

BY: Environmental Matters Committee

AMENDMENTS TO HOUSE BILL NO. 1288

(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 12, strike “requiring certain deeds to contain a certain affidavit;”; in line 17, after “proceeding;” insert “exempting certain persons from certain provisions of this Act; providing for the effect and construction of certain provisions of this Act; requiring a certain notice to be sent to certain record owners; requiring the Consumer Protection Division of the Office of the Attorney General to maintain a list of certain nonprofit organizations and to provide certain information to certain homeowners;”; strike in their entirety lines 19 through 23, inclusive; in line 26, strike “7-105(h)” and substitute “7-105(a-1) and (h)”; and after line 29, insert:

“BY repealing and reenacting, without amendments,

Article - Real Property

Section 7-105(b)

Annotated Code of Maryland

(2003 Replacement Volume and 2004 Supplement)

BY repealing and reenacting, with amendments,

Article - Commercial Law

Section 13-204(12) and (13)

Annotated Code of Maryland

(2000 Replacement Volume and 2004 Supplement)

BY adding to

Article - Commercial Law

Section 13-204(14)

Annotated Code of Maryland

(2000 Replacement Volume and 2004 Supplement)”.

(Over)

AMENDMENT NO. 2

On page 2, after line 2, insert:

“(A-1) (1) IN THIS SUBSECTION, “RECORD OWNER” MEANS THE PERSON HOLDING RECORD TITLE TO RESIDENTIAL REAL PROPERTY AS OF THE DATE ON WHICH AN ACTION TO FORECLOSE THE MORTGAGE OR DEED OF TRUST IS FILED.

(2) IN ADDITION TO ANY NOTICE REQUIRED TO BE GIVEN BY PROVISIONS OF THE ANNOTATED CODE OF MARYLAND OR THE MARYLAND RULES, THE PERSON AUTHORIZED TO MAKE A SALE IN AN ACTION TO FORECLOSE A MORTGAGE OR DEED OF TRUST SHALL GIVE WRITTEN NOTICE OF THE ACTION TO THE RECORD OWNER OF THE PROPERTY TO BE SOLD.

(3) (I) THE WRITTEN NOTICE SHALL BE SENT WITHIN 2 DAYS AFTER THE ACTION TO FORECLOSE IS DOCKETED:

1. BY CERTIFIED MAIL, POSTAGE PREPAID, RETURN RECEIPT REQUESTED, BEARING A POSTMARK FROM THE UNITED STATES POSTAL SERVICE, TO THE RECORD OWNER; AND

2. BY FIRST-CLASS MAIL.

(II) THE NOTICE SHALL STATE THAT AN ACTION TO FORECLOSE THE MORTGAGE OR DEED OF TRUST HAS BEEN DOCKETED AND THAT A FORECLOSURE SALE OF THE PROPERTY WILL BE HELD.

(III) THE NOTICE SHALL CONTAIN THE FOLLOWING STATEMENT PRINTED IN AT LEAST 14 POINT BOLDFACE TYPE:

“NOTICE REQUIRED BY MARYLAND LAW

MORTGAGE FORECLOSURE IS A COMPLEX PROCESS. SOME PEOPLE MAY APPROACH YOU ABOUT “SAVING” YOUR HOME. YOU SHOULD BE CAREFUL ABOUT ANY SUCH PROMISES.

THE STATE ENCOURAGES YOU TO BECOME INFORMED ABOUT YOUR OPTIONS

IN FORECLOSURE BEFORE ENTERING INTO ANY AGREEMENTS WITH ANYONE IN CONNECTION WITH THE FORECLOSURE OF YOUR HOME. THERE ARE GOVERNMENT AGENCIES AND NONPROFIT ORGANIZATIONS THAT YOU MAY CONTACT FOR HELPFUL INFORMATION ABOUT THE FORECLOSURE PROCESS. FOR THE NAME AND TELEPHONE NUMBER OF AN ORGANIZATION NEAR YOU, PLEASE CALL THE CONSUMER PROTECTION DIVISION OF THE OFFICE OF THE ATTORNEY GENERAL OF MARYLAND AT 1-888-743-0023. THE STATE DOES NOT GUARANTEE THE ADVICE OF THESE ORGANIZATIONS.

