



HB 769/SB 682
REAL PROPERTY – RESIDENTIAL FORECLOSURES – MATERIALLY DELINQUENT MORTGAGES
February 18, 2025
POSITION: SUPPORT

The Pro Bono Resource Center of Maryland (PBRC), an independent 501(c)(3) non-profit organization, is the statewide thought leader and clearinghouse for volunteer civil legal services in Maryland. As the designated pro bono arm of the Maryland State Bar Association, PBRC provides training, mentorship, and pro bono service opportunities to members of the private bar and offers direct legal services through free legal clinics. PBRC supports HB 769/SB 682 because this legislation directly helps vulnerable homeowners who are under economic strain and who deserve basic fairness in foreclosure proceedings to avoid home loss and displacement.

PBRC has a longstanding track record of engaging in foreclosure prevention work so we bear witness when a trend develops that is a threat to maintaining homeownership in our state. We are seeing such a trend now with sophisticated debt buyers coming forward to foreclose on our clients' very old second mortgages – long ago written off by the original lender but sold on to these debt buyers for pennies on the dollar - once the target homes have built up sufficient equity to make a big payday possible for these debt buyers. As a result, these clients and other affected homeowners across the state are facing an unexpected home ownership crisis just as they have finally reached a point where their homes are worth more than their mortgage.

The homeowners in this situation whom we have assisted at PBRC generally come to us thinking that they are the victim of a scam when they receive a collection letter and soon thereafter a notice of intent to foreclose and a court summons from the debt buyer. Our clients are right to be shocked and suspicious because they are inevitably current on their first mortgage, do not recognize this new secured party as an entity that they have ever loaned from, have not received monthly mortgage statements or any communication on the loan for a decade or more, and were told by their past mortgage servicer and/or the bankruptcy court that the loan was discharged. Imagine finding yourself in that situation: facing a huge and sudden loan reinstatement or payoff demand from an unrecognized creditor with very little time to sort things out and with your longtime home at stake.

Starting in earnest on October 1, 2027, HB 769/SB 682 would offer homeowners meaningful protections from this high pressure, high stakes collection effort by requiring secured parties seeking to collect on mortgages where there has been no payment activity for 5 years or more to first send regular loan correspondence to the homeowner for a full 24 months before being able to initiate foreclosure. Giving homeowners this two-year runway to address and inform themselves about these old loans, instead of having foreclosure sprung on them with little notice, will better enable them to effectuate a rescue of their home.

The bill would further mandate that this required two-year loan correspondence to the homeowner include key loan-related information such as a reinstatement amount with itemization for principal, interest, charges, and fees. Currently what PBRC clients get from the secured party in these foreclosure cases is a large lump sum reinstatement demand amount or loan payoff amount with no breakdown of the components, and the amounts are typically more than double what the delinquent amount was years ago. Without this bill, it would remain very difficult for homeowners to get timely access to this necessary information to try to verify whether the secured party has been honest or correct in its calculation of these large figures.

In addition, this bill would specify that homeowners can ask courts to consider the defense of laches in response to such foreclosures where a secured party (almost always a debt buyer or a chain of debt buyers) has strategically delayed enforcement for many years while waiting for the home to increase in value. This would make it clear to homeowners, courts, and these debt buyers that a consideration of the fairness of allowing enforcement of such a debt after many years is relevant.

The homeowner protections proposed in HB769/SB682 are concise and sensible, if not coming nearly soon enough, with the bill enactment date stated as January 1, 2026 and with the main thrust of the protective loan correspondence requirements not kicking in till October 1, 2027. Nevertheless, this bill would be a big step forward in giving Maryland homeowners time, notice, and information needed to evaluate and respond to these secured parties with the goal of preserving homeownership. There would be no cost to the State of Maryland and no impact on secured parties who are sending regular monthly statements or foreclosing on loans that are less than 5 years' delinquent. Thank you very much for your time and consideration of this testimony in support of HB 769/SB 682.

For the above reasons,

PBRC urges a FAVORABLE report on HB 769/SB 582.

Please contact Allison Harris, Director of PBRC's Home Preservation Project, with any questions.

aharris@probonomd.org • 443-703-3050