

SENATE BILL 842

N1

EMERGENCY BILL

9lr2182
CF HB 776

By: **Senator Lenett**

Introduced and read first time: February 6, 2009

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Real Property – Foreclosure of Mortgages and Deeds of Trust on Residential**
3 **Property – Notice to Occupants**

4 FOR the purpose of requiring a certain notice to be sent to a certain address in a
5 certain manner at the time of filing an action to foreclose a mortgage or deed of
6 trust on certain residential property; requiring a certain notice of foreclosure
7 sale to be sent to a certain address in a certain manner a certain period of time
8 before a foreclosure sale of certain property; requiring a certain notice to be sent
9 to a certain address in a certain manner after the entry of a judgment awarding
10 possession of certain property; requiring certain notices to be in a certain form
11 and contain certain information; requiring certain envelopes to contain a certain
12 statement; defining a certain term; providing for the application of this Act;
13 making this Act an emergency measure; and generally relating to notices
14 regarding foreclosure actions on residential property.

15 BY adding to

16 Article – Real Property

17 Section 7–105.9

18 Annotated Code of Maryland

19 (2003 Replacement Volume and 2008 Supplement)

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

22 **Article – Real Property**

23 **7–105.9.**

24 (A) IN THIS SECTION, “RESIDENTIAL PROPERTY” HAS THE MEANING
25 STATED IN § 7–105.1 OF THIS SUBTITLE.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (2) **THE WRITTEN NOTICE REQUIRED BY THIS SUBSECTION SHALL**
2 **BE:**

3 (I) **A SEPARATE DOCUMENT;**

4 (II) **PRINTED IN AT LEAST 12 POINT TYPE; AND**

5 (III) **SENT BY FIRST-CLASS MAIL.**

6 (3) **THE OUTSIDE OF THE ENVELOPE CONTAINING THE WRITTEN**
7 **NOTICE REQUIRED BY THIS SUBSECTION SHALL STATE, ON THE ADDRESS SIDE,**
8 **IN BOLD, CAPITALIZED LETTERS IN AT LEAST 12 POINT TYPE, THE FOLLOWING:**
9 **“IMPORTANT NOTICE TO ALL OCCUPANTS: FORECLOSURE**
10 **INFORMATION ENCLOSED. OPEN IMMEDIATELY.”.**

11 (c) (1) **IN ADDITION TO ANY OTHER NOTICE REQUIRED TO BE GIVEN**
12 **BY THIS CODE OR THE MARYLAND RULES, THE PERSON AUTHORIZED TO MAKE**
13 **A SALE IN AN ACTION TO FORECLOSE A MORTGAGE OR DEED OF TRUST ON**
14 **RESIDENTIAL PROPERTY SHALL SEND A WRITTEN NOTICE OF THE SALE NOT**
15 **EARLIER THAN 30 DAYS AND NOT LATER THAN 10 DAYS BEFORE THE DATE OF**
16 **SALE ADDRESSED TO “ALL OCCUPANTS” AT THE ADDRESS OF THE RESIDENTIAL**
17 **PROPERTY IN SUBSTANTIALLY THE FOLLOWING FORM:**

18 **“NOTICE OF IMPENDING FORECLOSURE SALE**

19 **A FORECLOSURE ACTION HAS BEEN FILED AGAINST THE PROPERTY**
20 **LOCATED AT (INSERT ADDRESS) IN THE CIRCUIT COURT FOR (INSERT NAME OF**
21 **COUNTY). THIS NOTICE IS BEING SENT TO YOU AS A PERSON WHO LIVES IN THIS**
22 **PROPERTY.**

23 **A FORECLOSURE SALE OF THE PROPERTY IS SCHEDULED TO OCCUR AS**
24 **FOLLOWS:**

25 **DATE:** _____

26 **TIME:** _____

27 **PLACE:**_____

28 **AFTER THIS SALE, YOU COULD BE EVICTED, EVEN IF YOU ARE A TENANT**
29 **AND EVEN IF YOU HAVE PAID THE RENT DUE AND COMPLIED WITH YOUR LEASE.**

30 **BELOW YOU WILL FIND THE NAME, ADDRESS, AND TELEPHONE NUMBER**
31 **OF THE PERSON AUTHORIZED TO SELL THE PROPERTY. YOU MAY CONTACT THIS**

1 PERSON TO FIND OUT MORE ABOUT THE SALE. FOR FURTHER INFORMATION,
2 YOU MAY REVIEW THE FILE IN THE OFFICE OF THE CLERK OF THE CIRCUIT
3 COURT. YOU MAY WANT TO CONSULT AN ATTORNEY TO DETERMINE YOUR
4 RIGHTS. YOU ALSO MAY CONTACT THE MARYLAND DEPARTMENT OF HOUSING
5 AND COMMUNITY DEVELOPMENT, AT 1-877-462-7555, OR CONSULT THE
6 DEPARTMENT’S WEBSITE, HTTP://WWW.MDHOPE.ORG/, FOR ASSISTANCE.

