

HOUSE BILL 365

N1

EMERGENCY BILL

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

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 15, 2008

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
8 records; requiring the Commissioner of Financial Regulation to adopt certain
9 regulations to enforce certain provisions of this Act; prohibiting an action to
10 foreclose a mortgage or deed of trust on certain residential property from being
11 filed until after certain periods of time; authorizing a secured party to petition a
12 circuit court for leave to immediately commence a foreclosure action under
13 certain circumstances; requiring a certain notice of intent to foreclose to be sent
14 to ~~a certain person~~ certain persons in a certain manner a certain period of time
15 before the filing of an action to foreclose a mortgage or deed of trust on certain
16 residential property; requiring the notice to be in a certain form and contain
17 certain information; establishing certain requirements for an order to docket or
18 a complaint to foreclose a mortgage or deed of trust on certain residential

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.



1 property; providing for service of an order to docket or a complaint to foreclose a
 2 mortgage or deed of trust on certain residential property; prohibiting a
 3 foreclosure sale of certain residential property from occurring until after a
 4 certain period of time; providing for publication of notice of a foreclosure sale;
 5 establishing that a mortgagor or grantor has the right to cure a default and
 6 reinstate the loan until a certain time; requiring the secured party or an
 7 authorized agent for the secured party to provide certain information to the
 8 mortgagor or grantor or the mortgagor's or grantor's attorney within a certain
 9 time; requiring that a certain action be brought within a certain period of time;
 10 making certain technical and stylistic changes; defining a certain term;
 11 providing for the application of certain provisions of this Act; making this Act
 12 an emergency measure; and generally relating to foreclosure actions and
 13 ~~prerequisites to~~ recording instruments in the land records.

14 BY adding to
 15 Article – Real Property
 16 Section ~~3-104(h)~~ 3-104.1 and 7-105.1
 17 Annotated Code of Maryland
 18 (2003 Replacement Volume and 2007 Supplement)

19 BY repealing and reenacting, with amendments,
 20 Article – Real Property
 21 Section 7-105
 22 Annotated Code of Maryland
 23 (2003 Replacement Volume and 2007 Supplement)

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

26 **Article – Real Property**

27 ~~3-104.~~ **3-104.1.**

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

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

33 **(1) (I) THE NAME AND MARYLAND MORTGAGE ORIGINATOR**
 34 **LICENSE NUMBER OF THE MORTGAGE ORIGINATOR THAT ORIGINATED THE**
 35 **LOAN SECURED BY THE INSTRUMENT; OR**

36 **(II) AN AFFIDAVIT BY THE ~~INDIVIDUAL~~ PERSON THAT**
 37 **ORIGINATED THE MORTGAGE LOAN SECURED BY THE INSTRUMENT THAT THE**

1 INDIVIDUAL IS EXEMPT FROM THE LICENSING REQUIREMENT UNDER TITLE 11,
2 SUBTITLE 6 OF THE FINANCIAL INSTITUTIONS ARTICLE; AND

3 (2) (I) THE NAME AND MARYLAND MORTGAGE LENDER
4 LICENSE NUMBER OF THE MORTGAGE LENDER THAT MADE THE LOAN SECURED
5 BY THE INSTRUMENT; OR

6 (II) AN AFFIDAVIT BY THE LENDER THAT MADE THE
7 MORTGAGE LOAN SECURED BY THE INSTRUMENT THAT THE LENDER IS EXEMPT
8 FROM THE LICENSING REQUIREMENT UNDER TITLE 11, SUBTITLE 5 OF THE
9 FINANCIAL INSTITUTIONS ARTICLE.

10 (C) THE COMMISSIONER OF FINANCIAL REGULATION SHALL ADOPT
11 REGULATIONS TO ENFORCE THE PROVISIONS OF THIS SECTION, INCLUDING:

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

15 (2) PENALTIES FOR THE FAILURE TO INCLUDE LICENSING
16 INFORMATION WHEN A MORTGAGE, DEED OF TRUST, OR OTHER INSTRUMENT
17 SECURING A MORTGAGE LOAN ON RESIDENTIAL PROPERTY IS RECORDED.

18 7-105.

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

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

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

34 (2) In addition to any notice required to be given by provisions of the
35 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 the
2 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
4 the 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
10 mortgage or deed of trust may be or has been docketed and that a foreclosure sale of
11 the property will be held.

