

HOUSE BILL 811

N1

3lr0489

By: **Delegate Niemann**

Introduced and read first time: February 6, 2013

Assigned to: Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Residential Property – Foreclosure of Liens by Common Ownership**
3 **Communities**

4 FOR the purpose of exempting an action to foreclose a lien on residential property that
5 is brought by the governing body of a common ownership community under the
6 Maryland Contract Lien Act from certain foreclosure procedures; subjecting an
7 action to foreclose a lien on residential property that is brought by the
8 governing body of a common ownership community under the Maryland
9 Contract Lien Act to certain timing, notice, disclosure, service, publication, right
10 to cure, and limitation of action provisions; authorizing the Commissioner of
11 Financial Regulation to adopt regulations necessary to carry out this Act;
12 defining certain terms; and generally relating to foreclosures of liens on
13 residential property by common ownership communities.

14 BY repealing and reenacting, without amendments,
15 Article – Real Property
16 Section 7–105.1(a)(11)
17 Annotated Code of Maryland
18 (2010 Replacement Volume and 2012 Supplement)

19 BY adding to
20 Article – Real Property
21 Section 7–105.1(a–1) and 7–105.13
22 Annotated Code of Maryland
23 (2010 Replacement Volume and 2012 Supplement)

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

26 **Article – Real Property**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 7-105.1.

2 (a) (11) "Residential property" means real property improved by four or
3 fewer single family dwelling units that are designed principally and are intended for
4 human habitation.

5 (A-1) THIS SECTION DOES NOT APPLY TO AN ACTION TO FORECLOSE A
6 LIEN ON RESIDENTIAL PROPERTY THAT IS BROUGHT BY THE GOVERNING BODY
7 OF A COMMON OWNERSHIP COMMUNITY UNDER THE MARYLAND CONTRACT
8 LIEN ACT.

9 7-105.13.

10 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE
11 MEANINGS INDICATED.

12 (2) "GOVERNING BODY OF A COMMON OWNERSHIP COMMUNITY"
13 MEANS:

14 (I) A COUNCIL OF UNIT OWNERS AS DEFINED IN § 11-101
15 OF THIS ARTICLE;

16 (II) A HOMEOWNERS ASSOCIATION AS DEFINED IN §
17 11B-101 OF THIS ARTICLE; OR

18 (III) A COOPERATIVE HOUSING CORPORATION AS PROVIDED
19 UNDER TITLE 5, SUBTITLE 6B OF THE CORPORATIONS AND ASSOCIATIONS
20 ARTICLE.

21 (3) "LIEN" MEANS A LIEN CREATED UNDER THE MARYLAND
22 CONTRACT LIEN ACT.

23 (4) "RESIDENTIAL PROPERTY" HAS THE MEANING STATED IN §
24 7-105.1 OF THIS SUBTITLE.

25 (B) THIS SECTION APPLIES ONLY TO AN ACTION TO FORECLOSE A LIEN
26 ON RESIDENTIAL PROPERTY THAT IS BROUGHT BY THE GOVERNING BODY OF A
27 COMMON OWNERSHIP COMMUNITY UNDER THE MARYLAND CONTRACT LIEN
28 ACT.

29 (C) AN ACTION TO FORECLOSE A LIEN MAY NOT BE FILED UNTIL 45
30 DAYS AFTER THE NOTICE OF INTENT TO FORECLOSE REQUIRED UNDER
31 SUBSECTION (D) OF THIS SECTION IS SENT.

1 **(D) (1) AT LEAST 45 DAYS BEFORE THE FILING OF AN ACTION TO**
2 **FORECLOSE A LIEN, THE GOVERNING BODY OF A COMMON OWNERSHIP**
3 **COMMUNITY SHALL SEND A WRITTEN NOTICE OF INTENT TO FORECLOSE TO THE**
4 **DEBTOR AND, IF THE PROPERTY IS NOT OCCUPIED BY THE DEBTOR, THE**
5 **OCCUPANT OF THE PROPERTY.**

6 **(2) THE NOTICE OF INTENT TO FORECLOSE SHALL BE SENT:**

7 **(I) BY CERTIFIED MAIL, POSTAGE PREPAID, RETURN**
8 **RECEIPT REQUESTED, BEARING A POSTMARK FROM THE UNITED STATES**
9 **POSTAL SERVICE; AND**

