

HOUSE BILL 472

N1

EMERGENCY BILL

01r0182
CF SB 276

By: **The Speaker (By Request – Administration) and Delegates Anderson, Barkley, Barnes, Benson, Bobo, Carr, DeBoy, Doory, Dumais, Frush, Gaines, Gilchrist, Glenn, Gutierrez, Hammen, Healey, Hecht, Heller, Holmes, Howard, Hubbard, Kaiser, King, Kirk, Kramer, Lafferty, Levy, Love, Manno, Mathias, Mizeur, Montgomery, Morhaim, Oaks, Pena–Melnyk, Proctor, Reznik, Rice, Rosenberg, Rudolph, Shewell, Stein, Tarrant, Taylor, V. Turner, Vaughn, and Walker**

Introduced and read first time: January 29, 2010

Assigned to: Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Real Property – Residential Property Foreclosure Procedures – Foreclosure**
3 **Mediation**

4 FOR the purpose of requiring a certain notice of intent to foreclose to include certain
5 information; requiring a certain notice of intent to foreclose to be accompanied
6 by a certain loss mitigation application, instructions for completing the
7 application, certain other information, and a certain envelope; requiring an
8 order to docket or complaint to foreclose to be accompanied by a certain loss
9 mitigation affidavit in a certain form, a certain request for foreclosure
10 mediation, affidavit, and worksheet in a certain form, certain envelopes, and an
11 additional filing fee in a certain amount; requiring the fee to be used for certain
12 purposes; prohibiting the fee from being passed on to the mortgagor or grantor;
13 altering the information required to be included in a certain notice form;
14 requiring the clerk of the court to schedule a case for foreclosure mediation if
15 the defendant in a certain foreclosure action files a certain completed request
16 and affidavit within a certain time; requiring and authorizing certain
17 individuals to be present at a foreclosure mediation; providing that the
18 participants in a foreclosure mediation should address certain options;
19 authorizing the defendant in a certain foreclosure action to file a motion to stay
20 the sale under certain circumstances; providing that a request for foreclosure
21 mediation constitutes good cause for failure to file a motion to stay within a
22 certain time; altering the time after which a foreclosure sale may occur; defining
23 certain terms; making this Act an emergency measure; and generally relating to
24 foreclosure of mortgages and deeds of trust on certain residential property.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 BY repealing and reenacting, with amendments,
2 Article – Real Property
3 Section 7–105.1
4 Annotated Code of Maryland
5 (2003 Replacement Volume and 2009 Supplement)

6 Preamble

7 WHEREAS, Thousands of Marylanders are struggling to keep their homes, with
8 foreclosures continuing to rise; and

9 WHEREAS, Despite the federal Home Affordable Modification Program and
10 other loss mitigation options available to help borrowers, many homeowners who may
11 be eligible for loan modifications that could save their homes do not receive them; and

12 WHEREAS, The State seeks to ensure that those homeowners who are eligible
13 for loan modifications are able to obtain them, and that others can pursue alternatives
14 to avoid foreclosure or lessen its harmful impact; and

15 WHEREAS, Many homeowners have their home go to foreclosure while loan
16 modification reviews are still pending or have not even begun; and

17 WHEREAS, Lenders should conduct meaningful efforts to determine whether
18 an alternative to foreclosure is possible prior to involving the judicial system, with all
19 its attendant costs and expenditure of resources; and

20 WHEREAS, Increasing the number of eligible homeowners receiving loan
21 modifications on the front end will keep more people in their homes and conserve
22 judicial resources by reducing the number of foreclosure actions filed; and

23 WHEREAS, Borrowers who may be eligible for loan modifications to save their
24 homes but find themselves facing foreclosure should be afforded the opportunity to
25 talk directly with their lenders to find a resolution before their homes are sold; now,
26 therefore,

27 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
28 MARYLAND, That the Laws of Maryland read as follows:

29 **Article – Real Property**

30 7–105.1.

31 (a) **(1)** In this section[,] **THE FOLLOWING WORDS HAVE THE MEANINGS**
32 **INDICATED.**

33 **(2) “FORECLOSURE MEDIATION” MEANS A SETTLEMENT**
34 **CONFERENCE, AS DEFINED IN MARYLAND RULE 17–102(H).**

1 **(3) “NET PRESENT VALUE CALCULATION” MEANS THE**
2 **CALCULATION, USING THE FEDERAL HOME AFFORDABLE MODIFICATION**
3 **PROGRAM BASE NET PRESENT VALUE MODEL, THAT COMPARES THE**
4 **EXPECTED ECONOMIC OUTCOME OF A LOAN WITH OR WITHOUT A LOAN**
5 **MODIFICATION.**

6 **(4) [“residential] “RESIDENTIAL property” means real property**
7 **improved by four or fewer single family dwelling units that are designed principally**
8 **and are intended for human habitation.**

9 (b) (1) Except as provided in paragraph (2) of this subsection, an action to
10 foreclose a mortgage or deed of trust on residential property may not be filed until the
11 later of:

12 (i) 90 days after a default in a condition on which the mortgage
13 or deed of trust provides that a sale may be made; or

14 (ii) 45 days after the notice of intent to foreclose required under
15 subsection (c) of this section is sent.

