

SENATE BILL 216

N1

EMERGENCY BILL
ENROLLED BILL

(8lr1910)

—*Judicial Proceedings / Environmental Matters*—

Introduced by **Senator Pugh and the President (By Request – Administration)**
and Senators Currie, Della, Frosh, Gladden, Jones, Kelley, Lenett,
Madaleno, Middleton, Muse, Pinsky, Raskin, ~~and Stone~~ Stone, and
Forehand

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.

President.

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~~ implement certain provisions of this Act; prohibiting an
10 action to foreclose a mortgage or deed of trust on certain residential property
11 from being filed until after certain periods of time; authorizing a secured party
12 to petition a circuit court for leave to immediately commence a foreclosure

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

25 BY adding to
 26 Article – Real Property
 27 Section ~~3-104(h)~~ 3-104.1 and 7-105.1
 28 Annotated Code of Maryland
 29 (2003 Replacement Volume and 2007 Supplement)

30 BY repealing and reenacting, with amendments,
 31 Article – Real Property
 32 Section 7-105
 33 Annotated Code of Maryland
 34 (2003 Replacement Volume and 2007 Supplement)

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

37 **Article – Real Property**

38 ~~3-104.~~ **3-104.1.**

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

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

4 (1) (I) **THE NAME AND MARYLAND MORTGAGE ORIGINATOR**
5 **LICENSE NUMBER OF THE MORTGAGE ORIGINATOR THAT ORIGINATED THE**
6 **LOAN SECURED BY THE INSTRUMENT; OR**

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

12 (2) (I) **THE NAME AND MARYLAND MORTGAGE LENDER**
13 **LICENSE NUMBER OF THE MORTGAGE LENDER THAT MADE THE LOAN SECURED**
14 **BY THE INSTRUMENT; OR**

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

19 (C) **THE COMMISSIONER OF FINANCIAL REGULATION SHALL ADOPT**
20 **REGULATIONS TO ~~ENFORCE~~ IMPLEMENT THE PROVISIONS OF THIS SECTION,**
21 **INCLUDING:**

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

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

29 7-105.

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

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

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

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

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

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

20 2. By first-class mail.

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

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

26 “NOTICE REQUIRED BY MARYLAND LAW

27 Mortgage foreclosure is a complex process. Some people may approach you
28 about “saving” your home. You should be careful about any such promises.

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

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

3 **7-105.1.**

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

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

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

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

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

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

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

21 3. THE PROPERTY SUBJECT TO THE MORTGAGE OR
22 DEED OF TRUST HAS BEEN DESTROYED; OR

23 4. THE DEFAULT OCCURRED AFTER THE STAY HAS
24 BEEN LIFTED IN A BANKRUPTCY PROCEEDING.

25 (II) THE COURT MAY RULE ON THE PETITION WITH OR
26 WITHOUT A HEARING.

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

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

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

7 (I) BY CERTIFIED MAIL, POSTAGE PREPAID, RETURN
8 RECEIPT REQUESTED, BEARING A POSTMARK FROM THE UNITED STATES
9 POSTAL SERVICE; AND

10 (II) BY FIRST-CLASS MAIL.

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

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

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

16 (II) CONTAIN:

17 1. THE NAME AND TELEPHONE NUMBER OF:

18 A. THE SECURED PARTY;

19 B. THE MORTGAGE SERVICER, IF APPLICABLE; AND

20 C. ~~THE MORTGAGE BROKER OR ORIGINATOR, IF~~
21 ~~APPLICABLE; AND~~

22 D. AN AGENT OF THE SECURED PARTY WHO IS
23 AUTHORIZED TO MODIFY THE TERMS OF THE MORTGAGE LOAN;

24 2. THE ~~MARYLAND~~ NAME AND LICENSE NUMBER OF
25 THE MARYLAND MORTGAGE LENDER AND MORTGAGE ORIGINATOR, IF
26 APPLICABLE;

27 3. THE AMOUNT REQUIRED TO CURE THE DEFAULT
28 AND REINSTATE THE LOAN, INCLUDING ALL PAST DUE PAYMENTS, PENALTIES,
29 AND FEES; AND

1 4. ANY OTHER INFORMATION THAT THE
2 COMMISSIONER OF FINANCIAL REGULATION REQUIRES BY REGULATION.

