

# SENATE BILL 230

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By: **Senator Frosh**

Introduced and read first time: January 16, 2014

Assigned to: Judicial Proceedings

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## A BILL ENTITLED

AN ACT concerning

### **Real Property – Priority of Refinance Mortgage Over Junior Liens – Amount of Refinance Mortgage**

FOR the purpose of altering the circumstances under which a mortgagor or grantor who refinances the indebtedness secured by a first mortgage or deed of trust is not required to obtain permission from the holder of a junior lien; making a conforming change in a certain statement required to be included in a certain refinance mortgage; providing for the application of this Act; and generally relating to lien priority and refinance mortgages.

BY repealing and reenacting, with amendments,

Article – Real Property

Section 7–112

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 – Real Property**

7–112.

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

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

(ii) “Junior lien” does not include:

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1. A judgment lien; or
2. A lien filed under the Maryland Contract Lien Act.

(3) “Refinance mortgage” means a mortgage, deed of trust, or other security instrument given to secure the refinancing of indebtedness secured by a first mortgage or deed of trust.

(4) “Residential property” means real property improved by four or fewer single family dwelling units that are designed principally and are intended for human habitation.

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

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

(2) The principal amount secured by the refinance mortgage does not exceed the unpaid [outstanding principal balance] **INDEBTEDNESS** secured by the first mortgage or deed of trust plus an amount to pay closing costs not exceeding \$5,000.

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

(d) A refinance mortgage that meets the requirements of subsection (b) of this section shall include the following statement in bold or capitalized letters: “This is a refinance of a deed of trust/mortgage/other security instrument recorded among the land records of ..... county/city, Maryland in liber no. .... folio ....., in the original principal amount of ....., and with [the] unpaid [outstanding principal balance] **INDEBTEDNESS IN THE AMOUNT** of ..... . The interest rate provided for in the evidence of indebtedness secured by this refinance mortgage is lower than the applicable interest rate provided for in the evidence of indebtedness secured by the deed of trust/mortgage/other security instrument being refinanced.”

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

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

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

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