10 **(II) BY FIRST-CLASS MAIL.**

11 **(E) AN ORDER TO DOCKET OR A COMPLAINT TO FORECLOSE A LIEN**
12 **SHALL:**

13 **(1) INCLUDE AN AFFIDAVIT STATING:**

14 **1. THE DATE ON WHICH THE DEFAULT OCCURRED**
15 **AND THE NATURE OF THE DEFAULT; AND**

16 **2. THAT A NOTICE OF INTENT TO FORECLOSE WAS**
17 **SENT TO THE DEBTOR IN ACCORDANCE WITH SUBSECTION (D) OF THIS SECTION**
18 **AND THE DATE ON WHICH THE NOTICE WAS SENT; AND**

19 **(2) BE ACCOMPANIED BY:**

20 **(I) THE ORIGINAL OR A CERTIFIED COPY OF THE**
21 **DECLARATION OR DEBT INSTRUMENT;**

22 **(II) A STATEMENT OF THE DEBT REMAINING DUE AND**
23 **PAYABLE;**

24 **(III) A COPY OF THE LIEN;**

25 **(IV) IF ANY DEFENDANT IS AN INDIVIDUAL, AN AFFIDAVIT**
26 **THAT IS IN COMPLIANCE WITH § 521 OF THE SERVICEMEMBERS CIVIL RELIEF**
27 **ACT, 50 U.S.C. APP. § 501 ET SEQ.; AND**

28 **(V) A COPY OF THE NOTICE OF INTENT TO FORECLOSE.**

1 **(F) A COPY OF THE ORDER TO DOCKET OR COMPLAINT TO FORECLOSE**
2 **AND ALL OTHER PAPERS FILED WITH THE ORDER OR COMPLAINT SHALL BE**
3 **SERVED ON THE DEBTOR BY PERSONAL DELIVERY OF THE PAPERS IN**
4 **ACCORDANCE WITH THE MARYLAND RULES.**

5 **(G) A FORECLOSURE SALE MAY NOT OCCUR UNTIL AT LEAST 45 DAYS**
6 **AFTER SERVICE IS MADE UNDER SUBSECTION (F) OF THIS SECTION.**

7 **(H) NOTICE OF THE TIME, PLACE, AND TERMS OF A FORECLOSURE SALE**
8 **SHALL BE PUBLISHED IN A NEWSPAPER OF GENERAL CIRCULATION IN THE**
9 **COUNTY WHERE THE ACTION IS PENDING AT LEAST ONCE A WEEK FOR 3**
10 **SUCCESSIVE WEEKS, THE FIRST PUBLICATION TO BE NOT LESS THAN 15 DAYS**
11 **BEFORE THE SALE AND THE LAST PUBLICATION TO BE NOT MORE THAN 1 WEEK**
12 **BEFORE THE SALE.**

13 **(I) (1) THE DEBTOR HAS THE RIGHT TO CURE THE DEFAULT BY**
14 **PAYING THE AMOUNT OF THE LIEN PLUS COSTS INCURRED IN THE**
15 **FORECLOSURE ACTION AT ANY TIME UP TO 1 BUSINESS DAY BEFORE THE**
16 **FORECLOSURE SALE OCCURS.**

17 **(2) THE GOVERNING BODY OF A COMMON OWNERSHIP**
18 **COMMUNITY OR THE GOVERNING BODY'S AUTHORIZED AGENT, ON REQUEST,**
19 **SHALL PROVIDE TO THE DEBTOR OR THE DEBTOR'S ATTORNEY WITHIN A**
20 **REASONABLE TIME THE AMOUNT NECESSARY TO CURE THE DEFAULT AND**
21 **INSTRUCTIONS FOR DELIVERING THE PAYMENT.**

22 **(J) AN ACTION FOR FAILURE TO COMPLY WITH THE PROVISIONS OF**
23 **THIS SECTION SHALL BE BROUGHT WITHIN 3 YEARS AFTER THE DATE OF THE**
24 **ORDER RATIFYING THE SALE.**

25 **(K) THE COMMISSIONER OF FINANCIAL REGULATION MAY ADOPT**
26 **REGULATIONS NECESSARY TO CARRY OUT THE REQUIREMENTS OF THIS**
27 **SECTION.**

28 **SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect**
29 **October 1, 2013.**