

HOUSE BILL 365

N1

EMERGENCY BILL
ENROLLED BILL

(81r0975)

—*Environmental Matters / Judicial Proceedings*—

Introduced by **The Speaker (By Request - Administration) and Delegates Niemann, Barkley, Barnes, Barve, Benson, Bobo, Braveboy, Bronrott, Burns, G. Clagett, V. Clagett, Conway, Doory, Eckardt, Frick, Gaines, Griffith, Gutierrez, Guzzone, Haddaway, Healey, Hecht, Heller, Holmes, Howard, Hucker, Ivey, James, Jones, Krysiak, Lafferty, Lee, Levi, Levy, Love, Manno, Mathias, McIntosh, Montgomery, Morhaim, Nathan-Pulliam, Pena-Melnyk, Ramirez, Riley, Ross, Rudolph, Shewell, Sophocleus, Stein, Stukes, Tarrant, F. Turner, V. Turner, Vaughn, Waldstreicher, and Walker**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this _____ day of _____ at _____ o'clock, _____ M.

Speaker.

CHAPTER _____

1 AN ACT concerning

2 **Real Property - Recordation of Instruments Securing Mortgage Loans and**
3 **Foreclosure of Mortgages and Deeds of Trust on Residential Property**

4 FOR the purpose of ~~prohibiting~~ requiring a mortgage, deed of trust, or other
5 instrument securing a mortgage loan ~~from being recorded unless it contains on~~
6 certain residential property to contain certain information relating to the
7 mortgage loan originator and the mortgage lender when recorded in the land

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.

Italics indicate opposite chamber / conference committee amendments.



1 records; requiring the Commissioner of Financial Regulation to adopt certain
 2 regulations to ~~enforce~~ implement certain provisions of this Act; prohibiting an
 3 action to foreclose a mortgage or deed of trust on certain residential property
 4 from being filed until after certain periods of time; authorizing a secured party
 5 to petition a circuit court for leave to immediately commence a foreclosure
 6 action under certain circumstances; requiring a certain notice of intent to
 7 foreclose to be sent to ~~a certain person~~ certain persons in a certain manner a
 8 certain period of time before the filing of an action to foreclose a mortgage or
 9 deed of trust on certain residential property; requiring the notice to be in a
 10 certain form and contain certain information; establishing certain requirements
 11 for an order to docket or a complaint to foreclose a mortgage or deed of trust on
 12 certain residential property; providing for service of an order to docket or a
 13 complaint to foreclose a mortgage or deed of trust on certain residential
 14 property; prohibiting a foreclosure sale of certain residential property from
 15 occurring until after a certain period of time; providing for publication of notice
 16 of a foreclosure sale; establishing that a mortgagor or grantor has the right to
 17 cure a default and reinstate the loan until a certain time; requiring the secured
 18 party or an authorized agent for the secured party to provide certain
 19 information to the mortgagor or grantor or the mortgagor's or grantor's attorney
 20 within a certain time; requiring that a certain action be brought within a
 21 certain period of time; making certain technical and stylistic changes; defining a
 22 certain term; providing for the application of certain provisions of this Act;
 23 *providing that the failure to include certain information when recording a*
 24 *mortgage, deed of trust, or any other instrument securing a mortgage loan may*
 25 *not be the basis for a clerk of the court to fail to record the instrument under*
 26 *certain circumstances; providing that a notice of intent to foreclose shall be*
 27 *construed to be sufficient under certain circumstances; making this Act an*
 28 *emergency measure;* and generally relating to foreclosure actions and
 29 ~~prerequisites to~~ recording instruments in the land records.

30 BY adding to
 31 Article – Real Property
 32 Section ~~3-104(h)~~ 3-104.1 and 7-105.1
 33 Annotated Code of Maryland
 34 (2003 Replacement Volume and 2007 Supplement)

35 BY repealing and reenacting, with amendments,
 36 Article – Real Property
 37 Section 7-105
 38 Annotated Code of Maryland
 39 (2003 Replacement Volume and 2007 Supplement)

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

42 **Article – Real Property**

1 ~~3-104.~~ 3-104.1.

2 (A) IN THIS SECTION, "RESIDENTIAL PROPERTY" MEANS REAL
3 PROPERTY IMPROVED BY FOUR OR FEWER SINGLE FAMILY DWELLING UNITS.

