

HOUSE BILL 58

N1

8lr0786

(PRE-FILED)

By: **Delegate Barnes**

Requested: September 27, 2007

Introduced and read first time: January 9, 2008

Assigned to: Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Real Property – Foreclosures – Homeowner’s Right to Rescind Sales Contract**

3 FOR the purpose of providing that a homeowner of a residence in foreclosure has the
4 right to rescind a contract for the sale of the residence in foreclosure within a
5 certain number of days after the date the sales contract is executed; providing
6 for the form and transmittal of a certain notice of rescission; requiring a
7 homeowner to repay certain funds paid or advanced by the purchaser under
8 certain circumstances; providing that certain provisions in a sales contract are
9 void; prohibiting a deed to the homeowner’s residence from being recorded
10 under certain circumstances; defining certain terms; and generally relating to a
11 homeowner’s right to rescind a contract for the sale of a residence in foreclosure.

12 BY repealing and reenacting, without amendments,
13 Article – Real Property
14 Section 7–301(i) and (j)
15 Annotated Code of Maryland
16 (2003 Replacement Volume and 2007 Supplement)

17 BY adding to
18 Article – Real Property
19 Section 10–706
20 Annotated Code of Maryland
21 (2003 Replacement Volume and 2007 Supplement)

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

24 **Article – Real Property**

25 7–301.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (i) "Homeowner" means the record owner of a residence in foreclosure, or an
2 individual occupying the residence under a use and possession order issued under
3 Title 8, Subtitle 2 of the Family Law Article, at the time an order to docket or a
4 petition to foreclose is filed.

5 (j) "Residence in foreclosure" means residential real property consisting of
6 not more than four single family dwelling units, one of which is occupied by the owner,
7 or the owner's spouse or former spouse under a use and possession order issued under
8 Title 8, Subtitle 2 of the Family Law Article, as the individual's principal place of
9 residence, and against which an order to docket or a petition to foreclose has been
10 filed.

11 **10-706.**

12 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE
13 MEANINGS INDICATED.

14 (2) "HOMEOWNER" HAS THE MEANING STATED IN § 7-301(I) OF
15 THIS ARTICLE.

16 (3) "RESIDENCE IN FORECLOSURE" HAS THE MEANING STATED
17 IN § 7-301(J) OF THIS ARTICLE.

18 (B) IN ADDITION TO ANY OTHER RIGHT TO CANCEL OR RESCIND A
19 CONTRACT, THE HOMEOWNER OF A RESIDENCE IN FORECLOSURE HAS THE
20 RIGHT TO RESCIND A CONTRACT FOR THE SALE OF THE RESIDENCE IN
21 FORECLOSURE WITHIN 3 BUSINESS DAYS AFTER THE DATE THE SALES
22 CONTRACT IS EXECUTED.

23 (C) NOTICE OF RESCISSION NEED NOT BE IN THE FORM PROVIDED, IF
24 ANY, WITH THE SALES CONTRACT AND IS EFFECTIVE, HOWEVER EXPRESSED, IF
25 IT INDICATES THE INTENTION OF THE HOMEOWNER TO RESCIND THE SALES
26 CONTRACT.

27 (D) (1) RESCISSION OCCURS WHEN THE HOMEOWNER GIVES
28 WRITTEN NOTICE OF RESCISSION TO THE PURCHASER AT THE ADDRESS
29 SPECIFIED IN THE SALES CONTRACT OR THROUGH ANY FACSIMILE OR
30 ELECTRONIC MAIL ADDRESS IDENTIFIED IN THE SALES CONTRACT OR OTHER
31 MATERIALS PROVIDED TO THE HOMEOWNER BY THE PURCHASER.

32 (2) IF GIVEN BY MAIL, A NOTICE OF RESCISSION IS EFFECTIVE
33 WHEN DEPOSITED IN THE UNITED STATES MAIL, PROPERLY ADDRESSED, WITH
34 POSTAGE PREPAID.

1 **(E) AS PART OF THE RESCISSION OF A SALES CONTRACT, THE**
2 **HOMEOWNER SHALL REPAY, WITHIN 60 DAYS FROM THE DATE OF RESCISSION,**
3 **ANY FUNDS PAID OR ADVANCED BY THE PURCHASER, TOGETHER WITH**
4 **INTEREST CALCULATED AT THE RATE OF 8% A YEAR.**

5 **(F) THE RIGHT TO RESCIND MAY NOT BE CONDITIONED ON THE**
6 **REPAYMENT OF ANY FUNDS.**

7 **(G) ANY PROVISION IN A SALES CONTRACT THAT ATTEMPTS OR**
8 **PURPORTS TO WAIVE ANY OF THE RIGHTS SPECIFIED IN THIS SECTION,**
9 **CONSENT TO JURISDICTION FOR LITIGATION OR CHOICE OF LAW IN A STATE**
10 **OTHER THAN MARYLAND, CONSENT TO VENUE IN A COUNTY OTHER THAN THE**
11 **COUNTY IN WHICH THE PROPERTY IS LOCATED, OR IMPOSE ANY COSTS OR**
12 **FILING FEES GREATER THAN THE FEES REQUIRED TO FILE AN ACTION IN A**
13 **CIRCUIT COURT, IS VOID.**

14 **(H) DURING THE 3-DAY RESCISSION PERIOD, A DEED OR OTHER**
15 **DOCUMENT AFFECTING TITLE TO THE HOMEOWNER'S RESIDENCE IN**
16 **FORECLOSURE MAY NOT BE RECORDED.**

17 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
18 October 1, 2008.