

BY: Environmental Matters Committee

AMENDMENTS TO HOUSE BILL 472

(First Reading File Bill)

AMENDMENT NO. 1

On page 1, at the top of the page, strike “EMERGENCY BILL”; in the sponsor line, strike “The” and substitute “Delegate Niemann and the”; strike beginning with “a” in line 8 down through “grantor;” in line 12 and substitute “an additional filing fee, a certain final loss mitigation affidavit or a certain preliminary loss mitigation affidavit, and, if applicable, a certain request for foreclosure mediation;”; strike beginning with “requiring” in line 14 down through “time;” in line 16 and substitute “requiring the secured party to file a certain final loss mitigation affidavit and send to the mortgagor or grantor a copy of the affidavit and a request for foreclosure mediation form; authorizing the mortgagor or grantor in a foreclosure action on owner-occupied residential property to file a certain request for foreclosure mediation with the court; requiring the request to be accompanied by a filing fee in a certain amount; authorizing a court to reduce or waive the filing fee under certain circumstances; authorizing the secured party to file a motion to strike the request for foreclosure mediation; providing that there is a presumption that a mortgagor or grantor is entitled to foreclosure mediation under certain circumstances; requiring the court to forward a request for foreclosure mediation to the Office of Administrative Hearings for scheduling; requiring the Office to conduct a foreclosure mediation within a certain time period; requiring the Office to send certain notice to certain persons;”; in line 18, strike “options” and substitute “loss mitigation programs”; strike beginning with “authorizing” in line 19 down through “time;” in line 22 and substitute “requiring the Office to file a certain report with the court at a certain time; providing that, with a certain exception, the rules of procedure for certain contested cases do not govern a foreclosure mediation conducted by the Office; providing that if the parties do not reach an agreement at the foreclosure mediation, or the mediation period expires without an extension by the Office, the foreclosure attorney may schedule the foreclosure sale; authorizing the mortgagor or grantor to file a motion to stay the foreclosure sale under certain circumstances;”; in line 22, after “occur;” insert

(Over)

“requiring that the revenue from certain filing fees be distributed to the Housing Counseling and Foreclosure Mediation Fund; establishing the Fund as a special, nonlapsing fund; providing for purposes, administration, and contents of the Fund;”; and in line 23, strike “making this Act an emergency measure;” and substitute “providing that until the Commissioner of Financial Regulation identifies certain information and prescribes a certain foreclosure process and time line, a certain notice of intent to foreclose shall be deemed to be in compliance with certain provisions of this Act; requiring the Commissioner of Financial Regulation to adopt certain regulations; providing that until the Commissioner of Financial Regulation adopts certain regulations, instructions regarding information and documents required for foreclosure mediation shall be deemed to be in compliance with certain provisions of this Act; providing that until the Commissioner of Financial Regulation adopts certain regulations, certain documents shall be in substantially a certain form; providing that when the Commissioner of Financial Regulation adopts certain regulations, certain documents may no longer be used and the documents prescribed by the regulations shall be used; authorizing the Governor to process certain budget amendments during a certain fiscal year that appropriate certain sums from the Housing Counseling and Foreclosure Mediation Fund to certain units of State government for certain purposes; requiring the Governor, for certain fiscal years, to appropriate a certain sum from the Fund to a certain unit of State government for a certain purpose; providing for the application of this Act;”.

On page 2, after line 5, insert:

“BY adding to
Article - Housing and Community Development
Section 4-507
Annotated Code of Maryland
(2006 Volume and 2009 Supplement)”;

and strike in their entirety lines 6 through 26, inclusive.

AMENDMENT NO. 2

On page 2, after line 32, insert:

“(2) “FINAL LOSS MITIGATION AFFIDAVIT” MEANS AN AFFIDAVIT THAT:

(I) IS MADE BY A PERSON AUTHORIZED TO ACT ON BEHALF OF A SECURED PARTY OF A MORTGAGE OR DEED OF TRUST ON OWNER-OCCUPIED RESIDENTIAL PROPERTY THAT IS THE SUBJECT OF A FORECLOSURE ACTION;

(II) CERTIFIES THE COMPLETION OF THE FINAL DETERMINATION OF LOSS MITIGATION ANALYSIS IN CONNECTION WITH THE MORTGAGE OR DEED OF TRUST; AND

(III) PROVIDES AN EXPLANATION FOR THE DENIAL OF A LOAN MODIFICATION OR OTHER LOSS MITIGATION.”;

in line 33, strike “(2)” and substitute “(3)”; in the same line, strike “SETTLEMENT”; and in line 34, strike “, AS DEFINED IN MARYLAND RULE 17-102(H)” and substitute **“AT WHICH THE PARTIES IN A FORECLOSURE ACTION, THEIR ATTORNEYS, ADDITIONAL REPRESENTATIVES OF THE PARTIES, OR A COMBINATION OF THOSE PERSONS APPEAR BEFORE AN IMPARTIAL INDIVIDUAL TO DISCUSS THE POSITIONS OF THE PARTIES IN AN ATTEMPT TO REACH AGREEMENT ON A LOSS MITIGATION PROGRAM FOR THE MORTGAGOR OR GRANTOR.**

(4) “HOUSING COUNSELING SERVICES” MEANS ASSISTANCE PROVIDED TO MORTGAGORS OR GRANTORS BY NONPROFIT ENTITIES THAT ARE IDENTIFIED ON A LIST MAINTAINED BY THE DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT.