16 (2) (i) The secured party may petition the circuit court for leave to
17 immediately commence an action to foreclose the mortgage or deed of trust if:

18 1. The loan secured by the mortgage or deed of trust was
19 obtained by fraud or deception;

20 2. No payments have ever been made on the loan
21 secured by the mortgage or deed of trust;

22 3. The property subject to the mortgage or deed of trust
23 has been destroyed; or

24 4. The default occurred after the stay has been lifted in a
25 bankruptcy proceeding.

26 (ii) The court may rule on the petition with or without a
27 hearing.

28 (iii) If the petition is granted, the action may be filed at any time
29 after a default in a condition on which the mortgage or deed of trust provides that a
30 sale may be made and the secured party need not send the written notice of intent to
31 foreclose required under subsection (c) of this section.

32 (c) (1) Except as provided in subsection (b)(2)(iii) of this section, at least
33 45 days before the filing of an action to foreclose a mortgage or deed of trust on

1 residential property, the secured party shall send a written notice of intent to foreclose
2 to the mortgagor or grantor and the record owner.

3 (2) The notice of intent to foreclose shall be sent:

4 (i) By certified mail, postage prepaid, return receipt requested,
5 bearing a postmark from the United States Postal Service; and

6 (ii) By first-class mail.

7 (3) A copy of the notice of intent to foreclose shall be sent to the
8 Commissioner of Financial Regulation.

9 (4) The notice of intent to foreclose shall:

10 (i) Be in the form that the Commissioner of Financial
11 Regulation prescribes by regulation; and

12 (ii) Contain:

13 1. The name and telephone number of:

14 A. The secured party;

15 B. The mortgage servicer, if applicable; and

16 C. An agent of the secured party who is authorized to
17 modify the terms of the mortgage loan;

18 2. The name and license number of the Maryland
19 mortgage lender and mortgage originator, if applicable;

20 3. The amount required to cure the default and reinstate
21 the loan, including all past due payments, penalties, and fees; [and]

22 4. **A NOTICE ENCOURAGING THE MORTGAGOR OR**
23 **GRANTOR TO SEEK HOUSING COUNSELING SERVICES;**

24 5. **THE TELEPHONE NUMBER OF THE MARYLAND**
25 **HOPE HOTLINE AND THE INTERNET ADDRESS OF THE HOPE INITIATIVE**
26 **WEBSITE;**

27 6. **AN EXPLANATION OF THE MARYLAND**
28 **FORECLOSURE PROCESS AND TIME LINE, AS PRESCRIBED BY THE**
29 **COMMISSIONER OF FINANCIAL REGULATION; AND**

1 [4.] 7. Any other information that the Commissioner of
2 Financial Regulation requires by regulation.

3 (5) THE NOTICE OF INTENT TO FORECLOSE SHALL BE
4 ACCOMPANIED BY:

5 (I) A LOSS MITIGATION APPLICATION:

6 1. FOR A FEDERAL LOSS MITIGATION PROGRAM IN
7 WHICH THE SECURED PARTY PARTICIPATES;

8 2. FOR ANY OTHER LOSS MITIGATION PROGRAM
9 OFFERED BY THE SECURED PARTY, IF A FEDERAL PROGRAM IS INAPPLICABLE
10 OR UNAVAILABLE; OR

11 3. THAT MAY BE REQUIRED BY REGULATION BY THE
12 COMMISSIONER OF FINANCIAL REGULATION TO BE THE STATE'S UNIFORM
13 LOSS MITIGATION APPLICATION USED BY ALL SECURED PARTIES, SERVICERS,
14 AND OTHER AGENTS OF A SECURED PARTY;

15 (II) INSTRUCTIONS FOR COMPLETING THE LOSS
16 MITIGATION APPLICATION AND A TELEPHONE NUMBER TO CALL TO CONFIRM
17 RECEIPT OF THE APPLICATION;

18 (III) AN EXPLANATION OF THE ELIGIBILITY REQUIREMENTS
19 FOR THE FEDERAL LOSS MITIGATION PROGRAM IN WHICH THE SECURED PARTY,
20 SERVICER, OR OTHER AGENT OF THE SECURED PARTY PARTICIPATES OR, IF A
21 FEDERAL PROGRAM IS INAPPLICABLE OR UNAVAILABLE, ANY OTHER
22 APPLICABLE LOSS MITIGATION PROGRAM;

