BTB Testimony in SUPPORT of SB 724.pdf

Uploaded by: Bradford, Mary

Position: FAV

Testimony in SUPPORT of SB 724: The Foreclosure Relief Act of 2021

Mary Bradford on behalf of Beyond the Boundaries

Position: FAVORABLE

Beyond the Boundaries is an Archdiocese of Baltimore program with members from churches throughout Maryland. We recognize the need for Catholic organizations to advocate for social justice, especially as it relates to stable and permanent housing. The United States Conference of Catholic Bishops has repeatedly stated that to effectively love our neighbor, we must care for the conditions in which they live, and we must acknowledge decent housing as a human right.[1] "Since decent housing is a human right, its provision involves a public responsibility."[2] Such public responsibility includes providing Maryland tenant's foreclosure protection and relief during the ongoing Covid-19 Crisis. Therefore, we urge the committee to vote favorably on SB 724: The Foreclosure Relief Act of 2021.

Prior to the onset of the Covid-19 pandemic, Maryland had one of the highest home foreclosure rates in the nation.[3] As of April 2020, while other states were seeing improvements in foreclosure rates, Maryland had the second highest foreclosure rate in the Country.[4] When the forbearance moratorium expires, the rate will only increase. Maryland is in a housing crisis and homeowners deserve relief. SB 724 will codify the foreclosure moratorium through the end of the state of emergency, require mortgage companies to extend forbearance relief, and provide default repayment options for those who have exhausted forbearance options. It will also prohibit accrual of penalties and interest, and provide for reasonable repayment options after the forbearance. Furthermore, for one year after the end the of state of emergency, SB 724 prevents mortgage companies from reporting negative credit information related to mortgage payments subject to deferment. Finally, it will create a private right of action for homeowners to take against service providers who violate the law. These protections are necessary to ensure homeowners keep their homes during these unprecedented times.

We know that housing instability has lasting impacts. According to a 2009 report by the National Coalition for the Homeless "a full 79 percent of respondents stated that at least some of their clients were homeless as a result of foreclosure, and about half estimated that more than 10 percent of their clients were homeless because of foreclosure on a home they had been occupying."[5] Furthermore, "children who switch schools frequently due to instability or homelessness are more likely to struggle academically and display behavioral problems, less likely to graduate from high school, and earn less than their peers as adults."[6]

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[1] https://www.usccb.org/resources/right-decent-home-pastoral-response-crisis-housing
[2] https://www.usccb.org/resources/right-decent-home-pastoral-response-crisis-housing
[3] https://wtop.com/business-finance/2019/12/maryland-still-among-top-states-for-home-foreclosures/
[4] https://www.attomdata.com/news/market-trends/foreclosures/attom-data-solutions-april-2020-u-s-foreclosure-activity/
[5] http://www.nationalhomeless.org/advocacy/ForeclosuretoHomelessness0609.pdf
[6] http://www.aspenepic.org/wp-content/uploads/2019/05/Housing-Affordability-and-Stability-An-EPIC-Challenge.pdf

Furthermore, in 2019 nearly 10 percent of youth entered foster care due to their families experiencing housing instability.[7]

Maryland legislatures must act now. SB 724 will ensure Maryland homeowners maintain their homes during this crisis and increase overall housing stability. It will provide struggling homeowners the assurances they need during these challenging times. As Pope Francis made clear during his visit to Washington DC in 2015, “There is no social or moral justification, no justification whatsoever, for the lack of housing.” Now is the time to fix Maryland’s massive eviction system. **We urge the Committee’s FAVORABLE report on SB 724**

[7] https://abell.org/sites/default/files/files/Baltimore%20RTC%20Report_FINAL_5_8_2020.pdf

Testimony_JPC_SB0724.pdf
Uploaded by: Carter, Jill
Position: FAV

Jill P. Carter
Legislative District 41
Baltimore City

Miller Senate Office Building
11 Bladen Street, Suite 3 East
Annapolis, Maryland 21401
410-841-3697 · 301-858-3697
800-492-7122 *Ext.* 3697

THE SENATE OF MARYLAND
Annapolis, Maryland 21401

Testimony of Senator Jill P. Carter
In Favor of SB0724 - Mortgage Servicers – Requirements and Prohibitions During and After a State of Emergency and Catastrophic Health Emergency (Foreclosure Relief Act of 2021)
Before the Judicial Proceedings Committee
on March 2, 2021

Mr. Chairman, Vice chair, and Members of the Committee:

The goal of this bill is to provide relief to homeowners that have been struggling to keep up with mortgage payments during the ongoing emergency caused by the Covid-19 pandemic. There are many facets of relief contained in this bill, but the primary ones are extending the foreclosure moratorium and requiring mortgage servicers to grant forbearances to homeowners facing serious financial hardship as a result of the state of emergency.

In addition to foreclosure prevention and forbearance protection, this bill establishes that once the period of the forbearance ends, the default repayment method is to add the missed payments onto the end of the loan. This prevents homeowners from being forced to pay exorbitant fees or lump sums as soon as the forbearance expires to make up for what they have missed. The bill also prevents mortgage servicers from assessing late fees to homeowners in forbearance during the state of emergency.

Next, this bill prevents mortgage servicers from publishing negative credit information about homeowners relating to mortgage payment forbearance as a result of the state of emergency. This would prevent mortgage servicers from threatening such action over homeowners in order to pressure them to pay when they are already suffering and in forbearance.

The final element of this bill is to create a private right of action for homeowners to sue mortgage servicers if they do not comply with this bill. As we have seen over the course of the pandemic, some mortgage servicers have moved forward with foreclosure proceedings despite the moratorium in place. This would create an additional incentive for mortgage servicers to comply with the law and actually be able to provide relief to homeowners.

I believe that each part of this bill is significant and will truly help people stay in their homes despite the negative financial impact that Covid is having on so many Maryland residents. Just in January, a Census Bureau Survey showed that 21% of all Maryland homeowners thought that they would face foreclosure within two months, while only 1% thought that their payments would be deferred. With so much uncertainty for citizens regarding their education, employment, health and savings- housing security should not be another major concern weighing on our citizens' shoulders.

This legislation is a common sense bill that will keep people in their homes and stop mortgage servicers from exploiting

homeowners during a crisis. For these reasons, I urge a favorable report on SB 724 from this committee.

