

Department of Legislative Services
Maryland General Assembly
2017 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 167
Budget and Taxation

(Senator Conway)

Tax Sales - Reimbursement for Expenses

This bill clarifies that specified costs incurred by the holder of a certificate of sale *must*, rather than *may*, be reimbursed on redemption of the property. The bill also specifies that the reimbursement must be paid directly to the attorney for the holder of the certificate of sale, or the holder, if not represented by an attorney, and not to the collector.

The bill takes effect July 1, 2017.

Fiscal Summary

State Effect: The bill may increase the amount of fees incurred by the Department of Housing and Community Development when the department acquires property through foreclosure sale for uninsured loans. However, the impact is small enough that it can be handled with existing budgeted resources.

Local Effect: The bill does not materially affect local government operations or finances.

Small Business Effect: Minimal.

Analysis

Bill Summary: Except as specified in Baltimore City, if an action to foreclose the right of redemption has not been filed and the property is redeemed more than four months after the date of the tax sale, the holder of a certificate of sale *must*, rather than *may*, be reimbursed for specified costs and fees actually incurred, including attorney's fees in the amount of \$500, which is deemed reasonable for the work performed.

In Baltimore City, for owner-occupied residential property, if an action to foreclose the right of redemption has not been filed and the property is redeemed more than seven months after the date of the tax sale, the holder of a certificate of sale *may* be reimbursed for attorney's fees in the amount of \$500, if actually incurred, which is deemed reasonable for the work performed, in addition to other costs and fees, as specified.

If an action to foreclose the right of redemption has been filed, the plaintiff or holder of a certificate of sale *must*, rather than *may*, be reimbursed for specified attorney's fees. If the plaintiff or holder of a certificate of sale provides a signed affidavit attesting that other specified expenses were actually incurred, the plaintiff or holder of a certificate of sale *must*, rather than *may*, be reimbursed for:

- a filing fee charged by the appropriate county's circuit court;
- a service of process fee, including any fees incurred attempting to serve process;
- a title search fee of up to \$250;
- a subsequent title search update fee within six months of up to \$75;
- a publication fee charged by a newspaper of general circulation in the county in which the property is located;
- a posting fee;
- postage and certified mail costs;
- a substantial repair order fee, not to exceed the fee charged by the government agency issuing the certificate of substantial repair;
- expenses and court costs incurred for opening an estate of a deceased defendant for purposes of service of process and notice, up to \$1,200; and
- any court-approved expense for property stabilization or conversion during the redemption period or in accordance with a county action taken against the property for a building, fire, health, or safety code violation.

Whether an action to foreclose the right of redemption has or has not been filed, the plaintiff or holder of a certificate of sale *must*, rather than *may*, be reimbursed for (1) taxes paid at the sale, with redemption interest; (2) any applicable high bid premium; and (3) in Baltimore City, taxes, interest, and penalties paid.

Current Law: With limited exceptions, upon redemption of a certificate of sale, the plaintiff or holder may be reimbursed for expenses incurred in any action, or in preparation of any action, to foreclose the right of redemption. In all jurisdictions, except Talbot County, and as specified in Baltimore City, a plaintiff or holder of a certificate of sale may not be reimbursed for expenses incurred within four months after the date of sale. In Baltimore City, for owner-occupied residential property, a plaintiff or holder of a certificate of sale may not be reimbursed for expenses incurred within seven months after the date of sale.

If an action to foreclose the right of redemption has not been filed and the property is redeemed more than four months after the date of the tax sale, or seven months after the date of sale for owner-occupied residential property in Baltimore City, the holder of a certificate of sale may be reimbursed for costs for recording the certificate of sale, a title search fee up to \$250, specified mailing costs, and reasonable attorney's fees up to \$500.

If an action to foreclose the right of redemption has been filed, the plaintiff or holder of a certificate of sale may be reimbursed for (1) up to \$1,300, if an affidavit of compliance has not been filed or (2) \$1,500, if the affidavit has been filed. The amount of reimbursable attorney's fees must be deemed reasonable for both the preparation and filing. The plaintiff or holder of a certificate of sale may be reimbursed for reasonable attorney's fees incurred up to \$1,200 for opening an estate for purposes of service of process and notice on a defendant's estate. The court may also approve, on a case-by-case basis, the reimbursement of other reasonable attorney's fees incurred and specifically required by the plaintiff or holder of a certificate of sale, as verified by signed affidavit.

If the plaintiff or holder of a certificate of sale provides a signed affidavit attesting that an expense was actually incurred, the plaintiff or holder of a certificate of sale may be reimbursed for any of the following expenses:

- a filing fee charged by the appropriate county's circuit court;
- a service of process fee, including any fees incurred attempting to serve process;
- a title search fee of up to \$250;
- a subsequent title search update fee within six months of up to \$75;
- a publication fee charged by a newspaper of general circulation in the county in which the property is located;
- a posting fee;
- postage and certified mail costs;
- a substantial repair order fee, not to exceed the fee charged by the government agency issuing the certificate of substantial repair;
- expenses and court costs incurred for opening an estate of a deceased defendant for purposes of service of process and notice, up to \$1,200; and
- any court-approved expense for property stabilization or conversion during the redemption period or in accordance with a county action taken against the property for a building, fire, health, or safety code violation.

Finally, the plaintiff or holder of a certificate of sale may be reimbursed for taxes paid at the tax sale and any redemption interest accruing between the date of the tax sale and the actual redemption, any high bid premium, and in Baltimore City only, taxes, interest, and penalties paid.

Background: When a property is purchased at a tax sale, the purchaser must pay to the tax collector any delinquent taxes, penalties, sale expenses, and, under certain conditions, a high bid premium. The remainder of the purchase price is not paid to the collector until the purchaser forecloses on the property. The property owner has the right to redeem the property within six months from the date of the tax sale by paying the 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. Generally within two years, if the right to foreclose is not exercised by the purchaser, the certificate is void and the purchaser is not entitled to a refund of any monies paid to the collector.

Frederick County advises that it currently requires payment to be made directly to the holder of a certificate of sale or the holder's attorney.

State Fiscal Effect: The Department of Housing and Community Development advises that it averages 30 transactions per year that may be impacted by the bill's provisions, but that any increase in fees can be handled with existing resources.

Additional Information

Prior Introductions: HB 762 of 2016, a similar bill, received a hearing in the House Ways and Means Committee, but no further action was taken. HB 1144 of 2015, a similar bill, was assigned to the House Rules and Executive Nominations Committee, but no further action was taken. HB 940 of 2014, another similar bill, was withdrawn.

Cross File: Although designated as a cross file, HB 241 (Delegate Walker – Ways and Means) is different.

Information Source(s): Baltimore, Charles, Frederick, Montgomery, and Somerset counties; Department of Housing and Community Development; Judiciary (Administrative Office of the Courts); State Department of Assessments and Taxation; Department of Legislative Services

Fiscal Note History: First Reader - January 30, 2017
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