23 (IV) AN EXPLANATION OF ADDITIONAL LOSS MITIGATION
24 OPTIONS, INCLUDING A GRACE PERIOD FOR POSTPONING PAYMENT, SHORT
25 SALE, DEED IN LIEU OF FORECLOSURE, MOVING TO A LESS COSTLY HOME IN
26 THE LENDER'S INVENTORY, "CASH FOR KEYS", OR ANY OTHER OPTION THAT
27 MAY BE AVAILABLE TO HELP AVOID FORECLOSURE OR LESSEN ITS HARMFUL
28 IMPACT ON THE MORTGAGOR OR GRANTOR; AND

29 (V) A STAMPED ENVELOPE PREPRINTED WITH THE
30 ADDRESS OF THE LOSS MITIGATION DEPARTMENT OF THE SECURED PARTY,
31 SERVICER, OR OTHER AGENT AUTHORIZED BY THE SECURED PARTY TO MODIFY
32 THE TERMS OF THE MORTGAGE LOAN.

33 (d) An order to docket or a complaint to foreclose a mortgage or deed of trust
34 on residential property shall:

- 1 (1) Include:
- 2 (i) If applicable, the license number of:
- 3 1. The mortgage originator; and
- 4 2. The mortgage lender; and
- 5 (ii) An affidavit stating:
- 6 1. The date on which the default occurred and the
- 7 nature of the default; and
- 8 2. If applicable, that a notice of intent to foreclose was
- 9 sent to the mortgagor or grantor in accordance with subsection (c) of this section and
- 10 the date on which the notice was sent; and
- 11 (2) Be accompanied by:
- 12 (i) The original or a certified copy of the mortgage or deed of
- 13 trust;
- 14 (ii) A statement of the debt remaining due and payable
- 15 supported by an affidavit of the plaintiff or the secured party or the agent or attorney
- 16 of the plaintiff or secured party;
- 17 (iii) A copy of the debt instrument accompanied by an affidavit
- 18 certifying ownership of the debt instrument;
- 19 (iv) If applicable, the original or a certified copy of the
- 20 assignment of the mortgage for purposes of foreclosure or the deed of appointment of a
- 21 substitute trustee;
- 22 (v) If any defendant is an individual, an affidavit that:
- 23 1. The individual is not a servicemember, as defined in
- 24 the Servicemembers Civil Relief Act, 50 U.S.C. Appendix § 511; or
- 25 2. The action is authorized by the Act;
- 26 (vi) If applicable, a copy of the notice of intent to foreclose; [and]

27 **(VII) A LOSS MITIGATION AFFIDAVIT THAT IS IN**

28 **SUBSTANTIALLY THE FOLLOWING FORM AND THAT CONTAINS ANY OTHER**

29 **INFORMATION THAT THE COMMISSIONER OF FINANCIAL REGULATION**

30 **REQUIRES BY REGULATION:**

**“LOSS MITIGATION AFFIDAVIT
CASE NUMBER _____**

1
2
3 **MY NAME IS _____ . I AM A _____ FOR THE**
4 **PLAINTIFF IN THE ABOVE-REFERENCED CASE. I HAVE PERSONAL KNOWLEDGE**
5 **OF THE FACTS SET FORTH IN THIS AFFIDAVIT AND AM AUTHORIZED TO EXECUTE**
6 **IT ON THE PLAINTIFF’S BEHALF.**

7 **SECTION I**

8 _____ **(1) THE MORTGAGE LOAN IS OWNED, SECURITIZED, INSURED, OR**
9 **GUARANTEED BY THE FEDERAL NATIONAL MORTGAGE ASSOCIATION,**
10 **FEDERAL HOME LOAN MORTGAGE CORPORATION, OR FEDERAL HOUSING**
11 **ADMINISTRATION.**

12 **(2) THE SECURED PARTY, SERVICER, OR OTHER AGENT AUTHORIZED TO**
13 **MODIFY THE TERMS OF THE MORTGAGE LOAN:**

14 _____ **(A) IS PARTICIPATING IN A FEDERAL LOAN MODIFICATION**
15 **PROGRAM CALLED _____ ; OR**

16 _____ **(B) HAS OFFERED THE MORTGAGOR OR GRANTOR THE**
17 **OPPORTUNITY TO PARTICIPATE IN AN ALTERNATIVE LOAN MODIFICATION**
18 **PROGRAM.**

19 **(3) A LOAN MODIFICATION REVIEW FOR THIS MORTGAGE LOAN:**

20 _____ **(A) HAS BEEN COMPLETED, AND THE MORTGAGOR OR**
21 **GRANTOR HAS BEEN DENIED A LOAN MODIFICATION OR HAS BEEN DETERMINED**
22 **TO BE INELIGIBLE FOR THE APPLICABLE LOAN MODIFICATION PROGRAM FOR**
23 **THE REASONS CHECKED IN SECTION II BELOW; OR**