Respectfully,

Jill P. Carter

Jill P. Carter

MAP - SB 724- Foreclosure Prevention - Support.pdf
Uploaded by: Jefferson , Stacey
Position: FAV

MARYLANDERS AGAINST POVERTY

Member Agencies:

Advocates for Children and Youth
Baltimore Jewish Council
Behavioral Health System Baltimore
CASH Campaign of Maryland
Catholic Charities
Episcopal Diocese of Maryland
Family League of Baltimore
Fuel Fund of Maryland
Health Care for the Homeless
Homeless Persons Representation Project
Job Opportunities Task Force
League of Women Voters of Maryland
Loyola University Maryland
Maryland Catholic Conference
Maryland Center on Economic Policy
Maryland Community Action Partnership
Maryland Family Network
Maryland Hunger Solutions
Mental Health Association of Maryland
Paul's Place
Public Justice Center
St. Vincent de Paul of Baltimore
Welfare Advocates

Marylanders Against Poverty

Stacey Jefferson, Co-Chair
P: 410-637-1900 ext 8578
C: 443-813-9231
E: stacey.jefferson@bhsbaltimore.org

Julia Gross, Co-Chair
P: 410-528-0021x6029
E: jgross@mdhungersolutions.org

TESTIMONY IN SUPPORT OF SB 724

Mortgage Servicers – Requirements and Prohibitions During and After a State of Emergency and Catastrophic Health Emergency (Foreclosure Act of 2021)

Senate Judicial Proceedings Committee
March 2, 2021

Submitted by Stacey Jefferson and Julia Gross, Co-Chairs

Marylanders Against Poverty (MAP) supports SB 724, which will extend a foreclosure moratorium through the state of emergency, require mortgage servicers to grant forbearance relief, ban late fees throughout the state of emergency, prohibit servicers from furnishing negative credit information to consumer reporting agencies related to mortgage payments during the state of emergency and up to one year after, and creates a private right of action for homeowners and small landlords to sue mortgage servicers who violate the law.

Low-income individuals and families in Maryland struggle to afford housing, especially during the COVID-19 pandemic. Maryland is the 8th most unaffordable state for housing, and unfortunately, the challenges of residing in a state with high living costs are borne disproportionately by low-income families.[1] Homelessness and housing instability are public health crises, and the failure of Maryland's safety-net systems to assist struggling low-income homeowners and small landlords has only been exacerbated by the pandemic. Sadly, Maryland's high rate of foreclosures has only continued during the pandemic: for the first six months of 2020, Maryland had the 4th highest foreclosure rate in the country.[2]

Strengthening and codifying foreclosure protections in Maryland will assist in the social and economic recovery from the pandemic. Without stable shelter, families are more susceptible to adverse childhood experiences, hunger, behavioral health crises, and poor health - including increased risk of contracting COVID-19. The pandemic has demonstrated the gaping holes in our safety-net programs, especially for people of color. Foreclosures and homelessness have a disparate impact on black and brown communities. Banning foreclosures during the duration of the pandemic, requiring forbearance relief, and prohibiting undue late fees and are tangible steps in the effort to dismantle the inequities born of structural racism and oppression in our housing and social safety net systems.

Foreclosure prevention is good for our communities, and good for our economy. Lack of permanent and safe housing places individuals at risk for other challenges such as finding employment, taking care of their families, and treating critical medical needs. Consequently, keeping families securely housed saves the state resources that would otherwise go to maintain shelters and state-funded safety-net programs.

Safe, quality, and affordable housing is the foundation of healthy communities, families, and individuals. **MAP appreciates your consideration, and strongly urges favorable report on SB 724.**

Marylanders Against Poverty (MAP) *is a coalition of service providers, faith communities, and advocacy organizations advancing statewide public policies and programs necessary to alleviate the burdens faced by Marylanders living in or near poverty, and to address the underlying systemic causes of poverty.*

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[1] National Low Income Housing Coalition (2020). *Out of Reach.* https://reports.nlihc.org/oor
[2] Atom Data Solutions. (2020). US Properties with Foreclosure Filings in First Six Months of 2020. https://www.prnewswire.com/news-releases/165-530-us-properties-with-foreclosure-filings-in-first-six-months-of-2020--hit-all-time-low-301094464.html

CC - SB 724 - COVID Foreclosure Act - FAV.docx.pdf

Uploaded by: Klingenmaier, Lisa

Position: FAV

CATHOLIC CHARITIES BALTIMORE

CHERISHING THE DIVINE WITHIN ALL

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

Senate Judicial Proceedings Committee
March 2, 2021

Support

Catholic Charities of Baltimore strongly supports SB 724, which will extend a foreclosure moratorium through the state of emergency, require mortgage servicers to grant forbearance relief, ban late fees throughout the state of emergency, prohibit servicers from furnishing negative credit information to consumer reporting agencies related to mortgage payments during the state of emergency and up to one year after, and creates a private right of action for homeowners and small landlords to sue mortgage servicers who violate the law.

Inspired by the gospel to love, serve and teach, Catholic Charities provides care and services to improve the lives of Marylanders in need. As the largest human service provider in Maryland working with tens of thousands of youth, individuals, and families each year, we see the traumatic impact of foreclosure and housing displacement every day. Homelessness and housing instability are public health crises, and the failure of Maryland's safety net systems to assist struggling low-income homeowners and small landlords has only been exacerbated by the pandemic. COVID-19 has laid to bare longstanding inequities in our systems, including ongoing insecurity for working-class homeowners. We strongly support SB 724, and the examples below outline how we see this legislation benefiting those we serve:

SB 724 will reduce the incidence and burdens of homelessness. We provide homeless services across central and western Maryland, and often those we work with tell us their households spiraled into homelessness due to loss of housing, be it foreclosure or an eviction. The stories we hear from our clients mirror what national data shows: for the first six months of 2020, Maryland had the 4th highest foreclosure rate in the country.[1] Stable housing is a cornerstone of stable families, and this bill has many important provisions that protect Marylanders from foreclosures and hold mortgage services accountable to adhere to moratorium and forbearance orders during the public health crisis. Low-income homeowners and small landlords in Maryland need comprehensive protection and relief during COVID-19, like proposed in SB 724.

Strengthening and codifying foreclosure protections in Maryland will assist in the social and economic recovery from COVID. Without stable shelter, families are more susceptible to adverse childhood experiences (ACEs), hunger, behavioral health crises, and poor health - including increased risk of contracting COVID. The pandemic has demonstrated the gaping holes in our safety-net programs, especially for people of color. Foreclosures and homelessness have a disparate impact on black and brown communities. Banning foreclosures during the duration of the pandemic, requiring forbearance relief, and prohibiting undue late fees and are tangible steps in the effort to dismantle the inequities born of structural racism and oppression in our housing and social safety net systems.

