

SENATE BILL 855

Q2, Q1

3lr1424
CF HB 921

By: **Senator McCray**

Introduced and read first time: February 6, 2023

Assigned to: Budget and Taxation

A BILL ENTITLED

1 AN ACT concerning

2 **Property Tax – In Rem Foreclosure**

3 FOR the purpose of authorizing certain vacant property and nuisance property located in
4 Baltimore City to be subject to a certain in rem foreclosure process; requiring service
5 of a complaint for in rem foreclosure to be served in accordance with the Maryland
6 Rules; providing for the distribution of surplus proceeds from the sale of property
7 subject to an in rem foreclosure; authorizing an in rem foreclosure order to be set
8 aside under certain circumstances; providing for the redemption amounts required
9 to be paid when an in rem foreclosure is set aside; and generally relating to in rem
10 foreclosure of property.

11 BY repealing and reenacting, with amendments,
12 Article – Tax – Property
13 Section 14–874 through 14–876
14 Annotated Code of Maryland
15 (2019 Replacement Volume and 2022 Supplement)

16 BY adding to
17 Article – Tax – Property
18 Section 14–877 and 14–878
19 Annotated Code of Maryland
20 (2019 Replacement Volume and 2022 Supplement)

21 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
22 That the Laws of Maryland read as follows:

23 **Article – Tax – Property**

24 14–874.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



(a) (1) [Real] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, REAL property may be subject to foreclosure and sale under this part only if:

[(1)] (I) the property consists of a vacant lot or improved property cited as vacant and unsafe or unfit for habitation or other authorized use on a housing or building violation notice; and

[(2)] (II) the total amount of liens for unpaid taxes on the property exceeds the lesser of the total value of the property as last determined by the Department or as determined by an appraisal report prepared not more than 6 months before the filing of a complaint under this section by a real estate appraiser who is licensed under Title 16 of the Business Occupations and Professions Article.

(2) REAL PROPERTY LOCATED IN BALTIMORE CITY MAY BE SUBJECT TO FORECLOSURE AND SALE UNDER THIS PART IF THE PROPERTY IS A VACANT PROPERTY OR A NUISANCE PROPERTY, AS DETERMINED UNDER THE BALTIMORE CITY BUILDING CODE.

(b) (1) A county or municipal corporation may authorize by law an in rem foreclosure in accordance with this part.

(2) A law that authorizes an in rem foreclosure shall:

(i) state the date after which real property may be subject to in rem foreclosure under this part;

(ii) establish criteria for designating real property to be foreclosed under this part;

(iii) authorize the county or municipal corporation to file a complaint for an in rem foreclosure under this part; and

(iv) include administrative rules and procedures necessary to carry out an in rem foreclosure under this part.

(c) (1) Subject to subsection (d) of this section, a county or municipal corporation may authorize, by law, the sale of real property after an in rem foreclosure and designate real property to be sold under this part.

(2) A law that authorizes a sale of real property after an in rem foreclosure shall:

(i) state the date after which the real property may be subject to sale after an in rem foreclosure under this part;

(ii) establish criteria for designating real property to be sold under this part; and

(iii) include administrative rules and procedures necessary to carry out a sale under this part.

(d) **[Only] EXCEPT AS PROVIDED IN SUBSECTION (A)(2) OF THIS SECTION, ONLY** real property that consists of a vacant lot or improved property cited as vacant and unsafe or unfit for habitation or other authorized use on a housing or building violation notice may be sold under this part.

14–875.

(a) A county or municipal corporation may file a complaint for an in rem foreclosure action in accordance with this part.

(b) The county or municipal corporation may not file a complaint for an in rem foreclosure action unless:

(1) the tax on the real property has been delinquent for at least 6 months; and

(2) **(I)** the right to appeal the notice of the property as vacant and unsafe or unfit has tolled; **OR**

(II) THE RIGHT TO APPEAL THE NOTICE OF THE PROPERTY AS VACANT PROPERTY OR A NUISANCE PROPERTY, AS DETERMINED UNDER THE BALTIMORE CITY BUILDING CODE, HAS TOLLED.

