

Department of Legislative Services
 Maryland General Assembly
 2021 Session

FISCAL AND POLICY NOTE
 Enrolled - Revised

House Bill 852

(Delegate Kaiser)

Ways and Means

Budget and Taxation

Property Tax - Tax Sales - Homeowner Protection Program

This bill establishes the Homeowner Protection Program, within the State Department of Assessments and Taxation (SDAT), and the Homeowner Protection Fund to support the program. The bill requires the Governor to include an appropriation of \$750,000 in the annual budget bill in each of fiscal 2023, 2024, and 2025 to fund the program. The bill prohibits a tax collector from selling, at a tax sale, the dwelling of a homeowner who is enrolled in the Homeowner Protection Program. **The bill takes effect July 1, 2022, with the exception of an administrative provision, which takes effect June 1, 2022.**

Fiscal Summary

State Effect: General fund expenditures and special fund revenues increase by \$750,000 in FY 2023 through 2025, due to the mandated appropriations, and by indeterminate amounts in future years. Special fund expenditures increase by up to \$750,000, on average, in FY 2023 through 2025 and by indeterminate amounts in future years. **This bill establishes mandated appropriations in FY 2023 through 2025.**

(in dollars)	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026
SF Revenue	\$0	\$750,000	\$750,000	\$750,000	-
GF Expenditure	\$0	\$750,000	\$750,000	\$750,000	-
SF Expenditure	\$0	\$750,000	\$750,000	\$750,000	-
Net Effect	\$0	(\$750,000)	(\$750,000)	(\$750,000)	-

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease

Local Effect: Minimal.

Small Business Effect: Potential meaningful.

Analysis

Bill Summary:

Homeowner Protection Program

The bill establishes a Homeowner Protection Program administered by SDAT's tax sale ombudsman. The purpose of the program is to divert vulnerable homeowners from the private tax lien sale process into an alternative program with the primary purpose of (1) minimizing tax collection costs to homeowners; (2) assisting homeowners to pay their taxes; and (3) allowing homeowners to remain in their homes.

A tax collector must withhold from sale a dwelling of a homeowner who is enrolled in the program and must include in the notice sent to a homeowner, at least 30 days before a property is first advertised for sale, information on the availability of the program.

Eligible homeowners must (1) reside in a dwelling that has an assessed value of \$300,000 or less and (2) have a combined income of \$60,000 or less. SDAT may establish additional eligibility criteria for enrollment in the program. SDAT must establish a process to (1) give priority for enrollment in the program to homeowners who are at least 60 years old or currently receiving disability benefits from the federal Social Security Disability Insurance Program or the federal Supplemental Security Income Program and (2) ensure that homeowners are enrolled in the program who reside in each county in the State.

By June 30 of each year, SDAT must determine the maximum number of homeowners who may be enrolled in the program in the next succeeding fiscal year based on the amount of funding available for the program in the Homeowner Protection Fund. The number of homeowners enrolled in the program in a fiscal year may not exceed the maximum number determined by the department. County or municipal governments may not be required to pay any costs of the program.

If a homeowner is first enrolled in the program before the lien on the homeowner's dwelling is sold at tax sale (1) SDAT must pay the county or municipality the full amount of the tax lien and assume exclusive responsibility for collecting the outstanding tax debt and (2) the county or municipality is required to withhold the dwelling from the next tax sale.

If a homeowner is first enrolled in the program after the lien on the homeowner's dwelling is sold at tax sale, SDAT must pay the holder of the tax sale certificate the full amount required to redeem the certificate, including interest and expenses of the certificate holder, and assume exclusive responsibility for collecting the outstanding tax debt.

After a homeowner is enrolled in the program (1) SDAT must pay the county or municipality the full amount of any tax lien that subsequently becomes due on the dwelling during the entire period that the homeowner is enrolled in the program and assume exclusive responsibility for collecting the outstanding tax debt and (2) the county or municipality is required to withhold the dwelling from tax sale during the entire period that the homeowner is enrolled in the program. After SDAT purchases a tax lien on the dwelling of a homeowner, the homeowner's outstanding tax debt (1) is owed to the department and (2) is not owed to any other person.

