

Department of Legislative Services  
Maryland General Assembly  
2011 Session

FISCAL AND POLICY NOTE

House Bill 1177 (Delegate Stein)  
Environmental Matters

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Residential Property - Foreclosure Process - Commencement

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This bill expands the circumstances in which a secured party is authorized to petition the circuit court for leave to immediately commence an action to foreclose the mortgage or deed of trust. A secured party is authorized to petition the circuit court for leave to immediately commence an action to foreclose the mortgage or deed of trust if the property subject to the mortgage or deed of trust is (1) abandoned or vacant; (2) not intended, and has never been used, for human habitation; or (3) intended for human habitation but has never been occupied, and a use and occupancy permit for the property, if required, has never been issued.

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Fiscal Summary

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

**Local Effect:** The bill does not materially affect local government finances or operations.

**Small Business Effect:** Potential minimal.

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Analysis

**Current Law:** Generally, an action to foreclose a mortgage or deed of trust on residential property may not be filed until the later of 90 days after a default in a condition on which the mortgage or deed of trust specifies that the sale may be made or 45 days after the required notice of intent to foreclose has been sent.

However, a secured party in a residential foreclosure proceeding may petition the circuit court for leave to immediately commence an action to foreclose the mortgage or deed of trust if (1) the loan secured by the mortgage or deed of trust was obtained by fraud or deception; (2) no payments have ever been made on the secured loan; (3) the property subject to the mortgage or deed of trust has been destroyed; or (4) the default occurred after the stay has been lifted in a bankruptcy proceeding.

**Background:** In a June 2010 report *Impact of the Mortgage Foreclosure Crisis on Vacant and Abandoned Properties in Cities*, the U.S. Conference of Mayors released the results of a 77 city survey. Of the cities that responded to the survey, 76% saw an increase in the number of vacant and abandoned residential properties as a result of the mortgage foreclosure crisis, the majority of which were single-family residential dwellings. Also, 71% of the cities surveyed reported a change in the cities' protocol and procedures, ordinances, or policies in dealing with abandoned property.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Office of the Attorney General (Consumer Protection Division); Department of Housing and Community Development; Judiciary (Administrative Office of the Courts); Department of Labor, Licensing, and Regulation; U.S. Conference of Mayors; Department of Legislative Services

**Fiscal Note History:** First Reader - March 16, 2011  
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