

**Department of Legislative Services**  
Maryland General Assembly  
2008 Session

**FISCAL AND POLICY NOTE**

House Bill 59 (Delegate Barnes)  
Environmental Matters

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**Real Property - Foreclosure Consultants - Duty to Homeowner - Value of  
Residence in Foreclosure**

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This bill creates a duty for a foreclosure consultant to provide written copies of any research regarding the value of a residence in foreclosure to the homeowner, and adds a statement of this duty to the language required in a foreclosure consulting contract. Foreclosure consultants must provide to the homeowner any such research they have, including any information on sales of comparable properties or appraisals.

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**Fiscal Summary**

**State Effect:** The bill would not directly affect State finances or operations. If the Attorney General's Office receives fewer than 50 complaints per year stemming from the bill, the additional workload could be handled with existing resources.

**Local Effect:** None.

**Small Business Effect:** Potential minimal.

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**Analysis**

**Current Law:** Under current State law, foreclosure consulting contracts must: • be provided to the homeowner for review before signing; • be written in the same language that is used by the homeowner in discussions with the consultant; • fully disclose the exact nature of the foreclosure consulting services to be provided, including the compensation to be received by the consultant or an associate; • be dated and personally

signed by the homeowner and the consultant, and be witnessed and acknowledged by a notary public; and • contain a specified written notice set forth in the statute.

**Background:** Chapter 509 of 2005, commonly known as the Protection of Homeowners in Foreclosure Act, or PHIFA, was enacted to address the growing problem of foreclosure “rescue” scams. In these types of scams, unscrupulous companies and individuals take advantage of homeowners who are facing foreclosure. They search the court records for foreclosure actions and then contact homeowners and offer to help them avoid foreclosure. PHIFA is designed to provide some protection for homeowners who deal with foreclosure “rescuers.” It requires that “foreclosure consultants” enter into consulting contracts with homeowners that lay out the terms of their agreements, give disclosures, and afford basic consumer protections such as a three-day rescission period. Under PHIFA, foreclosure consultant is defined as a person who makes a solicitation, representation, or offer to a homeowner at risk of foreclosure to perform services that the person represents will help the homeowner.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Department of Labor, Licensing, and Regulation; Office of the Attorney General (Consumer Protection); Department of Legislative Services

**Fiscal Note History:** First Reader - February 20, 2008  
mll/jr

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