

SENATE BILL 755

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8lr2934

By: **Senator Peters**

Introduced and read first time: February 5, 2018

Assigned to: Finance

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 2, 2018

CHAPTER _____

1 AN ACT concerning

2 **Credit Regulation – Escrow Accounts – Water and Sewer Facilities Assessments**

3 FOR the purpose of ~~requiring~~ authorizing a certain lending institution ~~or credit grantor~~
4 that makes a certain loan secured by a certain first mortgage or first deed of trust to
5 create a certain escrow account solely for the payment of water and sewer facilities
6 assessments on a certain request; providing that certain provisions of law do not
7 apply to the payment of water and sewer facilities assessments under a certain direct
8 reduction method; providing that funds in a certain escrow account for use for certain
9 purposes may not be used in a certain manner; requiring a servicer to make certain
10 timely payments of certain water and sewer facilities assessments; defining a certain
11 term; altering certain definitions; and generally relating to water and sewer facilities
12 assessments paid under escrow accounts.

13 BY repealing and reenacting, with amendments,

14 Article – Commercial Law

15 Section 12–109(a) and (c), 12–109.1(b), 12–1026(a), (b)(4), and (c)(1), and 13–316

16 Annotated Code of Maryland

17 (2013 Replacement Volume and 2017 Supplement)

18 BY repealing and reenacting, without amendments,

19 Article – Commercial Law

20 Section 12–109(b)(1) and (d), 12–109.1(a), and 12–1026(b)(1) and (5)

21 Annotated Code of Maryland

22 (2013 Replacement Volume and 2017 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 BY adding to
 2 Article – Commercial Law
 3 Section 12–109(e) and 12–1026(f)
 4 Annotated Code of Maryland
 5 (2013 Replacement Volume and 2017 Supplement)

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

8 **Article – Commercial Law**

9 12–109.

10 (a) (1) In this section the following words have the meanings indicated.

11 (2) “Escrow account” means an expense or escrow account which tends to
 12 protect the security of a loan by the accumulation of funds for the payment of taxes,
 13 insurance premiums, **WATER AND SEWER FACILITIES ASSESSMENTS**, or other expenses.

14 (3) “Lending institution” means a bank, savings bank, or savings and loan
 15 association doing business in Maryland.

16 (4) (I) **“WATER AND SEWER FACILITIES ASSESSMENT” MEANS A**
 17 **FEE OR CHARGE ~~ASSESSED~~ ASSESSED THAT IS:**

18 **1. ASSESSED ON AN OWNER OF RESIDENTIAL REAL**
 19 **PROPERTY THAT IS:**

20 **~~1. SERVED~~ SERVED BY PUBLIC WATER OR WASTEWATER**
 21 **FACILITIES FOR WHICH DEFERRED WATER OR SEWER CHARGES HAVE BEEN**
 22 **ESTABLISHED BY A RECORDED COVENANT OR DECLARATION TO COVER OR DEFRAY**
 23 **THE COST OF INSTALLING OR MAINTAINING DURING CONSTRUCTION ALL OR PART**
 24 **OF THE PUBLIC WATER OR WASTEWATER FACILITIES CONSTRUCTED BY THE**
 25 **DEVELOPER; AND**

26 **2. PAID TO THE LIENHOLDER OF THE LIEN RECORDED**
 27 **ON THE RESIDENTIAL REAL PROPERTY FOR PUBLIC WATER AND WASTEWATER**
 28 **FACILITIES.**

29 (II) **“WATER AND SEWER FACILITIES ASSESSMENT” INCLUDES A**
 30 **FRONT FOOT BENEFIT FEE OR CHARGE.**

31 (b) (1) A lending institution which lends money secured by a first mortgage or
 32 first deed of trust on any interest in residential real property and creates or is the assignee
 33 of an escrow account in connection with that loan shall pay interest to the borrower on the
 34 funds in the escrow account at an annual rate not less than the weekly average yield on

1 United States Treasury securities adjusted to a constant maturity of 1 year, as published
2 by the Federal Reserve in “Selected Interest Rates (Daily) – H.15”, as of the first business
3 day of the calendar year.

4 (c) The provisions of this section do not apply to a lending institution which
5 provides for the payment of taxes, insurance, **WATER AND SEWER FACILITIES**
6 **ASSESSMENTS**, or other expenses under the direct reduction method by which these
7 expenses, when paid by the lender, are added to the outstanding principal balance of the
8 loan.

