

HOUSE BILL 769

N1

5lr1126
CF SB 682

By: **Delegates D. Jones, Allen, Bagnall, Bartlett, Boaf, Holmes, J. Lewis, Pruski, Roberson, Schmidt, ~~and Simmons~~ Simmons, Behler, Boyce, Healey, T. Morgan, and Stewart**

Introduced and read first time: January 29, 2025
Assigned to: Environment and Transportation

Committee Report: Favorable with amendments
House action: Adopted
Read second time: March 6, 2025

CHAPTER _____

1 AN ACT concerning

2 **Real Property – Residential Foreclosures – ~~Materially Delinquent Mortgages~~**
3 **Commencement Restrictions**

4 FOR the purpose of ~~altering certain requirements for~~ establishing certain restrictions for
5 the commencement of a foreclosure and an order to docket or a complaint to foreclose
6 a mortgage or deed of trust on residential property; ~~requiring a secured party to~~
7 provide certain loan-related correspondence in order to enforce a materially
8 delinquent mortgage, subject to certain exceptions; permitting a mortgagor to raise
9 a defense of laches in an action to enforce a materially delinquent mortgage; and
10 generally relating to materially delinquent mortgages and foreclosures and generally
11 relating to an action to foreclose a mortgage or deed of trust on residential property.

12 BY repealing and reenacting, without amendments,
13 Article – Real Property
14 Section 7–105.1(a)(1), (8), and (12) ~~and~~, (b), and (f)
15 Annotated Code of Maryland
16 (2023 Replacement Volume and 2024 Supplement)

17 BY repealing and reenacting, with amendments,
18 Article – Real Property
19 Section ~~7–105.1(e)(1)~~ 7–105.1(e)
20 Annotated Code of Maryland
21 (2023 Replacement Volume and 2024 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 – Real Property
3 Section ~~7-105.19~~ 7-105.1(e-1)
4 Annotated Code of Maryland
5 (2023 Replacement Volume and 2024 Supplement)

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

8 **Article – Real Property**

9 7-105.1.

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

11 (8) “Owner-occupied residential property” means residential property in
12 which at least one unit is occupied by an individual who:

13 (i) Has an ownership interest in the property; and

14 (ii) Uses the property as the individual’s primary residence.

15 (12) “Residential property” means real property improved by four or fewer
16 single family dwelling units that are designed principally and are intended for human
17 habitation.

18 (b) (1) Except as provided in paragraph (2) of this subsection, an action to
19 foreclose a mortgage or deed of trust on residential property may not be filed until the later
20 of:

21 (i) 90 days after a default in a condition on which the mortgage or
22 deed of trust provides that a sale may be made; or

23 (ii) 45 days after the notice of intent to foreclose required under
24 subsection (c) of this section is sent.

25 (2) (i) The secured party may petition the circuit court for leave to
26 immediately commence an action to foreclose the mortgage or deed of trust if:

27 1. The loan secured by the mortgage or deed of trust was
28 obtained by fraud or deception;

29 2. No payments have ever been made on the loan secured by
30 the mortgage or deed of trust;

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

4 B. At the time the notice of intent to foreclose was sent, the
5 contents of the notice of intent to foreclose were accurate; ~~and~~

6 (2) Be accompanied by:

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

8 (ii) A statement of the debt remaining due and payable supported by
9 an affidavit of the plaintiff or the secured party or the agent or attorney of the plaintiff or
10 secured party;

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

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

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

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

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

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

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

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

29 2. If the loss mitigation analysis has not been completed, a
30 preliminary loss mitigation affidavit in the form prescribed by regulation adopted by the
31 Commissioner of Financial Regulation; AND

32 (3) BE COMMENCED NOT LATER THAN 10 YEARS AFTER THE DATE OF
33 DEFAULT CLAIMED IN THE ORDER TO DOCKET OR COMPLAINT TO FORECLOSE.