(Over)

(5) “LOSS MITIGATION ANALYSIS” MEANS AN EVALUATION OF THE FACTS AND CIRCUMSTANCES OF A LOAN SECURED BY OWNER-OCCUPIED RESIDENTIAL PROPERTY TO DETERMINE:

(I) WHETHER A MORTGAGOR OR GRANTOR QUALIFIES FOR A LOAN MODIFICATION; AND

(II) IF THERE WILL BE NO LOAN MODIFICATION, WHETHER ANY OTHER LOSS MITIGATION PROGRAM MAY BE MADE AVAILABLE TO THE MORTGAGOR OR GRANTOR.

(6) “LOSS MITIGATION PROGRAM” MEANS AN OPTION IN CONNECTION WITH A LOAN SECURED BY OWNER-OCCUPIED RESIDENTIAL PROPERTY THAT:

(I) AVOIDS FORECLOSURE THROUGH LOAN MODIFICATION OR OTHER CHANGES TO EXISTING LOAN TERMS THAT ARE INTENDED TO ALLOW THE MORTGAGOR OR GRANTOR TO STAY IN THE PROPERTY;

(II) AVOIDS FORECLOSURE THROUGH A SHORT SALE, DEED IN LIEU OF FORECLOSURE, OR OTHER ALTERNATIVE THAT IS INTENDED TO SIMPLIFY THE MORTGAGOR’S OR GRANTOR’S RELINQUISHMENT OF OWNERSHIP OF THE PROPERTY; OR

(III) LESSENS THE HARMFUL IMPACT OF FORECLOSURE ON THE MORTGAGOR OR GRANTOR.

(7) “OWNER-OCCUPIED RESIDENTIAL PROPERTY” MEANS RESIDENTIAL PROPERTY IN WHICH AT LEAST ONE OF THE UNITS IS OCCUPIED BY AN INDIVIDUAL WHO:

(I) HAS AN OWNERSHIP INTEREST IN THE PROPERTY; AND

(II) USES THE PROPERTY AS THE INDIVIDUAL’S PRIMARY RESIDENCE.

(8) “PRELIMINARY LOSS MITIGATION AFFIDAVIT” MEANS AN AFFIDAVIT THAT:

(I) IS MADE BY A PERSON AUTHORIZED TO ACT ON BEHALF OF A SECURED PARTY OF A MORTGAGE OR DEED OF TRUST ON OWNER-OCCUPIED RESIDENTIAL PROPERTY THAT IS THE SUBJECT OF A FORECLOSURE ACTION;

(II) CERTIFIES THE STATUS OF AN INCOMPLETE LOSS MITIGATION ANALYSIS IN CONNECTION WITH THE MORTGAGE OR DEED OF TRUST; AND

(III) INCLUDES REASONS WHY THE LOSS MITIGATION ANALYSIS IS INCOMPLETE”.

On page 3, strike in their entirety lines 1 through 5, inclusive; and in line 6, strike “(4)” and substitute “(9)”.

AMENDMENT NO. 3

On page 4, in line 22, strike “NOTICE ENCOURAGING” and substitute “STATEMENT RECOMMENDING THAT”; in line 23, strike “TO”; strike beginning with

(Over)

“OF” in line 24 down through “HOTLINE” in line 25; and strike beginning with the second “THE” in line 25 down through “WEBSITE” in line 26 and substitute “NONPROFIT AND STATE GOVERNMENT RESOURCES AVAILABLE TO ASSIST MORTGAGORS AND GRANTORS FACING FORECLOSURE, AS IDENTIFIED BY THE COMMISSIONER OF FINANCIAL REGULATION”.

On page 5, strike beginning with “A” in line 6 down through “PARTICIPATES;” in line 7 and substitute “LOSS MITIGATION PROGRAMS THAT ARE APPLICABLE TO THE LOAN SECURED BY THE MORTGAGE OR DEED OF TRUST THAT IS THE SUBJECT OF THE FORECLOSURE ACTION; OR”; strike beginning with “FOR” in line 8 down through “REGULATION” in line 11 and substitute “IF THE SECURED PARTY DOES NOT HAVE ITS OWN LOSS MITIGATION APPLICATION, IN THE FORM PRESCRIBED”; strike beginning with “TO” in line 12 down through “PARTY” in line 14; in line 18, strike “AN EXPLANATION” and substitute “A DESCRIPTION”; in line 19, strike “FEDERAL”; in the same line, strike “PROGRAM IN WHICH” and substitute “PROGRAMS OFFERED BY”; strike beginning with the comma in line 19 down through “PROGRAM;” in line 22 and substitute “THAT MAY BE APPLICABLE TO THE LOAN SECURED BY THE MORTGAGE OR DEED OF TRUST THAT IS THE SUBJECT OF THE FORECLOSURE ACTION; AND”; strike in their entirety lines 23 through 28, inclusive; in line 29, strike “(V) A STAMPED” and substitute “(IV) AN”; in line 30, after the first “THE” insert “PERSON RESPONSIBLE FOR CONDUCTING”; strike beginning with “DEPARTMENT” in line 30 down through “OF” in line 32 and substitute “ANALYSIS FOR”; and in line 32, strike “MORTGAGE LOAN” and substitute “LOAN SECURED BY THE MORTGAGE OR DEED OF TRUST THAT IS THE SUBJECT OF THE FORECLOSURE ACTION”.

