

CHAPTER 2

(House Bill 365)

AN ACT concerning

Real Property – Recordation of Instruments Securing Mortgage Loans and Foreclosure of Mortgages and Deeds of Trust on Residential Property

FOR the purpose of ~~prohibiting~~ requiring a mortgage, deed of trust, or other instrument securing a mortgage loan ~~from being recorded unless it contains on~~ certain residential property to contain certain information relating to the mortgage loan originator and the mortgage lender when recorded in the land records; requiring the Commissioner of Financial Regulation to adopt certain regulations to ~~enforce~~ implement certain provisions of this Act; prohibiting an action to foreclose a mortgage or deed of trust on certain residential property from being filed until after certain periods of time; authorizing a secured party to petition a circuit court for leave to immediately commence a foreclosure action under certain circumstances; requiring a certain notice of intent to foreclose to be sent to ~~a certain person~~ certain persons in a certain manner a certain period of time before the filing of an action to foreclose a mortgage or deed of trust on certain residential property; requiring the notice to be in a certain form and contain certain information; establishing certain requirements for an order to docket or a complaint to foreclose a mortgage or deed of trust on certain residential property; providing for service of an order to docket or a complaint to foreclose a mortgage or deed of trust on certain residential property; prohibiting a foreclosure sale of certain residential property from occurring until after a certain period of time; providing for publication of notice of a foreclosure sale; establishing that a mortgagor or grantor has the right to cure a default and reinstate the loan until a certain time; requiring the secured party or an authorized agent for the secured party to provide certain information to the mortgagor or grantor or the mortgagor's or grantor's attorney within a certain time; requiring that a certain action be brought within a certain period of time; making certain technical and stylistic changes; defining a certain term; providing for the application of certain provisions of this Act; providing that the failure to include certain information when recording a mortgage, deed of trust, or any other instrument securing a mortgage loan may not be the basis for a clerk of the court to fail to record the instrument under certain circumstances; providing that a notice of intent to foreclose shall be construed to be sufficient under certain circumstances; making this Act an emergency measure; and generally relating to foreclosure actions and ~~prerequisites to~~ recording instruments in the land records.

BY adding to
Article – Real Property

Section ~~3-104(h)~~ 3-104.1 and 7-105.1
Annotated Code of Maryland
(2003 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,
Article – Real Property
Section 7-105
Annotated Code of Maryland
(2003 Replacement Volume and 2007 Supplement)

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

Article – Real Property

~~3-104.~~ **3-104.1.**

(A) IN THIS SECTION, “RESIDENTIAL PROPERTY” MEANS REAL PROPERTY IMPROVED BY FOUR OR FEWER SINGLE FAMILY DWELLING UNITS.

~~(H)~~ **(B) A WHEN RECORDED, A MORTGAGE, DEED OF TRUST, OR ANY OTHER INSTRUMENT SECURING A MORTGAGE LOAN MAY NOT BE RECORDED UNLESS IT CONTAINS ON RESIDENTIAL PROPERTY SHALL CONTAIN:**

(1) (I) THE NAME AND MARYLAND MORTGAGE ORIGINATOR LICENSE NUMBER OF THE MORTGAGE ORIGINATOR THAT ORIGINATED THE LOAN SECURED BY THE INSTRUMENT; OR

(II) AN AFFIDAVIT BY THE ~~INDIVIDUAL~~ PERSON THAT ORIGINATED THE MORTGAGE LOAN SECURED BY THE INSTRUMENT THAT THE INDIVIDUAL WHO ORIGINATED THE LOAN IS EXEMPT FROM THE LICENSING REQUIREMENT UNDER TITLE 11, SUBTITLE 6 OF THE FINANCIAL INSTITUTIONS ARTICLE; AND

(2) (I) THE NAME AND MARYLAND MORTGAGE LENDER LICENSE NUMBER OF THE MORTGAGE LENDER THAT MADE THE LOAN SECURED BY THE INSTRUMENT; OR

(II) AN AFFIDAVIT BY THE LENDER THAT MADE THE MORTGAGE LOAN SECURED BY THE INSTRUMENT THAT THE LENDER IS EXEMPT FROM THE LICENSING REQUIREMENT UNDER TITLE 11, SUBTITLE 5 OF THE FINANCIAL INSTITUTIONS ARTICLE.