4 ~~(H) (B) A~~ WHEN RECORDED, A MORTGAGE, DEED OF TRUST, OR ANY
5 OTHER INSTRUMENT SECURING A MORTGAGE LOAN MAY NOT BE RECORDED
6 UNLESS IT CONTAINS ON RESIDENTIAL PROPERTY SHALL CONTAIN:

7 (1) (I) THE NAME AND MARYLAND MORTGAGE ORIGINATOR
8 LICENSE NUMBER OF THE MORTGAGE ORIGINATOR THAT ORIGINATED THE
9 LOAN SECURED BY THE INSTRUMENT; OR

10 (II) AN AFFIDAVIT BY THE ~~INDIVIDUAL~~ PERSON THAT
11 ORIGINATED THE MORTGAGE LOAN SECURED BY THE INSTRUMENT THAT THE
12 INDIVIDUAL *WHO ORIGINATED THE LOAN* IS EXEMPT FROM THE LICENSING
13 REQUIREMENT UNDER TITLE 11, SUBTITLE 6 OF THE FINANCIAL INSTITUTIONS
14 ARTICLE; AND

15 (2) (I) THE NAME AND MARYLAND MORTGAGE LENDER
16 LICENSE NUMBER OF THE MORTGAGE LENDER THAT MADE THE LOAN SECURED
17 BY THE INSTRUMENT; OR

18 (II) AN AFFIDAVIT BY THE LENDER THAT MADE THE
19 MORTGAGE LOAN SECURED BY THE INSTRUMENT THAT THE LENDER IS EXEMPT
20 FROM THE LICENSING REQUIREMENT UNDER TITLE 11, SUBTITLE 5 OF THE
21 FINANCIAL INSTITUTIONS ARTICLE.

22 (C) THE COMMISSIONER OF FINANCIAL REGULATION SHALL ADOPT
23 REGULATIONS TO ~~ENFORCE~~ IMPLEMENT THE PROVISIONS OF THIS SECTION,
24 INCLUDING:

25 (1) MINIMUM REQUIREMENTS FOR THE INCLUSION OF LICENSING
26 INFORMATION WHEN A MORTGAGE, DEED OF TRUST, OR OTHER INSTRUMENT
27 SECURING A MORTGAGE LOAN ON RESIDENTIAL PROPERTY IS RECORDED; AND

28 (2) PENALTIES CONSEQUENCES, INCLUDING PENALTIES, FOR
29 THE FAILURE TO INCLUDE LICENSING INFORMATION WHEN A MORTGAGE, DEED
30 OF TRUST, OR OTHER INSTRUMENT SECURING A MORTGAGE LOAN ON
31 RESIDENTIAL PROPERTY IS RECORDED.

32 7-105.

1 (a) A provision may be inserted in a mortgage or deed of trust authorizing
2 any natural person named in the instrument, including the secured party, to sell the
3 property or declaring the borrower's assent to the passing of a decree for the sale of the
4 property, on default in a condition on which the mortgage or deed of trust provides
5 that a sale may be made.

6 (B) A sale made pursuant to this section, §§ 7-105.1 THROUGH 7-105.8 OF
7 THIS SUBTITLE, or [to] the Maryland Rules, after final ratification by the court and
8 grant of the property to the purchaser on payment of the purchase money, has the
9 same effect as if the sale and grant were made under decree between the proper
10 parties in relation to the mortgage or deed of trust and in the usual course of the court,
11 and operates to pass all the title which the borrower had in the property at the time of
12 the recording of the mortgage or deed of trust.

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

16 (2) In addition to any notice required to be given by provisions of the
17 Annotated Code of Maryland or the Maryland Rules, the person authorized to make a
18 sale in an action to foreclose a mortgage or deed of trust shall give written notice of the
19 action to the record owner of the property to be sold.

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

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

25 2. By first-class mail.

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

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

31 "NOTICE REQUIRED BY MARYLAND LAW

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

34 The State encourages you to become informed about your options in foreclosure
35 before entering into any agreements with anyone in connection with the foreclosure of
36 your home. There are government agencies and nonprofit organizations that you may

1 contact for helpful information about the foreclosure process. For the name and
2 telephone number of an organization near you, please call the Consumer Protection
3 Division of the Office of the Attorney General of Maryland at 1-888-743-0023. The
4 State does not guarantee the advice of these organizations.

5 Do not delay dealing with the foreclosure because your options may become
6 more limited as time passes.”.]

7 **7-105.1.**

8 (A) IN THIS SECTION, “RESIDENTIAL PROPERTY” MEANS REAL
9 PROPERTY IMPROVED BY FOUR OR FEWER SINGLE FAMILY DWELLING UNITS.

10 (B) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS
11 SUBSECTION, AN ACTION TO FORECLOSE A MORTGAGE OR DEED OF TRUST ON
12 RESIDENTIAL PROPERTY MAY NOT BE FILED UNTIL ~~AT LEAST~~ THE LATER OF:

13 (I) 90 DAYS AFTER A DEFAULT IN A CONDITION ON WHICH
14 THE MORTGAGE OR DEED OF TRUST PROVIDES THAT A SALE MAY BE MADE; ~~AND~~
15 OR

16 (II) 45 DAYS AFTER THE NOTICE OF INTENT TO FORECLOSE
17 REQUIRED UNDER SUBSECTION (C) OF THIS SECTION IS SENT.