AMENDMENT NO. 4

On pages 6 through 14, strike in their entirety the lines beginning with line 27 on page 6 through line 18 on page 14, inclusive.

On page 14, after line 18, insert:

“(VII) IN ADDITION TO ANY OTHER FILING FEES REQUIRED BY LAW, A FILING FEE IN THE AMOUNT OF \$300;

(VIII) SUBJECT TO SUBSECTION (E) OF THIS SECTION:

1. IF THE LOSS MITIGATION ANALYSIS HAS BEEN COMPLETED, A FINAL LOSS MITIGATION AFFIDAVIT IN THE FORM PRESCRIBED BY REGULATION ADOPTED BY THE COMMISSIONER OF FINANCIAL REGULATION; AND

2. IF THE LOSS MITIGATION ANALYSIS HAS NOT BEEN COMPLETED:

A. A PRELIMINARY LOSS MITIGATION AFFIDAVIT IN THE FORM PRESCRIBED BY REGULATION ADOPTED BY THE COMMISSIONER OF FINANCIAL REGULATION;

B. THE LOSS MITIGATION APPLICATION AND A DESCRIPTION OF THE ELIGIBILITY REQUIREMENTS FOR LOSS MITIGATION PROGRAMS OFFERED BY THE SECURED PARTY AS DESCRIBED IN SUBSECTION (C)(5) OF THIS SECTION;

C. INSTRUCTIONS FOR COMPLETING THE LOSS MITIGATION APPLICATION, INCLUDING INSTRUCTIONS TO RETURN THE COMPLETED APPLICATION TO THE ATTORNEY HANDLING THE FORECLOSURE; AND

(Over)

D. AN ENVELOPE PREPRINTED WITH THE ADDRESS OF THE ATTORNEY HANDLING THE FORECLOSURE;;

and in line 19, after “mortgagor” insert “OR GRANTOR”.

On page 15, strike in their entirety lines 1 through 8, inclusive, and substitute:

“IF YOU OWN AND LIVE IN THE HOME THAT IS SUBJECT TO FORECLOSURE, YOUR LENDER MAY BE REQUIRED TO CONDUCT AN ANALYSIS OF YOUR LOAN TO SEE IF YOU QUALIFY FOR A LOAN MODIFICATION OR SOME OTHER LOSS MITIGATION. YOU MUST APPLY AND PROVIDE YOUR LENDER WITH SPECIFIC INFORMATION AS PART OF THIS ANALYSIS. THE RESULTS OF YOUR LENDER’S ANALYSIS OF YOUR LOAN WILL BE PROVIDED TO YOU IN THE FORM OF AN AFFIDAVIT SUBMITTED TO THE COURT.

IF YOUR LENDER DETERMINES THAT YOU ARE NOT ELIGIBLE FOR ANY LOAN MODIFICATION OR OTHER RELIEF, YOU HAVE THE RIGHT TO FILE A REQUEST WITH THE COURT AND HAVE FORECLOSURE MEDIATION. THIS WILL BE A CONFERENCE WITH SOMEONE REPRESENTING YOUR LENDER AND A NEUTRAL THIRD PARTY TO DISCUSS YOUR LOAN AND POSSIBLE OPTIONS. TO REQUEST FORECLOSURE MEDIATION, YOU MUST COMPLETE THE REQUEST FOR FORECLOSURE MEDIATION FORM THAT WILL ACCOMPANY THE LENDER’S FINAL LOSS MITIGATION AFFIDAVIT AND MAIL IT TO THE COURT AND THE FORECLOSURE ATTORNEY WITHIN 15 DAYS AFTER RECEIPT. IF YOU FILE A REQUEST FOR FORECLOSURE MEDIATION, YOUR PROPERTY CANNOT GO TO SALE UNTIL AT LEAST 15 DAYS AFTER YOUR MEDIATION HAS BEEN HELD.”;

in line 10, after “discuss” insert “POSSIBLE LOSS MITIGATION PROGRAMS,”; in the same line, after “MEDIATION” insert a comma; and strike beginning with the comma in line 11 down through “occurs” in line 13.

