

CONSUMER LAW CENTER LLC

Phillip Robinson*

A Consumer Rights Law Firm
1220 Blair Mill Road, Suite 1105
Silver Spring, MD 20910

* Admitted in MD

Phone (301) 448-1304
www.marylandconsumer.com

To: Chair Kriselda Valderrama
Vice Chair Lorig Charkoudian
Members of the House Economic Matters Committee

From: Phillip Robinson

Date: February 17, 2026

Subject: **WRITTEN TESTIMONY IN SUPPORT OF HOUSE BILL 523
WITH STRENGTHENING AMENDMENT**

Background

This legislation is intended to address one lingering effect of the Great Recession caused by Fannie Mae, Freddie Mac, and various national banks that failed to act safely and soundly in the mortgage market and as a result thousands of foreclosures occurred in Maryland that resulted in a reduction of homeownership across the state and loss of equity—these negative consequences were felt disproportionality in communities of color and first time homebuyers.

Relevant to this bill, some homeowners were able to avoid foreclosure on their first lien loans and have made payments on those loans ever since. Many of these homeowners, however, reasonably believed the piggy-back, second lien loans originally promoted to them by the policies promoted Fannie Mae, Freddie Mac, and the banks in an unsafe and unsound manner had been forgiven, or were consolidated into the modification. Their belief was reasonable because in most cases the prior servicers were out of business or bankrupt (i.e. GMAC, Ditech, Washington Mutual Bank, IndyMac Bank, etc.), no statements have been typically sent to them in years, and in some cases the homeowners received 1099(c) cancellation of debt statements.

However, despite the reasonableness of the homeowners' beliefs, a new secondary market has emerged of zombie mortgage actors who have purchased these purported debts for pennies but not are seeking to foreclose and/or collect large sums from homeowners for periods of time when no one sent required period statements to borrowers (both Federal and State law require them to be sent) for years. **Bloomberg recently reported on an example of a typical zombie mortgage actor (i.e. ARCPE or ARC) who bought a zombie loan for \$2,131.00 on the secondary market (in a pool of thousands of similar loans) and later foreclosed and realized a profit of 2,321% over its \$2,131.00 investment.** See [Zombie Mortgages Saddle Homeowners With Large Unexpected Debts](#).

There has been lots of national reporting on the zombie mortgage crisis including:

- **Bloomberg's** reports:
 - "[Pay Up or Move Out](#)" (October 6, 2025)
<https://www.bloomberg.com/graphics/2025-zombie-debt-collectors-mortgage-loans/>

