

Department of Legislative Services
Maryland General Assembly
2019 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 725

(Senators Guzzone and McCray)

Budget and Taxation

Tax Sales - Reimbursement for Expenses

This bill specifies that, if an action to foreclose the right of redemption has been filed subsequent to a tax sale, the plaintiff or holder of the certificate of sale may be reimbursed for specified attorney's fees at a higher rate for property *other than* residential property that is the owner's principal residence. The bill also authorizes a plaintiff or holder of a certificate of sale to be reimbursed for (1) costs for verifying whether a defendant is in the armed services, for relief and protections under the federal Servicemembers Civil Relief Act (SCRA), and (2) actual costs for obtaining judgment reports on a named defendant, if the plaintiff or holder of a certificate of sale provides a signed affidavit attesting to the fact that the expenses were actually incurred. **The bill takes effect July 1, 2019.**

Fiscal Summary

State Effect: Any increase in costs or fees to the Department of Housing and Community Development are anticipated to be minimal and may be absorbed with existing resources. Revenues are not affected.

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

Small Business Effect: Potential meaningful.

Analysis

Bill Summary: 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 attorney's fees in the amount of:

- if an affidavit of compliance *has not* been filed, (1) \$1,300 for residential property that is the owner's principal residence as indicated in the records of the State Department of Assessments and Taxation (SDAT), and (2) \$1,500 for all other property; or
- if an affidavit of compliance *has* been filed, (1) \$1,500 for residential property that is the owner's principal residence as indicated in SDAT's records, and (2) \$1,800 for all other property.

In both cases, the amount must be deemed reasonable for both the preparation and filing of the action to foreclose the right of redemption.

Current Law/Background: For general information about the tax sale process, see the **Appendix – Tax Sale Process**.

Authorized Reimbursements

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 attorney's fees in the amount of:

- \$1,300 if an affidavit of compliance has not been filed; or
- \$1,500 if an affidavit of compliance has been filed.

In both cases, the amount must be deemed reasonable for both the preparation and filing of the action to foreclose the right of redemption.

If the plaintiff or holder of a certificate of sale provides a signed affidavit attesting that the expenses were actually incurred, the plaintiff or holder of a certificate of sale may be reimbursed for:

- filing fees charged by the circuit court for the county in which the property is located;
- service of process fees;
- a title search fee, not to exceed \$250;
- if a second title search is conducted more than six months after the initial title search, a title search update fee, not to exceed \$75;
- specified publication fees;

- posting fees;
- postage and certified mail;
- substantial repair order fees, not to exceed the fee charged by the government agency issuing the certificate of substantial repair;
- expenses and costs incurred for opening an estate of a deceased defendant for purposes of service of process and notice, not to exceed \$1,200; and
- specified court approved expenses for stabilization or conversion of the property.

Federal Servicemembers Civil Relief Act

According to the Congressional Research Service, SCRA provides protections for servicemembers in the event that their military service impedes their ability to meet financial obligations incurred before entry into active military service. Generally, the Act suspends civil claims against servicemembers and protects them from default judgments. SCRA includes provisions that (1) prohibit the eviction of military members and their dependents from rental or mortgaged property; (2) create a cap on interest at 6% on debts incurred prior to an individual entering active duty military service; (3) protect against the cancellation of life insurance or the non-reinstatement of health insurance policies; (4) allow some professionals to suspend malpractice or liability insurance while on active duty; and (5) prohibit taxation in multiple jurisdictions and forced property sales in order to pay overdue taxes. The U.S. Attorney General is authorized to commence a civil action to enforce provisions of SCRA. Additionally, servicemembers and their dependents have the right to commence a civil action to enforce protections afforded them under SCRA.

Small Business Effect: A plaintiff or holder of a certificate of sale in an action to foreclose the right of redemption who qualifies as a small business may be able to be reimbursed for additional expenses, or receive additional reimbursement for attorney's fees for property other than residential property that is the owner's principal residence as indicated in SDAT's records.

Additional Information

Prior Introductions: None.

Cross File: HB 1292 (Delegates D. Barnes and Buckel) - Rules and Executive Nominations.

Information Source(s): Montgomery County; Judiciary (Administrative Office of the Courts); Department of Housing and Community Development; Property Tax Assessment Appeals Board; State Department of Assessments and Taxation; Congressional Research Service; Department of Legislative Services

Fiscal Note History: First Reader - March 7, 2019
an/kdm

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Appendix – Tax Sale Process

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. However, this requirement does not apply in Baltimore City, and statute is silent as to any timeline for the sale. 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 a 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.