

HOUSE BILL 247

N1

(PRE-FILED)

4lr0233
CF 4lr0234

By: **Chair, Environment and Transportation Committee (By Request –
Departmental – Labor)**

Requested: September 15, 2023

Introduced and read first time: January 10, 2024

Assigned to: Environment and Transportation

A BILL ENTITLED

1 AN ACT concerning

2 **Real Property – Residential Foreclosures – Procedures**

3 FOR the purpose of repealing the use of a preliminary loss mitigation affidavit in an order
4 to docket or complaint to foreclose a mortgage or deed of trust on residential property;
5 altering certain requirements for the filing of an action to foreclose a mortgage or deed
6 of trust on residential property and altering certain requirements for an order to docket
7 or a complaint to foreclose a mortgage or deed of trust; establishing that a copy of a
8 notice of intent to foreclose is not a public record and is not subject to the Public
9 Information Act; authorizing the Commissioner of Financial Regulation to enter into
10 certain information sharing agreements with other State agencies and establishing
11 requirements for the agreements; altering certain requirements and procedures for
12 foreclosure mediation in residential foreclosure proceedings; requiring a secured party
13 to provide certain loan-related correspondence in order to enforce a materially
14 delinquent mortgage, subject to certain exceptions; and generally relating to
15 foreclosures on residential property.

16 BY repealing and reenacting, with amendments,
17 Article – Real Property
18 Section 7–105.1(a), (b), (e), (h) through (k), and (q) through (s)
19 Annotated Code of Maryland
20 (2023 Replacement Volume)

21 BY repealing and reenacting, without amendments,
22 Article – Real Property
23 Section 7–105.1(c)(1) through (3)
24 Annotated Code of Maryland
25 (2023 Replacement Volume)

26 BY adding to

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



Article – Real Property

Section 7–105.1(c)(7) and (8) and (q) and 7–105.19

Annotated Code of Maryland

(2023 Replacement Volume)

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.

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

(2) (i) “Certified community development financial institution” means a community development financial institution that is certified by the Community Development Financial Institutions Fund in the U.S. Department of the Treasury under 12 U.S.C. § 4701 et seq.

(ii) “Certified community development financial institution” includes any company that controls, is controlled by, or is under common control with a certified community development financial institution.

(3) “Final loss mitigation affidavit” means an affidavit that:

(i) Is made by a person authorized to act on behalf of a secured party of a mortgage or deed of trust on owner–occupied residential property that is the subject of a foreclosure action;

(ii) Certifies the completion of the final determination of loss mitigation analysis in connection with the mortgage or deed of trust; and

(iii) If denied, provides an explanation for the denial of a loan modification or other loss mitigation.

(4) “Foreclosure mediation” means a conference at which the parties in a foreclosure action, their attorneys, additional representatives of the parties, or a combination of those persons appear before an impartial individual to discuss the positions of the parties in an attempt to reach agreement on a loss mitigation program for the mortgagor or grantor.

(5) “Housing counseling services” means assistance provided to mortgagors or grantors by nonprofit and governmental entities that are identified on a list maintained by the Department of Housing and Community Development.

(6) “Loss mitigation analysis” means an evaluation of the facts and circumstances of a loan secured by owner–occupied residential property to determine:

1 (i) Whether a mortgagor or grantor qualifies for a loan modification;
2 and

3 (ii) If there will be no loan modification, whether any other loss
4 mitigation program may be made available to the mortgagor or grantor.

5 (7) “Loss mitigation program” means an option in connection with a loan
6 secured by owner–occupied residential property that:

7 (i) Avoids foreclosure through loan modification or other changes to
8 existing loan terms that are intended to allow the mortgagor or grantor to stay in the
9 property;

10 (ii) Avoids foreclosure through a short sale, deed in lieu of
11 foreclosure, or other alternative that is intended to simplify the mortgagor’s or grantor’s
12 relinquishment of ownership of the property; or

13 (iii) Lessens the harmful impact of foreclosure on the mortgagor or
14 grantor.

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

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

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

19 (9) “Postfile mediation” means foreclosure mediation that occurs in
20 accordance with subsection (j) of this section after the date on which the order to docket or
21 complaint to foreclose is filed.

22 (10) “Prefile mediation” means foreclosure mediation that occurs in
23 accordance with subsection (d) of this section before the date on which the order to docket
24 or complaint to foreclose is filed.

