

SENATE BILL 842

N1

EMERGENCY BILL

9lr2182
CF HB 776

By: ~~Senator Lenett~~ **Senators Lenett and Jones**

Introduced and read first time: February 6, 2009

Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 27, 2009

CHAPTER _____

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 within a certain time after the entry of
10 a judgment awarding possession of certain property; requiring certain notices to
11 be in a certain form and contain certain information; requiring certain
12 envelopes to contain a certain statement; requiring a person who gives a certain
13 notice to an occupant regarding a foreclosure to file an affidavit of compliance
14 under certain circumstances; providing that a new or additional notice to an
15 occupant regarding a foreclosure does not need to be given under certain
16 circumstances; defining a certain term; providing for the application of this Act;
17 making this Act an emergency measure; and generally relating to notices
18 regarding foreclosure actions on residential property.

19 BY adding to

20 Article – Real Property

21 Section 7–105.9

22 Annotated Code of Maryland

23 (2003 Replacement Volume and 2008 Supplement)

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

3 **Article – Real Property**

4 **7-105.9.**

5 (A) IN THIS SECTION, “RESIDENTIAL PROPERTY” HAS THE MEANING
6 STATED IN § 7-105.1 OF THIS SUBTITLE.

7 (B) (1) IN ADDITION TO ANY OTHER NOTICE REQUIRED TO BE GIVEN
8 BY THIS CODE OR THE MARYLAND RULES, THE PERSON AUTHORIZED TO MAKE
9 A SALE IN AN ACTION TO FORECLOSE A MORTGAGE OR DEED OF TRUST ON
10 RESIDENTIAL PROPERTY SHALL SEND, AT THE SAME TIME AS THE NOTICE
11 REQUIRED BY ~~§ 7-105(D)(2)(VII)~~ § 7-105.1(D)(2)(VII) OF THIS SUBTITLE, A
12 WRITTEN NOTICE ADDRESSED TO “ALL OCCUPANTS” AT THE ADDRESS OF THE
13 RESIDENTIAL PROPERTY IN SUBSTANTIALLY THE FOLLOWING FORM:

14 **“IMPORTANT NOTICE**

15 A FORECLOSURE ACTION HAS BEEN FILED AGAINST THE PROPERTY
16 LOCATED AT (INSERT ADDRESS) IN THE CIRCUIT COURT FOR (INSERT NAME OF
17 COUNTY). THIS NOTICE IS BEING SENT TO YOU AS A PERSON WHO LIVES IN THIS
18 PROPERTY.

19 A FORECLOSURE SALE OF THE PROPERTY MAY OCCUR AT ANY TIME
20 AFTER 45 DAYS FROM THE DATE OF THIS NOTICE. YOU MAY WANT TO CONSULT
21 WITH AN ATTORNEY BECAUSE IF A FORECLOSURE SALE OF THE PROPERTY
22 OCCURS, YOU COULD BE EVICTED, EVEN IF YOU ARE A TENANT AND EVEN
23 IF YOU HAVE PAID THE RENT DUE AND COMPLIED WITH YOUR LEASE.

24 BELOW YOU WILL FIND THE NAME, ADDRESS, AND TELEPHONE NUMBER
25 OF THE PERSON AUTHORIZED TO SELL THE PROPERTY. YOU MAY CONTACT THIS
26 PERSON TO FIND OUT MORE ABOUT THE SALE. FOR FURTHER INFORMATION,
27 YOU MAY REVIEW THE FILE IN THE OFFICE OF THE CLERK OF THE CIRCUIT
28 COURT. YOU ALSO MAY CONTACT THE MARYLAND DEPARTMENT OF HOUSING
29 AND COMMUNITY DEVELOPMENT, AT ~~1-877-462-7555~~ (INSERT TELEPHONE
30 NUMBER), OR CONSULT THE DEPARTMENT’S WEBSITE,
31 ~~HTTP://WWW.MDHOPE.ORG/~~ (INSERT WEBSITE ADDRESS), FOR ASSISTANCE.

