

HOUSE BILL 26

N1
HB 538/16 – ENV

(PRE-FILED)

7lr0352

By: **Delegate Holmes**

Requested: June 14, 2016

Introduced and read first time: January 11, 2017

Assigned to: Environment and Transportation

A BILL ENTITLED

1 AN ACT concerning

2 **Real Property – Notices of Foreclosure Sale and Postponement or Cancellation**
3 **of Foreclosure Sale**

4 FOR the purpose of requiring the person authorized to make a foreclosure sale to give
5 written notice of the proposed sale to a certain condominium or homeowners
6 association at a certain time and in a certain manner; requiring the trustee, within
7 a certain time after the postponement or cancellation of a foreclosure sale, to send a
8 notice that the sale was postponed or canceled to the record owner of the property
9 and a certain condominium or homeowners association in a certain manner;
10 providing for the application of this Act; and generally relating to notice of a
11 foreclosure sale.

12 BY repealing and reenacting, with amendments,
13 Article – Real Property
14 Section 7–105.2
15 Annotated Code of Maryland
16 (2015 Replacement Volume and 2016 Supplement)

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

19 **Article – Real Property**

20 7–105.2.

21 (a) In this section, “record owner” means the person holding record title to
22 property as of the later of:

23 (1) 30 days before the day on which a foreclosure sale of the property is
24 actually held; and

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (2) The date on which an action to foreclose the mortgage or deed of trust
2 is filed.

3 (b) In addition to any notice required to be given by provisions of the Annotated
4 Code of Maryland or the Maryland Rules, the person authorized to make a sale in an action
5 to foreclose a mortgage or deed of trust shall give written notice of the proposed sale to
6 [the]:

7 (1) **THE** record owner of the property to be sold; **AND**

8 (2) **A CONDOMINIUM OR HOMEOWNERS ASSOCIATION THAT, AT LEAST**
9 **30 DAYS BEFORE THE DATE OF THE PROPOSED SALE, HAS RECORDED A STATEMENT**
10 **OF LIEN AGAINST THE PROPERTY UNDER THE MARYLAND CONTRACT LIEN ACT.**

11 (c) (1) The written notice shall be sent:

12 (i) By certified mail, postage prepaid, return receipt requested,
13 bearing a postmark from the United States Postal Service, to the record owner **AND, IF**
14 **APPLICABLE, TO A CONDOMINIUM OR HOMEOWNERS ASSOCIATION AT THE ADDRESS**
15 **SHOWN ON THE STATEMENT OF LIEN;** and

16 (ii) By first-class mail.

17 (2) The notice shall state the time, place, and terms of the sale and shall
18 be sent not earlier than 30 days and not later than 10 days before the date of sale.

19 (3) The person giving the notice shall file in the proceedings:

20 (i) A return receipt; or

21 (ii) An affidavit that:

22 1. The provisions of this subsection have been complied with;

23 or

24 2. The address of the record owner is not reasonably
25 ascertainable.

26 (4) The person authorized to make a sale in an action to foreclose a
27 mortgage or deed of trust is not required to give notice to a record owner whose address is
28 not reasonably ascertainable.

29 (d) In the event of postponement **OR CANCELLATION** of **THE** sale, which may be
30 done in the discretion of the trustee, [no new or additional notice need be given pursuant
31 to this section] **THE TRUSTEE SHALL, WITHIN 14 DAYS AFTER THE POSTPONEMENT**

1 OR CANCELLATION, SEND A NOTICE THAT THE SALE WAS POSTPONED OR CANCELED
2 TO THE RECORD OWNER AND, IF APPLICABLE, TO A CONDOMINIUM OR
3 HOMEOWNERS ASSOCIATION TO WHICH NOTICE OF THE PROPOSED SALE WAS SENT
4 UNDER SUBSECTION (C) OF THIS SECTION, BY FIRST-CLASS MAIL, POSTAGE
5 PREPAID.

6 (e) The right of a record owner to file an action for the failure of the person
7 authorized to make a sale in an action to foreclose a mortgage or deed of trust to comply
8 with the provisions of this section shall expire 3 years after the date of the order ratifying
9 the foreclosure sale.

10 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall apply to any
11 foreclosure sale scheduled to occur on a date after the effective date of this Act.

12 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
13 October 1, 2017.