

HOUSE BILL 769

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5lr1126
CF 5lr2796

By: **Delegates D. Jones, Allen, Bagnall, Bartlett, Boaf, Holmes, J. Lewis, Pruski, Roberson, Schmidt, and Simmons**

Introduced and read first time: January 29, 2025

Assigned to: Environment and Transportation

A BILL ENTITLED

1 AN ACT concerning

2 **Real Property – Residential Foreclosures – Materially Delinquent Mortgages**

3 FOR the purpose of altering certain requirements for an order to docket or a complaint to
4 foreclose a mortgage or deed of trust on residential property; requiring a secured
5 party to provide certain loan–related correspondence in order to enforce a materially
6 delinquent mortgage, subject to certain exceptions; permitting a mortgagor to raise
7 a defense of laches in an action to enforce a materially delinquent mortgage; and
8 generally relating to materially delinquent mortgages and foreclosures on
9 residential property.

10 BY repealing and reenacting, without amendments,
11 Article – Real Property
12 Section 7–105.1(a)(1), (8), and (12) and (b)
13 Annotated Code of Maryland
14 (2023 Replacement Volume and 2024 Supplement)

15 BY repealing and reenacting, with amendments,
16 Article – Real Property
17 Section 7–105.1(e)(1)
18 Annotated Code of Maryland
19 (2023 Replacement Volume and 2024 Supplement)

20 BY adding to
21 Article – Real Property
22 Section 7–105.19
23 Annotated Code of Maryland
24 (2023 Replacement Volume and 2024 Supplement)

25 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
26 That the Laws of Maryland read as follows:

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



Article – Real Property

7–105.1.

(a) (1) In this section the following words have the meanings indicated.

(8) “Owner–occupied residential property” means residential property in which at least one unit is occupied by an individual who:

(i) Has an ownership interest in the property; and

(ii) Uses the property as the individual’s primary residence.

(12) “Residential property” means real property improved by four or fewer single family dwelling units that are designed principally and are intended for human habitation.

(b) (1) Except as provided in paragraph (2) of this subsection, an action to foreclose a mortgage or deed of trust on residential property may not be filed until the later of:

(i) 90 days after a default in a condition on which the mortgage or deed of trust provides that a sale may be made; or

(ii) 45 days after the notice of intent to foreclose required under subsection (c) of this section is sent.

(2) (i) The secured party may petition the circuit court for leave to immediately commence an action to foreclose the mortgage or deed of trust if:

1. The loan secured by the mortgage or deed of trust was obtained by fraud or deception;

2. No payments have ever been made on the loan secured by the mortgage or deed of trust;

3. The property subject to the mortgage or deed of trust has been destroyed;

4. The default occurred after the stay has been lifted in a bankruptcy proceeding; or

5. The property subject to the mortgage or deed of trust is property that is vacant and abandoned as provided under § 7–105.18 of this subtitle.

(ii) The court may rule on the petition with or without a hearing.

(iii) If the petition is granted:

1. The action may be filed at any time after a default in a condition on which the mortgage or deed of trust provides that a sale may be made; and

2. The secured party need not send the written notice of intent to foreclose required under subsection (c) of this section.

(e) An order to docket or a complaint to foreclose a mortgage or deed of trust on residential property shall:

(1) Include:

(i) If applicable, the license number of:

1. The mortgage originator; and

2. The mortgage lender; and

(ii) An affidavit stating:

1. The date on which the default occurred and the nature of the default; [and]

2. A. WHETHER THE DEBT INSTRUMENT CONSTITUTES A MATERIALLY DELINQUENT MORTGAGE WITHIN THE MEANING OF § 7-105.19 OF THIS SUBTITLE; AND

B. IF THE DEBT INSTRUMENT IS A MATERIALLY DELINQUENT MORTGAGE WITHIN THE MEANING OF § 7-105.19 OF THIS SUBTITLE, THAT THE SECURED PARTY HAS SATISFIED ANY REQUIREMENTS FOR INSTITUTING FORECLOSURE UNDER THAT SECTION; AND