1 (E-1) IF A FORECLOSURE IS COMMENCED BY A SECURED PARTY THAT
2 ACQUIRED DEBT THAT WAS IN DEFAULT FOR 5 OR MORE YEARS BEFORE THE
3 ACQUISITION, THE SECURED PARTY SHALL PRESENT THE DOCUMENTS REQUIRED
4 UNDER § 5-1203(B) OF THE COURTS ARTICLE WITH THE ORDER TO DOCKET OR
5 COMPLAINT TO FORECLOSE.

6 ~~7-105.19.~~

7 ~~(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS~~
8 ~~INDICATED.~~

9 ~~(2) "BILLING CYCLE" MEANS:~~

10 ~~(I) IF A MORTGAGE REQUIRES PERIODIC PAYMENTS AT~~
11 ~~INTERVALS OF 3 MONTHS OR LESS, THE INTERVAL BETWEEN THE DAYS OR DATES OF~~
12 ~~REGULAR PERIODIC PAYMENTS REQUIRED BY THE TERMS OF THE MORTGAGE; OR~~

13 ~~(II) IF THE MORTGAGE TERMS DO NOT REQUIRE PERIODIC~~
14 ~~PAYMENTS OR REQUIRE PERIODIC PAYMENTS ON INTERVALS GREATER THAN 3~~
15 ~~MONTHS, EVERY 3 MONTHS.~~

16 ~~(3) "LOAN RELATED CORRESPONDENCE" MEANS WRITTEN~~
17 ~~COMMUNICATION FROM A SECURED PARTY TO A MORTGAGOR THAT:~~

18 ~~(I) IF THE SECURED PARTY IS REQUIRED TO PROVIDE~~
19 ~~PERIODIC STATEMENTS UNDER 12 C.F.R. § 1026.41, COMPLIES WITH THE~~
20 ~~REQUIREMENTS OF THAT PROVISION; OR~~

21 ~~(II) IF THE SECURED PARTY IS NOT REQUIRED TO PROVIDE~~
22 ~~PERIODIC STATEMENTS UNDER 12 C.F.R. § 1026.41, CONTAINS THE FOLLOWING:~~

23 ~~1. THE NAME AND CONTACT INFORMATION OF THE~~
24 ~~SECURED PARTY;~~

25 ~~2. THE CURRENT AMOUNT OF THE OUTSTANDING~~
26 ~~PRINCIPAL BALANCE;~~

27 ~~3. THE CURRENT INTEREST RATE IN EFFECT;~~

28 ~~4. THE AMOUNT CURRENTLY DUE DISAGGREGATED BY~~
29 ~~PRINCIPAL, INTEREST, CHARGES, AND FEES; AND~~

~~5. THE LENGTH OF ANY PAYMENT DELINQUENCY,
INCLUDING THE DATE OF LAST PAYMENT.~~

~~(4) "MATERIALLY DELINQUENT MORTGAGE" MEANS A MORTGAGE ON WHICH NO PAYMENTS HAVE BEEN MADE BY A PARTY, OTHER THAN THE SECURED PARTY, IN THE PRECEDING 5 YEARS, EXCLUDING ANY PERIOD OF TIME IN WHICH A SECURED PARTY COULD NOT INSTITUTE A FORECLOSURE PROCEEDING DUE TO AN EXECUTIVE ORDER OR OTHER SIMILAR OFFICIAL ACTION RESTRICTING FORECLOSURE ACTIONS.~~

~~(5) "MORTGAGE" MEANS ANY MORTGAGE OR DEED OF TRUST ENCUMBERING OWNER OCCUPIED RESIDENTIAL PROPERTY.~~

~~(6) "MORTGAGOR" MEANS ANY PARTY SIGNING A MORTGAGE AS A MORTGAGOR OR A DEED OF TRUST AS A GRANTOR.~~

~~(7) "OWNER OCCUPIED RESIDENTIAL PROPERTY" HAS THE MEANING STATED IN § 7-105.1 OF THIS SUBTITLE.~~

~~(8) "RESIDENTIAL PROPERTY" HAS THE MEANING STATED IN § 7-105.1 OF THIS SUBTITLE.~~

~~(9) "SECURED PARTY" MEANS AN OWNER, A SERVICER, OR ANY OTHER PERSON ENTITLED TO ENFORCE A MORTGAGE OR A DEED OF TRUST.~~