(C) THE COMMISSIONER OF FINANCIAL REGULATION SHALL ADOPT REGULATIONS TO ENFORCE IMPLEMENT THE PROVISIONS OF THIS SECTION, INCLUDING:

(1) MINIMUM REQUIREMENTS FOR THE INCLUSION OF LICENSING INFORMATION WHEN A MORTGAGE, DEED OF TRUST, OR OTHER INSTRUMENT SECURING A MORTGAGE LOAN ON RESIDENTIAL PROPERTY IS RECORDED; AND

(2) ~~PENALTIES~~ CONSEQUENCES, INCLUDING PENALTIES, FOR THE FAILURE TO INCLUDE LICENSING INFORMATION WHEN A MORTGAGE, DEED OF TRUST, OR OTHER INSTRUMENT SECURING A MORTGAGE LOAN ON RESIDENTIAL PROPERTY IS RECORDED.

7-105.

(a) A provision may be inserted in a mortgage or deed of trust authorizing any natural person named in the instrument, including the secured party, to sell the property or declaring the borrower's assent to the passing of a decree for the sale of the property, on default in a condition on which the mortgage or deed of trust provides that a sale may be made.

(B) A sale made pursuant to this section, §§ 7-105.1 THROUGH 7-105.8 OF THIS SUBTITLE, or [to] the Maryland Rules, after final ratification by the court and grant of the property to the purchaser on payment of the purchase money, has the same effect as if the sale and grant were made under decree between the proper parties in relation to the mortgage or deed of trust and in the usual course of the court, and operates to pass all the title which the borrower had in the property at the time of the recording of the mortgage or deed of trust.

[(a-1)(1) In this subsection, "record owner" means the person holding record title to residential real property as of the date on which an action to foreclose the mortgage or deed of trust is filed.

(2) In addition to any notice required to be given by provisions of the Annotated Code of Maryland or the Maryland Rules, the person authorized to make a sale in an action to foreclose a mortgage or deed of trust shall give written notice of the action to the record owner of the property to be sold.

(3) (i) The written notice shall be sent no later than 2 days after the action to foreclose is docketed:

1. By certified mail, postage prepaid, return receipt requested, bearing a postmark from the United States Postal Service, to the record owner; and

2. By first-class mail.

(ii) The notice shall state that an action to foreclose the mortgage or deed of trust may be or has been docketed and that a foreclosure sale of the property will be held.

(iii) The notice shall contain the following statement printed in at least 14 point boldface type:

“NOTICE REQUIRED BY MARYLAND LAW

Mortgage foreclosure is a complex process. Some people may approach you about “saving” your home. You should be careful about any such promises.

The State encourages you to become informed about your options in foreclosure before entering into any agreements with anyone in connection with the foreclosure of your home. There are government agencies and nonprofit organizations that you may contact for helpful information about the foreclosure process. For the name and telephone number of an organization near you, please call the Consumer Protection Division of the Office of the Attorney General of Maryland at 1-888-743-0023. The State does not guarantee the advice of these organizations.

Do not delay dealing with the foreclosure because your options may become more limited as time passes.”.]

7-105.1.

(A) IN THIS SECTION, “RESIDENTIAL PROPERTY” MEANS REAL PROPERTY IMPROVED BY FOUR OR FEWER SINGLE FAMILY DWELLING UNITS.

