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March 2, 2021

TO: The Honorable William C. Smith, Jr., Chair
Judicial Proceedings Committee

FROM: W. Thomas Lawrie, Assistant Attorney General

RE: Senate Bill 724 – Mortgage Servicers – Requirements and Prohibitions During and After a State of Emergency and Catastrophic Health Emergency (Foreclosure Relief Act of 2021) – SUPPORT WITH AMENDMENTS

The Consumer Protection Division of the Office of the Attorney General (the “Division”) supports, with amendments, Senate Bill 724, sponsored by Senator Carter, which would complement the federal Coronavirus Aid, Relief, and Economic Security (“CARES”) Act to provide struggling Maryland homeowners with mortgage relief to help offset the severe economic hardships caused by the current COVID-19 pandemic. SB 724 would create a new Subtitle 6 within Title 7 of the Real Property Article and provide homeowners with relief in the form of mortgage forbearance and a moratorium on foreclosures during the current state of emergency – important protections that the Division fully supports.

The federal CARES Act provides mortgage relief to homeowners whose mortgages are backed by Fannie Mae, Freddie Mac, HUD/FHA, VA, or USDA. *See* Consumer Financial Protection Bureau (CFPB), *Learn About Mortgage Relief Options and Protections*, last modified February 16, 2021, available at <https://www.consumerfinance.gov/coronavirus/mortgage-and-housing-assistance/mortgage-relief/> (last visited February 21, 2021). For these governmental loans, consumers have the right to obtain a COVID hardship forbearance on their mortgage payments, and they are temporarily protected from mortgage foreclosures. *Id.* However, the right to request an initial forbearance ends on June 30, 2021 for many of these governmental loans, while the protection from foreclosure ends on March 31, 2021 for loans backed by Fannie Mae or Freddie Mac, and on June 30, 2021 for loans backed by HUD/FHA, VA, or USDA. *Id.* Further, these protections do not extend to non-governmental loans. *Id.*

Senate Bill 724 would fill the gaps in the CARES Act by requiring that the servicers of both governmental and non-governmental mortgage loans provide a forbearance when properly requested by a Maryland consumer-homeowner suffering an economic COVID hardship, and

would broaden the foreclosure moratorium so that it applies to both governmental and non-governmental mortgage loans. SB 724 would also extend these protections for as long as the current state of emergency remains in effect – an essential step given that the CARES Act is set to expire on June 30, 2021. There are some definitional and technical issues with the bill that will necessitate amendments, such as expressly tying the bill to the current State of Emergency and Existence of Catastrophic Health Emergency initially declared by the Governor on March 5, 2020 (the “COVID-19 Declaration”). The Division has already met with the sponsor of SB 724’s cross-filed bill in the House of Delegates, House Bill 1009, and provided comments and recommended technical amendments in consultation with the Office of the Commissioner of Financial Regulation.

The basic protections for Maryland homeowners at the heart of SB 724 – COVID hardship forbearance and a temporary foreclosure moratorium – are absolutely necessary to help mitigate the economic devastation that many Marylanders have suffered as a result of the COVID-19 pandemic. SB 724 is intended to complement and fill in the gaps of the federal CARES Act, and many Maryland homeowners will directly benefit if this bill is passed. As such, the Division asks that the Judicial Proceedings Committee give Senate Bill 724 a report of favorable with the amendments discussed.

cc: The Honorable Jill P. Carter
Members, Judicial Proceedings Committee