

SENATE BILL 1033

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7lr3612
CF HB 702

By: ~~Senator Eckardt~~ **Senators Eckardt and Mathias**

Introduced and read first time: February 10, 2017

Assigned to: Rules

Re-referred to: Judicial Proceedings, March 10, 2017

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 26, 2017

CHAPTER _____

1 AN ACT concerning

2 **Residential Property – Vacant and Abandoned Property – Expedited**
3 **Foreclosure**

4 FOR the purpose of authorizing a secured party to petition a circuit court for leave to
5 immediately commence an action to foreclose a mortgage or deed of trust on a
6 residential property if the property is vacant and abandoned under certain
7 circumstances; requiring a secured party to send a copy of a certain petition to
8 certain persons under certain circumstances; requiring a court to rule on a certain
9 foreclosure petition promptly after the petition is filed; providing that a residential
10 property is vacant and abandoned if certain criteria apply to the property; requiring
11 a court to order the appropriate official of the county or municipal corporation in
12 which a residential property is located to verify that the property is vacant and
13 abandoned under certain circumstances; requiring a court to order a residential
14 property to be offered for sale not later than a certain period of time after issuance
15 of a certain final judgment; authorizing a secured party to enter and secure a
16 residential property after the property is found to be vacant and abandoned under
17 certain circumstances grant a certain petition for leave to file an action for
18 immediate foreclosure under certain circumstances; providing that, if a court grants
19 a certain petition, certain foreclosure process provisions do not apply to an action to
20 foreclose residential property found to be vacant and abandoned under certain
21 circumstances; requiring a secured party to serve certain foreclosure documents in a
22 certain manner under certain circumstances; requiring the Commissioner of
23 Financial Regulation to adopt certain regulations; requiring a challenge to a certain
24 finding regarding residential property being vacant and abandoned to be filed within

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



a certain period of time; requiring a secured party to comply with certain foreclosure process provisions if a certain challenge is upheld; making stylistic changes; defining a certain term; providing for the application of this Act; and generally relating to the foreclosure of vacant and abandoned residential property.

BY repealing and reenacting, without amendments,
Article – Real Property
Section 7–105.1(a)(12)
Annotated Code of Maryland
(2015 Replacement Volume and 2016 Supplement)

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

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.

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

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

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

7 4. The default occurred after the stay has been lifted in a
8 bankruptcy proceeding; **OR**

9 **5. THE PROPERTY SUBJECT TO THE MORTGAGE OR**
10 **DEED OF TRUST IS PROPERTY THAT IS VACANT AND ABANDONED AS PROVIDED**
11 **UNDER § 7-105.14 OF THIS SUBTITLE.**

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

13 (iii) If the petition is granted[, the]:

14 **1. THE** action may be filed at any time after a default in a
15 condition on which the mortgage or deed of trust provides that a sale may be made [and
16 the]; **AND**

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

19 **7-105.14.**

20 **(A) IN THIS SECTION, “RESIDENTIAL PROPERTY” HAS THE MEANING**
21 **STATED IN § 7-105.1 OF THIS SUBTITLE.**

22 **(B) (1) A SECURED PARTY MAY PETITION THE CIRCUIT COURT FOR LEAVE**
23 **TO IMMEDIATELY COMMENCE AN ACTION TO FORECLOSE A MORTGAGE OR DEED OF**
24 **TRUST ON RESIDENTIAL PROPERTY ON THE BASIS THAT THE PROPERTY IS VACANT**
25 **AND ABANDONED AS PROVIDED IN THIS SECTION.**

26 **(2) ON FILING A PETITION UNDER THIS SECTION, THE SECURED**
27 **PARTY SHALL SEND A COPY OF THE PETITION TO THE MORTGAGOR’S OR GRANTOR’S**
28 **LAST KNOWN ADDRESS AND THE RECORD OWNER OF THE PROPERTY BY CERTIFIED**
29 **MAIL, RETURN RECEIPT REQUESTED, AND FIRST-CLASS MAIL.**