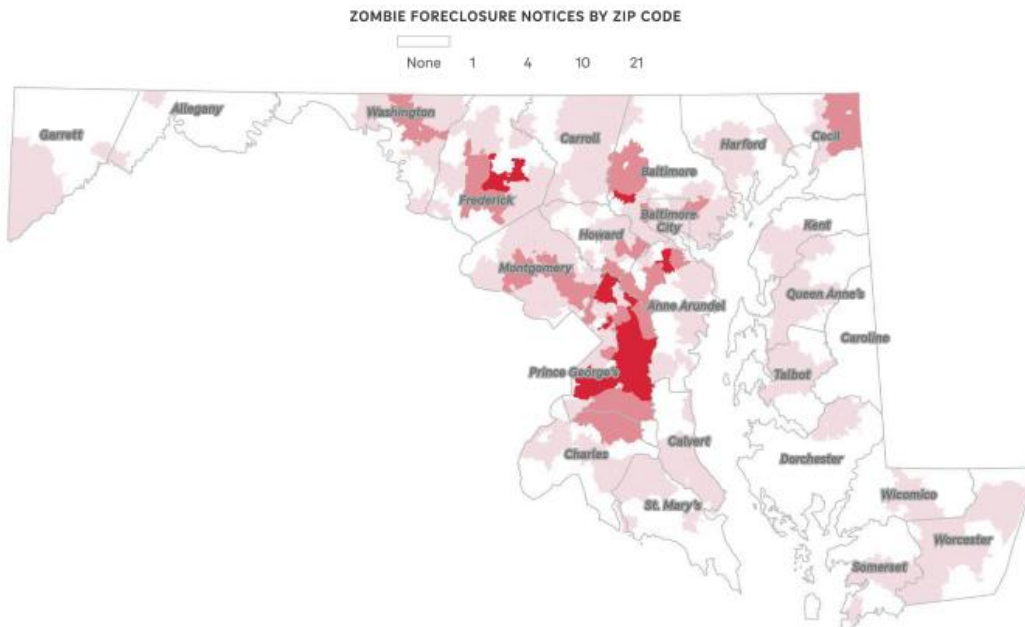
**WRITTEN TESTIMONY IN SUPPORT OF HOUSE BILL 523
WITH AMENDMENT**

- - [“No Cop on the Beat”](#) (October 30, 2025)
<https://www.bloomberg.com/graphics/2025-zombie-home-mortgage-debt-collection-investigation/>
- - [“Rise of the ‘Zombie’ Loans”](#) (December 18, 2025)
<https://www.bloomberg.com/graphics/2025-zombie-debt-great-recession-crisis/>
- **PBS’** report (features a case study for a Maryland homeowner):
https://youtu.be/3drD5g6nL_8 (February 5, 2026)
- **NPR’s** report:
[Zombie mortgages coming back to life, threatening thousands of Americans' homes : Planet Money : NPR](#) (May 18, 2024)

Some of these reports also provide accurate visuals to show the particular impact of zombie mortgages in Maryland how it is a hotspot for the problem. Of note, NPR acquired data from OFR to use for its reporting which shows the impact of foreclosure as felt across the State:

Zombie second mortgages and foreclosure actions in Maryland

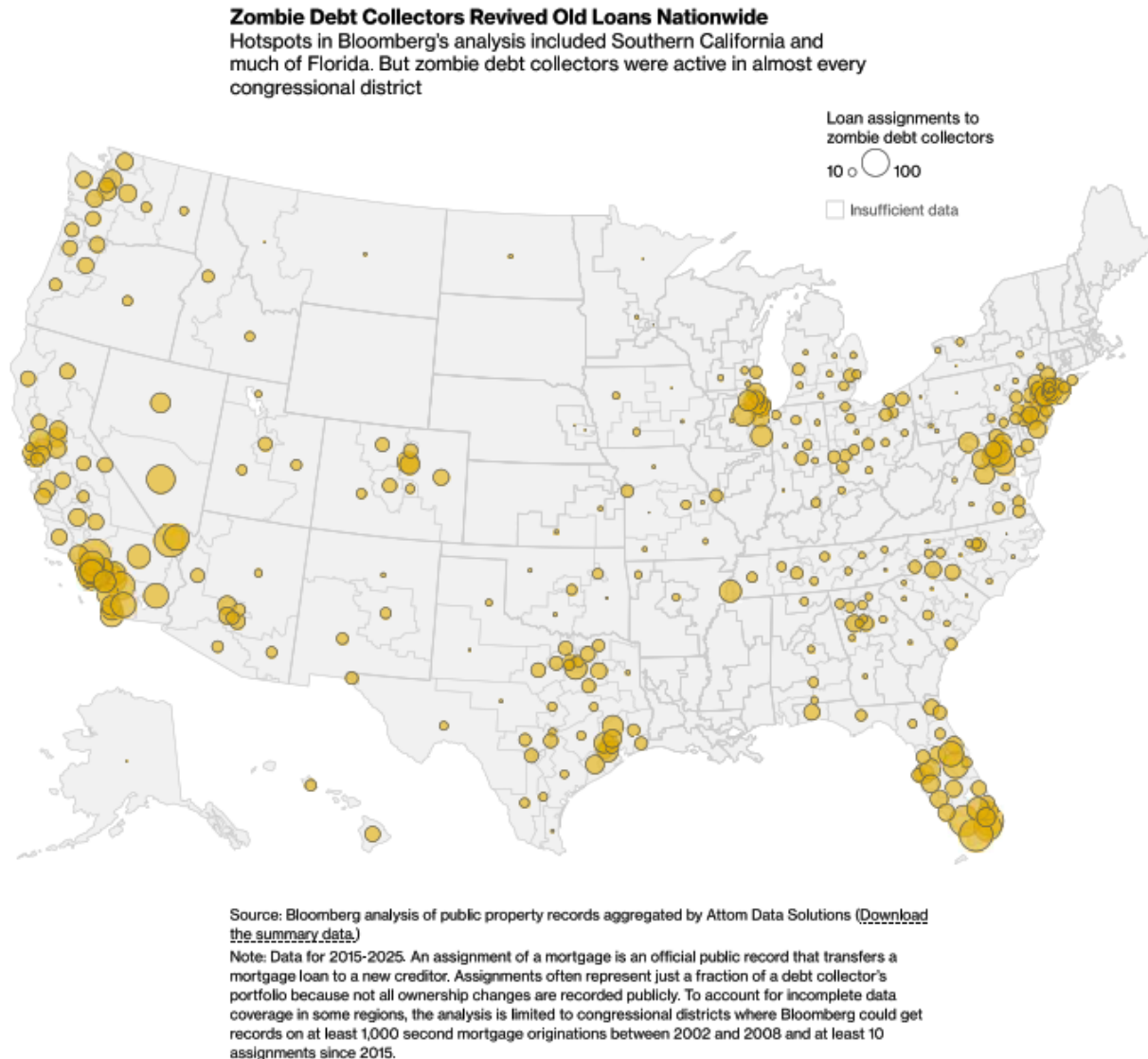
Among more than 700 foreclosure notices sent to homeowners with “zombie” second mortgages, the notices were most concentrated in areas around Baltimore and Prince George’s County, a predominantly African American suburb of Washington, D.C. Under our methodology, we counted a mortgage as a zombie mortgage if it defaulted more than a decade ago and a Notice of Intent to Foreclose was filed between January 2019 and July 2023.



