



**MARYLAND
LEGAL AID**

Advancing
**Human Rights and
Justice for All**

**Senate Bill 839
In the Judicial Proceedings Committee – General Provisions
Damages or Losses- Definition
Hearing on February 29, 2024
Position: FAVORABLE**

Maryland Legal Aid (MLA) submits its written and oral testimony on HB 832 in response to a request from Senator Charles Sydnor.

Maryland Legal Aid (MLA) is the largest non-profit law firm in the State of Maryland and represents low-income individuals in consumer cases, individual rights cases, and expungement cases. Senate Bill 839 amends the definition of damages in civil rights and consumer cases to allow for reasonable nominal damages in cases where a violation of the law was established. Because MLA believes that this bill would provide for just compensation for the violation of consumer and civil rights statutes and would serve as a deterrent to those who violate consumer protection and civil rights statutes, MLA testifies in strong support of SB 839.

MLA represents a great deal of consumers in foreclosure, collection, and other cases where banks, mortgage servicers, and collection agencies violate the law or are negligent in their collection practices, but where the lack of damages can prevent these companies from facing any financial punishment.

For example, when MLA was helping homeowners in obtaining assistance in curing mortgage arrears from the Maryland Homeowners Assistance Fund (HAF), one servicer was particularly slow in processing claims, which sometimes resulted in state assistance checks being sent back by the creditor and rejection of state assistance because the amount of mortgage default had changed in the time period between the award and the servicer applying the award to the mortgage default. MLA filed numerous administrative complaints with both the Consumer Financial Protection Bureau (CFPB) and the Maryland Office of Financial Regulation (OFR), against the servicer and finally the servicer began to process the claims correctly. MLA could not bring an affirmative claim in the District or Circuit Court against this creditor for violating any Maryland consumer protection laws because HAF was a temporary source of funds designed to protect homeownership. Through its efforts in assisting and supporting our clients through the HAF program, MLA prevented many of these homes from going to a foreclosure sale, yet the lack of a statutory violation prevented a suit for damage. If the change proposed by SB 839 had existed at the time, MLA would have been able to sue and obtain nominal damages for the clients affected by the servicer's negligent behavior.

In addition, MLA was involved in a lawsuit in which the mortgage servicer admitted that they had made a clear error, but because the homeowner was offered and accepted a permanent loan modification curing the arrears, the servicer took the position that that the homeowner was no longer entitled to any damages as the home was saved and the mistake corrected. MLA was able

to negotiate a financial settlement, but because the servicer had offered the loan modification, MLA's ability to litigate in this matter and negotiate a better settlement when there was a clear mistake was limited. Had the change proposed in SB 839 existed at the time, because the law would have created some responsibility even when actual damages had been mitigated, MLA would have had more ability to litigate and a stronger position to negotiate a better settlement when the mortgage servicer admitted that they made an error.

Because this provides an additional remedy for MLA to hold bad actors responsible in the state courts for both consumer and civil rights violations, MLA testifies in strong support of SB 839. If you need additional information in regards to this bill, please contact William Steinwedel, Supervising Attorney, Foreclosure Legal Assistance Project, Maryland Legal Aid Bureau, at wsteinwedel@mdlaborg and (410) 951-7643.