

HOUSE BILL 990

N1, L2, D3

0lr3321
CF SB 675

By: **Delegate Grammer**

Introduced and read first time: February 5, 2020

Assigned to: Environment and Transportation

A BILL ENTITLED

1 AN ACT concerning

2 **Baltimore County – Foreclosure Proceedings – Affidavit That Property Is**
3 **Vacant or Unfit for Human Habitation**

4 FOR the purpose of authorizing a person with a secured interest in residential property in
5 Baltimore County to file an order to docket or complaint to foreclose accompanied by
6 an affidavit stating under oath that the property is vacant or unfit for human
7 habitation under certain housing codes under certain circumstances; providing that,
8 except under certain circumstances, the requirements of certain provisions of law do
9 not apply to an action to foreclose a mortgage or deed of trust on the property for
10 which the affidavit is issued; requiring the secured party to serve certain foreclosure
11 documents accompanied by the affidavit in a certain manner and to provide the
12 record owner or occupant of the property with certain information; authorizing the
13 record owner or occupant of the property to challenge the accuracy of the affidavit in
14 a certain manner; requiring a court, if it makes a certain finding, to strike the
15 affidavit and require the person with the secured interest in the property to comply
16 with the requirements of certain provisions of law; establishing damages for the
17 filing of a fraudulent affidavit; prohibiting the foreclosure sale of certain residential
18 property until the expiration of a certain period of time or the disposition of a certain
19 motion; providing for the application of this Act; making conforming changes; and
20 generally relating to foreclosure proceedings in Baltimore County.

21 BY repealing and reenacting, with amendments,
22 Article – Real Property
23 Section 7–105.13
24 Annotated Code of Maryland
25 (2015 Replacement Volume and 2019 Supplement)

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

28 **Article – Real Property**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 7-105.13.

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

3 (2) “Certificate of property unfit for human habitation” means:

4 (i) In Baltimore City, a certificate of substantial repair; or

5 (ii) A certificate for residential property issued by a unit of a county
6 or municipal corporation indicating that the county or municipal corporation has
7 determined that the residential property is unfit for human habitation.

8 (3) “Certificate of vacancy” means a certificate for a residential property
9 issued by a unit of a county or municipal corporation indicating that the residential
10 property is vacant.

11 (b) (1) This [section] **SUBSECTION** applies only to a county or municipal
12 corporation that issues a certificate of vacancy or a certificate of property unfit for human
13 habitation.

14 [(c)] (2) If a mortgage or deed of trust on residential property is in default, a
15 person with a secured interest in the residential property may request that a county or
16 municipal corporation issue a certificate of vacancy or a certificate of property unfit for
17 human habitation.

18 [(d) (1)] (3) (I) The county or municipal corporation shall issue to a
19 secured party a certificate of vacancy for a residential property if the county or municipal
20 corporation determines that the residential property is vacant.

21 [(2)] (II) The county or municipal corporation shall issue to a secured
22 party a certificate of property unfit for human habitation for a residential property if the
23 county or municipal corporation determines in accordance with requirements of local,
24 county, or State housing codes, that the residential property is unfit for human habitation.

25 [(3)] (III) A certificate of vacancy or certificate of property unfit for human
26 habitation issued under this [subsection] **PARAGRAPH** is valid for 60 days after the date
27 the certificate is issued.

28 [(4)] (IV) A county or municipal corporation may charge a fee not
29 exceeding \$100 to a secured party to issue a certificate of vacancy or a certificate of property
30 unfit for human habitation.

31 [(e)] (4) Except as provided in [subsection (f)] **PARAGRAPH (5)** of this [section]
32 **SUBSECTION**, if a certificate of vacancy or certificate of property unfit for human
33 habitation is valid at the time of filing an order to docket or complaint to foreclose, §

7–105.1 of this subtitle does not apply to an action to foreclose a mortgage or deed of trust on the property for which the certificate was issued.

[(f) (1)] (5) (I) The record owner or occupant of a property may challenge the certificate of vacancy or certificate of property unfit for human habitation under this [section] SUBSECTION by notifying the circuit court of the challenge.

[(2)] (II) A secured party filing an order to docket or complaint to foreclose based on a certificate of vacancy or a certificate of property unfit for human habitation under this [section] SUBSECTION shall serve the foreclosure documents in accordance with § 7–105.1(h)(1) of this subtitle along with a description of the procedure to challenge the certificate and the form to be used to make the challenge.

