

# SENATE BILL 276

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EMERGENCY BILL

01r0146

CF 01r0182

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By: **The President (By Request – Administration) and Senators Astle, Brochin, Della, Exum, Forehand, Frosh, Harrington, Kasemeyer, King, Lenett, Madaleno, Miller, Muse, Peters, Pinsky, Pugh, Robey, Rosapepe, and Stone**

Introduced and read first time: January 22, 2010

Assigned to: Judicial Proceedings

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## A BILL ENTITLED

1 AN ACT concerning

2 **Real Property – Residential Property Foreclosure Procedures – Foreclosure**  
3 **Mediation**

4 FOR the purpose of requiring a certain notice of intent to foreclose to include certain  
5 information; requiring a certain notice of intent to foreclose to be accompanied  
6 by a certain loss mitigation application, instructions for completing the  
7 application, certain other information, and a certain envelope; requiring an  
8 order to docket or complaint to foreclose to be accompanied by a certain loss  
9 mitigation affidavit in a certain form, a certain request for foreclosure  
10 mediation, affidavit, and worksheet in a certain form, certain envelopes, and an  
11 additional filing fee in a certain amount; requiring the fee to be used for certain  
12 purposes; prohibiting the fee from being passed on to the mortgagor or grantor;  
13 altering the information required to be included in a certain notice form;  
14 requiring the clerk of the court to schedule a case for foreclosure mediation if  
15 the defendant in a certain foreclosure action files a certain completed request  
16 and affidavit within a certain time; requiring and authorizing certain  
17 individuals to be present at a foreclosure mediation; providing that the  
18 participants in a foreclosure mediation should address certain options;  
19 authorizing the defendant in a certain foreclosure action to file a motion to stay  
20 the sale under certain circumstances; providing that a request for foreclosure  
21 mediation constitutes good cause for failure to file a motion to stay within a  
22 certain time; altering the time after which a foreclosure sale may occur; defining  
23 certain terms; making this Act an emergency measure; and generally relating to  
24 foreclosure of mortgages and deeds of trust on certain residential property.

25 BY repealing and reenacting, with amendments,  
26 Article – Real Property  
27 Section 7–105.1

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Annotated Code of Maryland  
2 (2003 Replacement Volume and 2009 Supplement)

3 Preamble

4 WHEREAS, Thousands of Marylanders are struggling to keep their homes, with  
5 foreclosures continuing to rise; and

6 WHEREAS, Despite the federal Home Affordable Modification Program and  
7 other loss mitigation options available to help borrowers, many homeowners who may  
8 be eligible for loan modifications that could save their homes do not receive them; and

9 WHEREAS, The State seeks to ensure that those homeowners who are eligible  
10 for loan modifications are able to obtain them, and that others can pursue alternatives  
11 to avoid foreclosure or lessen its harmful impact; and

12 WHEREAS, Many homeowners have their home go to foreclosure while loan  
13 modification reviews are still pending or have not even begun; and

14 WHEREAS, Lenders should conduct meaningful efforts to determine whether  
15 an alternative to foreclosure is possible prior to involving the judicial system, with all  
16 its attendant costs and expenditure of resources; and

17 WHEREAS, Increasing the number of eligible homeowners receiving loan  
18 modifications on the front end will keep more people in their homes and conserve  
19 judicial resources by reducing the number of foreclosure actions filed; and

20 WHEREAS, Borrowers who may be eligible for loan modifications to save their  
21 homes but find themselves facing foreclosure should be afforded the opportunity to  
22 talk directly with their lenders to find a resolution before their homes are sold; now,  
23 therefore,

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

26 **Article – Real Property**

27 7–105.1.

28 (a) **(1)** In this section[,] **THE FOLLOWING WORDS HAVE THE MEANINGS**  
29 **INDICATED.**

30 **(2) “FORECLOSURE MEDIATION” MEANS A SETTLEMENT**  
31 **CONFERENCE, AS DEFINED IN MARYLAND RULE 17–102(H).**

32 **(3) “NET PRESENT VALUE CALCULATION” MEANS THE**  
33 **CALCULATION, USING THE FEDERAL HOME AFFORDABLE MODIFICATION**

1 PROGRAM BASE NET PRESENT VALUE MODEL, THAT COMPARES THE  
2 EXPECTED ECONOMIC OUTCOME OF A LOAN WITH OR WITHOUT A LOAN  
3 MODIFICATION.

4 (4) ["residential] "RESIDENTIAL property" means real property  
5 improved by four or fewer single family dwelling units that are designed principally  
6 and are intended for human habitation.

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

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

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

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

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

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

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

22 4. The default occurred after the stay has been lifted in a  
23 bankruptcy proceeding.

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

26 (iii) If the petition is granted, the action may be filed at any time  
27 after a default in a condition on which the mortgage or deed of trust provides that a  
28 sale may be made and the secured party need not send the written notice of intent to  
29 foreclose required under subsection (c) of this section.

30 (c) (1) Except as provided in subsection (b)(2)(iii) of this section, at least  
31 45 days before the filing of an action to foreclose a mortgage or deed of trust on  
32 residential property, the secured party shall send a written notice of intent to foreclose  
33 to the mortgagor or grantor and the record owner.

