

HOUSE BILL 365

N1

8lr0975
CF SB 216

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**

Introduced and read first time: January 25, 2008

Assigned to: Environmental Matters

A BILL ENTITLED

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 a mortgage, deed of trust, or other instrument
5 securing a mortgage loan from being recorded unless it contains certain
6 information relating to the mortgage loan originator and the mortgage lender;
7 prohibiting an action to foreclose a mortgage or deed of trust on certain
8 residential property from being filed until after certain periods of time;
9 authorizing a secured party to petition a circuit court for leave to immediately
10 commence a foreclosure action under certain circumstances; requiring a certain
11 notice of intent to foreclose to be sent to a certain person in a certain manner a
12 certain period of time before the filing of an action to foreclose a mortgage or
13 deed of trust on certain residential property; requiring the notice to be in a
14 certain form and contain certain information; establishing certain requirements
15 for an order to docket or a complaint to foreclose a mortgage or deed of trust on
16 certain residential property; providing for service of an order to docket or a
17 complaint to foreclose a mortgage or deed of trust on certain residential
18 property; prohibiting a foreclosure sale of certain residential property from
19 occurring until after a certain period of time; providing for publication of notice
20 of a foreclosure sale; establishing that a mortgagor has the right to cure a
21 default and reinstate the loan until a certain time; requiring the secured party
22 or an authorized agent for the secured party to provide certain information to
23 the mortgagor or the mortgagor’s attorney within a certain time; requiring that

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 a certain action be brought within a certain period of time; making certain
2 technical and stylistic changes; defining a certain term; and generally relating
3 to foreclosure actions and prerequisites to recording instruments in the land
4 records.

5 BY adding to
6 Article – Real Property
7 Section 3–104(h) and 7–105.1
8 Annotated Code of Maryland
9 (2003 Replacement Volume and 2007 Supplement)

10 BY repealing and reenacting, with amendments,
11 Article – Real Property
12 Section 7–105
13 Annotated Code of Maryland
14 (2003 Replacement Volume and 2007 Supplement)

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

17 **Article – Real Property**

18 3–104.

19 **(H) A MORTGAGE, DEED OF TRUST, OR ANY OTHER INSTRUMENT**
20 **SECURING A MORTGAGE LOAN MAY NOT BE RECORDED UNLESS IT CONTAINS:**

21 **(1) (I) THE NAME AND MARYLAND MORTGAGE ORIGINATOR**
22 **LICENSE NUMBER OF THE MORTGAGE ORIGINATOR THAT ORIGINATED THE**
23 **LOAN SECURED BY THE INSTRUMENT; OR**

24 **(II) AN AFFIDAVIT BY THE INDIVIDUAL THAT ORIGINATED**
25 **THE MORTGAGE LOAN SECURED BY THE INSTRUMENT THAT THE INDIVIDUAL IS**
26 **EXEMPT FROM THE LICENSING REQUIREMENT UNDER TITLE 11, SUBTITLE 6 OF**
27 **THE FINANCIAL INSTITUTIONS ARTICLE; AND**

28 **(2) (I) THE NAME AND MARYLAND MORTGAGE LENDER**
29 **LICENSE NUMBER OF THE MORTGAGE LENDER THAT MADE THE LOAN SECURED**
30 **BY THE INSTRUMENT; OR**

31 **(II) AN AFFIDAVIT BY THE LENDER THAT MADE THE**
32 **MORTGAGE LOAN SECURED BY THE INSTRUMENT THAT THE LENDER IS EXEMPT**
33 **FROM THE LICENSING REQUIREMENT UNDER TITLE 11, SUBTITLE 5 OF THE**
34 **FINANCIAL INSTITUTIONS ARTICLE.**

35 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

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

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

8 **7-105.1.**

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

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

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

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.

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;

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 LICENSE NUMBER OF THE
28 MORTGAGE LENDER AND MORTGAGE ORIGINATOR;

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 LICENSE NUMBER OF:**

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

11 **“NOTICE**

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

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

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

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

29 IF YOU ARE INTERESTED IN SELLING YOUR HOME TO AVOID A
 30 FORECLOSURE SALE, YOU MAY WISH TO CONTACT A LICENSED REAL ESTATE
 31 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 FOR**
4 **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. THE STATE DOES**
15 **NOT GUARANTEE THE ADVICE OF THESE ORGANIZATIONS.**

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

18 **(E) (1) A COPY OF THE ORDER TO DOCKET OR COMPLAINT TO**
19 **FORECLOSE AND ALL OTHER PAPERS FILED WITH IT SHALL BE SERVED BY:**

20 **(I) PERSONAL DELIVERY OF THE PAPERS TO THE**
21 **MORTGAGOR OR GRANTOR; OR**

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

25 **(2) IF AT LEAST TWO GOOD FAITH EFFORTS TO SERVE THE**
26 **MORTGAGOR OR GRANTOR ON DIFFERENT DAYS HAVE NOT SUCCEEDED, THE**
27 **PLAINTIFF MAY:**

28 **(I) FILE AN AFFIDAVIT WITH THE COURT DESCRIBING THE**
29 **GOOD FAITH EFFORTS TO SERVE THE MORTGAGOR OR GRANTOR; AND**