[2.] 3. If applicable, that:

A. A notice of intent to foreclose was sent to the mortgagor or grantor in accordance with subsection (c) of this section and the date on which the notice was sent; and

B. At the time the notice of intent to foreclose was sent, the contents of the notice of intent to foreclose were accurate; and

7-105.19.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) "BILLING CYCLE" MEANS:

(I) IF A MORTGAGE REQUIRES PERIODIC PAYMENTS AT INTERVALS OF 3 MONTHS OR LESS, THE INTERVAL BETWEEN THE DAYS OR DATES OF REGULAR PERIODIC PAYMENTS REQUIRED BY THE TERMS OF THE MORTGAGE; OR

(II) IF THE MORTGAGE TERMS DO NOT REQUIRE PERIODIC PAYMENTS OR REQUIRE PERIODIC PAYMENTS ON INTERVALS GREATER THAN 3 MONTHS, EVERY 3 MONTHS.

(3) "LOAN-RELATED CORRESPONDENCE" MEANS WRITTEN COMMUNICATION FROM A SECURED PARTY TO A MORTGAGOR THAT:

(I) IF THE SECURED PARTY IS REQUIRED TO PROVIDE PERIODIC STATEMENTS UNDER 12 C.F.R. § 1026.41, COMPLIES WITH THE REQUIREMENTS OF THAT PROVISION; OR

(II) IF THE SECURED PARTY IS NOT REQUIRED TO PROVIDE PERIODIC STATEMENTS UNDER 12 C.F.R. § 1026.41, CONTAINS THE FOLLOWING:

1. THE NAME AND CONTACT INFORMATION OF THE SECURED PARTY;

2. THE CURRENT AMOUNT OF THE OUTSTANDING PRINCIPAL BALANCE;

3. THE CURRENT INTEREST RATE IN EFFECT;

4. THE AMOUNT CURRENTLY DUE DISAGGREGATED BY PRINCIPAL, INTEREST, CHARGES, AND FEES; AND

5. THE LENGTH OF ANY PAYMENT DELINQUENCY, INCLUDING THE DATE OF LAST PAYMENT.

(4) "MATERIALLY DELINQUENT MORTGAGE" MEANS A MORTGAGE ON WHICH NO PAYMENTS HAVE BEEN MADE BY A PARTY, OTHER THAN THE SECURED PARTY, IN THE PRECEDING 5 YEARS, EXCLUDING ANY PERIOD OF TIME IN WHICH A SECURED PARTY COULD NOT INSTITUTE A FORECLOSURE PROCEEDING DUE TO AN EXECUTIVE ORDER OR OTHER SIMILAR OFFICIAL ACTION RESTRICTING FORECLOSURE ACTIONS.

1 **(5) “MORTGAGE” MEANS ANY MORTGAGE OR DEED OF TRUST**
2 **ENCUMBERING OWNER–OCCUPIED RESIDENTIAL PROPERTY.**

3 **(6) “MORTGAGOR” MEANS ANY PARTY SIGNING A MORTGAGE AS A**
4 **MORTGAGOR OR A DEED OF TRUST AS A GRANTOR.**

5 **(7) “OWNER–OCCUPIED RESIDENTIAL PROPERTY” HAS THE MEANING**
6 **STATED IN § 7–105.1 OF THIS SUBTITLE.**

7 **(8) “RESIDENTIAL PROPERTY” HAS THE MEANING STATED IN §**
8 **7–105.1 OF THIS SUBTITLE.**

9 **(9) “SECURED PARTY” MEANS AN OWNER, A SERVICER, OR ANY**
10 **OTHER PERSON ENTITLED TO ENFORCE A MORTGAGE OR A DEED OF TRUST.**

