



## **HB 803 - Residential Property Foreclosure - Filing and Adjudication of Counterclaims**

**Committee:** House Environment and Transportation Committee

**Date:** February 22, 2022

**Position:** Oppose

The Maryland Bankers Association (MBA) strongly **OPPOSES** HB 803, which would unnecessarily authorize counterclaims in an action for residential property foreclosures – thereby potentially tying up the foreclosure process in courts for years.

HB 803 is unnecessary as sweeping actions have been taken at the state, federal, and local levels to assist homeowners during and in the recovery of the pandemic – both in the forbearance and foreclosure areas. These federal, state, and local actions are in addition to the existing, robust, and extensive foreclosure and consumer protections that already exist in Maryland.

Maryland's current foreclosure process is already very lengthy, with significant consumer protections. Since the first Gubernatorial Foreclosure Task Force was convened in 2007, MBA has been involved with the creation and revisions of Maryland's foreclosure laws. Due to the continuing revisions, the process has been lengthened significantly – now taking over 530 days from the first missed payment by the borrower until the foreclosure sale.

HB 803 would create an extremely burdensome procedure in the foreclosure process and would ultimately be counterproductive to both borrowers and lenders. No one should want to see a negative impact on Maryland's strong housing market or to slow the significant and ongoing progress to help those experiencing financial difficulties. Accordingly, MBA strongly urges issue a **UNFAVORABLE** report on HB 803.

Attached:

1. Maryland Homeowner Foreclosure Timeline Infographic
2. Maryland Foreclosure Statistics sourced from the MD Department of Labor
3. Factsheet for Maryland Homeowners on Foreclosures
4. Notice of Housing Counseling Programs and Services
5. Maryland Homeowner Assistance Fund Factsheet

*The Maryland Bankers Association (MBA) represents FDIC-insured community, regional, and national banks, employing more than 29,000 Marylanders and holding more than \$201 billion in deposits in over 1,300 branches across our State. The Maryland banking industry serves about 4 million customers across the State and provides an array of financial services including residential mortgage lending, business banking, estates and trust services, consumer banking, and more.*

# Maryland Homeowner Foreclosure Timeline\*

## At First Signs of Financial Difficulty

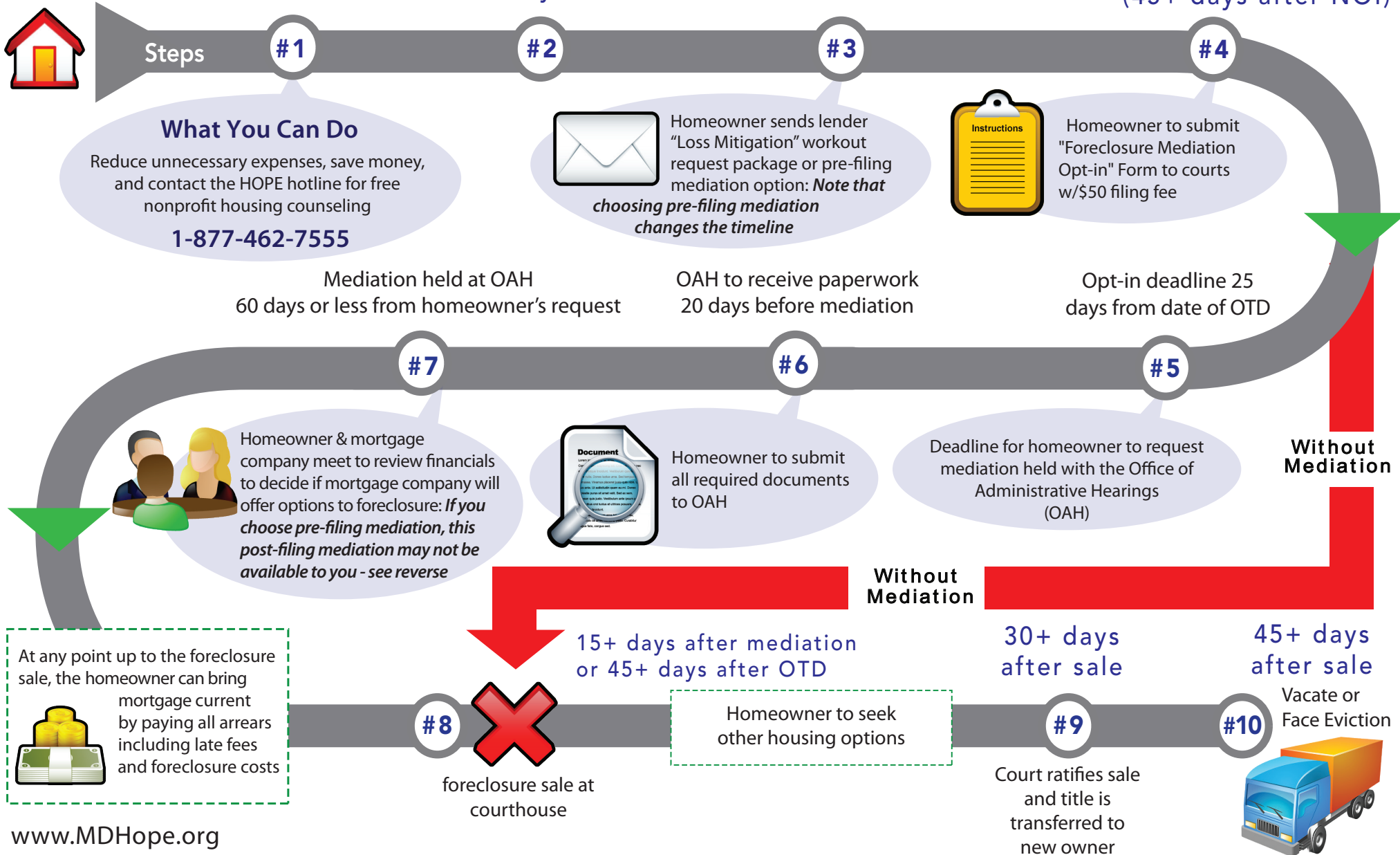
Missed Mortgage Payment  
Lender begins calling,  
sends a delinquency notice