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

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

3 (ii) By first-class mail.

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

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

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

9 (ii) Contain:

10 1. The name and telephone number of:

11 A. The secured party;

12 B. The mortgage servicer, if applicable; and

13 C. An agent of the secured party who is authorized to  
14 modify the terms of the mortgage loan;

15 2. The name and license number of the Maryland  
16 mortgage lender and mortgage originator, if applicable;

17 3. The amount required to cure the default and reinstate  
18 the loan, including all past due payments, penalties, and fees; [and]

19 4. **A NOTICE ENCOURAGING THE MORTGAGOR OR**  
20 **GRANTOR TO SEEK HOUSING COUNSELING SERVICES;**

21 5. **THE TELEPHONE NUMBER OF THE MARYLAND**  
22 **HOPE HOTLINE AND THE INTERNET ADDRESS OF THE HOPE INITIATIVE**  
23 **WEBSITE;**

24 6. **AN EXPLANATION OF THE MARYLAND**  
25 **FORECLOSURE PROCESS AND TIME LINE, AS PRESCRIBED BY THE**  
26 **COMMISSIONER OF FINANCIAL REGULATION; AND**

27 [4.] 7. Any other information that the Commissioner of  
28 Financial Regulation requires by regulation.

1           **(5) THE NOTICE OF INTENT TO FORECLOSE SHALL BE**  
2 **ACCOMPANIED BY:**

3                   **(I) A LOSS MITIGATION APPLICATION:**

4                           **1. FOR A FEDERAL LOSS MITIGATION PROGRAM IN**  
5 **WHICH THE SECURED PARTY PARTICIPATES;**

6                           **2. FOR ANY OTHER LOSS MITIGATION PROGRAM**  
7 **OFFERED BY THE SECURED PARTY, IF A FEDERAL PROGRAM IS INAPPLICABLE**  
8 **OR UNAVAILABLE; OR**

9                           **3. THAT MAY BE REQUIRED BY REGULATION BY THE**  
10 **COMMISSIONER OF FINANCIAL REGULATION TO BE THE STATE'S UNIFORM**  
11 **LOSS MITIGATION APPLICATION USED BY ALL SECURED PARTIES, SERVICERS,**  
12 **AND OTHER AGENTS OF A SECURED PARTY;**

13                           **(II) INSTRUCTIONS FOR COMPLETING THE LOSS**  
14 **MITIGATION APPLICATION AND A TELEPHONE NUMBER TO CALL TO CONFIRM**  
15 **RECEIPT OF THE APPLICATION;**

16                           **(III) AN EXPLANATION OF THE ELIGIBILITY REQUIREMENTS**  
17 **FOR THE FEDERAL LOSS MITIGATION PROGRAM IN WHICH THE SECURED PARTY,**  
18 **SERVICER, OR OTHER AGENT OF THE SECURED PARTY PARTICIPATES OR, IF A**  
19 **FEDERAL PROGRAM IS INAPPLICABLE OR UNAVAILABLE, ANY OTHER**  
20 **APPLICABLE LOSS MITIGATION PROGRAM;**

21                           **(IV) AN EXPLANATION OF ADDITIONAL LOSS MITIGATION**  
22 **OPTIONS, INCLUDING A GRACE PERIOD FOR POSTPONING PAYMENT, SHORT**  
23 **SALE, DEED IN LIEU OF FORECLOSURE, MOVING TO A LESS COSTLY HOME IN**  
24 **THE LENDER'S INVENTORY, "CASH FOR KEYS", OR ANY OTHER OPTION THAT**  
25 **MAY BE AVAILABLE TO HELP AVOID FORECLOSURE OR LESSEN ITS HARMFUL**  
26 **IMPACT ON THE MORTGAGOR OR GRANTOR; AND**

27                           **(V) A STAMPED ENVELOPE PREPRINTED WITH THE**  
28 **ADDRESS OF THE LOSS MITIGATION DEPARTMENT OF THE SECURED PARTY,**  
29 **SERVICER, OR OTHER AGENT AUTHORIZED BY THE SECURED PARTY TO MODIFY**  
30 **THE TERMS OF THE MORTGAGE LOAN.**

31           (d) An order to docket or a complaint to foreclose a mortgage or deed of trust  
32 on residential property shall:

33                   (1) Include:

- 1 (i) If applicable, the license number of:
- 2 1. The mortgage originator; and
- 3 2. The mortgage lender; and
- 4 (ii) An affidavit stating:
- 5 1. The date on which the default occurred and the
- 6 nature of the default; and
- 7 2. If applicable, that a notice of intent to foreclose was
- 8 sent to the mortgagor or grantor in accordance with subsection (c) of this section and
- 9 the date on which the notice was sent; and

10 (2) Be accompanied by:

11 (i) The original or a certified copy of the mortgage or deed of

12 trust;

13 (ii) A statement of the debt remaining due and payable

14 supported by an affidavit of the plaintiff or the secured party or the agent or attorney

