

HOUSE BILL 607

N1
HB 1377/16 – ENV

7lr1751

By: **Delegates Parrott, Ciliberti, Impallaria, McComas, and Rey**

Introduced and read first time: January 30, 2017

Assigned to: Environment and Transportation

A BILL ENTITLED

1 AN ACT concerning

2 **Real Property – Vacant and Abandoned Property – Expedited Foreclosure**

3 FOR the purpose of authorizing a secured party to petition the circuit court for leave to
4 immediately commence an action to foreclose the mortgage or deed of trust on certain
5 vacant and abandoned property; authorizing a county, municipal corporation,
6 homeowners association, or condominium to notify a certain secured party of certain
7 vacant and abandoned property located in the county, municipal corporation,
8 homeowners association, or condominium in a certain manner; specifying the
9 contents of a certain notice; requiring a secured party to petition the circuit court for
10 leave to immediately commence an action to foreclose the mortgage or deed of trust
11 on certain vacant and abandoned property and to assume certain maintenance
12 responsibilities with respect to certain vacant and abandoned property no later than
13 a certain number of days after receiving a certain notice; requiring a certain order or
14 complaint to be filed and to be served on a mortgagor or grantor no later than a
15 certain number of days after the circuit court grants a certain petition; requiring a
16 secured party to schedule a foreclosure sale no later than a certain number of days
17 after a certain service of process; authorizing a secured party to peaceably enter, or
18 cause others to peaceably enter, a certain vacant and abandoned property for a
19 certain purpose; providing that an action for trespass may not lie against a certain
20 person for peaceably entering a certain vacant and abandoned property; authorizing
21 certain persons to seek certain injunctive or other equitable relief under certain
22 circumstances; authorizing the Commissioner of Financial Regulation to adopt
23 regulations necessary to carry out this Act; defining certain terms; and generally
24 relating to expedited foreclosure proceedings for vacant and abandoned property.

25 BY repealing and reenacting, with amendments,
26 Article – Real Property
27 Section 7–105.1(b)
28 Annotated Code of Maryland
29 (2015 Replacement Volume and 2016 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



BY adding to
Article – Real Property
Section 7–105.14
Annotated Code of Maryland
(2015 Replacement Volume and 2016 Supplement)

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

Article – Real Property

7–105.1.

(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; [or]

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 A VACANT AND ABANDONED PROPERTY, AS DEFINED IN § 7–105.14 OF THIS SUBTITLE.

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

(iii) If the petition is granted, 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 the secured party need not send the written notice of intent to foreclose required under subsection (c) of this section.

7-105.14.

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

(2) "RESIDENTIAL PROPERTY" HAS THE MEANING STATED IN § 7-105.1 OF THIS SUBTITLE.

(3) (I) "VACANT AND ABANDONED PROPERTY" MEANS RESIDENTIAL PROPERTY SUBJECT TO A MORTGAGE OR DEED OF TRUST IF:

1. THE MORTGAGE OR DEED OF TRUST ON THE PROPERTY HAS BEEN IN DEFAULT FOR 90 DAYS OR MORE; AND

2. THE PROPERTY HAS BEEN UNOCCUPIED FOR 120 DAYS OR MORE.

(II) "VACANT AND ABANDONED PROPERTY" DOES NOT INCLUDE PROPERTY THAT:

1. IS UNDERGOING CONSTRUCTION, RENOVATION, OR REHABILITATION;

2. IS OCCUPIED ON A SEASONAL BASIS;

3. IS THE SUBJECT OF A PROBATE ACTION, AN ACTION TO QUIET TITLE, OR ANY OTHER OWNERSHIP DISPUTE;

4. HAS BEEN DAMAGED BY A NATURAL DISASTER, IF THE MORTGAGOR OR GRANTOR INTENDS TO REPAIR AND REOCCUPY THE PROPERTY; OR

5. IS OCCUPIED BY A RELATIVE OF THE MORTGAGOR OR GRANTOR OR BY A BONA FIDE TENANT.

(B) (1) A COUNTY, MUNICIPAL CORPORATION, HOMEOWNERS ASSOCIATION, OR CONDOMINIUM MAY NOTIFY, IN ACCORDANCE WITH PARAGRAPH (2) OF THIS SUBSECTION, A SECURED PARTY OF ANY VACANT AND ABANDONED PROPERTY LOCATED IN THE COUNTY, MUNICIPAL CORPORATION, HOMEOWNERS ASSOCIATION, OR CONDOMINIUM.