(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 ~~AT LEAST~~ 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; ~~AND~~ 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. THE LOAN SECURED BY THE MORTGAGE OR DEED OF TRUST WAS OBTAINED BY FRAUD OR DECEPTION;

2. NO PAYMENTS HAVE EVER BEEN MADE ON THE LOAN SECURED BY THE MORTGAGE OR DEED OF TRUST;

3. THE PROPERTY SUBJECT TO THE MORTGAGE OR DEED OF TRUST HAS BEEN DESTROYED; OR

4. THE DEFAULT OCCURRED AFTER THE STAY HAS BEEN LIFTED IN A BANKRUPTCY PROCEEDING.

(II) THE COURT MAY RULE ON THE PETITION WITH OR WITHOUT A HEARING.

(III) IF THE PETITION IS GRANTED, THE ACTION MAY BE FILED AT ANY TIME AFTER A DEFAULT IN A CONDITION ON WHICH THE MORTGAGE OR DEED OF TRUST PROVIDES THAT A SALE MAY BE MADE AND THE SECURED PARTY NEED NOT SEND THE WRITTEN NOTICE OF INTENT TO FORECLOSE REQUIRED UNDER SUBSECTION (C) OF THIS SECTION.

(C) (1) EXCEPT AS PROVIDED IN SUBSECTION (B)(2)(III) OF THIS SECTION, AT LEAST 45 DAYS BEFORE THE FILING OF AN ACTION TO FORECLOSE A MORTGAGE OR DEED OF TRUST ON RESIDENTIAL PROPERTY, THE SECURED PARTY SHALL SEND A WRITTEN NOTICE OF INTENT TO FORECLOSE TO THE MORTGAGOR OR GRANTOR AND THE RECORD OWNER.

(2) THE NOTICE OF INTENT TO FORECLOSE SHALL BE SENT:

(I) BY CERTIFIED MAIL, POSTAGE PREPAID, RETURN RECEIPT REQUESTED, BEARING A POSTMARK FROM THE UNITED STATES POSTAL SERVICE; AND

(II) BY FIRST-CLASS MAIL.

(3) A COPY OF THE NOTICE OF INTENT TO FORECLOSE SHALL BE SENT TO THE COMMISSIONER OF FINANCIAL REGULATION.

(4) THE NOTICE OF INTENT TO FORECLOSE SHALL:

(I) BE IN THE FORM THAT THE COMMISSIONER OF FINANCIAL REGULATION PRESCRIBES BY REGULATION; AND

(II) CONTAIN:

1. THE NAME AND TELEPHONE NUMBER OF:
 - A. THE SECURED PARTY;
 - B. THE MORTGAGE SERVICER, IF APPLICABLE; AND
 - C. ~~THE MORTGAGE BROKER OR ORIGINATOR, IF APPLICABLE; AND~~
 - ~~D.~~ AN AGENT OF THE SECURED PARTY WHO IS AUTHORIZED TO MODIFY THE TERMS OF THE MORTGAGE LOAN;
2. THE ~~MARYLAND~~ NAME AND LICENSE NUMBER OF THE MARYLAND MORTGAGE LENDER AND MORTGAGE ORIGINATOR, IF APPLICABLE;
3. THE AMOUNT REQUIRED TO CURE THE DEFAULT AND REINSTATE THE LOAN, INCLUDING ALL PAST DUE PAYMENTS, PENALTIES, AND FEES; AND
4. ANY OTHER INFORMATION THAT THE COMMISSIONER OF FINANCIAL REGULATION REQUIRES BY REGULATION.

(D) AN ORDER TO DOCKET OR A COMPLAINT TO FORECLOSE A MORTGAGE OR DEED OF TRUST ON RESIDENTIAL PROPERTY SHALL:

- (1) INCLUDE:
 - (I) ~~THE~~ IF APPLICABLE, THE LICENSE NUMBER OF:
 1. ~~IF APPLICABLE, THE~~ THE MORTGAGE ORIGINATOR; AND
 2. THE MORTGAGE LENDER; AND
 - (II) AN AFFIDAVIT STATING:
 1. THE DATE ON WHICH THE DEFAULT OCCURRED AND THE NATURE OF THE DEFAULT; AND
 2. IF APPLICABLE, THAT A NOTICE OF INTENT TO FORECLOSE WAS SENT TO THE MORTGAGOR OR GRANTOR IN ACCORDANCE

