

HOUSE BILL 274

D3, N1

(4lr1443)

ENROLLED BILL

— Environmental Matters/Judicial Proceedings —

Introduced by **Delegates Lafferty, Bobo, Carr, Clippinger, Conaway, Frush, Healey, Luedtke, McIntosh, Niemann, S. Robinson, Rosenberg, Stein, Valderrama, Waldstreicher, M. Washington, Wilson, and Zucker**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this _____ day of _____ at _____ o'clock, _____ M.

Speaker.

CHAPTER _____

1 AN ACT concerning

2 **~~Civil Actions Foreclosure Sales of Residential Property~~ – Statute of**
3 **Limitations for Certain Specialties and Motion for Certain Deficiency**
4 **Judgments**

5 FOR the purpose of altering the time period within which a civil action on certain
6 specialties shall be filed; authorizing a certain party, ~~within a certain time~~
7 ~~period,~~ to file a motion for a deficiency judgment under certain circumstances;
8 ~~requiring a certain party that files a certain~~ motion for a deficiency judgment to
9 ~~file be filed~~ within a certain time period; requiring ~~the~~ a certain party to serve
10 ~~the~~ a certain motion in accordance with certain procedures; *providing that the*
11 *filing of a certain motion shall constitute the sole post-ratification remedy*
12 *available to a certain party under certain circumstances;* providing for the
13 application of ~~certain sections~~ *provisions* of this Act; *providing that any cause of*

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.

Italics indicate opposite chamber/conference committee amendments.



~~action for a deficiency judgment to collect the unpaid balance due on a certain deed of trust, mortgage, or promissory note that accrues arises before a certain date must be filed within a certain time period under certain circumstances; providing that any motion for a deficiency judgment on a certain deed of trust, mortgage, or promissory note for which an auditor's report has final ratification must be filed within a certain time period under certain circumstances; defining certain terms; and generally relating to specialties and deficiency judgments in connection with foreclosure sales of with regard to residential property.~~

9 BY repealing and reenacting, without amendments,
10 Article – Courts and Judicial Proceedings
11 Section 5–101
12 Annotated Code of Maryland
13 (2013 Replacement Volume and 2013 Supplement)

14 BY repealing and reenacting, with amendments,
15 Article – Courts and Judicial Proceedings
16 Section 5–102
17 Annotated Code of Maryland
18 (2013 Replacement Volume and 2013 Supplement)

19 BY adding to
20 Article – Real Property
21 Section 7–105.13
22 Annotated Code of Maryland
23 (2010 Replacement Volume and 2013 Supplement)

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

26 **Article – Courts and Judicial Proceedings**

27 5–101.

28 A civil action at law shall be filed within three years from the date it accrues
29 unless another provision of the Code provides a different period of time within which
30 an action shall be commenced.

31 5–102.

32 (a) An action on one of the following specialties shall be filed within 12 years
33 after the cause of action accrues, or within 12 years from the date of the death of the
34 last to die of the principal debtor or creditor, whichever is sooner:

35 (1) Promissory note or other instrument under seal;

36 (2) Bond except a public officer's bond;

- 1 (3) Judgment;
- 2 (4) Recognizance;
- 3 (5) Contract under seal; or
- 4 (6) Any other specialty.

5 (b) A payment of principal or interest on a specialty suspends the operation
6 of this section as to the specialty for three years after the date of payment.

7 (c) This section does not apply to [a]:

8 (1) A specialty taken for the use of the State; OR

9 (2) A DEED OF TRUST, MORTGAGE, OR PROMISSORY NOTE THAT
10 HAS BEEN SIGNED UNDER SEAL ~~BY A MORTGAGOR~~ AND SECURES OR IS SECURED
11 BY OWNER-OCCUPIED RESIDENTIAL PROPERTY, AS ~~THAT TERM IS~~ DEFINED IN §
12 7-105.1 OF THE REAL PROPERTY ARTICLE.

13 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland
14 read as follows:

15 **Article – Real Property**

16 **7-105.13.**

17 (A) (1) ~~WITHIN 180 DAYS AFTER~~ IN THIS SECTION THE FOLLOWING
18 WORDS HAVE THE MEANINGS INDICATED.

19 (2) “OWNER-OCCUPIED RESIDENTIAL PROPERTY” HAS THE
20 MEANING STATED IN § 7-105.1 OF THIS SUBTITLE.

21 (3) “RESIDENTIAL PROPERTY” HAS THE MEANING STATED IN §
22 7-105.1 OF THIS SUBTITLE.

