

SENATE BILL 671

N1
HB 225/23 – JUD

4lr2072

By: **Senator Charles**

Introduced and read first time: January 29, 2024

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Foreclosure Proceedings – Residential Mortgagors and Grantors – Access to**
3 **Counsel**

4 FOR the purpose of requiring that certain individuals have access to legal representation
5 in certain foreclosure proceedings; establishing the Access to Counsel in Foreclosure
6 Proceedings Program and requiring the Maryland Legal Services Corporation, under
7 the Program, to provide access to legal representation to certain individuals in
8 foreclosure proceedings under certain circumstances; requiring the Maryland Legal
9 Services Corporation to develop a certain pamphlet and the Commissioner of
10 Financial Regulation to provide individuals in foreclosure proceedings with the
11 pamphlet; requiring the Maryland Legal Services Corporation to designate certain
12 community groups for a certain purpose; establishing the Access to Counsel in
13 Foreclosure Proceedings Special Fund as a special, nonlapsing fund; requiring that
14 the Comptroller collect certain fees on residential property sales and that the fees be
15 paid to the Fund; authorizing a local jurisdiction to adopt certain local laws; and
16 generally relating to the right to counsel in foreclosure proceedings.

17 BY adding to
18 Article – Real Property
19 Section 7–3A–01 through 7–3A–10 to be under the new subtitle “Subtitle 3A. Access
20 to Legal Representation in Foreclosure Proceedings”; and 10–714
21 Annotated Code of Maryland
22 (2023 Replacement Volume)

23 BY repealing and reenacting, without amendments,
24 Article – State Finance and Procurement
25 Section 6–226(a)(2)(i)
26 Annotated Code of Maryland
27 (2021 Replacement Volume and 2023 Supplement)

28 BY repealing and reenacting, with amendments,

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



Article – State Finance and Procurement
Section 6–226(a)(2)(ii)189. and 190.
Annotated Code of Maryland
(2021 Replacement Volume and 2023 Supplement)

BY adding to

Article – State Finance and Procurement
Section 6–226(a)(2)(ii)191.
Annotated Code of Maryland
(2021 Replacement Volume and 2023 Supplement)

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

Article – Real Property

SUBTITLE 3A. ACCESS TO LEGAL REPRESENTATION IN FORECLOSURE PROCEEDINGS.

7–3A–01.

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

(B) “COMMUNITY GROUP” MEANS A NONPROFIT ENTITY WITH THE
CAPACITY TO CONDUCT OUTREACH TO MORTGAGORS AND GRANTORS AND PROVIDE
ENGAGEMENT, EDUCATION, AND INFORMATION.

(C) “COVERED INDIVIDUAL” MEANS A MORTGAGOR OR GRANTOR WHO:

(1) OWNS AND OCCUPIES A RESIDENTIAL PROPERTY AS THE
MORTGAGOR OR GRANTOR’S PRINCIPAL RESIDENCE; AND

(2) IS A MEMBER OF A HOUSEHOLD WITH AN INCOME THAT IS NOT
GREATER THAN 50% OF THE MEDIAN INCOME IN THE STATE AS DETERMINED BY THE
U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES OR ITS SUCCESSOR.

(D) “DESIGNATED ORGANIZATION” MEANS A NONPROFIT ENTITY
DESIGNATED BY MLSC WITH THE ABILITY TO PROVIDE LEGAL REPRESENTATION TO
COVERED INDIVIDUALS.

(E) “FUND” MEANS THE ACCESS TO COUNSEL IN FORECLOSURE
PROCEEDINGS SPECIAL FUND.

(F) “LEGAL REPRESENTATION” INCLUDES ALL REPRESENTATION BY AN

1 ATTORNEY BEYOND BRIEF LEGAL ADVICE AND IS NOT LIMITED TO THE FORMAL
2 ENTRY OF APPEARANCE IN COURT.

3 (G) "MLSC" MEANS THE MARYLAND LEGAL SERVICES CORPORATION.

4 (H) "PROGRAM" MEANS THE ACCESS TO COUNSEL IN FORECLOSURE
5 PROCEEDINGS PROGRAM.