15 of the plaintiff or secured party;

16 (iii) A copy of the debt instrument accompanied by an affidavit

17 certifying ownership of the debt instrument;

18 (iv) If applicable, the original or a certified copy of the

19 assignment of the mortgage for purposes of foreclosure or the deed of appointment of a

20 substitute trustee;

21 (v) If any defendant is an individual, an affidavit that:

22 1. The individual is not a servicemember, as defined in

23 the Servicemembers Civil Relief Act, 50 U.S.C. Appendix § 511; or

24 2. The action is authorized by the Act;

25 (vi) If applicable, a copy of the notice of intent to foreclose; [and]

26 **(VII) A LOSS MITIGATION AFFIDAVIT THAT IS IN**

27 **SUBSTANTIALLY THE FOLLOWING FORM AND THAT CONTAINS ANY OTHER**

28 **INFORMATION THAT THE COMMISSIONER OF FINANCIAL REGULATION**

29 **REQUIRES BY REGULATION:**

30 **“LOSS MITIGATION AFFIDAVIT**

31 **CASE NUMBER \_\_\_\_\_**

1 MY NAME IS \_\_\_\_\_. I AM A \_\_\_\_\_ FOR THE  
2 PLAINTIFF IN THE ABOVE-REFERENCED CASE. I HAVE PERSONAL KNOWLEDGE  
3 OF THE FACTS SET FORTH IN THIS AFFIDAVIT AND AM AUTHORIZED TO EXECUTE  
4 IT ON THE PLAINTIFF'S BEHALF.

5 SECTION I

6 \_\_\_\_\_ (1) THE MORTGAGE LOAN IS OWNED, SECURITIZED, INSURED, OR  
7 GUARANTEED BY THE FEDERAL NATIONAL MORTGAGE ASSOCIATION,  
8 FEDERAL HOME LOAN MORTGAGE CORPORATION, OR FEDERAL HOUSING  
9 ADMINISTRATION.

10 (2) THE SECURED PARTY, SERVICER, OR OTHER AGENT AUTHORIZED TO  
11 MODIFY THE TERMS OF THE MORTGAGE LOAN:

12 \_\_\_\_\_ (A) IS PARTICIPATING IN A FEDERAL LOAN MODIFICATION  
13 PROGRAM CALLED \_\_\_\_\_; OR

14 \_\_\_\_\_ (B) HAS OFFERED THE MORTGAGOR OR GRANTOR THE  
15 OPPORTUNITY TO PARTICIPATE IN AN ALTERNATIVE LOAN MODIFICATION  
16 PROGRAM.

17 (3) A LOAN MODIFICATION REVIEW FOR THIS MORTGAGE LOAN:

18 \_\_\_\_\_ (A) HAS BEEN COMPLETED, AND THE MORTGAGOR OR  
19 GRANTOR HAS BEEN DENIED A LOAN MODIFICATION OR HAS BEEN DETERMINED  
20 TO BE INELIGIBLE FOR THE APPLICABLE LOAN MODIFICATION PROGRAM FOR  
21 THE REASONS CHECKED IN SECTION II BELOW; OR

22 \_\_\_\_\_ (B) CANNOT BE COMPLETED BECAUSE THE SECURED  
23 PARTY, SERVICER, OR OTHER AGENT AUTHORIZED TO MODIFY THE TERMS OF A  
24 MORTGAGE LOAN HAS ATTEMPTED REPEATEDLY WITHOUT SUCCESS TO  
25 CONTACT AND OBTAIN, BY TELEPHONE, MAIL, OR OTHER METHOD, ON THE  
26 DATES AND IN THE MANNER SET FORTH BELOW, NECESSARY INFORMATION  
27 FROM THE MORTGAGOR OR GRANTOR IN COMPLIANCE WITH THE  
28 REQUIREMENTS OF THE FEDERAL OR ALTERNATIVE LOAN MODIFICATION  
29 PROGRAM IN WHICH THE SECURED PARTY PARTICIPATES.

30 \_\_\_\_\_  
31 DATE MODE OF CONTACT BORROWER'S RESPONSE

32 \_\_\_\_\_

1	<b>DATE</b>	<b>MODE OF CONTACT</b>	<b>BORROWER'S RESPONSE</b>
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2	<hr/>	<hr/>	<hr/>
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3	<b>DATE</b>	<b>MODE OF CONTACT</b>	<b>BORROWER'S RESPONSE</b>
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 **CHECK HERE IF ADDITIONAL DOCUMENTATION IS ATTACHED.**

5 **SECTION II**

6 **THIS MORTGAGE LOAN IS INELIGIBLE FOR LOAN MODIFICATION OR HAS BEEN**  
 7 **DENIED A LOAN MODIFICATION FOR THE FOLLOWING REASONS (CHECK ALL**  
 8 **THAT APPLY AND ATTACH DOCUMENTATION TO SUPPORT EACH REASON):**

9 

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 **(1) THE PROPERTY IS NOT A PRIMARY RESIDENCE AND THE**  
 10 **MORTGAGOR OR GRANTOR IS NOT CURRENTLY LIVING IN THE PROPERTY.**