Day 1+

"Notice of Intent to Foreclose" letter  
mailed certified and 1st class mail  
**Important: May include offer for  
pre-file mediation – see reverse**

"Order to Docket" (OTD) filed in  
court with certified or personally  
served copy to homeowner\*

Day 120+  
(45+ days after NOI)



www.MDHope.org

**\*NOTE:** This document represents a simplified version of the foreclosure process in Maryland without a Preliminary Loss Mitigation Affidavit and some steps may vary. Information is not presented as legal advice.  
For legal advice, ask your housing counselor for a legal referral.

## WHAT IS FORECLOSURE MEDIATION?

Foreclosure mediation is a process that allows the homeowner, a representative from the mortgage servicer with authority to make decisions, and a neutral third party mediator from the Maryland Office of Administrative Hearings (OAH) to meet and discuss alternatives to foreclosure. Alternatives to foreclosure may include housing transition. Foreclosure mediation does not guarantee a loan modification or other relief.

**MEDIATION TYPES** - (1) "Pre-file mediation" - mediation before a foreclosure action is filed in court and (2) "Post-file mediation" - mediation after a foreclosure action has been filed in court. Your mortgage servicer is not required to offer pre-file mediation. PLEASE NOTE: If you choose to participate in pre-file mediation now, you will not be able to opt-in to post-file mediation later unless you and your mortgage servicer agree to an additional mediation session and include the terms of that arrangement in the pre-file mediation agreement, if any. If you do not choose to participate in pre-file mediation at this time, you will have the opportunity to submit a loss mitigation application and, if a foreclosure action is filed against you, participate in post-file mediation.

	Pre-file	Post-file
Early Intervention?	Yes	No
Mortgage Servicer Offer of Mediation Session?	Optional	Required, if no pre-file mediation
Homeowner Financial Documents Needed?	Yes	Yes
Free Housing Counseling?	Mandatory	Available
Legal Referrals?	Available	Available

For more details take a look at Appendix A1-schedule 1:  
[www.dllr.state.md.us/finance/finregforms.shtml#foremed](http://www.dllr.state.md.us/finance/finregforms.shtml#foremed)



**Contact your lender and a housing counselor at the earliest sign of financial difficulty.**

**A list of housing counseling agencies near you can be obtained by calling the MDHOPE hotline at**

**877-462-7555**

**or by visiting**

**[www.mdhope.org](http://www.mdhope.org).**

Made possible through the support of the  
Baltimore Neighborhood Collaborative  
and the Baltimore Homeownership  
Preservation Coalition

[www.PreserveHomeownership.org](http://www.PreserveHomeownership.org)

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## Maryland Homeowner Foreclosure Timeline



Developed by the  
Maryland Housing  
Counselors Network, Inc.  
for homeowners.