6 7-3A-02.

7 A COVERED INDIVIDUAL SHALL HAVE ACCESS TO LEGAL REPRESENTATION AS
8 PROVIDED UNDER THIS SUBTITLE.

9 7-3A-03.

10 (A) THERE IS AN ACCESS TO COUNSEL IN FORECLOSURE PROCEEDINGS
11 PROGRAM ADMINISTERED BY MLSC.

12 (B) THE PURPOSE OF THE PROGRAM IS TO ORGANIZE AND DIRECT
13 SERVICES AND RESOURCES IN ORDER TO PROVIDE ALL COVERED INDIVIDUALS IN
14 THE STATE WITH ACCESS TO LEGAL REPRESENTATION AS REQUIRED UNDER THIS
15 SUBTITLE.

16 7-3A-04.

17 (A) UNDER THE PROGRAM, MLSC SHALL PROVIDE FOR ACCESS TO LEGAL
18 REPRESENTATION BY A COVERED INDIVIDUAL FOR PROCEEDINGS UNDER § 7-105.1
19 OF THIS TITLE, INCLUDING THE FIRST APPEAL OF A DECISION IN THE PROCEEDING
20 IF THE DESIGNATED ORGANIZATION DETERMINES THAT THERE ARE SUFFICIENT
21 LEGAL GROUNDS FOR THE APPEAL.

22 (B) (1) UNDER THE PROGRAM, A DESIGNATED ORGANIZATION SHALL
23 ENSURE THAT A COVERED INDIVIDUAL RECEIVES ACCESS TO LEGAL
24 REPRESENTATION BY AN ATTORNEY IN A PROCEEDING AS REQUIRED UNDER THIS
25 SUBTITLE AS SOON AS POSSIBLE AFTER A NOTICE OF INTENT TO FORECLOSE IS
26 FILED WITH THE COMMISSIONER OF FINANCIAL REGULATION.

27 (2) THE COMMISSIONER OF FINANCIAL REGULATION SHALL
28 PROVIDE A COPY OF THE NOTICE OF INTENT DESCRIBED UNDER THIS SUBSECTION
29 TO MLSC.

30 (C) MLSC MAY CONTRACT WITH A DESIGNATED ORGANIZATION TO
31 PROVIDE ALL OR PART OF THE SERVICES REQUIRED UNDER THIS SECTION.

7-3A-05.

(A) MLSC SHALL DEVELOP AN INFORMATIONAL PAMPHLET IN BOTH ENGLISH AND OTHER LANGUAGES MLSC DETERMINES APPROPRIATE:

(1) DESCRIBING THE LEGAL RIGHTS OF MORTGAGORS AND GRANTORS AND THE ACCESS TO COUNSEL ESTABLISHED UNDER THIS SUBTITLE; AND

(2) PROVIDING INFORMATION ON RESOURCES AVAILABLE TO MORTGAGORS AND GRANTORS.

(B) THE COMMISSIONER OF FINANCIAL REGULATION SHALL PROVIDE A COPY OF THE PAMPHLET DESCRIBED UNDER SUBSECTION (A) OF THIS SECTION TO MORTGAGORS AND GRANTORS.

(C) MLSC SHALL POST A LINK TO AN ELECTRONIC VERSION OF THE PAMPHLET DESCRIBED UNDER SUBSECTION (A) OF THIS SECTION ON ITS WEBSITE.

7-3A-06.

MLSC SHALL DESIGNATE AND CONTRACT WITH APPROPRIATE COMMUNITY GROUPS TO CONDUCT OUTREACH AND PROVIDE EDUCATION TO MORTGAGORS AND GRANTORS LOCALLY AND THROUGHOUT THE STATE REGARDING THE RIGHTS OF MORTGAGORS AND GRANTORS AND THE ACCESS TO LEGAL REPRESENTATION UNDER THIS SUBTITLE.

7-3A-07.