23 (B) THIS SECTION APPLIES TO RESIDENTIAL PROPERTY THAT WAS
24 OWNER-OCCUPIED RESIDENTIAL PROPERTY AT THE TIME AN ORDER TO
25 DOCKET OR COMPLAINT TO FORECLOSE WAS FILED.

26 (C) AFTER THE FINAL RATIFICATION OF THE AUDITOR’S REPORT
27 FOLLOWING A SALE MADE IN ACCORDANCE WITH §§ ~~7-105~~ 7-105.1 THROUGH
28 7-105.8 OF THIS SUBTITLE OR THE MARYLAND RULES, A SECURED PARTY OR
29 AN APPROPRIATE PARTY IN INTEREST MAY FILE A MOTION FOR A DEFICIENCY

1 JUDGMENT IF THE PROCEEDS OF THE SALE, AFTER DEDUCTING ALL COSTS AND
 2 EXPENSES ALLOWED BY THE COURT, ARE INSUFFICIENT TO SATISFY THE DEBT
 3 AND ACCRUED INTEREST.

4 ~~(D) A SECURED PARTY OR PARTY IN INTEREST THAT FILES A MOTION~~
 5 ~~FOR DEFICIENCY JUDGMENT UNDER THIS SECTION MUST FILE WITHIN 2~~ SHALL
 6 BE FILED WITHIN 3 YEARS OF AFTER THE FINAL RATIFICATION OF THE
 7 AUDITOR'S REPORT.

8 ~~(B)~~ (E) THE SECURED PARTY OR PARTY IN INTEREST SHALL SERVE
 9 THE MOTION IN ACCORDANCE WITH THE MARYLAND RULES.

10 (F) THE FILING OF A MOTION FOR DEFICIENCY JUDGMENT IN
 11 ACCORDANCE WITH THIS SECTION AND THE MARYLAND RULES SHALL
 12 CONSTITUTE THE SOLE POST-RATIFICATION REMEDY AVAILABLE TO A SECURED
 13 PARTY OR PARTY IN INTEREST FOR BREACH OF A COVENANT CONTAINED IN A
 14 DEED OF TRUST, MORTGAGE, OR PROMISSORY NOTE THAT SECURES OR IS
 15 SECURED BY OWNER-OCCUPIED RESIDENTIAL PROPERTY.

16 ~~SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be~~
 17 ~~construed to apply only prospectively and may not be applied or interpreted to have~~
 18 ~~any effect on or application to any cause of action arising before the effective date of~~
 19 ~~this Act.~~

20 SECTION 3. AND BE IT FURTHER ENACTED, That, except as provided in
 21 Section 4 of this Act, Section 1 of this Act shall be construed to apply prospectively to
 22 any cause of action that is filed arises on or after the effective date of this Act for a
 23 deficiency judgment on a deed of trust, mortgage, or promissory note that has been
 24 signed under seal by a mortgagor and secures or is secured by residential property
 25 that was owner-occupied residential property at the time the order to docket or
 26 complaint to foreclose was filed.

27 SECTION 4. AND BE IT FURTHER ENACTED, That any cause of action for a
 28 deficiency judgment to collect the unpaid balance due on a deed of trust, mortgage, or
 29 promissory note that has been signed under seal by a mortgagor and secures or is
 30 secured by residential property that was owner-occupied residential property at the
 31 time the order to docket or complaint to foreclose was filed that accrues property was
 32 transferred with the unpaid balance that arises before July 1, 2014, and would not be
 33 barred under Section § 5-102 of the Courts and Judicial Proceedings Article before
 34 July 1, 2014, must be filed within 12 years after the date the action accrues or before
 35 July 1, 2016 2017, whichever occurs first.

36 SECTION 5. AND BE IT FURTHER ENACTED, That, except as provided in
 37 Section 6 of this Act, Section 2 of this Act shall be construed to apply prospectively to
 38 any motion for a deficiency judgment that is filed on or after the effective date of this

1 Act on a deed of trust, mortgage, or promissory note that secures or is secured by
2 residential property that was owner-occupied residential property at the time the
3 order to docket or complaint to foreclose was filed.

4 SECTION 6. AND BE IT FURTHER ENACTED, That any motion for a
5 deficiency judgment on a deed of trust, mortgage, or promissory note that secures or is
6 secured by residential property that was owner-occupied residential property at the
7 time the order to docket or complaint to foreclose was filed for which an auditor's
8 report has final ratification before July 1, 2014, and would not be barred under
9 Maryland Rule 14-216 before July 1, 2014, must be filed within 3 years after the date
10 of final ratification or before July 1, ~~2016~~ 2017, whichever occurs first.

11 SECTION ~~6~~ 7. AND BE IT FURTHER ENACTED, That this Act shall take
12 effect July 1, 2014.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.