



**BILL SYNOPSIS**

**Committee: Ways and Means**

**Bill: 23-0362**

**In Rem Foreclosure – Scope of Subtitle**

**Sponsor:** Councilmember Ramos & Councilmember Torrence

**Introduced:** March 13, 2023

**For the purpose** of amending City Code, Article 28, Subtitle 8.1 {“In Rem Foreclosure - Vacant and Abandoned Property”} to permit a Land Bank Authority of Baltimore City to initiate and participate in certain in rem foreclosure proceedings on behalf of the Mayor and City Council of Baltimore City; and providing for a contingent effective date.

**Effective:** On the enactment of an ordinance establishing the Land Bank Authority of Baltimore City under the authority of City Charter, Article II, § (65) {“Land Bank Authority”}.

**Agency Reports**

Law	Not approved for form and legal sufficiency
Department of Housing and Community Development	None as this writing
Department of Planning	None as this writing
Department of Finance	None as this writing

**Analysis**

**Current Law**

By repealing and re-ordaining with amendments  
Article 28 – Taxes  
Section(s) 8.1-1, 8.1-3, 8.1-5, 8.1-7 to 8.1-9, 8.1-12, 8.1-13, and 8.1-15  
Baltimore City Code  
(Edition 2000)

## **Background**

This legislation aims to directly tackle Baltimore City's ongoing issue with vacant and abandoned properties, which are, according to a 21<sup>st</sup> Century Cities Initiative's study, are 90% privately owned and tend to have high liens attached to them. Council Bill 23-0362 seeks to permit a Land Bank Authority of Baltimore City to initiate and participate in In Rem foreclosure proceedings for certain vacant and abandoned properties, including lots. In the In Rem foreclosure process, the LBA would be able to foreclose on and acquire privately owned properties, where the liens exceed the assessed value of the property. The foreclosure would only be against the property and not the owner, so they will not be liable for unpaid liens.

On the same day, at 10:01 AM, the City Council will also hear the companion bill, 23-0363. This Council Bill will establish the Land Bank Authority of Baltimore City and pertain to its operations, which is crucial to the enactment of Council Bill 23-0362.

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## **Additional Information**

**Fiscal Note:** None.

**Information Source(s):** 23-0362, 23-0363, Baltimore Sun, 21<sup>st</sup> Century Cities Initiative, Baltimore City Code, and all agency reports received as of this writing.

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Analysis by: Niya N. Garrett  
Analysis Date: September 12, 2024

Direct Inquiries to (410) 396-1268

# AGENCY REPORTS

23-0362

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CITY OF BALTIMORE

BRANDON M. SCOTT,  
Mayor



DEPARTMENT OF LAW  
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September 12, 2024

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

RE: City Council Bill 23-0362 In Rem Foreclosure – Scope of Subtitle

Dear President and City Council Members:

The Law Department has reviewed City Council Bill 23-0362, which would amend City Code, Article 28 Subtitle 8.1 {"In Rem Foreclosure – Vacant and Abandoned Property"} to permit a Land Bank Authority of Baltimore City to initiate and participate in certain in rem foreclosure proceedings on behalf of the Mayor and City Council of Baltimore City; and provide for a contingent effective date.

The Land Bank is not an agency of the City and should not be referred to as an agency. Although it is described in some instances as an instrumentality, it is a separate legal entity that can hold land in its own name. The state enabling law for the proceeding which authorizes the City to initiate an in rem tax foreclosure is 14-873 *et. seq.* which makes no mention of the Land Bank.

The Charter provides:

§ 1. Corporate entity. The inhabitants of the City of Baltimore are a corporation, by the name of the "Mayor and City Council of Baltimore," and by that name shall have perpetual succession, may sue and be sued, may purchase and hold real, personal and mixed property and dispose of the same for the benefit of the City, as herein provided, and may have and use a common seal, which may be altered at pleasure. § 2. Definitions. As used in this

Charter, unless the context otherwise requires: (a) City. “City” means the Mayor and City Council of Baltimore, the body corporate as established by Section 1 of this Article I.