30 **(3) THE CIRCUIT COURT SHALL RULE ON THE PETITION PROMPTLY**
31 **AFTER THE PETITION IS FILED.**

1 **(C) A RESIDENTIAL PROPERTY IS VACANT AND ABANDONED UNDER THIS**
2 **SECTION IF ALL OF THE FOLLOWING CRITERIA APPLY TO THE PROPERTY:**

3 **(1) THE COURT FINDS THAT THE MORTGAGE OR DEED OF TRUST ON**
4 **THE RESIDENTIAL PROPERTY HAS BEEN IN DEFAULT FOR 120 DAYS OR MORE IN A**
5 **CONDITION ON WHICH THE MORTGAGE OR DEED OF TRUST PROVIDES THAT A SALE**
6 **MAY BE MADE;**

7 **(2) THE COURT FINDS THAT AT LEAST THREE OF THE**
8 **CIRCUMSTANCES LISTED IN SUBSECTION (D) OF THIS SECTION ARE TRUE AS TO THE**
9 **PROPERTY;**

10 **(3) NO MORTGAGOR OR GRANTOR HAS FILED WITH THE COURT AN**
11 **ANSWER OR OBJECTION SETTING FORTH A DEFENSE OR OBJECTION THAT, IF**
12 **PROVEN, WOULD PRECLUDE THE ENTRY OF A FINAL JUDGMENT AND A DECREE OF**
13 **FORECLOSURE; AND**

14 **(4) NO MORTGAGOR OR GRANTOR HAS FILED WITH THE COURT A**
15 **WRITTEN STATEMENT THAT THE PROPERTY IS NOT VACANT AND ABANDONED.**

16 **(D) THE CIRCUMSTANCES OF A RESIDENTIAL PROPERTY THAT A COURT**
17 **MAY FIND ARE TRUE UNDER SUBSECTION (C)(2) OF THIS SECTION ARE:**

18 **(1) GAS, ELECTRIC, SEWER, OR WATER UTILITY SERVICES TO THE**
19 **PROPERTY HAVE BEEN DISCONNECTED;**

20 **(2) WINDOWS OR ENTRANCES TO THE STRUCTURE ON THE PROPERTY**
21 **ARE BOARDED UP OR CLOSED OFF, OR MULTIPLE WINDOW PANES ARE BROKEN AND**
22 **UNREPAIRED;**

23 **(3) DOORS TO THE STRUCTURE ON THE PROPERTY ARE SMASHED**
24 **THROUGH, BROKEN OFF, UNHINGED, OR CONTINUOUSLY UNLOCKED;**

25 **(4) JUNK, LITTER, TRASH, DEBRIS, OR HAZARDOUS, NOXIOUS, OR**
26 **UNHEALTHY SUBSTANCES OR MATERIALS HAVE ACCUMULATED ON THE PROPERTY;**

27 **(5) FURNISHINGS, WINDOW TREATMENTS, OR PERSONAL ITEMS ARE**
28 **ABSENT FROM THE STRUCTURE ON THE PROPERTY;**

29 **(6) THE PROPERTY IS THE OBJECT OF VANDALISM, LOITERING, OR**
30 **CRIMINAL CONDUCT, OR THERE HAS BEEN PHYSICAL DESTRUCTION OR**
31 **DETERIORATION OF THE PROPERTY;**

1 (7) A MORTGAGOR OR GRANTOR HAS MADE A WRITTEN STATEMENT
2 EXPRESSING THE INTENTION OF ALL MORTGAGORS OR GRANTORS TO ABANDON THE
3 PROPERTY;

4 (8) THERE IS A DETERMINATION THAT NO OWNER OR TENANT
5 APPEARS TO BE RESIDING ON THE PROPERTY AT THE TIME OF AN INSPECTION OF
6 THE PROPERTY BY:

7 ~~(I) THE THE SECURED PARTY; OR~~

8 ~~(II) AN APPROPRIATE OFFICIAL OF THE COUNTY OR MUNICIPAL~~
9 ~~CORPORATION IN WHICH THE PROPERTY IS LOCATED;~~

10 ~~(9) AN APPROPRIATE OFFICIAL OF THE COUNTY OR MUNICIPAL~~
11 ~~CORPORATION IN WHICH THE PROPERTY IS LOCATED PROVIDES A WRITTEN~~
12 ~~STATEMENT INDICATING THAT THE STRUCTURE ON THE PROPERTY IS VACANT AND~~
13 ~~ABANDONED;~~