30 **(II) 1. MAIL A COPY OF THE ORDER TO DOCKET OR**
31 **COMPLAINT TO FORECLOSE AND ALL OTHER PAPERS FILED WITH IT BY**
32 **FIRST-CLASS MAIL TO THE MORTGAGOR’S OR GRANTOR’S LAST KNOWN**
33 **ADDRESS; AND**

1 **2. POST A COPY OF THE ORDER TO DOCKET OR**
2 **COMPLAINT TO FORECLOSE AND ALL OTHER PAPERS FILED WITH IT IN A**
3 **CONSPICUOUS PLACE ON THE PROPERTY SUBJECT TO THE MORTGAGE OR DEED**
4 **OF TRUST.**

5 **(3) THE INDIVIDUAL MAKING SERVICE OF PROCESS UNDER THIS**
6 **SUBSECTION SHALL FILE PROOF OF SERVICE WITH THE COURT IN ACCORDANCE**
7 **WITH THE MARYLAND RULES.**

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

11 **(G) NOTICE OF THE TIME, PLACE, AND TERMS OF A FORECLOSURE SALE**
12 **SHALL BE PUBLISHED IN A NEWSPAPER OF GENERAL CIRCULATION AT LEAST**
13 **ONCE, NOT LESS THAN 10 DAYS BEFORE THE SALE.**

14 **(H) (1) THE MORTGAGOR OR GRANTOR HAS THE RIGHT TO CURE THE**
15 **DEFAULT AND REINSTATE THE LOAN AT ANY TIME UP TO 1 BUSINESS DAY**
16 **BEFORE THE FORECLOSURE SALE OCCURS.**

17 **(2) THE SECURED PARTY OR AN AUTHORIZED AGENT OF THE**
18 **SECURED PARTY SHALL, ON REQUEST, PROVIDE TO THE MORTGAGOR OR**
19 **GRANTOR OR THE MORTGAGOR'S OR GRANTOR'S ATTORNEY WITHIN A**
20 **REASONABLE TIME THE AMOUNT NECESSARY TO CURE THE DEFAULT AND**
21 **REINSTATE THE LOAN AND INSTRUCTIONS FOR DELIVERING THE PAYMENT.**

22 **(I) AN ACTION FOR FAILURE TO COMPLY WITH THE PROVISIONS OF**
23 **THIS SECTION SHALL BE BROUGHT WITHIN 3 YEARS AFTER THE DATE OF THE**
24 **ORDER RATIFYING THE SALE.**

25 **7-105.2.**

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

28 **[1.] (1)** 30 days before the day on which a foreclosure
29 sale of the property is actually held; and

30 **[2.] (2)** The date on which an action to foreclose the
31 mortgage or deed of trust is filed.

32 **[(ii)] (B)** In addition to any notice required to be given by
33 provisions of the Annotated Code of Maryland or the Maryland Rules, the person

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

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

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

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

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

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

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

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

15 [A.] 1. The provisions of this [paragraph]
16 SUBSECTION have been complied with; or

17 [B.] 2. The address of the record owner is not
18 reasonably ascertainable.

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

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

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

29 **7-105.3.**

30 [(c) (1)] (A) In this [subsection] SECTION, “holder of a subordinate
31 interest” includes any condominium council of unit owners or homeowners association

1 that has filed a request for notice of sale under [paragraph (3) of this] subsection (C)
2 **OF THIS SECTION.**

3 [(2)] (B) The person authorized to make a sale in an action to
4 foreclose a mortgage or deed of trust shall give written notice of any proposed
5 foreclosure sale to the holder of any subordinate mortgage, deed of trust, or other
6 subordinate interest, including a judgment, in accordance with [subsection (b) of this
7 section] § **7-105.2 OF THIS SUBTITLE** and the requirements of Maryland Rule
8 14-206.

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

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

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

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

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

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

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

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

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

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

32 [(iii) 1.] (4) (I) Except as provided in [sub-subparagraph 2 of
33 this] subparagraph (II) **OF THIS PARAGRAPH**, failure of a holder of a subordinate
34 mortgage, deed of trust, or other subordinate interest to record a request for notice

1 under this [paragraph] **SUBSECTION** does not affect the duty of a holder of a superior
2 interest to provide notice as required under this [subsection] **SECTION**.

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

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

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

10 [(ii)] **(2)** An affidavit that:

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

13 [2.] **(II)** The address of the holder of the subordinate
14 interest is not reasonably ascertainable.

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

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

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

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

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

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

29 [(iv)] **(4)** With respect to an unrecorded or unfiled subordinate
30 mortgage, deed of trust, or other unrecorded or unfiled subordinate interest, the
31 subordinate interest was created 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; or

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

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

14 **7-105.4.**

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

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

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

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

25 **7-105.5.**

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

29 **7-105.6.**

30 [(f) (1)] (A) Any purchaser at a foreclosure sale of a mortgage or deed of
31 trust has the same rights and remedies against the tenants of the mortgagor or
32 grantor as the mortgagor or grantor had, and the tenants have the same rights and
33 remedies against the purchaser as they would have had against the mortgagor or
34 grantor on the date the mortgage or deed of trust was recorded.

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

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

8 **7-105.7.**

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

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

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

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

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

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

32 **7-105.8.**

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

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

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

6 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
7 June 1, 2008.