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**BALTIMORE CITY COUNCIL
WAYS AND MEANS
COMMITTEE**

Mission Statement

The Committee on Ways and Means (WM) is responsible for ensuring taxpayer dollars are expended prudently and equitably. WM will exercise regular oversight of the City's budget, expenditures, loans, and other financial matters. The committee's areas of jurisdiction include: budget & appropriations, taxation, financial services, consumer protection, audits, and the Comptroller's Office.

**The Honorable Eric T. Costello
Chairman**

PUBLIC HEARING

**TUESDAY, SEPTEMBER 20, 2022
10:00 AM**

COUNCIL CHAMBERS

Council Resolution #22-0100R

Informational Hearing – Judicial in Rem Foreclosure

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BILL SYNOPSIS

Committee: Ways and Means

Resolution: 22-0100R

Informational Hearing – Judicial in Rem Foreclosure

Sponsor: Councilmember Ramos, et al

Introduced: April 4, 2022

Purpose:

For the purpose of inviting the Commissioner of the Department of Housing and Community Development, the Deputy City Solicitor, and other relevant parties to come before the City Council to describe the in rem foreclosure process, inform the Council on the capacity of the Department of Housing and Community Development to increase in rem foreclosure cases, inform the Council on the role of the Circuit Court in the in rem foreclosure process, and recommend measures the City Council can take to support these efforts.

Effective: **On the date it is enacted.**

Agency Reports

Law Department	Favorable
Department of Housing and Community Development	Favorable
Comptroller's Office	Comments
Baltimore City Information Technology	Comments

Analysis

Current Law

[Maryland Tax – Property Code Annotated](#) - Title 14 - Procedure – Subtitle 8 – Collection, outlines the mandates for Judicial in Rem Tax Foreclosure

- [Section 14-873](#) - Part V – Judicial in Rem Tax Foreclosure – Definitions
- [Section 14-874](#) – Foreclosure and Sale of Real Property
- [Section 14-875](#) – In Rem Foreclosure Action – Complaint

- **Section 14-876** – In Rem Foreclosure Action - Hearing

Background

An “in-rem” judgment of foreclosure means that the judgment is only against the property. This allows the bank only to continue with the foreclosure process and get the house back, and evict whoever lives there. The lender **CANNOT** sue the person for money.¹

Per the primary sponsor of the Resolution, “We want to know more about what “In-Rem” is and have a conversation about any potential improvements to same.”²

See attached: **Maryland Law regarding In-Rem foreclosures.**

Additional Information

Fiscal Note: None

Information Source(s): City Code, Resolution 22-0100R and all agency reports received as this of this writing.

Marguerite M. Currin
Analysis by: Marguerite M. Currin
Analysis Date: September 16, 2022

Direct Inquiries to: (443) 984-3485

¹ Bankruptcy Law Chicago website, entitled, “What is an “In Rem” Judgment of Foreclosure?”

² The Honorable Odette Ramos, Councilmember – District 14th.

Title 14 - Procedure
Subtitle 8 - Collection
Part V - Judicial in Rem Tax Foreclosure
Section 14-873 – Definitions

Universal Citation: [MD. Tax - Property Code Ann. § 14-873 \(2021\)](#)

- (a) In this part the following words have the meanings indicated.
- (b) “Interested party” means:
 - (1) the person who last appears as owner of the real property on the collector’s tax roll;
 - (2) a mortgagee of the property or assignee of a mortgage of record;
 - (3) a holder of a beneficial interest in a deed of trust recorded against the real property;
 - (4) a taxing agency that has the authority to collect tax on the real property; or
 - (5) any person having an interest in the real property whose identity and address are:
 - (i) reasonably ascertainable from the county land records; or
 - (ii) revealed by a full title search consisting of at least 50 years.
- (c) “Tax” has the meaning stated in § 14–801 of this subtitle.

Md. Code, Tax-Prop. § 14-874

Current with changes from the 2022 Legislative Session through Ch. 775

Section 14-874 - Foreclosure and sale of real property

(a) Real property may be subject to foreclosure and sale under this part only if:

(1) 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) 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.

(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 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.

Md. Code, Tax-Prop. § 14-875

Current with changes from the 2022 Legislative Session through Ch. 775

Section 14-875 - In rem foreclosure action – Complaint

(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) the right to appeal the notice of the property as vacant and unsafe or unfit 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 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.

(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 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;

(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.

