

Department of Legislative Services  
Maryland General Assembly  
2017 Session

FISCAL AND POLICY NOTE  
First Reader

House Bill 1376 (Delegate Malone)  
Environment and Transportation

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Real Property - Mortgages - Substitution of Surviving Spouse

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This bill requires a lender to substitute the name of a surviving spouse for the name of the deceased mortgagor in a mortgage, within 30 days following the request of the surviving spouse, if the surviving spouse (1) is named in the deed of trust for the property but is not named in the mortgage and (2) submits to the lender a written request for substitution and a copy of the certificate of death of the deceased mortgagor.

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Fiscal Summary

**State Effect:** The bill is not anticipated to affect State finances or operations.

**Local Effect:** The bill is not anticipated to affect local government finances or operations.

**Small Business Effect:** Potential meaningful.

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Analysis

**Current Law/Background:** Statute does not require a lender to substitute the name of a surviving spouse for the name of a deceased mortgagor.

Lenders may have processes in place for a surviving spouse to remove a deceased mortgagor from a mortgage and add himself or herself. Generally referred to as a mortgage assumption, a successor that has inherited the property will be granted access to an account by a lender, if appropriate documentation is provided. The surviving spouse may then replace the deceased mortgagor on the mortgage and continue paying as required by the lending institution. A mortgage assumption cannot release a borrower from liability for the debt.

**Small Business Effect:** The requirement to substitute the surviving spouse for the deceased mortgagor may require a small business lender to forgo full repayment of the loan upon the death of the original borrower and, instead, as no credit check is required, rely on the unverified repayment capacity of the surviving spouse.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Office of the Attorney General (Consumer Protection Division); Judiciary (Administrative Office of the Courts); Department of Labor, Licensing, and Regulation; Bank of America; Department of Legislative Services

**Fiscal Note History:** First Reader - February 24, 2017  
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Analysis by: Nathan W. McCurdy

Direct Inquiries to:  
(410) 946-5510  
(301) 970-5510