

Department of Legislative Services
Maryland General Assembly
2014 Session

FISCAL AND POLICY NOTE

House Bill 728 (Delegates Braveboy and Niemann)
Environmental Matters and Economic
Matters

Commission to Investigate the Treatment of Lender-Owned Properties

This bill establishes the Commission to Investigate the Treatment of Lender-Owned Properties to (1) investigate the treatment of lender-owned properties in the State to determine whether disparities exist based on zip code, income level, race, or ethnicity and (2) make recommendations on ways to correct any disparities found by the commission. The Department of Housing and Community Development and the Office of the Attorney General must provide staff for the commission. The commission must report its findings and recommendations to the Governor and the General Assembly by June 30, 2015.

The bill takes effect July 1, 2014, and terminates June 30, 2016.

Fiscal Summary

State Effect: Reimbursement for commission members is assumed to be minimal and can be absorbed within existing budgeted resources. It is expected that the Department of Housing and Community Development and the Office of the Attorney General can staff the commission with existing resources.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law: State law does not specifically address the treatment of lender-owned property.

Background: According to the Maryland Foreclosure Task Force, the period of time between a foreclosure sale and the recordation of a deed transferring title to the property is estimated to range from 9 to 18 months. During this “limbo period,” it is difficult for local governments to know who to contact about issues that may arise with the property. This is of special concern when the property is vacant. Partially addressing this problem, Chapter 155 of 2012 required the Department of Labor, Licensing, and Regulation to establish and maintain an Internet-based Foreclosed Property Registry for information relating to foreclosure sales of residential property. A foreclosure purchaser must submit an initial registration form within 30 days of the sale and a final registration form within 30 days after a deed transferring title to the property has been recorded.

Generally, the longest delays do not occur when an individual purchaser buys property at a foreclosure sale because the recordation of a deed settles any question as to who owns the property. Rather, the longest delays often occur when a financial institution retains a property as a result of an unsuccessful foreclosure sale on the property. Lender-owned, or real estate-owned (REO), property is property acquired by a secured party as a result of an unsuccessful foreclosure sale on the property. This acquisition occurs when the amount of the outstanding loan owed to the secured party is greater than the value of the property.

In Maryland, 3,989 properties were bought by a secured party after a foreclosure auction in 2012. Six jurisdictions (Prince George’s, Baltimore, Montgomery, Anne Arundel, and Frederick counties and Baltimore City) represented approximately 71% of all lender purchases. **Exhibit 1** shows the number of REO purchases in each Maryland jurisdiction in 2012. Often when a secured party has acquired the property after a foreclosure sale, it delays the recording of the deed until it sells the property to another party, thus avoiding the payment of any recordation fee or transfer tax until absolutely necessary. When it does sell the property, the financial institution will record the deed twice and pay the transfer taxes twice: once for the transfer between the foreclosed-on property owner and the financial institution and again for the transfer between the financial institution and the new purchaser.

Exhibit 1
2012 REO Purchases in Maryland Jurisdictions by Quarter

| <u>Jurisdiction</u> | <u>Q1</u> | <u>Q2</u> | <u>Q3</u> | <u>Q4</u> |
|----------------------------|------------------|------------------|------------------|------------------|
| Allegany | 8 | 4 | 2 | 6 |
| Anne Arundel | 71 | 83 | 56 | 64 |
| Baltimore | 124 | 111 | 99 | 120 |
| Baltimore City | 141 | 173 | 143 | 197 |
| Calvert | 17 | 11 | 16 | 21 |
| Caroline | 5 | 8 | 7 | 9 |
| Carroll | 14 | 11 | 16 | 27 |
| Cecil | 149 | 9 | 7 | 21 |
| Charles | 43 | 42 | 23 | 50 |
| Dorchester | 9 | 9 | 5 | 10 |
| Frederick | 38 | 49 | 33 | 42 |
| Garrett | 5 | 6 | 3 | 2 |
| Harford | 37 | 33 | 25 | 27 |
| Howard | 23 | 23 | 18 | 23 |
| Kent | 4 | 3 | 4 | 5 |
| Montgomery | 48 | 46 | 31 | 81 |
| Prince George's | 289 | 264 | 264 | 273 |
| Queen Anne's | 7 | 9 | 5 | 7 |
| St. Mary's | 5 | 2 | 4 | 7 |
| Somerset | 11 | 12 | 9 | 14 |
| Talbot | 4 | 9 | 2 | 6 |
| Washington | 16 | 33 | 37 | 45 |
| Wicomico | 18 | 16 | 16 | 16 |
| Worcester | 8 | 9 | 9 | 13 |
| Total | 1,094 | 975 | 834 | 1,086 |

Source: Department of Housing and Community Development (with corrected totals)

Additional Information

Prior Introductions: None.

Cross File: SB 222 (Senator Muse) - Judicial Proceedings.

Information Source(s): Office of the Attorney General, Department of Housing and Community Development, Department of Legislative Services

Fiscal Note History: First Reader - February 25, 2014

ncs/kdm

Analysis by: Joshua A. Lowery

Direct Inquiries to:

(410) 946-5510

(301) 970-5510