



## Legislation Text

---

File #: 20-0529, Version: 0

---

### Introductory\*

### City of Baltimore Council Bill

Introduced by: The Council President

At the request of: The Administration (Department of Housing and Community Development)

#### A Bill Entitled

An Ordinance concerning

#### **Property Tax - In Rem Foreclosure and Sale - Vacant and Abandoned Property**

For the purpose of requiring the Director of Finance to withhold from tax sale certain real property designated by the Board of Estimates for foreclosure and sale under a certain process; authorizing the Mayor and City Council acting by and through the Department of Housing and Community Development to initiate an in rem foreclosure and sale of certain real property for delinquent taxes; authorizing the Mayor and City Council to enact certain laws authorizing in rem foreclosure and sale of certain real property; authorizing the Mayor and City Council acting by and through the Department of Housing and Community Development to commence an in rem foreclosure action; prohibiting commencing an in rem foreclosure action until tax on real property has been delinquent for a certain period and the right to appeal a certain notice has tolled; requiring certain taxes to be included in the foreclosure action; requiring any foreclosure action under this subtitle be filed in the Circuit Court for Baltimore City and that notice and a copy of the complaint be sent to each interested party within a certain period of time and in a certain manner; requiring the complaint for an in rem foreclosure to include certain information; allowing the complaint for an in rem foreclosure to be amended for certain purposes; providing that an interested party has a certain right to cure certain delinquent taxes and liens on the real property under certain circumstances; requiring a hearing on the in rem foreclosure complaint to be conducted at a certain time; providing that an interested party has the right to be heard at the hearing; requiring the court to enter a certain judgment on a certain finding; requiring the judgment to be recorded in certain land records; providing that title acquired in a certain foreclosure proceeding shall be a certain absolute or fee simple title except under certain circumstances; providing that a judgment in an action under this subtitle is binding and conclusive, regardless of legal disability, on certain persons; defining certain terms; providing for a special effective date; and generally relating to in rem foreclosure and sale of tax delinquent vacant and abandoned property.

By authority of

Tax-Property Article  
Title 14, Subtitle 8, Part V  
Maryland Code

By adding

Article 8 - Taxes  
Section(s) 8.1-1 to 8.1-15, to be under the new subtitle,  
“Subtitle 8.1. In Rem Foreclosure - Vacant and Abandoned Property”  
Baltimore City Code  
(Edition 2000)

## Recitals

**Whereas**, thousands of vacant and abandoned structures and lots cause and contribute to blight in Baltimore's neighborhoods and communities;

**Whereas**, the owners of these vacant and abandoned properties often fail to pay taxes, fees, and other municipal charges for which they are responsible, resulting in the unmarketability of these properties, in part because the municipal liens come to exceed the properties' value;

**Whereas**, the City's annual tax sale, being a mechanism for the collection of unpaid liens where the tax lien certificates are marketable, is not designed to address the problem of vacancy and abandonment;

**Whereas**, on February 20, 2019, the Baltimore City Council passed resolution 19-0140R, urging the Maryland General Assembly and Governor to enact legislation to allow Baltimore City to pursue in rem foreclosure against abandoned and vacant properties;

**Whereas**, the City's partners in nonprofit and community development organizations worked with City officials, the Maryland General Assembly, and the Governor to enact on April 30, 2019, an enabling law to allow the counties and the City of Baltimore to create an in rem foreclosure process whereby the City and other jurisdictions may forego the annual tax sale and instead initiate and prosecute in rem foreclosure of certain vacant and abandoned properties through circuit court proceedings;

**Whereas**, the Mayor and City Council wishes to provide the City with every possible tool to eliminate blight in Baltimore's neighborhoods and communities and, therefore, wishes to provide for in rem foreclosure against qualifying vacant and abandoned properties throughout the City;

**Whereas**, tax lien certificates issued in the annual tax sale expire if no case to foreclose the right of redemption is filed within 2 years, but tax delinquent properties are placed in the tax sale every 3 years, leaving a 1-year gap during which foreclosure based on the liens accumulated against vacant and abandoned properties is impossible, effectively shielding roughly one-third of all vacant and abandoned properties from foreclosure at any given time; and

**Whereas**, an in rem foreclosure process would allow the City to acquire vacant and abandoned properties outside of the normal tax sale cycle, while still observing all the due process and redemption rights of the owners and other parties with an interest in the properties.

**Section 1. Be it ordained by the Mayor and City Council of Baltimore**, That the Laws of Baltimore City read as follows:

### **Baltimore City Code**

#### **Article 8. Taxes**

##### **Subtitle 8.1. In Rem Foreclosure - Vacant and Abandoned Property**

§ 8.1-1. Definitions.