(c) All taxes shall:

(1) be included in the foreclosure action; and

(2) cease to be a lien against the real property if a judgment is entered foreclosing the existing interests of all interested parties in the real property.

(d) The county or municipal corporation shall:

(1) file the complaint for an in rem foreclosure in the circuit court of the county where the real property is located; and

(2) **[within 5 days after filing the complaint, send notice and a copy of] SERVE** the complaint to each interested party **[by first-class mail and certified mail, postage prepaid, return receipt requested, bearing a postmark from the United States Postal Service]** **IN ACCORDANCE WITH THE MARYLAND RULES.**

(e) The complaint for an in rem foreclosure shall include:

(1) the identity of the county or municipal corporation on behalf of which the complaint is filed;

(2) the name and address of the county or municipal corporation;

(3) a description of the real property as it appears in the county land records;

(4) the tax identification number of the real property;

(5) a statement that the taxes are delinquent at the time of the filing;

(6) the amount of taxes that are delinquent as of the date of filing;

(7) the names and last known addresses of all interested parties in the real property and, if applicable, a statement that the address of a particular interested party in the real property is unknown;

(8) a statement that the real property is:

(I) a vacant lot or improved property cited as vacant and unsafe or unfit for habitation or other authorized use on a housing or building violation notice; OR

(II) A VACANT PROPERTY OR A NUISANCE PROPERTY, AS DETERMINED UNDER THE BALTIMORE CITY BUILDING CODE;

(9) copies of any violation notice cited under paragraph (8) of this subsection;

(10) a request that the circuit court not schedule a hearing on the complaint until 30 days after the date that the complaint is filed; and

(11) a request that the circuit court enter a judgment that forecloses the existing interests of all interested parties in the real property and orders ownership of the real property to be transferred to the county or municipal corporation.

(f) A complaint for an in rem foreclosure may be amended to include all taxes that become delinquent after the commencement of the in rem foreclosure action.

(g) (1) Subject to paragraph (2) of this subsection, an interested party has the right to cure the delinquent taxes and liens on the real property by paying all past due fees, payments, and penalties at any time before the entry of the foreclosure judgment.

(2) The right to cure the delinquent taxes and liens on the real property extinguishes once the foreclosure judgment is entered.

14-876.

(a) A circuit court may not set a hearing for an in rem foreclosure until 30 days after the complaint for an in rem foreclosure is filed.

(b) At the hearing, any interested party shall have the right to be heard and to contest the delinquency of the taxes and the adequacy of the proceedings.

(c) If the circuit court finds that the county or municipal corporation sent notice and a copy of the complaint to each interested party in accordance with § 14-875(d) of this subtitle and that the information set forth in the complaint is accurate, the court shall:

(1) enter a judgment that:

(i) proper notice has been provided to all interested parties; and

(ii) the real property is:

1. a vacant lot or an improved property cited as vacant and unsafe or unfit for habitation or other authorized use on a housing or building violation notice; **OR**

2. **A VACANT PROPERTY OR A NUISANCE PROPERTY, AS DETERMINED UNDER THE BALTIMORE CITY BUILDING CODE;** and

(2) order that ownership of the real property be transferred to the county or municipal corporation on behalf of which the complaint was filed.

(d) (1) The county or municipal corporation shall record a judgment under subsection (c) of this section in the land records of the county.

(2) The title acquired in an in rem foreclosure proceeding shall be an absolute or fee simple title including the right, title, and interest of each of the defendants in the proceeding whose property has been foreclosed unless a different title is specified in the judgment entered.

(3) A judgment in an action under this part is binding and conclusive, regardless of legal disability, on:

(i) all persons, known and unknown, who were parties to the action and who had a claim to the property, whether present or future, vested or contingent, legal or equitable, or several or undivided; and

(ii) all persons who were not parties to the action and had a claim to the property that was not recorded at the time that the action was commenced.

14-877.

