

Department of Legislative Services
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2019 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 161
Ways and Means

(Delegate Mosby, *et al.*)

Baltimore City - Tax Sales of Real Property - Water Liens (Water Taxpayer
Protection Act of 2019)

This bill permanently limits the authority of the Mayor and City Council of Baltimore City to conduct tax sale proceedings on properties to enforce liens for unpaid water and sewer service charges. It continues the exclusion of residential property from such a sale, and newly excludes real property used exclusively as a place of worship from such a sale. The bill also specifies that the mayor and city council may not conduct a tax sale proceeding to enforce another lien if the real property is residential or used exclusively as a place of worship. **The bill applies prospectively, and may not be applied to any liens attached to real property before the bill's July 1, 2019 effective date.**

Fiscal Summary

State Effect: The bill is not anticipated to materially impact State finances or operations.

Local Effect: Baltimore City revenues decrease by at least \$5 million annually, as discussed below. Baltimore City expenditures for debt services may increase significantly.

Small Business Effect: Minimal.

Analysis

Bill Summary/Current law: The bill repeals the termination date of Chapter 714 of 2018 (Senate Bill 1098), making permanent the provisions which (1) require the tax collector in Baltimore City to withhold residential property from sale if the taxes on the property consist only of a lien for unpaid water and sewer charges, and (2) prohibit the Mayor and City Council of Baltimore City from selling a property to enforce a lien for unpaid charges

for water and sewer service, unless the property is not a residential property. These provisions, under current law, terminate December 31, 2019.

Sale of Property to Enforce a Lien for Water and Sewer Service

The bill specifies that the Mayor and City Council of Baltimore City may not sell a property to enforce a lien for unpaid charges for water and sewer service unless (1) the lien is for at least \$350; (2) the property is not a residential property or real property used exclusively as a place of worship; and (3) the unpaid charges are at least three quarters in arrears (approximately 270 days).

Under current law, the Mayor and City Council of Baltimore City may not sell a property *solely* to enforce a lien for unpaid charges for water and sewer service unless (1) the lien is for at least \$350; (2) the property is not a residential property; and (3) the unpaid charges are at least three quarters in arrears.

The bill repeals a provision in current law that authorizes the mayor and city council to enforce a lien on residential property for unpaid water and sewer service if the property is being sold to enforce another lien. The bill also prohibits Baltimore City from acquiring residential property or real property used exclusively as a place of worship by means of execution of a judgment for failure by the owner, on whom the water and sewer service charge was originally made, to pay the water and sewer service charge.

Background: Generally, a property that is owned by a religious group or organization is not subject to property tax if the property is actually used exclusively for (1) *public* religious worship; (2) a parsonage or convent; or (3) educational purposes. Additionally, property owned by an individual or a religious group is not subject to property tax if the property is actually used exclusively to bury dead individuals. An organization that owns property in Baltimore City that is not subject to property tax must submit an application to the State Department of Assessments and Taxation (SDAT) by April 1 of each year in which the property is assessed in accordance with SDAT's three-year cycle. SDAT advises that records indicate that 1,707 properties in Baltimore City currently receive an exemption from State property taxes, but that it does not separately track the number of properties "used exclusively as a place of worship." SDAT further advises that it provides certain assessment records to the Baltimore City Department of Finance on a monthly basis, including records related to property tax exempt status.

The Baltimore Department of Public Works (BDPW) offers several programs to [assist qualifying customers](#) who are unable to pay their water bills. Options include bill adjustments, payment plans, or financial assistance. BDPW also provides specified credits and fee exemptions for financial hardship. However, in response to questions related to

previous legislation, Baltimore City advised that delinquency rates of property owners on payment plans for delinquent water bills remain between 50% and 60% per year.

Baltimore City advises city water and wastewater utility funds are self-sustaining financial entities which are financially independent from the city's general fund. The fiscal 2019 combined operating budget for the water and wastewater utility funds is about \$478 million, which includes \$144 million of annual debt service to pay for multiyear, multibillion dollar capital improvements required to support and maintain not only the city's water and sewer infrastructures, but also the region's water supply and high-quality treatment systems. The city provides potable water to Baltimore County and parts of Howard and Anne Arundel counties, as well as raw water to Carroll and Harford counties.

Baltimore City further advises that there has been, in addition to the restrictions put in place by Chapter 714 of 2018, a moratorium on sending owner-occupied property to tax sale to enforce unpaid water bills in the city, and that no property has been foreclosed due only to water liens in the past three years. The moratorium does not have a scheduled termination date, but may be ended at any time.

Local Fiscal Effect: Baltimore City revenues decrease by at least \$5 million annually, due to the bill's permanent prohibition on tax sale proceedings to enforce liens due to water and sewer charges for any residential property or real property used exclusively as a place of worship, as well as the prohibition against enforcing liens due to water and sewer charges even when the property is sold to enforce another lien.

In fiscal 2018, prior to the effective date of Chapter 714 of 2018, and in compliance with the terms of the city-imposed moratorium on sending owner-occupied property to tax sale solely to enforce unpaid water and sewer bills, Baltimore City removed 3,528 owner-occupied residential properties from its annual tax sale. This represents a total value of \$5.7 million in liens not sold, and revenue lost, during the 2018 tax sale.

In fiscal 2017, through the threat of foreclosure and the potential for a property to be sold at a tax sale, Baltimore City recovered a significant amount of delinquent water and sewer charges. Baltimore City sent a total of approximately 7,000 water-only final bill and legal notices, representing a total of \$13.3 million in delinquent accounts. Approximately 5,200 of those accounts, representing \$9.3 million, were paid prior to tax sale. Subsequently, Baltimore City recovered approximately \$6.4 million corresponding to the metered water portion of combined delinquent accounts through tax sale.

Baltimore City advises that, as of January 23, 2019, there are approximately 18,189 residential properties, owner- and nonowner-occupied, with an unpaid water and sewer obligation of at least \$750, which has been outstanding for at least 270 days. The cumulative amount due on these properties is \$61.6 million. Baltimore City further advises

that, as of January 23, 2019, there are approximately 107 properties registered as “places of worship” with an unpaid water and sewer obligation of at least \$750, which has been outstanding for at least 270 days. The cumulative amount due on these properties is \$691,000.

Additionally, Baltimore City advises that repealing the statutory authority of Baltimore City to sell residential real property or real property used exclusively as a place of worship to enforce a lien for unpaid charges for water and sewer services may harm utility bond ratings, resulting in higher debt servicing costs.

Additional Information

Prior Introductions: None.

Cross File: SB 96 (Senator Washington, *et al.*) - Budget and Taxation.

Information Source(s): Baltimore City; Judiciary (Administrative Office of the Courts); State Department of Assessments and Taxation; Department of Legislative Services

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