Emergency changes to our foreclosure process is sound fiscal policy. Foreclosures further entrench families into homelessness, poverty, and economic instability, which are extraordinarily expensive to address. Maryland should be working to prevent loss of housing, especially among low-income households with children. Safe and reliable housing provides the stability needed to secure and maintain employment, promote good health, invest in educational opportunities and ultimately saves the state resources that otherwise go to maintain shelters and state-funded safety net programs. We know our individuals and families thrive in economically secure households with stable housing, and thriving families means a thriving economy.

On behalf of the individuals and families we work with, Catholic Charities of Baltimore appreciates your consideration, and urges the committee to issue a favorable report for SB 724.

Submitted By: Lisa Klingenmaier, Assistant Director of Advocacy

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[1] Atom Data Solutions. (2020). US Properties with Foreclosure Filings in First Six Months of 2020. https://www.prnewswire.com/news-releases/165-530-us-properties-with-foreclosure-filings-in-first-six-months-of-2020--hit-all-time-low-301094464.html

MD Catholic Conference _FAV_HB0724.pdf
Uploaded by: Kraska, MJ
Position: FAV

MARYLAND CATHOLIC CONFERENCE

ARCHDIOCESE OF BALTIMORE † ARCHDIOCESE OF WASHINGTON † DIOCESE OF WILMINGTON

March 02, 2021

SB 724

Mortgage Servicers - Requirements and Prohibitions During and After a State of Emergency and Catastrophic Health Emergency (Foreclosure Relief Act of 2021)

Senate Judicial Proceedings Committee

Position: Support

The Maryland Catholic Conference ("Conference") represents the public-policy interests of the three Roman Catholic (arch) dioceses serving Maryland: the Archdiocese of Baltimore, the Archdiocese of Washington, and the Diocese of Wilmington.

Senate Bill 724 prohibits a certain mortgage servicer from commencing or completing an action to foreclose a mortgage or deed of trust during a state of emergency and catastrophic health emergency; requiring a servicer to grant a forbearance to a borrower under certain circumstances; prohibiting a period of forbearance from lasting more than 180 days except under certain circumstances; requiring a servicer to notify a borrower of a certain right to mediation under certain circumstances

Maryland faces a massive foreclosure crisis as foreclosure moratoria and forbearance provisions expire in 2021. As a result of the COVID-19 pandemic, an estimated 109-204,000 Maryland households were at risk of eviction at the end of 2020.[1]. The struggle to maintain a home in a crisis has become undeniable. Maryland needs a fairer foreclosure process, one that focuses on housing stability instead of housing loss.

Recently several bishop chairmen of the U.S. Conference of Catholic Bishops (USCCB) wrote to all members of Congress addressing housing needs during the COVID-19 pandemic stating *"Ensuring stable housing is essential, especially during a public health crisis. Emergency rental assistance that meets today's historic need is crucial in order to avoid evictions for tens of millions of people...to keep people safely housed until they are able to access these services, it is necessary to strengthen and extend eviction and foreclosure moratoriums and establish a national utility shutoff moratorium."*

For this reason he Conference appreciates your consideration and urges a favorable report for Senate Bill 724.

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[1] Stout Risius Ross, LLC, Estimation of Households Experiencing Rental Shortfall and Potentially Facing Eviction, http://bit.ly/stoutevictiondata (select "Maryland" in drop-down menu).

Testimony SB 724.pdf
Uploaded by: Legal Aid, Maryland
Position: FAV

STATEWIDE ADVOCACY SUPPORT UNIT

Cornelia Bright Gordon, Esq.
Director of Advocacy
for Administrative Law
(410) 951-7728
cbgordon@mdlab.org

Gregory Countess, Esq.
Director of Advocacy
for Housing & Community
Economic Development
(410) 951-7687
gcountess@mdlab.org

Anthony H. Davis, II, Esq.
Director of Advocacy
for Consumer Law
(410) 951-7703
adavis@mdlab.org

Erica I. LeMon, Esq.
Director of Advocacy
for Children's Rights
(410) 951-7648
elemon@mdlab.org

Bobbie Steyer, Esq.
Director of Advocacy
for Family Law
(410) 951-7737
bsteyer@mdlab.org

Julianne Kelly Tarver, Esq.
Director
Pro Bono Program
(410) 951-7642
jkelly@mdlab.org

Meaghan McDermott, Esq.
Director
Community Lawyering Initiative
(410) 951-7635
mmcdermott@mdlab.org

EXECUTIVE STAFF

Wilhelm H. Joseph, Jr., Esq.
Executive Director

Stuart O. Simms, Esq.
Chief Counsel

Gustava E. Taler, Esq.
Chief Operating Officer

Administrative Offices
500 East Lexington Street
Baltimore, MD 21202
(410) 951-7777
(800) 999-8904
(410) 951-7778 (Fax)

www.mdlab.org
01.2021

February 26, 2021

The Honorable William Smith, Jr., Chairman
Miller Senate Office Building
Judicial Proceedings Committee
11 Bladen Street
Annapolis, MD 21401

RE: Testimony of Maryland Legal Aid in Support of Senate Bill 724 – Requirements and Prohibitions During and After a State of Emergency and Catastrophic Health Emergency (Foreclosure Relief Act of 2021)

Dear Chairman Smith and Members of the Committee:

Thank you for the opportunity to provide testimony in support of this important bill. Maryland Legal Aid (MLA) is a non-profit law firm that provides free legal services to the State's low-income and vulnerable residents, including abused and neglected children, nursing home residents, and veterans. With 12 offices serving each of Maryland's 24 jurisdictions, MLA handles civil legal cases involving a wide range of issues, including family law, housing, public benefits, consumer law, and criminal record expungements to remove barriers to obtaining child custody, housing, driver's licenses, and employment. MLA supports SB 724 and asks that this committee give it a favorable report.

This letter serves as notice that William F. Steinwedel, a staff attorney with the MLA's Foreclosure Legal Assistance Project, will testify on behalf of MLA at the request of Senator Jill Carter. Through MLA's Foreclosure Legal Assistance Project, MLA represents many homeowners facing foreclosure, including those with FHA, VA, USDA, Fannie Mae, Freddie Mac, and privately held mortgages. MLA also represents reverse mortgage holders facing foreclosure.

Many of the homeowners that MLA represents are facing additional challenges due to the COVID-19 pandemic. The economic pain of this crisis has not been shared equally, as jobs held by lower-income individuals, such as restaurant workers, hotel workers, and service industry employees, have been hit disproportionally hard. Also, many homeowners that MLA represents live in multi-generational households that rely on several different income sources. If one of those income sources is lost, the household cannot pay the mortgage payment. As a result, many homeowners that MLA represents are currently in forbearances and will continue to face difficulties paying their mortgage once this crisis is over.

