

M E M O R A N D U M

March 24, 2017

TO: Planning, Housing and Economic Development Committee

FROM: Amanda Mihill, Legislative Attorney *AMH*

SUBJECT: **Worksession:** 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 Huckler and Co-Sponsors Councilmember Navarro, then-Vice President Berliner, Councilmembers Elrich, Riemer, and Leventhal, and then-Council President Floreen, was introduced on September 20, 2016. A public hearing was held on November 1 (see testimony and correspondence at ©20-27).¹

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

Background

Section 14-126.1 of the Real Property Article requires the State Department of Labor, Licensing, and Regulation to create an Internet-based Foreclosed Property Registry for information relating to foreclosure sales of residential property. State law requires a foreclosure purchaser to submit an “initial registration” on the Foreclosed Property Registry within 30 days of the foreclosure sell. Within 30 days after a deed transferring title has been recorded, the foreclosure purchaser must submit a “final registration”. The state law allows a local jurisdiction to enact a law imposing a civil penalty for failure to register, up to \$1,000 (©14-19).

Issue for Committee Consideration

The testimony and correspondence that the Council has received on this issue has been generally supportive. However, a few issues have been raised, which are addressed below.

¹ Much of the testimony related to Bill 38-16 was submitted in conjunction with Bill 39-16, Housing and Building Maintenance Standards – Registration of Vacant Property and is not reproduced here. Copies of that testimony is in the packet for Bill 39-16 (PHED agenda item #3).

1. Should the bill require the County to provide information to neighborhood associations?

Section 14-126.1 (g)(3) allows a local jurisdiction to provide information for a specific property in the Foreclosed Property Registry to a person who owns property on the same block or a homeowners association or condominium in which the property is located. The Washington Metro Chapter of the Community Associations Institute urged the Council to add language to Bill 38-16 requiring the Department to provide this information when requested (see ©24). **Council staff comments:** As the State law permits the County to disclose this information, there are no legal impediments to amending the legislation as requested.

2. Can the bill require final registration on the Registry? The Hillandale Citizens Association urged the Council to amend the bill to require that final registration and deed transfer be done quickly (see ©21). **Council staff comments:** Instituting this sort of requirement would require a change to the State law authorizing the Foreclosed Property Registry. This is not something that can be achieved by amending Bill 38-16.

This packet contains:

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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

Lead Sponsor: Councilmember Hucker
Co-Sponsors: Councilmember Navarro, Vice President Berliner, Councilmembers Elrich, Riemer,
and Leventhal, and Council President Floreen

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

Boldface	<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.^[1]

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.^[1] 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

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.



ROCKVILLE, MARYLAND

MEMORANDUM

October 10, 2016

TO: Nancy Floreen, President, County Council

FROM: Jennifer A. Hughes, Director, Office of Management and Budget
Alexandre A. Espinosa, Director, Department of Finance

SUBJECT: FEIS for
Bill 38-16, Housing and Building Maintenance Standards – Foreclosed Property
Registration Penalty; and
Bill 39-16, Housing and Building Maintenance Standards – Registration of
Vacant Property

Please find attached the fiscal and economic impact statements for the above-referenced legislations.

JAH:fz

cc: Bonnie Kirkland, Assistant Chief Administrative Officer
Lisa Austin, Offices of the County Executive
Joy Nurmi, Special Assistant to the County Executive
Patrick Lacefield, Director, Public Information Office
Clarence J. Snuggs, Director, Department of Housing and Community Affairs
David Platt, Department of Finance
Dennis Hetman, Department of Finance
Pofen Salem, Office of Management and Budget
Naeem Mia, Office of Management and Budget

**Fiscal Impact Statement
Bill 38-16**

Housing and Building Maintenance Standards - Foreclosed Property Registration Penalty

1. Legislative Summary

The proposed legislation would impose a civil penalty for failure to register a foreclosure purchase. Bill 38-16 would enact the County's authority referenced in HB-1373 which requires every residential property purchased at a foreclosure sale to be registered within 30 days into the Foreclosed Property Registry. HB-1373 authorizes local jurisdictions to impose a fine of \$1,000 for failing to register. State law was intended to address 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 local jurisdictions to identify the party responsible for maintenance, security, and taxes of foreclosed property. The Foreclosed Property Registry is designed to close this gap by creating one centralized database of information.

2. An estimate of changes in County revenues and expenditures regardless of whether the revenues or expenditures are assumed in the recommended or approved budget. Includes source of information, assumptions, and methodologies used.

