

HOUSE BILL 274

D3, N1

4lr1443
CF SB 708

By: Delegates Lafferty, Bobo, Carr, Clippinger, Conaway, Frush, Healey,
Luedtke, McIntosh, Niemann, S. Robinson, Rosenberg, Stein,
Valderrama, Waldstreicher, M. Washington, Wilson, and Zucker

Introduced and read first time: January 20, 2014

Assigned to: Environmental Matters

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 12, 2014

CHAPTER _____

1 AN ACT concerning

2 ~~Civil Actions~~ **Foreclosure Sales of Residential Property – Statute of**
3 **Limitations for Certain Specialties and Motion for Certain Deficiency**
4 **Judgments**

5 FOR the purpose of altering the time period within which a civil action on certain
6 specialties shall be filed; authorizing a certain party, ~~within a certain time~~
7 ~~period,~~ to file a motion for a deficiency judgment under certain circumstances;
8 requiring a certain party that files a certain motion for a deficiency judgment to
9 file within a certain time period; requiring ~~the~~ a certain party to serve ~~the~~ a
10 certain motion in accordance with certain procedures; providing for the
11 application of certain sections of this Act; providing that any cause of action for
12 a deficiency judgment on a certain deed of trust, mortgage, or promissory note
13 that accrues before a certain date must be filed within a certain time period
14 under certain circumstances; providing that any motion for a deficiency
15 judgment on a certain deed of trust, mortgage, or promissory note for which an
16 auditor's report has final ratification must be filed within a certain time period
17 under certain circumstances; defining certain terms; and generally relating to
18 specialties and deficiency judgments in connection with foreclosure sales of
19 residential property.

20 BY repealing and reenacting, without amendments,
21 Article – Courts and Judicial Proceedings
22 Section 5–101

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.



1 Annotated Code of Maryland
2 (2013 Replacement Volume and 2013 Supplement)

3 BY repealing and reenacting, with amendments,
4 Article – Courts and Judicial Proceedings
5 Section 5–102
6 Annotated Code of Maryland
7 (2013 Replacement Volume and 2013 Supplement)

8 BY adding to
9 Article – Real Property
10 Section 7–105.13
11 Annotated Code of Maryland
12 (2010 Replacement Volume and 2013 Supplement)

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

15 **Article – Courts and Judicial Proceedings**

16 5–101.

17 A civil action at law shall be filed within three years from the date it accrues
18 unless another provision of the Code provides a different period of time within which
19 an action shall be commenced.

20 5–102.

21 (a) An action on one of the following specialties shall be filed within 12 years
22 after the cause of action accrues, or within 12 years from the date of the death of the
23 last to die of the principal debtor or creditor, whichever is sooner:

24 (1) Promissory note or other instrument under seal;

25 (2) Bond except a public officer's bond;

26 (3) Judgment;

27 (4) Recognizance;

28 (5) Contract under seal; or

29 (6) Any other specialty.

30 (b) A payment of principal or interest on a specialty suspends the operation
31 of this section as to the specialty for three years after the date of payment.

1 (c) This section does not apply to [a]:

2 (1) A specialty taken for the use of the State; OR

3 (2) A DEED OF TRUST, MORTGAGE, OR PROMISSORY NOTE THAT
 4 HAS BEEN SIGNED UNDER SEAL BY A MORTGAGOR AND SECURES OR IS SECURED
 5 BY OWNER-OCCUPIED RESIDENTIAL PROPERTY, AS ~~THAT TERM IS~~ DEFINED IN §
 6 7-105.1 OF THE REAL PROPERTY ARTICLE.

7 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland
 8 read as follows:

9 **Article – Real Property**

10 **7-105.13.**

11 (A) (1) ~~WITHIN 180 DAYS AFTER~~ IN THIS SECTION THE FOLLOWING
 12 WORDS HAVE THE MEANINGS INDICATED.

13 (2) “OWNER-OCCUPIED RESIDENTIAL PROPERTY” HAS THE
 14 MEANING STATED IN § 7-105.1 OF THIS SUBTITLE.

