

SENATE BILL 756

N1

EMERGENCY BILL

5lr2774
CF HB 929

By: **Senator Muse**

Introduced and read first time: February 16, 2015

Assigned to: Rules

A BILL ENTITLED

1 AN ACT concerning

2 **Prince George's County – Foreclosure Relief Act of 2015**

3 FOR the purpose of requiring the court to send the mortgagor or grantor a certain checklist
4 when a certain foreclosure action is filed in Prince George's County; prohibiting a
5 lender from maintaining an action to foreclose a mortgage or deed of trust on
6 residential real property in Prince George's County for a certain period of time;
7 requiring the Office of the Attorney General to study certain matters and report its
8 findings to the General Assembly on or before a specified date; providing for the
9 application of this Act; making this Act an emergency measure; providing for the
10 termination of certain provisions of this Act; and generally relating to foreclosure
11 actions.

12 BY repealing and reenacting, without amendments,
13 Article – Real Property
14 Section 7–105.1(e)
15 Annotated Code of Maryland
16 (2010 Replacement Volume and 2014 Supplement)

17 BY adding to
18 Article – Real Property
19 Section 7–105.1(e–1)
20 Annotated Code of Maryland
21 (2010 Replacement Volume and 2014 Supplement)

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

24 **Article – Real Property**

25 7–105.1.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (e) An order to docket or a complaint to foreclose a mortgage or deed of trust on
2 residential property shall:

3 (1) Include:

4 (i) If applicable, the license number of:

5 1. The mortgage originator; and

6 2. The mortgage lender; and

7 (ii) An affidavit stating:

8 1. The date on which the default occurred and the nature of
9 the default; and

10 2. If applicable, that:

11 A. A notice of intent to foreclose was sent to the mortgagor or
12 grantor in accordance with subsection (c) of this section and the date on which the notice
13 was sent; and

14 B. At the time the notice of intent to foreclose was sent, the
15 contents of the notice of intent to foreclose were accurate; and

16 (2) Be accompanied by:

17 (i) The original or a certified copy of the mortgage or deed of trust;

18 (ii) A statement of the debt remaining due and payable supported by
19 an affidavit of the plaintiff or the secured party or the agent or attorney of the plaintiff or
20 secured party;

21 (iii) A copy of the debt instrument accompanied by an affidavit
22 certifying ownership of the debt instrument;

23 (iv) If applicable, the original or a certified copy of the assignment of
24 the mortgage for purposes of foreclosure or the deed of appointment of a substitute trustee;

25 (v) If any defendant is an individual, an affidavit that is in
26 compliance with § 521 of the Servicemembers Civil Relief Act, 50 U.S.C. App. § 501 et seq.;

27 (vi) If applicable, a copy of the notice of intent to foreclose;

28 (vii) If the secured party and mortgagor or grantor have elected to
29 participate in prefile mediation, the report of the prefile mediation issued by the Office of
30 Administrative Hearings;

1 (viii) If the secured party and the mortgagor or grantor have not
2 elected to participate in prefile mediation, a statement that the parties have not elected to
3 participate in prefile mediation;

4 (ix) In addition to any other filing fees required by law, a filing fee in
5 the amount of \$300; and

6 (x) 1. If the loss mitigation analysis has been completed subject
7 to subsection (g) of this section, a final loss mitigation affidavit in the form prescribed by
8 regulation adopted by the Commissioner of Financial Regulation; and

9 2. If the loss mitigation analysis has not been completed, a
10 preliminary loss mitigation affidavit in the form prescribed by regulation adopted by the
11 Commissioner of Financial Regulation.

12 **(E-1) IN PRINCE GEORGE'S COUNTY, WHEN AN ORDER TO DOCKET OR A**
13 **COMPLAINT TO FORECLOSE A MORTGAGE OR DEED OF TRUST ON OWNER-OCCUPIED**
14 **RESIDENTIAL PROPERTY IS FILED UNDER SUBSECTION (E) OF THIS SECTION, THE**
15 **COURT SHALL SEND A ONE-PAGE CHECKLIST TO THE MORTGAGOR OR GRANTOR**
16 **THAT:**

17 **(1) REQUESTS VERIFICATION THAT THE MORTGAGOR OR GRANTOR**
18 **RECEIVED ALL DOCUMENTS AND INFORMATION REQUIRED TO BE SERVED ON THE**
19 **MORTGAGOR OR GRANTOR BY THE SECURED PARTY UNDER STATE OR FEDERAL**
20 **LAW;**

21 **(2) INFORMS THE MORTGAGOR OR GRANTOR OF THE RIGHT TO:**

22 **(I) DISPUTE THE ORDER TO DOCKET OR THE COMPLAINT TO**
23 **FORECLOSE; AND**

24 **(II) FILE A MOTION TO DISMISS THE ORDER TO DOCKET OR THE**
25 **COMPLAINT TO FORECLOSE; AND**

26 **(3) REQUIRES THE MORTGAGOR OR GRANTOR TO RETURN THE**
27 **CHECKLIST TO THE COURT WITHIN 15 DAYS.**

28 SECTION 2. AND BE IT FURTHER ENACTED, That:

29 (a) In this section, "residential property" mean real property improved by four or
30 fewer single family dwelling units that are designed principally and are intended for human
31 habitation.

1 (b) A secured party may not maintain an action to foreclose a mortgage or deed of
2 trust on residential property in Prince George's County.

3 SECTION 3. AND BE IT FURTHER ENACTED, That:

4 The Office of the Attorney General shall:

5 (a) study:

6 (1) legal remedies available to a person who has been the victim of an
7 illegal foreclosure, including an action in which documents are filed that are inaccurate,
8 forged, or signed by a person other than the person whose name appears on the document;

9 (2) whether fines assessed against lenders for illegal foreclosure actions
10 have been paid to injured homeowners;

11 (3) whether statistical or other evidence exists that the mortgage loan
12 modification process is fair to homeowners; and

13 (4) whether the financial practice of pooling various types of contractual
14 debt through securitization is detrimental to homeowners and whether the practice may be
15 considered illegal; and

16 (b) on or before July 1, 2016, report to the General Assembly, in accordance with
17 § 2-1246 of the State Government Article, on the findings of the Office of the Attorney
18 General under subsection (a) of this section.

19 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall be construed to
20 apply only prospectively and may not be applied or interpreted to have any effect on or
21 application to any action filed before the effective date of this Act.

22 SECTION 5. AND BE IT FURTHER ENACTED, That this Act is an emergency
23 measure, is necessary for the immediate preservation of the public health or safety, has
24 been passed by a ye and nay vote supported by three-fifths of all the members elected to
25 each of the two Houses of the General Assembly, and shall take effect from the date it is
26 enacted. Section 2 of this Act shall remain effective for a period of 6 months from the date
27 it is enacted and, at the end of the 6-month period, with no further action required by the
28 General Assembly, Section 2 of this Act shall be abrogated and of no further force and effect.
29 Section 3 of this Act shall remain effective for a period of 2 years from the date it is enacted
30 and, at the end of the 2-year period, with no further action required by the General
31 Assembly, Section 3 of this Act shall be abrogated and of no further force and effect.