

HOUSE BILL 865

N1, N2, Q1

3lr2081
CF SB 769

By: **Baltimore City Delegation**

Introduced and read first time: February 9, 2023

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Baltimore City – Residential Real Property – Disclaimed Property and**
3 **Exemptions From Prepayment**

4 FOR the purpose of authorizing Baltimore City to acquire certain disclaimed residential
5 real property of a decedent's estate under certain circumstances; prohibiting a person
6 from seeking to recover an interest in certain residential real property, or the value
7 of that property, if Baltimore City acquires title to the property in accordance with
8 this Act; exempting, under certain circumstances, grants of certain residential real
9 property from the estate of a decedent to a certain heir of the decedent and transfers
10 of certain residential real property disclaimed by an estate from certain provisions
11 of law requiring the prepayment of certain real property taxes; and generally
12 relating to residential real property in Baltimore City.

13 BY repealing and reenacting, with amendments,
14 Article – Estates and Trusts
15 Section 3–105 and 10–103(b)
16 Annotated Code of Maryland
17 (2022 Replacement Volume and 2022 Supplement)

18 BY adding to
19 Article – Estates and Trusts
20 Section 10–106
21 Annotated Code of Maryland
22 (2022 Replacement Volume and 2022 Supplement)

23 BY repealing and reenacting, without amendments,
24 Article – Real Property
25 Section 3–104(a) and (b)
26 Annotated Code of Maryland
27 (2015 Replacement Volume and 2022 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



BY repealing and reenacting, with amendments,
Article – Real Property
Section 3–104(c)
Annotated Code of Maryland
(2015 Replacement Volume and 2022 Supplement)

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

Article – Estates and Trusts

3–105.

(a) (1) (i) The provisions of this subsection are applicable if there is no
person entitled to take under §§ 3–102 through 3–104 of this subtitle.

(ii) The provisions of this subsection do not apply to [any]:

1. ANY portion of a decedent's estate that is comprised of
land that is the subject of an application for a certificate of reservation for public use under
Title 13, Subtitle 3 of the Real Property Article; **OR**

**2. RESIDENTIAL REAL PROPERTY OF A DECEDENT'S
ESTATE THAT IS DISCLAIMED BY A PERSON IN ACCORDANCE WITH TITLE 9,
SUBTITLE 2 OF THIS ARTICLE AND TITLE TO WHICH IS ACQUIRED BY BALTIMORE
CITY UNDER § 10–106 OF THIS ARTICLE.**

(2) (i) If an individual was a recipient of long-term care benefits under
the Maryland Medical Assistance Program at the time of the individual's death, the net
estate shall be converted to cash and paid to the Maryland Department of Health, and shall
be applied for the administration of the program.

(ii) If the provisions of subparagraph (i) of this paragraph are not
applicable, the net estate shall be converted to cash and paid to the board of education in
the county in which the letters were granted, and shall be applied for the use of the public
schools in the county.

(b) (1) After payment has been made to the Maryland Department of Health
or to the board of education, if a claim for refund is filed by a relative within the fifth degree
living at the death of the decedent or by the personal representative of the relative, and the
claim is allowed, the claimant shall be entitled to a refund, without interest, of the sum
paid.

(2) A claim for refund under this subsection may not be filed after the later
of:

(i) 3 years after the death of the decedent; or

(ii) 1 year after the time of distribution of the property.

10–103.

(b) (1) Except as provided in [§ 10–102] §§ 10–102 AND 10–106 of this subtitle and § 7–308 of the Tax – General Article, the right of a person seeking to recover property improperly distributed, or the value of it, from a person to whom property has been distributed is forever barred at the later of:

(i) Three years from the death of the decedent; or

(ii) One year from the time of distribution of the property.

(2) This subsection does not bar recovery of property or the value of it received as the result of the heir's or legatee's participation in a fraudulent distribution.

10–106.

(A) THIS SECTION SHALL APPLY ONLY IN BALTIMORE CITY.

(B) IF RESIDENTIAL REAL PROPERTY HAS BEEN DISCLAIMED FROM A DECEDENT'S ESTATE AS A DISCLAIMED INTEREST UNDER TITLE 9, SUBTITLE 2 OF THIS ARTICLE, BALTIMORE CITY MAY ACQUIRE TITLE TO THE PROPERTY IF:

(1) THE RESIDENTIAL REAL PROPERTY IS LOCATED IN BALTIMORE CITY;

(2) THE ESTATE WAS CLOSED IN BALTIMORE CITY; AND

(3) THE APPOINTMENT OF THE PERSONAL REPRESENTATIVE HAS TERMINATED UNDER § 10–101 OF THIS SUBTITLE.

