

**MEMORANDUM**

September 16, 2016

TO: County Council

FROM: Amanda Mihill, Legislative Attorney *A. Mihill*

SUBJECT: **Introduction:** Bill 38-16, Housing and Building Maintenance Standards –  
Foreclosed Property Registration Penalty

Bill 38-16, Housing and Building Maintenance Standards – Foreclosed Property Registration Penalty, sponsored by Lead Sponsor Councilmember Hucker and Co-Sponsor Councilmember Navarro, is scheduled to be introduced on September 20, 2016. A public hearing is tentatively scheduled for October 18 at 1:30 p.m.

Bill 38-16 would impose a civil penalty for failure to register a foreclosure purchase. Additional background materials from Lead Sponsor Hucker is attached at ©4.

This packet contains:

Bill 38-16

Legislative Request Report

Sponsor material

Circle #

1

3

4

Bill No. 38-16  
Concerning: Housing and Building  
Maintenance Standards – Foreclosed  
Property Registration Penalty  
Revised: 3/7/2016 Draft No. 1  
Introduced: September 20, 2016  
Expires: March 20, 2018  
Enacted: \_\_\_\_\_  
Executive: \_\_\_\_\_  
Effective: \_\_\_\_\_  
Sunset Date: None  
Ch. \_\_\_\_\_, Laws of Mont. Co. \_\_\_\_\_

## COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

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Lead Sponsor: Councilmember Hucker  
Co-Sponsor: Councilmember Navarro

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**AN ACT** to:

- (1) impose a civil penalty for failure to register a foreclosure purchase; and
- (3) generally amend the law regarding housing and building maintenance standards.

By adding

Montgomery County Code  
Chapter 26, Housing and Building Maintenance Standards  
Article I, General

Article II, Foreclosed Property Registry  
Section 26-19

<b>Boldface</b>	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
[Single boldface brackets]	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
[[Double boldface brackets]]	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

*The County Council for Montgomery County, Maryland approves the following Act:*



## LEGISLATIVE REQUEST REPORT

Bill 38-16

*Housing and Building Maintenance Standards – Foreclosed Property Registration Penalty*

- DESCRIPTION:** Bill 38-16 would impose a civil penalty for failure to register a foreclosure purchase.
- PROBLEM:** In 2012, the General Assembly enacted House Bill 1373, which requires the purchaser of a foreclosed property to register with the state. The law also authorizes local jurisdictions to impose a fine for failing to register.
- GOALS AND OBJECTIVES:** To use the authority given by the state to impose a fine for failing to register a foreclosed property purchase.
- COORDINATION:**
- FISCAL IMPACT:** To be requested.
- ECONOMIC IMPACT:** To be requested.
- EVALUATION:** To be requested.
- EXPERIENCE ELSEWHERE:** To be researched.
- SOURCE OF INFORMATION:** Amanda Mihill, Legislative Attorney, 240-777-7815
- APPLICATION WITHIN MUNICIPALITIES:** To be researched.
- PENALTIES:** \$1,000 for failing to register.



**MONTGOMERY COUNTY COUNCIL**  
ROCKVILLE, MARYLAND

**TOM HUCKER**  
COUNCILMEMBER  
DISTRICT 5

**MEMORANDUM**

**TO:** Councilmembers

**FROM:** Tom Hucker

**DATE:** July 13, 2016

**RE:** **Establishing a penalty for failing to register a foreclosed property**

I will soon be introducing a series of housing bills that are meant to address the growing number of neglected and vacant properties in the county. The first seeks to incentivize property owners and banks to adhere to current law and ensure homes are properly maintained and taxes are paid.

In 2012, at the request of Maryland Department of Labor, Licensing and Regulation (DLRR) and the Maryland Foreclosure Task Force, the General Assembly passed HB 1373 - Foreclosed Property Registry. The law requires the purchaser of a foreclosed property to register with DLLR within 30 days of the property's foreclosure sale. The law also authorizes local jurisdictions to enact legislation to impose a fine of \$1,000 for failing to register. The law was meant to address the nine to eighteen month period that frequently occurs between the date of a foreclosure and the date that the property title is transferred. During this time, local jurisdictions have a hard time identifying the party responsible for maintenance, security, and taxes.