18 (2) (I) THE SECURED PARTY MAY PETITION THE CIRCUIT
19 COURT FOR LEAVE TO IMMEDIATELY COMMENCE AN ACTION TO FORECLOSE
20 THE MORTGAGE OR DEED OF TRUST IF:

21 1. THE LOAN SECURED BY THE MORTGAGE OR DEED
22 OF TRUST WAS OBTAINED BY FRAUD OR DECEPTION;

23 2. NO PAYMENTS HAVE EVER BEEN MADE ON THE
24 LOAN SECURED BY THE MORTGAGE OR DEED OF TRUST;

25 3. THE PROPERTY SUBJECT TO THE MORTGAGE OR
26 DEED OF TRUST HAS BEEN DESTROYED; OR

27 4. THE DEFAULT OCCURRED AFTER THE STAY HAS
28 BEEN LIFTED IN A BANKRUPTCY PROCEEDING.

29 (II) THE COURT MAY RULE ON THE PETITION WITH OR
30 WITHOUT A HEARING.

31 (III) IF THE PETITION IS GRANTED, THE ACTION MAY BE
32 FILED AT ANY TIME AFTER A DEFAULT IN A CONDITION ON WHICH THE

1 MORTGAGE OR DEED OF TRUST PROVIDES THAT A SALE MAY BE MADE AND THE
 2 SECURED PARTY NEED NOT SEND THE WRITTEN NOTICE OF INTENT TO
 3 FORECLOSE REQUIRED UNDER SUBSECTION (C) OF THIS SECTION.

4 (C) (1) EXCEPT AS PROVIDED IN SUBSECTION (B)(2)(III) OF THIS
 5 SECTION, AT LEAST 45 DAYS BEFORE THE FILING OF AN ACTION TO FORECLOSE
 6 A MORTGAGE OR DEED OF TRUST ON RESIDENTIAL PROPERTY, THE SECURED
 7 PARTY SHALL SEND A WRITTEN NOTICE OF INTENT TO FORECLOSE TO THE
 8 MORTGAGOR OR GRANTOR AND THE RECORD OWNER.

9 (2) THE NOTICE OF INTENT TO FORECLOSE SHALL BE SENT:

10 (I) BY CERTIFIED MAIL, POSTAGE PREPAID, RETURN
 11 RECEIPT REQUESTED, BEARING A POSTMARK FROM THE UNITED STATES
 12 POSTAL SERVICE; AND

13 (II) BY FIRST-CLASS MAIL.

14 (3) A COPY OF THE NOTICE OF INTENT TO FORECLOSE SHALL BE
 15 SENT TO THE COMMISSIONER OF FINANCIAL REGULATION.

16 (4) THE NOTICE OF INTENT TO FORECLOSE SHALL:

17 (I) BE IN THE FORM THAT THE COMMISSIONER OF
 18 FINANCIAL REGULATION PRESCRIBES BY REGULATION; AND

19 (II) CONTAIN:

20 1. THE NAME AND TELEPHONE NUMBER OF:

21 A. THE SECURED PARTY;

22 B. THE MORTGAGE SERVICER, IF APPLICABLE; AND

23 C. ~~THE MORTGAGE BROKER OR ORIGINATOR, IF~~
 24 ~~APPLICABLE; AND~~

25 ~~D.~~ AN AGENT OF THE SECURED PARTY WHO IS
 26 AUTHORIZED TO MODIFY THE TERMS OF THE MORTGAGE LOAN;

27 2. ~~THE MARYLAND~~ NAME AND LICENSE NUMBER OF
 28 THE MARYLAND MORTGAGE LENDER AND MORTGAGE ORIGINATOR, IF
 29 APPLICABLE;

1 **3. THE AMOUNT REQUIRED TO CURE THE DEFAULT**
2 **AND REINSTATE THE LOAN, INCLUDING ALL PAST DUE PAYMENTS, PENALTIES,**
3 **AND FEES; AND**

4 **4. ANY OTHER INFORMATION THAT THE**
5 **COMMISSIONER OF FINANCIAL REGULATION REQUIRES BY REGULATION.**

6 **(D) AN ORDER TO DOCKET OR A COMPLAINT TO FORECLOSE A**
7 **MORTGAGE OR DEED OF TRUST ON RESIDENTIAL PROPERTY SHALL:**