WITH SUBSECTION (C) OF THIS SECTION AND THE DATE ON WHICH THE NOTICE WAS SENT; AND

(2) BE ACCOMPANIED BY:

(I) THE ORIGINAL OR A CERTIFIED COPY OF THE MORTGAGE OR DEED OF TRUST;

(II) A STATEMENT OF THE DEBT REMAINING DUE AND PAYABLE SUPPORTED BY AN AFFIDAVIT OF THE PLAINTIFF OR THE SECURED PARTY OR THE AGENT OR ATTORNEY OF THE PLAINTIFF OR SECURED PARTY;

(III) A COPY OF THE DEBT INSTRUMENT ACCOMPANIED BY AN AFFIDAVIT CERTIFYING OWNERSHIP OF THE DEBT INSTRUMENT;

(IV) IF APPLICABLE, THE ORIGINAL OR A CERTIFIED COPY OF THE ASSIGNMENT OF THE MORTGAGE FOR PURPOSES OF FORECLOSURE OR THE DEED OF APPOINTMENT OF A SUBSTITUTE TRUSTEE;

(V) IF ANY DEFENDANT IS AN INDIVIDUAL, AN AFFIDAVIT THAT:

1. THE INDIVIDUAL IS NOT A SERVICEMEMBER, AS DEFINED IN THE SERVICEMEMBERS CIVIL RELIEF ACT, 50 U.S.C. APPENDIX § 511; OR

2. THE ACTION IS AUTHORIZED BY THE ACT;

(VI) IF APPLICABLE, A COPY OF THE NOTICE OF INTENT TO FORECLOSE; AND

(VII) A NOTICE TO THE MORTGAGOR IN SUBSTANTIALLY THE FOLLOWING FORM, AS PRESCRIBED BY REGULATION BY THE COMMISSIONER OF FINANCIAL REGULATION:

“NOTICE

AN ACTION TO FORECLOSE THE MORTGAGE/DEED OF TRUST ON THE PROPERTY LOCATED AT (INSERT ADDRESS) HAS BEEN FILED IN THE CIRCUIT COURT FOR (COUNTY).

A FORECLOSURE SALE OF THE PROPERTY MAY OCCUR AT ANY TIME AFTER 45 DAYS FROM THE DATE THAT THIS NOTICE IS SERVED ON YOU.

YOU MAY STOP THE SALE AND REINSTATE YOUR MORTGAGE LOAN BY PAYING ALL AMOUNTS DUE ON YOUR LOAN, PLUS FEES AND COSTS OF THE FORECLOSURE ACTION, AT ANY TIME UP TO ONE BUSINESS DAY BEFORE THE SALE. PLEASE CONTACT (INSERT NAME OF AUTHORIZED AGENT OF SECURED PARTY) AT (INSERT TELEPHONE NUMBER) TO OBTAIN THE AMOUNT DUE TO CURE THE DEFAULT ON YOUR MORTGAGE LOAN AND INSTRUCTIONS FOR DELIVERING THE PAYMENT.

YOU ARE URGED TO OBTAIN LEGAL ADVICE TO DISCUSS OTHER OPTIONS TO STOP THE FORECLOSURE SALE, WHICH MAY INCLUDE FILING A MOTION FOR INJUNCTION WITH THE CIRCUIT COURT OR A PETITION FOR BANKRUPTCY IN FEDERAL BANKRUPTCY COURT. A MOTION FOR INJUNCTION OR A BANKRUPTCY PETITION MUST BE FILED BEFORE THE FORECLOSURE SALE OCCURS.

IF YOU ARE INTERESTED IN SELLING YOUR HOME TO AVOID A FORECLOSURE SALE, YOU MAY WISH TO CONTACT A LICENSED REAL ESTATE BROKER OR SALESPERSON AS SOON AS POSSIBLE.

