

# HOUSE BILL 74

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(PRE-FILED)

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By: **Delegates Healey, Gaines, and Ross**

Requested: September 6, 2007

Introduced and read first time: January 9, 2008

Assigned to: Environmental Matters

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## A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Housing Rehabilitation Program – Loans to Members of**  
3 **Cooperative Housing Corporations**

4 FOR the purpose of authorizing the Department of Housing and Community  
5 Development to take certain actions in connection with certain housing  
6 assistance program loans made to members of cooperative housing corporations;  
7 providing that certain housing assistance program loans made to members of  
8 cooperative housing corporations may be secured by perfected security interests  
9 in the members' cooperative interests under certain circumstances; requiring  
10 the Department of Housing and Community Development, in connection with  
11 certain housing assistance program loans made to members of housing  
12 cooperatives, to enter into an agreement with the cooperative housing  
13 corporation regarding the parties' rights and obligations with respect to the  
14 secured cooperative interest under certain circumstances; defining certain  
15 terms; and generally relating to Maryland Housing Rehabilitation Program  
16 loans.

17 BY repealing and reenacting, with amendments,  
18 Article – Housing and Community Development  
19 Section 4–901 and 4–917  
20 Annotated Code of Maryland  
21 (2006 Volume and 2007 Supplement)

22 BY adding to  
23 Article – Housing and Community Development  
24 Section 4–909.1  
25 Annotated Code of Maryland  
26 (2006 Volume and 2007 Supplement)

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

3 **Article – Housing and Community Development**

4 4–901.

5 (a) In this subtitle the following words have the meanings indicated.

6 **(B) “COOPERATIVE HOUSING CORPORATION” HAS THE MEANING**  
7 **STATED IN § 5–6B–01 OF THE CORPORATIONS AND ASSOCIATIONS ARTICLE.**

8 **(C) “COOPERATIVE INTEREST” HAS THE MEANING STATED IN §**  
9 **5–6B–01 OF THE CORPORATIONS AND ASSOCIATIONS ARTICLE.**

10 [(b)] **(D)** (1) “Family of limited income” means a family or individual  
11 whose income does not exceed the limits that the Secretary establishes under § 4–915  
12 of this subtitle.

13 (2) “Family of limited income” includes a trust described in 42 U.S.C. §  
14 1396p(d)(4), or a trust established for the benefit of an individual with a disability by  
15 an individual other than the beneficiary and that is funded with assets that were  
16 never owned or controlled by the beneficiary, if:

17 (i) the income of the trust does not exceed the upper income  
18 limits established by the Secretary under § 4–915 of this subtitle; and

19 (ii) the beneficiary of the trust is an individual who resides in  
20 the residential building owned by the trust.

21 [(c)] **(E)** “Local rehabilitation program” means a rehabilitation program  
22 that uses Program loans and is administered by a political subdivision.

23 **(F) “MEMBER” HAS THE MEANING STATED IN § 5–6B–01 OF THE**  
24 **CORPORATIONS AND ASSOCIATIONS ARTICLE.**

25 [(d)] **(G)** “Minimum livability code” means a regulation, statute, or  
26 ordinance that establishes minimum property maintenance standards that the State  
27 or a political subdivision adopts under § 12–203 of the Public Safety Article.

28 [(e)] **(H)** “Nonprofit sponsor” means:

29 (1) a nonprofit organization;

30 (2) a political subdivision; or

1 (3) a limited partnership formed to undertake a rehabilitation project  
2 that is eligible wholly or partly for federal programs or incentives, including  
3 low-income housing tax credits, if:

4 (i) each general partner is a nonprofit organization or a  
5 political subdivision; or

6 (ii) 1. each general partner is a wholly owned subsidiary of a  
7 nonprofit organization or political subdivision; and

8 2. a nonprofit organization or political subdivision  
9 manages the rehabilitation project or will receive net cash flow or the residual sale  
10 proceeds on the sale of the rehabilitation project.

11 [(f)] (I) “Program” means the Maryland Housing Rehabilitation Program.

12 [(g)] (J) “Program loan” means a loan under the Maryland Housing  
13 Rehabilitation Program or a special loan program.

14 [(h)] (K) (1) “Rehabilitation project” means a project to repair,  
15 reconstruct, renovate, redevelop, improve, modify, or add to a building for a purpose  
16 listed in § 4-923 of this subtitle.

17 (2) “Rehabilitation project” includes providing utility submetering for  
18 dwellings in a residential rental building.

19 [(i)] (L) “Special loan program” means:

20 (1) the Accessory, Shared, and Sheltered Housing Program;

21 (2) the Indoor Plumbing Program;

22 (3) the Lead Paint Abatement Program;

23 (4) the Migratory Worker Housing Program; or

24 (5) the Radon and Asbestos Abatement Pilot Program.