(C) IF BALTIMORE CITY SEEKS TO ACQUIRE TITLE TO THE RESIDENTIAL REAL PROPERTY UNDER THIS SECTION, THE ESTATE NEED NOT BE REOPENED AND NOTICE NEED NOT BE PROVIDED TO ANY INTERESTED PARTIES.

(D) THE RIGHT OF A PERSON SEEKING TO RECOVER AN INTEREST IN THE DISCLAIMED RESIDENTIAL REAL PROPERTY, OR THE VALUE OF THAT PROPERTY, IS FOREVER BARRED UNDER THIS SECTION IF BALTIMORE CITY ACQUIRES TITLE TO THE PROPERTY IN ACCORDANCE WITH THIS SECTION.

3-104.

(a) (1) The Clerk of the Circuit Court may record an instrument that effects a change of ownership if the instrument is:

(i) Endorsed with the certificate of the collector of taxes of the county in which the property is assessed, required under subsection (b) of this section;

(ii) 1. Accompanied by a complete intake sheet; or

2. Endorsed by the assessment office for the county as provided in subsection (g)(8) of this section; and

(iii) Accompanied by a copy of the instrument, and any survey, for submission to the Department of Assessments and Taxation.

(2) The Supervisor of Assessments shall transfer ownership of property in the assessment records, effective as of the date of recordation, upon receipt from the Clerk of the Circuit Court of a copy of the instrument, the completed intake sheet, and any survey submitted under paragraph (1) of this subsection.

(b) (1) (i) Except as provided in subsection (c) of this section, property may not be transferred on the assessment books or records until:

1. All public taxes, assessments, and charges currently due and owed on the property have been paid to the treasurer, tax collector, or director of finance of the county in which the property is assessed; and

2. All taxes on personal property in the county due by the transferor have been paid when all land owned by the transferor in the county is being transferred.

(ii) The certificate of the collecting agent designated by law, showing that all taxes, assessments, and charges have been paid, shall be endorsed on the deed, and the endorsement shall be sufficient authority for transfer on the assessment books.

(2) (i) Except as provided in subsection (c) of this section, in Allegany, Cecil, Charles, Dorchester, Harford, Howard, Kent, Queen Anne's, Somerset, and St. Mary's counties no property may be transferred on the assessment books or records until:

1. All public taxes, assessments, any charges due a municipal corporation, and charges due on the property have been paid as required by law; and

2. All taxes on personal property in the county due by the transferor have been paid when all land owned by the transferor in the county and municipal corporation is being transferred.

(ii) The certificate of the collecting agent and municipal corporation designated by law showing that all taxes, assessments, and charges have been paid, shall be endorsed on the deed and the endorsement shall be sufficient authority for transfer on the assessment books.

(c) (1) (i) **1.** The requirements for prepayment of personal property taxes in subsection (b) of this section do not apply to grants of land made:

[1.] A. By or on behalf of any mortgagee, lien creditor, trustee of a deed of trust, judgment creditor, trustee in bankruptcy or receiver, and any other court-appointed officer in an insolvency or liquidation proceeding; or

[2.] B. By a deed in lieu of foreclosure to any holder of a mortgage or deed of trust or to the holder's assignee or designee.

2. IN BALTIMORE CITY, THE REQUIREMENTS FOR PREPAYMENT OF REAL PROPERTY TAXES IN SUBSECTION (B) OF THIS SECTION DO NOT APPLY TO:

A. GRANTS OF LAND THAT TRANSFER RESIDENTIAL REAL PROPERTY FROM THE ESTATE OF A DECEDENT TO AN HEIR OF THE DECEDENT, IF THE HEIR OF THE DECEDENT ENTERS INTO A PAYMENT PLAN WITH THE BALTIMORE CITY BUREAU OF REVENUE COLLECTIONS TO PAY ALL PUBLIC TAXES, ASSESSMENTS, AND CHARGES CURRENTLY DUE AND OWED ON THAT PROPERTY; OR

B. THE TRANSFER OF RESIDENTIAL REAL PROPERTY TO BALTIMORE CITY IN ACCORDANCE WITH § 10-106 OF THE ESTATES AND TRUSTS ARTICLE.