### THE NETWORK

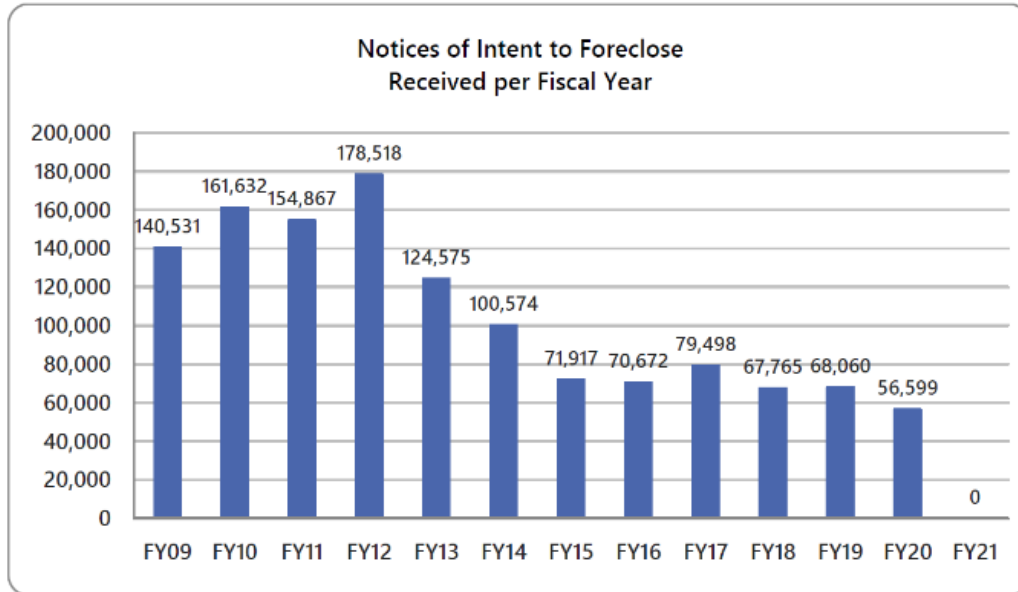


**KNOWLEDGE - THE KEY TO HOMEOWNERSHIP**

## Maryland Foreclosure Statistics

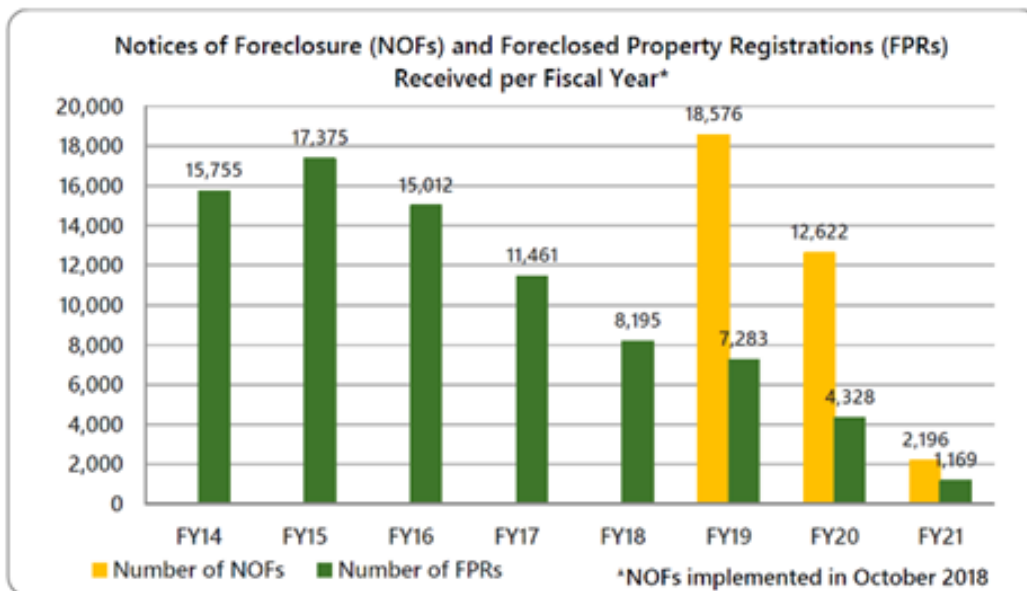
### Number of NOIs (Notice of Intent to Foreclose) Filed

