pro bono civil legal services in Maryland. As the designated pro bono arm of the Maryland State Bar Association, PBRC provides training, mentorship, and pro bono service opportunities to members of the private bar. **PBRC supports HB 115 because vulnerable surviving family members of homeowners who are under economic strain need relief from a large tax payment to help prevent the loss of their homes.**

Over the past seven years, PBRC has assisted nearly 700 homeowners at risk of losing their homes to tax sale. For homeowners, ending up on the tax sale list is usually the result of the inability to pay one’s property taxes. The clients served by our tax sale prevention clinics held in Baltimore in 2021 represented some of our state’s most vulnerable citizens: 81% were seniors, 26% were disabled, 84% identify as Black, and 81% reported annual household incomes of less than \$30,000. Through the advocacy of volunteer attorneys, many of these clients can access programs and credits that reduce their property tax burden that allow them to stay in their homes. However, most Maryland homeowners are unrepresented.

On average, our 2021 Baltimore clients encountered in our clinics had owned their homes for 28 years, and over 70% of them owned their homes free of a mortgage. As lower-income homeowners, the predominant form of accumulated wealth that they have, and that they can pass on to their families, is the equity in their homes. When homeowners pass away, the heirs to their home must pre-pay the home’s tax bill to properly obtain title to the home. The prepayment requirement may force an unexpected and large expense on the family, and it precludes heirs who would be eligible for the Homeowners’ Property Tax Credit from receiving the discount prior to paying the full bill. The full property tax bill, required to be paid in a single lump sum, is simply out of reach for many low-income surviving families and so they are unable to get the deed in their names. This “tangled title” problem frequently lands families in tax sale. By exempting surviving family members of homeowners from the prepayment requirement, these heir homeowners will be better positioned to obtain title, avoid tax sale foreclosure, and keep their homes and the equity their families have worked to build.

PBRC supports HB 115, which may protect certain Marylanders from the loss of their family home to tax sale foreclosure, thereby preserving homeownership and the transfer of intergenerational wealth. Thank you for the opportunity to testify.

For the above reasons,

PBRC urges a FAVORABLE report on HB 115.

Please contact Allison Harris, Director of PBRC’s Home Preservation Project, with any questions.

aharris@probonomd.org • 443-703-3050

HB115_Mid-Shore Pro Bono Written Testimony.pdf

Uploaded by: Meredith Lathbury Girard

Position: FAV



*Connecting Low-Income
Individuals and Families who
need Civil Legal Services with
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January 17, 2022

BILL NO: HB 115 – Real Property – Transfer to Heir – Exemption from Prepayment

COMMITTEE: House Ways and Means

FROM: Mid-Shore Pro Bono, Inc.

POSITION: SUPPORT

Mid-Shore Pro Bono (MSPB) recommends a favorable report on HB115. By removing barriers to intergenerational transfer of ownership of property, this bill would help heirs of real property with limited means to maintain financial and housing stability, reduce homelessness, and prevent the loss of family homes when a family member dies.

Mid-Shore Pro Bono, Inc. is a Maryland nonprofit that connects people on the Eastern Shore with limited financial means to legal representation and throughout essential community resources. Each year, MSPB helps over 3,000 of our community's most vulnerable people access the legal system in times of need. Our network of volunteer lawyers provides free legal services on elder law, family law, landlord/tenant, mortgage foreclosure, and consumer debt. These services help families gain financial and housing stability and create safe, secure home environments for children, which is especially important in times of crisis.

During the pandemic, MSPB has seen a significant increase in challenges faced by families with limited financial means to navigate the legal and financial impacts of losing a loved one. Surviving family members often lack the cash resources needed to pay for funeral expenses, medical bills, taxes, and other debts. Too often, heirs with limited means are unable to pay property tax bills in order to allow for real property to transfer to them. Sometimes families are forced to sell the family home where surviving family members are still residing in order to pay relatively minor property tax bills. Surviving family members may be forced into bankruptcy, foreclosure, and homelessness as a result of an inability to pay property tax. By exempting prepayment of real property taxes, surviving heirs have a much better opportunity to keep family homes intact, therefore maintaining financial and housing stability in our community.