Md. Code, Tax-Prop. § 14-876

Current with changes from the 2022 Legislative Session through Ch. 775

Section 14-876 - In rem foreclosure action

Hearing

(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 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; 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.

Council Resolution 22-0100R

AGENCY REPORTS

See attached

CITY OF BALTIMORE

BRANDON M. SCOTT
Mayor



DEPARTMENT OF LAW

JAMES L. SHEA
100 N. HOLLIDAY STREET
SUITE 101, CITY HALL
BALTIMORE, MD 21202

August 25, 2022

The Honorable President
Members of the City Council
c/o Natawna Austin, Executive Secretary
409 City Hall
Baltimore, MD 21202

RE: City Council Bill 22-100R – Informational Hearing - Judicial In Rem
Foreclosures

Dear President and Members:

You have requested the advice of the Law Department regarding City Council Bill 22-0100R. City Council Bill 22-0100R is for the purpose of inviting the Commissioner of the Department of Housing and Community Development, the Deputy City Solicitor, and other relevant parties to come before the City Council to describe the in rem foreclosure process, inform the Council on the capacity of the Department of Housing and Community Development to increase in rem foreclosure cases, inform the Council on the role of the Circuit Court in the in rem foreclosure process, and recommend measures the City Council can take to support these efforts.

In general, Art. III, Sec. 9 of the City Charter and Art. 1, Sec. 1-4 gives the City Council authority to call before it, department heads and other City officials to inquire about the operation of City agencies and to investigate complaints and allegations regarding City operations.

Council Bill 22-0100R is an appropriate resolution to initiate this process and request appropriate officials to attend to discuss the in rem foreclosure process.

The Law Department approves Council Bill 22-0100R for form and legal sufficiency as it is a valid method of inviting City officials to discuss this matter.

Sincerely yours,

A handwritten signature in cursive script that reads "Elena DiPietro".

Elena R. DiPietro
Chief Solicitor

cc: James L. Shea, City Solicitor
Ebony Thompson, Deputy Solicitor
Stephen Salsbury, Chief of Staff
Matthew Stegman, Presidents' Office
Nikki Thompson, President's Office
Natasha Mehu, MOGR
Nina Themelis, MOGR
Hilary Ruley, Chief Solicitor
Jeff Hochstetler, Chief Solicitor
Ashlea Brown, Assistant Solicitor
Dereka Bolden, Assistant Solicitor
Michele Toth, Assistant Solicitor



MEMORANDUM

To: The Honorable President and Members of the Baltimore City Council
c/o Natawna Austin, Executive Secretary

From: Alice Kennedy, Housing Commissioner

Date: June 14, 2022

Re: City Council Resolution 22-0100R - Informational Hearing - Judicial In Rem Foreclosure

The Department of Housing and Community Development (DHCD) has reviewed City Council Resolution 22-0100R for the purpose of inviting the Commissioner of the Department of Housing and Community Development, the Deputy City Solicitor, and other relevant parties to come before the City Council to describe the in rem foreclosure process, inform the Council on the capacity of the Department of Housing and Community Development to increase in rem foreclosure cases, inform the Council on the role of the Circuit Court in the in rem foreclosure process, and recommend measures the City Council can take to support these efforts.

In-rem foreclosure Background and Process

The City of Baltimore regularly acquires titles to vacant lots or buildings by foreclosing on the tax lien certificates that the City holds. Tax sale foreclosure action often takes between 18 - 24 months to complete from the time a foreclosure case is filed. Properties are on a 3-year tax cycle, and tax lien certificates expire after 2 years, so if a foreclosure case isn't filed before expiration, the City must wait an additional year for a new certificate to result from the next tax sale before it can begin foreclosure proceedings. This results in unnecessarily long turnaround times and leads to delays in neighborhood improvement efforts and revenue generation for the City that results from the redevelopment and rehabilitation activity DHCD is trying to encourage.

In 2019, the Governor signed into law legislation that allows counties and local jurisdictions to create an alternative, judicial in-rem process for foreclosure on delinquent taxes if the outstanding taxes and other local liens exceeds the appraised/assessed value of the property.

In 2020 the City Council enacted *20-0529 Property Tax - In Rem Foreclosure and Sale - Vacant and Abandoned Property* allowing for *In Rem* foreclosure of vacant, high tax-lien properties. The objective of the legislation was to minimize wait times related to the tax sale cycle and tax certificate expiration and give the City authority to sell property for redevelopment and blight-elimination objectives after foreclosure is completed. It allows the city to pursue tax lien foreclosure and forego the tax sale and tax certificate system for vacant buildings and lots at DHCD's request. This process still requires the same due process and notification methods to owners as the Tax Sale Certificate process, but the City can initiate the process at any time for

qualifying properties. The In Rem process for vacant buildings functions alongside the current tax sale system.

