

HOUSE BILL 1527

N1, I2

4lr3317
CF 4lr3361

By: **Delegates Braveboy and Niemann**

Introduced and read first time: March 3, 2014

Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **Real Property – Bankruptcy Proceedings – Expedited Foreclosure Timeline**

3 FOR the purpose of requiring a secured party to petition the circuit court for leave to
4 immediately commence an action to foreclose a certain mortgage or deed of trust
5 no later than a certain number of days after the foreclosure stay has been lifted
6 in a certain bankruptcy proceeding, under certain circumstances; requiring a
7 certain order or complaint to be filed and to be served on a mortgagor or grantor
8 no later than a certain number of days after the circuit court grants a certain
9 petition; requiring a secured party to schedule a foreclosure sale no later than a
10 certain number of days after a certain service of process; authorizing the
11 Commissioner of Financial Regulation to adopt regulations necessary to carry
12 out this Act; providing for the application of this Act; and generally relating to
13 actions to foreclose mortgages or deeds of trust on residential property following
14 bankruptcy proceedings.

15 BY repealing and reenacting, without amendments,
16 Article – Real Property
17 Section 7–105.1(b)
18 Annotated Code of Maryland
19 (2010 Replacement Volume and 2013 Supplement)

20 BY adding to
21 Article – Real Property
22 Section 7–105.13
23 Annotated Code of Maryland
24 (2010 Replacement Volume and 2013 Supplement)

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

27 **Article – Real Property**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 7-105.1.

2 (b) (1) Except as provided in paragraph (2) of this subsection, an action to
3 foreclose a mortgage or deed of trust on residential property may not be filed until the
4 later of:

5 (i) 90 days after a default in a condition on which the mortgage
6 or deed of trust provides that a sale may be made; or

7 (ii) 45 days after the notice of intent to foreclose required under
8 subsection (c) of this section is sent.

9 (2) (i) The secured party may petition the circuit court for leave to
10 immediately commence an action to foreclose the mortgage or deed of trust if:

11 1. The loan secured by the mortgage or deed of trust was
12 obtained by fraud or deception;

13 2. No payments have ever been made on the loan
14 secured by the mortgage or deed of trust;

15 3. The property subject to the mortgage or deed of trust
16 has been destroyed; or

17 4. The default occurred after the stay has been lifted in a
18 bankruptcy proceeding.

19 (ii) The court may rule on the petition with or without a
20 hearing.

21 (iii) If the petition is granted, the action may be filed at any time
22 after a default in a condition on which the mortgage or deed of trust provides that a
23 sale may be made and the secured party need not send the written notice of intent to
24 foreclose required under subsection (c) of this section.

25 **7-105.13.**

26 (A) (1) **THIS SECTION APPLIES ONLY TO AN ACTION TO FORECLOSE A**
27 **MORTGAGE OR DEED OF TRUST ON RESIDENTIAL PROPERTY FOLLOWING A**
28 **BANKRUPTCY PROCEEDING IN WHICH:**

29 (I) **THE MORTGAGOR OR GRANTOR INDICATED AN INTENT**
30 **TO SURRENDER THE RESIDENTIAL PROPERTY;**

1 **(II) THE LOAN SECURED BY THE MORTGAGE OR DEED OF**
2 **TRUST WAS DISCHARGED; AND**

3 **(III) THE FORECLOSURE STAY ON THE RESIDENTIAL**
4 **PROPERTY WAS LIFTED.**

5 **(2) THIS SECTION DOES NOT APPLY IF A MORTGAGOR OR**
6 **GRANTOR TAKES ANY LEGAL OR EXTRALEGAL ACTION TO DELAY OR FORESTALL**
7 **FORECLOSURE PROCEEDINGS AFTER A FORECLOSURE STAY HAS BEEN LIFTED**
8 **IN A BANKRUPTCY PROCEEDING.**

9 **(B) NO LATER THAN 30 DAYS AFTER THE FORECLOSURE STAY HAS BEEN**
10 **LIFTED IN A BANKRUPTCY PROCEEDING, THE SECURED PARTY SHALL PETITION**
11 **THE CIRCUIT COURT FOR LEAVE TO IMMEDIATELY COMMENCE AN ACTION TO**
12 **FORECLOSE THE MORTGAGE OR DEED OF TRUST.**

13 **(C) NO LATER THAN 30 DAYS AFTER THE CIRCUIT COURT GRANTS A**
14 **PETITION UNDER SUBSECTION (B) OF THIS SECTION:**

15 **(1) THE SECURED PARTY SHALL FILE AN ORDER TO DOCKET OR A**
16 **COMPLAINT TO FORECLOSE IN ACCORDANCE WITH § 7-105.1 OF THIS SUBTITLE;**
17 **AND**

18 **(2) A COPY OF THE ORDER TO DOCKET OR COMPLAINT TO**
19 **FORECLOSE SHALL BE SERVED ON THE MORTGAGOR OR GRANTOR IN**
20 **ACCORDANCE WITH § 7-105.1 OF THIS SUBTITLE.**

21 **(D) THE SECURED PARTY SHALL SCHEDULE A FORECLOSURE SALE OF**
22 **THE RESIDENTIAL PROPERTY NO LATER THAN 60 DAYS AFTER SERVICE OF**
23 **PROCESS IS MADE UNDER SUBSECTION (C)(2) OF THIS SECTION.**

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

27 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be
28 construed to apply only prospectively and may not be applied or interpreted to have
29 any effect on or application to any action to foreclose a mortgage or deed of trust on
30 residential property for which the foreclosure stay was lifted before the effective date
31 of this Act.

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