

HOUSE BILL 811

N1

3lr0489

By: **Delegate Niemann**

Introduced and read first time: February 6, 2013

Assigned to: Environmental Matters

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 16, 2013

CHAPTER _____

1 AN ACT concerning

2 **Residential Property – Foreclosure of Liens by Common Ownership**
3 **Communities**

4 FOR the purpose of exempting an action to foreclose a lien on residential property that
5 is brought by the governing body of a common ownership community under the
6 Maryland Contract Lien Act from certain foreclosure procedures; subjecting an
7 action to foreclose a lien on residential property that is brought by the
8 governing body of a common ownership community under the Maryland
9 Contract Lien Act to certain timing, notice, disclosure, service, publication, right
10 to cure, and limitation of action provisions; authorizing the Commissioner of
11 Financial Regulation to adopt regulations necessary to carry out this Act;
12 defining certain terms; and generally relating to foreclosures of liens on
13 residential property by common ownership communities.

14 BY repealing and reenacting, without amendments,
15 Article – Real Property
16 Section 7–105.1(a)(11)
17 Annotated Code of Maryland
18 (2010 Replacement Volume and 2012 Supplement)

19 BY adding to
20 Article – Real Property
21 Section 7–105.1(a–1) and 7–105.13
22 Annotated Code of Maryland
23 (2010 Replacement Volume and 2012 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



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

3 **Article – Real Property**

4 7–105.1.

5 (a) (11) “Residential property” means real property improved by four or
6 fewer single family dwelling units that are designed principally and are intended for
7 human habitation.

8 **(A–1) THIS SECTION DOES NOT APPLY TO AN ACTION TO FORECLOSE A**
9 **LIEN ON RESIDENTIAL PROPERTY THAT IS BROUGHT BY THE GOVERNING BODY**
10 **OF A COMMON OWNERSHIP COMMUNITY UNDER THE MARYLAND CONTRACT**
11 **LIEN ACT.**

12 **7–105.13.**

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

15 **(2) “GOVERNING BODY OF A COMMON OWNERSHIP COMMUNITY”**
16 **MEANS:**

17 **(I) A COUNCIL OF UNIT OWNERS AS DEFINED IN § 11–101**
18 **OF THIS ARTICLE; OR**

19 **(II) A HOMEOWNERS ASSOCIATION AS DEFINED IN §**
20 **11B–101 OF THIS ARTICLE; ~~OR~~**

21 **~~(III) A COOPERATIVE HOUSING CORPORATION AS PROVIDED~~**
22 **~~UNDER TITLE 5, SUBTITLE 6B OF THE CORPORATIONS AND ASSOCIATIONS~~**
23 **~~ARTICLE.~~**

24 **(3) “LIEN” MEANS A LIEN CREATED UNDER THE MARYLAND**
25 **CONTRACT LIEN ACT.**

26 **(4) “RESIDENTIAL PROPERTY” HAS THE MEANING STATED IN §**
27 **7–105.1 OF THIS SUBTITLE.**

28 **(B) THIS SECTION APPLIES ONLY TO AN ACTION TO FORECLOSE A LIEN**
29 **ON RESIDENTIAL PROPERTY THAT IS BROUGHT BY THE GOVERNING BODY OF A**
30 **COMMON OWNERSHIP COMMUNITY UNDER THE MARYLAND CONTRACT LIEN**
31 **ACT.**

1 (C) AN ACTION TO FORECLOSE A LIEN MAY NOT BE FILED UNTIL 45
2 DAYS AFTER THE NOTICE OF INTENT TO FORECLOSE REQUIRED UNDER
3 SUBSECTION (D) OF THIS SECTION IS SENT.

4 (D) (1) AT LEAST 45 DAYS BEFORE THE FILING OF AN ACTION TO
5 FORECLOSE A LIEN, THE GOVERNING BODY OF A COMMON OWNERSHIP
6 COMMUNITY SHALL SEND A WRITTEN NOTICE OF INTENT TO FORECLOSE TO THE
7 DEBTOR AND, IF THE PROPERTY IS NOT OCCUPIED BY THE DEBTOR, THE
8 OCCUPANT OF THE PROPERTY.

9 (2) THE NOTICE OF INTENT TO FORECLOSE SHALL BE SENT:

10 (I) BY CERTIFIED MAIL, POSTAGE PREPAID, RETURN
11 RECEIPT REQUESTED, BEARING A POSTMARK FROM THE UNITED STATES
12 POSTAL SERVICE; AND

13 (II) BY FIRST-CLASS MAIL.