FY22 = 17,478 since July 1, 2021

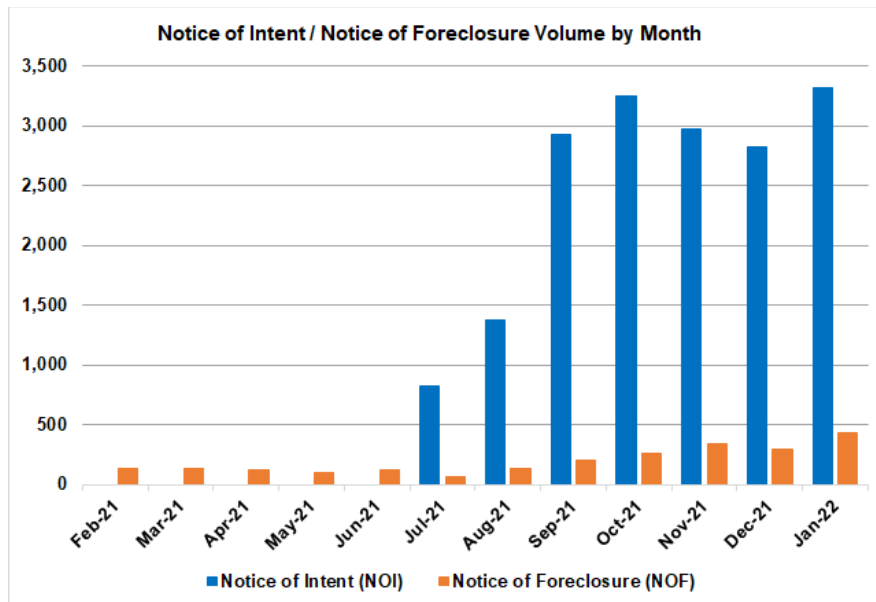


### Number of NOFs (Notice of Foreclosure) Filed

FY 22 = 1,714 since July 1, 2021



## Number of NOFs/NOIs Filed by Month



Source information: Maryland Department of Labor (<https://www.dllr.state.md.us/finance/finregannrep2021.pdf>)

# Mortgage Late? Don't Wait!

## Contact Your Mortgage Servicer Now



**Call your mortgage servicer (“servicer”) as soon as possible to discuss your options to avoid foreclosure.**

- The contact information for your servicer is on your monthly statement. Tell your servicer if you are experiencing financial hardship due to the COVID-19 pandemic or for any other reason.
- Ask your servicer to evaluate your eligibility for programs to avoid foreclosure – this is called a “**loss mitigation review**”.

**Remain in contact with your servicer throughout the loss mitigation review process.**

- Check your mail frequently. Promptly respond to voicemails and requests for information from your servicer.
- Make sure your servicer has your current contact information. Your servicer may proceed with foreclosure if you are unresponsive or if it is unable to reach you.

**Do not skip payments if you can afford to pay your regular installment amount on time.**

- There is no reason to purposefully go into default to qualify for foreclosure prevention or loss mitigation programs. Doing so could negatively affect your credit and impact your eligibility for such programs.
- If you can afford to make partial payments, discuss this option with your servicer *first*. Depending on the terms of your mortgage, partial payments may not be sufficient to keep your loan out of default.

*Continued on reverse*

Your **mortgage servicer** is the company that you send your mortgage payments to. The servicer is responsible for collecting and managing your payments, among other duties.

Your servicer may not be the same company that originated your mortgage loan. Your servicer may change periodically - it is normal for mortgage loans to be transferred to new servicers.

You will be notified by mail if your servicer changes. Promptly open all mail, and inform your servicer if you change your mailing address, email, or phone number.

### Help is Available for Maryland Homeowners

Contact a nonprofit legal services agency or a HUD-approved housing counseling agency for assistance avoiding foreclosure on your home.

Call **1-877-462-7555** for a referral to a nonprofit agency near you, or visit [homeownerassistance.maryland.gov](https://homeownerassistance.maryland.gov) online to access Maryland's free foreclosure-prevention resources.





# Your Rights as a Mortgage Borrower in Maryland

You have the right to receive from your mortgage servicer timely answers to your questions, and a prompt response after you ask to be reviewed for options to avoid foreclosure.

- You are also entitled to receive an accurate copy of your payment history, if you request this from your servicer.
- Keep a written record of all your interactions with your servicer, including who you spoke with and when.

