

HOUSE BILL 107

N1

9lr0055

By: **Chair, Environment and Transportation Committee (By Request –
Departmental – Labor, Licensing and Regulation)**

Introduced and read first time: January 18, 2019

Assigned to: Environment and Transportation

Committee Report: Favorable

House action: Adopted

Read second time: February 12, 2019

CHAPTER _____

1 AN ACT concerning

2 **Real Property – Residential Property Foreclosure Procedures**

3 FOR the purpose of substituting the Commissioner of Financial Regulation for the
4 Department of Labor, Licensing, and Regulation in certain provisions of law relating
5 to the Foreclosed Property Registry; renumbering certain sections; making technical
6 changes; and generally relating to foreclosure procedures.

7 BY renumbering

8 Article – Real Property

9 Section 7–105.2 through 7–105.11, 7–105.12 through 7–105.14, 14–126, 14–126.2,
10 and 14–126.3, respectively

11 to be Section 7–105.4 through 7–105.13, 7–105.16 through 7–105.18, 7–105.3,
12 7–105.2, and 7–105.15, respectively

13 Annotated Code of Maryland

14 (2015 Replacement Volume and 2018 Supplement)

15 BY renumbering

16 Article – Real Property

17 Section 14–126.1

18 to be Section 7–105.14

19 Annotated Code of Maryland

20 (2015 Replacement Volume and 2018 Supplement)

21 (As enacted by Chapters 348 and 349 of the Acts of the General Assembly of 2018)

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.



1 BY repealing and reenacting, with amendments,
 2 Article – Real Property
 3 Section 7–105(c) and 7–105.1(b)(2)(i)5.
 4 Annotated Code of Maryland
 5 (2015 Replacement Volume and 2018 Supplement)

6 BY repealing and reenacting, with amendments,
 7 Article – Real Property
 8 Section 7–105.2, 7–105.5(b), 7–105.10, 7–105.11(a)(2), 7–105.12(a)(2), 7–105.14, and
 9 7–105.17(c)
 10 Annotated Code of Maryland
 11 (2015 Replacement Volume and 2018 Supplement)
 12 (As enacted by Section 1 of this Act)

13 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
 14 That Section(s) 7–105.2 through 7–105.11, 7–105.12 through 7–105.14, 14–126, 14–126.1,
 15 14–126.2, and 14–126.3, respectively, of Article – Real Property of the Annotated Code of
 16 Maryland be renumbered to be Section(s) 7–105.4 through 7–105.13, 7–105.16 through
 17 7–105.18, 7–105.3, 7–105.14, 7–105.2, and 7–105.15, respectively.

18 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as
 19 follows:

20 **Article – Real Property**

21 7–105.

22 (c) A sale made pursuant to this section, §§ 7–105.1 through [7–105.8]
 23 **7–105.10** of this subtitle, or the Maryland Rules, after final ratification by the court and
 24 grant of the property to the purchaser on payment of the purchase money, has the same
 25 effect as if the sale and grant were made under decree between the proper parties in
 26 relation to the mortgage or deed of trust and in the usual course of the court, and operates
 27 to pass all the title which the borrower had in the property at the time of the recording of
 28 the mortgage or deed of trust.

29 7–105.1.

30 (b) (2) (i) The secured party may petition the circuit court for leave to
 31 immediately commence an action to foreclose the mortgage or deed of trust if:

32 5. The property subject to the mortgage or deed of trust is
 33 property that is vacant and abandoned as provided under [§ 7–105.14] **§ 7–105.18** of this
 34 subtitle.

35 7–105.2.

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

1 [(2) “Department” means the Department of Labor, Licensing, and
2 Regulation.

3 [(3)] (2) “Foreclosed Property Registry” means the Foreclosed Property
4 Registry established by the [Department] **COMMISSIONER OF FINANCIAL REGULATION**
5 under [§ 14–126.1] § **7–105.14** of this subtitle.