HOUSING COUNSELING AND FINANCIAL ASSISTANCE PROGRAMS ARE AVAILABLE THROUGH THE MARYLAND DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT. PLEASE CALL ~~1-877-462-7555~~ (INSERT TELEPHONE NUMBER) FOR INFORMATION ON AVAILABLE RESOURCES.

SOME PEOPLE MAY APPROACH YOU ABOUT "SAVING" YOUR HOME. YOU SHOULD BE CAREFUL ABOUT ANY SUCH PROMISES.

THE STATE ENCOURAGES YOU TO BECOME INFORMED ABOUT YOUR OPTIONS IN FORECLOSURE BEFORE ENTERING INTO ANY AGREEMENTS WITH ANYONE IN CONNECTION WITH THE FORECLOSURE OF YOUR HOME. THERE ARE GOVERNMENT AGENCIES AND NONPROFIT ORGANIZATIONS THAT YOU MAY CONTACT FOR HELPFUL INFORMATION ABOUT THE FORECLOSURE PROCESS. FOR THE NAME AND TELEPHONE NUMBER OF AN ORGANIZATION NEAR YOU, PLEASE CALL THE CONSUMER PROTECTION DIVISION OF THE OFFICE OF THE ATTORNEY GENERAL OF MARYLAND AT ~~1-888-743-0023~~ (INSERT TELEPHONE NUMBER). THE STATE DOES NOT GUARANTEE THE ADVICE OF THESE ORGANIZATIONS.

DO NOT DELAY DEALING WITH THE FORECLOSURE BECAUSE YOUR OPTIONS WILL BECOME MORE LIMITED AS TIME PASSES."

(E) (1) A COPY OF THE ORDER TO DOCKET OR COMPLAINT TO FORECLOSE ON RESIDENTIAL PROPERTY AND ALL OTHER PAPERS FILED WITH IT SHALL BE SERVED BY:

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

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

(2) IF AT LEAST TWO GOOD FAITH EFFORTS TO SERVE THE MORTGAGOR OR GRANTOR UNDER SUBSECTION (E)(1) OF THIS SECTION ON DIFFERENT DAYS HAVE NOT SUCCEEDED, THE PLAINTIFF MAY *EFFECT SERVICE BY*:

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

(II) 1. ~~MAIL~~ MAILING A COPY OF THE ORDER TO DOCKET OR COMPLAINT TO FORECLOSE AND ALL OTHER PAPERS FILED WITH IT 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. ~~POST~~ POSTING A COPY OF THE ORDER TO DOCKET OR COMPLAINT TO FORECLOSE AND ALL OTHER PAPERS FILED WITH IT IN A CONSPICUOUS PLACE ON THE RESIDENTIAL PROPERTY SUBJECT TO THE MORTGAGE OR DEED OF TRUST.

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

(F) A FORECLOSURE SALE OF RESIDENTIAL PROPERTY MAY NOT OCCUR UNTIL AT LEAST 45 DAYS AFTER SERVICE OF PROCESS IS MADE UNDER SUBSECTION (E) OF THIS SECTION.

(G) NOTICE OF THE TIME, PLACE, AND TERMS OF A FORECLOSURE SALE SHALL BE PUBLISHED IN A NEWSPAPER OF GENERAL CIRCULATION IN THE COUNTY WHERE THE ACTION IS PENDING AT LEAST ONCE, ~~NOT LESS THAN 10 DAYS BEFORE THE SALE~~ A WEEK FOR 3 SUCCESSIVE WEEKS, THE FIRST PUBLICATION TO BE NOT LESS THAN 15 DAYS BEFORE THE SALE AND THE LAST PUBLICATION TO BE NOT MORE THAN 1 WEEK BEFORE THE SALE.

(H) (1) THE MORTGAGOR OR GRANTOR HAS THE RIGHT TO CURE THE DEFAULT BY PAYING ALL PAST DUE PAYMENTS, PENALTIES, AND FEES AND REINSTATE THE LOAN AT ANY TIME UP TO 1 BUSINESS DAY BEFORE THE FORECLOSURE SALE OCCURS.