SB 724, in concert with the moratoriums and actions taken at the federal level, goes a long way towards protecting Maryland's most vulnerable homeowners from adverse consequences. This bill prevents the commencement of foreclosure cases, as long as the COVID-19 emergency is in place. Additionally, it provides for protections for privately held mortgages, something that the federal government has not done yet. This protection is essential because some low-income homeowners have mortgages that are privately held, as Fannie Mae, Freddie Mac, and FHA in recent years have sold some of their portfolios to private trusts.

SB 724 also provides protections for homeowners after the COVID-19 emergency is over. This bill allows the homeowner to request a subsequent mediation to discuss permanent modification options. It also prohibits loan servicers from requiring homeowners who are just coming out of an economic crisis to take steps that they cannot reasonably be expected to take, such as paying large lump sums of delinquent mortgage payments. These protections will go a long way to preventing the worst outcomes for clients when the COVID-19 emergency is lifted.

SB 724 also provides protections for homeowners if the mortgage servicers and lenders do not abide by this law's protections. This is an integral part of the proposed statute. Some mortgage servicers and lenders may try to move quickly to try to recoup lost revenue in some cases after the COVID-19 emergency is over, and the deterrents that this statute provides should prevent them from being able to do so.

In conclusion, homeowners in the State of Maryland will continue to face challenging times after the COVID-19 emergency. SB 724, along with the federal government's protections, will help make those difficult times much more manageable.

Thank you for providing MLA the opportunity to comment on this important piece of legislation. **Maryland Legal Aid strongly supports SB 724 and asks that this committee give it a favorable report.**

/s/ William F. Steinwedel
William F. Steinwedel
Staff Attorney, Maryland Legal Aid
Foreclosure Legal Assistance Project, Baltimore City Office
410-951-7643
wsteinwedel@mdlab.org

MSCAN - SB 724 - Foreclosure Act - FAV[1].pdf
Uploaded by: Miicke , Sarah
Position: FAV

Maryland Senior Citizens Action Network

MSCAN

AARP Maryland

Alzheimer's Association, Maryland Chapters

Baltimore Jewish Council

Catholic Charities

Central Maryland Ecumenical Council

Church of the Brethren

Episcopal Diocese of Maryland

Housing Opportunities Commission of Montgomery County

Jewish Community Relations Council of Greater Washington

Lutheran Office on Public Policy in Maryland

Maryland Association of Area Agencies on Aging

Maryland Catholic Conference

Mental Health Association of Maryland

Mid-Atlantic LifeSpan

National Association of Social Workers, Maryland Chapter

Presbytery of Baltimore

The Coordinating Center

MSCAN Co-Chairs:
Carol Lienhard
Sarah Miicke
410-542-4850

SB 724

Mortgage Servicers – Requirements and Prohibitions During and After a State of Emergency and Catastrophic Health Emergency (Foreclosure Relief Act of 2021)

Senate Judicial Proceedings Committee
March 2, 2021

Support

MSCAN is a statewide coalition of advocacy groups, service providers, faith-based and mission-driven organizations that supports policies that meet the housing and care needs of Maryland's low and moderate-income senior citizens.

MSCAN supports SB 724, which will extend a foreclosure moratorium through the state of emergency, require mortgage servicers to grant forbearance relief, ban late fees throughout the state of emergency, prohibit servicers from furnishing negative credit information to consumer reporting agencies related to mortgage payments during the state of emergency and up to one year after, and creates a private right of action for homeowners and small landlords to sue mortgage servicers who violate the law.

A growing number of seniors are burdened with mortgage debt. Over 41% of senior homeowners over 65 have a mortgage today.[1] Unfortunately, over the past 10 years, those in their 60s saw their mortgage debt increase by 471%.[2] Many seniors wish to age in place, but low-income senior homeowners struggling to pay mortgages are in a precarious position that has only been exacerbated by the pandemic.

SB 724 will reduce housing insecurity among low-income seniors in Maryland by codifying foreclosure protections and relief. COVID-19 has laid to bare longstanding inequities in our systems, including ongoing insecurity for low-income homeowners. Stable housing is a cornerstone of stable families, and this bill has many important provisions that protect older adults in Maryland from foreclosures, as well as holds mortgage services accountable to adhere to moratorium and forbearance orders during the public health crisis. In particular, banning foreclosures during the duration of the pandemic, requiring forbearance relief, and prohibiting undue late fees and are tangible steps that will provide relief for senior homeowners. We know seniors thrive in economically secure households with stable housing, and thriving seniors means a thriving future for our state.

For the reasons stated above, MSCAN urges a favorable report on SB 724.
Thank you for your consideration.

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[1] Urban Institute. 2019. Housing and Housing Finance. https://www.urban.org/urban-wire/american-seniors-prefer-age-place-whats-right-place#:~:text=Regardless%20of%20whether%20they%20choose,just%2021%20percent%20in%201989.
[2] CNBC. 2020. Debt Among Oldest Americans Skyrockets. https://www.cnbc.com/2020/02/26/debt-among-older-americans-increases-dramatically-in-past-two-decades.html

SB0724_Foreclosure_Relief_Act_MLC_FAV.pdf
Uploaded by: Plante, Cecilia
Position: FAV

TESTIMONY FOR SB0724
MORTGAGE SERVICERS – REQUIREMENTS AND PROHIBITIONS DURING AND AFTER A STATE OF EMERGENCY AND CATASTROPHIC HEALTH EMERGENCY (FORECLOSURE RELIEF ACT OF 2021)

Bill Sponsor: Senator Carter
Committee: Judicial Proceedings
Organization Submitting: Maryland Legislative Coalition
Person Submitting: Cecilia Plante, co-chair
Position: FAVORABLE

I am submitting this testimony in favor of SB0724 on behalf of the Maryland Legislative Coalition. The Maryland Legislative Coalition is an association of activists - individuals and grassroots groups in every district in the state. We are unpaid citizen lobbyists and our Coalition supports well over 30,000 members.

The pandemic, and the associated economic downturn, has hit many individuals, families, and businesses very hard. Many have collapsed under the strain of having businesses force to shut down or open at a fraction of their capacity for extended periods, loss of jobs, cuts in pay, lack of child care, and other economic fallout. For many though, the worst aspect is to lose their home, and all of the years of effort they have put into paying down their mortgage, only to walk away with nothing.