~~(B) (1) THIS SUBSECTION MAY NOT BE INTERPRETED TO:~~

~~(I) PROHIBIT THE FILING OF A PETITION UNDER § 7-105.1(B)(2) OF THIS SUBTITLE; OR~~

~~(II) PRECLUDE THE COURT FROM GRANTING A PETITION WITH RESPECT TO A MATERIALLY DELINQUENT MORTGAGE UNDER § 7-105.1(B)(2) OF THIS SUBTITLE.~~

~~(2) UNLESS PROHIBITED BY LAW, REGULATION, OR EXECUTIVE ORDER, A SECURED PARTY SHALL SEND LOAN RELATED CORRESPONDENCE TO THE MORTGAGOR OF A MATERIALLY DELINQUENT MORTGAGE IN EACH BILLING CYCLE.~~

~~(3) PRIOR TO OCTOBER 1, 2027, A SECURED PARTY MAY ENFORCE A MATERIALLY DELINQUENT MORTGAGE THROUGH COMMENCEMENT OF A FORECLOSURE OR JUDICIAL SALE ONLY IF:~~

~~(I) AT LEAST ONE PIECE OF LOAN RELATED CORRESPONDENCE WAS SENT TO THE MORTGAGOR DURING EACH BILLING CYCLE~~

~~FOR THE IMMEDIATELY PRECEDING 24 MONTHS, EXCLUDING ANY PERIOD DURING WHICH THE SECURED PARTY WAS PROHIBITED BY LAW, REGULATION, OR EXECUTIVE ORDER FROM SENDING LOAN RELATED CORRESPONDENCE TO THE MORTGAGOR; OR~~

~~(H) ON A FORM PROVIDED BY THE COMMISSIONER OF FINANCIAL REGULATION, THE SECURED PARTY SERVES NOTICE ON THE MORTGAGOR OF THE MATERIALLY DELINQUENT MORTGAGE AT LEAST 90 DAYS PRIOR TO COMMENCEMENT.~~

~~(4) ON OR AFTER OCTOBER 1, 2027, A SECURED PARTY MAY ENFORCE A MATERIALLY DELINQUENT MORTGAGE THROUGH A FORECLOSURE OR JUDICIAL SALE ONLY IF THE SECURED PARTY HAS MET THE REQUIREMENTS OF PARAGRAPH (2) OF THIS SUBSECTION FOR THE IMMEDIATELY PRECEDING 24 CONSECUTIVE MONTHS.~~

~~(5) THE COMMISSIONER OF FINANCIAL REGULATION MAY DEVELOP THE FORM REQUIRED UNDER PARAGRAPH (3)(H) OF THIS SUBSECTION BY REGULATION.~~

~~(C) (1) IN AN ACTION TO FORECLOSE OR OTHERWISE ENFORCE A MATERIALLY DELINQUENT MORTGAGE, A MORTGAGOR MAY RAISE A DEFENSE OF LACHES.~~

~~(2) A COURT CONSIDERING A DEFENSE OF LACHES IN AN ACTION TO FORECLOSE OR OTHERWISE ENFORCE A MATERIALLY DELINQUENT MORTGAGE MAY:~~

~~(I) ATTRIBUTE ANY DELAY IN THE ENFORCEMENT OF THE MORTGAGE TO THE SECURED PARTY EVEN IF THE SECURED PARTY DID NOT HOLD AN INTEREST IN THE MORTGAGE AT ALL TIMES DURING THE DELAY IN ENFORCEMENT; AND~~

~~(II) ORDER ANY RELIEF THE COURT CONSIDERS TO BE APPROPRIATE.~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~January 1, 2026~~ June 1, 2025.