25 [(11) “Preliminary loss mitigation affidavit” means an affidavit that:

26 (i) Is made by a person authorized to act on behalf of a secured party
27 of a mortgage or deed of trust on owner–occupied residential property that is the subject of
28 a foreclosure action;

29 (ii) Certifies the status of an incomplete loss mitigation analysis in
30 connection with the mortgage or deed of trust; and

31 (iii) Includes reasons why the loss mitigation analysis is incomplete.]

1 [(12)] **(11)** “Residential property” means real property improved by four or
2 fewer single family dwelling units that are designed principally and are intended for human
3 habitation.

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

7 (i) [90] **120** days after a default in a condition on which the
8 mortgage or deed of trust provides that a sale may be made; or

9 (ii) 45 days after the **LATER OF:**

10 1. **THE DATE THE** notice of intent to foreclose required
11 under subsection (c) of this section is sent **TO THE MORTGAGOR OR GRANTOR AND THE**
12 **RECORD OWNER; OR**

13 2. **THE DATE A COPY OF THE NOTICE OF INTENT TO**
14 **FORECLOSE IS SENT TO THE COMMISSIONER OF FINANCIAL REGULATION IN**
15 **ACCORDANCE WITH SUBSECTION (C)(3) OF THIS SECTION.**

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

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

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

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

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

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

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

29 (iii) If the petition is granted:

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

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

3 (c) (1) Except as provided in subsection (b)(2)(iii) of this section, at least 45
4 days before the filing of an action to foreclose a mortgage or deed of trust on residential
5 property, the secured party shall send a written notice of intent to foreclose to the
6 mortgagor or grantor and the record owner.

7 (2) The notice of intent to foreclose shall be sent:

8 (i) By certified mail, postage prepaid, return receipt requested,
9 bearing a postmark from the United States Postal Service; and

10 (ii) By first-class mail.

11 (3) A copy of the notice of intent to foreclose shall be sent to the
12 Commissioner of Financial Regulation.

13 **(7) (I) A COPY OF A NOTICE OF INTENT TO FORECLOSE SENT TO**
14 **THE COMMISSIONER OF FINANCIAL REGULATION UNDER PARAGRAPH (3) OF THIS**
15 **SUBSECTION:**

16 1. **IS NOT A PUBLIC RECORD AS DEFINED IN § 4-101 OF**
17 **THE GENERAL PROVISIONS ARTICLE; AND**

18 2. **IS NOT SUBJECT TO TITLE 4 OF THE GENERAL**
19 **PROVISIONS ARTICLE.**

20 **(II) THE COMMISSIONER OF FINANCIAL REGULATION MAY**
21 **AUTHORIZE ACCESS TO A COPY OF A NOTICE OF INTENT TO FORECLOSE ONLY TO:**

22 1. **A MORTGAGOR OR GRANTOR;**

23 2. **A RECORD OWNER;**

24 3. **A LEGAL REPRESENTATIVE OR DESIGNEE OF THE**
25 **MORTGAGOR OR GRANTOR OR THE RECORD OWNER; OR**

26 4. **A STATE AGENCY IN ACCORDANCE WITH AN**
27 **INFORMATION SHARING AGREEMENT AUTHORIZED UNDER PARAGRAPH (8) OF THIS**
28 **SUBSECTION.**

29 **(8) (I) THE COMMISSIONER OF FINANCIAL REGULATION MAY**
30 **ENTER INTO AN INFORMATION SHARING AGREEMENT WITH ANY STATE AGENCY TO**
31 **SHARE COPIES OF A NOTICE OF INTENT TO FORECLOSE OR INFORMATION**

CONTAINED IN A NOTICE OF INTENT TO FORECLOSE ONLY IF THE INFORMATION SHARING AGREEMENT PROHIBITS THE AGENCY FROM DISCLOSING ANY SHARED INFORMATION WITHOUT THE PRIOR WRITTEN CONSENT OF THE COMMISSIONER OF FINANCIAL REGULATION.

