

Department of Legislative Services
Maryland General Assembly
2009 Session

FISCAL AND POLICY NOTE
Revised

House Bill 798

(Delegates Haddaway and Eckardt)

Environmental Matters

Judicial Proceedings

Real Property - Residential Mortgages and Deeds of Trust - Recordation and
Foreclosure

This bill clarifies that the definition of “residential property” applicable to the law governing residential foreclosure procedures means property improved by four or fewer single-family dwelling units that are designed principally for, and are intended for, human habitation. The bill also clarifies that the mortgagor or grantor “of residential property” may cure a default up to one business day prior to the foreclosure sale of the property.

Fiscal Summary

State Effect: The bill does not directly affect State finances or operations.

Local Effect: The bill does not directly affect local finances or operations.

Small Business Effect: Potential minimal.

Analysis

Current Law: In establishing foreclosure procedures for residential property, State law prohibits an action to foreclose a mortgage or deed of trust on residential property from being filed until the later of 90 days after default or 45 days after a notice of intent to foreclose is sent, and establishes requirements for notice and service of process in foreclosure actions. “Residential property” is defined as real property improved by four or fewer single-family dwelling units. A mortgagor or grantor has the right to cure a default by paying all past due payments, penalties, and fees and reinstate the loan at any time up to one business day before the foreclosure sale occurs. Upon request, and within

a reasonable time, the secured party or the secured party's authorized agent must notify the mortgagor or grantor or the individual's attorney of the amount necessary to cure the default and reinstate the loan, as well as instructions for delivering the payment.

Background: Chapters 1 and 2 of 2008 made a number of changes to the foreclosure process for residential property. Under the Acts, a mortgagor or grantor is allowed to cure the default by paying all past due payments, penalties, and fees up to one business day prior to the foreclosure sale. Although current law generally addresses foreclosure procedures for residential property, the right of a mortgagor or grantor to cure a default is not explicitly limited to residential property. Thus, a foreclosing lender of commercial property may be forced to accept the amount necessary to cure the default and reinstate the loan. The bill is intended to allow commercial lenders to retain the ability to accelerate a loan which is in default and demand early repayment of an outstanding debt.

Additional Information

Prior Introductions: None.

Cross File: SB 807 (Senator Colburn) - Judicial Proceedings.

Information Source(s): Judiciary (Administrative Office of the Courts); Department of Labor, Licensing, and Regulation; Department of Legislative Services

Fiscal Note History: First Reader - February 24, 2009
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