(2) THE SECURED PARTY OR AN AUTHORIZED AGENT OF THE SECURED PARTY SHALL, ON REQUEST, PROVIDE TO THE MORTGAGOR OR GRANTOR OR THE MORTGAGOR'S OR GRANTOR'S ATTORNEY WITHIN A REASONABLE TIME THE AMOUNT NECESSARY TO CURE THE DEFAULT AND REINSTATE THE LOAN AND INSTRUCTIONS FOR DELIVERING THE PAYMENT.

(I) AN ACTION FOR FAILURE TO COMPLY WITH THE PROVISIONS OF THIS SECTION SHALL BE BROUGHT WITHIN 3 YEARS AFTER THE DATE OF THE ORDER RATIFYING THE SALE.

7-105.2.

[(b) (1) (i)] (A) In this [subsection] SECTION, "record owner" means the person holding record title to property as of the later of:

[1.] (1) 30 days before the day on which a foreclosure sale of the property is actually held; and

[2.] (2) The date on which an action to foreclose the mortgage or deed of trust is filed.

[(ii)] (B) In addition to any notice required to be given by provisions of the Annotated Code of Maryland or the Maryland Rules, the person authorized to make a sale in an action to foreclose a mortgage or deed of trust shall give written notice of the proposed sale to the record owner of the property to be sold.

[(2) (i)] (C) (1) The written notice shall be sent:

[1.] (I) By certified mail, postage prepaid, return receipt requested, bearing a postmark from the United States Postal Service, to the record owner; and

[2.] (II) By first-class mail.

[(ii)] (2) The notice shall state the time, place, and terms of the sale and shall be sent not earlier than 30 days and not later than 10 days before the date of sale.

[(iii)] (3) The person giving the notice shall file in the proceedings:

[1.] (I) A return receipt; or

[2.] (II) An affidavit that:

[A.] 1. The provisions of this [paragraph] **SUBSECTION** have been complied with; or

[B.] 2. The address of the record owner is not reasonably ascertainable.

[(iv)] (4) The person authorized to make a sale in an action to foreclose a mortgage or deed of trust is not required to give notice to a record owner whose address is not reasonably ascertainable.

[(3)] (D) In the event of postponement of sale, which may be done in the discretion of the trustee, no new or additional notice need be given pursuant to this section.

[(4)] (E) The right of a record owner to file an action for the failure of the person authorized to make a sale in an action to foreclose a mortgage or deed of trust to comply with the provisions of this [subsection] **SECTION** shall expire 3 years after the date of the order ratifying the foreclosure sale.

7-105.3.

[(c) (1)] (A) In this [subsection] **SECTION**, “holder of a subordinate interest” includes any condominium council of unit owners or homeowners association that has filed a request for notice of sale under [paragraph (3) of this] subsection (C) **OF THIS SECTION**.

[(2)] (B) The person authorized to make a sale in an action to foreclose a mortgage or deed of trust shall give written notice of any proposed foreclosure sale to the holder of any subordinate mortgage, deed of trust, or other subordinate interest, including a judgment, in accordance with [subsection (b) of this section] § **7-105.2 OF THIS SUBTITLE** and the requirements of Maryland Rule 14-206.

[(3) (i)] (C) (1) The land records office of each county shall maintain a current listing of recorded requests for notice of sale by holders of subordinate mortgages, deeds of trust, or other subordinate interests.

(2) The holder of a subordinate mortgage, deed of trust, or other subordinate interest may file a request for notice under this [paragraph] **SUBSECTION**.