7 PERSON AUTHORIZED TO SELL THE PROPERTY:

8 _____

9 NAME

10 _____

11 ADDRESS

12 _____

13 TELEPHONE

14 _____

15 DATE OF THIS NOTICE”.

16 (2) THE WRITTEN NOTICE REQUIRED BY THIS SUBSECTION SHALL
17 BE:

18 (I) A SEPARATE DOCUMENT;

19 (II) PRINTED IN AT LEAST 12 POINT TYPE; AND

20 (III) SENT BY CERTIFIED AND FIRST-CLASS MAIL.

21 (3) THE OUTSIDE OF THE ENVELOPE CONTAINING THE WRITTEN
22 NOTICE REQUIRED BY THIS SUBSECTION SHALL STATE, ON THE ADDRESS SIDE,
23 IN BOLD, CAPITALIZED LETTERS IN AT LEAST 12 POINT TYPE, THE FOLLOWING:
24 “IMPORTANT NOTICE TO ALL OCCUPANTS: FORECLOSURE
25 INFORMATION ENCLOSED. OPEN IMMEDIATELY.”.

26 (D) (1) IN ADDITION TO ANY OTHER NOTICE REQUIRED TO BE GIVEN
27 BY THIS CODE OR THE MARYLAND RULES, THE PERSON AUTHORIZED TO MAKE
28 A SALE IN AN ACTION TO FORECLOSE A MORTGAGE OR DEED OF TRUST ON
29 RESIDENTIAL PROPERTY SHALL SEND A WRITTEN NOTICE ADDRESS TO “ALL
30 OCCUPANTS” AT THE ADDRESS OF THE RESIDENTIAL PROPERTY IN
31 SUBSTANTIALLY THE FOLLOWING FORM:

32 “IMPORTANT NOTICE

1 THE CIRCUIT COURT FOR (INSET NAME OF COUNTY) HAS ENTERED A
2 JUDGMENT AWARDING POSSESSION OF THE PROPERTY LOCATED AT (INSET
3 ADDRESS). YOU COULD BE EVICTED FROM THE PROPERTY ON ANY
4 DAY AFTER (INSERT DATE).

5 BELOW YOU WILL FIND THE NAME, ADDRESS, AND TELEPHONE NUMBER
6 OF THE PERSON AUTHORIZED TO SELL THE PROPERTY. YOU MAY CONTACT THIS
7 PERSON TO FIND OUT MORE ABOUT THE COURT ORDER. FOR FURTHER
8 INFORMATION, YOU MAY REVIEW THE FILE IN THE OFFICE OF THE CLERK OF
9 THE CIRCUIT COURT. YOU MAY WANT TO CONSULT AN ATTORNEY TO
10 DETERMINE YOUR RIGHTS. YOU ALSO MAY CONTACT THE MARYLAND
11 DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT, AT
12 1-877-462-7555, OR CONSULT THE DEPARTMENT’S WEBSITE,
13 HTTP://WWW.MDHOPE.ORG/, FOR ASSISTANCE.

14 PERSON AUTHORIZED TO SELL THE PROPERTY:

15 _____
16 NAME

17 _____
18 ADDRESS

19 _____
20 TELEPHONE

21 _____
22 DATE OF THIS NOTICE”.

23 (2) THE WRITTEN NOTICE REQUIRED BY THIS SUBSECTION SHALL
24 BE:

25 (I) A SEPARATE DOCUMENT;

26 (II) PRINTED IN AT LEAST 12 POINT TYPE; AND

27 (III) SENT BY CERTIFIED AND FIRST-CLASS MAIL.

28 (3) THE OUTSIDE OF THE ENVELOPE CONTAINING THE WRITTEN
29 NOTICE REQUIRED BY THIS SUBSECTION SHALL STATE, ON THE ADDRESS SIDE,
30 IN BOLD, CAPITALIZED LETTERS IN AT LEAST 12 POINT TYPE, THE FOLLOWING:

1 **“IMPORTANT NOTICE TO ALL OCCUPANTS: EVICTION**
2 **INFORMATION ENCLOSED. OPEN IMMEDIATELY.”.**

3 **(E) THE PERSON GIVING A NOTICE REQUIRED BY THIS SECTION SHALL**
4 **FILE IN THE FORECLOSURE PROCEEDING AFTER EACH NOTICE IS SENT AN**
5 **AFFIDAVIT OF COMPLIANCE WITH THE PROVISIONS OF THIS SECTION.**

6 **(F) IN THE EVENT OF POSTPONEMENT OF THE SALE, WHICH MAY BE**
7 **DONE IN THE DISCRETION OF THE PERSON AUTHORIZED TO MAKE THE SALE, NO**
8 **NEW OR ADDITIONAL NOTICE NEED BE GIVEN PURSUANT TO THIS SECTION.**

9 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be
10 construed to apply only prospectively and may not be applied or interpreted to have
11 any effect on or application to any foreclosure action filed before the effective date of
12 this Act.

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