



**MARYLAND
LEGAL AID**

Advancing
**Human Rights and
Justice for All**

**Senate Bill 671 – Foreclosure Proceedings – Residential Mortgagors
and Grantors – Access to Counsel
Hearing on February 20, 2024
Position: FAVORABLE**

Maryland Legal Aid (MLA) submits its written and oral testimony on SB 671 in response to a request from Senator Nick Charles.

Thank you for the opportunity to testify in favor of SB 671. 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 residents in 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. MLA supports this Bill and asks that the Committee give it a favorable report and urge its ultimate passage.

SB 671 is a remarkable piece of legislation that could change the legal landscape in foreclosure proceedings. SB 671 recognizes the need to provide legal assistance and information to homeowners who are in jeopardy of falling behind on their mortgage payments and face the possibility of losing their homes through foreclosure. With this bill, the General Assembly would expand the state's interest in promoting housing stability, as well as its interest in preserving homeownership and intergenerational wealth, by providing access to counsel for families facing foreclosure. The loss of one's home has devastating consequences not just for the family who loses their place to live and the potential generational wealth that homeownership generates but the community loss when a home is sold through foreclosure. The loss of wealth and equity extends to the community not just the family who loses the home.

In 2010, Maryland's Foreclosure Mediation Law took effect. It was designed to help foster a dialogue between homeowners and lenders to ensure a fair assessment was made to help homeowners get relief through any available alternatives to foreclosure they might qualify. In the mediation, the bank is represented by counsel, but the homeowner is not. In response, MLA created the Foreclosure Legal Assistance Project (FLAP) to ensure that homeowners had access to legal representation at the foreclosure mediation. FLAP is a statewide unit of attorneys specializing in foreclosure defense and provides full-service legal representation to homeowners facing serious payment delinquency, default and foreclosure. Since that time, MLA's FLAP staff have been representing homeowners in foreclosure all over the State.

In the experience of MLA advocates, those who seek legal assistance early in the process and participate in foreclosure mediation have a higher rate of home retention. Early involvement in the process allows an attorney to investigate legal claims properly and fully explore all available options to save a home. Mortgages require analysis of complex legal documents, and it is rare that

a homeowner would have an understanding about potential legal defenses or the requirements of the law regarding acceptable and legal fees, nor would they have the legal knowledge to effectively mediate or vindicate their rights. Rather than delaying the process, this law will expedite the process by assuring that homeowners facing foreclosure have the assistance they need and a lawyer by their side to ensure the best possible outcomes for themselves, their families, and ultimately their communities in the state.

SB 671 is needed to ensure that wrongful foreclosures are prevented. Under current case law, a borrower must bring any substantive challenges to stop a foreclosure before a sale occurs. After a sale, any right to object is limited primarily to assertions of procedural irregularities in the foreclosure sale itself. Therefore, the right to counsel must occur early in the process, as this bill provides, to allow a homeowner time to assert known and ripe defenses regarding the conduct of loss mitigations or foreclosure before the sale. For access to counsel in foreclosure cases to be effective, this right must occur early in the process to assure the relevant claims are examined and timely pursued.

SB 671 is vital legislation and critical to preserving valuable property rights and protecting homeowners in distress. Thank you for the opportunity to comment on this important legislation. Maryland Legal Aid supports SB 671 and asks that this Committee give it a favorable report and urge its ultimate passage. If you have any questions, please contact William Steinwedel at wsteinwedel@mdlabor.org or (410) 951-7643.