24 _____ **(B) CANNOT BE COMPLETED BECAUSE THE SECURED**
25 **PARTY, SERVICER, OR OTHER AGENT AUTHORIZED TO MODIFY THE TERMS OF A**
26 **MORTGAGE LOAN HAS ATTEMPTED REPEATEDLY WITHOUT SUCCESS TO**
27 **CONTACT AND OBTAIN, BY TELEPHONE, MAIL, OR OTHER METHOD, ON THE**
28 **DATES AND IN THE MANNER SET FORTH BELOW, NECESSARY INFORMATION**
29 **FROM THE MORTGAGOR OR GRANTOR IN COMPLIANCE WITH THE**
30 **REQUIREMENTS OF THE FEDERAL OR ALTERNATIVE LOAN MODIFICATION**
31 **PROGRAM IN WHICH THE SECURED PARTY PARTICIPATES.**

32 _____

1	DATE	MODE OF CONTACT	BORROWER'S RESPONSE
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2	<hr/>	<hr/>	<hr/>
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3	DATE	MODE OF CONTACT	BORROWER'S RESPONSE
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4	<hr/>	<hr/>	<hr/>
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5	DATE	MODE OF CONTACT	BORROWER'S RESPONSE
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6

 CHECK HERE IF ADDITIONAL DOCUMENTATION IS ATTACHED.

7 **SECTION II**

8 **THIS MORTGAGE LOAN IS INELIGIBLE FOR LOAN MODIFICATION OR HAS BEEN**
 9 **DENIED A LOAN MODIFICATION FOR THE FOLLOWING REASONS (CHECK ALL**
 10 **THAT APPLY AND ATTACH DOCUMENTATION TO SUPPORT EACH REASON):**

11

 (1) THE PROPERTY IS NOT A PRIMARY RESIDENCE AND THE
 12 **MORTGAGOR OR GRANTOR IS NOT CURRENTLY LIVING IN THE PROPERTY.**

13

 (2) THE PROPERTY IS NOT A ONE TO FOUR UNIT PROPERTY
 14 **(INCLUDING A CONDOMINIUM, COOPERATIVE, OR MANUFACTURED HOME).**

15

 (3) THE PROPERTY IS VACANT OR CONDEMNED.

16

 (4) THE LOAN SUBJECT TO FORECLOSURE IS NOT A FIRST LIEN
 17 **LOAN.**

18

 (5) THE LOAN WAS ORIGINATED AFTER JANUARY 1, 2009, OR THE
 19 **DATE SPECIFIED BY THE APPLICABLE LOAN MODIFICATION PROGRAM.**

20

 (6) THE AMOUNT CURRENTLY OWED ON THE LOAN IS GREATER
 21 **THAN \$729,750, OR THE AMOUNT SPECIFIED BY THE APPLICABLE LOAN**
 22 **MODIFICATION PROGRAM (NOT INCLUDING ATTORNEY'S FEES AND PAST DUE**
 23 **PAYMENTS).**

24

 (7) THE MONTHLY AMOUNT DUE ON THE MORTGAGE LOAN,
 25 **INCLUDING THE TOTAL PAYMENT OF PRINCIPAL, INTEREST, TAXES, INSURANCE,**
 26 **AND HOMEOWNERS ASSOCIATION DUES (IF APPLICABLE), IS LESS THAN THE**
 27 **PERCENTAGE INCOME THRESHOLD OF THE APPLICABLE LOAN MODIFICATION**
 28 **PROGRAM IN EFFECT AT THE TIME OF THE LOAN MODIFICATION DENIAL, AND**
 29 **THE APPLICABLE THRESHOLD IS _____ % OF THE MORTGAGOR'S OR GRANTOR'S**
 30 **GROSS MONTHLY INCOME.**

1 _____ (8) THE BORROWER HAS ALREADY FAILED A TRIAL LOAN
2 MODIFICATION PLAN.

3 _____ (9) THE LOAN IS OWNED BY AN INVESTOR OR POOL OF
4 INVESTORS THAT HAS NOT GIVEN THE SERVICING AGENT THE CONTRACTUAL
5 AUTHORITY TO ENTER INTO ANY LOAN MODIFICATION WITH THE BORROWER.

