

Department of Legislative Services
Maryland General Assembly
2010 Session

FISCAL AND POLICY NOTE

Senate Bill 945 (Senator Middleton)
Judicial Proceedings

**Condominiums and Homeowners Associations - Governing Documents -
Overriding Restrictions Against Rental of Home**

This emergency bill establishes that any provision in a specified governing document of a condominium or a homeowners association that restricts an owner from renting the owner's unit or residential property is null and void and of no effect through June 30, 2013.

Fiscal Summary

State Effect: If the Consumer Protection Division of the Office of the Attorney General receives fewer than 50 complaints per year stemming from the bill, the additional workload can be handled with existing resources. No effect on revenues.

Local Effect: None.

Small Business Effect: Potential minimal.

Analysis

Current Law: The Maryland Condominium Act requires that a condominium must be governed by bylaws that are recorded with the condominium's declaration. If the council of unit owners is incorporated, the bylaws must be those of the corporation. The bylaws may contain any other provision regarding the management and operation of the condominium, including any restriction on, or requirement respecting, the use and maintenance of the units and common elements.

The Maryland Homeowners Association Act requires a seller to make certain disclosures to a buyer at or before the contract is entered into, or within seven calendar days of entering into the contract. The disclosure must, among other things, inform the buyer that the purchased lot may have restrictions related to the renting, leasing, mortgaging, or conveying of the property.

Background: The State's multifaceted approach to the foreclosure crisis has involved legislative reforms of mortgage lending laws, extensive consumer outreach efforts, and enhanced mortgage industry regulation and enforcement. Legislation passed during the 2008 and 2009 sessions:

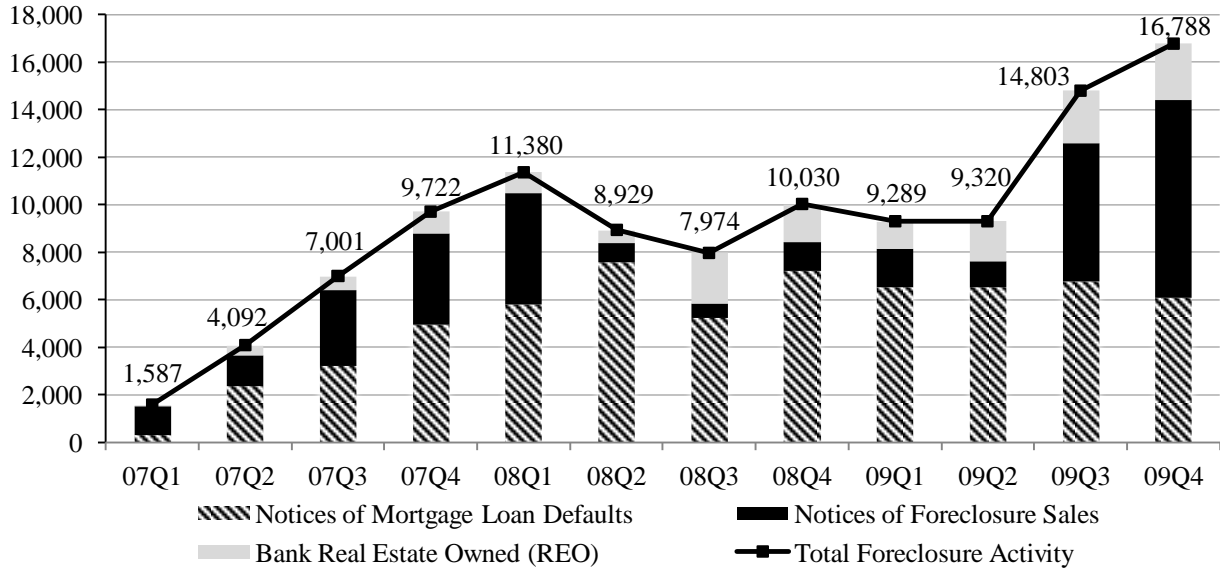
- created the Mortgage Fraud Protection Act, Maryland's first comprehensive mortgage fraud statute;
- tightened mortgage lending standards and required a lender to give due regard to a borrower's ability to repay a loan;
- prohibited foreclosure rescue transactions and granted the Commissioner of Financial Regulation additional enforcement powers;
- reformed the foreclosure process to provide homeowners with greater time and additional notices before their properties are sold; and
- required additional notices to be given to residential tenants renting properties pending foreclosure.

Consumer outreach efforts include statewide public workshops to assist distressed homeowners, in coordination with the Maryland Foreclosure Prevention Pro Bono Project. Since July 2008, over 1,000 volunteer attorneys trained through the project have provided free legal advice at foreclosure solutions workshops and represented borrowers referred from nonprofit housing counseling agencies. The project is coordinated by the Pro Bono Resource Center of Maryland in collaboration with other State agencies, the Maryland State Bar Association, and other nonprofit housing counseling service providers. In addition to the project, the State has sponsored more than 200 public foreclosure solution workshops attended by approximately 25,000 homeowners.

Despite the impact of extensive State legislative and consumer outreach efforts, **Exhibit 1** shows that total foreclosure activity in Maryland continues to increase as State residents feel the effects of rising unemployment and declining home values. The figures in Exhibit 1 incorporate data from the Department of Housing and Community Development's (DHCD's) quarterly foreclosure reports that track documents filed in all three phases of the foreclosure process, including notices of mortgage loan default, notices of foreclosure sales, and properties that have been foreclosed on and repurchased by lenders. As shown in Exhibit 1, total foreclosure activity in the State has risen

67% year-over-year from the fourth quarter of 2008 to the fourth quarter of 2009, and over 13% from the third quarter of 2009 to the fourth quarter of 2009.

Exhibit 1
Total Foreclosure Activity in the State
First Quarter 2007 – Fourth Quarter 2009



Source: Department of Legislative Services using DHCD quarterly report data attributed to RealtyTrac

Additional Information

Prior Introductions: None.

Cross File: None.

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

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 mlm/kdm

Analysis by: Jason F. Weintraub

Direct Inquiries to:
 (410) 946-5510
 (301) 970-5510