11 

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 **(2) THE PROPERTY IS NOT A ONE TO FOUR UNIT PROPERTY**  
 12 **(INCLUDING A CONDOMINIUM, COOPERATIVE, OR MANUFACTURED HOME).**

13 

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 **(3) THE PROPERTY IS VACANT OR CONDEMNED.**

14 

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 **(4) THE LOAN SUBJECT TO FORECLOSURE IS NOT A FIRST LIEN**  
 15 **LOAN.**

16 

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 **(5) THE LOAN WAS ORIGINATED AFTER JANUARY 1, 2009, OR THE**  
 17 **DATE SPECIFIED BY THE APPLICABLE LOAN MODIFICATION PROGRAM.**

18 

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 **(6) THE AMOUNT CURRENTLY OWED ON THE LOAN IS GREATER**  
 19 **THAN \$729,750, OR THE AMOUNT SPECIFIED BY THE APPLICABLE LOAN**  
 20 **MODIFICATION PROGRAM (NOT INCLUDING ATTORNEY'S FEES AND PAST DUE**  
 21 **PAYMENTS).**

22 

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 **(7) THE MONTHLY AMOUNT DUE ON THE MORTGAGE LOAN,**  
 23 **INCLUDING THE TOTAL PAYMENT OF PRINCIPAL, INTEREST, TAXES, INSURANCE,**  
 24 **AND HOMEOWNERS ASSOCIATION DUES (IF APPLICABLE), IS LESS THAN THE**  
 25 **PERCENTAGE INCOME THRESHOLD OF THE APPLICABLE LOAN MODIFICATION**  
 26 **PROGRAM IN EFFECT AT THE TIME OF THE LOAN MODIFICATION DENIAL, AND**  
 27 **THE APPLICABLE THRESHOLD IS \_\_\_\_\_ % OF THE MORTGAGOR'S OR GRANTOR'S**  
 28 **GROSS MONTHLY INCOME.**

29 

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 **(8) THE BORROWER HAS ALREADY FAILED A TRIAL LOAN**  
 30 **MODIFICATION PLAN.**



1 \_\_\_\_\_ (9) THE LOAN IS OWNED BY AN INVESTOR OR POOL OF  
2 INVESTORS THAT HAS NOT GIVEN THE SERVICING AGENT THE CONTRACTUAL  
3 AUTHORITY TO ENTER INTO ANY LOAN MODIFICATION WITH THE BORROWER.

4 \_\_\_\_\_ (10) THE MORTGAGE LOAN FAILED THE NET PRESENT VALUE  
5 CALCULATION, AND THE BASIS FOR THIS CALCULATION IS AS FOLLOWS:  
6 \_\_\_\_\_

7 \_\_\_\_\_ (11) THE LOAN MODIFICATION REVIEW COULD NOT BE  
8 COMPLETED BECAUSE THE SECURED PARTY, SERVICER, OR OTHER AGENT  
9 AUTHORIZED TO MODIFY THE TERMS OF A MORTGAGE LOAN HAS ATTEMPTED  
10 REPEATEDLY WITHOUT SUCCESS TO CONTACT AND OBTAIN, BY TELEPHONE,  
11 MAIL, OR OTHER METHOD, ON THE DATES AND IN THE MANNER SET FORTH  
12 BELOW, NECESSARY INFORMATION FROM THE MORTGAGOR OR GRANTOR IN  
13 COMPLIANCE WITH THE REQUIREMENTS OF THE FEDERAL OR ALTERNATIVE  
14 LOAN MODIFICATION PROGRAM IN WHICH THE SECURED PARTY PARTICIPATES.

15 _____	_____	_____
16 DATE	MODE OF CONTACT	BORROWER'S RESPONSE

17 _____	_____	_____
18 DATE	MODE OF CONTACT	BORROWER'S RESPONSE

19 _____	_____	_____
20 DATE	MODE OF CONTACT	BORROWER'S RESPONSE

21 \_\_\_\_\_ (12) OTHER (EXPLAIN AND ATTACH DOCUMENTATION).  
22 \_\_\_\_\_

23 **SECTION III**

24 \_\_\_\_\_ THE LOAN HAS BEEN REVIEWED FOR OTHER LOSS MITIGATION  
25 RELIEF, SUCH AS A GRACE PERIOD FOR POSTPONING PAYMENT, SHORT SALE,  
26 DEED IN LIEU OF FORECLOSURE, OR MOVING TO A LESS COSTLY HOME IN THE  
27 LENDER'S INVENTORY, AND SUCH OTHER RELIEF WAS NOT OFFERED OR WAS  
28 DECLINED BY THE MORTGAGOR OR GRANTOR.

29 **EXPLAIN:**

30 \_\_\_\_\_  
31 \_\_\_\_\_  
32 \_\_\_\_\_  
33 \_\_\_\_\_

34 \_\_\_\_\_

1 \_\_\_\_\_  
2 (PRINT NAME/TITLE)

3 I, HEREBY CERTIFY THAT ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_, BEFORE  
4 ME THE SUBSCRIBER, A NOTARY PUBLIC OF THE STATE OF MARYLAND,  
5 PERSONALLY APPEARED, \_\_\_\_\_, AND ACKNOWLEDGED  
6 THE FOREGOING.