(a) *In general.*

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

(b) *Department.*

(1) *In general.*

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

(2) *Inclusion.*

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

(c) *Interested party.*

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

**Editor’s Note:** State Tax-Property Art. § 14-873(b), as enacted by Chapter 276, 2019 Laws of Maryland, reads as follows:

(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.

(d) *Person.*

“Person” means:

- (1) an individual;
- (2) a receiver, trustee, guardian, personal representative, fiduciary, or representative of any kind; or
- (3) a partnership, firm, association, corporation, or other entity of any kind.

(e) *Property; Real property.*

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

(f) *Tax.*

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

**Editor’s Note:** State Tax-Property Art. § 14-801(d), as re-enacted by Chapter 276, 2019 Laws of Maryland, reads as follows:

- (d) (1) “Tax” means any tax, or charge of any kind due to the State or any of its political subdivisions, or to any other taxing agency, that by law is a lien against the real property on which it is imposed or assessed.
- (2) “Tax” includes interest, penalties, and service charges.

**§ 8.1-2. In rem foreclosure: Authorized.**

In accordance with State Tax-Property Article §§ 14-873 through 14-876, the Mayor and City Council is authorized to subject certain property to judicial in rem foreclosure and sale.

**§ 8.1-3. In rem foreclosure: Generally; Applicable properties.**

(a) *In general.*

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

(b) *Applicable properties.*

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

- (1) the real property must be:
  - (i) a vacant lot; or
  - (ii) an improved property cited as vacant and unsafe or unfit for habitation or other authorized use on a housing or building violation notice, provided that:
    - (A) the time for appeal of the violation notice has expired without an appeal having been filed; or
    - (B) an administrative review of a filed appeal has been decided in favor of the Building Official as defined in the City Building, Fire, and Related Codes;
- (2) the real property must be at least 6 months in arrears on taxes and liens; and
- (3) the total amount of liens for unpaid taxes on the property must exceed the lesser of the total value of the property as last determined by :
  - (i) the Maryland Department of Assessments and Taxation; or
  - (ii) 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 State Business Occupations and Professions Article.

(c) *Other tax liens.*

(1) *In general.*

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

(2) *Exception.*

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

- (i) the real property is subject to an active tax certificate held by the Mayor and City Council;  
and
- (ii) the Mayor and City Council has not previously filed an action to foreclose the right of redemption.

**§ 8.1-4. {Reserved}**

**§ 8.1-5. Rules and regulations.**

(a) *In general.*

The Commissioner of Housing and Community Development may adopt rules and regulations to carry out this subtitle.

(b) *Filing with Legislative Reference.*

A copy of all rules and regulations adopted under this subtitle must be filed with the Department of Legislative Reference before they take effect.

**§ 8.1-6. {Reserved}**

**§ 8.1-7. Complaint.**

(a) *Pre-complaint notice.*

(1) *In general.*

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

(2) *Contents.*

The notice required by this subsection shall:

- (1) clearly identify the property;
- (2) identify the tax and other municipal liens due to the Mayor and City Council; and
- (3) state that unless full payment of all municipal liens is made to the Department of Finance within 30 days, the Department may file an in rem foreclosure action in the Circuit Court for Baltimore City and seek the vesting of title to the property in the Mayor and City Council of Baltimore.

(b) *In general.*

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

- (1) the property otherwise meets the specifications in § 8.1-3(b) {"In rem foreclosure: Generally; applicable properties"} of this subtitle;
- (2) the Department has sent the notice required by subsection (a) of this section; and
- (3) the full payment of municipal liens has not been paid within 30 days from the date the notice described in paragraph (2) of this subsection was sent.

(c) *Contents.*

A complaint filed under this section shall include:

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

(d) *Amendment.*

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

(e) *Cure.*

- (1) Subject to paragraph (2) of this subsection, an interested party may cure the delinquent taxes and

liens on the property by paying all past due fees, payments, and penalties at any time prior to the entry of the foreclosure judgment.

- (2) An interested party may not cure the delinquent taxes and liens on the property by paying all past due fees, payments, and penalties after the entry of the foreclosure judgment.

**§ 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.

(2) Other than the methods described in paragraph (1) of this subsection, the Department 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.

(3) *Records search required.*

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

(4) *Affidavit.*

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

(d) *Summons.*

(1) *In general.*

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

(2) *Service of summons.*

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

(e) *Order of publication.*

(1) *In general.*

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

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

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

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

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

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

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

(2) *Form of order.*

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

#### **Order of Publication**

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

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

The complaint states, among other things, 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, and that the amounts necessary for redemption have not been paid.

