

SENATE BILL 708

D3, N1

(4lr1215)

ENROLLED BILL

— *Judicial Proceedings/Environmental Matters* —

Introduced by **Senators Raskin, Benson, Currie, Jones–Rodwell, Madaleno, Manno, Montgomery, Muse, Pinsky, Pugh, Ramirez, Rosapepe, and Stone**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this _____ day of _____ at _____ o'clock, _____ M.

President.

CHAPTER _____

1 AN ACT concerning

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

4 FOR the purpose of altering the time period within which a civil action on certain
5 specialties shall be filed; authorizing a certain party, ~~within a certain time~~
6 ~~period,~~ to file a motion for a deficiency judgment under certain circumstances;
7 requiring a certain motion for a deficiency judgment to be filed within a certain
8 time period; requiring ~~the~~ a certain party to serve ~~the~~ a certain motion in
9 accordance with certain procedures; providing that the filing of a certain motion
10 shall constitute the sole post-ratification remedy available to a certain party
11 under certain circumstances; providing for the application of certain provisions
12 of this Act; providing that any cause of action to collect the unpaid balance due
13 on a certain deed of trust, mortgage, or promissory note that arises before a

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.

Italics indicate opposite chamber/conference committee amendments.



certain date must be filed within a certain time period under certain circumstances; providing that any motion for a deficiency judgment on a certain deed of trust, mortgage, or promissory note for which an auditor's report has final ratification must be filed within a certain time period under certain circumstances; defining certain terms; and generally relating to specialties and deficiency judgments with regard to residential property.

BY repealing and reenacting, without amendments,
 Article – Courts and Judicial Proceedings
 Section 5–101
 Annotated Code of Maryland
 (2013 Replacement Volume and 2013 Supplement)

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

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

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

Article – Courts and Judicial Proceedings

5–101.

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

5–102.

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

(1) Promissory note or other instrument under seal;

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

(3) Judgment;

1 (4) Recognizance;

2 (5) Contract under seal; or

3 (6) Any other specialty.

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

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

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

8 (2) A DEED OF TRUST, MORTGAGE, OR PROMISSORY NOTE THAT
9 HAS BEEN SIGNED UNDER SEAL ~~BY A MORTGAGOR~~ AND SECURES OR IS SECURED
10 BY OWNER-OCCUPIED RESIDENTIAL PROPERTY, AS ~~THAT TERM IS~~ DEFINED IN §
11 7-105.1 OF THE REAL PROPERTY ARTICLE.

12 *SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland*
13 *read as follows:*

14 **Article – Real Property**

15 **7-105.13.**

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

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

20 **(3) “RESIDENTIAL PROPERTY” HAS THE MEANING STATED IN §**
21 **7-105.1 OF THIS SUBTITLE.**

22 **(B) THIS SECTION APPLIES TO RESIDENTIAL PROPERTY THAT WAS**
23 **OWNER-OCCUPIED RESIDENTIAL PROPERTY AT THE TIME AN ORDER TO DOCKET**
24 **OR COMPLAINT TO FORECLOSE WAS FILED.**

25 **(A) (C) ~~WITHIN 180 DAYS AFTER~~ AFTER THE FINAL RATIFICATION OF**
26 **THE AUDITOR’S REPORT FOLLOWING A SALE MADE IN ACCORDANCE WITH §§**
27 **~~7-105~~ 7-105.1 THROUGH 7-105.8 OF THIS SUBTITLE OR THE MARYLAND**
28 **RULES, A SECURED PARTY OR AN APPROPRIATE PARTY IN INTEREST MAY FILE A**
29 **MOTION FOR A DEFICIENCY JUDGMENT IF THE PROCEEDS OF THE SALE, AFTER**

1 DEDUCTING ALL COSTS AND EXPENSES ALLOWED BY THE COURT, ARE
2 INSUFFICIENT TO SATISFY THE DEBT AND ACCRUED INTEREST.

3 ~~(B)~~ (D) A MOTION FOR DEFICIENCY JUDGMENT UNDER THIS SECTION
4 SHALL BE FILED WITHIN 3 YEARS AFTER THE FINAL RATIFICATION OF THE
5 AUDITOR'S REPORT.

6 ~~(B)~~ ~~(C)~~ (E) THE SECURED PARTY OR PARTY IN INTEREST SHALL SERVE
7 THE MOTION IN ACCORDANCE WITH THE MARYLAND RULES.

8 ~~(C)~~ ~~(D)~~ (F) THE FILING OF A MOTION FOR DEFICIENCY JUDGMENT IN
9 ACCORDANCE WITH THIS SECTION AND THE MARYLAND RULES SHALL
10 CONSTITUTE THE SOLE POST-RATIFICATION REMEDY AVAILABLE TO A SECURED
11 PARTY OR PARTY IN INTEREST FOR BREACH OF A COVENANT CONTAINED IN A
12 DEED OF TRUST, MORTGAGE, OR PROMISSORY NOTE THAT SECURES OR IS
13 SECURED BY OWNER-OCCUPIED RESIDENTIAL PROPERTY, ~~AS THAT TERM IS~~
14 ~~DEFINED IN § 7-105.1 OF THIS SUBTITLE.~~

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

19 SECTION 3. AND BE IT FURTHER ENACTED, That, except as provided in
20 Section 4 of this Act, Section 1 of this Act shall be construed to apply prospectively to
21 any cause of action that arises on or after the effective date of this Act.

22 SECTION 4. AND BE IT FURTHER ENACTED, That any cause of action to
23 collect the unpaid balance due on a deed of trust, mortgage, or promissory note that has
24 been signed under seal and secures or is secured by residential property that was
25 owner-occupied residential property at the time the property was transferred with the
26 unpaid balance that arises before July 1, 2014, and would not be barred under § 5-102
27 of the Courts and Judicial Proceedings Article before July 1, 2014, must be filed within
28 12 years after the date the cause of action accrues or before July 1, 2017, whichever
29 occurs first.

30 SECTION 5. AND BE IT FURTHER ENACTED, That, except as provided in
31 Section 6 of this Act, Section 2 of this Act shall be construed to apply prospectively to
32 any motion for a deficiency judgment that is filed on or after the effective date of this
33 Act on a deed of trust, mortgage, or promissory note that secures or is secured by
34 residential property that was owner-occupied residential property at the time the order
35 to docket or complaint to foreclose was filed.

36 SECTION 6. AND BE IT FURTHER ENACTED, That any motion for a
37 deficiency judgment on a deed of trust, mortgage, or promissory note that secures or is
38 secured by residential property that was owner-occupied residential property at the

1 time the order to docket or complaint to foreclose was filed for which an auditor's report
2 has final ratification before July 1, 2014, and would not be barred under Maryland
3 Rule 14-216 before July 1, 2014, must be filed within 3 years after the date of final
4 ratification or before July 1, 2017, whichever occurs first.

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

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.