

SENATE BILL 199

N1, I2

3lr1398
CF HB 88

By: ~~Senator Frosh~~ **Senators Frosh and Klausmeier**

Introduced and read first time: January 18, 2013

Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 6, 2013

CHAPTER _____

1 AN ACT concerning

2 **Real Property – Refinance Mortgage – Priority over Junior Liens**

3 FOR the purpose of authorizing a mortgagor or grantor to refinance the indebtedness
4 secured by a first mortgage or deed of trust without obtaining permission from
5 the holder of a certain junior lien under certain circumstances; providing that a
6 certain refinance mortgage shall have, on recordation, the same lien priority as
7 the first mortgage or deed of trust that ~~is~~ the refinance mortgage replaces;
8 requiring a certain statement to be ~~printed~~ included on a refinance mortgage;
9 defining certain terms; providing for the construction and application of this
10 Act; and generally relating to lien priority and refinance mortgages.

11 BY repealing and reenacting, without amendments,
12 Article – Real Property
13 Section 3–203
14 Annotated Code of Maryland
15 (2010 Replacement Volume and 2012 Supplement)

16 BY adding to
17 Article – Real Property
18 Section 7–112
19 Annotated Code of Maryland
20 (2010 Replacement Volume and 2012 Supplement)

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



Article – Real Property

3–203.

Every recorded deed or other instrument takes effect from its effective date as against the grantee of any deed executed and delivered subsequent to the effective date, unless the grantee of the subsequent deed has:

(1) Accepted delivery of the deed or other instrument:

(i) In good faith;

(ii) Without constructive notice under § 3–202; and

(iii) For a good and valuable consideration; and

(2) Recorded the deed first.

7–112.

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

(2) (I) “JUNIOR LIEN” MEANS A MORTGAGE, DEED OF TRUST, OR OTHER SECURITY ~~INTEREST IN REAL PROPERTY~~ INSTRUMENT THAT IS SUBORDINATE IN PRIORITY TO A FIRST MORTGAGE OR DEED OF TRUST UNDER § 3–203 OF THIS ARTICLE.

(II) “JUNIOR LIEN” DOES NOT INCLUDE:

1. A JUDGMENT LIEN; OR

2. A LIEN FILED UNDER THE MARYLAND CONTRACT LIEN ACT.

(3) “REFINANCE MORTGAGE” MEANS A MORTGAGE, DEED OF TRUST, OR OTHER SECURITY ~~INTEREST IN REAL PROPERTY~~ INSTRUMENT GIVEN TO SECURE THE REFINANCING OF INDEBTEDNESS SECURED BY A FIRST MORTGAGE OR DEED OF TRUST.

(4) “RESIDENTIAL PROPERTY” MEANS REAL PROPERTY IMPROVED BY FOUR OR FEWER SINGLE FAMILY DWELLING UNITS THAT ARE DESIGNED PRINCIPALLY AND ARE INTENDED FOR HUMAN HABITATION.

1 **(B) A MORTGAGOR OR GRANTOR WHO REFINANCES IN FULL THE**
 2 **UNPAID INDEBTEDNESS SECURED BY A FIRST MORTGAGE OR DEED OF TRUST**
 3 **ENCUMBERING OR CONVEYING AN INTEREST IN RESIDENTIAL PROPERTY AT A**
 4 **AN INTEREST RATE LOWER THAN PROVIDED FOR IN THE EVIDENCE OF**
 5 **INDEBTEDNESS SECURED BY THE FIRST MORTGAGE OR DEED OF TRUST IS NOT**
 6 **REQUIRED TO OBTAIN PERMISSION FROM THE HOLDER OF A JUNIOR LIEN IF:**

7 **(1) THE PRINCIPAL AMOUNT SECURED BY THE JUNIOR LIEN DOES**
 8 **NOT EXCEED \$150,000; AND**

9 **(2) THE PRINCIPAL AMOUNT SECURED BY THE REFINANCE**
 10 **MORTGAGE DOES NOT EXCEED THE UNPAID OUTSTANDING PRINCIPAL BALANCE**
 11 **SECURED BY THE FIRST MORTGAGE OR DEED OF TRUST PLUS AN AMOUNT TO**
 12 **PAY CLOSING COSTS NOT EXCEEDING \$5,000.**

13 **(C) A REFINANCE MORTGAGE THAT MEETS THE REQUIREMENTS OF**
 14 **SUBSECTION (B) OF THIS SECTION SHALL HAVE, ON RECORDATION, THE SAME**
 15 **LIEN PRIORITY AS THE FIRST MORTGAGE OR DEED OF TRUST THAT THE**
 16 **REFINANCE MORTGAGE REPLACES.**

17 **(D) A REFINANCE MORTGAGE THAT MEETS THE REQUIREMENTS OF**
 18 **SUBSECTION (B) OF THIS SECTION SHALL INCLUDE ~~ON THE FIRST PAGE~~ THE**
 19 **FOLLOWING STATEMENT IN BOLD OR CAPITALIZED LETTERS: “THIS IS A**
 20 **REFINANCE OF A DEED OF TRUST/MORTGAGE/OTHER SECURITY ~~INTEREST~~**
 21 **INSTRUMENT RECORDED AMONG THE LAND RECORDS OF**
 22 **COUNTY/CITY, MARYLAND IN LIBER NO. FOLIO, IN THE ORIGINAL**
 23 **PRINCIPAL AMOUNT OF, AND WITH THE UNPAID OUTSTANDING**
 24 **PRINCIPAL BALANCE OF THE INTEREST RATE PROVIDED FOR IN THE**
 25 **EVIDENCE OF INDEBTEDNESS SECURED BY THIS REFINANCE MORTGAGE IS**
 26 **LOWER THAN THE APPLICABLE INTEREST RATE PROVIDED FOR IN THE**
 27 **EVIDENCE OF INDEBTEDNESS SECURED BY THE DEED OF**
 28 **TRUST/MORTGAGE/OTHER SECURITY INSTRUMENT BEING REFINANCED.”**

29 **(E) THE PRIORITIES AMONG TWO OR MORE JUNIOR LIENS SHALL BE**
 30 **GOVERNED BY § 3-203 OF THIS ARTICLE.**

31 **(F) THIS SECTION MAY NOT BE CONSTRUED TO PREEMPT OR ABROGATE**
 32 **THE OPERATION OR EFFECT OF, OR ABILITY OF A COURT TO APPLY THE**
 33 **PRINCIPLES OF, EQUITABLE SUBROGATION OR EQUITABLE SUBORDINATION.**

34 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be
 35 construed to apply only prospectively and may not be applied or interpreted to have
 36 any effect on or application to a refinance mortgage recorded or having an effective
 37 date before the effective date of this Act.

1 SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take
2 effect October 1, 2013.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.