25 [(j)] (M) “Sponsor” means an owner who receives a loan to rehabilitate a  
26 building for residential rental purposes or nonresidential purposes.

27 **4-909.1.**

28 (A) **IF A PROGRAM LOAN TO A MEMBER OF A COOPERATIVE HOUSING**  
29 **CORPORATION IS SECURED BY A SECURITY INTEREST IN THE MEMBER’S**  
30 **COOPERATIVE INTEREST, THE DEPARTMENT MAY:**

1           (1)    **FORECLOSE ON THE SECURITY INTEREST OR OTHERWISE**  
2 **ENFORCE THE SECURITY INTEREST AS PERMITTED UNDER TITLE 9 OF THE**  
3 **COMMERCIAL LAW ARTICLE;**

4           (2)    **TAKE POSSESSION OF THE PREMISES IN LIEU OF**  
5 **FORECLOSURE;**

6           (3)    **OBTAIN AND ENFORCE DEFICIENCY JUDGMENTS;**

7           (4)    **TRANSFER THE COOPERATIVE INTEREST;**

8           (5)    **ALLOW ASSUMPTION OF THE SECURITY AGREEMENT; AND**

9           (6)    **CONTRACT WITH PRIVATE LOAN SERVICERS TO PERFORM ON**  
10 **BEHALF OF THE DEPARTMENT ANY FUNCTIONS THE PRIVATE LOAN SERVICERS**  
11 **ORDINARILY PERFORM.**

12           **(B)    WITHOUT APPROVAL OR EXECUTION BY THE BOARD OF PUBLIC**  
13 **WORKS, THE DEPARTMENT MAY:**

14           (1)    **ASSIGN A SECURITY INTEREST FOR VALUE;**

15           (2)    **RELEASE A SECURITY INTEREST WHEN PAID;**

16           (3)    **FORECLOSE ON A SECURITY INTEREST;**

17           (4)    **TAKE POSSESSION OF THE PREMISES IN LIEU OF**  
18 **FORECLOSURE; OR**

19           (5)    **TRANSFER A COOPERATIVE INTEREST AFTER ACQUISITION.**

20 4-917.

21           (a)    A Program loan:

22                   (1)    may not be made if the Department determines that comparable  
23 private financing is available to the prospective borrower; and

24                   (2)    may not exceed an amount the Secretary establishes by regulation.

25           (b)    (1)    Except as provided under paragraphs (2), [and] (3), **AND (4)** of this  
26 subsection, a Program loan of more than \$5,000 shall be secured wholly or partly by a  
27 recorded mortgage or deed of trust on real property.

1           (2) A Program loan to a political subdivision may be secured by a  
2 recorded mortgage, deed of trust on real property, or other security device acceptable  
3 to the Department.

4           (3) A Program loan to a trust described in 42 U.S.C. § 1396p(d)(4) may  
5 be secured by a recorded mortgage, deed of trust on real property, or other security  
6 device acceptable to the Department.

7           **(4) (I) SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH,**  
8 **A PROGRAM LOAN TO A MEMBER OF A COOPERATIVE HOUSING CORPORATION**  
9 **MAY BE SECURED BY A PERFECTED SECURITY INTEREST IN THE MEMBER'S**  
10 **COOPERATIVE INTEREST.**

11           **(II) BEFORE A PROGRAM LOAN IS SECURED BY A**  
12 **PERFECTED SECURITY INTEREST IN THE MEMBER'S COOPERATIVE INTEREST,**  
13 **THE DEPARTMENT SHALL ENTER INTO AN AGREEMENT WITH THE COOPERATIVE**  
14 **HOUSING CORPORATION THAT ESTABLISHES THE RIGHTS AND OBLIGATIONS OF**  
15 **THE DEPARTMENT AND THE COOPERATIVE HOUSING CORPORATION WITH**  
16 **RESPECT TO THE SECURED COOPERATIVE INTEREST.**

17           (c) Program loans shall be made to:

18           (1) families of limited income owning and occupying the building to be  
19 rehabilitated; or

20           (2) sponsors or nonprofit sponsors.

21           (d) The Department may require that Program loans be insured.

22           (e) A Program loan may cover:

23           (1) costs of a rehabilitation project, including implementation costs  
24 such as appraisal, architectural, and engineering fees; and

25           (2) closing costs of the Program loan.

26           (f) The Department may modify the interest rate, the time or amount of  
27 payment, or any other term of a Program loan that is in default to facilitate repayment  
28 of the Program loan and achieve the purposes of the Program.

29           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
30 October 1, 2008.