(II) INFORMATION SHARED IN ACCORDANCE WITH AN INFORMATION SHARING AGREEMENT AUTHORIZED UNDER THIS PARAGRAPH:

1. IS NOT A PUBLIC RECORD AS DEFINED IN § 4-101 OF THE GENERAL PROVISIONS ARTICLE;

2. IS NOT SUBJECT TO TITLE 4 OF THE GENERAL PROVISIONS ARTICLE; AND

3. MAY NOT BE DISCLOSED BY A STATE AGENCY UNDER A SUBPOENA, A DISCOVERY, OR AN ADMISSION INTO EVIDENCE IN PRIVATE CIVIL LITIGATION OR ADMINISTRATIVE PROCESS WITHOUT THE PRIOR WRITTEN CONSENT OF THE COMMISSIONER OF FINANCIAL REGULATION.

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

3. 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.] 4. If applicable, that:

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

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

6 (2) Be accompanied by:

7 (i) The original or a certified copy of the mortgage or deed of trust;

8 (ii) A statement of the debt remaining due and payable supported by
9 an affidavit of the plaintiff or the secured party or the agent or attorney of the plaintiff or
10 secured party;

11 (iii) A copy of the debt instrument accompanied by an affidavit
12 certifying ownership of the debt instrument;

13 (iv) If applicable, the original or a certified copy of the assignment of
14 the mortgage for purposes of foreclosure or the deed of appointment of a substitute trustee;

15 (v) If any defendant is an individual, an affidavit that is in
16 compliance with § 521 of the Servicemembers Civil Relief Act, 50 U.S.C. App. § 501 et seq.;

17 (vi) If applicable, a copy of the notice of intent to foreclose;

18 (vii) If the secured party and mortgagor or grantor have elected to
19 participate in prefile mediation, the report of the prefile mediation issued by the Office of
20 Administrative Hearings;

21 (viii) If the secured party and the mortgagor or grantor have not
22 elected to participate in prefile mediation, a statement that the parties have not elected to
23 participate in prefile mediation;

24 (ix) In addition to any other filing fees required by law, a filing fee in
25 the amount of \$300; and

26 (x) 1. If the loss mitigation analysis has been completed, subject
27 to subsection (g) of this section, a final loss mitigation affidavit in the form prescribed by
28 regulation adopted by the Commissioner of Financial Regulation; and

29 2. If the loss mitigation analysis has not been completed, a
30 [preliminary loss mitigation affidavit in the form prescribed by regulation adopted by the
31 Commissioner of Financial Regulation] **STATEMENT EXPLAINING WHY THE LOSS**
32 **MITIGATION ANALYSIS HAS NOT BEEN COMPLETED.**

(h) (1) A copy of the order to docket or complaint to foreclose on residential property and all other papers filed with it in the form and sequence as prescribed by regulations adopted by the Commissioner of Financial Regulation, accompanied by the documents required under paragraphs [(2), (3), and (4)] **(2) AND (3)** of this subsection, shall be served on the mortgagor or grantor by:

(i) Personal delivery of the papers to the mortgagor or grantor; or

(ii) Leaving the papers with a resident of suitable age and discretion at the mortgagor's or grantor's dwelling house or usual place of abode.

(2) The service of documents under paragraph (1) of this subsection shall be accompanied by a separate, clearly marked notice, in the form prescribed by regulation adopted by the Commissioner of Financial Regulation, that states:

(i) The significance of the order to docket or a complaint to foreclose;

(ii) The options for the mortgagor or grantor to take, including housing counseling services and financial assistance resources the mortgagor or grantor may consult; and

(iii) In the case of a mortgagor or grantor who has participated in prefile mediation, that the mortgagor or grantor is not entitled to postfile mediation except as otherwise provided in the prefile mediation agreement.

(3) If the order to docket or complaint to foreclose is **NOT** accompanied by a [preliminary] **FINAL** loss mitigation affidavit, the service of documents under paragraph (1) of this subsection shall be accompanied by a loss mitigation application form and any other supporting documents as prescribed by regulation adopted by the Commissioner of Financial Regulation.

[(4) (i) Except as provided in subparagraph (ii) of this paragraph, if the order to docket or complaint to foreclose is accompanied by a final loss mitigation affidavit and concerns owner-occupied residential property, the service of documents under paragraph (1) of this subsection shall be accompanied by a request for postfile mediation form and any other supporting documents as prescribed by regulation adopted by the Commissioner of Financial Regulation.