Because the Land Bank is not an agency of the City, the Law Department cannot approve the bill without state authorization adding the Land Bank to the in rem proceeding (and adding this power to the express powers of the Land Bank in Art. II of the Charter). Although the Land Bank has broad powers to accomplish its goals, because it is expressly authorized to stand in the shoes of the City in the tax sale process (City Charter, Art. II § 65 (j)(1) “The Authority may exercise the powers granted to Baltimore City under §§ 14-825 through 14-831 of the Tax - Property Article of the Annotated Code of Maryland.”) this implies that it is *not* authorized to do so in other procedures like judicial in rem. This conclusion is required under the principles of statutory construction. *Hylton v. Mayor and City Council of Baltimore*, 268 Md. 266, 282 (1972) (“the maxim ‘*expressio unius est exclusio alterius*’ . . . meaning that the expression of one thing implies the exclusion of another thing not mentioned, is not a rule of law, but merely an auxiliary rule of statutory construction”); *see also Mayor & City Council v. Bunting*, 168 Md. App. 134, 141 (2006) (“Charters are subject to the ‘same canons of statutory construction that apply to the interpretation of statutes.’”) (citations omitted).

Thus, until the state law (either the judicial in rem proceeding in the Tax Property Article or Article II of the Charter) is amended to add the Land Bank to the judicial in rem proceeding, the Law Department cannot approve Council Bill 23-0362 for form and legal sufficiency.

Very truly yours,



Ashlea Brown  
Chief Solicitor

cc: Ebony Thompson, City Solicitor  
Stephen Salsbury, Deputy Solicitor  
Nina Themelis, MOGR  
Elena DiPietro, Chief, General Counsel  
Hilary Ruley  
Desiree Lucky  
Michele Toth

**CITY OF BALTIMORE  
COUNCIL BILL 23-0362  
(First Reader)**

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Introduced by: Councilmembers Ramos, Torrence, Porter, Cohen, Dorsey, Burnett, Glover,  
Bullock

Introduced and read first time: March 13, 2023

Assigned to: Ways and Means Committee

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

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A BILL ENTITLED

1 AN ORDINANCE concerning

2 **In Rem Foreclosure – Scope of Subtitle**

3 FOR the purpose of amending City Code, Article 28, Subtitle 8.1 {“In Rem Foreclosure – Vacant  
4 and Abandoned Property”} to permit a Land Bank Authority of Baltimore City to initiate and  
5 participate in certain in rem foreclosure proceedings on behalf of the Mayor and City Council  
6 of Baltimore City; and providing for a contingent effective date.

7 BY repealing and re-ordaining with amendments

8 Article 28 - Taxes

9 Section(s) 8.1-1, 8.1-3, 8.1-5, 8.1-7 to 8.1-9, 8.1-12, 8.1-13, and 8.1-15

10 Baltimore City Code

11 (Edition 2000)

12 **SECTION 1. BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF BALTIMORE,** That the  
13 Laws of Baltimore City read as follows:

14 **Baltimore City Code**

15 **Article 28. Taxes**

16 **Subtitle 8.1. In Rem Foreclosure – Vacant and Abandoned Property**

17 **§ 8.1-1. Definitions.**

18 (a) *In general.*

19 In this subtitle, the following terms have the meanings indicated.

20 (B) *AGENCY.*

21 “AGENCY” MEANS EITHER:

22 (1) THE DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT; OR

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

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1 (2) THE LAND BANK AUTHORITY OF BALTIMORE CITY.

2 (C) [(b)] *Department.*

3 (1) *In general.*

4 “Department” means the Baltimore City Department of Housing and Community  
5 Development.

6 (2) *Inclusion.*

7 “Department” includes any attorney representing the Department in an action filed  
8 under this subtitle.

9 (D) [(c)] *Interested party.*

10 “Interested party” has the meaning stated in § 14-873 {“Definitions: Interested party”} of  
11 the State Tax-Property Article.

12 (E) [(d)] *Person.*

13 “Person” means:

14 (1) an individual;

15 (2) a receiver, trustee, guardian, personal representative, fiduciary, or representative  
16 of any kind; or

17 (3) a partnership, firm, association, corporation, or other entity of any kind.

