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HB0769 - Real Property – Residential Foreclosures – Materially Delinquent Mortgages Environment and Transportation Committee Hearing February 18, 2025

Position: FAVORABLE

To the Honorable Members of the Environment and Transportation Committee:

Community Legal Services strongly supports HB0769, which provides critical protections to Maryland homeowners against unfair and predatory foreclosure practices. This bill addresses an urgent and growing problem: the exploitation of homeowners by private equity firms leveraging decades-old, written-off “zombie mortgages” to extract exorbitant payments under threat of foreclosure.

Community Legal Services (CLS) is a nonprofit organization that provides free legal services in a broad range of substantive areas to individuals and families who meet income-eligibility restrictions. Our organization is committed to promoting family and community stability and success by providing high quality legal representation for individuals and families who otherwise would not have access to justice and due process.

Maryland Homeowners Need HB0769 to Have a Fair Chance at Defending Against Predatory Practices.

CLS is on the front line of the fight to preserve homeownership and housing stability, defending Maryland homeowners against unjust foreclosure actions. Without clear applicable statutes in Maryland law to provide consumer protections from long dead mortgages, Maryland homeowners face an uphill battle in court, where their best defense often relies on Consumer Financial Protection Bureau (CFPB) federal regulations. However, with the potential for significant reductions in consumer protections at the federal level under a new administration, the continued viability of these defenses is in jeopardy. This bill creates a necessary safeguard in Maryland law by requiring secured parties to provide loan-related correspondence before enforcing a materially delinquent mortgage and by allowing homeowners to raise the defense of laches—ensuring that these zombie loans cannot be unfairly weaponized against them.

The History: Where are These Mortgages Coming From?

In the aftermath of the financial crisis of 2008, many homeowners were informed by their lenders that their second mortgages had been charged off.

Understandably, these homeowners believed their debts had been forgiven. In reality, these loans were quietly sold to private equity firms that sat on them for years, waiting for home values to rise. Now, with significant home equity at stake, these firms are aggressively reviving these debts and using Maryland's lack of a statute of limitations on mortgages to threaten families with the loss of their homes. In our experience, the families affected by these zombie mortgages are usually fixed-income seniors on social security who devote a large portion of their budget to pay the primary mortgage on the home they have lived in for decades.

Why Does Maryland Urgently Need to Act in Response to the Emergence of Materially Delinquent (aka, Zombie) Loans?

A materially delinquent loan is one that is at least 5 years delinquent. Most lenders are unwilling to allow a borrower to go 6 months without a payment before foreclosure proceedings begin. This law would put lenders on notice that they have 5 years to do the minimum necessary if they want to keep the right to foreclose. Borrowers targeted by these debt collectors have not received a single statement for over a decade yet are expected to pay a late fee and interest for every single month for which they missed a payment even though the lenders who owned the loan at the time had told them their loans had been written off. If you can't do the bare minimum of providing a monthly statement for more than a decade, the Maryland courts should not be available to you to extract these sums from homeowners.

Maryland is one of the few states without a statute of limitations on mortgages, making the need for this legislation even more pressing. Homeowners should not be subjected to financial ruin and homelessness because of long-dormant debts, written off by bailed-out banks, and later revived for private gain. This bill ensures fairness, transparency, and due process for Maryland families, preventing predatory investors from exploiting legal loopholes to strip homeowners of their hard-earned equity.

Conclusion

CLS urges the Committee to give a favorable report to HB0769 and take decisive action to protect Maryland homeowners from these harmful practices. Please feel free to reach out to Eric Orr, Staff Attorney, Jessica Quincosa, Executive Director, and Lisa Sarro, Director of Litigation & Advocacy, with any questions at orr@clspgc.org, quincosa@clspgc.org and sarro@clspgc.org, respectively.