Department Capacity

Since enactment, DHCD has filed a handful of initial pilot cases and has identified hundreds of additional properties to foreclose on using this new In Rem tool. The Department is in the process of pivoting to use of In Rem foreclosures as its primary means of acquiring title to vacant lots and buildings, supplanting regular tax sale foreclosure. DHCD has worked closely with the Law Department and members of the City Council to meet with the Circuit Court’s Administrative Judge and the judge presiding over the Civil Docket, and has secured a commitment for a differentiated docket identification and administrative process and timeline for In Rem cases. Using the initial pilot cases, DHCD has received instructions from the court regarding what to include in our initial In Rem filing packets, what facts to point out in our complaints, and what supporting documentation to include. DHCD is currently working with software developers to adapt its web-based case administration system to the timelines and processes established by the court, as well as the pleadings and notices that will be filed and mailed. DHCD expects to begin filing the identified In Rem cases in July of 2022.

Role of the Circuit Court in the In Rem foreclosure process

Presently, for each In Rem case the City Code and rules of procedure require that DHCD obtain from the court writs for each defendant/interest holder, and then obtain personal service where possible, or rely on an order of publication and the posting of notice on the property if good faith efforts to obtain service prove unsuccessful. To ensure the efficient administration of In Rem foreclosure cases, the Circuit Court has created a separate docket identification and administrative track, thereby ensuring that In Rem cases are not administered along with the thousands of tax sale foreclosure cases that are filed every year. This new track requires that a scheduling order be issued for each case, anticipating an initial hearing before a magistrate within 120 days of said order, and a final hearing, if needed, 30 days later. Additionally, the court has agreed that its clerks will make efforts to issue writs on the day cases are filed, if at all possible. Collectively, these changes should make the average time between filing and a foreclosure judgment significantly shorter than a standard tax sale foreclosure case.

Measures the City Council can take to support these efforts

DHCD will have additional capacity to increase *In Rem* foreclosure filings with additional attorneys and paralegals. These positions were supported by the City Council and funded in the FY2023 budget, under Service 749 –Land Transactions –Activity 1, there is \$800,000 budgeted for “Pending Personnel Actions. This funding supports the creation of paralegal and attorney positions necessary to meet the demand for increased filing of In Rem Tax Lien Foreclosure Cases. We believe these staffing improvements will increase our efficiency and effectiveness at obtaining title to vacant lots and buildings in the City.

Conclusion



DHCD is committed to employing this new In Rem tool for conducting property acquisition for vacant properties where liens exceed assessed value, and work to streamline the property acquisition processes to address blight and abandonment in the City.

We respectfully request a **favorable** report on Council Resolution 22-0100R.

AK/sm

*cc: Ms. Nina Themelis, Mayor's Office of Government Relations
Ms. Natawna Austin, Executive Secretary of the City Council*



MEMORANDUM

To: The Honorable President and Members of the City Council
c/o Natawna Austin, Executive Secretary

From: Honorable Bill Henry, Comptroller

Date: June 27, 2022

Re: 22-0100R Informational Hearing - Judicial In Rem Foreclosure


The Department of Real Estate is reporting on 22-0100R Informational Hearing - Judicial In Rem Foreclosure. The purpose of this bill is to invite the Commissioner of the Department of Housing and Community Development, the Deputy City Solicitor, and other relevant parties to come before the City Council to describe the in rem foreclosure process, inform the Council on the capacity of the Department of Housing and Community Development to increase in rem foreclosure cases, inform the Council on the role of the Circuit Court in the in rem foreclosure process, and recommend measures the City Council can take to support these efforts.

The Department of Real Estate, part of the Comptroller's agency, runs a similar program to reduce blight and eliminate vacancy for properties with tax liens that exceed the assessed value of the program. Under the Vendor Lien program, the Board of Estimates abates tax lien on properties with liens that exceed assessed value in exchange for the expectation that the lien purchaser will foreclose on the owners right to redeem and renovate the building.

The Comptroller's Office will attend the hearing for 21-0100R and respond to any inquiries.

