

# HOUSE BILL 1147

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By: **Delegate Kipke**

Introduced and read first time: February 8, 2013

Assigned to: Environmental Matters

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## A BILL ENTITLED

1 AN ACT concerning

2 **Residential Property Foreclosure Procedures – Required Documents –**  
3 **Request for Waiver of Mediation Filing Fee**

4 FOR the purpose of requiring that a request for waiver of filing fee for foreclosure  
5 mediation form be included among the documents accompanying service of an  
6 order to docket or complaint to foreclose, under certain circumstances; and  
7 generally relating to residential property foreclosure procedures.

8 BY repealing and reenacting, with amendments,  
9 Article – Real Property  
10 Section 7–105.1(h)  
11 Annotated Code of Maryland  
12 (2010 Replacement Volume and 2012 Supplement)

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

15 **Article – Real Property**

16 7–105.1.

17 (h) (1) A copy of the order to docket or complaint to foreclose on  
18 residential property and all other papers filed with it in the form and sequence as  
19 prescribed by regulations adopted by the Commissioner of Financial Regulation,  
20 accompanied by the documents required under paragraphs (2), (3), and (4) of this  
21 subsection, shall be served on the mortgagor or grantor by:

22 (i) Personal delivery of the papers to the mortgagor or grantor;  
23 or

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

3 (2) The service of documents under paragraph (1) of this subsection  
4 shall be accompanied by a separate, clearly marked notice, in the form prescribed by  
5 regulation adopted by the Commissioner of Financial Regulation, that states:

6 (i) The significance of the order to docket or a complaint to  
7 foreclose;

8 (ii) The options for the mortgagor or grantor to take, including  
9 housing counseling services and financial assistance resources the mortgagor or  
10 grantor may consult; and

11 (iii) In the case of a mortgagor or grantor who has participated  
12 in prefile mediation, that the mortgagor or grantor is not entitled to postfile mediation  
13 except as otherwise provided in the prefile mediation agreement.

14 (3) If the order to docket or complaint to foreclose is accompanied by a  
15 preliminary loss mitigation affidavit, the service of documents under paragraph (1) of  
16 this subsection shall be accompanied by a loss mitigation application form and any  
17 other supporting documents as prescribed by regulation adopted by the Commissioner  
18 of Financial Regulation.

19 (4) (i) Except as provided in subparagraph (ii) of this paragraph, if  
20 the order to docket or complaint to foreclose is accompanied by a final loss mitigation  
21 affidavit and concerns owner-occupied residential property, the service of documents  
22 under paragraph (1) of this subsection shall be accompanied by a request for postfile  
23 mediation form, **A REQUEST FOR WAIVER OF FILING FEE FOR FORECLOSURE**  
24 **MEDIATION FORM**, and any other supporting documents as prescribed by regulation  
25 adopted by the Commissioner of Financial Regulation.

26 (ii) The order to docket or complaint to foreclose may exclude  
27 the request for postfile mediation form if:

28 1. The mortgagor or grantor has participated in prefile  
29 mediation and the prefile mediation agreement does not give the mortgagor or grantor  
30 the right to participate in postfile mediation; or

31 2. The property subject to the mortgage or deed of trust  
32 is not owner-occupied.

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

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

3 (ii) 1. Mailing a copy of all the documents required to be  
4 served under paragraph (1) of this subsection by certified mail, return receipt  
5 requested, and first-class mail to the mortgagor's or grantor's last known address and,  
6 if different, to the address of the residential property subject to the mortgage or deed  
7 of trust; and

8 2. Posting a copy of all the documents required to be  
9 served under paragraph (1) of this subsection in a conspicuous place on the residential  
10 property subject to the mortgage or deed of trust.

11 (6) The individual making service of documents under this subsection  
12 shall file proof of service with the court in accordance with the Maryland Rules.

13 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
14 October 1, 2013.