This bill will support both individuals and businesses that are negatively affected by the state of emergency. It is in effect for up to two years after the emergency is declared over. It introduces the concept of a request for forbearance that a borrower can complete and provide to their mortgage servicer to get some relief from an eviction. It prohibits any mortgage servicer who is provided a request for forbearance by the borrower, from foreclosing against the property for up to 180 days. At the end of the forbearance period, the mortgage servicer will submit a notice to the borrower of the right to request further mediation. No notices to credit agencies regarding delinquency can be made and any mortgage payments missed will be added to the end of the mortgage contract. No additional fees or finance charges will be added to the loan.

This is exactly the relief that Marylanders need in these trying times. Allowing them a chance to get their finances back on track and not lose their home should be a top priority for the state.

We support this bill and recommend a **FAVORABLE** report in committee.

Maryland Consumer Rights Coalition

Testimony to the Senate Judicial Proceedings Committee
SB724: Foreclosure Relief Act of 2021
Position: Favorable

March 2, 2021

The Honorable William Smith Jr., Chair
Senate Judicial Proceedings Committee
2 East Miller Senate Office Building
Annapolis, Maryland 21401
cc: Members, Judicial Proceedings Committee

Chair Smith and Members of the Committee:

The Maryland Consumer Rights Coalition (MCRC) is a statewide coalition of individuals and organizations that advances economic rights and financial inclusion for Maryland consumers through research, education, direct service, and advocacy. Our 8,500 supporters include consumer advocates, practitioners, and low-income and working families throughout Maryland.

We are writing today in strong support of SB724.

SB724 would provide much needed protections for homeowners and small landlords faced with foreclosure during periods of state and local emergency. The COVID-19 pandemic has exacerbated pre-existing insecurity for working-class homeowners in our state. Even before COVID-19, Maryland consistently ranked among the top states for rates of foreclosures.[1] This bill is paramount in the time of the COVID-19 pandemic and would ensure that Maryland is prepared to respond to similar crises in the future.

As a result of the COVID19 pandemic, working families across the state lost 349,300 jobs in April and unemployment rose from 3.3 percent to 9.9 percent for the state.[2] Out of more than 170,000 businesses in Maryland, 30,000 closed by the end of 2020.[3] Prior to the crisis, many households were living paycheck to paycheck. The sudden loss of jobs, the contraction of certain segments of

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[1] https://www.attomdata.com/news/market-trends/foreclosures/attom-data-solutions-august-2020-u-s-foreclosure-market-report/
[2] https://www.bls.gov/eag/eag.md.htm
[3] https://www.wbaltv.com/article/11-tv-hill-maryland-small-businesses-fighting-to-stay-open-covid-19-pandemic/34943507

the economy, coupled with many households financial precarity creates a perfect storm for Maryland to endure another wave of foreclosures without swift and transformative legislative action.

Among the many provisions of the bill, SB724 would extend the foreclosure moratorium and require mortgage servicers to grant forbearance relief through the state of emergency, ease the repayment process, strengthen notice requirements, and hold servicers who violate the law accountable. Additionally, the bill would prohibit interest from accruing on a mortgage beyond the amounts scheduled under the terms of the loan during a state of emergency. These protections will help reduce the massive foreclosure crisis Maryland is set to face as the foreclosure moratorium and forbearance provisions expire in 2021. Without these provisions, thousands of homeowners are at risk of foreclosure and homelessness.

For all of these reasons, we support SB724 and urge a favorable report.

Best,

Marceline White
Executive Director

SB 724 - CPD - Support with amendments.pdf
Uploaded by: Lawrie, William
Position: FWA

BRIAN E. FROSH
Attorney General

ELIZABETH F. HARRIS
Chief Deputy Attorney General

CAROLYN QUATTROCKI
Deputy Attorney General

WILLIAM D. GRUHN
Chief
Consumer Protection Division

STATE OF MARYLAND
OFFICE OF THE ATTORNEY GENERAL
CONSUMER PROTECTION DIVISION

Writer's Fax No.

Writer's Direct Dial No.
(410) 576-6374

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 extent 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

MD SB 724 - Letter.pdf
Uploaded by: Ellman, Eric
Position: UNF

Consumer Data Industry Association
1090 Vermont Ave., NW, Suite 200
Washington, D.C. 20005-4905

P 202 371 0910

CDIAONLINE.ORG

February 21, 2021

The Honorable William C. Smith, Jr., Chair
Senate Judicial Proceedings Committee
Annapolis, MD 21401

Dear Chair Smith,

I write on behalf of the Consumer Data Industry Association ("CDIA")[1] to respectfully request the removal of Sec. 7-608 in S.B. 724.[2] This subsection would demand the suppression of accurate, adverse mortgage information in ways that are harmful to consumers, especially under-served consumers. The provision could lead to an unsafe and unsound Maryland credit economy. The provision is covered by existing law and existing practices, and it is preempted by federal law.

1. Summary of suppression and why it is harmful

Suppression of credit reporting is not a helpful solution to consumers in financial distress. As discussed below, there are already existing guidelines in place to report consumers' financial distress to the credit bureaus that are far better for consumers and the overall credit system. Suppression of credit reporting will likely cause greater risk to a consumer's credit history, will increase risk to lenders and creditors, and could result in less availability to credit and/or higher interest rates to consumers. Current reporting methods effectively protect and benefit consumers. Suppression will do more harm than good.

2. Suppression of credit reporting is harmful to <u>consumers</u>

Suppression of credit reporting is harmful to <u>consumers</u> for several reasons:

- Suppressing an account from being reported will mean that a consumer's account will not be updated to include information that the consumer has in fact been impacted by a natural disaster or national emergency.

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[1] CDIA is the voice of the consumer reporting industry, representing consumer reporting agencies, including the nationwide credit bureaus, regional and specialized credit bureaus, background check and residential screening companies, and others. Founded in 1906, CDIA promotes the responsible use of consumer data to help consumers achieve their financial goals and to help businesses, governments, and volunteer organizations avoid fraud and manage risk. Through data and analytics, CDIA members empower economic opportunity all over the world, helping ensure fair and safe transactions for consumers, facilitating competition, and expanding consumers' access to financial and other products suited to their unique needs.

[2] "a servicer may not furnish negative mortgage payment information to a consumer reporting agency regarding mortgage payments subject to forbearance under this Subtitle until at least 1 year after the date on which the state of emergency is terminated and the catastrophic health emergency is rescinded."

- Suppression will prevent positive information from being included on a consumer report. A consumer making partial payments will not receive the benefit of having a declining balance being consistently reported, even when a consumer is behind, but still performing under a temporary agreement or following a natural disaster or national emergency.

