

HOUSE BILL 1045

N1

4lr2763

By: **Delegate Arora**

Introduced and read first time: February 6, 2014

Assigned to: Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Real Property – Lien Priority of Refinance Mortgages – Escrow Costs**

3 FOR the purpose of including certain escrow costs in a certain calculation to determine
4 whether a refinance mortgage shall have, on recordation, the same lien priority
5 as the first mortgage or deed of trust that the refinance mortgage replaces;
6 defining a certain term; providing for the application of this Act; and generally
7 relating to lien priority and refinance mortgages.

8 BY repealing and reenacting, with amendments,
9 Article – Real Property
10 Section 7–112
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 – Real Property**

16 7–112.

17 (a) (1) In this section the following words have the meanings indicated.

18 (2) **“ESCROW COSTS” MEANS MONEY TO PAY PROPERTY TAXES,**
19 **HAZARD INSURANCE, MORTGAGE INSURANCE, AND SIMILAR COSTS ASSOCIATED**
20 **WITH REAL PROPERTY SECURED BY A REFINANCE MORTGAGE THAT A LENDER**
21 **REQUIRES TO BE COLLECTED AT CLOSING AND HELD IN ESCROW.**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 ~~[(2)]~~ **(3)** (i) “Junior lien” means a mortgage, deed of trust, or
 2 other security instrument that is subordinate in priority to a first mortgage or deed of
 3 trust under § 3–203 of this article.

4 (ii) “Junior lien” does not include:

5 1. A judgment lien; or

6 2. A lien filed under the Maryland Contract Lien Act.

7 ~~[(3)]~~ **(4)** “Refinance mortgage” means a mortgage, deed of trust, or
 8 other security instrument given to secure the refinancing of indebtedness secured by a
 9 first mortgage or deed of trust.

10 ~~[(4)]~~ **(5)** “Residential property” means real property improved by four
 11 or fewer single family dwelling units that are designed principally and are intended
 12 for human habitation.

13 (b) A mortgagor or grantor who refinances in full the unpaid indebtedness
 14 secured by a first mortgage or deed of trust encumbering or conveying an interest in
 15 residential property at an interest rate lower than provided for in the evidence of
 16 indebtedness secured by the first mortgage or deed of trust is not required to obtain
 17 permission from the holder of a junior lien if:

18 (1) The principal amount secured by the junior lien does not exceed
 19 \$150,000; and

20 (2) The principal amount secured by the refinance mortgage does not
 21 exceed the unpaid outstanding principal balance secured by the first mortgage or deed
 22 of trust plus an amount to pay **[closing]**:

23 **(I) CLOSING costs not exceeding \$5,000; AND**

24 **(II) ESCROW COSTS.**

25 (c) A refinance mortgage that meets the requirements of subsection (b) of
 26 this section shall have, on recordation, the same lien priority as the first mortgage or
 27 deed of trust that the refinance mortgage replaces.

28 (d) A refinance mortgage that meets the requirements of subsection (b) of
 29 this section shall include the following statement in bold or capitalized letters: “This is
 30 a refinance of a deed of trust/mortgage/other security instrument recorded among the
 31 land records of county/city, Maryland in liber no. folio, in the
 32 original principal amount of, and with the unpaid outstanding principal
 33 balance of The interest rate provided for in the evidence of indebtedness
 34 secured by this refinance mortgage is lower than the applicable interest rate provided

1 for in the evidence of indebtedness secured by the deed of trust/mortgage/other
2 security instrument being refinanced.”

3 (e) The priorities among two or more junior liens shall be governed by §
4 3–203 of this article.

5 (f) This section may not be construed to preempt or abrogate the operation
6 or effect of, or ability of a court to apply the principles of, equitable subrogation or
7 equitable subordination.

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

12 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
13 October 1, 2014.