6 [(4)] (3) “Local jurisdiction” means:

7 (i) A county; or

8 (ii) A municipal corporation.

9 [(5)] (4) “Notice of foreclosure” means the notice described in subsection
10 (b) of this section.

11 [(6)] (5) “Person authorized to make the sale” means the person
12 designated under the Maryland Rules to sell residential property subject to foreclosure.

13 [(7)] (6) “Residential property” means real property improved by four or
14 fewer dwelling units that are designed principally and are intended for human habitation.

15 (b) (1) Within 7 days of the filing of an order to docket or a complaint to
16 foreclose a mortgage or deed of trust on a residential property by a person authorized to
17 make the sale of the residential property, the person authorized to make the sale shall
18 provide the [Department] **COMMISSIONER OF FINANCIAL REGULATION** with a notice
19 of foreclosure as required under this subsection.

20 (2) The notice of foreclosure shall:

21 (i) Be in the form the [Department] **COMMISSIONER OF**
22 **FINANCIAL REGULATION** requires, which may be the form of a registration with the
23 Foreclosed Property Registry; and

24 (ii) Contain the following information regarding the property that is
25 subject to foreclosure:

26 1. The street address;

27 2. The tax account number, if known;

28 3. Whether the property is vacant, if known;

29 4. The name, address, and telephone number of the owner or
30 owners of the property, if known;

1 5. The name, address, and telephone number of the person
2 authorized to make the sale; and

3 6. The name, address, and telephone number of a person
4 authorized to manage and maintain the property before the foreclosure sale, if known.

5 (c) (1) A notice of foreclosure:

6 (i) Is not a public record as defined in § 4–101 of the General
7 Provisions Article; and

8 (ii) Is not subject to Title 4 of the General Provisions Article.

9 (2) The [Department] **COMMISSIONER OF FINANCIAL REGULATION**
10 may authorize access to a notice of foreclosure only to local jurisdictions, the agencies of
11 local jurisdictions, and representatives of State agencies.

12 (3) Notwithstanding paragraphs (1) and (2) of this subsection, the
13 [Department] **COMMISSIONER OF FINANCIAL REGULATION** or a local jurisdiction may
14 provide information for a specific property described in a notice of foreclosure to:

15 (i) A person who owns property on the same block; or

16 (ii) A homeowners association or condominium in which the property
17 is located.

18 7–105.5.

19 (b) The person authorized to make a sale in an action to foreclose a mortgage or
20 deed of trust shall give written notice of any proposed foreclosure sale to the holder of any
21 subordinate mortgage, deed of trust, or other subordinate interest, including a judgment,
22 in accordance with [§ 7–105.2] **§ 7–105.4** of this subtitle and the requirements of Maryland
23 Rule 14–210.

24 7–105.10.

25 The entry of an order for resale on default by a purchaser at a sale under §§ 7–105
26 through [7–105.7] **7–105.9** of this subtitle and Title 14 of the Maryland Rules:

27 (1) Does not affect the prior ratification of the sale and does not restore to
28 the mortgagor or former record owner any right or remedy that was extinguished by the
29 prior sale and its ratification; and

30 (2) Extinguishes all interest of the defaulting purchaser in the real
31 property being foreclosed and in the proceeds of the resale.

1 7–105.11.

2 (a) (2) “Bona fide tenant” means a tenant under a lease or tenancy described
3 in [§ 7–105.6(b)(1)] **§ 7–105.8(B)(1)** of this subtitle.

4 7–105.12.

5 (a) (2) “Bona fide tenant” means a tenant under a lease or tenancy described
6 in [§ 7–105.6(b)(1)] **§ 7–105.8(B)(1)** of this subtitle.

7 7–105.14.

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

9 [(2) “Department” means the Department of Labor, Licensing, and
10 Regulation.]