On pages 15 and 16, strike in their entirety the lines beginning with line 30 on page 15 through line 2 on page 16, inclusive, and substitute:

“AND

(X) IF THE ORDER TO DOCKET OR COMPLAINT TO FORECLOSE CONCERNS OWNER-OCCUPIED RESIDENTIAL PROPERTY AND IS ACCOMPANIED BY A FINAL LOSS MITIGATION AFFIDAVIT:

1. A REQUEST FOR FORECLOSURE MEDIATION IN THE FORM PRESCRIBED BY REGULATION ADOPTED BY THE COMMISSIONER OF FINANCIAL REGULATION; AND

2. AN ENVELOPE PREPRINTED WITH THE ADDRESS OF THE CLERK OF THE COURT; AND

3. AN ENVELOPE PREPRINTED WITH THE ADDRESS OF THE FORECLOSURE ATTORNEY.

(E) FOR PURPOSES OF A FINAL LOSS MITIGATION AFFIDAVIT THAT IS FILED WITH AN ORDER TO DOCKET OR COMPLAINT TO FORECLOSE, A LOSS MITIGATION ANALYSIS IS NOT CONSIDERED COMPLETE IF THE REASON FOR THE DENIAL OR DETERMINATION OF INELIGIBILITY IS DUE TO THE INABILITY OF THE SECURED PARTY TO:

(1) ESTABLISH COMMUNICATION WITH THE MORTGAGOR OR GRANTOR; OR

(Over)

(2) OBTAIN ALL DOCUMENTATION AND INFORMATION NECESSARY TO CONDUCT THE LOSS MITIGATION ANALYSIS.”;

in line 3, strike “(e)” and substitute “(F)”; and after line 23, insert:

“(G) (1) IF THE ORDER TO DOCKET OR COMPLAINT TO FORECLOSE IS ACCOMPANIED BY A PRELIMINARY LOSS MITIGATION AFFIDAVIT, THE SECURED PARTY, AT LEAST 30 DAYS BEFORE THE DATE OF A FORECLOSURE SALE, SHALL:

(I) FILE WITH THE COURT A FINAL LOSS MITIGATION AFFIDAVIT IN THE FORM PRESCRIBED BY REGULATION ADOPTED BY THE COMMISSIONER OF FINANCIAL REGULATION; AND

(II) SEND TO THE MORTGAGOR OR GRANTOR BY FIRST CLASS AND BY CERTIFIED MAIL:

1. A COPY OF THE FINAL LOSS MITIGATION AFFIDAVIT; AND

2. A REQUEST FOR FORECLOSURE MEDIATION FORM AND ENVELOPES DESCRIBED IN SUBSECTION (D)(2)(X) OF THIS SECTION.

(2) A FINAL LOSS MITIGATION AFFIDAVIT SHALL BE FILED UNDER THIS SUBSECTION NO EARLIER THAN 28 DAYS AFTER THE ORDER TO DOCKET OR COMPLAINT TO FORECLOSE IS SERVED ON THE MORTGAGOR OR GRANTOR.”.

AMENDMENT NO. 5

On page 16, strike in their entirety lines 24 through 33, inclusive, and substitute:

“(H) (1) (I) IN A FORECLOSURE ACTION ON OWNER-OCCUPIED RESIDENTIAL PROPERTY, THE MORTGAGOR OR GRANTOR MAY FILE WITH THE COURT A COMPLETED REQUEST FOR FORECLOSURE MEDIATION NOT LATER THAN:

1. IF THE FINAL LOSS MITIGATION AFFIDAVIT WAS DELIVERED ALONG WITH SERVICE OF THE COPY OF THE ORDER TO DOCKET OR COMPLAINT TO FORECLOSE UNDER SUBSECTION (F) OF THIS SECTION, 15 DAYS AFTER THAT SERVICE ON THE MORTGAGOR OR GRANTOR; OR

2. IF THE FINAL LOSS MITIGATION AFFIDAVIT WAS MAILED AS PROVIDED IN SUBSECTION (G) OF THIS SECTION, 15 DAYS AFTER THE MAILING OF THE FINAL LOSS MITIGATION AFFIDAVIT.

(II) 1. A REQUEST FOR FORECLOSURE MEDIATION SHALL BE ACCOMPANIED BY A FILING FEE OF \$50.

2. THE COURT MAY REDUCE OR WAIVE THE FILING FEE UNDER SUBSUBPARAGRAPH 1 OF THIS SUBPARAGRAPH IF THE MORTGAGOR OR GRANTOR IS ELIGIBLE FOR A REDUCTION OR WAIVER UNDER THE MARYLAND LEGAL SERVICES GUIDELINES.

(III) THE MORTGAGOR OR GRANTOR SHALL MAIL A COPY OF THE REQUEST FOR FORECLOSURE MEDIATION TO THE FORECLOSURE ATTORNEY.

(2) (I) THE SECURED PARTY MAY FILE A MOTION TO STRIKE THE REQUEST FOR FORECLOSURE MEDIATION IN ACCORDANCE WITH THE MARYLAND RULES.