18 (F) [(e)] *Property; Real property.*

19 “Property” or “real property” has the meaning stated in § 1-101 {“Definitions: Real  
20 property”} of the State Tax-Property Article.

21 (G) [(f)] *Tax.*

22 “Tax” has the meaning stated in § 14-801 {“Definitions: Tax”} of the State Tax-Property  
23 Article.

24 **§ 8.1-3. [HCD may initiate] COMMENCEMENT OF action; Applicable properties.**

25 (a) *In general.*

26 In accordance with this subtitle, [the Department] AN AGENCY, on behalf of the Mayor  
27 and City Council, may file an action in the Circuit Court for Baltimore City for the in rem  
28 foreclosure of real property.

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1 (b) *Applicable properties.*

2 Except as provided in subsection (c) of this section, in order to be subject to an action for  
3 foreclosure under this subtitle:

4 (1) the real property must be:

5 (i) a vacant lot; or

6 (ii) an improved property cited as vacant and unsafe or unfit for habitation or  
7 other authorized use on a housing or building violation notice, provided  
8 that:

9 (A) the time for appeal of the violation notice has expired without an  
10 appeal having been filed; or

11 (B) an administrative review of a filed appeal has been decided in  
12 favor of the Building Official, as defined in the City Building, Fire,  
13 and Related Codes;

14 (2) the real property must be at least 6 months in arrears on taxes and liens; and

15 (3) the total amount of liens for unpaid taxes on the property must exceed the lesser  
16 of the total value of the property as last determined by:

17 (i) the Maryland Department of Assessments and Taxation; or

18 (ii) an appraisal report prepared not more than 6 months before the filing of a  
19 complaint under this section by a real estate appraiser who is licensed  
20 under Title 16 of the State Business Occupations and Professions Article.

21 (c) *Other tax liens.*

22 (1) *In general.*

23 [The Department] AN AGENCY may not file an action for foreclosure against a  
24 property under this subtitle if the property is subject to an active lien certificate held  
25 by a third party.

26 (2) *Exception.*

27 Provided that the property otherwise meets the requirements set forth in  
28 subsection (b) of this section, [the Department] AN AGENCY may file an action for  
29 foreclosure against real property under this subtitle if:

30 (i) the real property is subject to an active tax certificate held by the Mayor  
31 and City Council; and

32 (ii) the Mayor and City Council has not previously filed an action to foreclose  
33 the right of redemption.



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### 1 § 8.1-5. Rules and regulations.

2 Subject to Title 4 {"Administrative Procedure Act – Regulations"} of the City General  
3 Provisions Article, the Commissioner of Housing and Community Development AND THE  
4 LAND BANK AUTHORITY OF BALTIMORE CITY may JOINTLY adopt rules and regulations  
5 to carry out this subtitle.

### 6 § 8.1-7. Complaint.

7 (a) *Pre-complaint notice.*

8 (1) *In general.*

9 Prior to filing a complaint under this subtitle, the [Department] AGENCY shall send  
10 notice by certified mail, restricted delivery, return receipt requested, to the record  
11 owner of the subject property at the tax address on record among the City's real  
12 property records.

13 (2) *Contents.*

14 The notice required by this subsection shall:

15 (i) clearly identify the property;

16 (ii) identify the tax and other municipal liens due to the Mayor and City Council;  
17 and

18 (iii) state that unless full payment of all municipal liens is made to the Department  
19 of Finance within 30 days, the [Department] AGENCY may file an in rem  
20 foreclosure action in the Circuit Court for Baltimore City and seek the vesting  
21 of title to the property in the Mayor and City Council of Baltimore.

22 (b) *In general.*

23 The [Department] AGENCY may file a complaint in the Circuit Court for Baltimore City to  
24 initiate an in rem foreclosure action if:

25 (1) the property otherwise meets the specifications in § 8.1-3(b) {"Applicable  
26 properties"} of this subtitle;

27 (2) the [Department] AGENCY has sent the notice required by subsection (a) of this  
28 section; and

29 (3) the full payment of municipal liens has not been paid within 30 days from the date  
30 the notice described in paragraph (2) of this subsection was sent.