6 _____ (10) THE MORTGAGE LOAN FAILED THE NET PRESENT VALUE
7 CALCULATION, AND THE BASIS FOR THIS CALCULATION IS AS FOLLOWS:
8 _____

9 _____ (11) THE LOAN MODIFICATION REVIEW COULD NOT BE
10 COMPLETED BECAUSE THE SECURED PARTY, SERVICER, OR OTHER AGENT
11 AUTHORIZED TO MODIFY THE TERMS OF A MORTGAGE LOAN HAS ATTEMPTED
12 REPEATEDLY WITHOUT SUCCESS TO CONTACT AND OBTAIN, BY TELEPHONE,
13 MAIL, OR OTHER METHOD, ON THE DATES AND IN THE MANNER SET FORTH
14 BELOW, NECESSARY INFORMATION FROM THE MORTGAGOR OR GRANTOR IN
15 COMPLIANCE WITH THE REQUIREMENTS OF THE FEDERAL OR ALTERNATIVE
16 LOAN MODIFICATION PROGRAM IN WHICH THE SECURED PARTY PARTICIPATES.

17 _____	_____	_____
18 DATE	MODE OF CONTACT	BORROWER'S RESPONSE

19 _____	_____	_____
20 DATE	MODE OF CONTACT	BORROWER'S RESPONSE

21 _____	_____	_____
22 DATE	MODE OF CONTACT	BORROWER'S RESPONSE

23 _____ (12) OTHER (EXPLAIN AND ATTACH DOCUMENTATION).
24 _____

25 SECTION III

26 _____ THE LOAN HAS BEEN REVIEWED FOR OTHER LOSS MITIGATION
27 RELIEF, SUCH AS A GRACE PERIOD FOR POSTPONING PAYMENT, SHORT SALE,
28 DEED IN LIEU OF FORECLOSURE, OR MOVING TO A LESS COSTLY HOME IN THE
29 LENDER'S INVENTORY, AND SUCH OTHER RELIEF WAS NOT OFFERED OR WAS
30 DECLINED BY THE MORTGAGOR OR GRANTOR.

31 EXPLAIN:

32 _____

33 _____

34 _____

35 _____

1 _____

2 _____

3 (PRINT NAME/TITLE)

4 I, HEREBY CERTIFY THAT ON THIS _____ DAY OF _____, 20____, BEFORE
5 ME THE SUBSCRIBER, A NOTARY PUBLIC OF THE STATE OF MARYLAND,
6 PERSONALLY APPEARED, _____, AND ACKNOWLEDGED
7 THE FOREGOING.

8 AS WITNESS, MY HAND AND NOTARIAL SEAL.

9 _____

10 MY COMMISSION EXPIRES: _____ NOTARY PUBLIC”;

11 (VIII) A REQUEST FOR FORECLOSURE MEDIATION, AFFIDAVIT,
12 AND WORKSHEET THAT IS IN SUBSTANTIALLY THE FOLLOWING FORM AND THAT
13 CONTAINS ANY OTHER INFORMATION THAT THE COMMISSIONER OF FINANCIAL
14 REGULATION REQUIRES BY REGULATION:

15 “REQUEST FOR FORECLOSURE MEDIATION
16 AND BORROWER’S AFFIDAVIT
17 CASE NUMBER _____

18 I AM REQUESTING THAT FORECLOSURE MEDIATION BE SCHEDULED BEFORE A
19 FORECLOSURE SALE OF MY HOME CAN GO FORWARD BECAUSE I CONTEST THE
20 FOLLOWING REASONS WHY MY LENDER DENIED ME A LOAN MODIFICATION OR
21 OTHER LOSS MITIGATION:

22 ATTENTION HOMEOWNER: CHECK ALL ITEMS THAT YOU CONTEST OUT OF
23 THE ITEMS CHECKED BY YOUR LENDER ON THE LOSS MITIGATION AFFIDAVIT AS
24 REASONS FOR DENIAL. IF YOU ARE CONTESTING ITEM NUMBER 7, USE THE
25 WORKSHEET TO SHOW THAT YOUR MONTHLY MORTGAGE PAYMENT IS MORE
26 THAN THE INCOME THRESHOLD APPLICABLE TO THE LOAN MODIFICATION YOU
27 WERE DENIED. ATTACH THE WORKSHEET TO THIS REQUEST FOR FORECLOSURE
28 MEDIATION. IF YOU HAVE QUESTIONS OR ARE UNSURE ABOUT HOW TO FILL OUT
29 THESE FORMS, PLEASE SEEK THE ASSISTANCE OF A HOUSING COUNSELOR
30 AND/OR ATTORNEY. TO GET MORE INFORMATION ABOUT COUNSELORS AND
31 ATTORNEYS, CONTACT THE MARYLAND HOPE HOTLINE AT 1-877-462-7555
32 OR GO TO WWW.MDHOPE.ORG.