(ii) The order to docket or complaint to foreclose may exclude the request for postfile mediation form if:

1. The mortgagor or grantor has participated in prefile mediation and the prefile mediation agreement does not give the mortgagor or grantor the right to participate in postfile mediation; or

2. The property subject to the mortgage or deed of trust is not owner-occupied.]

1 ~~[(5)]~~ (4) If at least two good faith efforts to serve the mortgagor or grantor
2 under paragraph (1) of this subsection on different days have not succeeded, the plaintiff
3 may effect service by:

4 (i) Filing an affidavit with the court describing the good faith efforts
5 to serve the mortgagor or grantor; and

6 (ii) 1. Mailing a copy of all the documents required to be served
7 under paragraph (1) of this subsection by certified mail, return receipt requested, and
8 first-class mail to the mortgagor's or grantor's last known address and, if different, to the
9 address of the residential property subject to the mortgage or deed of trust; and

10 2. Posting a copy of all the documents required to be served
11 under paragraph (1) of this subsection in a conspicuous place on the residential property
12 subject to the mortgage or deed of trust.

13 ~~[(6)]~~ (5) The individual making service of documents under this
14 subsection shall file proof of service with the court in accordance with the Maryland Rules.

15 (i) (1) If the order to docket or complaint to foreclose is **NOT** accompanied by
16 a ~~[preliminary]~~ **FINAL** loss mitigation affidavit, the secured party, at least 30 days before
17 the date of a foreclosure sale, shall:

18 (i) File with the court a final loss mitigation affidavit in the form
19 prescribed by regulation adopted by the Commissioner of Financial Regulation; and

20 (ii) Send **A COPY OF THE FINAL LOSS MITIGATION AFFIDAVIT** to
21 the mortgagor or grantor by first class and by certified mail[:

22 1. A copy of the final loss mitigation affidavit; and

23 2. A request for postfile mediation form and supporting
24 documents as provided under subsection (h)(4) of this section].

25 (2) A final loss mitigation affidavit shall be filed under this subsection no
26 earlier than 28 days after the order to docket or complaint to foreclose is served on the
27 mortgagor or grantor.

28 (j) (1) (i) This paragraph applies to **PROCEEDINGS IN WHICH** a
29 mortgagor or grantor ~~[who]~~:

30 1. Has not participated in prefile mediation; or

1 2. Has participated in prefile mediation that resulted in a
2 prefile mediation agreement that gives the mortgagor or grantor the right to participate in
3 postfile mediation.

4 (ii) In a foreclosure action on owner-occupied residential property,
5 the [mortgagor or grantor may] **SECURED PARTY SHALL** file with the court a completed
6 [request] **NOTICE OF QUALIFICATION** for postfile mediation [not later than] **ON A FORM**
7 **PRESCRIBED BY THE COMMISSIONER OF FINANCIAL REGULATION FOLLOWING:**

8 1. If **SERVICE INCLUDED A COPY OF** the final loss
9 mitigation affidavit [was delivered along with service of the copy of], **SERVICE OF** the order
10 to docket or complaint to foreclose under subsection (h) of this section[, 25 days after that
11 service on the mortgagor or grantor]; or

12 2. [If the final loss mitigation affidavit was mailed]
13 **MAILING OF THE FINAL LOSS MITIGATION AFFIDAVIT** as provided in subsection (i) of
14 this section[, 25 days after the mailing of the final loss mitigation affidavit].

15 (iii) 1. A [request] **NOTICE OF QUALIFICATION** for postfile
16 mediation shall be accompanied by a filing fee of \$50.

17 2. The court may reduce or waive the filing fee under
18 subsubparagraph 1 of this subparagraph if the mortgagor or grantor is eligible for a
19 reduction or waiver under the Maryland Legal Services guidelines.

20 3. **A SECURED PARTY MAY COLLECT THE \$50 FILING FEE**
21 **PAID UNDER SUBSUBPARAGRAPH 1 OF THIS SUBPARAGRAPH:**

22 A. **BY INCLUDING THE PAYMENT OBLIGATION IN ANY**
23 **POSTFILE MEDIATION AGREEMENT; OR**

24 B. **FROM THE PROCEEDS OF ANY FORECLOSURE SALE OF**
25 **THE PROPERTY.**

26 (iv) The [mortgagor or grantor] **SECURED PARTY** shall mail a copy
27 of the [request] **NOTICE OF QUALIFICATION** for postfile mediation to the [secured party's
28 foreclosure attorney] **MORTGAGOR OR GRANTOR WITH ANY ADDITIONAL DOCUMENTS**
29 **REQUIRED BY THE COMMISSIONER OF FINANCIAL REGULATION.**

30 (2) (i) [The] **NOTWITHSTANDING THE SECURED PARTY'S NOTICE**
31 **OF QUALIFICATION FOR POSTFILE MEDIATION UNDER PARAGRAPH (1)(II) OF THIS**
32 **SUBSECTION, THE** secured party may file a motion to [strike the request for] **WAIVE**
33 postfile mediation in accordance with the Maryland Rules.