31 (c) *Contents.*

32 A complaint filed under this section shall include:

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- 1 (1) a description of the property as it appears in City land records;
- 2 (2) the tax identification number of the property;
- 3 (3) a statement that taxes for the property are delinquent at the time of filing;
- 4 (4) the amount of taxes that are delinquent for the property at the time of filing;
- 5 (5) the names and last known addresses of all interested parties to the property and,  
6 if applicable, a statement that the address of a particular interested party to the  
7 property is unknown;
- 8 (6) a statement that the property is either:
  - 9 (i) a vacant lot; or
  - 10 (ii) an improved property cited by the Department as vacant and unsafe or  
11 unfit for habitation or another authorized use;
- 12 (7) if the [Department] AGENCY states that the property is an improved property cited  
13 by the Department as vacant and unsafe or unfit for habitation or another  
14 authorized use, a copy of any relevant notices or citations issued by the  
15 Department;
- 16 (8) a request that the Circuit Court not schedule a hearing on the complaint until 30  
17 days after the date that the complaint has been filed; and
- 18 (9) a request that the Circuit Court enter a judgment that forecloses the existing  
19 interests of all interested parties to the property and orders ownership of the  
20 property to transferred to the City.

21 (d) *Amendment.*

22 A complaint filed under this section may be amended to include all taxes that become  
23 delinquent after the commencement of the in rem foreclosure action.

24 (e) *Cure.*

- 25 (1) Subject to paragraph (2) of this subsection, an interested party may cure the  
26 delinquent taxes and liens on the property by paying all past due fees, payments, and  
27 penalties at any time prior to the entry of the foreclosure judgment.
- 28 (2) An interested party may not cure the delinquent taxes and liens on the property by  
29 paying all past due fees, payments, and penalties after the entry of the foreclosure  
30 judgment.

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**§ 8.1-8. Defendants; Service of process.**

(a) *In general.*

Each interested party to the property shall be named as a defendant in the complaint and shall be identified, located, and served with process as specified in this section.

(b) *Last known address.*

(1) The title of the complaint shall display the last known address of each defendant, as obtained from:

(i) any record examined as part of the title examination for the property;

(ii) the tax rolls of the Department of Finance and, if different from the Department of Finance's tax rolls, the tax address on file with the Maryland Department of Assessments and Taxation; and

(iii) any other likely address that is known to the [Department] AGENCY.

(2) Other than the methods described in paragraph (1) of this subsection, the [Department] AGENCY is not required to conduct any further investigations or to search any additional record to ascertain an address for a defendant.

(c) *Unknown owners.*

(1) *“Owner” defined.*

In this subsection, “owner” means the owner of the fee simple, leasehold, or reversionary interest in a real property.

(2) *In general.*

When the owner of a real property cannot be reasonably ascertained:

(i) the unknown owner to the property may be included as a defendant by the following designation:

“Unknown owner of (identify the nature of the interest: fee simple, leasehold, or reversionary) interest in the property ..... (giving a description of the property in substantially the same form as the description that appears on the pre-complaint notice), the unknown owner's heirs, devisees, and personal representatives and their or any of their heirs, devisees, executors, administrators, grantees, assigns, or successors in right, title and interest,”; and

(ii) the unknown owner shall be referred to throughout the proceeding using this designation, and the proceedings shall continue against the unknown owner by publication under order of the court as provided in subsection (e) of this section.

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1 (3) *Records search required.*

2 In order for the [Department] AGENCY to designate a defendant as described in  
3 paragraph (2) of this subsection, immediately before the filing of the complaint, the  
4 [Department] AGENCY shall perform a full records search consisting of at least 50  
5 years in accordance with generally accepted standards for title examination.

6 (4) *Affidavit.*

7 Any complaint filed under this subtitle against an unknown owner shall attach to it an  
8 affidavit by the individual performing the search described in paragraph (3) of this  
9 subsection that attests to the individual's efforts.

10 (d) *Summons.*

11 (1) *In general.*

12 On filing of a complaint under this subtitle and in accordance with the Maryland  
13 Rules, the Circuit Court shall issue a summons to procure the answer and the  
14 appearance of all defendants.