33 DEADLINE FOR REQUESTING FORECLOSURE MEDIATION: NO
34 LATER THAN 15 DAYS AFTER THE DATE ON WHICH YOU WERE SERVED WITH A

1 COPY OF THIS ORDER TO DOCKET FORECLOSURE, YOU MUST SUBMIT THIS FORM
2 TO THE COURT AT THE ADDRESS ON THE WORKSHEET (STAMPED ENVELOPE
3 ENCLOSED), AND YOU MUST MAIL A COPY TO THE FORECLOSING ATTORNEY AT
4 THE ADDRESS LISTED ON THE WORKSHEET (STAMPED ENVELOPE ENCLOSED).

5 _____ (1) THE PROPERTY IS NOT A PRIMARY RESIDENCE AND THE
6 MORTGAGOR OR GRANTOR IS NOT CURRENTLY LIVING IN THE PROPERTY.

7 _____ (2) THE PROPERTY IS NOT A ONE TO FOUR UNIT PROPERTY
8 (INCLUDING A CONDOMINIUM, COOPERATIVE, OR MANUFACTURED HOME).

9 _____ (3) THE PROPERTY IS VACANT OR CONDEMNED.

10 _____ (4) THE LOAN SUBJECT TO FORECLOSURE IS NOT A FIRST LIEN
11 LOAN.

12 _____ (5) THE LOAN WAS ORIGINATED AFTER JANUARY 1, 2009, OR THE
13 DATE SPECIFIED BY THE APPLICABLE LOAN MODIFICATION PROGRAM.

14 _____ (6) THE AMOUNT CURRENTLY OWED ON THE LOAN IS GREATER
15 THAN \$729,750, OR THE AMOUNT SPECIFIED BY THE APPLICABLE LOAN
16 MODIFICATION PROGRAM (NOT INCLUDING ATTORNEY'S FEES AND PAST DUE
17 PAYMENTS).

18 _____ (7) THE MONTHLY AMOUNT DUE ON THE MORTGAGE LOAN,
19 INCLUDING THE TOTAL PAYMENT OF PRINCIPAL, INTEREST, TAXES, INSURANCE,
20 AND HOMEOWNERS ASSOCIATION DUES (IF APPLICABLE), IS LESS THAN THE
21 PERCENTAGE INCOME THRESHOLD OF THE APPLICABLE LOAN MITIGATION
22 PROGRAM IN EFFECT AT THE TIME OF THE LOAN MITIGATION DENIAL, AND THE
23 APPLICABLE THRESHOLD IS _____ % OF THE MORTGAGOR'S OR GRANTOR'S
24 GROSS MONTHLY INCOME.

25 _____ (8) THE BORROWER HAS ALREADY FAILED A TRIAL LOAN
26 MODIFICATION PLAN.

27 _____ (9) THE LOAN IS OWNED BY AN INVESTOR OR POOL OF INVESTORS
28 THAT HAS NOT GIVEN THE SERVICING AGENT THE CONTRACTUAL AUTHORITY
29 TO ENTER INTO ANY LOAN MODIFICATION WITH THE BORROWER.

30 _____ (10) THE MORTGAGE LOAN FAILED THE NET PRESENT VALUE
31 CALCULATION, AND THE BASIS FOR THIS CALCULATION IS AS FOLLOWS:
32 _____

1 **1. PLEASE INSERT AND ADD THE FOLLOWING TO CALCULATE YOUR GROSS**
 2 **INCOME:**

3 **\$_____ YOUR GROSS INCOME (THE AMOUNT ON YOUR PAYSTUB**
 4 **BEFORE TAXES AND OTHER DEDUCTIONS ARE TAKEN)**

5 **\$_____ YOUR ADDITIONAL GROSS INCOME FROM ANY OTHER**
 6 **SOURCES (RENT, PENSION, SOCIAL SECURITY BENEFITS)**

7 **\$_____ CO-BORROWER'S GROSS INCOME (IF APPLICABLE)**

8 **= \$_____ YOUR TOTAL GROSS INCOME**

9 **2. PLEASE INSERT AND ADD THE TOTAL OF THE FOLLOWING INFORMATION:**

10 **\$_____ YOUR REGULAR MONTHLY MORTGAGE PAYMENT (NOT**
 11 **INCLUDING ANY LATE FEES OR OTHER CHARGES)**

12 **\$_____ YOUR MONTHLY TAXES AND INSURANCE IF NOT**
 13 **INCLUDED IN YOUR MONTHLY PAYMENT (SEE BELOW FOR CALCULATION OF**
 14 **MONTHLY TAXES AND INSURANCE IF YOU PAY THEM SEPARATELY)**

15 **\$_____ MONTHLY HOMEOWNERS ASSOCIATION OR**
 16 **CONDOMINIUM FEES (IF APPLICABLE)**

17 **= \$_____ TOTAL MONTHLY PAYMENT**

18 **3. DOES THIS PAYMENT INCLUDE TAXES AND INSURANCE? IF YES, GO TO**
 19 **ITEM NUMBER 4. IF NO, INSERT AND ADD THE TOTAL:**