[(ii)] (3) Each request for notice of sale shall:

[1.] (I) Be recorded in a separate docket or book which shall be indexed under the name of the holder of the superior mortgage or deed of trust and under the book and page numbers where the superior mortgage or deed of trust is recorded;

[2.] (II) Identify the property in which the subordinate interest is held;

[3.] (III) State the name and address of the holder of the subordinate interest; and

[4.] (IV) Identify the superior mortgage or deed of trust by stating:

[A.] 1. The names of the original parties to the superior mortgage or deed of trust;

[B.] 2. The date the superior mortgage or deed of trust was recorded; and

[C.] 3. The office, docket or book, and page where the superior mortgage or deed of trust is recorded.

[(iii) 1.] (4) (I) Except as provided in [sub-subparagraph 2 of this] subparagraph **(II) OF THIS PARAGRAPH**, failure of a holder of a subordinate mortgage, deed of trust, or other subordinate interest to record a request for notice under this [paragraph] **SUBSECTION** does not affect the duty of a holder of a superior interest to provide notice as required under this [subsection] **SECTION**.

[2.] (II) A holder of a superior interest does not have a duty to provide notice to a condominium council of unit owners or homeowners association that has not filed a request for notice under this [paragraph] **SUBSECTION**.

[(4)] (D) The person giving notice under this [subsection] **SECTION** shall file in the action:

[(i)] (1) The return receipt from the notice; or

[(ii)] (2) An affidavit that:

[1.] (I) The notice provisions of this [subsection] SECTION have been complied with; or

[2.] (II) The address of the holder of the subordinate interest is not reasonably ascertainable.

[(5)] (E) The person authorized to make a sale in an action to foreclose a mortgage or deed of trust is not required to give notice to the holder of a subordinate mortgage, deed of trust, or other subordinate interest if:

[(i)] (1) The existence of the mortgage, deed of trust, or other subordinate interest is not reasonably ascertainable;

[(ii)] (2) The identity or address of the holder of the mortgage, deed of trust, or other subordinate interest is not reasonably ascertainable;

[(iii)] (3) With respect to a recorded or filed subordinate mortgage, deed of trust, or other recorded or filed subordinate interest, the recordation or filing occurred after the later of:

[1.] (I) 30 days before the day on which the foreclosure sale was actually held; and

[2.] (II) The date the action to foreclose the mortgage or deed of trust was filed;

[(iv)] (4) With respect to an unrecorded or unfiled subordinate mortgage, deed of trust, or other unrecorded or unfiled subordinate interest, the subordinate interest was created after the later of:

[1.] (I) 30 days before the day on which the foreclosure sale was actually held; and

[2.] (II) The date the action to foreclose the mortgage or deed of trust was filed; or

[(v)] (5) With respect to a condominium council of unit owners or homeowners association, the condominium council of unit owners or homeowners association has not filed a request for notice under [paragraph (3) of this] subsection (C) OF THIS SECTION.

[(6)] (F) The right of a holder of a subordinate mortgage, deed of trust, or other subordinate interest to file an action for the failure of the person authorized to make a sale in an action to foreclose a mortgage or deed of trust to comply with the provisions of this [subsection] **SECTION** shall expire 3 years after the date of the order ratifying the foreclosure sale.

7-105.4.

[(d) (1)] (A) Absent a provision to the contrary in a mortgage or note secured by a deed of trust, in the enumerated counties, the interest provided in a mortgage or note secured by a deed of trust is payable for the time period provided in [paragraph (2) of this] subsection (B) **OF THIS SECTION** or until the audit of the sale is ratified, whichever occurs first.

[(2)] (B) Under [paragraph (1) of this] subsection (A) **OF THIS SECTION**, the time period following sale is:

[(i)] (1) 60 days in Calvert, Cecil, Frederick, Kent, Queen Anne's, Talbot, Caroline, Charles, and St. Mary's counties; and

[(ii)] (2) 180 days in Worcester County.

7-105.5.

[(e)] No title to property acquired at sale of property subject to a mortgage or deed of trust is invalid by reason of the fact that the property was purchased by the secured party, his assignee, or representative, or for his account.

7-105.6.