(II) THE MOTION TO STRIKE MUST BE ACCOMPANIED BY AN AFFIDAVIT THAT SETS FORTH THE REASONS WHY FORECLOSURE MEDIATION IS NOT APPROPRIATE.

(III) THE SECURED PARTY SHALL MAIL A COPY OF THE MOTION TO STRIKE AND THE ACCOMPANYING AFFIDAVIT TO THE MORTGAGOR OR GRANTOR.

(IV) THERE IS A PRESUMPTION THAT A MORTGAGOR OR GRANTOR IS ENTITLED TO FORECLOSURE MEDIATION UNLESS GOOD CAUSE IS SHOWN WHY FORECLOSURE MEDIATION IS NOT APPROPRIATE.

(3) (I) THE MORTGAGOR OR GRANTOR MAY FILE A RESPONSE TO THE MOTION TO STRIKE WITHIN 15 DAYS.

(II) THE MORTGAGOR OR GRANTOR SHALL MAIL A COPY OF THE RESPONSE TO THE FORECLOSURE ATTORNEY.

(III) IF THE COURT GRANTS THE MOTION TO STRIKE, THE COURT SHALL INSTRUCT THE OFFICE OF ADMINISTRATIVE HEARINGS TO CANCEL ANY SCHEDULED MEDIATION.

(I) (1) WITHIN 5 DAYS AFTER RECEIPT OF A REQUEST FOR FORECLOSURE MEDIATION, THE COURT SHALL FORWARD THE REQUEST TO THE OFFICE OF ADMINISTRATIVE HEARINGS FOR SCHEDULING.

(2) WITHIN 60 DAYS AFTER RECEIPT OF THE REQUEST FOR FORECLOSURE MEDIATION, THE OFFICE OF ADMINISTRATIVE HEARINGS SHALL CONDUCT A FORECLOSURE MEDIATION.

(3) THE OFFICE OF ADMINISTRATIVE HEARINGS SHALL SEND NOTICE OF THE SCHEDULED FORECLOSURE MEDIATION TO THE FORECLOSURE ATTORNEY, THE SECURED PARTY, AND THE MORTGAGOR OR GRANTOR.

(4) THE NOTICE FROM THE OFFICE OF ADMINISTRATIVE HEARINGS SHALL:

(i) INCLUDE INSTRUCTIONS REGARDING THE DOCUMENTS AND INFORMATION, AS REQUIRED BY REGULATIONS ADOPTED BY THE COMMISSIONER OF FINANCIAL REGULATION, THAT MUST BE PROVIDED BY EACH PARTY TO THE OTHER PARTY AND TO THE MEDIATOR; AND

(ii) REQUIRE THE INFORMATION AND DOCUMENTS TO BE PROVIDED NO LATER THAN 20 DAYS BEFORE THE SCHEDULED DATE OF THE FORECLOSURE MEDIATION.

(j) (1) AT A FORECLOSURE MEDIATION:

(i) THE MORTGAGOR OR GRANTOR SHALL BE PRESENT;

(ii) THE MORTGAGOR OR GRANTOR MAY BE ACCOMPANIED BY A HOUSING COUNSELOR AND MAY HAVE LEGAL REPRESENTATION;

(iii) THE SECURED PARTY, OR A REPRESENTATIVE OF THE SECURED PARTY, SHALL BE PRESENT; AND

(Over)

(IV) ANY REPRESENTATIVE OF THE SECURED PARTY MUST HAVE THE AUTHORITY TO SETTLE THE MATTER OR BE ABLE TO READILY CONTACT A PERSON WITH AUTHORITY TO SETTLE THE MATTER.

(2) AT THE FORECLOSURE MEDIATION, THE PARTIES AND THE MEDIATOR SHALL ADDRESS LOSS MITIGATION PROGRAMS THAT MAY BE APPLICABLE TO THE LOAN SECURED BY THE MORTGAGE OR DEED OF TRUST THAT IS THE SUBJECT OF THE FORECLOSURE ACTION.

(3) THE OFFICE OF ADMINISTRATIVE HEARINGS SHALL FILE A REPORT WITH THE COURT THAT STATES THE OUTCOME OF THE REQUEST FOR FORECLOSURE MEDIATION:

(I) WITHIN 5 DAYS AFTER A FORECLOSURE MEDIATION IS HELD; OR

(II) AT THE END OF THE 60-DAY MEDIATION PERIOD SPECIFIED IN SUBSECTION (I)(2) OF THIS SECTION, PLUS ANY EXTENSION GRANTED BY THE OFFICE OF ADMINISTRATIVE HEARINGS.

(4) EXCEPT FOR A REQUEST FOR POSTPONEMENT, THE RULES OF PROCEDURE FOR CONTESTED CASES OF THE OFFICE OF ADMINISTRATIVE HEARINGS DO NOT GOVERN A FORECLOSURE MEDIATION CONDUCTED BY THE OFFICE.”.