20 **\$_____ ANNUAL PROPERTY TAX BILL**

21 **\$_____ ANNUAL HOMEOWNER'S INSURANCE BILL**

22 **= \$_____ TOTAL TAXES AND INSURANCE**

23 **DIVIDE TOTAL TAXES AND INSURANCE BY 12 TO GET YOUR MONTHLY TAXES**
 24 **AND INSURANCE.**

25 **TOTAL TAXES AND INSURANCE \$_____ ÷ 12**

26 **= \$_____ MONTHLY TAXES AND INSURANCE**

1 INSERT MONTHLY TAXES AND INSURANCE IN ITEM NUMBER 2 ABOVE TO
2 CALCULATE TOTAL MONTHLY PAYMENT.

3 4. INSERT TOTAL MONTHLY PAYMENT FROM ITEM NUMBER 2 ABOVE INTO
4 THE FOLLOWING FORMULA. REFER TO ITEM NUMBER 7 ON THE
5 LENDER/SERVICER'S LOSS MITIGATION AFFIDAVIT TO DETERMINE WHAT
6 INCOME THRESHOLD IS APPLICABLE:

7 \$_____ TOTAL MONTHLY PAYMENT X (INCOME THRESHOLD
8 DIVIDED BY 100) _____ = \$_____.

9 5. IS THIS AMOUNT MORE THAN YOUR CURRENT MONTHLY MORTGAGE
10 PAYMENT? YES/NO

11 6. CAN YOU AFFORD TO MAKE THIS PAYMENT EVERY MONTH?
12 YES/NO

13 MAIL COPIES OF THE COMPLETED REQUEST FOR FORECLOSURE MEDIATION
14 BORROWER WORKSHEET TO:

15 1. CLERK OF CIRCUIT COURT, _____
16 (ADDRESS)

17 2. (PLAINTIFF'S ATTORNEY)
18 (ADDRESS)";

19 [(vii)] (IX) A notice to the mortgagor in substantially the
20 following form, as prescribed by regulation by the Commissioner of Financial
21 Regulation:

22 "NOTICE

23 An action to foreclose the mortgage/deed of trust on the property located at
24 (insert address) has been filed in the Circuit Court for (county).

25 A foreclosure sale of the property may occur at any time after 45 days from the
26 date that this notice is served on you.

27 You may stop the sale and reinstate your mortgage loan by paying all amounts
28 due on your loan, plus fees and costs of the foreclosure action, at any time up to one
29 business day before the sale. Please contact (insert name of authorized agent of
30 secured party) at (insert telephone number) to obtain the amount due to cure the
31 default on your mortgage loan and instructions for delivering the payment.

1 **YOU MAY REQUEST THAT THE COURT SCHEDULE YOUR CASE FOR**
2 **FORECLOSURE MEDIATION BY COMPLETING THE ENCLOSED “REQUEST FOR**
3 **FORECLOSURE MEDIATION AND BORROWER’S AFFIDAVIT” AND MAILING IT TO**
4 **THE CLERK OF THE COURT AND THE PLAINTIFF’S ATTORNEY IN THE ENCLOSED**
5 **STAMPED ENVELOPES WITHIN 15 DAYS AFTER YOU ARE SERVED WITH THESE**
6 **PAPERS. IF YOU FILE A REQUEST FOR FORECLOSURE MEDIATION, YOUR**
7 **PROPERTY CANNOT GO TO SALE UNTIL AT LEAST 15 DAYS AFTER YOUR**
8 **MEDIATION SESSION HAS BEEN HELD.**

9 You are urged to obtain legal advice **AND THE ASSISTANCE OF A HOUSING**
10 **COUNSELOR** to discuss **FORECLOSURE MEDIATION AND** other options to stop the
11 foreclosure sale, which may include filing a motion for injunction with the circuit court
12 or a petition for bankruptcy in federal bankruptcy court. A motion for injunction or a
13 bankruptcy petition must be filed before the foreclosure sale occurs.

14 If you are interested in selling your home to avoid a foreclosure sale, you may
15 wish to contact a licensed real estate broker or salesperson as soon as possible.

16 Housing counseling and financial assistance programs are available through the
17 Maryland Department of Housing and Community Development. Please call (insert
18 telephone number) for information on available resources.

19 Some people may approach you about “saving” your home. You should be careful
20 about any such promises.

21 The State encourages you to become informed about your options in foreclosure
22 before entering into any agreements with anyone in connection with the foreclosure of
23 your home. There are government agencies and nonprofit organizations that you may
24 contact for helpful information about the foreclosure process. For the name and
25 telephone number of an organization near you, please call the Consumer Protection
26 Division of the Office of the Attorney General of Maryland at (insert telephone
27 number). The State does not guarantee the advice of these organizations.