(ii) The motion to ~~WAIVE~~ must be accompanied by an affidavit that sets forth the reasons why postfile mediation is not appropriate.

(iii) The secured party shall mail a copy of the motion to ~~WAIVE~~ and the accompanying affidavit to the mortgagor or grantor.

(iv) There is a presumption that a mortgagor or grantor is entitled to postfile mediation with respect to owner-occupied residential property unless:

1. Good cause is shown why postfile mediation is not appropriate; or

2. ~~[The] AFTER RECEIVING SERVICE OF THE ORDER TO DOCKET, THE~~ mortgagor or grantor ~~[participated in prefile mediation and the prefile mediation agreement does not give the mortgagor or grantor the right to participate in] EXECUTES A WRITTEN WAIVER OF~~ postfile mediation ~~ON A FORM PRESCRIBED BY REGULATION ADOPTED BY THE COMMISSIONER OF FINANCIAL REGULATION.~~

(3) (i) The mortgagor or grantor may file a response to the motion to ~~WAIVE~~ within 15 days.

(ii) The mortgagor or grantor shall mail a copy of the response to the foreclosure attorney.

(iii) If the court grants the motion to ~~WAIVE~~, the court shall instruct the Office of Administrative Hearings to cancel any scheduled postfile mediation.

(k) (1) Within 5 days after receipt of a ~~request~~ **NOTICE OF QUALIFICATION** for postfile mediation, the court shall transmit the ~~request~~ **NOTICE** to the Office of Administrative Hearings for scheduling.

(2) (i) Within 60 days after transmittal of the ~~request~~ **NOTICE OF QUALIFICATION** for foreclosure mediation, the Office of Administrative Hearings shall conduct a foreclosure mediation.

(ii) For good cause, the Office of Administrative Hearings may extend the time for completing the foreclosure mediation for a period not exceeding 30 days or, if all parties agree, for a longer period of time.

(III) UNLESS A MORTGAGOR OR GRANTOR REQUESTS FORECLOSURE MEDIATION TO BE CONDUCTED IN PERSON, FORECLOSURE MEDIATION SHALL BE CONDUCTED BY ELECTRONIC MEANS IN ACCORDANCE WITH § 10-211 OF THE STATE GOVERNMENT ARTICLE.

(3) The Office of Administrative Hearings shall send notice of the scheduled foreclosure mediation to the foreclosure attorney, the secured party, and the mortgagor or grantor.

(4) The notice from the Office of Administrative Hearings shall:

(i) Include instructions regarding the documents and information, as required by regulations adopted by the Commissioner of Financial Regulation, that must be provided by each party to the other party and to the mediator; [and]

(ii) Require the information and documents to be provided no later than 20 days before the scheduled date of the foreclosure mediation;

(III) INCLUDE INSTRUCTIONS FOR ACCESSING FORECLOSURE MEDIATION BY ELECTRONIC MEANS;

(IV) ADVISE THE MORTGAGOR OR GRANTOR THAT THEY MAY REQUEST IN-PERSON FORECLOSURE MEDIATION IN LIEU OF MEDIATION BY ELECTRONIC MEANS; AND

(V) PROVIDE A FORM WITH INSTRUCTIONS FOR THE MORTGAGOR OR GRANTOR TO REQUEST IN-PERSON FORECLOSURE MEDIATION.

(Q) (1) IF THE COURT DISMISSES, OR A SECURED PARTY WITHDRAWS, AN ORDER TO DOCKET, THE SECURED PARTY SHALL SUBMIT A NOTICE OF TERMINATION OF ORDER TO DOCKET TO THE FORECLOSED PROPERTY REGISTRY ESTABLISHED BY THE COMMISSIONER OF FINANCIAL REGULATION UNDER § 7-105.14 OF THIS SUBTITLE.

