



[1783 Forest Drive, Suite 305, Annapolis, MD 21401](https://www.mlta.org/1783-Forest-Drive-Suite-305-Annapolis-MD-21401) | [\(443\) 620-4408 ph.](tel:(443)620-4408) | [\(443\) 458-9437 fax](tel:(443)458-9437)

To: Members of the Maryland House Environment and Transportation Committee
From: MLTA Legislative Committee
Date: February 18, 2022
Subject: HB 803 - Residential Property Foreclosure - Filing and Adjudication of Counterclaims
Position: Opposed

The Maryland Land Title Association opposed House Bill 803 - Residential Property Foreclosure - Filing and Adjudication of Counterclaims

This Bill seeks to permit the filing of a Counterclaim by a borrower in response to a foreclosure action. This Bill further mandates that Counterclaims filed under this section would proceed under the section of the Maryland Rules that governs standard litigation, and not under the Rules that deals with foreclosures. This would require all such litigation to be completely adjudicated before the equitable action of the foreclosure is permitted to proceed. This Bill will open the door to years of vexatious and meritless litigation and will keep defaulted mortgages from being cleared. In turn, the increased time frames to clear these loans and put these properties back to productive use will put a strain on the resources of municipalities who need to monitor these properties, deflate property values of neighboring properties, and ultimately lower the tax revenue of the jurisdictions in which they are located, while serving to merely provide a windfall for the attorneys filing the actions.

There currently exists a substantial backlog of properties entering the foreclosure process due to the moratoriums issued in response to the Covid-19 pandemic. Adding years of potential delay onto what is at times an already significant period of default prior to an action being initiated, and an already lengthy foreclosure process, this Bill would increase the costs of lending to all borrowers, prevent some potential homebuyers from being able to afford to buy homes. potentially increase the number of tax sales, and keep properties from being rehabilitated.

Further, it is not clear what problem this Bill is attempting to address. There is currently precedent in Maryland jurisprudence that already allows Counterclaims to be brought. There have also been significant revisions to the Maryland foreclosure process over the last ten to fifteen years that have given borrowers much greater ability to challenge foreclosures, engage in mediation, and seek and be reviewed for loss mitigation and loan modification options. This Bill however would elevate the status of these claims above the rights of mortgage lenders to enforce the agreements that they entered into with the borrowers, with little tangible benefit for consumers, but identifiable harms to neighboring property owners and municipalities and other mortgage borrowers. Due to these issues, the MLTA Legislative Committee hereby opposes HB 803.