DO NOT DELAY DEALING WITH THE FORECLOSURE BECAUSE YOUR OPTIONS MAY BECOME MORE LIMITED AS TIME PASSES.”.”.

On pages 2 and 3, strike in their entirety the lines beginning with line 21 on page 2 through line 2 on page 3, inclusive.

On page 3, in lines 3 and 10, in each instance, strike the brackets; and in lines 3 and 10, strike “(IV)” and “(V)”, respectively.

AMENDMENT NO. 3

On page 4, strike in their entirety lines 1 through 21, inclusive; and in line 22, strike “(C)” and substitute “(B)”.

On page 5, in lines 23 and 27, strike “(D)” and “(E)”, respectively, and substitute “(C)” and “(D)”, respectively.

On page 6, in lines 30 and 33, strike “(F)” and “(G)”, respectively, and substitute “(E)” and “(F)”, respectively.

On page 7, in lines 8, 12, 17, and 22, strike “(H)”, “(I)”, “(J)”, and “(K)”, respectively, and substitute “(G)”, “(H)”, “(I)”, and “(J)”, respectively.

AMENDMENT NO. 4

(Over)

On page 4, strike beginning with “DIRECTLY” in line 23 down through “MANNER” in line 26 and substitute “SOLICITS OR CONTACTS A HOMEOWNER IN WRITING, IN PERSON, OR THROUGH ANY ELECTRONIC OR TELECOMMUNICATIONS MEDIUM AND DIRECTLY OR INDIRECTLY MAKES A REPRESENTATION OR OFFER TO PERFORM ANY SERVICE THAT THE PERSON REPRESENTS WILL”.

On page 5, strike line 28 in its entirety; and in lines 29, 32, and 33, strike “(2)”, “(3)”, and “(4)”, respectively, and substitute “(1)”, “(2)”, and “(3)”, respectively.

On page 6, in lines 1, 13, 16, 20, 23, 25, and 27, strike “(5)”, “(8)”, “(9)”, “(10)”, “(11)”, “(12)”, and “(13)”, respectively, and substitute “(4)”, “(5)”, “(6)”, “(7)”, “(8)”, “(9)”, and “(10)”, respectively; and strike in their entirety lines 3 through 12, inclusive.

AMENDMENT NO. 5

On page 7, in line 30, before “THIS” insert “(A) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION,”; in line 33, strike “OR”; after line 33, insert:

“(2) A PERSON WHO HOLDS OR IS OWED AN OBLIGATION SECURED BY A LIEN ON ANY RESIDENCE IN FORECLOSURE WHILE THE PERSON PERFORMS SERVICES IN CONNECTION WITH THE OBLIGATION OR LIEN, IF THE OBLIGATION OR LIEN DID NOT ARISE AS A RESULT OF A FORECLOSURE RECONVEYANCE;

(3) (I) A PERSON DOING BUSINESS UNDER ANY LAW OF THIS STATE OR THE UNITED STATES REGULATING BANKS, TRUST COMPANIES, SAVINGS AND LOAN ASSOCIATIONS, CREDIT UNIONS, OR INSURANCE COMPANIES, WHILE THE PERSON PERFORMS SERVICES AS A PART OF THE PERSON’S NORMAL BUSINESS ACTIVITIES; AND

(II) ANY SUBSIDIARY, AFFILIATE, OR AGENT OF A PERSON DESCRIBED IN ITEM (I) OF THIS ITEM, WHILE THE SUBSIDIARY, AFFILIATE, OR AGENT PERFORMS SERVICES AS A PART OF THE SUBSIDIARY’S, AFFILIATE’S, OR AGENT’S NORMAL BUSINESS ACTIVITIES;

(4) A JUDGMENT CREDITOR OF THE HOMEOWNER, IF THE JUDGMENT

CREDITOR'S CLAIM ACCRUED BEFORE THE WRITTEN NOTICE OF FORECLOSURE SALE REQUIRED UNDER § 7-105(B) OF THIS TITLE IS SENT;