The Maryland Department of Labor, Licensing and Regulation (DLLR) estimates that twenty percent of foreclosure purchasers do not register properties or register after the deadline, and that number is much higher in Montgomery County. According to the "Foreclosure Registry Frequently Asked Questions", which was submitted in the introduction package for Bill 38-16, there were 1,432 foreclosures countywide in FY15. Of these, 34% (492 properties) either failed to register or were registered after the deadline. Bill 38-16 would impose a maximum penalty of \$1,000 for noncompliance. Therefore, assuming the aforementioned 492 properties, this would generate an additional \$492,000 in revenue. However, the intent of the bill is to increase the compliance rate. Therefore, the revenues could be less.

DHCA currently does not perform the billing and full compliance of foreclosed properties to be registered in the Foreclosed Property Registry. DHCA administers the Clean and Lien Program, a similar program, aimed at enforcing code compliance at certain noncompliant ownership properties. The Clean and Lien program utilizes a Program Manager I position to maintain 200-250 properties per year. DHCA estimates Bill 38-16 could require the same level of effort with one additional staff to enforce code compliance at those noncompliant foreclosed properties. DHCA estimates that the total personnel cost, including fringe benefits, for a Program Manager I position is \$95,165. The compliance rate will be monitored to determine if the additional staffing is necessary.

3. Revenue and expenditure estimates covering at least the next 6 fiscal years.

The total estimated six-year revenue or expenditure is based on the assumption of approximately 492 foreclosed properties remain noncompliant per year:

	FY17	FY18	FY19	FY20	FY21	FY22	Total
Revenue (@\$1,000 penalty per property)	492,000	492,000	492,000	492,000	492,000	492,000	2,952,000
Expenditure (1.0 FTE for Program Manager I)	95,165	95,165	95,165	95,165	95,165	95,165	570,993

Note: The percentage of noncompliance foreclosed properties in Montgomery County is higher than the State average (20%). The revenue estimates are based on the assumption of 34% of identified foreclosed properties in FY15. Personnel cost does not include future wage increases.

- An actuarial analysis through the entire amortization period for each bill that would affect retiree pension or group insurance costs.

Not Applicable.

- An estimate of expenditures related to County's information technology (IT) systems, including Enterprise Resource Planning (ERP) systems.

Not applicable.

- Later actions that may affect future revenue and expenditures if the bill authorizes future spending.

Not applicable; the proposed legislation does not authorize future spending.

- An estimate of the staff time needed to implement the bill.

As mentioned in #2, DHCA currently does not perform this task. DHCA administers the Clean and Lien Program, a similar program, aimed at enforcing code compliance at certain noncompliant ownership properties. The Clean and Lien program utilizes a Program Manager I position to maintain 200-250 properties per year. DHCA estimates Bill 38-16 could require the same level of effort, if the non-compliance rate isn't significantly reduced, with one additional staff to enforce code compliance at those noncompliant foreclosed properties. DHCA estimates that the total personnel cost, including fringe benefits, for a Program Manager I position is \$95,165.

- An explanation of how the addition of new staff responsibilities would affect other duties.

The proposed task cannot be absorbed with current staff and would require an additional 1.0 FTE.

- An estimate of costs when an additional appropriation is needed.

An additional appropriation of \$95,165 for a Program Manager I position could be necessary if compliance rates remain unchanged.

10. A description of any variable that could affect revenue and cost estimates.

The revenue estimates could be affected by the number of foreclosure events in a given fiscal year, the uncertainty of whether the \$1,000 penalty for noncompliance is challenged and upheld in court, and whether the legislation's goal of increasing compliance is achieved.

11. Ranges of revenue or expenditures that are uncertain or difficult to project.

Not applicable.

12. If a bill is likely to have no fiscal impact, why that is the case.

Not applicable.

13. Other fiscal impacts or comments.

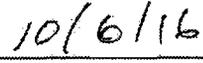
Not applicable.

14. The following contributed to and concurred with this analysis:

Clarence Snuggs, DHCA
Tim Goetzinger, DHCA
Chris Anderson, DHCA
Dan, McHugh, DHCA
Pofen Salem, Office of Management and Budget



Jennifer A. Hughes, Director
Office of Management and Budget



Date

Economic Impact Statement
Bill 38-16, Housing and Building Maintenance Standards – Foreclosed Property
Registration Penalty

Background:

This legislation would impose a civil penalty for failure to register a foreclosure purchase. In 2012, the General Assembly enacted House Bill 1373 that requires the purchaser of a foreclosed property to register with the state and authorizes local jurisdictions to impose a fine for failing to register.