11 [(3) (2) “Foreclosed Property Registry” means the Foreclosed Property
12 Registry established by the [Department] **COMMISSIONER OF FINANCIAL REGULATION**
13 under subsection (b) of this section.

14 [(4) (3) “Foreclosure purchaser” means the person identified as the
15 purchaser on the report of sale required by Maryland Rule 14–305 for a foreclosure sale of
16 residential property.

17 [(5) (4) “Fund” means the Foreclosed Property Registry Fund
18 established by the [Department] **COMMISSIONER OF FINANCIAL REGULATION** under
19 subsection (i) of this section.

20 [(6) (5) “Local jurisdiction” means:

21 (i) A county; or

22 (ii) A municipal corporation.

23 [(7) (6) “Residential property” means real property improved by four or
24 fewer dwelling units that are designed principally and are intended for human habitation.

25 (b) The [Department] **COMMISSIONER OF FINANCIAL REGULATION** shall
26 establish and maintain an Internet–based Foreclosed Property Registry for information
27 relating to foreclosure sales of residential property.

28 (c) At the time of a foreclosure sale of residential property, the person responsible
29 for conducting the foreclosure shall obtain from the foreclosure purchaser a written
30 acknowledgment of the requirements of this section.

1 (d) (1) Within 30 days after a foreclosure sale of residential property, a
2 foreclosure purchaser shall submit an initial registration to the Foreclosed Property
3 Registry.

4 (2) The initial registration shall:

5 (i) Be in the form the [Department] **COMMISSIONER OF**
6 **FINANCIAL REGULATION** requires; and

7 (ii) Contain the following information:

8 1. The name, telephone number, and address of the
9 foreclosure purchaser;

10 2. The street address of the property that is the subject of the
11 foreclosure sale;

12 3. The date of the foreclosure sale;

13 4. Whether the property is a single-family or multifamily
14 property;

15 5. The name and address of the person, including a
16 substitute purchaser, who is authorized to accept legal service for the foreclosure
17 purchaser;

18 6. To the best of the foreclosure purchaser's knowledge at the
19 time of registration:

20 A. Whether the residential property is vacant; and

21 B. The name, telephone number, and street address of the
22 person who is responsible for the maintenance of the property; and

23 7. Whether the foreclosure purchaser has possession of the
24 property.

25 (3) Within 30 days after a deed transferring title to the residential property
26 has been recorded, the foreclosure purchaser shall submit a final registration to the
27 Foreclosed Property Registry.

28 (4) The final registration shall:

29 (i) Be in the form the [Department] **COMMISSIONER OF**
30 **FINANCIAL REGULATION** requires; and

31 (ii) Contain the following information as of the date of final

1 registration:

- 2 1. The name, telephone number, and address of the owner on
3 the deed;
- 4 2. The date of the ratification of the sale; and
- 5 3. The date the deed was recorded.

6 (5) The [Department] **COMMISSIONER OF FINANCIAL REGULATION**
7 shall establish procedures that require a foreclosure purchaser, after submitting an initial
8 registration, to submit to the Foreclosed Property Registry any change to the information
9 required under paragraph (2)(ii)5 through 7 of this subsection within 21 business days after
10 the change is known to the purchaser.

11 (6) On receipt through the Foreclosed Property Registry of an initial
12 registration or any change submitted under paragraph (5) of this subsection, the
13 [Department] **COMMISSIONER OF FINANCIAL REGULATION** shall promptly notify, by
14 electronic means, authorized users from the county and, if appropriate, the municipal
15 corporation in which the property is located.

16 (e) (1) The filing fees for registering a residential property are:

17 (i) \$50 for an initial registration filed within the time period
18 required under subsection (d)(1) of this section; and

19 (ii) \$100 for an initial registration filed after the time period
20 required under subsection (d)(1) of this section.

21 (2) There is no fee for a final registration.

22 (3) A filing fee paid under paragraph (1) of this subsection is
23 nonrefundable.

