

Department of Legislative Services
Maryland General Assembly
2025 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

Senate Bill 566

(Senator Sydnor)

Judicial Proceedings

Judiciary

Real Property - Filing Fee for Residential Mortgage Foreclosure - Increase

This bill increases, from \$300 to \$450, the filing fee that must accompany an order to docket (OTD) or a complaint to foreclose a mortgage or deed of trust on residential property.

Fiscal Summary

State Effect: Special fund revenues for the Department of Housing and Community Development (DHCD) increase by approximately \$525,600 in FY 2026; future years reflect annualization. General fund revenues increase minimally beginning in FY 2026. Expenditures are not directly affected.

(in dollars)	FY 2026	FY 2027	FY 2028	FY 2029	FY 2030
GF Revenue	-	-	-	-	-
SF Revenue	\$525,600	\$700,800	\$700,800	\$700,800	\$700,800
Expenditure	0	0	0	0	0
Net Effect	\$525,600	\$700,800	\$700,800	\$700,800	\$700,800

Note: () = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease

Local Effect: The bill does not materially affect local government finances or operations.

Small Business Effect: Meaningful.

Analysis

Current Law:

Initiation of the Foreclosure Process in Maryland – Generally

Generally, to foreclose on residential property in Maryland, the secured party must first send a notice of intent to foreclose (NOI) to the mortgagor or grantor and the record

owner, then file and serve an OTD or a complaint to foreclose. (Whether an OTD or a complaint to foreclose is appropriate is based on the lien instrument held by the secured party.) An OTD or a complaint to foreclose a mortgage or deed of trust on residential property must be accompanied by, in addition to any other filing fees required by law, a \$300 filing fee.

For information regarding the State's foreclosure process, see the **Appendix – Foreclosure Process**.

Housing Counseling and Foreclosure Mediation Fund

Revenue collected from the filing fee is required to be distributed to the Housing Counseling and Foreclosure Mediation Fund administered by DHCD. The fund may only be used for specified purposes, including (1) supporting nonprofit and government housing counselors and other nonprofit entities with providing legal assistance to homeowners who are trying to avoid foreclosure or manage foreclosure proceedings; (2) supporting efforts by DHCD and the Maryland Department of Labor to provide advice and assistance to homeowners facing financial difficulty or foreclosure; and (3) assisting in funding the costs of foreclosure mediation provided by the Office of Administrative Hearings (OAH).

State Revenues: DHCD reports that there were 4,672 foreclosure filings in fiscal 2024, resulting in special fund revenues of \$1.4 million. To the extent that the number of filings stays consistent despite the fee increase in the bill, special fund revenues for the Housing Counseling and Foreclosure Mediation Fund increase by approximately \$525,600 in fiscal 2026, which accounts for the bill's October 1, 2025 effective date, and by \$700,800 annually thereafter. Although there is no direct impact on expenditures, additional funding is available for specified purposes, including funding the costs of foreclosure mediations provided by OAH.

General fund revenues increase minimally beginning in fiscal 2026, due to interest earnings from the additional fee revenues generated by the bill accruing to the general fund.

Section 8 of Chapter 717 of 2024 (the Budget Reconciliation and Financing Act of 2024) and § 6-226(a)(2) of the State Finance and Procurement Article require, notwithstanding any other provision of law, that interest earnings from special funds (with certain exceptions) accrue to the general fund. Section 8 of Chapter 717 applies from fiscal 2024 through 2028 and § 6-226(a)(2) applies from fiscal 2029 forward. The Housing Counseling and Foreclosure Mediation Fund is not exempted from the requirement under § 8 of Chapter 717 nor the requirement under § 6-226(a)(2). General fund revenues therefore increase minimally beginning in fiscal 2026.

Small Business Effect: Any small business lenders are subject to increased fees under the bill.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: HB 796 (Delegate J. Long, *et al.*) - Judiciary.