1. The sources of information, assumptions, and methodologies used.

Sources of information include the Maryland Department of Housing and Community Development (DHCD), RealtyTrac, and the Maryland Department of Labor, Licensing and Regulation (DLLR). The Department of Finance (Finance) did not develop assumptions or methodologies in the preparation of the economic impact statement.

According to DHCD in its report “Property Foreclosures in Maryland: Third Quarter 2015”, there were 943 property foreclosure events or foreclosure filings in Montgomery County which represented 8.7 percent of the total statewide events. Those events included notices of default (313), notices of sales (412), and lender purchases (291). The sum of the three events exceeds the number of total foreclosure filings because DHCD eliminates multiple counting of events from the total. The total foreclosure filings during the third quarter of 2015 was 6.4 percent above the rate during the third quarter of 2014.

Bill 38-16 addresses the issue of the failure by purchasers of foreclosed property to register the property or failure to register after the deadline with the DLLR’s Foreclosed Property Registry (Registry). According to data provided by the Registry, 492 properties failed to register or registered after the deadline in FY15. Bill 38-15 would impose a maximum penalty or fine of \$1,000 for each failure to register or registered after the deadline. Therefore, the maximum total cost to purchasers of foreclosed property would be \$492,000.

2. A description of any variable that could affect the economic impact estimates.

The purpose of the economic impact statement is not to analyze the economic impact of foreclosures on the County’s economy but the economic impact attributed to imposing a fine for purchasers who failed to register and registered after the deadline. As such, the variable that could impact the County’s economy is the number of properties that failed to register and the amount of the fine per noncompliance.

3. The Bill’s positive or negative effect, if any on employment, spending, savings, investment, incomes, and property values in the County.

Based on data provided in paragraph 1, Bill 38-16 would have a modest impact on the incomes of purchasers of foreclosed property who fail to register or failed to meet the deadline. The legislation would not have a significant impact on the overall economy.

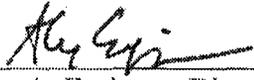
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Economic Impact Statement
Bill 38-16, Housing and Building Maintenance Standards – Foreclosed Property
Registration Penalty

4. If a Bill is likely to have no economic impact, why is that the case?

See #3

5. **The following contributed to or concurred with this analysis:** David Platt, Dennis Hetman, and Robert Hagedoorn, Finance.



Alexandre A. Espinosa, Director
Department of Finance

10/7/2016

Date

(13)

West's Annotated Code of Maryland
Real Property (Refs & Annos)
Title 14. Miscellaneous Rules (Refs & Annos)
Subtitle 1. Miscellaneous Rules

MD Code, Real Property, § 14-126.1

§ 14-126.1. Internet-based Foreclosed Property Registry

Effective: October 1, 2014
Currentness

Definitions

(a)(1) In this section the following words have the meanings indicated.

(2) "Department" means the Department of Labor, Licensing, and Regulation.

(3) "Foreclosed Property Registry" means the Foreclosed Property Registry established by the Department under subsection (b) of this section.

(4) "Foreclosure purchaser" means the person identified as the purchaser on the report of sale required by Maryland Rule 14-305 for a foreclosure sale of residential property.

(5) "Fund" means the Foreclosed Property Registry Fund established by the Department under subsection (i) of this section.

(6) "Local jurisdiction" means:

(i) A county; or

(ii) A municipal corporation.

(7) "Residential property" means real property improved by four or fewer dwelling units that are designed principally and are intended for human habitation.

Registry for information relating to foreclosure sales of residential property

(b) The Department shall establish and maintain an Internet-based Foreclosed Property Registry for information relating to foreclosure sales of residential property.

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Written acknowledgment of section requirements

(c) At the time of a foreclosure sale of residential property, the person responsible for conducting the foreclosure shall obtain from the foreclosure purchaser a written acknowledgment of the requirements of this section.

Initial registration to Registry

(d)(1) Within 30 days after a foreclosure sale of residential property, a foreclosure purchaser shall submit an initial registration to the Foreclosed Property Registry.