To date, Montgomery County has not enacted any punitive fine and hundreds of foreclosed properties have gone unregistered. Based on the data from the State Foreclosure Registry, there were 1,432 foreclosures countywide in FY15. Of these, 34% (492) either failed to register or registered long after the deadline. These unregistered properties are much more likely to go unmaintained costing the county thousands in housing code enforcement and dragging down nearby property values.<sup>[1]</sup>

In addition, many purchasers - often banks and out-of-state investors - wait to record the deed to the property until it is resold to another purchaser.<sup>[1]</sup> By circumventing the normal process and improperly (and illegally) transferring the property to a new homeowner in this fashion, the County does not receive the recordation tax or the transfer tax, which shortchanges County coffers of over \$6,000 in revenue for a property of average value.

That is why I am introducing legislation to enact a penalty of \$1,000 per day for a foreclosed property that has not been registered. This deterrent is critically needed when

[1][https://www.richmondfed.org/~media/richmondfedorg/conferences\\_and\\_events/community\\_development/2012/pdf/md\\_foreclosure\\_task\\_force\\_rpt.pdf](https://www.richmondfed.org/~media/richmondfedorg/conferences_and_events/community_development/2012/pdf/md_foreclosure_task_force_rpt.pdf)

foreclosed property owners can save many thousands of dollars in maintenance costs and taxes by refusing to register and transfer ownership of their properties. These properties, often are in persistent disrepair, hurt neighborhoods and force the County to expend resources to enforce code violations. This bill gives us another 'stick' we can use to address this problem.

Attached is a copy of this bill and an FAQ sheet. I hope you will join me in cosponsoring this legislation. Please let me know if I can provide any additional information.

## **Foreclosure Registry Frequently Asked Questions**

### **1. What is the Maryland Foreclosed Property Registry?**

The Foreclosed Property Registry is an online system managed by the Office of the Commissioner of Financial Regulation in the Maryland Department of Labor, Licensing and Regulation (DLLR). State law requires that every residential property purchased at a foreclosure sale be registered in this system.

### **2. What is the purpose of the foreclosure registry?**

In 2012, the Maryland Foreclosure Task Force identified a limbo period of nine to eighteen months between the property's foreclosure sale and the deed recordation in the public land records. During this limbo period, it is difficult for jurisdictions to identify the party responsible for foreclosed property, which often causes the property to fall into disrepair. The Foreclosed Property Registry closes this gap by creating one centralized database of information.

### **3. What causes this limbo period?**

According to the Foreclosure Task Force, this limbo period is caused by the following six factors:

- Right of property owner to challenge the foreclosure auction .
- Time required for Courts to ratify the foreclosure sale
- Clearing of any priority government liens against the property
- Lengthy eviction proceedings or eviction requirements
- Market demand or lack thereof for the property by a new homeowner; and
- Whether or not foreclosure purchasers record the deed prior to resale, or in the alternative, wait to record upon resale to a third-party purchaser.

### **4. Why would a foreclosure purchaser wait to record a deed upon resale?**

By postponing the deed recordation, a foreclosure purchaser can avoid paying thousands of dollars in transfer and recordation taxes, which become the responsibility of the third-party purchaser.

### **5. How much are property transfer and recordation taxes?**

Transfer taxes are generally 1% of the value of the improved (building) and unimproved (land) value of a property transferred to a new owner. Recordation taxes are 0.69% of the

amount of the transaction. In Montgomery County, the recordation and transfer tax for a property of median value in Montgomery County is about \$6,600. The foreclosure purchaser avoids paying these taxes, and often passes the costs on to the next person who purchases the property.

**6. What is a foreclosure sale?**

In Maryland, a lender may file for foreclosure on a property 45 days after the first missed mortgage payment. If the loan is not brought current or the loan is not modified, then the lender can sell the property at a foreclosure sale. Typically, loans sold at foreclosure are bought by other banks or real estate investors.

**7. Who has to register the property?**

The company or individual that purchases the foreclosed property is required to register the property. The property does not need to be re-registered when the foreclosure purchaser sells the property to a third-party purchaser.

**8. What is the process for registering a property?**

Purchasers are required to submit an initial registration of the property within 30 days of the foreclosure sale, which includes the name, address, and telephone number of the purchaser, their legal representative, property maintenance company, and the property's occupancy status. The purchaser is also required to complete a final registration within 30 days of recording the property's new deed.

**9. How is compliance enforced?**

The statute that created the registry gives local jurisdictions the authority to enforce compliance. A jurisdiction may enact a local law that imposes a civil penalty for failure to register a property.

**10. What is the noncompliance rate?**

DLLR estimates that 20% of foreclosure purchasers do not register their property or register after the deadline. In Montgomery County, however, that number is much higher. In FY15, there were 1,432 foreclosures in the county, and 34% either failed to register or were registered after the deadline.