

SENATE BILL 807

N1

9lr2005
CF 9lr2000

By: **Senator Colburn**

Introduced and read first time: February 6, 2009

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Real Property - Residential Mortgages and Deeds of Trust - Recordation and**
3 **Foreclosure**

4 FOR the purpose of altering the definition of “residential property” for purposes of
5 certain residential property foreclosure procedures and certain provisions
6 concerning the recordation of an instrument securing a mortgage loan on
7 residential property; clarifying the application of a certain provision concerning
8 a mortgagor’s or grantor’s right to cure a default before a foreclosure sale; and
9 generally relating to foreclosure procedures and recording instruments in the
10 land records.

11 BY repealing and reenacting, with amendments,
12 Article – Real Property
13 Section 3–104.1 and 7–105.1(a) and (h)
14 Annotated Code of Maryland
15 (2003 Replacement Volume and 2008 Supplement)

16 BY repealing and reenacting, without amendments,
17 Article – Real Property
18 Section 7–105.1(b) and (c)
19 Annotated Code of Maryland
20 (2003 Replacement Volume and 2008 Supplement)

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

23 **Article – Real Property**

24 3–104.1.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (a) In this section, “residential property” means real property improved by
2 four or fewer single family dwelling units **THAT ARE INTENDED FOR HUMAN**
3 **HABITATION.**

4 (b) When recorded, a mortgage, deed of trust, or any other instrument
5 securing a mortgage loan on residential property shall contain:

6 (1) (i) The name and Maryland mortgage originator license
7 number of the mortgage originator that originated the loan secured by the instrument;
8 or

9 (ii) An affidavit by the person that originated the mortgage loan
10 secured by the instrument that the individual who originated the loan is exempt from
11 the licensing requirement under Title 11, Subtitle 6 of the Financial Institutions
12 Article; and

13 (2) (i) The name and Maryland mortgage lender license number of
14 the mortgage lender that made the loan secured by the instrument; or

15 (ii) An affidavit by the lender that made the mortgage loan
16 secured by the instrument that the lender is exempt from the licensing requirement
17 under Title 11, Subtitle 5 of the Financial Institutions Article.

18 (c) The Commissioner of Financial Regulation shall adopt regulations to
19 implement the provisions of this section, including:

20 (1) Minimum requirements for the inclusion of licensing information
21 when a mortgage, deed of trust, or other instrument securing a mortgage loan on
22 residential property is recorded; and

23 (2) Consequences, including penalties, for the failure to include
24 licensing information when a mortgage, deed of trust, or other instrument securing a
25 mortgage loan on residential property is recorded.

26 7–105.1.

27 (a) In this section, “residential property” means real property improved by
28 four or fewer single family dwelling units **THAT ARE INTENDED FOR HUMAN**
29 **HABITATION.**

30 (b) (1) Except as provided in paragraph (2) of this subsection, an action to
31 foreclose a mortgage or deed of trust on residential property may not be filed until the
32 later of:

33 (i) 90 days after a default in a condition on which the mortgage
34 or deed of trust provides that a sale may be made; or

1 (ii) 45 days after the notice of intent to foreclose required under
2 subsection (c) of this section is sent.

3 (2) (i) The secured party may petition the circuit court for leave to
4 immediately commence an action to foreclose the mortgage or deed of trust if:

5 1. The loan secured by the mortgage or deed of trust was
6 obtained by fraud or deception;

7 2. No payments have ever been made on the loan
8 secured by the mortgage or deed of trust;

9 3. The property subject to the mortgage or deed of trust
10 has been destroyed; or

11 4. The default occurred after the stay has been lifted in a
12 bankruptcy proceeding.

13 (ii) The court may rule on the petition with or without a
14 hearing.

15 (iii) If the petition is granted, the action may be filed at any time
16 after a default in a condition on which the mortgage or deed of trust provides that a
17 sale may be made and the 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 section, at least
20 45 days before the filing of an action to foreclose a mortgage or deed of trust on
21 residential property, the secured party shall send a written notice of intent to foreclose
22 to the mortgagor or grantor and the record owner.

23 (2) The notice of intent to foreclose shall be sent:

24 (i) By certified mail, postage prepaid, return receipt requested,
25 bearing a postmark from the United States Postal Service; and

26 (ii) By first-class mail.

27 (3) A copy of the notice of intent to foreclose shall be sent to the
28 Commissioner of Financial Regulation.

29 (4) The notice of intent to foreclose shall:

30 (i) Be in the form that the Commissioner of Financial
31 Regulation prescribes by regulation; and

32 (ii) Contain:

- 1 1. The name and telephone number of:
 - 2 A. The secured party;
 - 3 B. The mortgage servicer, if applicable; and
 - 4 C. An agent of the secured party who is authorized to
5 modify the terms of the mortgage loan;
- 6 2. The name and license number of the Maryland
7 mortgage lender and mortgage originator, if applicable;
- 8 3. The amount required to cure the default and reinstate
9 the loan, including all past due payments, penalties, and fees; and
- 10 4. Any other information that the Commissioner of
11 Financial Regulation requires by regulation.

12 (h) (1) The mortgagor or grantor **OF RESIDENTIAL PROPERTY** has the
13 right to cure the default by paying all past due payments, penalties, and fees and
14 reinstate the loan at any time up to 1 business day before the foreclosure sale occurs.

15 (2) The secured party or an authorized agent of the secured party
16 shall, on request, provide to the mortgagor or grantor or the mortgagor's or grantor's
17 attorney within a reasonable time the amount necessary to cure the default and
18 reinstate the loan and instructions for delivering the payment.

19 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
20 October 1, 2009.