(2) The initial registration shall:

(i) Be in the form the Department requires; and

(ii) Contain the following information:

1. The name, telephone number, and address of the foreclosure purchaser;

2. The street address of the property that is the subject of the foreclosure sale;

3. The date of the foreclosure sale;

4. Whether the property is a single-family or multifamily property;

5. The name and address of the person, including a substitute purchaser, who is authorized to accept legal service for the foreclosure purchaser;

6. To the best of the foreclosure purchaser's knowledge at the time of registration:

A. Whether the residential property is vacant; and

B. The name, telephone number, and street address of the person who is responsible for the maintenance of the property; and

7. Whether the foreclosure purchaser has possession of the property.

(3) Within 30 days after a deed transferring title to the residential property has been recorded, the foreclosure purchaser shall submit a final registration to the Foreclosed Property Registry.

(15)

(4) The final registration shall:

(i) Be in the form the Department requires; and

(ii) Contain the following information as of the date of final registration:

1. The name, telephone number, and address of the owner on the deed;

2. The date of the ratification of the sale; and

3. The date the deed was recorded.

Filing fees for registration

(e)(1) The filing fees for registering a residential property are:

(i) \$50 for an initial registration filed within the time period required under subsection (d)(1) of this section; and

(ii) \$100 for an initial registration filed after the time period required under subsection (d)(1) of this section.

(2) There is no fee for a final registration.

(3) A filing fee paid under paragraph (1) of this subsection is nonrefundable.

(4) A local jurisdiction may enact a local law that imposes a civil penalty for failure to register under this section in an amount not exceeding \$1,000.

Abatement of nuisance on registered property

(f)(1) Subject to paragraph (2) of this subsection, a local jurisdiction that, in accordance with any applicable building code or local ordinance, abates a nuisance on a residential property registered under this section or takes action to maintain a residential property registered under this section may collect the cost associated with the abatement or other action as a charge included on the residential property's property tax bill.

(2)(i) The cost associated with an abatement or other action taken under paragraph (1) of this subsection may not be included as a charge on the residential property's property tax bill unless the local jurisdiction provides advance written notice in accordance with subparagraph (ii) of this paragraph to:

1. The person identified in the registry who is authorized to accept legal service for the foreclosure purchaser; and

2. The person identified in the registry who is responsible for the maintenance of the property.

(ii) The notice described in subparagraph (i) of this paragraph shall:

1. Describe the intended abatement or other action the local jurisdiction intends to take; and

2. Be provided:

A. In accordance with the notice provisions of the applicable building code or local ordinance; or

B. If the applicable building code or local ordinance does not provide for notice, at least 30 days before the local jurisdiction abates the nuisance or takes action to maintain the property.

Access to Foreclosed Property Registry

(g)(1) The Foreclosed Property Registry:

(i) Is not a public record as defined by § 4-101 of the General Provisions Article; and

(ii) Is not subject to Title 4 of the General Provisions Article.

(2) The Department may authorize access to the Foreclosed Property Registry only to local jurisdictions, their agencies, and representatives and State agencies.

(3) Notwithstanding paragraphs (1) and (2) of this subsection, the Department or a local jurisdiction may provide information for a specific property in the Foreclosed Property Registry to:

(i) A person who owns property on the same block; or

(ii) A homeowners association or condominium in which the property is located.

Revenue from filing fees distributed to Fund

(h) Revenue collected from the filing fees required under subsection (e)(1) of this section shall be distributed to the Fund.

Foreclosed Property Registry Fund

(i)(1) There is a Foreclosed Property Registry Fund in the Department.

(17)

(2) The purpose of the Fund is to support the development, administration, and maintenance of the Foreclosed Property Registry established under this section.

(3) The Department shall administer the Fund.

(4)(i) The Fund is a special, nonlapsing fund that is not subject to § 7-302 of the State Finance and Procurement Article.

(ii) The State Treasurer shall hold the Fund separately, and the Comptroller shall account for the Fund.

(5) The Fund consists of:

(i) Revenue distributed to the Fund under subsection (h) of this section;

(ii) Investment earnings of the Fund;

(iii) Money appropriated in the State budget to the Fund; and

(iv) Any other money from any other source accepted for the benefit of the Fund.

(6)(i) The State Treasurer shall invest the money of the Fund in the same manner as other State money may be invested.

(ii) Any investment earnings of the Fund shall be paid into the Fund.

Laws requiring notice

(j)(1) Except as provided in paragraph (2) of this subsection, only the State may enact a law requiring a notice to be filed with a unit of government to register residential properties that are subject to foreclosure.

(2) This subsection does not restrict or otherwise affect the ability of a unit of government to require a registration or notice to be filed for a purpose other than one relating to foreclosure, even if a property to be identified in the registration or notice is subject to foreclosure.