The tax sale ombudsman must cancel the enrollment of a homeowner in the program, and send specified notice of the cancellation to the homeowner, if (1) the homeowner submits a request to withdraw from the program; (2) the homeowner submitted false information in the homeowner's application for enrollment in the program; or (3) the ombudsman determines that the homeowner is not acting in good faith to pay the taxes due.

If a homeowner's enrollment in the program is canceled, the department must retain a lien on the homeowner's dwelling for the taxes owed to the department but may not initiate any collection efforts or otherwise act to enforce the lien until ownership of the dwelling is transferred.

A homeowner's enrollment in the program ends on the earliest of (1) the date the homeowner pays the full amount of the taxes owed to SDAT; (2) the date that is three years after the date the homeowner first enrolled in the program; or (3) the date the homeowner's enrollment in the program is canceled.

The bill specifies the duties of the tax sale ombudsman in administering the Homeowner Protection Program, including advertising and raising awareness of the program and assisting those enrolled in the program. Information on implementation of the program and the level of enrollment in the program, and recommendations for improvements in the administration of the program, must be included in an existing report published by SDAT each year on tax sales and the ombudsman's activities. The ombudsman may forgive all or part of the tax debt owed to the department by a homeowner enrolled in the program who faces particular hardship or has a special need. SDAT is authorized to charge an interest rate of up to 6% on unpaid taxes owed to the department. The ombudsman may set a lower interest rate or waive interest entirely at the ombudsman's discretion.

SDAT is authorized to conduct an *in rem* foreclosure and sale of a dwelling of a homeowner formerly enrolled in the program. SDAT may foreclose on and sell a dwelling of a homeowner formerly enrolled in the program only if (1) at least three years have elapsed since the homeowner first enrolled in the program and (2) all reasonable efforts to assist the homeowner to pay the taxes owed to the department have failed. The bill specifies the

mechanisms and procedures for conducting an *in rem* foreclosure and sale of a dwelling at public auction.

The bill prohibits a homeowner or any interested party from (1) raising as a defense to a foreclosure action that SDAT failed to make sufficient efforts to assist the homeowner under the program or (2) taking any legal action against the department on the basis that the department failed to make sufficient efforts to assist the homeowner under the program. The bill also establishes that SDAT is not liable for any environmental or other violation related to the dwelling of a homeowner enrolled or formerly enrolled in the program unless the department chooses to purchase the dwelling during the foreclosure process (where no bid at or above the minimum bid is made at the public auction for the dwelling).

Homeowner Protection Fund

The bill establishes the Homeowner Protection Fund as a special, nonlapsing fund to finance the program, administered by SDAT. The fund consists of (1) tax and interest payments made to the department by homeowners enrolled in the program; (2) money appropriated in the State budget to the fund; (3) interest earnings; and (4) any other money from any other source accepted for the benefit of the fund. For each of fiscal 2023 through 2025, the Governor is required to include an appropriation of \$750,000 for the fund in the annual budget bill. The fund may be used only for any expenses associated with the program. The fund may not be used for any expenses of the tax sale ombudsman's office that are not directly related to the program. Expenditures from the fund may be made only in accordance with the State budget and the fund is the exclusive source of funding for the program.

Current Law: Subject to certain exceptions, State law requires a tax collector to sell, through the tax sale process established in statute, all property in the county on which tax is unpaid, at the time required by local law, but in no case, except in Baltimore City, later than two years from the date the tax is in arrears.