For these reasons, Mid-Shore Pro Bono urges the House Ways and Means Committee's support for HB115. If you have any questions regarding our position on this bill, please contact Meredith Lathbury Girard, Esq., executive director, at 410-690-8128 or mgirard@midshoreprobono.org.

Sponsor Testimony

Uploaded by: Terri Hill

Position: FAV

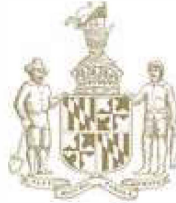
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January 19, 2022

SUPPORT
HB115 Real Property – Transfer to Heir – Exemption From Prepayment of Taxes

Dear Chairwoman Atterbeary, Vice-Chair Washington, and Committee Members,

HB115 seeks to flip the sequence of tax payment and inheritance to the benefit of the public, by allowing upon death the recording of a deed transferring the home to a decedent's heirs to proceed before payment of the property taxes. In cases where neither the estate nor the heirs have sufficient funds with which to pay the taxes, this change significantly increases the chances of the heirs being able to hold onto the home, decreases the risk of the property going for tax sale, lowers the incidence of loss of a family home, and targets a major cause of resident displacement and homelessness.

HB115 is a work product of the Life and Health Planning Committee of the Attorney General's 2020 COVID-19 Access to Justice Task Force, a partnership between Attorney General Brian Frosh's office and the Maryland Access to Justice Commission tasked with, "developing strategies and solutions to address the significant civil legal challenges facing Marylanders in the wake of COVID-19."

Although a living person has the option of paying real property taxes in two installments (first payment due by September 30 and the second by December 31), this is not an option when the house is being distributed out of the estate of the decedent. Real property, particularly a home, is often the most valuable part of an estate. Currently, if the property is the only liquid asset in the estate and there is no or little cash such that the real property taxes can't be paid, recording the deed transferring the home to the decedent's heirs is not possible.

Under **HB115**, an heir who inherits the home while a property tax lien remains in place, as the homeowner's is put in a position of being eligible to apply to assistance programs that may help them afford to pay the taxes while they occupy and maintain the home, in some cases avoiding homelessness. If the estate has significant debt obligations, the heir would have the option of selling the property, generally at a higher price than had it been sold in a tax sale. The monies realized in the sale can then be used to satisfy the lien and possibly other obligations. Finally, if the transferred property still ends up in tax sale, the tax lien is satisfied. The state's interest is protected in each case.

Historical over assessment of Black-owned homes and other insidious practices has resulted in Black families paying 13% more in property taxes than white. As Black families also earn half as much as their white counterparts, the higher property taxes, and greater percent of assets paid in property taxes, puts Black families at greater risk of losing their homes. The multi-factorial, disproportionate economic impact of the pandemic has exacerbated these relative vulnerabilities. Changing how existing property tax balances affect inheritance will have a relatively greater positive impact on Black homeownership.

HB115 offers another tool for decreasing homelessness, helping families retain and transfer wealth from one generation to the next, and narrowing the racial wealth disparity. I urge a favorable report.

A handwritten signature in black ink, appearing to read "Terri L. Hill".

hb0115_testimony.pdf

Uploaded by: Timothy Chance

Position: FAV



MARYLAND HOUSE WAYS AND MEANS COMMITTEE
TESTIMONY OF MARYLAND VOLUNTEER LAWYERS SERVICE
IN SUPPORT OF HB0115: REAL PROPERTY – TRANSFER TO HEIR –
EXEMPTION FROM PREPAYMENT OF TAXES

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WEDNESDAY, JANUARY 19, 2022

Chair Atterbeary and distinguished members of the Committee, thank you for the opportunity to testify in support of House Bill 0115.

