

Madam Chairwoman Atterbeary, Madam Co-Chair Williams and Distinguished  
Committee Members of Ways and Means  
HB 00867  
Tuesday, February 28, 2023  
1:00 pm, House of Delegates

## IN OPPOSITION

My name is Heidi Kenny of the Kenny Law Group. I am an attorney licensed to practice law in the State of Maryland. I have been practicing tax sale foreclosure law for over 20 years.

As a member of the Baltimore City Tax Sale Task Force appointed by Mayor Brandon Scott, and the only member who represents tax sale investors, I adamantly objected to these proposals set forth that culminated into this bill and have never seen or yet to see any formal recommendations that have purportedly been put forth as a result of our work. No surprise, my suggestions for tax sale reform having practiced in states beyond Maryland fell on deaf ears because it did not fit the advocacy group's agenda of abolishing tax sale.

This bill does **not** address owner-occupied – it addresses *all* residential property - all residential including residential rental properties. There's a distinction.

Furthermore, investors are not purchasing tax liens by targeting people. They purchase liens based on lien to value ratio on a given portfolio of liens. In 20 years of practicing, there is no way of predicting which properties redeem and which will not. The only thing predictable is that the ones you think will redeem, do not. Therefore, the notion that tax sale investors target certain groups of people is not accurate. Investors submit mass bids at one time in anticipation that one bid will be the winning bid in a group of liens.

Testimony giving examples of homeowners in jeopardy of losing their property by legal assistance organizations only demonstrates that this system is working, because these people did not lose their properties. They sought the available help and utilized it.

Baltimore City is not in the position nor should it be in the business of becoming a collection agency or a foreclosure firm.

Expansion of "in rem" has long lasting financial implications that quite frankly the City should not endure. You're creating a system that is disincentivizing people to pay their taxes, which is directly opposite of what Baltimore City should be doing. You should be encouraging people to pay taxes and not finding ways for people to avoid paying taxes.

What I don't see in the bill is how the revenue will be replaced. How is this proposed legislation replacing this revenue? Coupled with the additional expense of creating and maintaining a system of oversight, this bill will be financially crushing for the City of Baltimore. Can Baltimore City afford not to have the stream of revenue generated by

these properties in tax sale and also bear the cost of creating and implementing a collection agency and foreclosure law firm? If this sentence causes you any hesitation, then I ask you to reconsider passing a favorable report because the unforeseeable implications but the foreseeable consequences for me of this bill are irreversible. Not having the influx of revenue with the added costs will collapse the City. What will the increased delinquency caused by this bill do for Baltimore City? If you think I'm wrong, review the data on water bill delinquencies since they were removed from the Baltimore City tax sale process.

The City does not have the current man power to efficiently run its current departments let alone creating a new department or system that this bill proposes. It currently takes 4-6 months for a deed to get on record, because Baltimore City transfer office is understaffed. Payment processing is behind 2 months and yet this bill proposes to further backlog the City finance department.

Creating and designating an "in rem" process to describe a government lead foreclosure process is befuddling, because "in rem" is a legal term. All tax sale foreclosure is an in rem process, so stylistically the term is trying to make an homologized distinction. By expanding this system which was designed solely to provide a mechanism where the liens on the property exceeded the value of the property, you are singlehandedly halting real estate investment in Baltimore City. In jurisdictions throughout the Country where local governments process foreclosures it creates a system of double foreclosure and unmarketable titles. As I explained to the Task Force, purchasers of these properties must undergo quiet title actions after obtaining properties foreclosed on by local governments to ensure they have marketable and clear title. Essentially, you're creating a system of double foreclosure on property owners.

Finally, the section of the bill describing the requirements of the in rem process circumvents the well thought out, time and constitutional tested processes of foreclosure. As written, the bill is wrought with constitutional notice concerns that would not sustain a challenge. It is hastily written without consideration to the constitutional notice protections and procedure.

I ask this Committee to think long and hard about the far-reaching implications of this Bill. If you have any hesitation as to what can happen, I ask you to vote unfavorably for HB 867.

Respectfully submitted,

Heidi S. Kenny, Esq.  
Kenny Law Group, LLC  
11426 York Rd, 1<sup>st</sup> Fl  
Cockeysville, MD 21030  
hkenny@kenny-law.com  
443-334-4040