7 AS WITNESS, MY HAND AND NOTARIAL SEAL.

8 \_\_\_\_\_  
9 MY COMMISSION EXPIRES: NOTARY PUBLIC”;

10 (VIII) A REQUEST FOR FORECLOSURE MEDIATION, AFFIDAVIT,  
11 AND WORKSHEET THAT IS IN SUBSTANTIALLY THE FOLLOWING FORM AND THAT  
12 CONTAINS ANY OTHER INFORMATION THAT THE COMMISSIONER OF FINANCIAL  
13 REGULATION REQUIRES BY REGULATION:

14 “REQUEST FOR FORECLOSURE MEDIATION  
15 AND BORROWER’S AFFIDAVIT  
16 CASE NUMBER \_\_\_\_\_

17 I AM REQUESTING THAT FORECLOSURE MEDIATION BE SCHEDULED BEFORE A  
18 FORECLOSURE SALE OF MY HOME CAN GO FORWARD BECAUSE I CONTEST THE  
19 FOLLOWING REASONS WHY MY LENDER DENIED ME A LOAN MODIFICATION OR  
20 OTHER LOSS MITIGATION:

21 ATTENTION HOMEOWNER: CHECK ALL ITEMS THAT YOU CONTEST OUT OF  
22 THE ITEMS CHECKED BY YOUR LENDER ON THE LOSS MITIGATION AFFIDAVIT AS  
23 REASONS FOR DENIAL. IF YOU ARE CONTESTING ITEM NUMBER 7, USE THE  
24 WORKSHEET TO SHOW THAT YOUR MONTHLY MORTGAGE PAYMENT IS MORE  
25 THAN THE INCOME THRESHOLD APPLICABLE TO THE LOAN MODIFICATION YOU  
26 WERE DENIED. ATTACH THE WORKSHEET TO THIS REQUEST FOR FORECLOSURE  
27 MEDIATION. IF YOU HAVE QUESTIONS OR ARE UNSURE ABOUT HOW TO FILL OUT  
28 THESE FORMS, PLEASE SEEK THE ASSISTANCE OF A HOUSING COUNSELOR  
29 AND/OR ATTORNEY. TO GET MORE INFORMATION ABOUT COUNSELORS AND  
30 ATTORNEYS, CONTACT THE MARYLAND HOPE HOTLINE AT 1-877-462-7555  
31 OR GO TO WWW.MDHOPE.ORG.

32 DEADLINE FOR REQUESTING FORECLOSURE MEDIATION: No  
33 LATER THAN 15 DAYS AFTER THE DATE ON WHICH YOU WERE SERVED WITH A  
34 COPY OF THIS ORDER TO DOCKET FORECLOSURE, YOU MUST SUBMIT THIS FORM  
35 TO THE COURT AT THE ADDRESS ON THE WORKSHEET (STAMPED ENVELOPE

1 ENCLOSED), AND YOU MUST MAIL A COPY TO THE FORECLOSING ATTORNEY AT  
2 THE ADDRESS LISTED ON THE WORKSHEET (STAMPED ENVELOPE ENCLOSED).

3 \_\_\_\_\_ (1) THE PROPERTY IS NOT A PRIMARY RESIDENCE AND THE  
4 MORTGAGOR OR GRANTOR IS NOT CURRENTLY LIVING IN THE PROPERTY.

5 \_\_\_\_\_ (2) THE PROPERTY IS NOT A ONE TO FOUR UNIT PROPERTY  
6 (INCLUDING A CONDOMINIUM, COOPERATIVE, OR MANUFACTURED HOME).

7 \_\_\_\_\_ (3) THE PROPERTY IS VACANT OR CONDEMNED.

8 \_\_\_\_\_ (4) THE LOAN SUBJECT TO FORECLOSURE IS NOT A FIRST LIEN  
9 LOAN.

10 \_\_\_\_\_ (5) THE LOAN WAS ORIGINATED AFTER JANUARY 1, 2009, OR THE  
11 DATE SPECIFIED BY THE APPLICABLE LOAN MODIFICATION PROGRAM.

12 \_\_\_\_\_ (6) THE AMOUNT CURRENTLY OWED ON THE LOAN IS GREATER  
13 THAN \$729,750, OR THE AMOUNT SPECIFIED BY THE APPLICABLE LOAN  
14 MODIFICATION PROGRAM (NOT INCLUDING ATTORNEY'S FEES AND PAST DUE  
15 PAYMENTS).

16 \_\_\_\_\_ (7) THE MONTHLY AMOUNT DUE ON THE MORTGAGE LOAN,  
17 INCLUDING THE TOTAL PAYMENT OF PRINCIPAL, INTEREST, TAXES, INSURANCE,  
18 AND HOMEOWNERS ASSOCIATION DUES (IF APPLICABLE), IS LESS THAN THE  
19 PERCENTAGE INCOME THRESHOLD OF THE APPLICABLE LOAN MITIGATION  
20 PROGRAM IN EFFECT AT THE TIME OF THE LOAN MITIGATION DENIAL, AND THE  
21 APPLICABLE THRESHOLD IS \_\_\_\_\_ % OF THE MORTGAGOR'S OR GRANTOR'S  
22 GROSS MONTHLY INCOME.