14 (9) TWO OR MORE CITATIONS HAVE BEEN ISSUED BY A COUNTY OR
15 MUNICIPAL CORPORATION AGAINST THE PROPERTY FOR FAILURE TO MAINTAIN THE
16 PROPERTY AND A HEALTH AND SAFETY ISSUE EXISTS THAT HAS NOT BEEN
17 RECTIFIED;

18 ~~(10) THE PROPERTY IS SEALED BECAUSE, IMMEDIATELY PRIOR TO~~
19 ~~BEING SEALED, THE PROPERTY WAS CONSIDERED BY AN APPROPRIATE OFFICIAL OF~~
20 ~~THE COUNTY OR MUNICIPAL CORPORATION IN WHICH THE PROPERTY IS LOCATED~~
21 ~~TO BE OPEN, VACANT, OR VANDALIZED; OR~~

22 (10) THE PROPERTY HAS BEEN CONDEMNED BY A COUNTY OR
23 MUNICIPAL CORPORATION; OR

24 (11) OTHER REASONABLE INDICIA OF ABANDONMENT EXIST.

25 ~~(E) IF THE COURT MAKES A PRELIMINARY FINDING THAT A RESIDENTIAL~~
26 ~~PROPERTY IS VACANT AND ABANDONED UNDER SUBSECTION (D) OF THIS SECTION~~
27 ~~WITHOUT VERIFICATION BY AN APPROPRIATE OFFICIAL OF THE COUNTY OR~~
28 ~~MUNICIPAL CORPORATION IN WHICH THE RESIDENTIAL PROPERTY IS LOCATED, THE~~
29 ~~COURT WITHIN 7 DAYS OF THE PRELIMINARY FINDING SHALL ORDER THE~~
30 ~~APPROPRIATE OFFICIAL OF THE COUNTY OR MUNICIPAL OFFICIAL TO VERIFY THAT~~
31 ~~THE PROPERTY IS VACANT AND ABANDONED.~~

32 ~~(F)~~ (E) (1) IF THE COURT FINDS THAT A RESIDENTIAL PROPERTY IS
33 VACANT AND ABANDONED AND THE SECURED PARTY FILING A PETITION FOR LEAVE

1 TO FILE AN ACTION FOR IMMEDIATE FORECLOSURE IS ENTITLED TO JUDGMENT,
2 THE COURT SHALL ~~GRANT THE PETITION.~~

3 ~~(1) ENTER A FINAL JUDGMENT OF FORECLOSURE; AND~~

4 ~~(2) ORDER THAT THE PROPERTY BE OFFERED FOR SALE NOT LATER~~
5 ~~THAN 30 DAYS AFTER THE ISSUANCE OF THE FINAL JUDGMENT.~~

6 ~~(C) (1) AFTER A RESIDENTIAL PROPERTY IS FOUND TO BE VACANT AND~~
7 ~~ABANDONED UNDER THIS SECTION, THE SECURED PARTY MAY ENTER AND SECURE~~
8 ~~THE PROPERTY IN ORDER TO PROTECT THE PROPERTY FROM DAMAGE.~~

9 ~~(2) A SECURED PARTY THAT DOES NOT FILE AN ORDER TO DOCKET~~
10 ~~OR COMPLAINT TO FORECLOSE WITH A PETITION FOR LEAVE TO FILE AN ACTION~~
11 ~~FOR IMMEDIATE FORECLOSURE IN ACCORDANCE WITH THIS SECTION MAY ENTER~~
12 ~~AND SECURE A RESIDENTIAL PROPERTY ONLY IF THE MORTGAGE OR DEED OF TRUST~~
13 ~~PROVIDES FOR THE ENTRY.~~

14 (2) EXCEPT AS PROVIDED UNDER SUBSECTION (F) OF THIS SECTION,
15 IF THE COURT GRANTS THE PETITION UNDER PARAGRAPH (1) OF THIS SUBSECTION,
16 § 7-105.1 OF THIS SUBTITLE DOES NOT APPLY TO AN ACTION TO FORECLOSE A
17 MORTGAGE OR DEED OF TRUST ON THE RESIDENTIAL PROPERTY THAT IS FOUND TO
18 BE VACANT AND ABANDONED.