- For consumers who are delinquent, suppression of reporting means that accounts will not be updated if a consumer becomes current during the suppression period.

- If a consumer files a dispute with a lender or creditor challenging the accuracy of the account ("tradeline") during the period of suppression, the creditor will be required by law to update the account. This required update could result in potentially negative information being included on the consumer's credit report.

- Suppression means less accurate credit reports and less reliable scoring models. This, in turn, could mean less credit available for consumers, or at a higher interest rate.

- During the COVID-19 pandemic, despite rising credit scores,[3] lenders may respond to the heightened market uncertainty by applying more conservative decisioning criteria, which could have an even greater negative impact on those consumers with more limited credit histories.

- By hiding accurate, adverse information, consumers may be approved for loans that they are likely to default on, which in turn will have long-term negative impacts on their financial health.

- "Credit invisible" consumers face significant financial difficulties, including the difficulty in getting approval for a credit card, car loan or other loan at a favorable rate. These consumers may also be required to pay a deposit before being connected to utilities, like gas and water, or obtaining a cell phone. "A limited credit history can also impair consumers' abilities to withstand financial shocks and achieve financial stability. When they encounter emergency situations that require them to borrow money, and traditional credit products are not available to them, they may find it necessary to use higher cost alternatives to bridge the financial gap."[4]

- Consumers may have a harder time shopping for better credit rates, adding to their cost of borrowing. With suppression, financial institutions will rely more heavily on their experiential information about consumers and lean less heavily on credit reports that have become less reliable because of such data suppression. The reduced utility of credit

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[3] Report, *The Early Effects of the COVID-19 Pandemic on Consumer Credit, Office of Research Special Issue Brief, Consumer Fin. Protection Bureau*, Consumer Fin. Protection Bureau, Aug. 2020 ("*Early Effects on Credit*").

[4] *Who are the credit invisibles? How to help people with limited credit histories*, Consumer Fin. Protection Bureau, Dec. 20016.

reports, and the increased captivity of consumers, may make it harder for consumers to shop for better rates or various credit products.

3. Suppression of credit reporting is harmful to lenders

Suppression of credit reporting is harmful to lenders for several reasons:

- Suppression of credit reporting leads to more inaccurate credit files, reduces the predictiveness of credit scores, and adds greater risk and uncertainty into the lending process. In a slowing economy where government agencies are encouraging increased lending, suppression could have the opposite effect.

- For consumers who were delinquent at the time of a national emergency, suppressing credit reporting may cause the consumer to appear less delinquent and, therefore, able to take on additional debt when, in fact, the consumer does not have the ability to pay such debt. When a lender or creditor is blind to a consumer's financial risk, that blindness can lead to increased losses that have to be paid for by all the customers of the lender or creditor.

4. Suppression of credit reporting is harmful to the integrity of the credit reporting system

Suppression of credit reporting is harmful to the integrity of the credit reporting system for several reasons:

- A safe and sound credit economy needs a reliable credit reporting system. Predictability of risk following a crisis will be critical to the economic recovery of the country. When credit reports become less reliable, the safety and soundness of credit reporting becomes riskier.

- Under the law, consumer reporting agencies have an obligation to take reasonable measures to assure maximum possible accuracy of credit reports. Omitting relevant information from a credit report is inherently contrary to this requirement.

5. Federal law requires full reporting with codes, and not suppression

In March 2020, Congress passed the Coronavirus Aid, Relief, and Economic Security Act ("CARES Act").[5] Section 4021 of the CARES Act amends the Fair Credit Reporting Act ("FCRA").[6] The FCRA amendments under CARES requires that if a lender or creditor (called a "furnisher" under the FCRA) makes a payment accommodation with a consumer, like forbearance or

[5] Pub. Law 116-136.
[6] 15 U.S.C. § 1681 *et seq.*

deferred payments, the furnisher must report to a CRA either the "credit obligation or account as current", or if the credit obligation or account was delinquent before the accommodation, than the furnisher must "maintain the delinquent status during the period in which the accommodation is in effect and if the consumer brings the credit obligation or account current during the [COVID-19] period report the credit obligation or account as current."

6. We know that the law and business operations are working

The United States continues to bend under a raging pandemic and enormous economic pain. Yet, consumer behavior, law, and industry processes are helping consumers' credit histories to weather the public health and economic storms. As reported by CNBC in January 2021, the average FICO Score reached a record high of 710 in 2020. Experian found that "[t]he national average FICO® Score© increased by seven points this year—the largest annual improvement in at least a decade." The study found that "[m]ajor credit score components, such as credit utilization and payment history, have also changed for the better on average, with utilization rates and late payments decreasing at a record pace. Credit utilization, the amount of available revolving credit in use compared with credit limits, is the second most important element in a FICO score, which represents 30% of the score.

In 2020, the Experian study found, "consumers reduced their credit card debt -- the most commonly held form of revolving debt -- by 14%. This in turn impacted average credit utilization, which dropped 3.5 percentage points, from 28.8% in 2019 to 25.3% in 2020. It's unclear what drove Americans' ability to pay down their credit card debt, but the impact has clearly been reflected in the improvement of the average credit score. Improvements of this kind add to consumers' overall credit health and can cause scores to rise in a short period of time." The report also found that in 2020, "69% of Americans had a 'good' credit score of 670 or above," three points higher than 2019. A FICO spokesperson said that for 2020, "[m]issed payments reported are down, consumer debt levels are decreasing and the significant steps taken by both the government [with] stimulus spending and private sector [with] lender payment accommodations to help consumers affected by COVID-19 are all contributing to this trend in average score."[7]

Other highlights of the study found that the states with the lowest average scores saw some of the biggest increases; all generations increased their average FICO® scores; and fewer consumers had subprime credit in 2020. In fact, "[s]ince 2019, the portion of consumers with a subprime score has decreased from 33.8% to 30.9%—a nearly 3 percentage point drop. This improvement is significant and is three times as large as the improvement between 2018 and 2019, when the ratio decreased by less than 1 percentage point."[8]

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[7] Blog, Experian 2020 Consumer Credit Review, Experian, Jan. 4, 2021.
[8] *Id.*

In August 2020, the Consumer Financial Protection Bureau ("CFPB" or "Bureau") issued a report showing no negative credit impact on consumers as a whole.[9] In a press release covering the report, it noted that the report:

> found that consumers have not experienced significant increases in delinquency or other negative credit outcomes as reported in credit record data following the onset of the COVID-19 pandemic in the United States. This is in spite of the sharp increases in unemployment resulting from the pandemic. The report focused on mortgage, student and auto loans and credit card accounts from March 2020 to June 2020, and notes that outcomes may reflect payment assistance provided to American consumers through the CARES Act.

