

Chapter 592

(House Bill 274)

AN ACT concerning

Civil Actions Foreclosure Sales of Residential Property – Statute of Limitations for Certain Specialties and Motion for Certain Deficiency Judgments

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

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

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

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

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

Article – Courts and Judicial Proceedings

5–101.

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

5–102.

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

- (1) Promissory note or other instrument under seal;
- (2) Bond except a public officer's bond;
- (3) Judgment;
- (4) Recognizance;
- (5) Contract under seal; or
- (6) Any other specialty.

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

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

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

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

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

Article – Real Property

7-105.13.

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

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

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

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

(C) AFTER THE FINAL RATIFICATION OF THE AUDITOR’S REPORT FOLLOWING A SALE MADE IN ACCORDANCE WITH §§ ~~7-105~~ 7-105.1 THROUGH 7-105.8 OF THIS SUBTITLE OR THE MARYLAND RULES, A SECURED PARTY OR AN APPROPRIATE PARTY IN INTEREST MAY FILE A MOTION FOR A DEFICIENCY JUDGMENT IF THE PROCEEDS OF THE SALE, AFTER DEDUCTING ALL COSTS AND EXPENSES ALLOWED BY THE COURT, ARE INSUFFICIENT TO SATISFY THE DEBT AND ACCRUED INTEREST.

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

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

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

~~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 cause of action arising before the effective date of this Act.~~

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

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

SECTION 5. AND BE IT FURTHER ENACTED, That, *except as provided in Section 6 of this Act*, Section 2 of this Act shall be construed to apply prospectively to any motion for a deficiency judgment that is filed on or after the effective date of this Act on a deed of trust, mortgage, or promissory note that secures or is secured by residential property that was owner-occupied residential property at the time the order to docket or complaint to foreclose was filed.

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

SECTION ~~3~~ 7. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2014.

Approved by the Governor, May 15, 2014.