**You have the right to be informed by your mortgage servicer of all your loss mitigation options.**

- Contact your servicer and ask about loss mitigation. Do not be afraid to ask additional questions if you don't understand the financial implications of your options.
- If you would like to dispute the results of the loss mitigation review, ask your servicer if there is an appeals process.

**You have the right to participate in a mediation session with your servicer if you are served with foreclosure papers and your home is your primary residence.**

- *Do not wait until your mediation to begin communicating with your servicer.* The sooner you reach out for help, the more likely you will be able to avoid foreclosure.
- Legal services may be available, for free or at a reduced rate, to help you during your mediation session. To learn more about Maryland's foreclosure mediation program, visit the website [homeownerassistance.maryland.gov](http://homeownerassistance.maryland.gov).

NOTE: Some mortgage servicers may be exempt from certain state or federal requirements. Contact our office if you need help with your servicer.



## Beware of Foreclosure-Prevention Scams!

Fraudulent "mortgage assistance relief" services and "foreclosure consultant" scams are common, but there are ways to protect yourself:

**DO NOT PAY** anyone in advance to assist you with a loan modification. Call **1-877-462-7555** for a referral to a qualified Maryland housing counselor who will provide free help.

**DO NOT SEND** your payments to anyone other than your servicer.

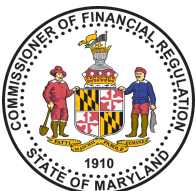
**DO NOT BELIEVE** anyone promising that they will "save your home".

**DO CONTACT** our office immediately if you are the victim of mortgage assistance fraud or a foreclosure consultant scam. Call **410-230-6077** or email **DLFRComplaints-LABOR@maryland.gov** for assistance.



Scan the above image with your smartphone camera to go to our consumer complaint webpage.

The Office of the Commissioner of Financial Regulation is Maryland's consumer financial protection agency and financial services regulator. Contact our office if you have a question or complaint about your mortgage servicer or to report a foreclosure-prevention scam. Call us at **410-230-6077** or send an email to **DLFRComplaints-LABOR@maryland.gov**. Visit [www.labor.maryland.gov/finance/consumers](http://www.labor.maryland.gov/finance/consumers) to learn more.



Office of the Commissioner of Financial Regulation  
Maryland Department of Labor  
500 N. Calvert St Suite 402 | Baltimore, MD 21202  
DLFRFinReg-LABOR@maryland.gov | (410) 230-6100  
[www.labor.maryland.gov/finance](http://www.labor.maryland.gov/finance)

Antonio P. Salazar,  
Commissioner of Financial Regulation  
Tiffany P. Robinson, Secretary of Labor  
Boyd K. Rutherford, Lt. Governor  
Larry Hogan, Governor



# Md. Code Regs. 05.19.01.03

## Section 05.19.01.03 - Notice of Housing Counseling Programs and Services

**A.** Form. Unless the lender is otherwise required by federal or State law to refer a borrower to housing counseling, a lender shall provide a notice of homebuyer education or housing counseling in substantially the following form to a borrower to comply with the requirements set forth in Commercial Law Article, § 12-1303, Annotated Code of Maryland:

### IMPORTANT NOTICE REGARDING HOUSING COUNSELING

You are receiving this notice because you have applied for a Maryland residential mortgage loan secured by a first lien. In applying for and entering into a mortgage loan you will be required to sign complex legal documents. You should be certain that you understand the terms of the loan being offered to you in these documents before you commit in writing. If you do not pay the loan according to its terms, you could lose your home.

**BE ADVISED:** The State of Maryland recommends that all residential mortgage loan applicants receive homebuyer education or housing counseling from a nonprofit or government agency before signing any documents that commit them to a loan.

Free homebuyer education or housing counseling may be provided face-to-face or over the telephone. Set forth below is a list prepared by the Maryland Department of Housing and Community Development of nonprofit and government agencies that provide homebuyer education or housing counseling.

See attached List of Nonprofit and Government Agencies Offering Homebuyer Education or Housing Advice.

**B.** The notice required under §A(1) of this regulation shall include an attachment provided by the Department on nonprofit homebuyer education and housing counseling programs and services provided by nonprofit and government organizations certified by the U.S. Department of Housing and Urban Development that are available to residents of the State.