(5) A TITLE INSURER AUTHORIZED TO CONDUCT BUSINESS IN THE STATE, WHILE PERFORMING TITLE INSURANCE AND SETTLEMENT SERVICES;

(6) A TITLE INSURANCE PRODUCER LICENSED IN THE STATE, WHILE PERFORMING SERVICES IN ACCORDANCE WITH THE PERSON'S LICENSE;

(7) A PERSON LICENSED AS A MORTGAGE BROKER OR MORTGAGE LENDER UNDER TITLE 11, SUBTITLE 5 OF THE FINANCIAL INSTITUTIONS ARTICLE WHILE ACTING UNDER THE AUTHORITY OF THAT LICENSE;

(8) A PERSON LICENSED AS A REAL ESTATE BROKER, ASSOCIATE REAL ESTATE BROKER, OR REAL ESTATE SALESPERSON UNDER TITLE 17 OF THE BUSINESS OCCUPATIONS AND PROFESSIONS ARTICLE, WHILE THE PERSON ENGAGES IN ANY ACTIVITY FOR WHICH THE PERSON IS LICENSED UNDER THOSE PROVISIONS SO LONG AS ANY CONVEYANCE OR TRANSFER OF DEED, TITLE, OR ESTABLISHMENT OF EQUITABLE INTEREST IS DONE THROUGH A SETTLEMENT AS DEFINED IN § 7-311 (A)(5) OF THIS SUBTITLE; OR”;

in line 34, strike “(2)” and substitute “(9)”; in line 36, after “ORGANIZATION” insert “IS NOT DIRECTLY OR INDIRECTLY RELATED TO AND”; and after line 37, insert:

“(B) THIS SUBTITLE DOES APPLY TO AN INDIVIDUAL WHO:

(1) IS FUNCTIONING IN A POSITION LISTED UNDER SUBSECTION (A) OF THIS SECTION; AND

(2) IS ENGAGING IN ACTIVITIES OR PROVIDING SERVICES DESIGNED OR INTENDED TO TRANSFER TITLE TO A RESIDENCE IN FORECLOSURE DIRECTLY OR INDIRECTLY TO THAT INDIVIDUAL, OR AN AGENT OR AFFILIATE OF THAT INDIVIDUAL.”.

(Over)

On page 15, strike in their entirety lines 27 through 31, inclusive, and substitute:

“(5) “SETTLEMENT” MEANS AN IN-PERSON, FACE-TO-FACE MEETING WITH THE HOMEOWNER TO COMPLETE FINAL DOCUMENTS INCIDENT TO THE SALE OR TRANSFER OF REAL PROPERTY, OR THE CREATION OF A MORTGAGE OR EQUITABLE INTEREST IN REAL PROPERTY, CONDUCTED BY A SETTLEMENT AGENT WHO IS NOT EMPLOYED BY OR AN AFFILIATE OF THE FORECLOSURE PURCHASER, DURING WHICH THE HOMEOWNER MUST BE PRESENTED WITH A COMPLETED COPY OF THE HUD-1 SETTLEMENT FORM.”.

AMENDMENT NO. 6

On page 8, in line 10, strike “10TH” and substitute “3RD”.

On page 9 in line 33, on page 13 in line 20, on page 14 in line 2, and on page 15 in line 10, in each instance, strike “10” and substitute “3”.

On page 15, in line 10, strike “(1)”; and strike in their entirety lines 13 through 15, inclusive.

AMENDMENT NO. 7

On page 8, strike beginning with “BE” in line 35 down through “HOMEOWNER” in line 36 and substitute “BE PROVIDED TO THE HOMEOWNER FOR REVIEW BEFORE SIGNING”.

On page 9, strike in their entirety lines 18 through 21, inclusive; and in line 31, strike “YOU, THE HOMEOWNER, MAY RESCIND THIS CONTRACT AT ANY TIME.”.