Credits

Added by Acts 2012, c. 155, § 1, eff. Oct. 1, 2012. Amended by Acts 2014, c. 104, § 2, eff. Oct. 1, 2014.

MD Code, Real Property, § 14-126.1, MD REAL PROP § 14-126.1

Current through Chapter 2 from the 2017 Regular Session of the General Assembly

(15)

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(19)

Montgomery County Council Public Hearing
**Bill 38-16: Housing and Building Maintenance Standards –
Foreclosed Property Registration Penalty**
**Bill 39:16: Housing and Building Maintenance Standards –
Registration of Vacant Property**
Tuesday, November 1, 2016

Vicki Vergagni
President, Board of Directors and
On-Site Community Manager
Glen Waye Gardens Condominium

Bill 38-16: Opposed
Bill 39:16: Opposed

My name is Vicki Vergagni. I represent both myself and 214 master-metered condominium units in Glen Waye Gardens. My positions on the two aforementioned bills are based on 40+ years of owning and living in a condominium, 16 years of leading my community as the Board president and serving as its on-site manager, and five years of serving as a Commissioner on the County’s CCOC – with two years as Vice Chair. **As the representative of my community and as an individual, we are opposed to the two aforementioned bills.**

Bill 38-16 that penalizes entities for failing to register in the State’s Foreclosure Registry foreclosed properties that they have purchased is unclear.

- In one portion of the bills’ documentation, the total penalty is \$1,000. This is inappropriate as transfer taxes average \$6,000 per property, so there is a net savings of \$5,000 if the property does not get registered and is simply transferred from a lender’s foreclosure stock to a new individual owner.
- In another portion of the bill’s documentation, the penalty is \$1,000 per day. This is draconian at best and would most likely ensnare individuals who are making their one-and-only purchase at a foreclosure sale.

Thus, we cannot support Bill 38-16.

Hillandale Citizens Association, Inc.

Montgomery County Bills 38-16 & 39-16

Penalty for Not Registering Foreclosed Properties & Listing Vacant Properties

The Executive Committee of the Hillandale Citizens Association supports Councilmember Hucker's two bills crafted to improve the Department of Housing and Community Affairs (DHCA) management of vacant properties. We ask that Council also consider the following:

- Add a time requirement for final registration with the State Foreclosure Registry
- Add a provision to have DHCA list designated unmaintained, vacant properties on their web site, as they do condemned properties
- Remove the two-year grace period for listing properties in foreclosure action from the unmaintained, vacant property designation

Bill 38-16 --- Enacting the State's Foreclosure Registry Penalty Provision in MoCo

Requiring the purchaser of a foreclosed property to promptly report their purchase to the state's foreclosed property database will improve DHCA's ability to identify responsible parties. Imposing a \$1,000 fine will encourage buyers to act quickly and acknowledge their ownership with the *initial registration*.

Unfortunately, the bill stops short of requiring the *final registration* and actual deed transfer be done quickly following the court's ratification of a foreclosure sale. Please make this a requirement.

Bill 39-16 — New Blight-Reduction Tool: Unmaintained Vacant Residential Property List

Establishing and implementing a MoCo *unmaintained vacant residential property* list with an annual inspection requirement and fees will help DHCA to address all types of abandoned properties that drag down a neighborhood. Since many of these properties will not have voluntary registration, it is imperative that DHCA aggressively uses the authority provided in this bill to add qualifying properties to the list. Furthermore, having inspection fees escalate within the service request/complaint system may encourage absentee owners to consider selling or renovating the home. We ask that this list be published on DHCA's web site.

Unfortunately, the more critical vacant, abandoned, unmaintained homes in Hillandale have been lengthy, stalled, or unprosecuted foreclosures. These have not been contested foreclosures for the most part. Some cases have been dismissed due to inactivity, then restarted or refiled. With this experience, the 24-month grace provision in the legislation is too lenient. All vacant and unmaintained homes should be treated equally based on the condition of the property. These properties need to be inspected, with registration charges and fees being added to the tax bill. Mortgage companies routinely pay the tax bills to avoid the possibility of a tax sale. Please remember that the negative impact of these homes on surrounding properties is significant and action must not be delayed.

We also encourage Council to review with DHCA the Department's policies regarding their existing powers to enforce housing code standards, including their ultimate tool, requiring a property owner to "repair or remove" a deteriorated, vacant dwelling through the District Court process. Several years ago, this approach was used in Hillandale with two successful

outcomes. One home was sold and renovated while another was demolished. This is a tool in their tool box that needs to be carefully used when necessary.