9 (d) This section does not apply if the loan is purchased by an out-of-state lender
10 through the Federal National Mortgage Association, the Government National Mortgage
11 Association, or the Federal Home Loan Mortgage Corporation and the out-of-state lender
12 as a condition of purchase elects to service the loan. However, this section shall apply if the
13 out-of-state lender sells the loan to a Maryland lender or places the loan with a Maryland
14 lender for servicing.

15 (E) **ON REQUEST OF A BORROWER, A LENDING INSTITUTION THAT ~~MAKES A~~**
16 **~~LOAN TO THE BORROWER~~ LENDS MONEY SECURED BY A FIRST MORTGAGE OR FIRST**
17 **DEED OF TRUST ON ANY INTEREST IN RESIDENTIAL REAL PROPERTY ~~SHALL~~ MAY, AT**
18 **THE OPTION OF THE LENDING INSTITUTION, CREATE AN ESCROW ACCOUNT IN**
19 **CONNECTION WITH THAT LOAN SOLELY FOR THE PAYMENT OF WATER AND SEWER**
20 **FACILITIES ASSESSMENTS.**

21 12-109.1.

22 (a) The provisions of this section do not apply to escrow accounts maintained in
23 connection with loans described in § 12-103(e)(1) of this subtitle.

24 (b) Except in a foreclosure, release, or as provided in subsection (c) of this section,
25 funds in any escrow account for use in paying taxes, insurance premiums [and], ground
26 rents, **AND WATER AND SEWER FACILITIES ASSESSMENTS** may not be used to:

27 (1) Reduce the principal; or

28 (2) Pay interest or other loan charges.

29 12-1026.

30 (a) (1) In this section the following words have the meanings indicated.

31 (2) “Escrow account” means an expense or escrow account which tends to
32 protect the security of a loan by the accumulation of funds for the payment of taxes,
33 insurance premiums, **WATER AND SEWER FACILITIES ASSESSMENTS**, or other expenses.

1 (3) "Lending institution" means a bank, savings bank, or savings and loan
2 association doing business in Maryland.

3 (4) (I) **"WATER AND SEWER FACILITIES ASSESSMENT" MEANS A**
4 **FEE OR CHARGE ~~ASSESSED~~ ASSESSED THAT IS:**

5 **1. ASSESSED ON AN OWNER OF RESIDENTIAL REAL**
6 **PROPERTY THAT IS:**

7 **~~1. SERVED~~ SERVED BY PUBLIC WATER OR WASTEWATER**
8 **FACILITIES FOR WHICH DEFERRED WATER OR SEWER CHARGES HAVE BEEN**
9 **ESTABLISHED BY A RECORDED COVENANT OR DECLARATION TO COVER OR DEFRAY**
10 **THE COST OF INSTALLING OR MAINTAINING DURING CONSTRUCTION ALL OR PART**
11 **OF THE PUBLIC WATER OR WASTEWATER FACILITIES CONSTRUCTED BY THE**
12 **DEVELOPER; AND**

13 **2. PAID TO THE LIENHOLDER OF THE LIEN RECORDED**
14 **ON THE RESIDENTIAL REAL PROPERTY FOR PUBLIC WATER AND WASTEWATER**
15 **FACILITIES.**

16 (II) **"WATER AND SEWER FACILITIES ASSESSMENT" INCLUDES A**
17 **FRONT FOOT BENEFIT FEE OR CHARGE.**

18 (b) (1) A lending institution that makes a loan to a consumer borrower secured
19 by a first mortgage or first deed of trust on residential real property and creates or is the
20 assignee of an escrow account in connection with that loan shall pay interest to the
21 consumer borrower on the funds in the escrow account at an annual rate not less than the
22 weekly average yield on United States Treasury securities adjusted to a constant maturity
23 of 1 year, as published by the Federal Reserve in "Selected Interest Rates (Daily) – H.15",
24 as of the first business day of the calendar year.

25 (4) The provisions of this subsection do not apply to a lending institution
26 that provides for the payment of taxes, insurance, **WATER AND SEWER FACILITIES**
27 **ASSESSMENTS**, or other expenses under the direct reduction method by which these
28 expenses, when paid by the lending institution, are added to the outstanding principal
29 balance of the loan.

