

SENATE BILL 216

N1

EMERGENCY BILL

8lr1910
CF HB 365

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**

Introduced and read first time: January 18, 2008

Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 17, 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
19 property; providing for service of an order to docket or a complaint to foreclose a
20 mortgage or deed of trust on certain residential property; prohibiting a
21 foreclosure sale of certain residential property from occurring until after a
22 certain period of time; providing for publication of notice of a foreclosure sale;
23 establishing that a mortgagor or grantor has the right to cure a default and

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

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

8 **(C) THE COMMISSIONER OF FINANCIAL REGULATION SHALL ADOPT**
9 **REGULATIONS TO ENFORCE THE PROVISIONS OF THIS SECTION, INCLUDING:**

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

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

16 7-105.

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

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

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

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

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

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

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

8 3. THE PROPERTY SUBJECT TO THE MORTGAGE OR
9 DEED OF TRUST HAS BEEN DESTROYED; OR

10 4. THE DEFAULT OCCURRED AFTER THE STAY HAS
11 BEEN LIFTED IN A BANKRUPTCY PROCEEDING.

12 (II) THE COURT MAY RULE ON THE PETITION WITH OR
13 WITHOUT A HEARING.

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

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

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

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

28 (II) BY FIRST-CLASS MAIL.

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

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

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

3 (II) CONTAIN:

4 1. THE NAME AND TELEPHONE NUMBER OF:

5 A. THE SECURED PARTY;

6 B. THE MORTGAGE SERVICER, IF APPLICABLE;

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

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

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

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

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

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

20 (1) INCLUDE:

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

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

24 2. THE MORTGAGE LENDER; AND

25 (II) AN AFFIDAVIT STATING:

26 1. THE DATE ON WHICH THE DEFAULT OCCURRED
27 AND THE NATURE OF THE DEFAULT; AND

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

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

6 **(I) THE ORIGINAL OR A CERTIFIED COPY OF THE**
7 **MORTGAGE OR DEED OF TRUST;**

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

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

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

16 **(V) IF ANY DEFENDANT IS AN INDIVIDUAL, AN AFFIDAVIT**
17 **THAT:**

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

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

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

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

27 **“NOTICE**

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

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

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

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

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

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

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

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

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

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

1 (I) PERSONAL DELIVERY OF THE PAPERS TO THE
2 MORTGAGOR OR GRANTOR; OR

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

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

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

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

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

21 (3) THE INDIVIDUAL MAKING SERVICE OF PROCESS UNDER THIS
22 SUBSECTION SHALL FILE PROOF OF SERVICE WITH THE COURT IN ACCORDANCE
23 WITH THE MARYLAND RULES.

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

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

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

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

3 [B.] 2. The address of the record owner is not
4 reasonably ascertainable.

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

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

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

15 **7-105.3.**

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

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

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

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

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

33 [1.] (I) Be recorded in a separate docket or book which
34 shall be indexed under the name of the holder of the superior mortgage or deed of

1 trust and under the book and page numbers where the superior mortgage or deed of
2 trust is recorded;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

31 **7-105.4.**

32 [(d) (1)] (A) Absent a provision to the contrary in a mortgage or note
33 secured by a deed of trust, in the enumerated counties, the interest provided in a
34 mortgage or note secured by a deed of trust is payable for the time period provided in

1 [paragraph (2) of this] subsection **(B) OF THIS SECTION** or until the audit of the sale
2 is ratified, whichever occurs first.

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

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

7 [(ii) (2) 180 days in Worcester County.

8 **7-105.5.**

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

12 **7-105.6.**

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

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

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

25 **7-105.7.**

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

32 [(2) (B) (1) Notwithstanding the provisions of [paragraph (1) of this]
33 subsection **(A) OF THIS SECTION**, after the sale, the debtor or those claiming under

1 him and the purchaser or those claiming under him may agree on a reasonable rental
2 of the part of the property occupied by the crops.

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

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

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

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

16 **7-105.8.**

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

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

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

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

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

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

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

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.