Thank you for considering our input as Council reviews and adopts Bills 38-16 and 39-16.

Margie Goergen-Rood, President
Eileen Finnegan, Zoning and Planning

Woody Brosnan

Representing PREZCO, the Presidents' Council of Silver Spring Civic Associations

Re: Bill 38-16

Honorable Councilmembers,

I will reserve most of my comments for Bill 39-16, but the two bills work hand in hand. It makes little sense to have a system for enforcing the maintenance of vacant properties if you can't make the owners register the properties in the first place. This must have been contemplated by legislators when they added permissive language for the \$1,000 fine.

This bill is supported by civic associations representing the Indian Springs, Long Branch, Lyttonsville, North Hills of Sligo, North Woodside, Rosemary Hills, Seven Oaks-Evanswood, Woodmoor-Pinecrest, Woodside, Woodside Forest and Woodside Park neighborhoods.

9101 Louis Avenue

Silver Spring, Md. 20910

301-588-0025

woodybrosnan@verizon.net



Ms. Nancy Floreen
President
Montgomery County Council
100 Maryland Avenue
Rockville, Maryland 20850

**Re: Bill No. 38-16, Housing and Building Maintenance Standards
Foreclosed Property Registration
SUPPORT WITH AMENDMENTS**

Dear Ms. Floreen:

The Washington Metro Chapter of the Community Associations Institute (WMCCAI) supports Bill No. 38-16 which is intended to encourage purchasers of foreclosed residential property in Montgomery County to register the property with the Foreclosed Property Registry administered by the Maryland Department of Labor, Licensing and Regulation (DLLR), as required by Section 14-126.1 of the Real Property Article of the Maryland Code, by making failure to register a civil violation of the Montgomery County Code.

WMCCAI members include the volunteer leaders of condominiums, homeowners associations, and housing co-operatives in Montgomery County and throughout the Washington, D.C. metropolitan area; WMCCAI members also include management companies, attorneys, accountants and other service providers who assist these associations in operating their communities.

Prompt registration with the DLLR Foreclosed Property Registry is important for the Montgomery County Department of Housing and Community Affairs (DHCA) and condominiums and homeowners associations because the registration information required includes the contact information for the purchaser and for the person who is responsible for maintaining the property after a foreclosure sale. Once a property is registered, the County will more easily be able to notify those persons of any required maintenance and housing code violations.

Access to this information by condominiums and homeowner associations will similarly allow these associations to notify the owner regarding maintenance and repair violations of the association covenants and the obligation to pay assessments to the association. Section 14-126.1(g) allows, but does not require, a local jurisdiction to provide the information in the DLLR Foreclosed Property Registry to a person who owns property on the same block as the foreclosed property and to condominiums and homeowner associations where the property is located.

WMCCAI proposes an amendment to Bill No. 38-16 which would require DHCA to provide the information in the Foreclosed Property Registry to a person who owns property on the same block as the foreclosed property and to condominiums and homeowner associations where the property is located. The text of this suggested amendment is enclosed.

Thank you for considering our comments. For questions or additional information, you may reach me by email at mitch@mlfarrahproperties.com.

Sincerely,

Mitch Farrah, Chair
WMCCAI Maryland Legislative Committee

Enclosure

Cc: Mr. Thomas Hucker w/enc. via email (councilmember.hucker@montgomerycountymd.gov)

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**Proposed Amendment to Montgomery County Bill No. 38-16
Housing and Building Maintenance Standards, Foreclosed Property**

Section 26-19 is amended by adding the following subsection (d):

(d) *Registration Information.* The Director shall provide information for a specific property in the Foreclosed Property Registry, upon written request, to (i) a person who owns property on the same block and (ii) a homeowners association or condominium in which the property is located, as permitted by Section 14-126.1(g) of the Real Property Article of the Maryland Code.

Bill 38-16, Housing and Building Maintenance Standards - Foreclosed Property Registration Penalty

Testimony by: Carolyn Thompson 11/1/2016

I'm concerned that individual home owners of record and home owner associations are shouldering the bill for buyers of foreclosed properties, after they have purchased the property, because they've failed to record the purchase.

The buyer should be required to file their purchase through the registry within two business days of purchase.

The fee for failure to register the sale should be \$1,000 per month, with \$100.00 or less of this fee going administering the penalty. The remaining funds should go to the association to be reimbursed the non-payment. Any excess of funds, over and above the outstanding association fees will remain with the association to help offset the cost of deferred maintenance.