This August report presaged third quarter earnings reports from American banks. "Banks seem to have held credit losses in check in the third quarter," wrote the American Banker, in October 2020.[10] The Wall Street Journal reported in October that:

> while the coronavirus was pummeling the U.S. economy, Americans' credit scores—a metric used in nearly every consumer-lending decision—were rising. The average FICO credit score stood at 711 in July, up from 708 in April and 706 a year earlier, according to Fair Isaac Corp., the score's creator. Early estimates suggest the average score has held steady through mid-October at the July level, which is the highest since FICO began keeping track in 2005.
>
> The increase is largely thanks to the unprecedented financial assistance the government and lenders rolled out to consumers after the pandemic took hold in the U.S. Stimulus payments and expanded unemployment benefits helped many borrowers keep up with their bills and, in some cases, even pay down their debt. Widespread payment holidays on mortgages, auto loans and student loans freed up funds and kept credit reports clean.[11]

7. Federal financial regulators encourage full reporting with codes, and not suppression

The Bureau also reiterated its prior guidance encouraging financial institutions to work constructively with borrowers and other customers affected by COVID-19 to meet their financial needs.

[9] *Early Effects on Credit.*
[10] Alix, Laura, *Charge-offs held in check…for now*, Am. Banker, Oct. 21, 2020.
[11] Andriotis, AnnaMaria, *Coronavirus Tanked the Economy. Then Credit Scores Went Up*, Wall Street J., Oct 18, 2020.

8. Fannie Mae, Freddie Mac, and FHA encourage full reporting with codes, and not suppression

Fannie Mae, Freddie Mac, and FHFA all tell mortgage services to follow the law, which includes the FCRA as amended by the CARES Act. Section 4021of the CARES Act requires lenders and creditors who place consumers in a forbearance or deferred payment situation to report those consumers as current.

In response to the [CARES Act](), Fannie Mae updated [Lender Letter (LL-2020-02)]() on April 8, 2020. This guidance requires mortgage "servicer[s to] comply with the requirements of the [FCRA], as amended by the CARES Act for borrowers affected by the COVID-19 pandemic." The updated Lender Letter further says that "servicers are reminded that…they must comply with applicable law even where a provision of the Servicing Guide may conflict with applicable law." Also in response to the CARES Act, and also on April 8, 2020, Freddie Mac issued [Bulletin 2020-10](). This bulletin says that for "credit reporting requirements", servicers "must report activity to the credit bureaus in accordance with applicable law, including the Fair Credit Reporting Act and the CARES Act" for "any Borrower impacted by COVID-19…."

On April 1, 2020, the U.S. Department of Housing and Urban Development ("HUD") issued [Mortgagee Letter 2020-06, under]() which the Federal Housing Administration ("FHA") "requires [mortgage] Servicers to comply with the credit reporting requirements of the Fair Credit Reporting Act (FCRA)", which, as amended by the CARES Act, requires lenders and creditors who place consumers in a forbearance or deferred payment situation to report those consumers as current."

9. Long-standing procedures for reporting on consumers in financial distress

Our association and our credit bureau members have guidance for the approximately 15,000 lenders and creditors who report data to the nationwide credit bureaus to handle a wide variety of data reporting scenarios. CDIA and our credit bureau members are doing our part to help consumers who have been impacted (directly or indirectly) by the coronavirus. To help lenders and creditors offer help consumers affected by COVID-19, CDIA has [guidance]() for lenders and creditors who put an account either (a) into forbearance, or (b) into a deferred payment status as a result of a consumer's inability to make payments due to natural or declared disasters, or as the result of other national crises.

10. State legislation requiring suppression is prohibited by federal law

Any state limits on credit reporting – whether related to the *furnishing* or *reporting* of credit information – in the wake of the COVID-19 crisis will be preempted by the FCRA. The FCRA ensures a national credit reporting system through preemption provisions in FCRA § 625 ([15]()

U.S.C. § 1681t). The FCRA provides for multiple forms of preemption of state credit reporting laws and bills, and any COVID-19 related credit report restrictions would be preempted by at least two of those provisions, § 1681t(a) (conflict preemption) and § 1681t(b) (subject matter preemption). Section 1681t(a) preempts any state law that is "inconsistent with any provision" of the FCRA. Section 1681t(b)(1) says that "no requirement or prohibition may be imposed by any state with respect to any subject matter" enumerated subsections of § 1681t(b)(1), including subject matter enumerated in § 1681s-2(F), COVID-19 credit reporting.

Conclusion

There are many strong reasons to support the removal of Sec. 7-608 in S.B. 724. This provision is harmful to consumers, especially under-served consumers and the provision could create an unsafe and unsound Maryland credit system. The provision could lead to an unsafe and unsound Maryland credit economy. The provision is also covered by federal law and existing business practices, and it is preempted by federal law.

Sincerely,

Eric J. Ellman
Senior Vice President, Public Policy & Legal Affairs

MBIA Testimony SB 724.pdf
Uploaded by: Graf, Lori
Position: UNF

MARYLAND BUILDING INDUSTRY ASSOCIATION
11825 West Market Place | Fulton, MD 20759 | 301-776-6242

March 2, 2021

The Honorable William C. Smith Jr.
Senate Judicial Proceedings Committee
Miller Senate Office Building,
2 East Wing 11 Bladen St.,
Annapolis, MD, 21401

RE: SB 724 Mortgage Servicers - Requirements and Prohibitions During and After a State of Emergency and Catastrophic Health Emergency (Foreclosure Relief Act of 2021)

Dear Chairman Smith:

The Maryland Building Industry Association, representing 1,100 member firms statewide, appreciates the opportunity to participate in the discussion surrounding **SB 724 Mortgage Servicers - Requirements and Prohibitions During and After a State of Emergency and Catastrophic Health Emergency (Foreclosure Relief Act of 2021)**. MBIA **Opposes** the Act in its current version.

This bill would prohibit the use of foreclosures during a declared state of emergency. The measure would require borrowers that show a negative financial impact and report it to their servicer on a loan would be granted a forbearance. MBIA respectfully opposes this measure. The recipients of a loan are not the only ones that take a financial hit during declared emergencies such as COVID-19. The requirement that a servicer enter into a forbearance with no guarantee of being able to recoup their costs, no defined payment schedule, and the requirement that they met the cost of mediation will place a sever burden on people already under tremendous financial strain. This bill would also prevent the implementation of late-fee penalties which are a key component in incentivizing a clear and consistent payment schedule.

