

By: Senator Roeser

Requested: August 17, 1995

Introduced and read first time: January 10, 1996

Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 5, 1996

CHAPTER ____

1 AN ACT concerning

2 Real Property - Foreclosure Sales - Subordinate Interests in Property

3 FOR the purpose of defining a "holder of a subordinate interest" in property subject to a
 4 mortgage or deed of trust to include a condominium or homeowners association
 5 ~~identified in a declaration of covenants recorded against the property that has filed~~
 6 a request for notice of a foreclosure sale; allowing a condominium or homeowners
 7 association to file a request for notice of sale by certain persons; ~~specifying that a~~
 8 person authorized to make a sale in an action to foreclose a mortgage or deed of
 9 trust is not required to give notice to a condominium or homeowners association
 10 that has not filed a request for notice; and generally relating to ~~econdominium and~~
 11 ~~homeowners associations as holders of a subordinate interest in property against~~
 12 ~~which covenants are recorded~~ notice of foreclosure sales.

13 BY repealing and reenacting, with amendments,

14 Article - Real Property

15 Section 7-105(c)

16 Annotated Code of Maryland

17 (1988 Replacement Volume and 1995 Supplement)

18 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF

19 MARYLAND, That the Laws of Maryland read as follows:

20 Article - Real Property

21 7-105.

22 (c) (1) IN THIS SUBSECTION, "HOLDER OF A SUBORDINATE INTEREST"

23 INCLUDES ANY CONDOMINIUM OR HOMEOWNERS ASSOCIATION ~~IDENTIFIED IN A~~

1 ~~DECLARATION OF COVENANTS RECORDED AGAINST PROPERTY THAT IS SUBJECT~~
2 ~~TO A MORTGAGE OR DEED OF TRUST THAT HAS FILED A REQUEST FOR NOTICE OF~~
3 ~~SALE UNDER PARAGRAPH (3) OF THIS SUBSECTION.~~

4 (2) The person authorized to make a sale in an action to foreclose a
5 mortgage or deed of trust shall give written notice of any proposed foreclosure sale to the
6 holder of any subordinate mortgage, deed of trust, or other subordinate interest,
7 including a judgment, in accordance with subsection (b) of this section and the
8 requirements of the Maryland Rules applicable to the giving of notice to the record owner
9 of the property to be sold.

10 [(2)] (3) (i) The land records office of each county shall maintain a
11 current listing of recorded requests for notice of sale by holders of subordinate
12 mortgages, deeds of trust, or other subordinate interests. The holder of a subordinate
13 mortgage, deed of trust, or other subordinate interest may file a request for notice under
14 this paragraph.

15 (ii) Each request for notice of sale shall:

16 1. Be recorded in a separate docket or book which shall be
17 indexed under the name of the holder of the superior mortgage or deed of trust and
18 under the book and page numbers where the superior mortgage or deed of trust is
19 recorded;

20 2. Identify the property in which the subordinate interest is
21 held;

22 3. State the name and address of the holder of the subordinate
23 interest; and

24 4. Identify the superior mortgage or deed of trust by stating:

25 A. The names of the original parties to the superior mortgage or
26 deed of trust;

27 B. The date the superior mortgage or deed of trust was
28 recorded; and

29 C. The office, docket or book, and page where the superior
30 mortgage or deed of trust is recorded.

31 (iii) ~~Failure~~ 1. EXCEPT AS PROVIDED IN SUB-SUBPARAGRAPH 2 OF
32 THIS SUBPARAGRAPH, FAILURE of a holder of a subordinate mortgage, deed of trust, or
33 other subordinate interest to record a request for notice under this paragraph does not
34 affect the duty of a holder of a superior interest to provide notice as required under this
35 subsection.

36 2. A HOLDER OF A SUPERIOR INTEREST DOES NOT HAVE A
37 DUTY TO PROVIDE NOTICE TO A CONDOMINIUM OR HOMEOWNERS ASSOCIATION
38 THAT HAS NOT FILED A REQUEST FOR NOTICE UNDER THIS PARAGRAPH.

39 [(3)] (4) The person giving notice under this subsection shall file in the
40 action:

3

1 (i) The return receipt from the notice; or

2 (ii) An affidavit that:

3 1. The notice provisions of this subsection have been complied
4 with; or

5 2. The address of the holder of the subordinate interest is not
6 reasonably ascertainable.

7 [(4)] (5) The person authorized to make a sale in an action to foreclose a
8 mortgage or deed of trust is not required to give notice to the holder of a subordinate
9 mortgage, deed of trust, or other subordinate interest if:

10 (i) The existence of the mortgage, deed of trust, or other subordinate
11 interest is not reasonably ascertainable;

12 (ii) The identity or address of the holder of the mortgage, deed of
13 trust, or other subordinate interest is not reasonably ascertainable;

14 (iii) With respect to a recorded or filed subordinate mortgage, deed of
15 trust, or other recorded or filed subordinate interest, the recordation or filing occurred
16 after the later of:

17 1. 30 days before the day on which the foreclosure sale was
18 actually held; and

19 2. The date the action to foreclose the mortgage or deed of
20 trust was filed; ~~or~~

21 (iv) With respect to an unrecorded or unfiled subordinate mortgage,
22 deed of trust, or other unrecorded or unfiled subordinate interest, the subordinate
23 interest was created after the later of:

24 1. 30 days before the day on which the foreclosure sale was
25 actually held; and

26 2. The date the action to foreclose the mortgage or deed of
27 trust was filed; OR

28 (V) WITH RESPECT TO A CONDOMINIUM OR HOMEOWNERS
29 ASSOCIATION, THE CONDOMINIUM OR HOMEOWNERS ASSOCIATION HAS NOT FILED
30 A REQUEST FOR NOTICE UNDER PARAGRAPH (3) OF THIS SUBSECTION.

31 [(5)] (6) The right of a holder of a subordinate mortgage, deed of trust, or
32 other subordinate interest to file an action for the failure of the person authorized to
33 make a sale in an action to foreclose a mortgage or deed of trust to comply with the
34 provisions of this subsection shall expire 3 years after the date of the order ratifying the
35 foreclosure sale.

36 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
37 October 1, 1996.