ON OR BEFORE AUGUST 31 EACH YEAR, MLSC SHALL REPORT TO THE GOVERNOR AND THE GENERAL ASSEMBLY:

(1) THE NUMBER OF COVERED INDIVIDUALS PROVIDED LEGAL REPRESENTATION DURING THE PREVIOUS FISCAL YEAR;

(2) INFORMATION ON AND METRICS EVALUATING CASE OUTCOMES; AND

(3) A SUMMARY OF THE ENGAGEMENT AND EDUCATION OF MORTGAGORS AND GRANTORS.

7-3A-08.

1 (A) THERE IS AN ACCESS TO COUNSEL IN FORECLOSURE PROCEEDINGS
2 SPECIAL FUND.

3 (B) THE PURPOSE OF THE FUND IS TO PROVIDE FUNDING TO FULLY
4 IMPLEMENT ACCESS TO LEGAL REPRESENTATION IN FORECLOSURE PROCEEDINGS
5 IN THE STATE.

6 (C) MLSC SHALL ADMINISTER THE FUND.

7 (D) MLSC SHALL USE THE FUND TO PROVIDE FUNDING FOR LEGAL
8 SERVICES UNDER THIS TITLE.

9 (E) (1) THE FUND IS A SPECIAL, NONLAPSING FUND THAT IS NOT
10 SUBJECT TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

11 (2) THE STATE TREASURER SHALL HOLD THE FUND SEPARATELY,
12 AND THE COMPTROLLER SHALL ACCOUNT FOR THE FUND.

13 (F) THE FUND CONSISTS OF:

14 (1) FEES PAID TO THE FUND UNDER § 10-714(B) OF THIS ARTICLE;

15 (2) MONEY APPROPRIATED IN THE STATE BUDGET TO THE FUND;

16 (3) INTEREST AND INVESTMENT EARNINGS OF THE FUND; AND

17 (4) ANY OTHER MONEY FROM ANY OTHER SOURCE ACCEPTED FOR
18 THE BENEFIT OF THE FUND.

19 (G) THE FUND MAY BE USED ONLY FOR:

20 (1) SERVICES PROVIDED BY A DESIGNATED ORGANIZATION OR
21 ACTIVITY BY A COMMUNITY GROUP TO IMPLEMENT THE PROGRAM AS PROVIDED IN
22 THIS SUBTITLE, INCLUDING ALL COSTS ASSOCIATED WITH REQUIRED LEGAL
23 REPRESENTATION IN ANY PROCEEDING AND ANY OUTREACH AND EDUCATION
24 ACTIVITIES;

25 (2) IF A LOCAL JURISDICTION ENACTS A PROGRAM AUTHORIZED
26 UNDER THIS SUBTITLE, SERVICES PROVIDED BY THE LOCAL JURISDICTION TO
27 IMPLEMENT ACCESS TO COUNSEL IN FORECLOSURE PROCEEDINGS AS PROVIDED
28 FOR IN THIS SUBTITLE, INCLUDING ALL COSTS ASSOCIATED WITH REQUIRED LEGAL
29 REPRESENTATION IN ANY PROCEEDING AND ANY OUTREACH AND EDUCATION

1 ACTIVITIES;

2 (3) ADMINISTRATIVE EXPENSES OF MLSC; AND

3 (4) EXPENSES RELATED TO THE STUDY AND EVALUATION OF:

4 (I) SERVICES AND ACTIVITIES PROVIDED UNDER THIS
5 SUBTITLE;

6 (II) ADDITIONAL LEGAL SERVICES THAT MAY BE PROVIDED TO
7 COVERED INDIVIDUALS FACING FORECLOSURE PROCEEDINGS; AND

8 (III) FUNDING AMOUNTS AND SOURCES NECESSARY TO FULLY
9 EFFECTUATE ACCESS TO COUNSEL IN FORECLOSURE PROCEEDINGS.

10 (H) (1) THE STATE TREASURER SHALL INVEST THE MONEY OF THE FUND
11 IN THE SAME MANNER AS OTHER STATE MONEY MAY BE INVESTED.

12 (2) ANY INTEREST EARNINGS OF THE FUND SHALL BE CREDITED TO
13 THE FUND.

14 (I) EXPENDITURES FROM THE FUND MAY BE MADE ONLY IN ACCORDANCE
15 WITH THE STATE BUDGET.