19 (F) (1) A SECURED PARTY FILING AN ORDER TO DOCKET OR COMPLAINT
20 TO FORECLOSE BASED ON A PETITION GRANTED BY A COURT UNDER SUBSECTION
21 (E)(1) OF THIS SECTION SHALL SERVE THE FORECLOSURE DOCUMENTS,
22 ACCOMPANIED BY THE DOCUMENT REQUIRED UNDER PARAGRAPH (4) OF THIS
23 SUBSECTION, BY:

24 (I) PERSONAL DELIVERY OF THE PAPERS TO THE MORTGAGOR
25 OR GRANTOR; OR

26 (II) LEAVING THE PAPERS WITH A RESIDENT OF SUITABLE AGE
27 AND DISCRETION AT THE MORTGAGOR'S OR GRANTOR'S DWELLING HOUSE OR
28 USUAL PLACE OF ABODE.

29 (2) IF AT LEAST TWO GOOD FAITH EFFORTS ON DIFFERENT DAYS TO
30 SERVE THE MORTGAGOR OR GRANTOR UNDER PARAGRAPH (1) OF THIS SUBSECTION
31 HAVE NOT SUCCEEDED, THE SECURED PARTY MAY EFFECT SERVICE BY:

32 (I) FILING AN AFFIDAVIT WITH THE COURT DESCRIBING THE
33 GOOD FAITH EFFORTS TO SERVE THE MORTGAGOR OR GRANTOR; AND

(II) 1. MAILING A COPY OF ALL THE DOCUMENTS REQUIRED TO BE SERVED UNDER PARAGRAPH (1) OF THIS SUBSECTION BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED, AND FIRST-CLASS MAIL TO THE MORTGAGOR'S OR GRANTOR'S LAST KNOWN ADDRESS AND, IF DIFFERENT, TO THE ADDRESS OF THE RESIDENTIAL PROPERTY SUBJECT TO THE MORTGAGE OR DEED OF TRUST; AND

2. POSTING A COPY OF ALL THE DOCUMENTS REQUIRED TO BE SERVED UNDER PARAGRAPH (1) OF THIS SUBSECTION IN A CONSPICUOUS PLACE ON THE RESIDENTIAL PROPERTY SUBJECT TO THE MORTGAGE OR DEED OF TRUST.

(3) THE INDIVIDUAL MAKING SERVICE OF DOCUMENTS UNDER THIS SUBSECTION SHALL FILE PROOF OF SERVICE WITH THE COURT IN ACCORDANCE WITH THE MARYLAND RULES.

(4) THE SERVICE OF DOCUMENTS UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL BE ACCOMPANIED BY A SEPARATE, CLEARLY MARKED NOTICE, IN THE FORM PRESCRIBED BY REGULATIONS ADOPTED BY THE COMMISSIONER OF FINANCIAL REGULATION, THAT STATES:

(I) THE SIGNIFICANCE OF THE ORDER TO DOCKET OR COMPLAINT TO FORECLOSE; AND

(II) THE RIGHT OF A RECORD OWNER OR OCCUPANT OF THE PROPERTY TO CHALLENGE THE FINDING THAT THE RESIDENTIAL PROPERTY IS VACANT AND ABANDONED.

(5) (I) A CHALLENGE TO THE FINDING THAT THE RESIDENTIAL PROPERTY IS VACANT AND ABANDONED SHALL BE FILED WITH THE COURT IN THE FORECLOSURE PROCEEDING NOT LATER THAN 20 DAYS AFTER SERVICE IS MADE UNDER THIS SUBSECTION.

(II) IF A TIMELY FILED CHALLENGE UNDER THIS SUBSECTION IS UPHOLD, THE SECURED PARTY SHALL COMPLY WITH THE REQUIREMENTS OF § 7-105.1 OF THIS SUBTITLE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to apply only prospectively and may not be applied or interpreted to have any effect on or application to any order to docket or complaint to foreclose on residential property that is filed before the effective date of this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2017.