It is thereupon this .... day of ....., 20.., by the Circuit Court for Baltimore City, ordered, that notice be given by the insertion of a copy of this order in some newspaper having a general circulation in .... once a week for 3 successive weeks, warning all persons interested in the property to appear in this court by the .... day of ....., 20.., and redeem the property .... and answer the complaint or thereafter a

final judgment will be entered foreclosing all rights of redemption in the property, and vesting title in the Mayor and City Council of Baltimore, free and clear of all encumbrances.”.

(3) *Copy of order to defendants.*

- (i) This paragraph only applies to instances when the Department has ascertained a defendant’s last known address.
- (ii) On issuance of the order of publication, the Department shall send a copy of the order to each defendant, at the defendant’s last known address, by first class mail or certified mail, postage prepaid.

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

(1) *In general.*

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

(2) *Affidavit.*

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

(g) *Affidavit requirement.*

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

- (1) an affidavit certifying that all provisions of this section have been complied with; and
- (2) to indicate that a good faith effort was made to serve the summons and complaint on each interested party, a copy of:
  - (i) the receipt obtained from the United States Post Office for the mailing;
  - (ii) the certified mail receipt; or
  - (iii) an affidavit of a process server.

**§ 8.1-9. Post-filing notice.**

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

**§ 8.1-10. Sufficiency of notice.**

The provisions of this subtitle as to notice and service of process to persons who may have an interest in a property, in conjunction with the order of publication, routine tax notices, and the pre-filing and post-filing notices required under this subtitle, as well as the knowledge of the taxes and the consequences for nonpayment of the taxes is declared:

- (1) to be reasonable and sufficient under all of the circumstances involved, and necessary in light of the compelling need for the prompt collection of taxes and to address abandoned and blighted properties; and
- (2) to supersede any other requirement in other cases or civil causes generally, including requirements in the Maryland Rules that may be construed to conflict with the notice and service or process requirements in this section.

**§ 8.1-11. Hearing.**

(a) *Scheduling.*

- (i) Whether to schedule a hearing is within the Circuit Court's discretion.
- (ii) If a hearing is scheduled, the hearing must be at least 30 days after the filing of the complaint and 60 days from the date of the order of publication.

(b) *Hearing participation.*

At a hearing during the pendency of the action, any interested party has the right to be heard and to contest the delinquency of the taxes or the adequacy of the proceedings.

**§ 8.1-12. Judgment.**

(a) *Scope.*

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

- (1) the Department sent notice and a copy of the complaint to each interested party in accordance with this subtitle;
- (2) service of process and other notice requirements have been met; and
- (3) the information set forth in the complaint is accurate.

(b) *In general.*

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

- (1) enter a judgment finding 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 the ownership of the real property is transferred to the Mayor and City Council pursuant to § 8.1-13 {"Title; Recordation"} of this subtitle.
- (c) *Effect of judgment.*

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

- (1) 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
- (2) 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.

### § 8.1-13. Title; Recordation.

(a) *In general.*

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

(b) *Leasehold properties.*

- (1) If the Department's title search indicates that a property's title is held in leasehold and the Department wishes for the property to be awarded in leasehold, the Department may ask the Court to award leasehold title.
- (2) Service of process having been rendered on the ground rent owner, either directly, if the owner has been identified and located, or by publication or other method approved by the Court, if the ground rent owner has not been identified or located, shall be sufficient for the Court to award fee simple title to a leasehold property.

(c) *Recordation.*

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

### § 8.1-14. {Reserved}

### § 8.1-15. Post-judgement sale.

(a) *In general.*

- (1) After obtaining and recording an in rem foreclosure judgment, the City may retain title to the

property or sell the property, pursuant to City Charter, Article V, \_ 5, and City Code, Article 15, \_ 2-7, to advance the City's blight elimination goals.

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

(b) *Land bank.*

In the event the Mayor and City Council establish a land bank authorized under City Charter, Article II, \_ 65 {"Land Bank Authority"}, the City may convey the property to the Authority described in the implementing ordinance to be used for the City's or the Authority's blight elimination and revitalization goals.

(c) *Disposition.*

(1) *In general.*

- (i) At the time the City sells any property obtained under this subtitle, the City shall deposit into the Court registry any excess funds paid by the buyer, either directly for the property or on a pro-rata basis if the property was consolidated with other lots to create a single parcel, beyond the lien amounts owed to the Mayor and the City Council, inclusive of interest, fees, and penalties, at the time of the in rem foreclosure judgement under this subtitle.
- (ii) In depositing the excess funds, the City shall provide an accounting of the amount of City liens at the time of the in rem foreclosure judgement on the property and detail the price or pro-rata share of the price ultimately paid by the buyer of the property.

(2) *Distribution of proceeds.*

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

**Section 2. And be it further ordained,** That the catchlines contained in this Ordinance are not law and may not be considered to have been enacted as a part of this or any prior Ordinance.

**Section 3. And be it further ordained,** That this Ordinance takes effect on the date it is enacted.