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By: **Delegate Goodwin**

Introduced and read first time: February 16, 2006

Assigned to: Rules and Executive Nominations

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A BILL ENTITLED

1 AN ACT concerning

2 **Property - Foreclosure on Decedent's Property - Notification Required**

3 FOR the purpose of requiring a mortgagee who wants to foreclose on a decedent's  
4 property to provide certain notification, under certain circumstances;  
5 authorizing a personal representative of the decedent's estate to request a  
6 hearing under certain circumstances; establishing the requirements for the  
7 complaint that is filed; and generally relating to notification requirements for  
8 foreclosure proceedings.

9 BY repealing and reenacting, without amendments,  
10 Article - Real Property  
11 Section 7-105(a-1) and 14-126  
12 Annotated Code of Maryland  
13 (2003 Replacement Volume and 2005 Supplement)

14 BY adding to  
15 Article - Real Property  
16 Section 7-105(a-2) and 14-126.1  
17 Annotated Code of Maryland  
18 (2003 Replacement Volume and 2005 Supplement)

19 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
20 MARYLAND, That the Laws of Maryland read as follows:

21 **Article - Real Property**

22 7-105.

23 (a-1) (1) In this subsection, "record owner" means the person holding record  
24 title to residential real property as of the date on which an action to foreclose the  
25 mortgage or deed of trust is filed.

26 (2) In addition to any notice required to be given by provisions of the  
27 Annotated Code of Maryland or the Maryland Rules, the person authorized to make a

1 sale in an action to foreclose a mortgage or deed of trust shall give written notice of  
2 the action to the record owner of the property to be sold.

3 (3) (i) The written notice shall be sent no later than 2 days after the  
4 action to foreclose is docketed:

5 1. By certified mail, postage prepaid, return receipt  
6 requested, bearing a postmark from the United States Postal Service, to the record  
7 owner; and

8 2. By first-class mail.

9 (ii) The notice shall state that an action to foreclose the mortgage or  
10 deed of trust may be or has been docketed and that a foreclosure sale of the property  
11 will be held.

12 (iii) The notice shall contain the following statement printed in at  
13 least 14 point boldface type:

14 "NOTICE REQUIRED BY MARYLAND LAW

15 Mortgage foreclosure is a complex process. Some people may approach you about  
16 "saving" your home. You should be careful about any such promises.

17 The State encourages you to become informed about your options in foreclosure  
18 before entering into any agreements with anyone in connection with the foreclosure of  
19 your home. There are government agencies and nonprofit organizations that you may  
20 contact for helpful information about the foreclosure process. For the name and  
21 telephone number of an organization near you, please call the Consumer Protection  
22 Division of the Office of the Attorney General of Maryland at 1-888-743-0023. The  
23 State does not guarantee the advice of these organizations.

24 Do not delay dealing with the foreclosure because your options may become  
25 more limited as time passes."

26 (A-2) (1) THIS SUBSECTION APPLIES WHEN A MORTGAGEE INTENDS TO  
27 FORECLOSE ON A DECEDENT'S PROPERTY AND THE PERSONAL REPRESENTATIVE, AS  
28 DEFINED IN TITLE 7 OF THE ESTATES AND TRUSTS ARTICLE, HAS NOT BEEN  
29 APPOINTED.

30 (2) IN ADDITION TO ANY NOTICE REQUIRED BY LAW, INCLUDING THE  
31 MARYLAND RULES, THE PERSON AUTHORIZED TO MAKE A SALE IN AN ACTION TO  
32 FORECLOSE A MORTGAGE OR DEED OF TRUST SHALL GIVE WRITTEN NOTICE OF THE  
33 ACTION TO AN ORPHANS' COURT OR REGISTER OF WILLS.

34 (3) IF A PERSONAL REPRESENTATIVE IS APPOINTED AFTER THE  
35 FORECLOSURE PROCESS BEGINS, THE PERSONAL REPRESENTATIVE HAS THE RIGHT  
36 TO A HEARING IN ACCORDANCE WITH PARAGRAPH (4) OF THIS SUBSECTION.

1 (4) (I) A PERSONAL REPRESENTATIVE WHO IS APPOINTED AFTER A  
2 MORTGAGEE BEGINS FORECLOSURE PROCEDURES MAY, WITHIN 30 DAYS AFTER THE  
3 NOTICE IS SERVED AT AN ORPHANS' COURT OR REGISTER OF WILLS, FILE A  
4 COMPLAINT IN THE ORPHANS' COURT FOR THE COUNTY WHERE ANY PART OF THE  
5 PROPERTY IS LOCATED TO DETERMINE WHETHER THE FORECLOSURE PROCEDURE  
6 WAS BROUGHT PREMATURELY.

7 (II) A COMPLAINT FILED UNDER THIS SUBSECTION SHALL  
8 INCLUDE:

9 1. THE NAME OF THE COMPLAINANT AND THE NAME OF THE  
10 PARTY SEEKING TO ESTABLISH RIGHTS OVER THE PROPERTY, AS THE PERSONAL  
11 REPRESENTATIVE OF THE DECEDENT;

12 2. A COPY OF THE NOTICE SERVED UNDER PARAGRAPH (2)  
13 OF THIS SUBSECTION; AND

14 3. AN AFFIDAVIT CONTAINING A STATEMENT OF FACTS  
15 THAT WOULD PRECLUDE FORECLOSURE OF THE DECEDENT'S PROPERTY.

16 14-126.

17 (a) In addition to any other foreclosure requirements under the law, after the  
18 commencement of an action to foreclose a lien on real property and before making a  
19 sale of the property subject to the lien, the person authorized to make the sale shall  
20 notify the county or municipal corporation where the property subject to the lien is  
21 located, not less than 15 days prior to sale, of:

22 (1) The name, address, and telephone number of the person authorized  
23 to make the sale; and

24 (2) The time, place, and terms of sale.

25 (b) A county or municipal corporation that receives the notice described under  
26 subsection (a) of this section shall notify the person authorized to make the sale of any  
27 outstanding liens, charges, taxes, or assessments that the county or municipal  
28 corporation has against the property not more than 10 days after receiving the notice  
29 of sale.

30 14-126.1.

31 (A) IN ADDITION TO ANY OTHER FORECLOSURE REQUIREMENTS UNDER THE  
32 LAW, AFTER THE COMMENCEMENT OF AN ACTION TO FORECLOSE A LIEN ON REAL  
33 PROPERTY OF A DECEDENT AND BEFORE MAKING A SALE OF THE PROPERTY  
34 SUBJECT TO THE LIEN, THE PERSON AUTHORIZED TO MAKE THE SALE SHALL NOTIFY  
35 AN ORPHANS' COURT OR REGISTER OF WILLS IN ACCORDANCE WITH § 7-105 OF THIS  
36 ARTICLE.

1 (B) IF A PERSONAL REPRESENTATIVE IS APPOINTED AFTER THE  
2 FORECLOSURE PROCESS BEGINS, THE PERSONAL REPRESENTATIVE HAS THE RIGHT  
3 TO A HEARING IN ACCORDANCE WITH § 7-105 OF THIS ARTICLE.

4 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
5 October 1, 2006.