14 (E) AN ORDER TO DOCKET OR A COMPLAINT TO FORECLOSE A LIEN
15 SHALL:

16 (1) INCLUDE AN AFFIDAVIT STATING:

17 1. THE DATE ON WHICH THE DEFAULT OCCURRED
18 AND THE NATURE OF THE DEFAULT; AND

19 2. THAT A NOTICE OF INTENT TO FORECLOSE WAS
20 SENT TO THE DEBTOR IN ACCORDANCE WITH SUBSECTION (D) OF THIS SECTION
21 AND THE DATE ON WHICH THE NOTICE WAS SENT; AND

22 (2) BE ACCOMPANIED BY:

23 (I) THE ORIGINAL OR A ~~CERTIFIED~~ COPY OF THE
24 ~~DECLARATION OR DEBT INSTRUMENT~~ RECORDED DECLARATION OR THE
25 CONTRACT BY WHICH THE LIEN IS CREATED;

26 (II) A STATEMENT OF THE DEBT REMAINING DUE AND
27 PAYABLE;

28 (III) A COPY OF THE LIEN;

1 **(IV) IF ANY DEFENDANT IS AN INDIVIDUAL, AN AFFIDAVIT**
2 **THAT IS IN COMPLIANCE WITH § 521 OF THE SERVICEMEMBERS CIVIL RELIEF**
3 **ACT, 50 U.S.C. APP. § 501 ET SEQ.; AND**

4 **(V) A COPY OF THE NOTICE OF INTENT TO FORECLOSE.**

5 **(F) A COPY OF THE ORDER TO DOCKET OR COMPLAINT TO FORECLOSE**
6 **AND ALL OTHER PAPERS FILED WITH THE ORDER OR COMPLAINT SHALL BE**
7 **SERVED ON THE DEBTOR BY PERSONAL DELIVERY OF THE PAPERS IN**
8 **ACCORDANCE WITH THE MARYLAND RULES.**

9 **(G) A FORECLOSURE SALE MAY NOT OCCUR UNTIL AT LEAST 45 DAYS**
10 **AFTER SERVICE IS MADE UNDER SUBSECTION (F) OF THIS SECTION.**

11 **(H) NOTICE OF THE TIME, PLACE, AND TERMS OF A FORECLOSURE SALE**
12 **SHALL BE PUBLISHED IN A NEWSPAPER OF GENERAL CIRCULATION IN THE**
13 **COUNTY WHERE THE ACTION IS PENDING AT LEAST ONCE A WEEK FOR 3**
14 **SUCCESSIVE WEEKS, THE FIRST PUBLICATION TO BE NOT LESS THAN 15 DAYS**
15 **BEFORE THE SALE AND THE LAST PUBLICATION TO BE NOT MORE THAN 1 WEEK**
16 **BEFORE THE SALE.**

17 **(I) (1) THE DEBTOR HAS THE RIGHT TO CURE THE DEFAULT BY**
18 **PAYING THE AMOUNT OF THE LIEN PLUS COSTS INCURRED IN THE**
19 **FORECLOSURE ACTION AT ANY TIME UP TO 1 BUSINESS DAY BEFORE THE**
20 **FORECLOSURE SALE OCCURS.**

21 **(2) THE GOVERNING BODY OF A COMMON OWNERSHIP**
22 **COMMUNITY OR THE GOVERNING BODY'S AUTHORIZED AGENT, ON REQUEST,**
23 **SHALL PROVIDE TO THE DEBTOR OR THE DEBTOR'S ATTORNEY WITHIN A**
24 **REASONABLE TIME THE AMOUNT NECESSARY TO CURE THE DEFAULT AND**
25 **INSTRUCTIONS FOR DELIVERING THE PAYMENT.**

26 **(J) AN ACTION FOR FAILURE TO COMPLY WITH THE PROVISIONS OF**
27 **THIS SECTION SHALL BE BROUGHT WITHIN 3 YEARS AFTER THE DATE OF THE**
28 **ORDER RATIFYING THE SALE.**

29 **(K) THE COMMISSIONER OF FINANCIAL REGULATION MAY ADOPT**
30 **REGULATIONS NECESSARY TO CARRY OUT THE REQUIREMENTS OF THIS**
31 **SECTION.**

32 **SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect**
33 **October 1, 2013.**