On page 17, strike in their entirety lines 1 through 14, inclusive, and substitute:

“(K) (1) IF THE PARTIES DO NOT REACH AN AGREEMENT AT THE FORECLOSURE MEDIATION, OR THE 60-DAY MEDIATION PERIOD EXPIRES

WITHOUT AN EXTENSION GRANTED BY THE OFFICE OF ADMINISTRATIVE HEARINGS, THE FORECLOSURE ATTORNEY MAY SCHEDULE THE FORECLOSURE SALE.

(2) (I) SUBJECT TO SUBPARAGRAPHS (II), (III), AND (IV) OF THIS PARAGRAPH, THE MORTGAGOR OR GRANTOR MAY FILE A MOTION TO STAY THE FORECLOSURE SALE.

(II) A MOTION TO STAY UNDER THIS PARAGRAPH SHALL BE FILED WITHIN 15 DAYS AFTER:

1. THE DATE THE FORECLOSURE MEDIATION IS HELD; OR

2. IF NO FORECLOSURE MEDIATION IS HELD, THE DATE THE OFFICE OF ADMINISTRATIVE HEARINGS FILES ITS REPORT WITH THE COURT.

(III) A MOTION TO STAY UNDER THIS PARAGRAPH MUST ALLEGE SPECIFIC REASONS WHY LOSS MITIGATION SHOULD HAVE BEEN GRANTED.”;

in line 15, strike “(III)” and substitute “(3)”; in line 16, strike “DEFENDANT” and substitute “MORTGAGOR OR GRANTOR”; in the same line, after “REMEDY” insert “OR LEGAL DEFENSE”; and in the same line, strike “UNDER LAW” and substitute “TO THE MORTGAGOR OR GRANTOR”.

AMENDMENT NO. 6

On page 17, in line 17, strike “(G)” and substitute “(L)”; strike in their entirety lines 18 through 27, inclusive, and substitute:

(Over)

“(1) IF THE RESIDENTIAL PROPERTY IS NOT OWNER-OCCUPIED RESIDENTIAL PROPERTY, AT LEAST 45 DAYS AFTER SERVICE OF PROCESS IS MADE UNDER SUBSECTION (F) OF THIS SECTION;

(2) IF THE RESIDENTIAL PROPERTY IS OWNER-OCCUPIED RESIDENTIAL PROPERTY AND FORECLOSURE MEDIATION IS NOT HELD, THE LATER OF:

(I) AT LEAST 45 DAYS AFTER SERVICE OF PROCESS THAT INCLUDES A FINAL LOSS MITIGATION AFFIDAVIT MADE UNDER SUBSECTION (F) OF THIS SECTION; OR

(II) AT LEAST 30 DAYS AFTER A FINAL LOSS MITIGATION AFFIDAVIT IS MAILED UNDER SUBSECTION (G) OF THIS SECTION; AND

(3) IF THE RESIDENTIAL PROPERTY IS OWNER-OCCUPIED RESIDENTIAL PROPERTY AND FORECLOSURE MEDIATION IS REQUESTED, AT LEAST 15 DAYS AFTER:

(I) THE DATE THE FORECLOSURE MEDIATION IS HELD; OR

(II) IF NO FORECLOSURE MEDIATION IS HELD, THE DATE THE OFFICE OF ADMINISTRATIVE HEARINGS FILES ITS REPORT WITH THE COURT.”;

and in line 28, strike “(H)” and substitute “(M)”.

AMENDMENT NO. 7

On page 18, in lines 1 and 8, strike “(I)” and “(J)”, respectively, and substitute “(N)” and “(O)”, respectively; and after line 9, insert:

“(P) REVENUE COLLECTED FROM THE FILING FEES REQUIRED UNDER SUBSECTIONS (D)(2)(VII) AND (H)(1)(II) OF THIS SECTION SHALL BE DISTRIBUTED TO THE HOUSING COUNSELING AND FORECLOSURE MEDIATION FUND ESTABLISHED UNDER § 4-507 OF THE HOUSING AND COMMUNITY DEVELOPMENT ARTICLE.

Article – Housing and Community Development

4-507.

(A) IN THIS SECTION, “FUND” MEANS THE HOUSING COUNSELING AND FORECLOSURE MEDIATION FUND.

(B) THERE IS A HOUSING COUNSELING AND FORECLOSURE MEDIATION FUND.