*Md. Code Regs. 05.19.01.03*

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# MARYLAND HOMEOWNER ASSISTANCE FUND

## MAIN PURPOSE AND GOALS:

The Homeowner Assistance Fund (HAF) was created under section 3206 of the American Rescue Plan Act of 2021. It provides residential mortgage assistance to Maryland homeowners who have experienced a hardship during the COVID-19 pandemic to avoid loss of residence for eligible homeowners. The Maryland Department of Housing and Community Development will administer the program by taking applications through an online portal and working with mortgage servicers so that HAF assistance is supplementary to standard loss mitigation efforts.

## PROGRAM INCEPTION AND DURATION:

The Maryland Homeowner Assistance Fund is expected to open to homeowners statewide in late 2021. The program will continue until September 30, 2026, or until funding is fully reserved, whichever comes first.

## STRUCTURE:

This assistance will take two forms – the Maryland Homeowner Assistance Fund Grant (**HAF Grant**) and the Maryland Homeowner Assistance Fund Loan (**HAF Loan**). The HAF Loan may be combined with the HAF Grant.

### HAF GRANT

The program will offer a one-time payment designed to avoid imminent displacement due to, but not limited to:

- Tax delinquency, chattel loan or land lease delinquency
- Homeowner fee /condominium association fee delinquency
- Home Insurance fees
- Mortgage delinquency

#### Specific grant eligibility:

The HAF Grant borrowers' household gross income may not exceed **100% of area median income (AMI)**

#### Specific terms:

- Outright grant - there is no lien recorded on the property
- maximum assistance - \$10,000

### HAF LOAN

The program will offer a one-time payment of a delinquent mortgage amount and/or additional funds to facilitate a principal curtailment or rate reduction to reduce ongoing mortgage payments to levels affordable to the homeowner. Specifically, the HAF funds will be required to result in the monthly mortgage payments (principal and interest) being less than 40% of the household gross income. Servicer's loss mitigation workout must be used to cure the delinquency and/or bring the monthly mortgage payment below 40% of the household gross income before using HAF money.

Assistance payments will be made directly to the mortgage servicer.

#### Specific loan eligibility and terms:

The HAF Loan borrowers household gross income may not exceed **150% of area median income (AMI)** (see the last page)

#### Specific terms:

- The loan will require a recorded lien on the property
- \$30,000 maximum loan amount
- 0% interest rate
- Deferred payments for the life of the first mortgage
- Payment due in full when the first mortgage ends (repayment, refinance, transfer, sale)
- Repayment is subject to review and the department may, based on homeowner situation and needs at the time of repayment:
  - require payment in full
  - establish a payment plan
  - allow full or partial forgiveness.

<b>GENERAL ELIGIBILITY REQUIREMENTS</b>	<p>In order to be eligible under HAF, all borrowers will have to be/have:</p> <ul style="list-style-type: none"> <li>• an eligible COVID-19 financial hardship after January 21, 2020 (includes hardships that began before January 21, 2020, but continued after that date)</li> <li>• Maryland residents</li> <li>• homeowners residing in their primary residence</li> <li>• homeowners by evidence of the deed of trust</li> </ul> <p>The delinquent mortgage must have had a principal balance that did not exceed the <u>conforming loan limit at the time of origination</u>.</p>
<b>COVID-19 RELATED FINANCIAL HARDSHIP REQUIREMENT</b>	<p>In order to receive assistance, eligible homeowners must have experienced a COVID-19 related financial hardship, as defined in the U.S. Treasury Department guidance, after January 21, 2020 (including hardships that began before January 21, 2020, but continued after that date). The hardship will be self-attested by the borrower in the HAF application form and can be due to decrease in household income, increase in household expenses or other situations. Examples of COVID-19 related hardship include: having to perform essential work during the pandemic; child care/educational costs; costs of caring for an elderly, disabled, or sick family member; illness; death in the family, etc.</p>
<b>TOTAL PROGRAM ALLOCATION</b>	<p>HAF Grant: \$34,000,000 HAF Loan: \$156,300,521</p>
<b>GENERAL PROPERTY ELIGIBILITY CRITERIA AND TYPE</b>	<p>The property must be a one-to-four unit, including condominium units, owner-occupied primary residence located in Maryland. Acceptable property types are: detached, single family, duplex, triplex, fourplex, condominium, co-op and manufactured housing/mobile home.</p>
<b>OTHER CRITERIA</b>	<p><b>HAF GRANT:</b> ELIGIBLE PROPERTY TAX ASSISTANCE For property taxes to be an eligible cost under the MD HAF Grant, the following criteria must be met:</p> <ul style="list-style-type: none"> <li>• The property taxes can be paid directly to the taxing authority rather than through an escrow arrangement with a home mortgage servicer if the respective taxes are not part of an escrow arrangement, and</li> <li>• The payment for the property tax bill must have become due after January 21, 2020.</li> </ul> <p>Applicants cannot receive more than the documented property tax bill and/or costs necessary to remove a lien placed on the property due to failure to pay property taxes which came due after January 21, 2020.</p> <p><b>ELIGIBLE HOMEOWNER FEE ASSISTANCE</b> For Homeowner Fees to be an eligible cost under the MD HAF Grant, the following criteria must be met:</p> <ul style="list-style-type: none"> <li>• The Homeowner Fees must be paid directly to the imposing entity rather than through an escrow arrangement with a home mortgage servicer for a HAF Grant.</li> <li>• The payment for the Homeowner Fees must have become due after January 21, 2020.</li> <li>• The following Homeowner Fees are eligible for payment through the MD HAF program: homeowner's insurance, flood insurance, mortgage insurance, homeowner's association fees or lien, condominium association fee, common charges, etc.</li> <li>• The cost must be a requirement for residency and the applicant must provide an explanation and document the cost.</li> </ul> <p>Payments to local taxing authorities, homeowner insurance companies, or entities that assessed Homeowner Fees cannot be more than the documented bills, invoices, and/or liens.</p> <hr/> <p><b>HAF LOAN:</b> ADDITIONAL ELIGIBILITY CRITERION The payment affordability (housing) ratio (PITI/household gross income) will be capped at 40% (including after mortgage reinstatement or modification).</p>