28 **DO NOT DELAY DEALING WITH THE FORECLOSURE BECAUSE YOUR**
29 **OPTIONS WILL BECOME MORE LIMITED AS TIME PASSES.”;**

30 **(X) TWO STAMPED ENVELOPES PREPRINTED WITH THE**
31 **ADDRESS OF THE CLERK OF THE COURT AND THE ADDRESS OF THE PLAINTIFF’S**
32 **ATTORNEY; AND**

33 **(XI) IN ADDITION TO ANY OTHER FILING FEES REQUIRED BY**
34 **ANY OTHER LAW, A FILING FEE IN THE AMOUNT OF \$100, WHICH:**

35 **1. SHALL BE USED FOR ADDITIONAL HOUSING**
36 **COUNSELING SERVICES AND TO DEFRAY THE COURTS’ COST OF PROVIDING**
37 **FORECLOSURE MEDIATION SERVICES UNDER THIS SECTION; AND**

1 **(III) THE PARTICIPANTS SHOULD ADDRESS ALL**
2 **FORECLOSURE AVOIDANCE OPTIONS, INCLUDING LOAN MODIFICATION, A**
3 **GRACE PERIOD FOR POSTPONING PAYMENT, SHORT SALE, DEED IN LIEU OF**
4 **FORECLOSURE, “CASH FOR KEYS”, MOVING TO A LESS COSTLY HOME IN THE**
5 **LENDER’S INVENTORY, AND ANY OTHER OPTION THAT MAY HELP TO AVOID**
6 **FORECLOSURE OR LESSEN ITS HARMFUL IMPACT ON THE MORTGAGOR OR**
7 **GRANTOR.**

8 **(3) (I) IF THE PARTIES ARE UNABLE TO REACH AN AGREEMENT**
9 **AFTER PARTICIPATING IN FORECLOSURE MEDIATION, THE DEFENDANT MAY**
10 **FILE A MOTION TO STAY THE SALE WITHIN 15 DAYS AFTER COMPLETION OF THE**
11 **FORECLOSURE MEDIATION.**

12 **(II) A DEFENDANT’S REQUEST FOR FORECLOSURE**
13 **MEDIATION CONSTITUTES GOOD CAUSE FOR FAILURE TO FILE A MOTION TO**
14 **STAY WITHIN THE TIME PRESCRIBED UNDER MARYLAND RULE 14-211(A)(2).**

15 **(III) NOTHING IN THIS SUBTITLE PRECLUDES THE**
16 **DEFENDANT FROM PURSUING ANY OTHER REMEDY AVAILABLE UNDER LAW.**

17 **[(f)] (G)** A foreclosure sale of residential property may not occur until [at]:

18 **(1) AT** least 45 days after service of process is made under subsection
19 **(e) of this section; AND**

20 **(2) (I) IF THE DEFENDANT FILES A COMPLETED REQUEST FOR**
21 **FORECLOSURE MEDIATION AND BORROWER’S AFFIDAVIT WITHIN 15 DAYS**
22 **AFTER SERVICE OF PROCESS, AT LEAST 15 DAYS AFTER THE FORECLOSURE**
23 **MEDIATION IS HELD; OR**

24 **(II) IF THE DEFENDANT FILES A MOTION TO STAY THE SALE**
25 **WITHIN 15 DAYS AFTER THE FORECLOSURE MEDIATION IS HELD, AT LEAST 15**
26 **DAYS AFTER THE COURT DENIES THE MOTION OR OTHERWISE RESOLVES THE**
27 **CASE.**

28 **[(g)] (H)** Notice of the time, place, and terms of a foreclosure sale shall be
29 published in a newspaper of general circulation in the county where the action is
30 pending at least once a week for 3 successive weeks, the first publication to be not less
31 than 15 days before the sale and the last publication to be not more than 1 week before
32 the sale.

1 **[(h)] (I)** (1) The mortgagor or grantor of residential property has the
2 right to cure the default by paying all past due payments, penalties, and fees and
3 reinstate the loan at any time up to 1 business day before the foreclosure sale occurs.

4 (2) The secured party or an authorized agent of the secured party
5 shall, on request, provide to the mortgagor or grantor or the mortgagor's or grantor's
6 attorney within a reasonable time the amount necessary to cure the default and
7 reinstate the loan and instructions for delivering the payment.

8 **[(i)] (J)** An action for failure to comply with the provisions of this section
9 shall be brought within 3 years after the date of the order ratifying the sale.

10 SECTION 2. AND BE IT FURTHER ENACTED, That this Act is an emergency
11 measure, is necessary for the immediate preservation of the public health or safety,
12 has been passed by a yea and nay vote supported by three-fifths of all the members
13 elected to each of the two Houses of the General Assembly, and shall take effect from
14 the date it is enacted.