On page 11, in line 2, after “A” insert “SIGNED AND DATED”.

AMENDMENT NO. 8

On page 11, in line 21, strike “FEE,”; in line 22, strike the comma; strike beginning with the second “ANY” in line 22 down through the second “OF” in line 23; and in line 24, after “HOMEOWNER” insert “THAT EXCEEDS 8% A YEAR”.

AMENDMENT NO. 9

On page 17, after line 36, insert:

“(E) A BONA FIDE PURCHASER FOR VALUE OR BONA FIDE LENDER FOR VALUE WHO ENTERS INTO A TRANSACTION WITH A HOMEOWNER OR A FORECLOSURE PURCHASER WHEN A FORECLOSURE CONSULTING CONTRACT IS IN EFFECT OR DURING THE PERIOD WHEN A FORECLOSURE RECONVEYANCE MAY BE RESCINDED, WITHOUT NOTICE OF THOSE FACTS, RECEIVES GOOD TITLE TO THE PROPERTY, FREE AND CLEAR OF THE RIGHT OF THE PARTIES TO THE FORECLOSURE CONSULTING CONTRACT OR THE RIGHT OF THE HOMEOWNER TO RESCIND THE FORECLOSURE RECONVEYANCE.

“(F) THIS SUBTITLE MAY NOT BE CONSTRUED TO IMPOSE ANY DUTY ON A PURCHASER, TITLE INSURER, OR TITLE INSURANCE PRODUCER WITH RESPECT TO THE APPLICATION OF THE PROCEEDS OF A SALE OF PROPERTY BY A FORECLOSURE PURCHASER.”.

AMENDMENT NO. 10

On page 19, strike in their entirety lines 2 through 4, inclusive; strike in their entirety lines 15 and 16; and strike beginning with “THIS” in line 25 down through “SIGNING.” in line 26.

AMENDMENT NO. 11

On page 22, after line 20, insert:

“Article - Commercial Law

13-204.

In addition to any other of its powers and duties, the Division has the powers and duties to:

(12) In accordance with § 13-205 of this subtitle, adopt rules, regulations, and standards which:

(i) Are necessary to assure the orderly operation of the Division; and

(Over)

(ii) Further define unfair or deceptive trade practices for purposes of this title; [and]

(13) Enter into reciprocal agreements with consumer protection agencies of other states, in which each state mutually agrees to receive and investigate complaints from the foreign state's consumer protection agency on behalf of their consumers against businesses in the receiving and investigating state; AND

(14) (I) MAINTAIN A LIST OF NONPROFIT ORGANIZATIONS THAT:

1. SOLELY OFFER COUNSELING OR ADVICE TO HOMEOWNERS IN FORECLOSURE OR LOAN DEFAULT; AND

2. ARE NOT DIRECTLY OR INDIRECTLY RELATED TO AND DO NOT CONTRACT FOR SERVICES WITH FOR PROFIT LENDERS OR FORECLOSURE PURCHASERS, AS DEFINED IN § 7-301 OF THE REAL PROPERTY ARTICLE; AND

(II) PROVIDE THE NAME AND TELEPHONE NUMBER OF AN ORGANIZATION ON THE LIST TO A HOMEOWNER WHO CONTACTS THE DIVISION AFTER RECEIVING A NOTICE UNDER § 7-105(A-1) OF THE REAL PROPERTY ARTICLE.”.

AMENDMENT NO. 12

On page 3, strike beginning with “DOES” in line 22 down through “REMEDY” in line 24 and substitute “RESTORES ANY RIGHT OR REMEDY TO THE FORMER RECORD OWNER”.

AMENDMENT NO. 13

On page 1, at the top of the page, insert “EMERGENCY BILL”; and in line 17, after “terms;” insert “making this Act an emergency measure;”.

On page 22, strike in their entirety lines 21 and 22, and substitute:

“SECTION 2. AND BE IT FURTHER ENACTED, That this Act is an emergency measure, is necessary for the immediate preservation of the public health or safety, has been passed by a yea



and nay vote supported by three-fifths of all the members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted.”.