(2) THE NOTICE SHALL BE:

(I) IN WRITING;

(II) SENT BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED;

AND

(III) INCLUDE:

1. THE STREET ADDRESS OF THE PROPERTY;

2. THE NAME OF THE MORTGAGOR OR GRANTOR, IF
KNOWN;

3. A STATEMENT CERTIFYING THAT, TO THE BEST OF
THE SENDER'S KNOWLEDGE, THE PROPERTY IS A VACANT AND ABANDONED
PROPERTY AS DEFINED BY STATE LAW; AND

4. A DESCRIPTION OF ANY EVIDENCE OF ABANDONMENT
AT THE PROPERTY, INCLUDING:

A. OVERGROWN OR DEAD VEGETATION;

B. ACCUMULATED NEWSPAPERS, FLYERS, OR MAIL;

C. PAST DUE UTILITIES NOTICES, DISCONNECTED
UTILITIES, OR UTILITIES NOT IN USE;

D. ACCUMULATED TRASH OR DEBRIS;

E. THE ABSENCE OF WINDOW COVERINGS SUCH AS
CURTAINS, BLINDS, OR SHUTTERS; OR

F. BUILDINGS OR STRUCTURES THAT ARE UNSECURED
OR THAT APPEAR STRUCTURALLY UNSOUND.

(C) NO LATER THAN 30 DAYS AFTER RECEIVING WRITTEN NOTICE OF A
VACANT AND ABANDONED PROPERTY UNDER SUBSECTION (B) OF THIS SECTION,
THE SECURED PARTY SHALL:

(1) PETITION THE CIRCUIT COURT FOR LEAVE TO IMMEDIATELY
COMMENCE AN ACTION TO FORECLOSE THE MORTGAGE OR DEED OF TRUST ON THE
VACANT AND ABANDONED PROPERTY; AND

1 **(2) ASSUME THE RESPONSIBILITY FOR MAINTAINING THE VACANT**
2 **AND ABANDONED PROPERTY CONSISTENT WITH APPLICABLE BUILDING CODES AND**
3 **ORDINANCES OF THE COUNTY OR MUNICIPAL CORPORATION WHERE THE PROPERTY**
4 **IS LOCATED UNTIL A DEED TRANSFERRING TITLE TO THE PROPERTY HAS BEEN**
5 **RECORDED.**

6 **(D) NO LATER THAN 30 DAYS AFTER THE CIRCUIT COURT GRANTS A**
7 **PETITION UNDER SUBSECTION (C)(1) OF THIS SECTION:**

8 **(1) THE SECURED PARTY SHALL FILE AN ORDER TO DOCKET OR A**
9 **COMPLAINT TO FORECLOSE IN ACCORDANCE WITH § 7-105.1 OF THIS SUBTITLE;**
10 **AND**

11 **(2) A COPY OF THE ORDER TO DOCKET OR COMPLAINT TO FORECLOSE**
12 **SHALL BE SERVED ON THE MORTGAGOR OR GRANTOR IN ACCORDANCE WITH §**
13 **7-105.1 OF THIS SUBTITLE.**

14 **(E) THE SECURED PARTY SHALL SCHEDULE A FORECLOSURE SALE ON THE**
15 **VACANT AND ABANDONED PROPERTY NO LATER THAN 60 DAYS AFTER SERVICE IS**
16 **MADE UNDER SUBSECTION (D)(2) OF THIS SECTION.**

17 **(F) (1) A SECURED PARTY MAY PEACEABLY ENTER OR CAUSE ANOTHER**
18 **TO PEACEABLY ENTER A VACANT AND ABANDONED PROPERTY FOR THE PURPOSE OF**
19 **CARRYING OUT MAINTENANCE REQUIRED BY THIS SECTION.**

20 **(2) AN ACTION FOR TRESPASS MAY NOT LIE AGAINST A PERSON FOR**
21 **PEACEABLY ENTERING A VACANT AND ABANDONED PROPERTY IN ACCORDANCE**
22 **WITH THIS SUBSECTION.**

23 **(G) IN ADDITION TO ANY OTHER REMEDY PROVIDED BY LAW, A COUNTY,**
24 **MUNICIPAL CORPORATION, HOMEOWNERS ASSOCIATION, OR CONDOMINIUM IN**
25 **WHICH A VACANT AND ABANDONED PROPERTY IS LOCATED MAY SEEK INJUNCTIVE**
26 **OR OTHER EQUITABLE RELIEF TO REQUIRE A SECURED PARTY TO COMPLY WITH THE**
27 **REQUIREMENTS OF THIS SECTION.**

28 **(H) THE COMMISSIONER OF FINANCIAL REGULATION MAY ADOPT**
29 **REGULATIONS NECESSARY TO CARRY OUT THE REQUIREMENTS OF THIS SECTION.**

30 **SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect**
31 **October 1, 2017.**