CC:

Celeste Amato, Chief of Staff, Comptroller's Office
KC Kelleher, Director of Communication, Comptroller's Office
Nina Themelis, Mayor's Office
Sophia Gebrehiwot, Mayor's Office

F R O M	NAME & TITLE	Todd Carter Chief Information Officer <i>Todd A. Carter</i>	CITY OF	
	AGENCY NAME & ADDRESS	Baltimore City Office of Information & Technology (BCIT) 401 E. Fayette Street, 3 rd floor	BALTIMORE	
	SUBJECT	City Council Bill 22-0100R – Informational Hearing – Judicial In Rem Foreclosure	MEMO	

TO: The Honorable President and
Members of the City Council
Room 400 City Hall
c/o Natawna Austin, Executive Secretary

August 15, 2022

The Baltimore City Office of Information & Technology (BCIT) has reviewed City Council Resolution 22-0100R for the purpose of inviting the Commissioner of the Department of Housing and Community Development, the Deputy City Solicitor, and other relevant parties to come before the City Council to describe the in rem foreclosure process, inform the Council on the capacity of the Department of Housing and Community Development to increase in rem foreclosure cases, inform the Council on the role of the Circuit Court in the in rem foreclosure process, and recommend measures the City Council can take to support these efforts.

BCIT's primary role is to provide data to support the development of the new judicial in rem process being established by the Mayor's Vacant Executive Work Group. BCIT has no objections to participating in this informational hearing.

If you have any questions, please contact Leyla Layman, Chief of Staff, at (443) 202-4511.

c: Ms. Natasha Mehu, *Mayor's Office of Government Relations*
Ms. Nina Themelis, *Mayor's Office of Government Relations*

**CITY OF BALTIMORE
COUNCIL BILL 22-0100R
(First Reader)**

Introduced by: Councilmember Ramos, Bullock, Torrence

Introduced and read first time: April 4, 2022

Assigned to: Ways and Means Committee

REFERRED TO THE FOLLOWING AGENCIES: City Solicitor, Department of Housing and Community Development

A RESOLUTION ENTITLED

1 A COUNCIL RESOLUTION concerning

2 **Informational Hearing – Judicial In Rem Foreclosure**

3 FOR the purpose of inviting the Commissioner of the Department of Housing and Community
4 Development, the Deputy City Solicitor, and other relevant parties to come before the City
5 Council to describe the in rem foreclosure process, inform the Council on the capacity of the
6 Department of Housing and Community Development to increase in rem foreclosure cases,
7 inform the Council on the role of the Circuit Court in the in rem foreclosure process, and
8 recommend measures the City Council can take to support these efforts.

9 **Recitals**

10 In 2016, the Center for Community Progress authored a report about the Baltimore City tax
11 sale system and suggested a number of reforms, including the implementation of the judicial in
12 rem tax foreclosure process.

13 In 2019, Maryland Senate Bill 509/House Bill 557, sponsored by Senator Eckardt of
14 Dorchester County and Delegate Holmes of Prince George’s County, passed the General
15 Assembly, enabling jurisdictions to use in rem foreclosure to acquire vacant and abandoned
16 properties. This was one of the actions recommended by the Tax Sale Task Force study that was
17 completed in 2017.

18 In 2020, the Baltimore City Council passed Council Bill 20-0529, which established the in
19 rem tax foreclosure process in Baltimore City.

20 In rem tax foreclosure allows the City to remove an abandoned property with
21 liens that exceed the value of the property from tax sale and then foreclose on the liens. The City
22 then takes title of the property and can utilize it for community development purposes in
23 collaboration with the community. It is the best tool the City has to eliminate blight through
24 rehabilitation or demolition of properties, while also controlling the outcome of the process.

25 **NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF BALTIMORE,** That the
26 Baltimore City Council invites the Commissioner of the Department of Housing and Community
27 Development, the Deputy City Solicitor, and other relevant parties to come before the City
28 Council to describe the in rem foreclosure process, inform the Council on the capacity of the
29 Department of Housing and Community Development to increase in rem foreclosure cases,

EXPLANATION: CAPITALS indicate matter added to existing law.
[Brackets] indicate matter deleted from existing law.

Council Bill 22-0100R

1 inform the Council on the role of the Circuit Court in the in rem foreclosure process, and
2 recommend measures the City Council can take to support these efforts.

3 **AND BE IT FURTHER RESOLVED**, That a copy of this Resolution be sent to the Commissioner
4 of the Department of Housing and Community Development, the Deputy City Solicitor, and the
5 Mayor’s Legislative Liaison to the City Council.