

SENATE BILL 708

D3, N1

4r1215
CF HB 274

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

Introduced and read first time: January 31, 2014

Assigned to: Judicial Proceedings

A BILL ENTITLED

AN ACT concerning

Civil Actions – Statute of Limitations for Certain Specialties and Motion for Certain Deficiency Judgments

FOR the purpose of altering the time period within which a civil action on certain specialties shall be filed; authorizing a certain party, within a certain time period, to file a motion for a deficiency judgment under certain circumstances; requiring the party to serve the motion in accordance with certain procedures; providing that the filing of a certain motion shall constitute the sole post–ratification remedy available to a certain party under certain circumstances; providing for the application of this Act; and generally relating to specialties and deficiency judgments.

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)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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;
- (4) Recognizance;
- (5) Contract under seal; or
- (6) Any other specialty.

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

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

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

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

Article – Real Property

7–105.13.

(A) WITHIN 180 DAYS AFTER THE FINAL RATIFICATION OF THE AUDITOR'S REPORT FOLLOWING A SALE MADE IN ACCORDANCE WITH §§ 7-105 THROUGH 7-105.8 OF THIS SUBTITLE OR THE MARYLAND RULES, A SECURED PARTY OR AN APPROPRIATE PARTY IN INTEREST MAY FILE A MOTION FOR A DEFICIENCY JUDGMENT IF THE PROCEEDS OF THE SALE, AFTER DEDUCTING ALL COSTS AND EXPENSES ALLOWED BY THE COURT, ARE INSUFFICIENT TO SATISFY THE DEBT AND ACCRUED INTEREST.

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

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

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 cause of action arising before the effective date of this Act.

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