32 **PERSON AUTHORIZED TO SELL THE PROPERTY:**

33 _____
34 NAME

1 _____
2 **ADDRESS**

3 _____
4 **TELEPHONE**

5 _____
6 **DATE OF THIS NOTICE”.**

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

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

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

11 (III) **SENT BY FIRST-CLASS MAIL WITH CERTIFICATE OF**
12 **MAILING.**

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

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

25 **“NOTICE OF IMPENDING FORECLOSURE SALE**

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

30 **A FORECLOSURE SALE OF THE PROPERTY IS SCHEDULED TO OCCUR AS**
31 **FOLLOWS:**

32 **DATE: _____**

1 TIME: _____

2 PLACE: _____

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

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 SALE. FOR FURTHER INFORMATION,
8 YOU MAY REVIEW THE FILE IN THE OFFICE OF THE CLERK OF THE CIRCUIT
9 COURT. YOU MAY WANT TO CONSULT AN ATTORNEY TO DETERMINE YOUR
10 RIGHTS. YOU ALSO MAY CONTACT THE MARYLAND DEPARTMENT OF HOUSING
11 AND COMMUNITY DEVELOPMENT, AT ~~1-877-462-7555~~ (INSERT TELEPHONE
12 NUMBER), OR CONSULT THE DEPARTMENT'S WEBSITE,
13 ~~HTTP://WWW.MDHOPE.ORG/~~ (INSERT WEBSITE ADDRESS), 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 WITH
28 CERTIFICATE OF MAILING.

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

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

3 (D) (1) IN ADDITION TO ANY OTHER NOTICE REQUIRED TO BE GIVEN
4 BY THIS CODE OR THE MARYLAND RULES, THE PERSON ~~AUTHORIZED TO MAKE~~
5 ~~A SALE IN AN ACTION TO FORECLOSE A MORTGAGE OR DEED OF TRUST ON~~
6 ~~RESIDENTIAL PROPERTY~~ WHO PURCHASES RESIDENTIAL PROPERTY IN A
7 FORECLOSURE SALE SHALL SEND, AFTER THE ENTRY OF A JUDGMENT
8 AWARDING POSSESSION AND BEFORE ANY ATTEMPT TO EXECUTE THE WRIT OF
9 POSSESSION, A WRITTEN NOTICE ~~ADDRESS~~ ADDRESSED TO “ALL OCCUPANTS”
10 AT THE ADDRESS OF THE RESIDENTIAL PROPERTY IN SUBSTANTIALLY THE
11 FOLLOWING FORM:

12 **“IMPORTANT EVICTION NOTICE**

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

17 BELOW YOU WILL FIND THE NAME, ADDRESS, AND TELEPHONE NUMBER
18 OF THE PERSON ~~AUTHORIZED TO SELL~~ WHO PURCHASED THE PROPERTY OR
19 THE PURCHASER’S AGENT. YOU MAY CONTACT THIS PERSON TO FIND OUT MORE
20 ABOUT THE COURT ORDER. FOR FURTHER INFORMATION, YOU MAY REVIEW THE
21 FILE IN THE OFFICE OF THE CLERK OF THE CIRCUIT COURT. YOU MAY WANT TO
22 CONSULT AN ATTORNEY TO DETERMINE YOUR RIGHTS. YOU ALSO MAY CONTACT
23 THE MARYLAND DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT,
24 AT ~~1-877-462-7555~~ (INSERT TELEPHONE NUMBER), OR CONSULT THE
25 DEPARTMENT’S WEBSITE, ~~HTTP://WWW.MDHOPE.ORG/~~ (INSERT WEBSITE
26 ADDRESS), FOR ASSISTANCE.

27 ~~PERSON AUTHORIZED TO SELL THE PROPERTY;~~ PURCHASER OF THE PROPERTY
28 OR PURCHASER’S AGENT:

29 _____
30 NAME

31 _____
32 ADDRESS

33 _____
34 TELEPHONE

35 _____
36 DATE OF THIS NOTICE”.

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 ~~CERTIFIED AND~~ FIRST-CLASS MAIL WITH**
6 **CERTIFICATE OF MAILING.**

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

10 **“IMPORTANT NOTICE TO ALL OCCUPANTS: EVICTION**
11 **INFORMATION ENCLOSED. OPEN IMMEDIATELY.”.**

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

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

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

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