24 (4) A local jurisdiction may enact a local law that imposes a civil penalty
25 for failure to register under this section in an amount not exceeding \$1,000.

26 (f) (1) Subject to paragraph (2) of this subsection, a local jurisdiction that, in
27 accordance with any applicable building code or local ordinance, abates a nuisance on a
28 residential property registered under this section or takes action to maintain a residential
29 property registered under this section may collect the cost associated with the abatement
30 or other action as a charge included on the residential property's property tax bill.

31 (2) (i) The cost associated with an abatement or other action taken
32 under paragraph (1) of this subsection may not be included as a charge on the residential
33 property's property tax bill unless the local jurisdiction provides advance written notice in
34 accordance with subparagraph (ii) of this paragraph to:

1 1. The person identified in the registry who is authorized to
2 accept legal service for the foreclosure purchaser; and

3 2. The person identified in the registry who is responsible for
4 the maintenance of the property.

5 (ii) The notice described in subparagraph (i) of this paragraph shall:

6 1. Describe the intended abatement or other action the local
7 jurisdiction intends to take; and

8 2. Be provided:

9 A. In accordance with the notice provisions of the applicable
10 building code or local ordinance; or

11 B. If the applicable building code or local ordinance does not
12 provide for notice, at least 30 days before the local jurisdiction abates the nuisance or takes
13 action to maintain the property.

14 (g) (1) The Foreclosed Property Registry:

15 (i) Is not a public record as defined by § 4-101 of the General
16 Provisions Article; and

17 (ii) Is not subject to Title 4 of the General Provisions Article.

18 (2) The **[Department] COMMISSIONER OF FINANCIAL REGULATION**
19 may authorize access to the Foreclosed Property Registry only to local jurisdictions, their
20 agencies, and representatives and State agencies.

21 (3) Notwithstanding paragraphs (1) and (2) of this subsection, the
22 **[Department] COMMISSIONER OF FINANCIAL REGULATION** or a local jurisdiction may
23 provide information for a specific property in the Foreclosed Property Registry to:

24 (i) A person who owns property on the same block; or

25 (ii) A homeowners association or condominium in which the property
26 is located.

27 (h) Revenue collected from the filing fees required under subsection (e)(1) of this
28 section shall be distributed to the Fund.

29 (i) (1) There is a Foreclosed Property Registry Fund in the **[Department]**
30 **OFFICE OF THE COMMISSIONER OF FINANCIAL REGULATION.**

1 (2) The purpose of the Fund is to support the development, administration,
2 and maintenance of the Foreclosed Property Registry established under this section.

3 (3) The [Department] **COMMISSIONER OF FINANCIAL REGULATION**
4 shall administer the Fund.

5 (4) (i) The Fund is a special, nonlapsing fund that is not subject to §
6 7-302 of the State Finance and Procurement Article.

7 (ii) The State Treasurer shall hold the Fund separately, and the
8 Comptroller shall account for the Fund.

9 (5) The Fund consists of:

10 (i) Revenue distributed to the Fund under subsection (h) of this
11 section;

12 (ii) Investment earnings of the Fund;

13 (iii) Money appropriated in the State budget to the Fund; and

14 (iv) Any other money from any other source accepted for the benefit
15 of the Fund.

16 (6) (i) The State Treasurer shall invest the money of the Fund in the
17 same manner as other State money may be invested.

18 (ii) Any investment earnings of the Fund shall be paid into the Fund.

19 7-105.17.

20 (c) After the final ratification of the auditor's report following a sale made in
21 accordance with §§ 7-105.1 through [7-105.8] **7-105.10** of this subtitle or the Maryland
22 Rules, a secured party or an appropriate party in interest may file a motion for a deficiency
23 judgment if the proceeds of the sale, after deducting all costs and expenses allowed by the
24 court, are insufficient to satisfy the debt and accrued interest.

25 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
26 October 1, 2019.