

AG's A2J COVID -19 TASK FORCE RECOMMENDATION SUBMISSION FORM

*Please submit separate forms for each recommendation

1. Committee submitting the recommendation:

Life and Health Planning

2. L&HP Proposed Recommendation No. 2:

Allow recordation of the deed to a home without first paying off the property taxes owed on the home.

The Committee recommends enacting a legislative change that would allow individuals to transfer residential real property to their heirs without first paying any property taxes owed. The tax year in Maryland is July 1 - June 30. Although a living person has the option of paying real property taxes in two installments (first payment due by September 30 and the second by December 31), this is not an option when the house is being distributed out of the estate of a deceased person to its heirs. When the house is the only asset in the estate and there is no or little cash to pay the real property taxes, the personal representative is unable to record the deed transferring the home to the decedent's heirs. Allowing the ownership of the home to transfer to the decedent's heirs will allow them to qualify for homeowner's assistance programs and allows them to stay in the property, avoiding homelessness. The state's interest continues to be protected, as any unpaid taxes act as a lien against the property that would be paid should the property need to go to tax sale.

3. Describe the civil justice problem related to COVID-19 the proposal is solving.

The family home is usually the most valuable asset that an individual owns. In many cases, the home is a shelter for multiple generations or expanded members of a family. When the owner of the home dies, the family members who remain living in the home must file for probate in order to transfer the home to the decedent's heirs. For some family members, the complications and cost of probate are overwhelming and so probate is never commenced. For families who struggle financially, some of these homes will go to tax sale for nonpayment of real property taxes and the family members may face homelessness. These problems likely have been exacerbated because of deaths related to the COVID-19 pandemic.

3a. Add context and detail about how this issue directly affects Marylanders; what are the implications of not acting. (This will be helpful in explaining the real-world impact of these issues in the task force’s report.)

The proposal would allow recording of a deed transferring the home to a decedent's heirs without first having to pay the property taxes, avoiding the risk of homelessness for heirs where neither the estate nor the heirs had sufficient funds with which to pay the taxes.

3b. Please identify, if possible, contacts at organizations (mix of 3 - grassroots, social services and legal services) working on these issues who could provide more detailed information about the impacts on average Marylanders to our report writer.

Margaret Henn, Director of Program Management, Maryland Volunteer Lawyers Service, mhenn@mvlsvlaw.com

Timothy Chance, Tangled Title Staff Attorney, Maryland Volunteer Lawyers Service, tchance@mvlsvlaw.com

Rexanah Wyse, Chief of Staff, United States Interagency Council on Homelessness

4. Detail how race/ethnicity/national origin disparities are addressed in the proposal and include any context (i.e., identify existing disparities before COVID-19 and exacerbated post COVID-19; refer to racial equity assessment questions).

This proposal intends to immediately decrease the wealth disparity between black and white families. As of 2017, homeownership is at 47% in Baltimore, while black homeownership is only at 42%.¹ This can be tied, in part to the historical overassessment of black owned homes. Nationwide, black families pay 13% more in property taxes than white families.² As a result, black families that are earning half as much as their white counterparts, are forced to pay higher property taxes and the home is more at risk of being taken from the family.³ Post COVID, this risk has been exacerbated as black families are generally more financially vulnerable and COVID caused unemployment will only make the situation more dire.⁴ Removing the lien certificate requirement, while it does not address the root issue of overassessment, lessens the impact that an existing property tax balance will have on black homeownership.

¹ Sally J. Scott & Seema Iyer, Overcoming Barriers to Homeownership in Baltimore City 3 (2020).

² Andrew Van Dam, *Black families pay significantly higher property taxes than white families, new analysis shows*, Wash. Post (July 2, 2020), <https://www.washingtonpost.com/business/2020/07/02/black-property-tax/>.

³ Sally J. Scott & Seema Iyer, Overcoming Barriers to Homeownership in Baltimore City 6 (2020).

⁴ Kelly Glass, *Black Families Were Hit Hard by the Pandemic. The Effects on Children May Be Lasting.*, N.Y. Times (June 29, 2020), <https://www.nytimes.com/2020/06/29/parenting/coronavirus-black-children-inequality.html>.

5. Detail disparities of other types and how the proposal aims to be inclusive and accessible to vulnerable persons, including those with disabilities, language differences and technology barriers.

This proposal is intended to provide a holistic approach to populations facing barriers to retaining family property due to limited English proficiency (LEP), the digital divide, and disabilities. Across the country, zip codes with the highest concentrations of LEP residents have homeownership rates 5 percentage points lower than zip codes with the median concentration of LEP residents.⁵ Additionally, 41% of households with members with disabilities have trouble affording housing costs.⁶ There's significant intersectionality between households below the poverty line and households with the above barriers. This recommendation streamlines and simplifies the process of transferring the family home and this benefit will be felt by a large swath of the intended population.

6. Indicate what action is needed to implement the proposal (e.g., court rule change; legislative (local, state or federal) or regulatory change, MOU, MSBA or other agency or organization action).

State legislative action.

7. Provide any additional background that provides context and support for the Proposal.

This proposal could have a profound impact on Baltimore. As of 2017, 20% of the city's population is living in poverty.⁷ Any further financial requirement to keep many people's only asset in their family is extremely burdensome. This burden can be especially broad as all city bills which are due, including water bills, property taxes, and environmental/housing fines can prevent the transfer of the property. Removing this barrier will stabilize communities and allow historically marginalized communities to accumulate intergenerational wealth.

8. Identify any known objections or obstacles to the proposal (e.g., opponents' arguments, cost, short time frame to act; previous attempts to accomplish failed).

Local municipalities may object to deferred payment of taxes owed.

⁵ Edward Golding, *et al.*, Is Limited English Proficiency a Barrier to Homeownership? 1 (2018).

⁶ Nat'l Council on Disability, *The State of Housing in America in the 21st Century: A disability Perspective* 9 (2010).

⁷ Baltimore Sun Editorial Board, [What if we just focused on poverty to solve the city's issues?](https://www.baltimoresun.com/opinion/editorial/bs-ed-0207-baltimore-poverty-20190205-story.html), Balt. Sun, (Feb. 05, 2019, 2:45PM), <https://www.baltimoresun.com/opinion/editorial/bs-ed-0207-baltimore-poverty-20190205-story.html>

9. Share how the proposal compares to other states' laws, policies, or actions (e.g., would the proposal make Maryland a leader in this area or bring Maryland in line with most other states).

The Committee has not identified a 50-state survey on this issue. However, none of the District of Columbia, Virginia or West Virginia have a statutory requirement for payment of real estate taxes prior to the recordation of any deed transferring title to property.