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

14 **“NOTICE REQUIRED BY MARYLAND LAW**

15 Mortgage foreclosure is a complex process. Some people may approach you
16 about “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 **7-105.1.**

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

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

32 (I) **90 DAYS AFTER A DEFAULT IN A CONDITION ON WHICH**
33 **THE MORTGAGE OR DEED OF TRUST PROVIDES THAT A SALE MAY BE MADE; ~~AND~~**
34 **OR**

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

3 **(2) (I) THE SECURED PARTY MAY PETITION THE CIRCUIT**
4 **COURT FOR LEAVE TO IMMEDIATELY COMMENCE AN ACTION TO FORECLOSE**
5 **THE MORTGAGE OR DEED OF TRUST IF:**

6 **1. THE LOAN SECURED BY THE MORTGAGE OR DEED**
7 **OF TRUST WAS OBTAINED BY FRAUD OR DECEPTION;**

8 **2. NO PAYMENTS HAVE EVER BEEN MADE ON THE**
9 **LOAN SECURED BY THE MORTGAGE OR DEED OF TRUST;**

10 **3. THE PROPERTY SUBJECT TO THE MORTGAGE OR**
11 **DEED OF TRUST HAS BEEN DESTROYED; OR**

12 **4. THE DEFAULT OCCURRED AFTER THE STAY HAS**
13 **BEEN LIFTED IN A BANKRUPTCY PROCEEDING.**

14 **(II) THE COURT MAY RULE ON THE PETITION WITH OR**
15 **WITHOUT A HEARING.**

16 **(III) IF THE PETITION IS GRANTED, THE ACTION MAY BE**
17 **FILED AT ANY TIME AFTER A DEFAULT IN A CONDITION ON WHICH THE**
18 **MORTGAGE OR DEED OF TRUST PROVIDES THAT A SALE MAY BE MADE AND THE**
19 **SECURED PARTY NEED NOT SEND THE WRITTEN NOTICE OF INTENT TO**
20 **FORECLOSE REQUIRED UNDER SUBSECTION (C) OF THIS SECTION.**

21 **(c) (1) EXCEPT AS PROVIDED IN SUBSECTION (B)(2)(III) OF THIS**
22 **SECTION, AT LEAST 45 DAYS BEFORE THE FILING OF AN ACTION TO FORECLOSE**
23 **A MORTGAGE OR DEED OF TRUST ON RESIDENTIAL PROPERTY, THE SECURED**
24 **PARTY SHALL SEND A WRITTEN NOTICE OF INTENT TO FORECLOSE TO THE**
25 **MORTGAGOR OR GRANTOR AND THE RECORD OWNER.**

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

27 **(I) BY CERTIFIED MAIL, POSTAGE PREPAID, RETURN**
28 **RECEIPT REQUESTED, BEARING A POSTMARK FROM THE UNITED STATES**
29 **POSTAL SERVICE; AND**

30 **(II) BY FIRST-CLASS MAIL.**

31 **(3) A COPY OF THE NOTICE OF INTENT TO FORECLOSE SHALL BE**
32 **SENT TO THE COMMISSIONER OF FINANCIAL REGULATION.**

1 **(4) THE NOTICE OF INTENT TO FORECLOSE SHALL:**

2 **(I) BE IN THE FORM THAT THE COMMISSIONER OF**
 3 **FINANCIAL REGULATION PRESCRIBES BY REGULATION; AND**

4 **(II) CONTAIN:**

5 **1. THE NAME AND TELEPHONE NUMBER OF:**

6 **A. THE SECURED PARTY;**

7 **B. THE MORTGAGE SERVICER, IF APPLICABLE;**

8 **C. THE MORTGAGE BROKER OR ORIGINATOR, IF**
 9 **APPLICABLE; AND**

10 **D. AN AGENT OF THE SECURED PARTY WHO IS**
 11 **AUTHORIZED TO MODIFY THE TERMS OF THE MORTGAGE LOAN;**

12 **2. THE MARYLAND LICENSE NUMBER OF THE**
 13 **MORTGAGE LENDER AND MORTGAGE ORIGINATOR;**

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

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

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

21 **(1) INCLUDE:**

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

23 **1. ~~IF APPLICABLE, THE~~ THE MORTGAGE**
 24 **ORIGINATOR; AND**

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

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

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

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

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

8 (I) **THE ORIGINAL OR A CERTIFIED COPY OF THE**
9 **MORTGAGE OR DEED OF TRUST;**

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

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

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

18 (V) **IF ANY DEFENDANT IS AN INDIVIDUAL, AN AFFIDAVIT**
19 **THAT:**

20 1. **THE INDIVIDUAL IS NOT A SERVICEMEMBER, AS**
21 **DEFINED IN THE SERVICEMEMBERS CIVIL RELIEF ACT, 50 U.S.C. APPENDIX §**
22 **511; OR**

