

February 3, 2026

Re: Letter of Support

Dear Chair, Vice-Chair, and Members of the Committee,

The Office of Financial Regulation (OFR) is Maryland's state consumer financial protection agency. OFR provides this testimony in support of Senate Bill 353, Real Property – Residential Foreclosures - Commencement Restrictions.

Bill Summary

SB353 seeks to ensure that homeowners at risk of foreclosure from old mortgage debt are provided with certain protections. In the legislation, old mortgage debt is defined as a mortgage that has been in default at least ten (10) years before the filing of the Notice of Intent to Foreclose or has a date of default at least five (5) years before the filing of the Notice of Intent to Foreclose if the secured party purchased the debt after the debt went into default.

Background

Holders of materially delinquent mortgages are typically debt buyers who have purchased the old mortgage debt after it has been charged off by the previous secured party. Because they have not, and may not be, receiving any communication from the mortgage holder regarding the loan, homeowners often mistakenly believe that they no longer owe the debt.

Recently, as housing values have increased, holders of materially delinquent mortgages have been initiating foreclosure actions on long overdue mortgages in an effort to collect on the old debt, plus interest and fees. In some situations the old debt is from a second lien mortgage that was originated in the years leading up to the Great Recession and subsequent foreclosure crisis. In addition to not receiving correspondence on these old loans, those homeowners who successfully obtained loan modifications on their first mortgage were often led to believe that the second mortgage was included in their modification, though in reality it was not.

Scope and Homeowner Impact

OFR records indicate that since 2018 approximately 3,400 mortgage borrowers in Maryland received a Notice of Intent to Foreclose for a mortgage on which the last payment was made five or more years ago. During that same time period, a total of over 464,000 Notices of Intent to Foreclose were filed. Therefore, materially

delinquent mortgages comprise less than 1% of all potential foreclosures. In 2025 alone, OFR received 130 out of 91,076 Notices of Intent to Foreclose filings that were at least 10 years delinquent. OFR received 323 that were at least 5 years delinquent or .4% of all filings. Over the past seven years, OFR has received 18 complaints for materially delinquent foreclosures. Consequently, OFR believes that the requirements in this bill would impact a very small percentage of mortgages in Maryland.

The impact on affected homeowners, however, is significant. An analysis of the same Notices of Intent to Foreclose for materially delinquent mortgages revealed that the average amount a homeowner would need to pay the mortgage holder in order to avoid foreclosure is over \$193,000. Such a substantial sum of money is challenging for most consumers to raise with little to no advance notice, particularly so for those homeowners with limited resources.

Federal Response

In April 2023, the federal Consumer Financial Protection Bureau (CFPB) issued guidance regarding “zombie” mortgages, described by the CFPB as “silent second mortgages... that consumers thought were satisfied long ago and that may be unenforceable in court”. The CFPB guidance reminds debt collectors covered under the Fair Debt Collection Practices Act that they are prohibited from collecting or attempting to collect on old debt past the debt’s relevant statute of limitations, referred to as “time-barred debt”. Since 2019, CFPB data show five Maryland-based complaints that directly reference zombie mortgages.

The Need for Legislation in Maryland

Maryland case law holds that foreclosures do not have a statute of limitations so the debt is not time-barred; as such, the CFPB’s aforementioned guidance is limited.

OFR has received complaints from homeowners who thought the attempt to collect on the old mortgage was a scam, since the homeowners did not recognize the name of the mortgage holder and believed that the debt had been forgiven many years ago. OFR is also aware of consumer complaints indicating that debt collectors sought interest and fees they were not legally entitled to collect. The changes under this bill would protect homeowners in these situations.

With that, OFR requests a favorable Committee Report.