(ii) Notwithstanding any other provision of law, and except as provided in subparagraph (iii) of this paragraph, after the recordation of a deed or other instrument that effects a grant of land described in subparagraph **[(i)] (I)1** of this paragraph, the land shall be free and clear of, and unencumbered by, any lien or claim of lien for any unpaid taxes on personal property.

(iii) Subparagraph (ii) of this paragraph does not apply to:

1. Any lien for unpaid taxes on personal property that attached to the land by recording and indexing a notice as provided in § 14-804(b) of the Tax – Property Article prior to the recording of the mortgage, lien, deed of trust, or other encumbrance giving rise to the grant of land described in subparagraph **[(i)] (I)1** of this paragraph; or

2. Unpaid taxes on personal property owed by the transferee or subsequent owner of the land after a grant of land described in subparagraph [(i)] **(I)**1 of this paragraph.

(iv) This paragraph does not affect the rights of the personal property tax lienholder to make a claim to any surplus proceeds from a judicial sale of land resulting in a grant of land described in subparagraph [(i)] **(I)**1 of this paragraph.

(2) Subsection (b) of this section does not apply in Charles, St. Mary's, Dorchester, Harford, Howard, Kent, Prince George's, Worcester, Carroll, Montgomery, Frederick and Washington counties to any deed executed as a mere conduit or for convenience in holding and passing title, known popularly as a straw deed or, as provided in § 4–108 of this article, a deed making a direct grant in lieu of a straw deed, or to a deed which is a supplementary instrument merely confirming, correcting, or modifying a previously recorded deed, if there is no actual consideration paid or to be paid for the execution of the supplementary instrument.

(3) Subsection (b) of this section does not apply in Baltimore City and Anne Arundel, Baltimore, Carroll, Frederick, St. Mary's, or Washington counties to any deed transferring property to the county when the controller or treasurer of the county has certified that the conveyance does not impair the security for any public taxes, assessments, and charges due on the remaining property of the grantor.

(4) (i) Property may be transferred on the assessment books or records in July, August, or September if instead of paying the taxes required under subsection (b)(1) of this section on a property transfer by assumption, a lender or the attorney handling the transfer of title files with the county treasurer, tax collector, or director of finance of the county in which the property is assessed a statement that certifies that the lender maintains a real estate tax escrow account.

(ii) Upon receipt of the statement required in subparagraph (i) of this paragraph, the county treasurer, tax collector, or director of finance shall endorse on the deed an appropriate certification and the endorsement shall be sufficient authority for transfer on the assessment books.

(5) **(I) [At] EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, AT** the time of transfer of real property subject to a semiannual payment schedule for the payment of property taxes, only those semiannual payments that are due for the current taxable year under § 10–204.3 of the Tax – Property Article must be paid prior to the transfer of the property.

(II) IN BALTIMORE CITY, THE SEMIANNUAL PAYMENTS THAT ARE DUE FOR THE CURRENT TAXABLE YEAR UNDER § 10–204.3 OF THE TAX – PROPERTY ARTICLE ARE NOT REQUIRED TO BE PAID BEFORE THE TRANSFER OF THE PROPERTY IF:

1 **1. A. THE PROPERTY IS RESIDENTIAL REAL**
2 **PROPERTY THAT IS BEING TRANSFERRED FROM THE ESTATE OF A DECEDENT TO AN**
3 **HEIR OF THE DECEDENT; AND**

4 **B. THE HEIR OF THE DECEDENT ENTERS INTO A**
5 **PAYMENT PLAN WITH THE BALTIMORE CITY BUREAU OF REVENUE COLLECTIONS**
6 **TO PAY ALL PUBLIC TAXES, ASSESSMENTS, AND CHARGES CURRENTLY DUE AND**
7 **OWED ON THE PROPERTY; OR**

8 **2. THE RESIDENTIAL REAL PROPERTY IS BEING**
9 **TRANSFERRED TO BALTIMORE CITY IN ACCORDANCE WITH § 10-106 OF THE**
10 **ESTATES AND TRUSTS ARTICLE.**

11 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
12 October 1, 2023.