8 **(1) INCLUDE:**

9 **(I) ~~THE~~ IF APPLICABLE, THE LICENSE NUMBER OF:**

10 **1. ~~IF APPLICABLE, THE~~ THE MORTGAGE**
11 **ORIGINATOR; AND**

12 **2. THE MORTGAGE LENDER; AND**

13 **(II) AN AFFIDAVIT STATING:**

14 **1. THE DATE ON WHICH THE DEFAULT OCCURRED**
15 **AND THE NATURE OF THE DEFAULT; AND**

16 **2. IF APPLICABLE, THAT A NOTICE OF INTENT TO**
17 **FORECLOSE WAS SENT TO THE MORTGAGOR OR GRANTOR IN ACCORDANCE**
18 **WITH SUBSECTION (C) OF THIS SECTION AND THE DATE ON WHICH THE NOTICE**
19 **WAS SENT; AND**

20 **(2) BE ACCOMPANIED BY:**

21 **(I) THE ORIGINAL OR A CERTIFIED COPY OF THE**
22 **MORTGAGE OR DEED OF TRUST;**

23 **(II) A STATEMENT OF THE DEBT REMAINING DUE AND**
24 **PAYABLE SUPPORTED BY AN AFFIDAVIT OF THE PLAINTIFF OR THE SECURED**
25 **PARTY OR THE AGENT OR ATTORNEY OF THE PLAINTIFF OR SECURED PARTY;**

26 **(III) A COPY OF THE DEBT INSTRUMENT ACCOMPANIED BY**
27 **AN AFFIDAVIT CERTIFYING OWNERSHIP OF THE DEBT INSTRUMENT;**

28 **(IV) IF APPLICABLE, THE ORIGINAL OR A CERTIFIED COPY**
29 **OF THE ASSIGNMENT OF THE MORTGAGE FOR PURPOSES OF FORECLOSURE OR**
30 **THE DEED OF APPOINTMENT OF A SUBSTITUTE TRUSTEE;**

1 (V) IF ANY DEFENDANT IS AN INDIVIDUAL, AN AFFIDAVIT
2 THAT:

3 1. THE INDIVIDUAL IS NOT A SERVICEMEMBER, AS
4 DEFINED IN THE SERVICEMEMBERS CIVIL RELIEF ACT, 50 U.S.C. APPENDIX §
5 511; OR

6 2. THE ACTION IS AUTHORIZED BY THE ACT;

7 (VI) IF APPLICABLE, A COPY OF THE NOTICE OF INTENT TO
8 FORECLOSE; AND

9 (VII) A NOTICE TO THE MORTGAGOR IN SUBSTANTIALLY THE
10 FOLLOWING FORM, AS PRESCRIBED BY REGULATION BY THE COMMISSIONER OF
11 FINANCIAL REGULATION:

12 "NOTICE

13 AN ACTION TO FORECLOSE THE MORTGAGE/DEED OF TRUST ON THE
14 PROPERTY LOCATED AT (INSERT ADDRESS) HAS BEEN FILED IN THE CIRCUIT
15 COURT FOR (COUNTY).

16 A FORECLOSURE SALE OF THE PROPERTY MAY OCCUR AT ANY TIME
17 AFTER 45 DAYS FROM THE DATE THAT THIS NOTICE IS SERVED ON YOU.

18 YOU MAY STOP THE SALE AND REINSTATE YOUR MORTGAGE LOAN BY
19 PAYING ALL AMOUNTS DUE ON YOUR LOAN, PLUS FEES AND COSTS OF THE
20 FORECLOSURE ACTION, AT ANY TIME UP TO ONE BUSINESS DAY BEFORE THE
21 SALE. PLEASE CONTACT (INSERT NAME OF AUTHORIZED AGENT OF SECURED
22 PARTY) AT (INSERT TELEPHONE NUMBER) TO OBTAIN THE AMOUNT DUE TO
23 CURE THE DEFAULT ON YOUR MORTGAGE LOAN AND INSTRUCTIONS FOR
24 DELIVERING THE PAYMENT.

25 YOU ARE URGED TO OBTAIN LEGAL ADVICE TO DISCUSS OTHER OPTIONS
26 TO STOP THE FORECLOSURE SALE, WHICH MAY INCLUDE FILING A MOTION FOR
27 INJUNCTION WITH THE CIRCUIT COURT OR A PETITION FOR BANKRUPTCY IN
28 FEDERAL BANKRUPTCY COURT. A MOTION FOR INJUNCTION OR A BANKRUPTCY
29 PETITION MUST BE FILED BEFORE THE FORECLOSURE SALE OCCURS.

30 IF YOU ARE INTERESTED IN SELLING YOUR HOME TO AVOID A
31 FORECLOSURE SALE, YOU MAY WISH TO CONTACT A LICENSED REAL ESTATE
32 BROKER OR SALESPERSON AS SOON AS POSSIBLE.

