
To: Members of The Senate Finance Committee

From: William A. O'Connell, Real Property Section Legislative Chair

Date: February 11, 2020

Subject: SB262 - Maryland Collection Agency Licensing Act - Definitions and Legislative

Position: Oppose

The Maryland State Bar Association (MSBA) Real Property Section Council **opposes Senate Bill #262** - Maryland Collection Agency Licensing Act - Definitions and Legislative.

A mortgage loan made to a consumer on residential property is already probably the most heavily regulated loan transaction. The laws related to foreclosing them were strengthened to in 2008 to give consumers time and an opportunity to work it out with the lender before the property went to sale. In addition, there are mechanisms in place to allow a consumer to file objections to the sale and be heard in the Circuit Court before the sale becomes final. Requiring a lender to become a licensed debt collector in order to foreclose helps no one and adds no further protection to the debtor.

The Court of Appeals decided *Blackstone v. Sharma*, 461 Md. 87, 191 A.3d 1188 (2018), based on several Maryland laws, not just the Maryland Collection Agency Licensing Act. The Maryland foreclosure laws and their interplay with the issues under consideration were also studied by the Court. It is necessary to decide cases in the context of the entire Maryland Code. That is what the Court of Appeals did in *Blackstone v. Sharma*, and that is why this decision should not be interfered with by legislative decree.

Even if the substance of this bill were to be considered favorably, Section 2(c), which appears on lines 2-5 of page 4 cannot stand. That section provides that the bill applies only prospectively to foreclosure sales where the properties are purchased by bona fide purchasers. The inference is that the bill applies retroactively to sales where the lender bought the property. This would mean that many past foreclosure sales would be set aside because of this bill. Significantly, of the sales that would be set aside, many relate to houses that have been sold and resold many times after the original foreclosure sale. This would put the title to all these houses in jeopardy. Many of these houses are now owned and occupied by unsuspecting homebuyers. These



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unsuspecting homebuyers would come to find out that they do not own the houses where they and their families live.

For these reasons the MSBA Real Property Section Council **opposes** Senate Bill #262 and asks that the Committee issue an **unfavorable report**.

Should you have any questions, please contact The MSBA's Legislative Office at (410)-269-6464 / (410)-685-7878 ext: 3066 or at Richard@MSBA.org and Parker@MSBA.org