23 2. **THE ACTION IS AUTHORIZED BY THE ACT;**

24 (VI) **IF APPLICABLE, A COPY OF THE NOTICE OF INTENT TO**
25 **FORECLOSE; AND**

26 (VII) **A NOTICE TO THE MORTGAGOR IN SUBSTANTIALLY THE**
27 **FOLLOWING FORM, AS PRESCRIBED BY THE COMMISSIONER OF FINANCIAL**
28 **REGULATION:**

29 **“NOTICE**

30 **AN ACTION TO FORECLOSE THE MORTGAGE/DEED OF TRUST ON THE**
31 **PROPERTY LOCATED AT (INSERT ADDRESS) HAS BEEN FILED IN THE CIRCUIT**
32 **COURT FOR (COUNTY).**

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

3 **YOU MAY STOP THE SALE AND REINSTATE YOUR MORTGAGE LOAN BY**
4 **PAYING ALL AMOUNTS DUE ON YOUR LOAN, PLUS FEES AND COSTS OF THE**
5 **FORECLOSURE ACTION, AT ANY TIME UP TO ONE BUSINESS DAY BEFORE THE**
6 **SALE. PLEASE CONTACT (INSERT NAME OF AUTHORIZED AGENT OF SECURED**
7 **PARTY) AT (INSERT TELEPHONE NUMBER) TO OBTAIN THE AMOUNT DUE TO**
8 **CURE THE DEFAULT ON YOUR MORTGAGE LOAN AND INSTRUCTIONS FOR**
9 **DELIVERING THE PAYMENT.**

10 **YOU ARE URGED TO OBTAIN LEGAL ADVICE TO DISCUSS OTHER OPTIONS**
11 **TO STOP THE FORECLOSURE SALE, WHICH MAY INCLUDE FILING A MOTION FOR**
12 **INJUNCTION WITH THE CIRCUIT COURT OR A PETITION FOR BANKRUPTCY IN**
13 **FEDERAL BANKRUPTCY COURT. A MOTION FOR INJUNCTION OR A BANKRUPTCY**
14 **PETITION MUST BE FILED BEFORE THE FORECLOSURE SALE OCCURS.**

15 **IF YOU ARE INTERESTED IN SELLING YOUR HOME TO AVOID A**
16 **FORECLOSURE SALE, YOU MAY WISH TO CONTACT A LICENSED REAL ESTATE**
17 **BROKER OR SALESPERSON AS SOON AS POSSIBLE.**

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

22 **SOME PEOPLE MAY APPROACH YOU ABOUT “SAVING” YOUR HOME. YOU**
23 **SHOULD BE CAREFUL ABOUT ANY SUCH PROMISES.**

24 **THE STATE ENCOURAGES YOU TO BECOME INFORMED ABOUT YOUR**
25 **OPTIONS IN FORECLOSURE BEFORE ENTERING INTO ANY AGREEMENTS WITH**
26 **ANYONE IN CONNECTION WITH THE FORECLOSURE OF YOUR HOME. THERE ARE**
27 **GOVERNMENT AGENCIES AND NONPROFIT ORGANIZATIONS THAT YOU MAY**
28 **CONTACT FOR HELPFUL INFORMATION ABOUT THE FORECLOSURE PROCESS.**
29 **FOR THE NAME AND TELEPHONE NUMBER OF AN ORGANIZATION NEAR YOU,**
30 **PLEASE CALL THE CONSUMER PROTECTION DIVISION OF THE OFFICE OF THE**
31 **ATTORNEY GENERAL OF MARYLAND AT ~~1-888-743-0023~~ (INSERT TELEPHONE**
32 **NUMBER). THE STATE DOES NOT GUARANTEE THE ADVICE OF THESE**
33 **ORGANIZATIONS.**

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

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

4 (I) PERSONAL DELIVERY OF THE PAPERS TO THE
5 MORTGAGOR OR GRANTOR; OR

6 (II) LEAVING THE PAPERS WITH A RESIDENT OF SUITABLE
7 AGE AND DISCRETION AT THE MORTGAGOR'S OR GRANTOR'S DWELLING HOUSE
8 OR USUAL PLACE OF ABODE.