23 \_\_\_\_\_ (8) THE BORROWER HAS ALREADY FAILED A TRIAL LOAN  
24 MODIFICATION PLAN.

25 \_\_\_\_\_ (9) THE LOAN IS OWNED BY AN INVESTOR OR POOL OF INVESTORS  
26 THAT HAS NOT GIVEN THE SERVICING AGENT THE CONTRACTUAL AUTHORITY  
27 TO ENTER INTO ANY LOAN MODIFICATION WITH THE BORROWER.

28 \_\_\_\_\_ (10) THE MORTGAGE LOAN FAILED THE NET PRESENT VALUE  
29 CALCULATION, AND THE BASIS FOR THIS CALCULATION IS AS FOLLOWS:  
30 \_\_\_\_\_

31 \_\_\_\_\_ (11) THE LOAN MODIFICATION REVIEW COULD NOT BE  
32 COMPLETED BECAUSE THE SECURED PARTY, SERVICER, OR OTHER AGENT  
33 AUTHORIZED TO MODIFY THE TERMS OF A MORTGAGE LOAN HAS ATTEMPTED



1 \$ \_\_\_\_\_ YOUR GROSS INCOME (THE AMOUNT ON YOUR PAYSTUB  
 2 BEFORE TAXES AND OTHER DEDUCTIONS ARE TAKEN)

3 \$ \_\_\_\_\_ YOUR ADDITIONAL GROSS INCOME FROM ANY OTHER  
 4 SOURCES (RENT, PENSION, SOCIAL SECURITY BENEFITS)

5 \$ \_\_\_\_\_ CO-BORROWER'S GROSS INCOME (IF APPLICABLE)

6 = \$ \_\_\_\_\_ YOUR TOTAL GROSS INCOME

7 2. PLEASE INSERT AND ADD THE TOTAL OF THE FOLLOWING INFORMATION:

8 \$ \_\_\_\_\_ YOUR REGULAR MONTHLY MORTGAGE PAYMENT (NOT  
 9 INCLUDING ANY LATE FEES OR OTHER CHARGES)

10 \$ \_\_\_\_\_ YOUR MONTHLY TAXES AND INSURANCE IF NOT  
 11 INCLUDED IN YOUR MONTHLY PAYMENT (SEE BELOW FOR CALCULATION OF  
 12 MONTHLY TAXES AND INSURANCE IF YOU PAY THEM SEPARATELY)

13 \$ \_\_\_\_\_ MONTHLY HOMEOWNERS ASSOCIATION OR  
 14 CONDOMINIUM FEES (IF APPLICABLE)

15 = \$ \_\_\_\_\_ TOTAL MONTHLY PAYMENT

16 3. DOES THIS PAYMENT INCLUDE TAXES AND INSURANCE? IF YES, GO TO  
 17 ITEM NUMBER 4. IF NO, INSERT AND ADD THE TOTAL:

18 \$ \_\_\_\_\_ ANNUAL PROPERTY TAX BILL

19 \$ \_\_\_\_\_ ANNUAL HOMEOWNER'S INSURANCE BILL

20 = \$ \_\_\_\_\_ TOTAL TAXES AND INSURANCE

21 DIVIDE TOTAL TAXES AND INSURANCE BY 12 TO GET YOUR MONTHLY TAXES  
 22 AND INSURANCE.

23 TOTAL TAXES AND INSURANCE \$ \_\_\_\_\_ ÷ 12

24 = \$ \_\_\_\_\_ MONTHLY TAXES AND INSURANCE

25 INSERT MONTHLY TAXES AND INSURANCE IN ITEM NUMBER 2 ABOVE TO  
 26 CALCULATE TOTAL MONTHLY PAYMENT.

1 4. INSERT TOTAL MONTHLY PAYMENT FROM ITEM NUMBER 2 ABOVE INTO  
 2 THE FOLLOWING FORMULA. REFER TO ITEM NUMBER 7 ON THE  
 3 LENDER/SERVICER'S LOSS MITIGATION AFFIDAVIT TO DETERMINE WHAT  
 4 INCOME THRESHOLD IS APPLICABLE:

5 \$\_\_\_\_\_ TOTAL MONTHLY PAYMENT X (INCOME THRESHOLD  
 6 DIVIDED BY 100) \_\_\_\_\_ = \$\_\_\_\_\_.

