

HOUSE BILL 314

N1

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By: **Delegate Holmes**

Introduced and read first time: January 20, 2020

Assigned to: Environment and Transportation

A BILL ENTITLED

1 AN ACT concerning

2 **Real Property – Lien Priority of Refinance Mortgages – Exception for**
3 **Government Junior Mortgages**

4 FOR the purpose of establishing that a certain provision of law authorizing a mortgagor or
5 grantor to refinance the indebtedness secured by a first mortgage or deed of trust
6 without obtaining permission from the holder of a certain junior lien does not apply
7 to certain junior liens; providing for the application of this Act; and generally relating
8 to lien priority and refinance mortgages.

9 BY repealing and reenacting, with amendments,
10 Article – Real Property
11 Section 7–112
12 Annotated Code of Maryland
13 (2015 Replacement Volume and 2019 Supplement)

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

16 **Article – Real Property**

17 7–112.

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

19 (2) “Escrow costs” means money to pay property taxes, hazard insurance,
20 mortgage insurance, and similar costs associated with real property secured by a refinance
21 mortgage that a lender requires to be collected at closing and held in escrow.

22 (3) (i) “Junior lien” means a mortgage, deed of trust, or other security
23 instrument that is subordinate in priority to a first mortgage or deed of trust under §
24 3–203 of this article.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



(ii) “Junior lien” does not include:

1. A judgment lien; or

2. A lien filed under the Maryland Contract Lien Act.

(4) “Refinance mortgage” means a mortgage, deed of trust, or other security instrument given to secure the refinancing of indebtedness secured by a first mortgage or deed of trust.

(5) “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) THIS SECTION DOES NOT APPLY TO A JUNIOR LIEN SECURING A LOAN MADE BY A STATE OR LOCAL GOVERNMENT AGENCY WITH A 0% INTEREST RATE.

[(b)] (C) A mortgagor or grantor who refinances in full the unpaid indebtedness secured by a first mortgage or deed of trust encumbering or conveying an interest in residential property at an interest rate lower than provided for in the evidence of indebtedness secured by the first mortgage or deed of trust is not required to obtain permission from the holder of a junior lien if:

(1) The principal amount secured by the junior lien does not exceed \$150,000; and

(2) The principal amount secured by the refinance mortgage does not exceed the unpaid outstanding principal balance secured by the first mortgage or deed of trust plus an amount not exceeding \$5,000 to pay closing costs and escrow costs.

[(c)] (D) A refinance mortgage that meets the requirements of subsection **[(b)] (C)** of this section shall have, on recordation, the same lien priority as the first mortgage or deed of trust that the refinance mortgage replaces.

[(d)] (E) A refinance mortgage that meets the requirements of subsection **[(b)] (C)** of this section shall include the following statement in bold or capitalized letters: “This is a refinance of a deed of trust/mortgage/other security instrument recorded among the land records of county/city, Maryland in liber no. folio, in the original principal amount of, and with the unpaid outstanding principal balance of The interest rate provided for in the evidence of indebtedness secured by this refinance mortgage is lower than the applicable interest rate provided for in the evidence of indebtedness secured by the deed of trust/mortgage/other security instrument being refinanced.”

[(e)] (F) The priorities among two or more junior liens shall be governed by §

1 3–203 of this article.

2 **[(f)] (G)** This section may not be construed to preempt or abrogate the operation
3 or effect of, or ability of a court to apply the principles of, equitable subrogation or equitable
4 subordination.

5 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to
6 apply only prospectively and may not be applied or interpreted to have any effect on or
7 application to any refinance mortgage recorded or having an effective date before the
8 effective date of this Act.

9 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect June
10 1, 2020.