9 (2) IF AT LEAST TWO GOOD FAITH EFFORTS TO SERVE THE
10 MORTGAGOR OR GRANTOR UNDER SUBSECTION (E)(1) OF THIS SECTION ON
11 DIFFERENT DAYS HAVE NOT SUCCEEDED, THE PLAINTIFF MAY:

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

14 (II) 1. MAIL A COPY OF THE ORDER TO DOCKET OR
15 COMPLAINT TO FORECLOSE AND ALL OTHER PAPERS FILED WITH IT BY
16 CERTIFIED MAIL, RETURN RECEIPT REQUESTED, AND FIRST-CLASS MAIL TO
17 THE MORTGAGOR'S OR GRANTOR'S LAST KNOWN ADDRESS AND, IF DIFFERENT,
18 TO THE ADDRESS OF THE RESIDENTIAL PROPERTY SUBJECT TO THE MORTGAGE
19 OR DEED OF TRUST; AND

20 2. POST A COPY OF THE ORDER TO DOCKET OR
21 COMPLAINT TO FORECLOSE AND ALL OTHER PAPERS FILED WITH IT IN A
22 CONSPICUOUS PLACE ON THE RESIDENTIAL PROPERTY SUBJECT TO THE
23 MORTGAGE OR DEED OF TRUST.

24 (3) THE INDIVIDUAL MAKING SERVICE OF PROCESS UNDER THIS
25 SUBSECTION SHALL FILE PROOF OF SERVICE WITH THE COURT IN ACCORDANCE
26 WITH THE MARYLAND RULES.

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

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

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

5 **(2) THE SECURED PARTY OR AN AUTHORIZED AGENT OF THE**
6 **SECURED PARTY SHALL, ON REQUEST, PROVIDE TO THE MORTGAGOR OR**
7 **GRANTOR OR THE MORTGAGOR’S OR GRANTOR’S ATTORNEY WITHIN A**
8 **REASONABLE TIME THE AMOUNT NECESSARY TO CURE THE DEFAULT AND**
9 **REINSTATE THE LOAN AND INSTRUCTIONS FOR DELIVERING THE PAYMENT.**

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

13 **7-105.2.**

14 **[(b) (1) (i)] (A)** In this [subsection] **SECTION**, “record owner” means
15 the person holding record title to property as of the later of:

16 **[1.] (1)** 30 days before the day on which a foreclosure
17 sale of the property is actually held; and

18 **[2.] (2)** The date on which an action to foreclose the
19 mortgage or deed of trust is filed.

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

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

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

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

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

32 **[(iii)] (3)** The person giving the notice shall file in the
33 proceedings:

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

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

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

5 [B.] 2. The address of the record owner is not
6 reasonably ascertainable.

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

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

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

17 **7-105.3.**

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

22 [(2)] (B) The person authorized to make a sale in an action to
23 foreclose a mortgage or deed of trust shall give written notice of any proposed
24 foreclosure sale to the holder of any subordinate mortgage, deed of trust, or other
25 subordinate interest, including a judgment, in accordance with [subsection (b) of this
26 section] § **7-105.2 OF THIS SUBTITLE** and the requirements of Maryland Rule
27 14-206.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

33 **7-105.4.**

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

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

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

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

11 **7-105.5.**

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

15 **7-105.6.**

16 [(f) (1)] (A) Any purchaser at a foreclosure sale of a mortgage or deed of
17 trust has the same rights and remedies against the tenants of the mortgagor or
18 grantor as the mortgagor or grantor had, and the tenants have the same rights and
19 remedies against the purchaser as they would have had against the mortgagor or
20 grantor on the date the mortgage or deed of trust was recorded.

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

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

28 **7-105.7.**

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

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

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

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

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

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

18 **7-105.8.**

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

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

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

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

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

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

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

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.