(C) THE PURPOSES OF THE FUND ARE TO:

(1) SUPPORT NONPROFIT AND GOVERNMENT HOUSING COUNSELORS AND OTHER NONPROFIT ENTITIES WITH PROVIDING:

(i) LEGAL ASSISTANCE TO HOMEOWNERS WHO ARE TRYING TO AVOID FORECLOSURE OR MANAGE FORECLOSURE PROCEEDINGS; AND

(Over)

(II) HOMEBUYER EDUCATION, HOUSING ADVICE, OR FINANCIAL COUNSELING FOR HOMEOWNERS AND PROSPECTIVE HOMEOWNERS;

(2) SUPPORT THE ESTABLISHMENT AND OPERATION OF NONPROFIT HOUSING COUNSELING ENTITIES;

(3) SUPPORT EFFORTS BY THE DEPARTMENT AND THE DEPARTMENT OF LABOR, LICENSING, AND REGULATION TO:

(I) CONTACT AND PROVIDE ADVICE AND ASSISTANCE TO HOMEOWNERS FACING FINANCIAL DIFFICULTY; AND

(II) PROVIDE ADVICE AND ASSISTANCE TO PROSPECTIVE HOMEOWNERS; AND

(4) ASSIST IN FUNDING THE COSTS OF FORECLOSURE MEDIATIONS PROVIDED BY THE OFFICE OF ADMINISTRATIVE HEARINGS UNDER § 7-105.1 OF THE REAL PROPERTY ARTICLE.

(D) THE DEPARTMENT SHALL ADMINISTER THE FUND.

(E) (1) THE FUND IS A SPECIAL, NONLAPSING FUND THAT IS NOT SUBJECT TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

(2) THE STATE TREASURER SHALL HOLD THE FUND SEPARATELY, AND THE COMPTROLLER SHALL ACCOUNT FOR THE FUND.

(F) THE FUND CONSISTS OF:

(1) REVENUE DISTRIBUTED TO THE FUND UNDER § 7-105.1 OF THE REAL PROPERTY ARTICLE;

(2) INVESTMENT EARNINGS OF THE FUND;

(3) MONEY APPROPRIATED IN THE STATE BUDGET TO THE FUND;
AND

(4) ANY OTHER MONEY FROM ANY OTHER SOURCE ACCEPTED FOR THE BENEFIT OF THE FUND.

(G) THE FUND MAY BE USED ONLY FOR THE PURPOSES DESCRIBED IN SUBSECTION (C) OF THIS SECTION.

(H) (1) THE STATE TREASURER SHALL INVEST THE MONEY OF THE FUND IN THE SAME MANNER AS OTHER STATE MONEY MAY BE INVESTED.

(2) ANY INVESTMENT EARNINGS OF THE FUND SHALL BE PAID INTO THE FUND.

(I) EXPENDITURES FROM THE FUND MAY BE MADE ONLY IN ACCORDANCE WITH THE STATE BUDGET.”.

AMENDMENT NO. 8

On page 18, before line 10, insert:

“SECTION 2. AND BE IT FURTHER ENACTED, That, until the Commissioner of Financial Regulation identifies information regarding nonprofit and State government resources available to assist mortgagors and grantors facing foreclosure and prescribes the foreclosure process and time line that are required to be included in

(Over)

a notice of intent to foreclose under § 7-105.1(c)(4)(ii)5 and 6 of the Real Property Article, as enacted by Section 1 of this Act, a notice of intent to foreclose shall be deemed to be in compliance with § 7-105.1(c)(4)(ii)5 and 6 of the Real Property Article, as enacted by Section 1 of this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That the Commissioner of Financial Regulation shall adopt regulations to prescribe the form and content of the following items required under this Act:

- (1) Final Loss Mitigation Affidavit;
- (2) Preliminary Loss Mitigation Affidavit;
- (3) Request for Foreclosure Mediation; and
- (4) Instructions regarding documents and information required for foreclosure mediation.

SECTION 4. AND BE IT FURTHER ENACTED, That until the Commissioner of Financial Regulation adopts the regulations required under Section 3 of this Act:

(1) instructions regarding information and documents required for foreclosure mediation required under § 7-105.1(i)(4) of the Real Property Article, as enacted by Section 1 of this Act, shall be deemed to be in compliance with § 7-105.1(i)(4) of the Real Property Article, as enacted by Section 1 of this Act; and

(2) the following documents required under § 7-105.1 of the Real Property Article, as enacted by Section 1 of this Act, shall be in substantially the following form:

- (i) Final Loss Mitigation Affidavit

FINAL LOSS MITIGATION AFFIDAVIT

My name is _____ . I am authorized to act on behalf of the holder of the beneficial interest in the mortgage or deed of trust that is the subject of the above-referenced case, and I state the following:

- Yes No The mortgage loan is owned, securitized, insured, or guaranteed by FNMA, FHLMC, or FHA or the servicing agent is participating in the federal Making Home Affordable Program or a similar loss mitigation program.
- The mortgage loan that is the subject of this foreclosure action is not eligible for loss mitigation because:
- The property is not the primary residence of at least one of the borrowers.
 - The property has more than four dwelling units.
 - The property is vacant or condemned.
 - The mortgage loan is not a first mortgage.
 - The amount of the mortgage loan makes it ineligible under all relevant loss mitigation programs.
 - The borrower's income makes the borrower ineligible under all relevant loss mitigation programs.
 - The borrower has already failed a modification trial period plan.
 - Other: _____.

(Over)

- The mortgage loan that is the subject of this foreclosure action is eligible for loan modification or loss mitigation, and loan modification or loss mitigation has been denied.