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

5 (1) INCLUDE:

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

7 1. ~~IF APPLICABLE, THE~~ THE MORTGAGE
8 ORIGINATOR; AND

9 2. THE MORTGAGE LENDER; AND

10 (II) AN AFFIDAVIT STATING:

11 1. THE DATE ON WHICH THE DEFAULT OCCURRED
12 AND THE NATURE OF THE DEFAULT; AND

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

17 (2) BE ACCOMPANIED BY:

18 (I) THE ORIGINAL OR A CERTIFIED COPY OF THE
19 MORTGAGE OR DEED OF TRUST;

20 (II) A STATEMENT OF THE DEBT REMAINING DUE AND
21 PAYABLE SUPPORTED BY AN AFFIDAVIT OF THE PLAINTIFF OR THE SECURED
22 PARTY OR THE AGENT OR ATTORNEY OF THE PLAINTIFF OR SECURED PARTY;

23 (III) A COPY OF THE DEBT INSTRUMENT ACCOMPANIED BY
24 AN AFFIDAVIT CERTIFYING OWNERSHIP OF THE DEBT INSTRUMENT;

25 (IV) IF APPLICABLE, THE ORIGINAL OR A CERTIFIED COPY
26 OF THE ASSIGNMENT OF THE MORTGAGE FOR PURPOSES OF FORECLOSURE OR
27 THE DEED OF APPOINTMENT OF A SUBSTITUTE TRUSTEE;

28 (V) IF ANY DEFENDANT IS AN INDIVIDUAL, AN AFFIDAVIT
29 THAT:

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

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

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

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

18 (I) PERSONAL DELIVERY OF THE PAPERS TO THE
19 MORTGAGOR OR GRANTOR; OR

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

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

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

30 (II) 1. ~~MAIL~~ MAILING A COPY OF THE ORDER TO DOCKET
31 OR COMPLAINT TO FORECLOSE AND ALL OTHER PAPERS FILED WITH IT BY
32 CERTIFIED MAIL, RETURN RECEIPT REQUESTED, AND FIRST-CLASS MAIL TO
33 THE MORTGAGOR’S OR GRANTOR’S LAST KNOWN ADDRESS AND, IF DIFFERENT,
34 TO THE ADDRESS OF THE RESIDENTIAL PROPERTY SUBJECT TO THE MORTGAGE
35 OR DEED OF TRUST; AND

1 **2. ~~Post~~ POSTING A COPY OF THE ORDER TO**
2 **DOCKET OR COMPLAINT TO FORECLOSE AND ALL OTHER PAPERS FILED WITH IT**
3 **IN A CONSPICUOUS PLACE ON THE RESIDENTIAL PROPERTY SUBJECT TO THE**
4 **MORTGAGE OR DEED 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 IN THE**
13 **COUNTY WHERE THE ACTION IS PENDING AT LEAST ONCE, ~~NOT LESS THAN 10~~**
14 **~~DAYS BEFORE THE SALE~~ A WEEK FOR 3 SUCCESSIVE WEEKS, THE FIRST**
15 **PUBLICATION TO BE NOT LESS THAN 15 DAYS BEFORE THE SALE AND THE LAST**
16 **PUBLICATION TO BE NOT MORE THAN 1 WEEK BEFORE THE SALE.**

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

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

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

29 **7-105.2.**

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

32 **[1.] (1) 30 days before the day on which a foreclosure**
33 **sale of the property is actually held; and**

1 [2.] (2) The date on which an action to foreclose the
2 mortgage or deed of trust is filed.

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

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

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

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

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

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

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

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

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

21 [B.] 2. The address of the record owner is not
22 reasonably ascertainable.

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

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

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

1 7-105.3.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

19 **7-105.4.**

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

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

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

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

30 **7-105.5.**

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

1 **7-105.6.**

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

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

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

14 **7-105.7.**

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

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

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

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

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

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

4 **7-105.8.**

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

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

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

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

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

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

28 SECTION 5. AND BE IT FURTHER ENACTED, That, until the Commissioner
29 of Financial Regulation adopts regulations under § 7-105.1(c)(4)(i) and (ii)4 of the Real
30 Property Article, as enacted by Section 1 of this Act, a notice of intent to foreclose shall
31 be construed to be sufficient if the notice contains the information required under §
32 7-105.1(c)(4)(ii)1 through 3 of the Real Property Article, as enacted by Section 1 of this
33 Act.

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

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

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.