(A) IN THIS SECTION, "SURPLUS PROCEEDS" MEANS THE PROCEEDS FROM THE SALE OF PROPERTY SOLD WITHIN 1 YEAR FROM WHEN THE PROPERTY WAS OBTAINED BY A COUNTY OR MUNICIPAL CORPORATION THROUGH AN IN REM FORECLOSURE, THAT EXCEED THE SUM OF:

(1) THE DELINQUENT TAXES, FEES, AND PENALTIES ON THE PROPERTY; AND

(2) THE VALUE OF ALL IMPROVEMENTS MADE ON THE PROPERTY AND ALL COSTS INCURRED WITH RESPECT TO DEVELOPMENT OF THE PROPERTY PRIOR TO THE SALE BY THE COUNTY OR MUNICIPAL CORPORATION.

(B) (1) SURPLUS PROCEEDS SHALL BE HELD BY A COUNTY OR MUNICIPALITY FOR A PERIOD OF 12 MONTHS.

(2) AFTER 12 MONTHS, SURPLUS PROCEEDS SHALL BE DISTRIBUTED TO ANY PERSON WITH AN OUTSTANDING CLAIM ON THE PROPERTY, IN ORDER OF PRIORITY.

(C) EACH COUNTY AND MUNICIPALITY SHALL MAINTAIN A LIST OF PROPERTIES OBTAINED THROUGH IN REM FORECLOSURE THAT HAVE BEEN SOLD WITHIN 1 YEAR FROM WHEN THE PROPERTY WAS OBTAINED AND FOR WHICH THE SALE HAS RESULTED IN SURPLUS PROCEEDS.

14-878.

(A) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A COURT MAY NOT REOPEN A JUDGMENT RENDERED IN AN IN REM FORECLOSURE PROCEEDING IN ACCORDANCE WITH THIS PART EXCEPT ON THE GROUND OF LACK OF JURISDICTION OR FRAUD IN THE CONDUCT OF THE PROCEEDINGS TO FORECLOSE.

(2) A COURT MAY NOT REOPEN ANY JUDGMENT UNDER PARAGRAPH (1) OF THIS SUBSECTION ON THE GROUND OF CONSTRUCTIVE FRAUD IN THE CONDUCT OF THE PROCEEDINGS TO FORECLOSE UNLESS AN APPLICATION TO REOPEN A JUDGMENT RENDERED IS FILED WITHIN 1 YEAR FROM THE DATE OF THE JUDGMENT.

1 **(B) A PLAINTIFF IN AN ACTION TO REOPEN AN IN REM FORECLOSURE**
2 **JUDGMENT SHALL:**

3 **(1) EXCEPT AS PROVIDED IN SUBSECTION (A)(2) OF THIS SECTION,**
4 **FILE THE ACTION WITHIN 3 YEARS OF THE ISSUANCE OF THE IN REM FORECLOSURE**
5 **JUDGMENT; AND**

6 **(2) WITHIN 30 DAYS OF FILING THE ACTION, SUBMIT EVIDENCE TO**
7 **THE COURT THAT THE PLAINTIFF HAS OBTAINED A BOND EQUAL TO THE**
8 **REASONABLE VALUE OF THE PROPERTY.**

9 **(C) IF AN IN REM FORECLOSURE JUDGMENT OF THE COURT IS SET ASIDE,**
10 **THE AMOUNT REQUIRED TO REDEEM IS:**

11 **(1) THE AMOUNT REQUIRED BY THIS SUBTITLE; AND**

12 **(2) THE REASONABLE VALUE, AT THE DATE THE JUDGMENT IS SET**
13 **ASIDE, OF ALL IMPROVEMENTS MADE ON THE PROPERTY AND ALL COSTS INCURRED**
14 **WITH RESPECT TO DEVELOPMENT OF THE PROPERTY BY THE PURCHASER AND THE**
15 **PURCHASER'S SUCCESSORS IN INTEREST.**

16 **SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect**
17 **October 1, 2023.**