1 HOUSING COUNSELING AND FINANCIAL ASSISTANCE PROGRAMS ARE
2 AVAILABLE THROUGH THE MARYLAND DEPARTMENT OF HOUSING AND
3 COMMUNITY DEVELOPMENT. PLEASE CALL ~~1-877-462-7555~~ (INSERT
4 TELEPHONE NUMBER) FOR INFORMATION ON AVAILABLE RESOURCES.

5 SOME PEOPLE MAY APPROACH YOU ABOUT “SAVING” YOUR HOME. YOU
6 SHOULD BE CAREFUL ABOUT ANY SUCH PROMISES.

7 THE STATE ENCOURAGES YOU TO BECOME INFORMED ABOUT YOUR
8 OPTIONS IN FORECLOSURE BEFORE ENTERING INTO ANY AGREEMENTS WITH
9 ANYONE IN CONNECTION WITH THE FORECLOSURE OF YOUR HOME. THERE ARE
10 GOVERNMENT AGENCIES AND NONPROFIT ORGANIZATIONS THAT YOU MAY
11 CONTACT FOR HELPFUL INFORMATION ABOUT THE FORECLOSURE PROCESS.
12 FOR THE NAME AND TELEPHONE NUMBER OF AN ORGANIZATION NEAR YOU,
13 PLEASE CALL THE CONSUMER PROTECTION DIVISION OF THE OFFICE OF THE
14 ATTORNEY GENERAL OF MARYLAND AT ~~1-888-743-0023~~ (INSERT TELEPHONE
15 NUMBER). THE STATE DOES NOT GUARANTEE THE ADVICE OF THESE
16 ORGANIZATIONS.

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

19 (E) (1) A COPY OF THE ORDER TO DOCKET OR COMPLAINT TO
20 FORECLOSE ON RESIDENTIAL PROPERTY AND ALL OTHER PAPERS FILED WITH
21 IT SHALL BE SERVED BY:

22 (I) PERSONAL DELIVERY OF THE PAPERS TO THE
23 MORTGAGOR OR GRANTOR; OR

24 (II) LEAVING THE PAPERS WITH A RESIDENT OF SUITABLE
25 AGE AND DISCRETION AT THE MORTGAGOR’S OR GRANTOR’S DWELLING HOUSE
26 OR USUAL PLACE OF ABODE.

27 (2) IF AT LEAST TWO GOOD FAITH EFFORTS TO SERVE THE
28 MORTGAGOR OR GRANTOR UNDER SUBSECTION (E)(1) OF THIS SECTION ON
29 DIFFERENT DAYS HAVE NOT SUCCEEDED, THE PLAINTIFF MAY EFFECT SERVICE
30 BY:

31 (I) ~~FILE~~ FILING AN AFFIDAVIT WITH THE COURT
32 DESCRIBING THE GOOD FAITH EFFORTS TO SERVE THE MORTGAGOR OR
33 GRANTOR; AND

34 (II) 1. ~~MAIL~~ MAILING A COPY OF THE ORDER TO DOCKET
35 OR COMPLAINT TO FORECLOSE AND ALL OTHER PAPERS FILED WITH IT BY

1 CERTIFIED MAIL, RETURN RECEIPT REQUESTED, AND FIRST-CLASS MAIL TO
2 THE MORTGAGOR'S OR GRANTOR'S LAST KNOWN ADDRESS AND, IF DIFFERENT,
3 TO THE ADDRESS OF THE RESIDENTIAL PROPERTY SUBJECT TO THE MORTGAGE
4 OR DEED OF TRUST; AND

5 2. ~~Post~~ POSTING A COPY OF THE ORDER TO
6 DOCKET OR COMPLAINT TO FORECLOSE AND ALL OTHER PAPERS FILED WITH IT
7 IN A CONSPICUOUS PLACE ON THE RESIDENTIAL PROPERTY SUBJECT TO THE
8 MORTGAGE OR DEED OF TRUST.

9 (3) THE INDIVIDUAL MAKING SERVICE OF PROCESS UNDER THIS
10 SUBSECTION SHALL FILE PROOF OF SERVICE WITH THE COURT IN ACCORDANCE
11 WITH THE MARYLAND RULES.

12 (F) A FORECLOSURE SALE OF RESIDENTIAL PROPERTY MAY NOT OCCUR
13 UNTIL AT LEAST 45 DAYS AFTER SERVICE OF PROCESS IS MADE UNDER
14 SUBSECTION (E) OF THIS SECTION.