See [Zombie mortgages coming back to life, threatening thousands of Americans' homes : Planet Money : NPR](#).

WRITTEN TESTIMONY IN SUPPORT OF HOUSE BILL 523 WITH AMENDMENT

To compare the impact of zombie mortgages across the country, Bloomberg also published a look at nationwide trends:



See [US Homeowners Vulnerable to \\$32 Billion in Zombie Loans With Probe on Hold.](#)

What Does House Bill 523 Seek to Accomplish?

The legislation seeks to establish a statute of limitations for foreclosure which, according to Maryland's appellate courts, does not exist. See *Daughtry v. Nadel*, 248 Md. App. 594, 601, 242 A.3d 1158, 1162 (2020); *Cunningham v. Davidoff*, 188 Md. 437, 53 A.2d 777 (1947).

**WRITTEN TESTIMONY IN SUPPORT OF HOUSE BILL 523
WITH AMENDMENT**

What Amendments Would Make House Bill 523 More Effective and Fair to Consumers and All Market Participants?

The legislation proposes establishing a statute of limitations at about ten years with vague and imprecise language, which would lead to unnecessary confusion. The legislation's aim to focus on a ten-year statute of limitations which would be an improvement to the current law, but would keep Maryland as an outlier as compared to other states that have already addressed this issue and adopted shorter limitations without any negative consequences to their secondary marketplaces.

- For example, since 2015 **Maine** has had a six-year statute of limitations for all consumer collection actions, which includes foreclosure. Me. Rev. Stat. Ann. tit. 32, § 11013(8) (“**A debt collector may not commence a collection action more than 6 years after the date of the consumer's last activity on the debt**”). As originally proposed in Maine, its statute of limitations would have been three years but by the time the legislation was enacted the Maine legislature increased the limitations to six years. Since this provision was enacted in 2015, the secondary mortgage market in Maine has not collapsed.
- **New York** also has a six-year statute of limitations for **an action to foreclose a mortgage**. See CPLR 213[4]; *Lubonty v. U.S. Bank N.A.*, 34 N.Y.3d 250, 261, 116 N.Y.S.3d 642, 139 N.E.3d 1222; *MTGLQ Invs., L.P. v. Singh*, 216 A.D.3d 1087, 1088, 190 N.Y.S.3d 415). The secondary market in New York has not collapsed.
- **Ohio** has an eight-year statute of limitations for foreclosure. *SRB Servicing, LLC v. McIntyre*, No. 1:17CV665, 2018 WL 2738879, at *4 (N.D. Ohio May 30, 2018). The secondary market in Ohio has not collapsed.
- **New Jersey** has a six-year statute of limitations for foreclosure. N.J.S.A. 2A:50-56.1. The secondary market in New Jersey has not collapsed.

To strengthen the bill and avoid the ambiguities, I recommend the following strengthening amendment which would also bring the statute of limitations more in line with Maryland's sister states:

Amend Page 4, Lines 18-19 as follows:

(3) BE COMMENCED NOT LATER THAN ~~10~~ 8 YEARS AFTER ~~THE DATE OF DEFAULT~~
~~CLAIMED IN THE ORDER TO DOCKET OR COMPLAINT TO FORECLOSE~~ THE DATE OF THE
CONSUMER'S LAST PAYMENT ACTIVITY ON THE DEBT.