## HAF 100% AMI LOW INCOME LIMITS BY HOUSEHOLD SIZE (CAPPED AT US MEDIAN)

JURISDICTION	1 PERSON	2 PERSON	3 PERSON	4 PERSON	5 PERSON	6 PERSON	7 PERSON	8 PERSON
Allegany	\$79,900	\$79,900	\$79,900	\$79,900	\$79,900	\$83,600	\$89,300	\$95,100
Anne Arundel	\$79,900	\$84,100	\$94,600	\$105,100	\$113,600	\$122,000	\$130,400	\$138,800
Baltimore	\$79,900	\$84,100	\$94,600	\$105,100	\$113,600	\$122,000	\$130,400	\$138,800
Baltimore city	\$79,900	\$84,100	\$94,600	\$105,100	\$113,600	\$122,000	\$130,400	\$138,800
Calvert	\$90,300	\$103,200	\$116,100	\$129,000	\$139,400	\$149,700	\$160,000	\$170,300
Caroline	\$79,900	\$79,900	\$79,900	\$79,900	\$79,900	\$83,600	\$89,300	\$95,100
Carroll	\$79,900	\$84,100	\$94,600	\$105,100	\$113,600	\$122,000	\$130,400	\$138,800
Cecil	\$79,900	\$79,900	\$85,100	\$94,500	\$102,100	\$109,700	\$117,200	\$124,800
Charles	\$90,300	\$103,200	\$116,100	\$129,000	\$139,400	\$149,700	\$160,000	\$170,300
Dorchester	\$79,900	\$79,900	\$79,900	\$79,900	\$79,900	\$83,600	\$89,300	\$95,100
Frederick	\$90,300	\$103,200	\$116,100	\$129,000	\$139,400	\$149,700	\$160,000	\$170,300
Garrett	\$79,900	\$79,900	\$79,900	\$79,900	\$79,900	\$83,600	\$89,300	\$95,100
Harford	\$79,900	\$84,100	\$94,600	\$105,100	\$113,600	\$122,000	\$130,400	\$138,800
Howard	\$79,900	\$84,100	\$94,600	\$105,100	\$113,600	\$122,000	\$130,400	\$138,800
Kent	\$79,900	\$79,900	\$79,900	\$79,900	\$84,800	\$91,100	\$97,400	\$103,700
Montgomery	\$90,300	\$103,200	\$116,100	\$129,000	\$139,400	\$149,700	\$160,000	\$170,300
Prince George's	\$90,300	\$103,200	\$116,100	\$129,000	\$139,400	\$149,700	\$160,000	\$170,300
Queen Anne's	\$79,900	\$84,100	\$94,600	\$105,100	\$113,600	\$122,000	\$130,400	\$138,800
St. Mary's	\$79,900	\$87,000	\$97,900	\$108,700	\$117,400	\$126,100	\$134,800	\$143,500
Somerset	\$79,900	\$79,900	\$79,900	\$79,900	\$79,900	\$83,600	\$89,300	\$95,100
Talbot	\$79,900	\$79,900	\$79,900	\$87,400	\$94,400	\$101,400	\$108,400	\$115,400
Washington	\$79,900	\$79,900	\$79,900	\$79,900	\$83,400	\$89,600	\$95,800	\$102,000
Wicomico	\$79,900	\$79,900	\$79,900	\$79,900	\$79,900	\$83,600	\$89,300	\$95,100
Worcester	\$79,900	\$79,900	\$79,900	\$79,900	\$86,200	\$92,600	\$99,000	\$105,400

