



**Testimony to the House Environment and Transportation Committee
HB769 Real Property – Residential Foreclosures – Materially Delinquent Mortgages
Position: Favorable**

February 18, 2025

The Honorable Marc Korman, Chair
House Environment & Transportation Committee
Room 250, House Office Building
Annapolis, Maryland 21401
cc: Members, Judicial Proceedings Committee

Chair Korman and Members of the Committee:

Economic Action Maryland (formerly the Maryland Consumer Rights Coalition) is a statewide coalition of individuals and organizations that advances economic rights and equity for Maryland families through research, education, direct service, and advocacy. Our 12,500 supporters include consumer advocates, practitioners, and low-income and working families throughout Maryland.

We are here in strong support of HB769 which provides protections for Maryland homeowners from the terrifying spectre of zombie mortgages. HB769 builds on the work of the General Assembly during the foreclosure crisis of 2008-2011. In many ways, zombie mortgages are a leftover from the Great Recession. HB769 will provide protections for homeowners in Maryland.

Zombie Mortgages

Zombie mortgages are mortgages that homeowners believed were forgiven or satisfied long ago but still exist. Like a zombie, they come back to life to feed-in this case feeding on the rising equity in homes across the state. Many of these mortgages were taken out as a second mortgage during the lending spree of the mid-2000s when banks would make 80/20 loans where the mortgage was divided between a first and second mortgage which allowed a borrower to qualify and possibly avoid downpayment or other costs.

When the foreclosure crisis struck, many homeowners worked with banks to modify their mortgages to make their monthly payments manageable. Many homeowners believed or were wrongly told that their second mortgage was forgiven.

In fact, in some cases, the lender may have written off the second mortgage but sold it for pennies on the dollar to debt buyers. The homeowner may stop receiving notices or statements from the

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bank about the second mortgage. The homeowner believes the second mortgage was forgiven or extinguished. Yet, years later debt collectors will try to collect on the second mortgage when the rising values of homes means there is more profit to be made.

Unbelievably, the debt buyer can start a foreclosure process on a second mortgage even when the homeowner is current on the first mortgage. And even when the homeowner received no statements or notices about their second mortgage for years. These out-of-state debt buyers, private equity firms, and hedge funds demand the outstanding balance on the second mortgage, often adding fees and interest.

A Maryland Problem

An NPR report¹ found more than 700 second mortgages in Maryland where companies have filed Notice of Intention to Foreclose (NOI)-- the first step towards foreclosure. These second mortgages had been inactive for more than a decade.

Notably, the vast majority of these foreclosures on second-mortgages are concentrated in Baltimore City and Prince Georges County², which means Black and Brown homeowners are disproportionately affected by these foreclosures, just as they were hardest hit by predatory mortgage products.

Rising Costs and the Benefits of Homeownership Preservation

Currently, many homeowners are struggling with rising costs. In July 2024, Economic Action surveyed nearly 500 supporters and clients about the cost-of-living crisis. More than 50% surveyed said that they have been impacted by the surging costs of utilities, insurance, food, and housing costs. Survey respondents listed mortgage costs as their greatest expense causing them to struggle.

Homeownership preservation benefits individual homeowners, neighborhoods, and the cities/counties that rely on property taxes. A foreclosure depresses the value of homes surrounding it and the current housing crisis means it may be more difficult for an individual who loses their home to find a safe, secure, affordable alternative. There is likely to be more reliance on state support if an individual loses their home.

¹ <https://www.npr.org/2024/05/10/1197959049/zombie-second-mortgages-homeowners-foreclosure>

² *ibid*

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HB769 responds to this problem by providing a defense to foreclosure which means that the foreclosure could be barred if, among other issues, there was 1) an unreasonable delay in commencing action, and 2) harm resulting from the unreasonable delay. Under the laches doctrine described above, a foreclosure could be barred even when the statute of limitations to foreclose have not expired.

HB769 provides important protections for homeowners and builds on Maryland's past history supporting homeownership preservation.

For all these reasons, we support HB769 and urge a favorable report.

Best,

Marceline Whit
Executive Director

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