(2) THE NOTICE OF TERMINATION SHALL BE IN A FORM AND CONTAIN INFORMATION PRESCRIBED BY REGULATIONS ADOPTED BY THE COMMISSIONER OF FINANCIAL REGULATION.

(3) A NOTICE OF TERMINATION FILED IN ACCORDANCE WITH THIS SECTION:

(I) IS NOT A PUBLIC RECORD AS DEFINED IN § 4-101 OF THE GENERAL PROVISIONS ARTICLE; AND

(II) IS NOT SUBJECT TO TITLE 4 OF THE GENERAL PROVISIONS ARTICLE.

[(q)] (R) An action for failure to comply with the provisions of this section shall be brought within 3 years after the date of the order ratifying the sale.

1 ~~[(r)]~~ **(S)** Revenue collected from the filing fees required under subsections
2 (e)(2)(ix) and (j)(1)(iii) of this section shall be distributed to the Housing Counseling and
3 Foreclosure Mediation Fund established under § 4–507 of the Housing and Community
4 Development Article.

5 ~~[(s)]~~ **(T)** The Commissioner of Financial Regulation may adopt additional
6 regulations necessary to carry out the requirements of this section.

7 **7–105.19.**

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

10 **(2) “BILLING CYCLE” MEANS:**

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

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

17 **(3) “LOAN–RELATED CORRESPONDENCE” MEANS WRITTEN**
18 **COMMUNICATION FROM A SECURED PARTY TO A MORTGAGOR THAT:**

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

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

24 1. **THE NAME AND CONTACT INFORMATION OF THE**
25 **SECURED PARTY;**

26 2. **THE CURRENT AMOUNT OF THE OUTSTANDING**
27 **PRINCIPAL BALANCE;**

28 3. **THE CURRENT INTEREST RATE IN EFFECT;**

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

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

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

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

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

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

15 **(8) “RESIDENTIAL PROPERTY” HAS THE MEANING STATED IN §**
16 **7–105.1 OF THIS SUBTITLE.**

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

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

20 **(I) PROHIBIT THE FILING OF A PETITION UNDER §**
21 **7–105.1(B)(2) OF THIS SUBTITLE; OR**

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

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

28 **(3) PRIOR TO OCTOBER 1, 2026, A SECURED PARTY MAY ENFORCE A**
29 **MATERIALLY DELINQUENT MORTGAGE THROUGH COMMENCEMENT OF A**
30 **FORECLOSURE OR JUDICIAL SALE ONLY IF:**

31 **(I) AT LEAST ONE PIECE OF LOAN–RELATED**
32 **CORRESPONDENCE WAS SENT TO THE MORTGAGOR DURING EACH BILLING CYCLE**

FOR THE IMMEDIATELY PRECEDING 24 MONTHS, EXCLUDING ANY PERIOD DURING WHICH THE SECURED PARTY WAS PROHIBITED BY LAW, REGULATION, OR EXECUTIVE ORDER FROM SENDING LOAN-RELATED CORRESPONDENCE TO THE MORTGAGOR; OR

(II) THE SECURED PARTY SERVES NOTICE ON THE MORTGAGOR OF THE MATERIALLY DELINQUENT MORTGAGE ON A FORM PRESCRIBED BY REGULATION ADOPTED BY THE COMMISSIONER OF FINANCIAL REGULATION AT LEAST 90 DAYS PRIOR TO COMMENCEMENT.

(4) ON OR AFTER OCTOBER 1, 2026, A SECURED PARTY MAY ENFORCE A MATERIALLY DELINQUENT MORTGAGE THROUGH A FORECLOSURE OR JUDICIAL SALE ONLY IF THE SECURED PARTY HAS MET THE REQUIREMENTS OF PARAGRAPH (2) OF THIS SUBSECTION FOR THE IMMEDIATELY PRECEDING 24 CONSECUTIVE MONTHS.

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

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

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

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

(D) A SECURED PARTY MAY NOT RECEIVE FROM THE PROCEEDS OF ANY FORECLOSURE OR JUDICIAL SALE OF A MATERIALLY DELINQUENT MORTGAGE MORE THAN 36 MONTHS OF INTEREST ACCRUING UNDER THE MORTGAGE PRIOR TO THE DATE OF THE FORECLOSURE SALE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect January 1, 2025.