

SENATE BILL 199

N1, I2

3lr1398
CF HB 88

By: **Senator Frosh**

Introduced and read first time: January 18, 2013

Assigned to: Judicial Proceedings

A BILL ENTITLED

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 a first mortgage
4 or deed of trust without obtaining permission from the holder of a certain junior
5 lien under certain circumstances; providing that a certain refinance mortgage
6 shall have the same lien priority as the first mortgage or deed of trust that it
7 replaces; requiring a certain statement to be printed on a refinance mortgage;
8 defining certain terms; and generally relating to refinance mortgages.

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

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

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

21 **Article – Real Property**

22 3–203.

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



- 1 (1) Accepted delivery of the deed or other instrument:
- 2 (i) In good faith;
- 3 (ii) Without constructive notice under § 3–202; and
- 4 (iii) For a good and valuable consideration; and
- 5 (2) Recorded the deed first.

6 **7–112.**

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

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

13 (3) “REFINANCE MORTGAGE” MEANS A MORTGAGE, DEED OF
14 TRUST, OR OTHER SECURITY INTEREST IN REAL PROPERTY GIVEN TO SECURE
15 THE REFINANCING OF A FIRST MORTGAGE OR DEED OF TRUST.

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

19 (B) A MORTGAGOR OR GRANTOR WHO REFINANCES A FIRST MORTGAGE
20 OR DEED OF TRUST ENCUMBERING OR CONVEYING AN INTEREST IN
21 RESIDENTIAL PROPERTY AT A RATE LOWER THAN PROVIDED FOR IN THE FIRST
22 MORTGAGE OR DEED OF TRUST IS NOT REQUIRED TO OBTAIN PERMISSION FROM
23 THE HOLDER OF A JUNIOR LIEN IF:

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

26 (2) THE PRINCIPAL AMOUNT SECURED BY THE REFINANCE
27 MORTGAGE DOES NOT EXCEED THE OUTSTANDING PRINCIPAL BALANCE
28 SECURED BY THE FIRST MORTGAGE OR DEED OF TRUST PLUS \$5,000.

29 (C) A REFINANCE MORTGAGE THAT MEETS THE REQUIREMENTS OF
30 SUBSECTION (B) OF THIS SECTION SHALL HAVE THE SAME LIEN PRIORITY AS

1 THE FIRST MORTGAGE OR DEED OF TRUST THAT THE REFINANCE MORTGAGE
2 REPLACES.

3 (D) A REFINANCE MORTGAGE THAT MEETS THE REQUIREMENTS OF
4 SUBSECTION (B) OF THIS SECTION SHALL INCLUDE ON THE FIRST PAGE THE
5 FOLLOWING STATEMENT IN BOLD OR CAPITALIZED LETTERS: “THIS IS A
6 REFINANCE OF A DEED OF TRUST/MORTGAGE/OTHER SECURITY INTEREST
7 RECORDED AMONG THE LAND RECORDS OF..... COUNTY/CITY, MARYLAND
8 IN LIBER NO. FOLIO, IN THE ORIGINAL PRINCIPAL AMOUNT
9 OF....., AND WITH THE OUTSTANDING PRINCIPAL BALANCE OF.....”

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

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