[(3)] (III) If a challenge under [paragraph (1) of this subsection] SUBPARAGRAPH (I) OF THIS PARAGRAPH is upheld, the secured party shall comply with the requirements of § 7–105.1 of this subtitle.

[(g)] (6) A county or municipal corporation may establish procedures governing the issuance of a certificate of vacancy or certificate of property unfit for human habitation under this [section] SUBSECTION.

(C) (1) THIS SUBSECTION APPLIES ONLY IN BALTIMORE COUNTY.

(2) IF A MORTGAGE OR DEED OF TRUST ON RESIDENTIAL PROPERTY IS IN DEFAULT, A PERSON WITH A SECURED INTEREST IN THE RESIDENTIAL PROPERTY MAY FILE AN ORDER TO DOCKET OR COMPLAINT TO FORECLOSE ACCOMPANIED BY AN AFFIDAVIT STATING UNDER OATH THAT THE RESIDENTIAL PROPERTY IS VACANT OR UNFIT FOR HUMAN HABITATION UNDER THE COUNTY OR MUNICIPAL HOUSING CODES.

(3) EXCEPT AS PROVIDED IN PARAGRAPH (4) OF THIS SUBSECTION, IF AN ORDER TO DOCKET OR COMPLAINT TO FORECLOSE ACCOMPANIED BY AN AFFIDAVIT IS FILED IN ACCORDANCE WITH PARAGRAPH (2) OF THIS SUBSECTION, § 7–105.1 OF THIS SUBTITLE DOES NOT APPLY TO AN ACTION TO FORECLOSE A MORTGAGE OR DEED OF TRUST ON THE PROPERTY FOR WHICH THE AFFIDAVIT WAS MADE.

(4) (I) A SECURED PARTY THAT FILES AN ORDER TO DOCKET OR COMPLAINT TO FORECLOSE ACCOMPANIED BY AN AFFIDAVIT IN ACCORDANCE WITH PARAGRAPH (2) OF THIS SUBSECTION, SHALL SERVE, IN ACCORDANCE WITH § 7–105.1(h)(1) OF THIS SUBTITLE, THE FORECLOSURE DOCUMENTS ACCOMPANIED BY THE AFFIDAVIT AND A DESCRIPTION OF THE RIGHT OF THE RECORD OWNER OR OCCUPANT OF THE PROPERTY TO CHALLENGE THE ACCURACY OF THE AFFIDAVIT UNDER SUBPARAGRAPH (II) OF THIS PARAGRAPH.

(II) THE RECORD OWNER OR OCCUPANT OF A PROPERTY MAY CHALLENGE THE ACCURACY OF THE AFFIDAVIT THAT THE PROPERTY IS VACANT OR UNFIT FOR HUMAN HABITATION BY FILING A MOTION TO STRIKE THE AFFIDAVIT WITHIN 30 DAYS AFTER BEING SERVED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH.

(III) 1. IF THE COURT FINDS BY A PREPONDERANCE OF THE EVIDENCE THAT A CONTROVERSY AS TO THE ACCURACY OF THE AFFIDAVIT EXISTS, THE COURT SHALL STRIKE THE AFFIDAVIT AND REQUIRE THE PERSON WITH A SECURED INTEREST IN THE RESIDENTIAL PROPERTY TO COMPLY WITH THE REQUIREMENTS OF § 7-105.1 OF THIS SUBTITLE.

2. A SECURED PARTY THAT FILES A FRAUDULENT AFFIDAVIT SHALL BE LIABLE TO THE RECORD OWNER OR OCCUPANT OF A PROPERTY FOR COURT COSTS AND REASONABLE ATTORNEY'S FEES, IN ADDITION TO ANY OTHER REMEDIES AVAILABLE UNDER STATE OR LOCAL LAW.

(5) THE RESIDENTIAL PROPERTY MAY NOT BE SOLD AT A FORECLOSURE SALE BEFORE:

(I) 31 DAYS AFTER NOTICE UNDER PARAGRAPH (4)(I) OF THIS SUBSECTION IS PROVIDED; OR

(II) THE DISPOSITION OF ANY MOTION FILED BY THE RECORD OWNER OR OCCUPANT OF THE PROPERTY.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2020.