15 (G) NOTICE OF THE TIME, PLACE, AND TERMS OF A FORECLOSURE SALE
16 SHALL BE PUBLISHED IN A NEWSPAPER OF GENERAL CIRCULATION IN THE
17 COUNTY WHERE THE ACTION IS PENDING AT LEAST ONCE, ~~NOT LESS THAN 10~~
18 ~~DAYS BEFORE THE SALE~~ A WEEK FOR 3 SUCCESSIVE WEEKS, THE FIRST
19 PUBLICATION TO BE NOT LESS THAN 15 DAYS BEFORE THE SALE AND THE LAST
20 PUBLICATION TO BE NOT MORE THAN 1 WEEK BEFORE THE SALE.

21 (H) (1) THE MORTGAGOR OR GRANTOR HAS THE RIGHT TO CURE THE
22 DEFAULT BY PAYING ALL PAST DUE PAYMENTS, PENALTIES, AND FEES AND
23 REINSTATE THE LOAN AT ANY TIME UP TO 1 BUSINESS DAY BEFORE THE
24 FORECLOSURE SALE OCCURS.

25 (2) THE SECURED PARTY OR AN AUTHORIZED AGENT OF THE
26 SECURED PARTY SHALL, ON REQUEST, PROVIDE TO THE MORTGAGOR OR
27 GRANTOR OR THE MORTGAGOR'S OR GRANTOR'S ATTORNEY WITHIN A
28 REASONABLE TIME THE AMOUNT NECESSARY TO CURE THE DEFAULT AND
29 REINSTATE THE LOAN AND INSTRUCTIONS FOR DELIVERING THE PAYMENT.

30 (I) AN ACTION FOR FAILURE TO COMPLY WITH THE PROVISIONS OF
31 THIS SECTION SHALL BE BROUGHT WITHIN 3 YEARS AFTER THE DATE OF THE
32 ORDER RATIFYING THE SALE.

33 **7-105.2.**

34 [(b) (1) (i)] (A) In this [subsection] SECTION, "record owner" means
35 the person holding record title to property as of the later of:

1 [1.] (1) 30 days before the day on which a foreclosure
2 sale of the property is actually held; and

3 [2.] (2) The date on which an action to foreclose the
4 mortgage or deed of trust is filed.

5 [(ii)] (B) In addition to any notice required to be given by
6 provisions of the Annotated Code of Maryland or the Maryland Rules, the person
7 authorized to make a sale in an action to foreclose a mortgage or deed of trust shall
8 give written notice of the proposed sale to the record owner of the property to be sold.

9 [(2) (i)] (C) (1) The written notice shall be sent:

10 [1.] (I) By certified mail, postage prepaid, return
11 receipt requested, bearing a postmark from the United States Postal Service, to the
12 record owner; and

13 [2.] (II) By first-class mail.

14 [(ii)] (2) The notice shall state the time, place, and terms of the
15 sale and shall be sent not earlier than 30 days and not later than 10 days before the
16 date of sale.

17 [(iii)] (3) The person giving the notice shall file in the
18 proceedings:

19 [1.] (I) A return receipt; or

20 [2.] (II) An affidavit that:

21 [A.] 1. The provisions of this [paragraph]
22 **SUBSECTION** have been complied with; or

23 [B.] 2. The address of the record owner is not
24 reasonably ascertainable.

25 [(iv)] (4) The person authorized to make a sale in an action to
26 foreclose a mortgage or deed of trust is not required to give notice to a record owner
27 whose address is not reasonably ascertainable.

28 [(3)] (D) In the event of postponement of sale, which may be done in
29 the discretion of the trustee, no new or additional notice need be given pursuant to
30 this section.

1 [(4) (E)] The right of a record owner to file an action for the failure of
2 the person authorized to make a sale in an action to foreclose a mortgage or deed of
3 trust to comply with the provisions of this [subsection] **SECTION** shall expire 3 years
4 after the date of the order ratifying the foreclosure sale.

5 **7-105.3.**

6 [(c) (1)] (A) In this [subsection] **SECTION**, “holder of a subordinate
7 interest” includes any condominium council of unit owners or homeowners association
8 that has filed a request for notice of sale under [paragraph (3) of this] subsection (C)
9 **OF THIS SECTION.**

10 [(2) (B)] The person authorized to make a sale in an action to
11 foreclose a mortgage or deed of trust shall give written notice of any proposed
12 foreclosure sale to the holder of any subordinate mortgage, deed of trust, or other
13 subordinate interest, including a judgment, in accordance with [subsection (b) of this
14 section] § **7-105.2 OF THIS SUBTITLE** and the requirements of Maryland Rule
15 14-206.

16 [(3) (i)] (C) (1) The land records office of each county shall maintain
17 a current listing of recorded requests for notice of sale by holders of subordinate
18 mortgages, deeds of trust, or other subordinate interests.

