

Department of Legislative Services
Maryland General Assembly
2017 Session

FISCAL AND POLICY NOTE
Third Reader

Senate Bill 753

(Senator Guzzone)

Budget and Taxation

Ways and Means

Tax Sales - Foreclosure of Right of Redemption - Naming of Defendants

This bill establishes procedures for joining an individual who is or is believed to be deceased and is required to be named as a defendant in an action to foreclose the right of redemption on a property purchased at tax sale.

Fiscal Summary

State Effect: The bill is not anticipated to affect State finances or operations.

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

Small Business Effect: None.

Analysis

Bill Summary: The bill sets forth specific procedures for joining required defendants who are deceased or are believed to be deceased. If an individual required to be named as a defendant is deceased, and the plaintiff knows of a personal representative, the plaintiff must join the personal representative as a defendant. If an individual required to be named as a defendant is or is believed to be deceased, and the plaintiff does not know of a personal representative, the plaintiff must state those facts in an affidavit filed with the complaint.

If the plaintiff states in an affidavit filed with the complaint that an individual is *deceased*, the plaintiff may join as defendants the successors in interest of the individual, using specified language. If the plaintiff states in an affidavit filed with the complaint that an individual is *believed to be deceased*, the plaintiff may join the individual, and any successors in interest, as a defendant, using specified language.

Current Law:

Filing an Action to Foreclose the Right of Redemption

When filing an action to foreclose the right of redemption, the plaintiff (the holder of the certificate of sale) may name individuals as defendants. With specified limitations, it is not necessary to name as a defendant every person that has an interest in the property. Such individuals are included as defendants by the plaintiff including “all persons that have or claim to have any interest in property,” with a description of the property in substantially the same form as the description that appears on the tax collector’s certificate of tax sale.

However, the plaintiff in an action to foreclose the right of redemption must send *written notice* of the proceeding to all individuals with a recorded interest, claim, or lien, including a judgment, who have not been made a defendant in the proceeding, as well as each tenant of the property who is known to the plaintiff, at the tenant’s last reasonably ascertainable address. Additionally, if the property at issue is a common area owned by or legally dedicated to a homeowners association, the plaintiff is required to send specified notice to the homeowners association governing the property, at the last reasonably ascertainable address.

Tax Sales Generally

In general, a tax collector must sell, at an auction, not later than two years from the date the tax is in arrears, all property in the county on which the tax is in arrears. The time for the tax sale is established by local law. Failure of the collector to sell the property within the two-year period does not affect the validity or collectability of any tax, or the validity of any sale subsequently made. The tax collector sets specified terms for the auction and publishes public notice of the tax sale, including requirements for potential bidders.

When a property is purchased at a tax sale, the purchaser must pay to the tax collector any delinquent taxes, penalties, sale expenses, and a high-bid premium except as otherwise specified. Except for agricultural property, when a bidder at tax sale purchases a property in Baltimore City and Prince George’s County under specified circumstances, the bidder must pay a high-bid premium that is the greater of 20% of the amount by which the highest bid exceeds the lien amount or 40% of the property’s full cash value. The terms for payment of the purchase price and high-bid premiums, if any, are determined by the collector.

Generally, the property owner has the right to redeem the property within six months from the date of the tax sale by paying the total lien amount on the property, delinquent taxes, penalties, interest, and certain expenses of the purchaser. If the owner redeems the

certificate, the purchaser is refunded the amounts paid to the collector plus the interest and expenses. If the owner does not redeem the certificate, the purchaser has the right to foreclose on the property after the six-month right of redemption period has passed. Under most circumstances, if the right to foreclose is not exercised by the purchaser within two years, the certificate is void and the purchaser is not entitled to a refund of any monies paid to the collector.

Background: Chapters 395 and 396 of 2016 established substantially similar procedures for joining a deceased individual who is required to be named as a defendant in an action to quiet title.

Additional Information

Prior Introductions: None.

Cross File: None designated, however HB 861 (Delegate Barnes, *et al.* – Ways and Means) is identical.

Information Source(s): Office of the Attorney General (Consumer Protection Division); Judiciary (Administrative Office of the Courts); Register of Wills; Department of Housing and Community Development; State Department of Assessments and Taxation; Department of Legislative Services

Fiscal Note History: First Reader - February 26, 2017
mm/kdm Third Reader - March 10, 2017

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