30 (5) (i) This subsection does not apply if the loan:

31 1. Is purchased by an out-of-state lender through the
32 Federal National Mortgage Association, the Government National Mortgage Association,
33 or the Federal Home Loan Mortgage Corporation; and

34 2. The out-of-state lender elects to service the loan as a
35 condition of purchase.

1 (ii) Notwithstanding subparagraph (i) of this paragraph, this
2 subsection shall apply if the out-of-state lender:

- 3 1. Sells the loan to a Maryland lender; or
- 4 2. Places the loan with a Maryland lender for servicing.

5 (c) (1) Except upon foreclosure, release, or as provided in paragraph (2) of this
6 subsection, funds in any escrow account maintained by a credit grantor on behalf of a
7 consumer borrower for use in paying taxes, insurance premiums, [and] ground rents, AND
8 WATER AND SEWER FACILITIES ASSESSMENTS may not be used:

- 9 (i) To reduce the principal; or
- 10 (ii) To pay interest or other loan charges.

11 (F) ON REQUEST OF A CONSUMER BORROWER, A ~~CREDIT GRANTOR~~
12 LENDING INSTITUTION THAT MAKES A LOAN TO THE CONSUMER BORROWER
13 SECURED BY A FIRST MORTGAGE OR FIRST DEED OF TRUST ON RESIDENTIAL REAL
14 PROPERTY ~~OR AN ASSIGNEE OF AN ESCROW ACCOUNT SHALL~~ MAY, AT THE OPTION
15 OF THE LENDING INSTITUTION, CREATE AN ESCROW ACCOUNT IN CONNECTION
16 WITH THAT LOAN SOLELY FOR THE PAYMENT OF WATER AND SEWER FACILITIES
17 ASSESSMENTS.

18 13-316.

19 (a) (1) In this section the following terms have the meanings indicated.

20 (2) "Mortgage" includes a mortgage, deed of trust, security agreement, or
21 other lien on 1 to 4 family residential real estate located in this State.

22 (3) "Servicer" means a person responsible for collection and payment of
23 principal, interest, escrow, and other moneys under an original mortgage.

24 (b) Within 7 days of acquiring mortgage servicing, a servicer shall send to the
25 mortgagor a written notice containing the following information regarding the mortgage on
26 the date of transfer:

27 (1) The name, address, and telephone number of the new servicer and the
28 address where mortgage payments are to be forwarded;

29 (2) The principal balance and escrow balance;

30 (3) The telephone number of the contact designated under subsection (c) of
31 this section;

1 (4) The responsibilities of the contact under subsection (c) of this section;
2 and

3 (5) A statement that the servicer's violation of this section will result in the
4 servicer being held liable under subsection (e) of this section.

5 (c) (1) A servicer shall designate a contact to whom mortgagors may direct
6 complaints and inquiries.

7 (2) The contact shall respond in writing to each written complaint or
8 inquiry within 15 days if requested.

9 (d) (1) A servicer shall make timely payments of the taxes or insurance
10 premiums due under the mortgage so long as the mortgagor has paid an amount sufficient
11 to pay the tax or insurance premium due and, with regard to the taxes, so long as the
12 servicer is in possession of either the tax bill or notice from the taxing authority.

13 (2) **A SERVICER SHALL MAKE TIMELY PAYMENT OF THE WATER AND
14 SEWER FACILITIES ASSESSMENTS DUE UNDER A LIEN ON THE RESIDENTIAL REAL
15 PROPERTY FOR PUBLIC WATER AND WASTEWATER FACILITIES PROVIDED THAT:**

16 (I) **THE MORTGAGOR HAS PAID AN AMOUNT SUFFICIENT TO
17 PAY THE ASSESSMENT DUE; AND**

18 (II) **THE SERVICER IS IN POSSESSION OF THE ASSESSMENT
19 BILL.**

20 (e) (1) If a servicer fails to comply with any provision of this section, the
21 servicer is liable for any economic damages caused by the violation.

22 (2) The penalties provided in this section are in addition to any other
23 applicable remedies.

24 (f) A servicer shall provide a toll-free telephone number through which any
25 borrower residing in this State may direct telephone inquiries on outstanding loans during
26 regular business hours.

27 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
28 October 1, 2018.