19 (2) The holder of a subordinate mortgage, deed of trust, or other
20 subordinate interest may file a request for notice under this [paragraph]
21 **SUBSECTION.**

22 [(ii)] (3) Each request for notice of sale shall:

23 [1.] (I) Be recorded in a separate docket or book which
24 shall be indexed under the name of the holder of the superior mortgage or deed of
25 trust and under the book and page numbers where the superior mortgage or deed of
26 trust is recorded;

27 [2.] (II) Identify the property in which the subordinate
28 interest is held;

29 [3.] (III) State the name and address of the holder of the
30 subordinate interest; and

31 [4.] (IV) Identify the superior mortgage or deed of trust
32 by stating:

33 [A.] 1. The names of the original parties to the
34 superior mortgage or deed of trust;

1 [B.] 2. The date the superior mortgage or deed of trust
2 was recorded; and

3 [C.] 3. The office, docket or book, and page where the
4 superior mortgage or deed of trust is recorded.

5 [(iii) 1.] (4) (I) Except as provided in [sub-subparagraph 2 of
6 this] subparagraph (II) OF THIS PARAGRAPH, failure of a holder of a subordinate
7 mortgage, deed of trust, or other subordinate interest to record a request for notice
8 under this [paragraph] SUBSECTION does not affect the duty of a holder of a superior
9 interest to provide notice as required under this [subsection] SECTION.

10 [2.] (II) A holder of a superior interest does not have a
11 duty to provide notice to a condominium council of unit owners or homeowners
12 association that has not filed a request for notice under this [paragraph]
13 SUBSECTION.

14 [(4)] (D) The person giving notice under this [subsection] SECTION
15 shall file in the action:

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

17 [(ii)] (2) An affidavit that:

18 [1.] (I) The notice provisions of this [subsection]
19 SECTION have been complied with; or

20 [2.] (II) The address of the holder of the subordinate
21 interest is not reasonably ascertainable.

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

25 [(i)] (1) The existence of the mortgage, deed of trust, or other
26 subordinate interest is not reasonably ascertainable;

27 [(ii)] (2) The identity or address of the holder of the mortgage,
28 deed of trust, or other subordinate interest is not reasonably ascertainable;

29 [(iii)] (3) With respect to a recorded or filed subordinate
30 mortgage, deed of trust, or other recorded or filed subordinate interest, the recordation
31 or filing occurred after the later of:

1 [1.] (I) 30 days before the day on which the foreclosure
2 sale was actually held; and

3 [2.] (II) The date the action to foreclose the mortgage or
4 deed of trust was filed;

5 [(iv)] (4) With respect to an unrecorded or unfiled subordinate
6 mortgage, deed of trust, or other unrecorded or unfiled subordinate interest, the
7 subordinate interest was created after the later of:

8 [1.] (I) 30 days before the day on which the foreclosure
9 sale was actually held; and

10 [2.] (II) The date the action to foreclose the mortgage or
11 deed of trust was filed; or

12 [(v)] (5) With respect to a condominium council of unit owners
13 or homeowners association, the condominium council of unit owners or homeowners
14 association has not filed a request for notice under [paragraph (3) of this] subsection
15 (C) OF THIS SECTION.

16 [(6)] (F) The right of a holder of a subordinate mortgage, deed of
17 trust, or other subordinate interest to file an action for the failure of the person
18 authorized to make a sale in an action to foreclose a mortgage or deed of trust to
19 comply with the provisions of this [subsection] SECTION shall expire 3 years after the
20 date of the order ratifying the foreclosure sale.

21 **7-105.4.**

22 [(d) (1)] (A) Absent a provision to the contrary in a mortgage or note
23 secured by a deed of trust, in the enumerated counties, the interest provided in a
24 mortgage or note secured by a deed of trust is payable for the time period provided in
25 [paragraph (2) of this] subsection (B) OF THIS SECTION or until the audit of the sale
26 is ratified, whichever occurs first.

27 [(2)] (B) Under [paragraph (1) of this] subsection (A) OF THIS
28 SECTION, the time period following sale is:

29 [(i)] (1) 60 days in Calvert, Cecil, Frederick, Kent, Queen
30 Anne's, Talbot, Caroline, Charles, and St. Mary's counties; and

31 [(ii)] (2) 180 days in Worcester County.

32 **7-105.5.**

1 [(e)] No title to property acquired at sale of property subject to a mortgage or
2 deed of trust is invalid by reason of the fact that the property was purchased by the
3 secured party, his assignee, or representative, or for his account.