11 **(B) (1) THIS SUBSECTION MAY NOT BE INTERPRETED TO:**

12 **(I) PROHIBIT THE FILING OF A PETITION UNDER §**
13 **7–105.1(B)(2) OF THIS SUBTITLE; OR**

14 **(II) PRECLUDE THE COURT FROM GRANTING A PETITION WITH**
15 **RESPECT TO A MATERIALLY DELINQUENT MORTGAGE UNDER § 7–105.1(B)(2) OF**
16 **THIS SUBTITLE.**

17 **(2) UNLESS PROHIBITED BY LAW, REGULATION, OR EXECUTIVE**
18 **ORDER, A SECURED PARTY SHALL SEND LOAN–RELATED CORRESPONDENCE TO THE**
19 **MORTGAGOR OF A MATERIALLY DELINQUENT MORTGAGE IN EACH BILLING CYCLE.**

20 **(3) PRIOR TO OCTOBER 1, 2027, A SECURED PARTY MAY ENFORCE A**
21 **MATERIALLY DELINQUENT MORTGAGE THROUGH COMMENCEMENT OF A**
22 **FORECLOSURE OR JUDICIAL SALE ONLY IF:**

23 **(I) AT LEAST ONE PIECE OF LOAN–RELATED**
24 **CORRESPONDENCE WAS SENT TO THE MORTGAGOR DURING EACH BILLING CYCLE**
25 **FOR THE IMMEDIATELY PRECEDING 24 MONTHS, EXCLUDING ANY PERIOD DURING**
26 **WHICH THE SECURED PARTY WAS PROHIBITED BY LAW, REGULATION, OR**
27 **EXECUTIVE ORDER FROM SENDING LOAN–RELATED CORRESPONDENCE TO THE**
28 **MORTGAGOR; OR**

29 **(II) ON A FORM PROVIDED BY THE COMMISSIONER OF**
30 **FINANCIAL REGULATION, THE SECURED PARTY SERVES NOTICE ON THE**
31 **MORTGAGOR OF THE MATERIALLY DELINQUENT MORTGAGE AT LEAST 90 DAYS**
32 **PRIOR TO COMMENCEMENT.**

1 **(4) ON OR AFTER OCTOBER 1, 2027, A SECURED PARTY MAY ENFORCE**
2 **A MATERIALLY DELINQUENT MORTGAGE THROUGH A FORECLOSURE OR JUDICIAL**
3 **SALE ONLY IF THE SECURED PARTY HAS MET THE REQUIREMENTS OF PARAGRAPH**
4 **(2) OF THIS SUBSECTION FOR THE IMMEDIATELY PRECEDING 24 CONSECUTIVE**
5 **MONTHS.**

6 **(5) THE COMMISSIONER OF FINANCIAL REGULATION MAY DEVELOP**
7 **THE FORM REQUIRED UNDER PARAGRAPH (3)(II) OF THIS SUBSECTION BY**
8 **REGULATION.**

9 **(C) (1) IN AN ACTION TO FORECLOSE OR OTHERWISE ENFORCE A**
10 **MATERIALLY DELINQUENT MORTGAGE, A MORTGAGOR MAY RAISE A DEFENSE OF**
11 **LACHES.**

12 **(2) A COURT CONSIDERING A DEFENSE OF LACHES IN AN ACTION TO**
13 **FORECLOSE OR OTHERWISE ENFORCE A MATERIALLY DELINQUENT MORTGAGE**
14 **MAY:**

15 **(I) ATTRIBUTE ANY DELAY IN THE ENFORCEMENT OF THE**
16 **MORTGAGE TO THE SECURED PARTY EVEN IF THE SECURED PARTY DID NOT HOLD**
17 **AN INTEREST IN THE MORTGAGE AT ALL TIMES DURING THE DELAY IN**
18 **ENFORCEMENT; AND**

19 **(II) ORDER ANY RELIEF THE COURT CONSIDERS TO BE**
20 **APPROPRIATE.**

21 **SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect**
22 **January 1, 2026.**