16 (J) MONEY EXPENDED FROM THE FUND IS SUPPLEMENTAL TO AND IS NOT
17 INTENDED TO TAKE THE PLACE OF FUNDING THAT OTHERWISE WOULD BE
18 APPROPRIATED FOR CIVIL LEGAL SERVICES FROM ANY OTHER SOURCE.

19 7-3A-09.

20 (A) LEGAL REPRESENTATION AS REQUIRED UNDER THIS SUBTITLE SHALL
21 BE PHASED IN OVER TIME IN A MANNER THAT MLSC DETERMINES APPROPRIATE
22 WITH THE GOAL OF FULL IMPLEMENTATION BEFORE OCTOBER 1, 2028.

23 (B) PRIORITY IN FUNDING DURING THE PHASE-IN PERIOD WILL BE GIVEN
24 TO MORTGAGORS AND GRANTORS IN A LOCAL JURISDICTION THAT PROVIDES OR
25 AGREES TO PROVIDE SIGNIFICANT ADDITIONAL LOCAL FUNDING TO EFFECTUATE
26 ACCESS TO COUNSEL IN FORECLOSURE PROCEEDINGS IN THE LOCAL JURISDICTION.

27 (C) ACCESS TO LEGAL REPRESENTATION UNDER THIS SUBTITLE IS
28 SUBJECT TO THE AVAILABILITY OF FUNDING.

29 7-3A-10.

(A) A LOCAL JURISDICTION MAY ENACT A LOCAL LAW PROVIDING FOR LEGAL REPRESENTATION IN FORECLOSURE PROCEEDINGS FILED IN THE LOCAL JURISDICTION.

(B) IF A LOCAL JURISDICTION ENACTS A LOCAL LAW UNDER SUBSECTION (A) OF THIS SECTION PROVIDING FOR LEGAL REPRESENTATION IN FORECLOSURE PROCEEDINGS SUBSTANTIALLY SIMILAR TO THAT DESCRIBED IN THIS SUBTITLE, MLSC SHALL DIRECT FUNDING THAT WOULD HAVE BEEN ALLOCATED UNDER THIS SUBTITLE FOR THE BENEFIT OF COVERED INDIVIDUALS IN THE LOCAL JURISDICTION TO THE LOCAL PROGRAM.

10-714.

(A) THE COMPTROLLER SHALL COLLECT A FEE ON EACH RESIDENTIAL PROPERTY SALE AS FOLLOWS:

(1) \$25 ON A SALE OF LESS THAN \$200,000;

(2) \$50 ON A SALE OF AT LEAST \$200,000 BUT LESS THAN \$350,000;

(3) \$100 ON A SALE OF AT LEAST \$350,000 BUT LESS THAN \$500,000;

AND

(4) \$250 ON A SALE OF \$500,000 OR MORE.

(B) FEES COLLECTED UNDER THIS SECTION SHALL BE PAID TO THE ACCESS TO COUNSEL IN FORECLOSURE PROCEEDINGS SPECIAL FUND ESTABLISHED UNDER § 7-3A-08 OF THIS ARTICLE.

Article – State Finance and Procurement

6-226.

(a) (2) (i) Notwithstanding any other provision of law, and unless inconsistent with a federal law, grant agreement, or other federal requirement or with the terms of a gift or settlement agreement, net interest on all State money allocated by the State Treasurer under this section to special funds or accounts, and otherwise entitled to receive interest earnings, as accounted for by the Comptroller, shall accrue to the General Fund of the State.

(ii) The provisions of subparagraph (i) of this paragraph do not apply to the following funds:

189. the Teacher Retention and Development Fund; [and]

190. the Protecting Against Hate Crimes Grant Fund; AND

**191. THE ACCESS TO COUNSEL IN FORECLOSURE
PROCEEDINGS SPECIAL FUND.**

SECTION 2. AND BE IT FURTHER ENACTED, That, if any provision of this Act or the application thereof to any person or circumstance is held invalid for any reason in a court of competent jurisdiction, the invalidity does not affect other provisions or any other application of this Act that can be given effect without the invalid provision or application, and for this purpose the provisions of this Act are declared severable.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2024.