4 **7-105.6.**

5 [(f) (1)] (A) Any purchaser at a foreclosure sale of a mortgage or deed of
6 trust has the same rights and remedies against the tenants of the mortgagor or
7 grantor as the mortgagor or grantor had, and the tenants have the same rights and
8 remedies against the purchaser as they would have had against the mortgagor or
9 grantor on the date the mortgage or deed of trust was recorded.

10 [(2)] (B) (1) If the required advertisement of sale so discloses, a
11 foreclosure sale shall be made subject to one or more of the tenancies entered into
12 subsequent to the recording of the mortgage or deed of trust or otherwise subordinated
13 thereto.

14 (2) Any lease so continuing is unaffected by the sale, except the
15 purchaser shall become the landlord, as of the date of the sale, on ratification of the
16 sale.

17 **7-105.7.**

18 [(g) (1)] (A) Except as provided in this [subsection] SECTION, unless the
19 mortgage or deed of trust provides otherwise, if any property is encumbered by a
20 mortgage or deed of trust, annual crops planted or cultivated by any debtor or those
21 claiming under him do not pass with the property at any sale under or by virtue of the
22 mortgage or deed of trust, but the crops remain the property of the debtor or those
23 claiming under him.

24 [(2)] (B) (1) Notwithstanding the provisions of [paragraph (1) of
25 this] subsection (A) OF THIS SECTION, after the sale, the debtor or those claiming
26 under him and the purchaser or those claiming under him may agree on a reasonable
27 rental of the part of the property occupied by the crops.

28 (2) This rental is a lien on the crops and continues until paid in favor
29 of the purchaser or those claiming under him, and neither the crops nor any part of
30 them may be removed until after payment.

31 (3) If the parties are unable to agree on the rental, any party in
32 interest may apply to the court having jurisdiction over the sale or the confirmation of
33 it for the appointment of disinterested appraisers to determine the rental, whose
34 award shall be final.

1 [(3)] (C) (1) In addition to any other remedy, the purchaser or
2 those claiming under him, on ascertainment of the rent, may distrain for the rent or
3 any part of it remaining due, as in the case of landlord and tenant.

4 (2) No provision of this section is intended to interfere with the right
5 of the purchaser or those claiming under him to have possession of the property,
6 except as to the part occupied by the crop, with necessary ingress or egress.

7 **7-105.8.**

8 [(h)] The entry of an order for resale on default by a purchaser at a sale under
9 [this section] §§ **7-105 THROUGH 7-105.7 OF THIS SUBTITLE** and Title 14 of the
10 Maryland Rules:

11 (1) Does not affect the prior ratification of the sale and does not
12 restore to the mortgagor or former record owner any right or remedy that was
13 extinguished by the prior sale and its ratification; and

14 (2) Extinguishes all interest of the defaulting purchaser in the real
15 property being foreclosed and in the proceeds of the resale.

16 SECTION 2. AND BE IT FURTHER ENACTED, That § 3-104.1 of the Real
17 Property Article, as enacted by Section 1 of this Act, shall be construed to apply only
18 prospectively and may not be applied or interpreted to have any effect on or
19 application to any mortgage, deed of trust, or other instrument recorded before the
20 effective date of this Act.

21 SECTION 3. AND BE IT FURTHER ENACTED, That § 7-105.1 of the Real
22 Property Article, as enacted by Section 1 of this Act, shall be construed to apply only
23 prospectively and may not be applied or interpreted to have any effect on or
24 application to any foreclosure action filed before the effective date of this Act.

25 ~~SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect~~
26 ~~June 1, 2008.~~

27 SECTION 4. AND BE IT FURTHER ENACTED, That, until the Commissioner
28 of Financial Regulation adopts regulations under § 3-104.1(c) of the Real Property
29 Article, as enacted by Section 1 of this Act, the failure to include the information
30 required in § 3-104.1(b) of the Real Property Article, as enacted by Section 1 of this Act,
31 when recording a mortgage, deed of trust, or any other instrument securing a mortgage
32 loan may not be the basis for a clerk of the court to fail to record the instrument.

33 SECTION 5. AND BE IT FURTHER ENACTED, That, until the Commissioner
34 of Financial Regulation adopts regulations under § 7-105.1(c)(4)(i) and (ii)4 of the Real
35 Property Article, as enacted by Section 1 of this Act, a notice of intent to foreclose shall
36 be construed to be sufficient if the notice contains the information required under §

1 7-105.1(c)(4)(ii)1 through 3 of the Real Property Article, as enacted by Section 1 of this
2 Act.

3 SECTION ~~4~~ 6. AND BE IT FURTHER ENACTED, That this Act is an
4 emergency measure, is necessary for the immediate preservation of the public health
5 or safety, has been passed by a yea and nay vote supported by three-fifths of all the
6 members elected to each of the two Houses of the General Assembly, and shall take
7 effect from the date it is enacted.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.