

Department of Legislative Services
Maryland General Assembly
2025 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 769

(Delegate D. Jones, *et al.*)

Environment and Transportation

Judicial Proceedings

Real Property - Residential Foreclosures - Commencement Restrictions

This bill requires that an order to docket (OTD) or a complaint seeking to foreclose a mortgage or deed of trust on residential property must be filed within 10 years after the date the default is alleged to have occurred. Additionally, if a secured party commences foreclosure on acquired debt that was in default for five or more years prior to the acquisition, the secured party must present the documents generally required for a debt buyer or collector under § 5-1203(b) of the Courts and Judicial Proceedings Article with the OTD or complaint. **The bill takes effect June 1, 2025.**

Fiscal Summary

State Effect: The bill is not anticipated to materially affect State finances or operations.

Local Effect: The bill is not anticipated to materially affect local government finances or operations.

Small Business Effect: Potential 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 certain documents, including among others, (1) the original or a certified copy of the mortgage or deed of trust; (2) if applicable, a copy of the NOI; and (3) a copy of the debt instrument accompanied by an affidavit certifying ownership of the debt instrument.

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

Consumer Debt Collection – Documentation

Generally, a debt buyer or a collector on behalf of a debt buyer must introduce certain evidence in a consumer debt collection action. A debt buyer or a collector acting on behalf of a debt buyer may generally not initiate a consumer debt collection action unless the debt buyer or collector possesses specified documents pertaining to proof of the existence of the debt or account, proof of terms and conditions of the debt, proof of the plaintiff's ownership of the consumer debt, identification and nature of the debt or account, future services contract information, account charge-off information, information for debts and accounts not charged off, and collection agency licensing information. Statute includes additional specifications and exceptions for these items.

Small Business Effect: Small businesses holding a mortgage impacted by the bill's requirements are subject to additional procedural requirements in order to utilize the foreclosure process.

Additional Information

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

Designated Cross File: SB 682 (Senator Charles) - Judicial Proceedings.

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

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km/jkb Third Reader - March 24, 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 (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.