[(f) (1)] (A) Any purchaser at a foreclosure sale of a mortgage or deed of trust has the same rights and remedies against the tenants of the mortgagor or grantor as the mortgagor or grantor had, and the tenants have the same rights and remedies against the purchaser as they would have had against the mortgagor or grantor on the date the mortgage or deed of trust was recorded.

[(2)] (B) (1) If the required advertisement of sale so discloses, a foreclosure sale shall be made subject to one or more of the tenancies entered into subsequent to the recording of the mortgage or deed of trust or otherwise subordinated thereto.

(2) Any lease so continuing is unaffected by the sale, except the purchaser shall become the landlord, as of the date of the sale, on ratification of the sale.

7-105.7.

[(g) (1)] (A) Except as provided in this [subsection] **SECTION**, unless the mortgage or deed of trust provides otherwise, if any property is encumbered by a mortgage or deed of trust, annual crops planted or cultivated by any debtor or those claiming under him do not pass with the property at any sale under or by virtue of the mortgage or deed of trust, but the crops remain the property of the debtor or those claiming under him.

[(2)] (B) (1) Notwithstanding the provisions of [paragraph (1) of this] subsection (A) **OF THIS SECTION**, after the sale, the debtor or those claiming under him and the purchaser or those claiming under him may agree on a reasonable rental of the part of the property occupied by the crops.

(2) This rental is a lien on the crops and continues until paid in favor of the purchaser or those claiming under him, and neither the crops nor any part of them may be removed until after payment.

(3) If the parties are unable to agree on the rental, any party in interest may apply to the court having jurisdiction over the sale or the confirmation of it for the appointment of disinterested appraisers to determine the rental, whose award shall be final.

[(3)] (C) (1) In addition to any other remedy, the purchaser or those claiming under him, on ascertainment of the rent, may distrain for the rent or any part of it remaining due, as in the case of landlord and tenant.

(2) No provision of this section is intended to interfere with the right of the purchaser or those claiming under him to have possession of the property, except as to the part occupied by the crop, with necessary ingress or egress.

7-105.8.

[(h)] The entry of an order for resale on default by a purchaser at a sale under [this section] §§ **7-105 THROUGH 7-105.7 OF THIS SUBTITLE** and Title 14 of the Maryland Rules:

(1) Does not affect the prior ratification of the sale and does not restore to the mortgagor or former record owner any right or remedy that was extinguished by the prior sale and its ratification; and

(2) Extinguishes all interest of the defaulting purchaser in the real property being foreclosed and in the proceeds of the resale.

SECTION 2. AND BE IT FURTHER ENACTED, That § 3-104.1 of the Real Property Article, as enacted by Section 1 of 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 mortgage, deed of trust, or other instrument recorded before the effective date of this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That § 7-105.1 of the Real Property Article, as enacted by Section 1 of 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 foreclosure action filed before the effective date of this Act.

~~SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2008.~~

SECTION 4. AND BE IT FURTHER ENACTED, That, until the Commissioner of Financial Regulation adopts regulations under § 3-104.1(c) of the Real Property Article, as enacted by Section 1 of this Act, the failure to include the information required in § 3-104.1(b) of the Real Property Article, as enacted by Section 1 of this Act, when recording a mortgage, deed of trust, or any other instrument securing a mortgage loan may not be the basis for a clerk of the court to fail to record the instrument.

SECTION 5. AND BE IT FURTHER ENACTED, That, until the Commissioner of Financial Regulation adopts regulations under § 7-105.1(c)(4)(i) and (ii)4 of the Real Property Article, as enacted by Section 1 of this Act, a notice of intent to foreclose shall be construed to be sufficient if the notice contains the information required under § 7-105.1(c)(4)(ii)1 through 3 of the Real Property Article, as enacted by Section 1 of this Act.

SECTION 4. 6. AND BE IT FURTHER ENACTED, That this Act is an emergency measure, is necessary for the immediate preservation of the public health or safety, has been passed by a yea and nay vote supported by three-fifths of all the members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted.

Approved by the Governor, April 3, 2008.