**WRITTEN TESTIMONY IN SUPPORT OF HOUSE BILL 523
WITH AMENDMENT**

RESPONSIVE FACTS AND LAW TO THE OPPOSITION’S “SKY IS FALLING DEFENSE” TO THE BILL

In response to the arguments advanced by the opposition in the Senate, I provide the following opinions and legal authorities that cast serious doubt on the conclusory representations and false statements they previously advanced.

1. **Maryland has no statute of limitations for foreclosure.** The Maryland Supreme Court and the Appellate Court of Maryland has held in published decisions. *See Daughtry v. Nadel*, 248 Md. App. 594, 601, 242 A.3d 1158, 1162 (2020); *Cunningham v. Davidoff*, 188 Md. 437, 53 A.2d 777 (1947).
2. **Foreclosure is a method of debt collection.** The Appellate Court of Maryland and the Supreme Court of the United States has so held. *Newsom v. Brock & Scott, PLLC*, 253 Md. App. 181, 264 A.3d 283 (2021); *Obduskey v. McCarthy & Holthus LLP*, 586 U.S. 466, 139 S. Ct. 1029, 203 L. Ed. 2d 390 (2019).
3. **Foreclosure is a remedy.** *See Daughtry v. Nadel*, 248 Md. App. 594, 601, 242 A.3d 1158, 1162 (2020); *Cunningham v. Davidoff*, 188 Md. 437, 53 A.2d 777 (1947).
4. **A remedy authorized by the General Assembly is NOT a vested right and can be changed** without any constitutional concerns since the Maryland Supreme Court has long “held that the Legislature may retroactively abrogate a remedy for the enforcement of a property or contract right when an alternative remedy is open to the plaintiff.” *Dua v. Comcast Cable of Maryland, Inc.*, 370 Md. 604, 638, 805 A.2d 1061, 1081 (2002). If the General Assembly establishes a statute of limitations for foreclosure or shortens any statute of limitations, the mortgage company still has the right to collect sums owed that accrued within the period of limitations or to sue on the contract in a debt action. Thus, the bill is not unconstitutional, and the claims otherwise ignore the controlling law.
5. **The standard Fannie Mae/Freddie Mac Deed of Trust (approved by the FHFA) provides in 90% of all mortgages with the following language that reflects the lenders and borrowers agree in nearly every mortgage that the rights and obligations may change:**

17. Governing Law; Severability; Rules of Construction. This Security Instrument is governed by federal law and the law of the State of Maryland. All rights and obligations contained in this Security Instrument are subject to any requirements and limitations of Applicable Law. If any

**WRITTEN TESTIMONY IN SUPPORT OF HOUSE BILL 523
WITH AMENDMENT**

provision of this Security Instrument or the Note conflicts with Applicable Law (i) such conflict will not affect other provisions of this Security Instrument or the Note that can be given effect without the conflicting provision, and (ii) such conflicting provision, to the extent possible, will be considered modified to comply with Applicable Law. Applicable Law might explicitly or implicitly allow the parties to agree by contract or it might be silent, but such silence should not be construed as a prohibition against agreement by contract. Any action required under this Security Instrument to be made in accordance with Applicable Law is to be made in accordance with the Applicable Law in effect at the time the action is undertaken.

Available at <https://singlefamily.fanniemae.com/media/document/docx/legal-documents/form-3021> (underscoring emphasis added)

The opposition failed to concede that all mortgage contracts anticipate “all rights” including foreclosure are subject to “Applicable law in effect at the time the action is undertaken.” This general language has been part of all mortgage contracts for nearly three decades. So there is no surprise to anyone about changes in the law like a change of statute of limitations. Any doubt to this conclusion is also confirmed by the definition of Applicable Law to “mean[] **all controlling applicable federal, state, and local statutes, regulations, ordinances, and administrative rules and orders (that have the effect of law) as well as all applicable final, non-appealable judicial opinions.**” *Id.* at ¶ G.

**PLEASE ACCEPT THE STRENGTHENING AMENDMENT AND VOTE
FAVORABLY ON HOUSE BILL 523.**