15 (3) “RESIDENTIAL PROPERTY” HAS THE MEANING STATED IN §
 16 7-105.1 OF THIS SUBTITLE.

17 (B) THIS SECTION APPLIES TO RESIDENTIAL PROPERTY THAT WAS
 18 OWNER-OCCUPIED RESIDENTIAL PROPERTY AT THE TIME AN ORDER TO
 19 DOCKET OR COMPLAINT TO FORECLOSE WAS FILED.

20 (C) AFTER THE FINAL RATIFICATION OF THE AUDITOR’S REPORT
 21 FOLLOWING A SALE MADE IN ACCORDANCE WITH §§ ~~7-105~~ 7-105.1 THROUGH
 22 7-105.8 OF THIS SUBTITLE OR THE MARYLAND RULES, A SECURED PARTY OR
 23 AN APPROPRIATE PARTY IN INTEREST MAY FILE A MOTION FOR A DEFICIENCY
 24 JUDGMENT IF THE PROCEEDS OF THE SALE, AFTER DEDUCTING ALL COSTS AND
 25 EXPENSES ALLOWED BY THE COURT, ARE INSUFFICIENT TO SATISFY THE DEBT
 26 AND ACCRUED INTEREST.

27 (D) A SECURED PARTY OR PARTY IN INTEREST THAT FILES A MOTION
 28 FOR DEFICIENCY JUDGMENT UNDER THIS SECTION MUST FILE WITHIN 2 YEARS
 29 OF THE FINAL RATIFICATION OF THE AUDITOR’S REPORT.

30 ~~(B)~~ (E) THE SECURED PARTY OR PARTY IN INTEREST SHALL SERVE
 31 THE MOTION IN ACCORDANCE WITH THE MARYLAND RULES.

1 ~~SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be~~
2 ~~construed to apply only prospectively and may not be applied or interpreted to have~~
3 ~~any effect on or application to any cause of action arising before the effective date of~~
4 ~~this Act.~~

5 SECTION 3. AND BE IT FURTHER ENACTED, That Section 1 of this Act shall
6 be construed to apply prospectively to any cause of action that is filed on or after the
7 effective date of this Act for a deficiency judgment on a deed of trust, mortgage, or
8 promissory note that has been signed under seal by a mortgagor and secures or is
9 secured by residential property that was owner-occupied residential property at the
10 time the order to docket or complaint to foreclose was filed.

11 SECTION 4. AND BE IT FURTHER ENACTED, That any cause of action for a
12 deficiency judgment on a deed of trust, mortgage, or promissory note that has been
13 signed under seal by a mortgagor and secures or is secured by residential property
14 that was owner-occupied residential property at the time the order to docket or
15 complaint to foreclose was filed that accrues before July 1, 2014, and would not be
16 barred under Section 5-102 of the Courts and Judicial Proceedings Article before July
17 1, 2014, must be filed within 12 years after the date the action accrues or before July
18 1, 2016, whichever occurs first.

19 SECTION 5. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall
20 be construed to apply prospectively to any motion for a deficiency judgment that is
21 filed on or after the effective date of this Act on a deed of trust, mortgage, or
22 promissory note that secures or is secured by residential property that was
23 owner-occupied residential property at the time the order to docket or complaint to
24 foreclose was filed.

25 SECTION 6. AND BE IT FURTHER ENACTED, That any motion for a
26 deficiency judgment on a deed of trust, mortgage, or promissory note that secures or is
27 secured by residential property that was owner-occupied residential property at the
28 time the order to docket or complaint to foreclose was filed for which an auditor's
29 report has final ratification before July 1, 2014, and would not be barred under
30 Maryland Rule 14-216 before July 1, 2014, must be filed within 3 years after the date
31 of final ratification or before July 1, 2016, whichever occurs first.

32 SECTION ~~3~~ 7. AND BE IT FURTHER ENACTED, That this Act shall take
33 effect July 1, 2014.