

SENATE BILL 1033

N1

7lr3612
CF HB 702

By: **Senator Eckardt**

Introduced and read first time: February 10, 2017

Assigned to: Rules

A BILL ENTITLED

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 court to rule on a certain foreclosure petition promptly
8 after the petition is filed; providing that a residential property is vacant and
9 abandoned if certain criteria apply to the property; requiring a court to order the
10 appropriate official of the county or municipal corporation in which a residential
11 property is located to verify that the property is vacant and abandoned under certain
12 circumstances; requiring a court to order a residential property to be offered for sale
13 not later than a certain period of time after issuance of a certain final judgment;
14 authorizing a secured party to enter and secure a residential property after the
15 property is found to be vacant and abandoned under certain circumstances; making
16 stylistic changes; defining a certain term; providing for the application of this Act;
17 and generally relating to the foreclosure of vacant and abandoned residential
18 property.

19 BY repealing and reenacting, without amendments,
20 Article – Real Property
21 Section 7–105.1(a)(12)
22 Annotated Code of Maryland
23 (2015 Replacement Volume and 2016 Supplement)

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 BY adding to
 2 Article – Real Property
 3 Section 7–105.14
 4 Annotated Code of Maryland
 5 (2015 Replacement Volume and 2016 Supplement)

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

8 **Article – Real Property**

9 7–105.1.

10 (a) (12) “Residential property” means real property improved by four or fewer
 11 single family dwelling units that are designed principally and are intended for human
 12 habitation.

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

16 (i) 90 days after a default in a condition on which the mortgage or
 17 deed of trust provides that a sale may be made; or

18 (ii) 45 days after the notice of intent to foreclose required under
 19 subsection (c) of this section is sent.

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

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

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

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

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

30 **5. THE PROPERTY SUBJECT TO THE MORTGAGE OR**
 31 **DEED OF TRUST IS PROPERTY THAT IS VACANT AND ABANDONED AS PROVIDED**
 32 **UNDER § 7–105.14 OF THIS SUBTITLE.**

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

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

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

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

7 **7-105.14.**

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

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

14 (2) THE CIRCUIT COURT SHALL RULE ON THE PETITION PROMPTLY
15 AFTER THE PETITION IS FILED.

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

18 (1) THE COURT FINDS THAT THE MORTGAGE OR DEED OF TRUST ON
19 THE RESIDENTIAL PROPERTY HAS BEEN IN DEFAULT FOR 120 DAYS OR MORE IN A
20 CONDITION ON WHICH THE MORTGAGE OR DEED OF TRUST PROVIDES THAT A SALE
21 MAY BE MADE;

22 (2) THE COURT FINDS THAT AT LEAST THREE OF THE
23 CIRCUMSTANCES LISTED IN SUBSECTION (D) OF THIS SECTION ARE TRUE AS TO THE
24 PROPERTY;

25 (3) NO MORTGAGOR OR GRANTOR HAS FILED WITH THE COURT AN
26 ANSWER OR OBJECTION SETTING FORTH A DEFENSE OR OBJECTION THAT, IF
27 PROVEN, WOULD PRECLUDE THE ENTRY OF A FINAL JUDGMENT AND A DECREE OF
28 FORECLOSURE; AND

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

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

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

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

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

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

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

14 **(6) THE PROPERTY IS THE OBJECT OF VANDALISM, LOITERING, OR**
15 **CRIMINAL CONDUCT, OR THERE HAS BEEN PHYSICAL DESTRUCTION OR**
16 **DETERIORATION OF THE PROPERTY;**

17 **(7) A MORTGAGOR OR GRANTOR HAS MADE A WRITTEN STATEMENT**
18 **EXPRESSING THE INTENTION OF ALL MORTGAGORS OR GRANTORS TO ABANDON THE**
19 **PROPERTY;**

20 **(8) THERE IS A DETERMINATION THAT NO OWNER OR TENANT**
21 **APPEARS TO BE RESIDING ON THE PROPERTY AT THE TIME OF AN INSPECTION OF**
22 **THE PROPERTY BY:**

23 **(I) THE SECURED PARTY; OR**

24 **(II) AN APPROPRIATE OFFICIAL OF THE COUNTY OR MUNICIPAL**
25 **CORPORATION IN WHICH THE PROPERTY IS LOCATED;**

26 **(9) AN APPROPRIATE OFFICIAL OF THE COUNTY OR MUNICIPAL**
27 **CORPORATION IN WHICH THE PROPERTY IS LOCATED PROVIDES A WRITTEN**
28 **STATEMENT INDICATING THAT THE STRUCTURE ON THE PROPERTY IS VACANT AND**
29 **ABANDONED;**

30 **(10) THE PROPERTY IS SEALED BECAUSE, IMMEDIATELY PRIOR TO**
31 **BEING SEALED, THE PROPERTY WAS CONSIDERED BY AN APPROPRIATE OFFICIAL OF**

1 THE COUNTY OR MUNICIPAL CORPORATION IN WHICH THE PROPERTY IS LOCATED
2 TO BE OPEN, VACANT, OR VANDALIZED; OR

3 (11) OTHER REASONABLE INDICIA OF ABANDONMENT EXIST.

4 (E) IF THE COURT MAKES A PRELIMINARY FINDING THAT A RESIDENTIAL
5 PROPERTY IS VACANT AND ABANDONED UNDER SUBSECTION (D) OF THIS SECTION
6 WITHOUT VERIFICATION BY AN APPROPRIATE OFFICIAL OF THE COUNTY OR
7 MUNICIPAL CORPORATION IN WHICH THE RESIDENTIAL PROPERTY IS LOCATED, THE
8 COURT WITHIN 7 DAYS OF THE PRELIMINARY FINDING SHALL ORDER THE
9 APPROPRIATE OFFICIAL OF THE COUNTY OR MUNICIPAL OFFICIAL TO VERIFY THAT
10 THE PROPERTY IS VACANT AND ABANDONED.

11 (F) IF THE COURT FINDS THAT A RESIDENTIAL PROPERTY IS VACANT AND
12 ABANDONED AND THE SECURED PARTY FILING A PETITION FOR LEAVE TO FILE AN
13 ACTION FOR IMMEDIATE FORECLOSURE IS ENTITLED TO JUDGMENT, THE COURT
14 SHALL:

15 (1) ENTER A FINAL JUDGMENT OF FORECLOSURE; AND

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

18 (G) (1) AFTER A RESIDENTIAL PROPERTY IS FOUND TO BE VACANT AND
19 ABANDONED UNDER THIS SECTION, THE SECURED PARTY MAY ENTER AND SECURE
20 THE PROPERTY IN ORDER TO PROTECT THE PROPERTY FROM DAMAGE.

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

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

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