Information Source(s): Judiciary (Administrative Office of the Courts); Department of Housing and Community Development; Maryland Department of Labor; Department of Legislative Services

Fiscal Note History: First Reader - February 5, 2025
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Appendix – Foreclosure Process

Beginning with the financial downturn in 2007, Maryland saw a significant increase in the number of foreclosure actions. Foreclosure activity likely peaked in 2010, when the number of foreclosure events exceeded 50,000. Due to a multitude of factors, including legislation addressing the State’s foreclosure mediation process, consumer outreach efforts, and enhanced mortgage industry regulation and enforcement surrounding many banks’ and mortgage companies’ foreclosure practices, the number of foreclosure events decreased significantly to 16,049 in 2011. However, these changes also resulted in the general lengthening of the foreclosure process, leaving many housing units in limbo for years at a time. The most recent statewide data regarding foreclosures can be found on the [online database](#) maintained by the Maryland Department of Labor.

Foreclosure Process in Maryland

Generally, to foreclose on residential property in Maryland, the secured party must first send a notice of intent to foreclose (NOI) to the mortgagor or grantor and the record owner, then file and serve an order to docket (OTD) or a complaint to foreclose. A copy of the NOI must be sent to the Commissioner of Financial Regulation, and if the property is owner-occupied, the NOI must be accompanied by a loss mitigation application. Whether the filing of an OTD, or a complaint to foreclose, is appropriate depends on the lien instrument held by the secured party. An action to foreclose a mortgage or deed of trust may not be filed until the later of (1) 90 days (or 120 days if the loan is “federally related”) after a default in a condition on which the mortgage or deed of trust specifies that a sale may be made or (2) 45 days after an NOI is sent. An OTD or complaint to foreclose must be filed with the circuit court, and a copy must be served on the mortgagor or grantor. An OTD or a complaint to foreclose must include, if applicable, the license number of both the mortgage originator and the mortgage lender. The OTD or complaint to foreclose must also contain an affidavit stating the date and nature of the default and, if applicable, that the NOI was sent and that the contents of the NOI were accurate at the time it was sent.

A secured party may petition the circuit court for leave to immediately commence an action to foreclose the mortgage or deed of trust if:

- the loan secured by the mortgage or deed of trust was obtained by fraud or deception;
- no payments have ever been made on the loan secured by the mortgage or deed of trust;
- the property subject to the mortgage or deed of trust has been destroyed;

- the default occurred after the stay has been lifted in a bankruptcy proceeding; or
- the property is found by a court to be vacant and abandoned.

The court may rule on the petition with or without a hearing. If the petition is granted, the action may be filed at any time after a default in a condition on which the mortgage or deed of trust provides that a sale may be made, and the secured party is not required to send a written NOI.

Prerequisites for Foreclosure Sales

Generally, if the residential property is *not* owner-occupied, a foreclosure sale may not occur until at least 45 days after specified notice is given. If the residential property is owner-occupied, and foreclosure mediation is not held, a foreclosure sale may not occur until the later of (1) at least 45 days after providing specified notice that includes a final loss mitigation affidavit or (2) at least 30 days after a final loss mitigation affidavit is mailed. Finally, if the residential property is owner-occupied residential property and postfile mediation is requested, a foreclosure sale may not occur until at least 15 days after the date the postfile mediation is held or, if no postfile mediation is held, the date the Office of Administrative Hearings (OAH) files its report with the court.

A foreclosure mediation may be extended for good cause by OAH for up to 30 days, unless all parties agree to a longer extension. Additionally, both parties have an obligation to provide instructions regarding documents and information to each other and the mediator. Any motion to stay a foreclosure sale must come within 15 days of the date the postfile mediation is held. Notice of the sale of a foreclosed property must be sent 10 days before the date of sale.

Generally, notice of the time, place, and terms of a foreclosure sale must be published in a newspaper of general circulation in the county where the action is pending at least once a week for three successive weeks. The first publication of the notice must be more than 15 days before the sale, and the last publication must be within one week of the sale.

Curing Defaults

The mortgagor or grantor of residential property has the right to cure a default and reinstate the loan at any time up to one business day before a foreclosure sale by paying all past-due payments, penalties, and fees. Upon request, and within a reasonable time, the secured party or the secured party's authorized agent must notify the mortgagor or grantor or his or her attorney of the amount necessary to cure the default and reinstate the loan as well as provide instructions for delivering the payment.

Expedited Foreclosure Process for Vacant and Abandoned Property

Statutory provisions also set forth an expedited foreclosure process for vacant and abandoned property. Generally, if the residential property is found to be vacant and abandoned and the court grants the petition for leave to immediately begin an action to foreclose a mortgage or deed of trust, specified mediation and other preliminary foreclosure process requirements do not apply.