Tis bill would punish responsible servicers that have clearly stated terms for taking a risk on a loan. This would drive the interest rates and threshold for receiving a loan up making it harder to take out a loan for the purposes of purchasing property and creating a significant barrier to people that intend to invest in property ownership either for the purposes of an investment or home ownership.

For these reasons, MBIA respectfully requests the Committee give this measure an unfavorable report. Thank you for your consideration.

For more information about this position, please contact Lori Graf at 410-800-7327 or lgraf@marylandbuilders.org.

cc: Members of the Senate Judicial Proceedings Committee

SB724- MDDCCUA- Mortgage Servicers - Requirements
Uploaded by: Murray, Rory
Position: UNF

MD|DC
Credit Union Association

Chairman William C. Smith
2 East
Miller Senate Office Building
Annapolis, Maryland 21401

SB724: Mortgage Servicers - Requirements and Prohibitions During and After a State of Emergency and Catastrophic Health Emergency (Foreclosure Relief Act of 2021)
Testimony on Behalf of: MD|DC Credit Union Association
Position: Oppose

Chairman Smith, Vice-Chair Waldstreicher, and Members of the Committee:

The MD|DC Credit Union Association, on behalf of the 77 Credit Unions and their 2.2 million members that we represent in the State of Maryland, appreciates the opportunity to testify on this legislation. Credit Unions are member-owned, not-for-profit financial cooperatives whose mission is to educate and help members achieve financial well-being. **We respectfully oppose this bill.**

Credit unions strive to balance the service to members that they pride themselves on with the financial impact a delinquent loan has on the credit union's overall health, as members are also owners. Safety and soundness remain top of mind in all that we do. Credit unions have and will continue to work to help members with or without legislation telling them to do so, and a foreclosure is a measure of last resort.

The current state and federal COVID relief-related legislative actions and guidances, as well as the Governor's Executive Orders, have created significant and sufficient protections for homeowners in these challenging times. Our overarching concern with this legislation is that it will remove the flexibility to adapt to this emergency in real-time, as has been the case thus far. An example of this flexibility is the Federal Housing Finance Agency's (FHFA) recent extension of the foreclosure and eviction moratorium. The current moratoriums were set to expire on March 31 but now won't end until June 30, now a total of 18 months.

As always, we appreciate the ability to have our voices heard and look forward to a continued partnership. Please reach out to me at jbratsakis@mddccua.org or our VP of Advocacy, Rory Murray, at rmurray@mddccua.org with comments or questions.

Thank you!

Sincerely,

John Bratsakis
President/CEO
MD|DC Credit Union Association

SB 724 LOI - Final.docx.pdf
Uploaded by: Fulginiti, Andrew
Position: INFO

Maryland
DEPARTMENT OF LABOR

LEGISLATIVE OFFICE
45 Calvert Street
Annapolis, Maryland 21401
443-401-5129

Senate Bill 724

Date: March 2, 2020

Committee: Senate Judicial Proceedings Committee

Bill Title: Mortgage Servicers - Requirements and Prohibitions During and After a State of Emergency and Catastrophic Health Emergency (Foreclosure Relief Act of 2021)

Re: Letter of Information

Senate Bill 724 creates a new subtitle under the Real Property article governing foreclosures during and after the declaration of a state of emergency and catastrophic health emergency. The bill combines several concepts, including rules for mortgage forbearances with rules for mortgage foreclosures and the concept of the current state of emergency and catastrophic health emergency with future states of emergency and catastrophic health emergencies. Such concepts are actualized in the bill without drawing distinctions and in ways that will likely create confusion for the consumers, the mortgage servicers who service mortgage loans, and the Office of the Commissioner of Financial Regulation ("OCFR") the State Agency that supervises mortgage loan services and would be responsible for enforcing the law. In addition to the conceptual confusion, the bill contains apparent drafting errors, imprecise terminology, and fails to properly harmonize the proposed processes with existing foreclosure and mediation procedures. Finally, the OCFR has concerns regarding the constitutionality of some of the mandates contained in the bill.

At the outset, and emblematic of the lack of precision in the terms used throughout the bill, proposed new Section 7-601(D)(2) found on page 2, line 8 states that the definition of a "mortgage servicer" includes "mortgagors" and "grantors". It is our belief these terms were used in error because mortgagors and grantors are borrowers and not lenders; instead, the bill should provide that the term "mortgage servicer" include "mortgagees" and "grantees." Additionally, other key terms used in the bill are vague or left undefined including terms such as "state of emergency and catastrophic health emergency," "federally backed mortgage loan," "non-federally backed mortgage loan," "deed of trust," "mortgage," "complete an action to foreclose," "termination (of a state of emergency)," "rescission (of a catastrophic health emergency)," residential property," "post-forbearance options," and "negative mortgage payment information."

The impact of the use of imprecise terms is significant. For example, it is not clear if the bill, or portions thereof, would only apply when both a state of emergency <u>and</u> a catastrophic health emergency are in effect, or if only one of them is required. Another example of the confusion that stems from the use of imprecise terms is the fact that the bill's scope is unclear because, depending upon the intended coverage of the undefined terms "federally backed mortgage loan," "non-federally backed mortgage loan," "deed of trust," "mortgage," and "residential property," the bill's obligations may encompass servicers of certain commercial as well as consumer loans. The OCFR anticipates the following issues in implementing this bill as drafted:

1. Establishing meaningful and enforceable standards by which to evaluate consumer complaints.
2. Difficulty in bringing enforcement actions against entities who fail to comply with, or probe the boundaries of, the law.

3. Difficulty in providing meaningful guidance, whether through regulations or advisories, to servicers.
4. Difficulty in modifying the OCFR's systems that are designed to collect legislatively mandated foreclosure information in a manner sufficient to address the requirements of this bill.

Certain portions of SB 724 regarding pre-foreclosure notice and timing, as well as the new forbearance and post-forbearance requirements, may conflict with the requirements currently prescribed under the Notice of Intent to Foreclose ("NOI") law. Additionally, the bill seemingly requires servicers to provide certain borrowers forbearance that is in accordance with the Federal Coronavirus Aid, Relief, And Economic Security Act (an undefined standard) for eternity. As drafted, OCFR is concerned this creates uncertainty as to the obligations of mortgage servicers. Aside from the constitutional reservations, the OCFR is concerned that the bill's broad scope may undercut any intent to enact a foreclosure moratorium and that those conflicts and uncertainty, along with the bill's imprecise language, will confuse consumers, the courts, mortgage servicers, and negatively impact the Agency's ability to effectively and efficiently supervise mortgage servicers and protect consumers.