## HAF 150% AMI LOW INCOME LIMITS BY HOUSEHOLD SIZE (CAPPED AT US MEDIAN)

JURISDICTION	1 PERSON	2 PERSON	3 PERSON	4 PERSON	5 PERSON	6 PERSON	7 PERSON	8 PERSON
Allegany	\$79,900	\$86,400	\$97,200	\$108,000	\$116,700	\$125,400	\$133,950	\$142,650
Anne Arundel	\$110,400	\$126,150	\$141,900	\$157,650	\$170,400	\$183,000	\$195,600	\$208,200
Baltimore	\$110,400	\$126,150	\$141,900	\$157,650	\$170,400	\$183,000	\$195,600	\$208,200
Baltimore city	\$110,400	\$126,150	\$141,900	\$157,650	\$170,400	\$183,000	\$195,600	\$208,200
Calvert	\$135,450	\$154,800	\$174,150	\$193,500	\$209,100	\$224,550	\$240,000	\$255,450
Caroline	\$79,900	\$86,400	\$97,200	\$108,000	\$116,700	\$125,400	\$133,950	\$142,650
Carroll	\$110,400	\$126,150	\$141,900	\$157,650	\$170,400	\$183,000	\$195,600	\$208,200
Cecil	\$99,300	\$113,400	\$127,650	\$141,750	\$153,150	\$164,550	\$175,800	\$187,200
Charles	\$135,450	\$154,800	\$174,150	\$193,500	\$209,100	\$224,550	\$240,000	\$255,450
Dorchester	\$79,900	\$86,400	\$97,200	\$108,000	\$116,700	\$125,400	\$133,950	\$142,650
Frederick	\$135,450	\$154,800	\$174,150	\$193,500	\$209,100	\$224,550	\$240,000	\$255,450
Garrett	\$79,900	\$86,400	\$97,200	\$108,000	\$116,700	\$125,400	\$133,950	\$142,650
Harford	\$110,400	\$126,150	\$141,900	\$157,650	\$170,400	\$183,000	\$195,600	\$208,200
Howard	\$110,400	\$126,150	\$141,900	\$157,650	\$170,400	\$183,000	\$195,600	\$208,200
Kent	\$82,500	\$94,200	\$106,050	\$117,750	\$127,200	\$136,650	\$146,100	\$155,550
Montgomery	\$135,450	\$154,800	\$174,150	\$193,500	\$209,100	\$224,550	\$240,000	\$255,450
Prince George's	\$135,450	\$154,800	\$174,150	\$193,500	\$209,100	\$224,550	\$240,000	\$255,450
Queen Anne's	\$110,400	\$126,150	\$141,900	\$157,650	\$170,400	\$183,000	\$195,600	\$208,200
St. Mary's	\$114,150	\$130,500	\$146,850	\$163,050	\$176,100	\$189,150	\$202,200	\$215,250
Somerset	\$79,900	\$86,400	\$97,200	\$108,000	\$116,700	\$125,400	\$133,950	\$142,650
Talbot	\$91,800	\$105,000	\$118,050	\$131,100	\$141,600	\$152,100	\$162,600	\$173,100
Washington	\$81,150	\$92,700	\$104,250	\$115,800	\$125,100	\$134,400	\$143,700	\$153,000
Wicomico	\$79,900	\$86,400	\$97,200	\$108,000	\$116,700	\$125,400	\$133,950	\$142,650
Worcester	\$83,850	\$95,850	\$107,850	\$119,700	\$129,300	\$138,900	\$148,500	\$158,100