However, State law includes various circumstances in which a property may or is required to be withheld from sale. Those circumstances include, among others:

- A tax collector is permitted to withhold from sale any property, when the total taxes owed on a property, including interest and penalties, amount to less than \$250 in any one year.
- A tax collector is permitted to withhold from sale any residential property, when the total taxes owed on a property, including interest and penalties, amount to less than \$750.
- A tax collector, in Baltimore City, is required to withhold from sale owner-occupied residential property when the total taxes on the property, including interest and

penalties, amount to less than \$750. Additionally, in Baltimore City, a collector is required to withhold from sale a residential property or a property owned by a religious group or organization that is actually and exclusively used for public religious worship, a parsonage or convent, or educational purposes, if the taxes consist of only of a lien for unpaid water and sewer charges.

- A governing body of a county or municipal corporation may withhold from sale a dwelling owned by a homeowner who is low income, at least 65 years old, or disabled if the homeowner meets eligibility criteria established by the county or municipal corporation.

For more information about the tax sale process, see the **Appendix – Tax Sale Process**.

Chapter 730 of 2019 established the State Tax Sale Ombudsman within SDAT and authorized counties and municipalities to withhold from tax sale dwellings of homeowners who are low income, older than age 65, or are disabled, in accordance with criteria established by the local jurisdiction (mentioned above). In addition, the legislation expanded the required contents of specified notices to include information about the tax sale process and the State Tax Sale Ombudsman; and established various tax sale data collection and reporting requirements.

State Fiscal Effect: General fund expenditures increase by \$750,000 in each of fiscal 2023 through 2025 as a result of the appropriations mandated by the bill. General fund expenditures may also increase in future years to the extent needed to support the program. Special fund revenues for the Homeowner Protection Fund increase by the same amount in each of fiscal 2023 through 2025 due to the mandated appropriations. Special fund revenues also increase in fiscal 2023 through 2025, and in future fiscal years, due to tax and interest payments by homeowners enrolled in the program, interest earnings, and any future year general fund appropriations to the fund.

Based on the available revenues from the mandated appropriations (not accounting for available revenues from tax and interest payments, or interest earnings), special fund expenditures increase by up to \$750,000, on average, in fiscal 2023 through 2025, dependent on enrollment in the program. Future year spending also will be dependent on enrollment and available revenues. Expenditures reflect costs of administering the program, including administrative expenses and payment/purchases of enrollees' tax liens.

Small Business Effect: Small businesses that would otherwise generate revenue from tax sales that no longer occur under the bill may be meaningfully affected.

Additional Comments: For contextual purposes, SDAT's 2020 Tax Sale Ombudsman's Report indicates that 11 counties held tax sales in fiscal 2020. According to the report, which includes data for 10 of the 11 counties, the total number of properties advertised in

the first notice – including commercial, non-owner occupied, and owner occupied properties – was 25,270, and the total lien value was \$214.9 million; the average lien value was \$8,505. The total number of liens offered at tax sale was 10,067 and the total amount of these liens was \$101.7 million. The number of liens sold was 8,399. For owner-occupied properties, the number of liens sold was 2,522, including 1,015 in Baltimore City (\$5,709 average lien amount) and 691 in Prince George’s County.

Additional Information

Prior Introductions: None.

Designated Cross File: None.

Information Source(s): Montgomery County; Prince George’s County; Judiciary (Administrative Office of the Courts); State Department of Assessments and Taxation; Department of Legislative Services

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Analysis by: Michael Sanelli

Direct Inquiries to:
(410) 946-5510
(301) 970-5510

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, if any. 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 property, the purchaser is refunded the amounts paid to the collector plus the interest and expenses. If the owner does not redeem the property, 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 of sale is void, and the purchaser is not entitled to a refund of any monies paid to the collector.

Chapter 440 of 2020 requires the State Department of Assessments and Taxation (SDAT) to issue a report each year that includes an analysis and summary of the information collected through an annual tax sale survey. Each county must provide SDAT all specified information on the form that SDAT provides. For more information regarding tax sales in the State – see [2020 Annual Maryland Tax Sale Report](#).