My name is Timothy Chance, and I am the Tangled Title Attorney at the Maryland Volunteer Lawyers Service (MVLS). MVLS is the oldest and largest provider of pro bono civil legal services to low-income Marylanders. MVLS was founded in 1981 by a group of concerned Maryland lawyers, legal services providers and leadership of the Maryland State Bar Association. Since then, our statewide panel of over 1,700 volunteers has provided free legal services to over 100,000 Marylanders in a wide range of civil legal matters. In FY21, MVLS volunteers provided legal services to 3,353 people across the state. As part of our Advance Planning Project and My Home, My Deed, My Legacy Project, we encounter numerous clients facing economic barriers, such as probate fees and large property tax bills, which make it impossible to transfer property. For the reasons explained below, we respectfully request a favorable report on House Bill 0115.

The Advanced Planning Project is an outreach effort designed to stabilize neighborhoods, preserve family assets and reduce the number of properties with deed and title entanglements that prevent homes from being in productive use. In conjunction with community partners, MVLS is raising awareness about the importance of estate planning, especially in the context of community stabilization in Baltimore City. As part of the My Home, My Deed, My Legacy Project, MVLS provides homeowner legal clinics to help clients stabilize their homes, through estate planning discussions, and secure critically important resources, including the Homeowners' Property Tax Credit. MVLS's community outreach and provision of legal services on these issues are statewide as the challenges with deeds and estate administration is a statewide problem. Additionally, the My Home, My Deed, My Legacy Project provides continuing direct representation, both by volunteer attorneys, MVLS staff attorneys, and myself, to clients navigating the probate process.

Many of these clients are the surviving relatives of deceased homeowners. Oftentimes, although our clients have lived in their home for decades and are the de facto owners, these homes are still titled in the deceased's name. Our clients are paying the property taxes, making mortgage payments, and making needed repairs to the home. The home is the only asset that the family has, and our clients are the children or grandchildren of the named owner and are unaware that they must go through probate to retitle the deed. Estate administration is an expensive and time consuming process, and in addition to the fees associated with estate administration, our clients must pay any outstanding property taxes in order to eventually record the new deed. This prevents a major barrier for our clients because they must bear the full burden of the taxes without access to the Homeowners' Property Tax Credit. The historical over-assessment of homes in communities of color coupled with our clients' limited resources directly leads to housing destabilization and the extraction of wealth in these communities. Without the resources to pay any outstanding taxes, many of our clients face the prospect of losing their homes in tax sale foreclosure. Below is an example that MVLS has seen of how the requirement to pay outstanding taxes to record a new deed can have a ruinous effect on a household facing financial hardship.

Ms. W lives in Baltimore City and is currently in the process of probating her grandmother's estate so that she and her family can move back into the family home. Ms. W had gone through the process of estate administration and was nearing closing the estate when she contacted MVLS for assistance with recording the deed in 2021, but unfortunately, there are outstanding property taxes, water bills, and environmental citations that are in the amount of several thousand dollars. Ms. W will need to completely pay these bills down to \$0 before she can proceed with recording the deed, and this presents an added burden on top of her usual living expenses. If Ms. W is unable to come up with the needed money, the property will go into tax sale and risk being completely lost to the family.

The requirement to prepay property taxes to record a new deed after a relative's death creates a near-insurmountable barrier for families facing financial hardships. This requirement leads directly to homelessness. MVLS supports HB0115 because it would remove a significant barrier standing in the way of Maryland families' ability to sustain homeownership. Additionally, the removal of the prepayment of outstanding taxes is not an abatement of those taxes, it is instead a deferral. The taxes stay on the property and these individuals are still incentivized to pay the taxes like every other homeowner, but they can now access those critical resources. HB0115 offers greater community stabilization because if the home is lost, not only does the family suffer, the community at large suffers from vacant or derelict properties.

Madam Chair and members of the Committee, thank you again for the opportunity to testify.