



**House Bill 523 – Residential Foreclosures – Commencement Restrictions
Hearing on February 19, 2025 – Economic Matters Committee
Position: FAVORABLE**

Maryland Legal Aid (MLA) submits its written testimony on HB 523 in response to a request from Delegate Vaughn Stewart.

Maryland Legal Aid (MLA) appreciates the opportunity to testify in support of this vital legislation. We are the state’s largest nonprofit law firm, representing thousands of low-income Marylanders every year in matters related to housing, foreclosure, family law, social security and public benefits. HB 523 creates a statute of limitations of ten years from the date of default for the commencement of foreclosure actions in Maryland. In addition, if more than five years have passed since the mortgage default, it imposes additional document requirements on the foreclosing party. Because HB 523 seeks to remedy the “zombie mortgage” problem by imposing a statute of limitations on foreclosure actions, MLA testifies in support of this bill.

The term “zombie mortgage” (see <https://www.consumerfinance.gov/ask-cfpb/what-is-a-zombie-second-mortgage-en-2133/> for further information) is a term of art that has been used to describe a certain type of mortgage in the past few years. During the housing bubble of 2002-2007, it was typical for mortgage brokers that were selling mortgages to sell “80/20” mortgages to homeowners. In this scenario, homeowners, instead of putting a 20% down payment down on a home, would borrow mortgages for the entire value of the property -- a first mortgage for 80% of the value of the home and a second mortgage for 20% of the value of the home. These products were sold to homeowners as good deals because the assumption was that home prices would continue to increase, thus allowing them to refinance in the future.

Unfortunately, starting with the 1st quarter of 2007, housing prices began to drop, sometimes significantly, and the mortgage servicers, companies hired by the investors to service the mortgages that they own, were forced to modify the 1st mortgages to allow the homeowners to stay in their homes. The holder of the 2nd mortgages took no collection action, because the value of the homes had dropped below the amount due on the 1st mortgage, and actions to collect were not pursued. Savvy investors bought these mortgages, sometimes for pennies on the dollar, from the original investors and banks and bided their time. Then, housing prices started to increase again, and eventually, the home values climbed to the point that there was significant equity above the first mortgage, making it valuable for the 2nd mortgages to foreclose.

Homeowners are now receiving foreclosure notices from mortgages that they did not even realize that they had anymore. HB 523 would impose a statute of limitations of ten years from the date of default on the commencement of foreclosure actions and provide additional documentary requirements for loans that have been in default for more than five years.

Both requirements in HB 523, while not a complete solution, help the income homeowners that MLA represents. MLA has seen about a dozen of these “zombie mortgage” cases, and the general options to resolve a mortgage default, a loan modification and a Chapter 13 bankruptcy, are difficult for our client homeowners in these situations. A loan modification is difficult because generally these mortgages are 2nd mortgages, and because there is another mortgage on the property, the flexibility that the mortgage servicer has to modify the mortgage is less. Generally, when MLA has resolved these cases with loan modifications, they require a lump sum payment at the beginning, which can be difficult for MLA’s clients. A Chapter 13 bankruptcy is difficult because a homeowner must pay the first and second regular mortgage payments plus a chapter 13 plan. SB 353 requires a foreclosure action to be based on a recent default in the mortgage and also requires additional information if a lender is foreclosing on an old debt. This bill provides a clear timeline for mortgage servicers and emphasizes that they cannot just wait until the equity in a home increases before foreclosing.

HB 523 seeks to address the serious problem facing Marylanders of zombie mortgages through the creation of a statute of limitations on the initiation of foreclosure actions. MLA supports HB 523. If you need additional information in regard to this bill, please contact William Steinwedel at wsteinwedel@mdlab.org and (410) 951-7643.