15 (2) *Service of summons.*

16 To the extent practicable and except as otherwise provided in this section, the  
17 summons required by this section shall be served on defendants in the manner  
18 described in Title 14, Subtitle 8, Part III of the State Tax-Property Article.

19 (e) *Order of publication.*

20 (1) *In general.*

21 (i) At the same time that the summons is issued, as provided by subsection (c) of this  
22 section, the Court shall pass an order of publication directed to all defendants,  
23 naming them as provided by this subtitle.

24 (ii) The property shall be described in the order of publication as the property is  
25 described in the complaint.

26 (iii) The order of publication shall warn any person that has or claims to have an  
27 interest in the property:

28 (A) to answer the complaint or to redeem the property on or before the date  
29 specified in the order of publication; and

30 (B) that, in case of failure to appear, answer, or redeem the property, an in rem  
31 foreclosure judgment will be entered to foreclose all rights of redemption  
32 in the property and order ownership of the real property be vested in the  
33 Mayor and City Council of Baltimore.

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1 (iv) The date specified in subparagraph (iii)(A) of this paragraph may not be less than  
2 60 days from the issuance of the order of publication.

3 (v) When the order of publication is issued and published, any person that has any  
4 right, title, interest, claim, lien, or equity of redemption in the property is bound  
5 by the judgment of the court that may be passed in the case as if the person were  
6 personally served with process.

### 7 (2) *Form of order.*

8 The order of publication shall be in substantially the following form:

#### 9 **Order of Publication**

10 “The object of this proceeding is to secure the foreclosure of all rights of  
11 redemption in and vest title in the Mayor and City Council of Baltimore to the  
12 following property in the City of Baltimore:

13 (Here insert description of property in substantially the same form as the  
14 description that appears in the complaint.)

15 The complaint states, among other things, that the real property is a vacant lot or  
16 improved property cited as vacant and unsafe or unfit for habitation or other  
17 authorized use on a housing or building violation notice, and that the amounts  
18 necessary for redemption have not been paid.

19 It is thereupon this .... day of ....., 20.., by the Circuit Court for Baltimore City,  
20 ordered, that notice be given by the insertion of a copy of this order in some  
21 newspaper having a general circulation in .... once a week for 3 successive weeks,  
22 warning all persons interested in the property to appear in this court by the .... day  
23 of ....., 20.., and redeem the property ..... and answer the complaint or thereafter  
24 a final judgment will be entered foreclosing all rights of redemption in the  
25 property, and vesting title in the Mayor and City Council of Baltimore, free and  
26 clear of all encumbrances.”.

### 27 (3) *Copy of order to defendants.*

28 (i) This paragraph only applies to instances when the [Department] AGENCY has  
29 ascertained a defendant’s last known address.

30 (ii) On issuance of the order of publication, the [Department] AGENCY shall send a  
31 copy of the order to each defendant, at the defendant’s last known address, by first  
32 class mail or certified mail, postage prepaid.

### 33 (f) *Alternate means of service of summons.*

#### 34 (1) *In general.*

35 Notice to a defendant may be made in any other manner that results in actual notice of  
36 the pendency of the action.

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1           (2) *Affidavit.*

2           If notice is made under this subsection, the [Department] AGENCY shall file an  
3           affidavit with the Court certifying the notice with a description of the method service  
4           used and the time of service.

5           (g) *Affidavit requirement.*

6           If a defendant has not been served with the summons issued under subsection (d) of this  
7           section or if the defendant has not been served by alternative means as described in  
8           subsection (f) of this section, the [Department] AGENCY must file with the Court:

9           (1) an affidavit certifying that all provisions of this section have been complied with;  
10          and

11          (2) to indicate that a good faith effort was made to serve the summons and complaint  
12          on each interested party, a copy of:

13               (i) the receipt obtained from the United States Post Office for the mailing;

14               (ii) the certified mail receipt; or

15               (iii) an affidavit of a process server.

16       **§ 8.1-9. Post-filing notice.**

17       Within 5 days after the filing of the complaint, the [Department] AGENCY shall send a copy of  
18       the complaint to each interested party to the action, by first-class mail and certified mail,  
19       postage pre-paid, return receipt requested, to the address or addresses identified in the caption  
20       of the complaint, if those addresses were found.