7 5. IS THIS AMOUNT MORE THAN YOUR CURRENT MONTHLY MORTGAGE  
 8 PAYMENT? YES/NO

9 6. CAN YOU AFFORD TO MAKE THIS PAYMENT EVERY MONTH?  
 10 YES/NO

11 MAIL COPIES OF THE COMPLETED REQUEST FOR FORECLOSURE MEDIATION  
 12 BORROWER WORKSHEET TO:

13 1. CLERK OF CIRCUIT COURT, \_\_\_\_\_  
 14 (ADDRESS)

15 2. (PLAINTIFF'S ATTORNEY)  
 16 (ADDRESS)";

17 [(vii)] (IX) A notice to the mortgagor in substantially the  
 18 following form, as prescribed by regulation by the Commissioner of Financial  
 19 Regulation:

20 "NOTICE

21 An action to foreclose the mortgage/deed of trust on the property located at  
 22 (insert address) has been filed in the Circuit Court for (county).

23 A foreclosure sale of the property may occur at any time after 45 days from the  
 24 date that this notice is served on you.

25 You may stop the sale and reinstate your mortgage loan by paying all amounts  
 26 due on your loan, plus fees and costs of the foreclosure action, at any time up to one  
 27 business day before the sale. Please contact (insert name of authorized agent of  
 28 secured party) at (insert telephone number) to obtain the amount due to cure the  
 29 default on your mortgage loan and instructions for delivering the payment.

30 YOU MAY REQUEST THAT THE COURT SCHEDULE YOUR CASE FOR  
 31 FORECLOSURE MEDIATION BY COMPLETING THE ENCLOSED "REQUEST FOR  
 32 FORECLOSURE MEDIATION AND BORROWER'S AFFIDAVIT" AND MAILING IT TO  
 33 THE CLERK OF THE COURT AND THE PLAINTIFF'S ATTORNEY IN THE ENCLOSED

1 STAMPED ENVELOPES WITHIN 15 DAYS AFTER YOU ARE SERVED WITH THESE  
2 PAPERS. IF YOU FILE A REQUEST FOR FORECLOSURE MEDIATION, YOUR  
3 PROPERTY CANNOT GO TO SALE UNTIL AT LEAST 15 DAYS AFTER YOUR  
4 MEDIATION SESSION HAS BEEN HELD.

5 You are urged to obtain legal advice AND THE ASSISTANCE OF A HOUSING  
6 COUNSELOR to discuss FORECLOSURE MEDIATION AND other options to stop the  
7 foreclosure sale, which may include filing a motion for injunction with the circuit court  
8 or a petition for bankruptcy in federal bankruptcy court. A motion for injunction or a  
9 bankruptcy petition must be filed before the foreclosure sale occurs.

10 If you are interested in selling your home to avoid a foreclosure sale, you may  
11 wish to contact a licensed real estate broker or salesperson as soon as possible.

12 Housing counseling and financial assistance programs are available through the  
13 Maryland Department of Housing and Community Development. Please call (insert  
14 telephone number) for information on available resources.

15 Some people may approach you about “saving” your home. You should be careful  
16 about any such promises.

17 The State encourages you to become informed about your options in foreclosure  
18 before entering into any agreements with anyone in connection with the foreclosure of  
19 your home. There are government agencies and nonprofit organizations that you may  
20 contact for helpful information about the foreclosure process. For the name and  
21 telephone number of an organization near you, please call the Consumer Protection  
22 Division of the Office of the Attorney General of Maryland at (insert telephone  
23 number). The State does not guarantee the advice of these organizations.

24 DO NOT DELAY DEALING WITH THE FORECLOSURE BECAUSE YOUR  
25 OPTIONS WILL BECOME MORE LIMITED AS TIME PASSES.”;

26 (X) TWO STAMPED ENVELOPES PREPRINTED WITH THE  
27 ADDRESS OF THE CLERK OF THE COURT AND THE ADDRESS OF THE PLAINTIFF’S  
28 ATTORNEY; AND

29 (XI) IN ADDITION TO ANY OTHER FILING FEES REQUIRED BY  
30 ANY OTHER LAW, A FILING FEE IN THE AMOUNT OF \$100, WHICH:

31 1. SHALL BE USED FOR ADDITIONAL HOUSING  
32 COUNSELING SERVICES AND TO DEFRAY THE COURTS’ COST OF PROVIDING  
33 FORECLOSURE MEDIATION SERVICES UNDER THIS SECTION; AND

34 2. MAY NOT BE PASSED ON TO THE MORTGAGOR OR  
35 GRANTOR.

1 (e) (1) A copy of the order to docket or complaint to foreclose on  
2 residential property and all other papers filed with it shall be served by:

3 (i) Personal delivery of the papers to the mortgagor or grantor;  
4 or

5 (ii) Leaving the papers with a resident of suitable age and  
6 discretion at the mortgagor's or grantor's dwelling house or usual place of abode.

7 (2) If at least two good faith efforts to serve the mortgagor or grantor  
8 under paragraph (1) of this subsection on different days have not succeeded, the  
9 plaintiff may effect service by:

10 (i) Filing an affidavit with the court describing the good faith  
11 efforts to serve the mortgagor or grantor; and

12 (ii) 1. Mailing a copy of the order to docket or complaint to  
13 foreclose and all other papers filed with it by certified mail, return receipt requested,  
14 and first-class mail to the mortgagor's or grantor's last known address and, if  
15 different, to the address of the residential property subject to the mortgage or deed of  
16 trust; and

17 2. Posting a copy of the order to docket or complaint to  
18 foreclose and all other papers filed with it in a conspicuous place on the residential  
19 property subject to the mortgage or deed of trust.

