

Chapter 246

(House Bill 842)

AN ACT concerning

Foreclosed Residential Property – Tenants – Collection of Rent Payments – Prior Notice

FOR the purpose of prohibiting a foreclosure sale purchaser from exercising any right to collect rent payments from a bona fide tenant in possession of a residential property unless the purchaser conducts a certain reasonable inquiry concerning the occupancy of the residential property and serves on each bona fide tenant a certain notice concerning rent payments; providing that a foreclosure sale purchaser waives any claim to rent payments from a bona fide tenant in possession of a residential property before satisfying certain notice requirements subject to a certain exception; defining certain terms; providing for the application of this Act; and generally relating to the collection of rent payments from tenants in possession of foreclosed residential property.

BY repealing and reenacting, without amendments,

Article – Real Property
Section 7–105.1(a)(9) and 7–105.6(b)(1)
Annotated Code of Maryland
(2010 Replacement Volume and 2010 Supplement)

BY adding to

Article – Real Property
Section 7–105.10
Annotated Code of Maryland
(2010 Replacement Volume and 2010 Supplement)

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

Article – Real Property

7–105.1.

(a) (9) “Residential property” means real property improved by four or fewer single family dwelling units that are designed principally and are intended for human habitation.

7–105.6.

(b) (1) For purposes of this subsection, a lease or tenancy shall be considered "bona fide" only if:

(i) The mortgagor or grantor or the child, spouse, or parent of the mortgagor or grantor under the contract is not the tenant;

(ii) The lease or tenancy was the result of an arm's length transaction; and

(iii) The lease or tenancy requires the receipt of rent that is not substantially less than fair market rent for the property or the unit's rent is reduced or subsidized due to a federal, State, or local subsidy.

7-105.10.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) "BONA FIDE TENANT" MEANS A TENANT UNDER A LEASE OR TENANCY DESCRIBED IN § 7-105.6(B)(1) OF THIS SUBTITLE.

(3) "FORECLOSURE SALE PURCHASER" MEANS ANY PURCHASER AT A FORECLOSURE SALE OF A MORTGAGE OR DEED OF TRUST ON RESIDENTIAL PROPERTY.

(4) "RESIDENTIAL PROPERTY" HAS THE MEANING STATED IN § 7-105.1(A)(9) OF THIS SUBTITLE.

(B) A FORECLOSURE SALE PURCHASER MAY NOT EXERCISE ANY RIGHT TO COLLECT RENT PAYMENTS FROM A BONA FIDE TENANT IN POSSESSION OF A RESIDENTIAL PROPERTY UNLESS THE PURCHASER:

(1) CONDUCTS A REASONABLE INQUIRY AS REQUIRED UNDER MARYLAND RULE 14-102 OF THE MARYLAND RULES INTO:

(I) THE OCCUPANCY STATUS OF THE RESIDENTIAL PROPERTY; AND

(II) WHETHER ANY INDIVIDUAL IN POSSESSION OF THE RESIDENTIAL PROPERTY IS A BONA FIDE TENANT; AND

(2) SERVES ON EACH BONA FIDE TENANT, BY FIRST CLASS MAIL WITH A CERTIFICATE OF MAILING ~~AND POSTING IN A CONSPICUOUS PLACE ON THE RESIDENTIAL PROPERTY~~, A NOTICE THAT:

(I) CONTAINS THE NAME, ADDRESS, AND PHONE NUMBER OF THE PURCHASER OR THE AGENT OF THE PURCHASER WHO IS RESPONSIBLE FOR MANAGING AND MAINTAINING THE RESIDENTIAL PROPERTY; AND

(II) STATES THAT RENT PAYMENTS MUST BE DIRECTED TO THE PURCHASER OR THE AGENT IDENTIFIED IN ITEM (I) OF THIS ITEM.

(C) (1) A EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A FORECLOSURE SALE PURCHASER WAIVES ANY CLAIM TO RENT PAYMENTS FROM A BONA FIDE TENANT IN POSSESSION OF A RESIDENTIAL PROPERTY FOR ANY PERIOD OF TIME BEFORE THE PURCHASER SATISFIES THE REQUIREMENTS UNDER SUBSECTION (B) OF THIS SECTION.

(2) A FORECLOSURE SALE PURCHASER DOES NOT WAIVE ANY CLAIM TO RENT DUE AND PAYABLE FOR USE OF THE RESIDENTIAL PROPERTY FOR THE 15 DAYS IMMEDIATELY PRIOR TO THE DATE THAT THE PURCHASER SATISFIED THE REQUIREMENTS UNDER SUBSECTION (B) OF THIS SECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to apply only prospectively and may not be applied or interpreted to have any effect on or application to any action to foreclose a mortgage or deed of trust on residential property docketed on or before June 30, 2011.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2011.

Approved by the Governor, May 10, 2011.