21       **§ 8.1-12. Judgment.**

22       (a) *Scope.*

23       This section only applies if the Court finds, after a hearing or on the pleadings and  
24       affidavits, that:

25               (1) the [Department] AGENCY sent notice and a copy of the complaint to each  
26               interested party in accordance with this subtitle;

27               (2) service of process and other notice requirements have been met; and

28               (3) the information set forth in the complaint is accurate.

29       (b) *In general.*

30       If the Court has made the findings required by subsection (a) of this section, the Court  
31       shall:

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1 (1) enter a judgment finding that:

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

3 (ii) the real property is a vacant lot or an improved property cited as vacant  
4 and unsafe or unfit for habitation or other authorized use on a housing or  
5 building violation notice; and

6 (2) order that the ownership of the real property is transferred to the Mayor and City  
7 Council pursuant to § 8.1-13 {"Title; Recordation"} of this subtitle.

8 (c) *Effect of judgment.*

9 A judgment in an action under this subtitle is binding and conclusive, regardless of legal  
10 disability, on:

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

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

### 16 § 8.1-13. Title; Recordation.

17 (a) *In general.*

18 Unless specified otherwise in the Court's judgment or in this section, the title acquired in  
19 an in rem foreclosure proceeding shall be an absolute fee simple title.

20 (b) *Leasehold properties.*

21 (1) If the [Department's] AGENCY'S title search indicates that a property's title is held in  
22 leasehold and the [Department] AGENCY wishes for the property to be awarded in  
23 leasehold, the [Department] AGENCY may ask the Court to award leasehold title.

24 (2) Service of process having been rendered on the ground rent owner, either directly, if  
25 the owner has been identified and located, or by publication or other method approved  
26 by the Court, if the ground rent owner has not been identified or located, shall be  
27 sufficient for the Court to award fee simple title to a leasehold property.

28 (c) *Recordation.*

29 The [Department] AGENCY shall record a judgment transferring title to the Mayor and  
30 City Council under this subtitle in the land records of Baltimore City.

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1     **§ 8.1-15. Post-judgment sale.**

2             (a) *In general.*

3                     (1) After obtaining and recording an in rem foreclosure judgment, the City may retain  
4                     title to the property or sell the property, pursuant to City Charter, Article V, § 5, and  
5                     City Code, Article 15, § 2-7, to advance the City’s blight elimination goals.

6                     (2) The goals described in paragraph (1) of this subsection include rehabilitation,  
7                     redevelopment, creation or preservation of open or park space, or other similar uses.

8             (b) *Land bank.*

9                     In the event the Mayor and City Council establish a land bank authorized under City  
10                     Charter, Article II, § 65 {“Land Bank Authority”}, the City may convey the property to  
11                     the Authority described in the implementing ordinance to be used for the City’s or the  
12                     Authority’s blight elimination and revitalization goals.

13             (c) *Disposition.*

14                     (1) *In general.*

15                             (i) At the time the City sells any property obtained under this subtitle, the City shall  
16                             deposit into the Court registry any excess funds paid by the buyer, either directly  
17                             for the property or on a pro-rata basis if the property was consolidated with other  
18                             lots to create a single parcel, beyond the lien amounts owed to the Mayor and the  
19                             City Council, inclusive of interest, fees, and penalties, at the time of the in rem  
20                             foreclosure judgement under this subtitle.

21                             (ii) In depositing the excess funds, the City shall provide an accounting of the amount  
22                             of City liens at the time of the in rem foreclosure judgement on the property and  
23                             detail the price or pro-rata share of the price ultimately paid by the buyer of the  
24                             property.

25                     (2) *Distribution of proceeds.*

26                             The amount deposited under paragraph (1)(i) of this subsection shall be distributed to  
27                             the owner and other defendants, upon their motions, in order of lien priority.

28             **SECTION 2. AND BE IT FURTHER ORDAINED,** That this Ordinance takes effect on the  
29             enactment of an ordinance establishing the Land Bank Authority of Baltimore City under the  
30             authority of City Charter, Article II, § (65) {“Land Bank Authority”}.