20 (3) The individual making service of process under this subsection  
21 shall file proof of service with the court in accordance with the Maryland Rules.

22 **(F) (1) IF THE DEFENDANT FILES A COMPLETED REQUEST FOR**  
23 **FORECLOSURE MEDIATION AND BORROWER'S AFFIDAVIT WITHIN 15 DAYS**  
24 **AFTER SERVICE OF PROCESS, THE CLERK OF THE COURT SHALL SCHEDULE THE**  
25 **CASE FOR FORECLOSURE MEDIATION AS SOON AS PRACTICABLE.**

26 **(2) AT A FORECLOSURE MEDIATION REQUESTED UNDER THIS**  
27 **SECTION:**

28 **(I) INDIVIDUALS WITH AUTHORITY TO SETTLE THE MATTER**  
29 **SHALL BE PRESENT OR READILY AVAILABLE FOR CONSULTATION;**

30 **(II) A HOUSING COUNSELOR DESIGNATED BY THE**  
31 **MORTGAGOR OR GRANTOR MAY BE PRESENT; AND**

32 **(III) THE PARTICIPANTS SHOULD ADDRESS ALL**  
33 **FORECLOSURE AVOIDANCE OPTIONS, INCLUDING LOAN MODIFICATION, A**  
34 **GRACE PERIOD FOR POSTPONING PAYMENT, SHORT SALE, DEED IN LIEU OF**



1 FORECLOSURE, “CASH FOR KEYS”, MOVING TO A LESS COSTLY HOME IN THE  
2 LENDER’S INVENTORY, AND ANY OTHER OPTION THAT MAY HELP TO AVOID  
3 FORECLOSURE OR LESSEN ITS HARMFUL IMPACT ON THE MORTGAGOR OR  
4 GRANTOR.

5 (3) (I) IF THE PARTIES ARE UNABLE TO REACH AN AGREEMENT  
6 AFTER PARTICIPATING IN FORECLOSURE MEDIATION, THE DEFENDANT MAY  
7 FILE A MOTION TO STAY THE SALE WITHIN 15 DAYS AFTER COMPLETION OF THE  
8 FORECLOSURE MEDIATION.

9 (II) A DEFENDANT’S REQUEST FOR FORECLOSURE  
10 MEDIATION CONSTITUTES GOOD CAUSE FOR FAILURE TO FILE A MOTION TO  
11 STAY WITHIN THE TIME PRESCRIBED UNDER MARYLAND RULE 14–211(A)(2).

12 (III) NOTHING IN THIS SUBTITLE PRECLUDES THE  
13 DEFENDANT FROM PURSUING ANY OTHER REMEDY AVAILABLE UNDER LAW.

14 [(f)] (G) A foreclosure sale of residential property may not occur until [at]:

15 (1) AT least 45 days after service of process is made under subsection  
16 (e) of this section; AND

17 (2) (I) IF THE DEFENDANT FILES A COMPLETED REQUEST FOR  
18 FORECLOSURE MEDIATION AND BORROWER’S AFFIDAVIT WITHIN 15 DAYS  
19 AFTER SERVICE OF PROCESS, AT LEAST 15 DAYS AFTER THE FORECLOSURE  
20 MEDIATION IS HELD; OR

21 (II) IF THE DEFENDANT FILES A MOTION TO STAY THE SALE  
22 WITHIN 15 DAYS AFTER THE FORECLOSURE MEDIATION IS HELD, AT LEAST 15  
23 DAYS AFTER THE COURT DENIES THE MOTION OR OTHERWISE RESOLVES THE  
24 CASE.

25 [(g)] (H) Notice of the time, place, and terms of a foreclosure sale shall be  
26 published in a newspaper of general circulation in the county where the action is  
27 pending at least once a week for 3 successive weeks, the first publication to be not less  
28 than 15 days before the sale and the last publication to be not more than 1 week before  
29 the sale.

30 [(h)] (I) (1) The mortgagor or grantor of residential property has the  
31 right to cure the default by paying all past due payments, penalties, and fees and  
32 reinstate the loan at any time up to 1 business day before the foreclosure sale occurs.

33 (2) The secured party or an authorized agent of the secured party  
34 shall, on request, provide to the mortgagor or grantor or the mortgagor’s or grantor’s

1 attorney within a reasonable time the amount necessary to cure the default and  
2 reinstate the loan and instructions for delivering the payment.

3           **[(i)] (J)**       An action for failure to comply with the provisions of this section  
4 shall be brought within 3 years after the date of the order ratifying the sale.

5           SECTION 2. AND BE IT FURTHER ENACTED, That this Act is an emergency  
6 measure, is necessary for the immediate preservation of the public health or safety,  
7 has been passed by a yea and nay vote supported by three-fifths of all the members  
8 elected to each of the two Houses of the General Assembly, and shall take effect from  
9 the date it is enacted.