- No other loss mitigation options have been identified as appropriate.

I affirm that the content of the foregoing affidavit is true to the best of my knowledge, information, and belief.

Executed on _____, 20__.

By: _____

Print Name: _____

Title: _____;

(ii) Preliminary Loss Mitigation Affidavit

PRELIMINARY LOSS MITIGATION AFFIDAVIT

My name is _____ . I am authorized to act on behalf of the holder of the beneficial interest in the mortgage or deed of trust that is the subject of the above-referenced case, and I state the following:

- Yes No The mortgage loan is owned, securitized, insured, or guaranteed by FNMA, FHLMC, or FHA or the servicing agent is participating in the federal Making Home Affordable Program or in a similar loss mitigation program.

The mortgage loan that is the subject of this foreclosure action may be eligible for loss mitigation and:

- The loan currently is under loss mitigation analysis, but the analysis has not yet been completed.
- The servicer has not received all the information from the borrower that the servicer needs to perform a loss mitigation analysis.
- The servicer has had no contact with the borrower.
- Other _____.

I affirm that the content of the foregoing affidavit is true to the best of my knowledge, information, and belief.

Executed on _____, 20__.

By: _____

Print Name: _____

Title: _____ ; and

(iii) Request for Foreclosure Mediation

REQUEST FOR FORECLOSURE MEDIATION

Instructions to Borrower [as completed by Plaintiff]:

(Over)

This Request for Foreclosure Mediation is to be completed and filed in the Circuit Court for (appropriate court), Case Number (appropriate case number or identifier).

The court's address is: (address of the appropriate court). The foreclosure attorney's address is: (address).

This form must be filed with the court and sent to the foreclosure attorney before (date, which is not less than 15 days after either service of the order to docket or complaint to foreclose or the mailing of the final loss mitigation affidavit, whichever is later).

Please read carefully! If you have questions or are unsure about how to fill out this form, contact the Maryland Foreclosure Hotline at (phone number) or go to the website at (web address).

You must file this form with the court at the address above and you must also mail a copy to the foreclosure attorney at the address above.

You must pay \$50 when you file this form or it will be ineffective. If the form is ineffective, you will not be scheduled for foreclosure mediation and the foreclosure sale of your home can proceed.

DO NOT DELAY! You must file this form with the court and mail it to the foreclosure attorney before the date identified above.

Keep a copy of everything you send. Get a mail receipt confirmation for your records to show the date you sent everything.

My name is _____ . I request that this court schedule a foreclosure mediation. I understand that a foreclosure mediation is an opportunity for a meeting with a neutral third party who will try to assist me and my lender to reach an agreement about the foreclosure of my home. I also understand I must qualify for loan

modification or other relief and that making this request does not guarantee that I will receive a loan modification or other relief.

The following answers will assist in the foreclosure mediation process:

Yes No I requested a loan modification and I believe my loan should have been modified.

Yes No I was not given an opportunity to see if my loan could be modified but I think I deserve that opportunity.

Yes No The property is my home and I live there.

Yes No The property does not have more than four dwelling units.

Yes No I have not failed a trial modification plan and have not failed a prior modification under a federal loan modification program.

Yes No If no loan modification or other option will work, I am willing to discuss giving up my home and the best way to do that.

\$ This is my estimated current total gross monthly income (from all sources, and including co-borrower's income).

MEDIATION FEE

Yes No I have enclosed my \$50 fee for filing this Request for Foreclosure Mediation.

Yes No I am requesting the Court to reduce or waive my filing fee because I qualify for free legal services under court guidelines.

(Over)

I affirm that the content of the foregoing affidavit is true to the best of my knowledge, information, and belief.

Executed on _____, 20__.

By: _____

Print Name: _____

Title: _____.

SECTION 5. AND BE IT FURTHER ENACTED, That when the Commissioner of Financial Regulation adopts regulations as required under Section 3 of this Act, the documents described in Section 4(2) of this Act may no longer be used and the documents prescribed by regulations adopted by the Commissioner shall be used.”.

AMENDMENT NO. 9

On page 18, strike in their entirety lines 10 through 14, inclusive, and substitute:

“SECTION 6. AND BE IT FURTHER ENACTED, That:

(a) The Governor is authorized to process a budget amendment during fiscal year 2011 that appropriates \$250,000 from the Housing Counseling and Foreclosure Mediation Fund established under § 4-507 of the Housing and Community Development Article, as enacted by Section 1 of this Act, for the purpose of paying the Department of Labor, Licensing, and Regulation’s costs to implement an electronic system to track and retrieve data gathered under § 7-105.1 of the Real Property Article, as enacted by Section 1 of this Act, and staffing related outreach functions.

(b) For each of fiscal years 2012, 2013, and 2014, at least \$150,000 of the money in the Housing Counseling and Foreclosure Mediation Fund established under § 4-507 of the Housing and Community Development Article, as enacted by Section 1 of this Act, shall be appropriated by the Governor in the budget of the Department of Labor, Licensing, and Regulation to cover the cost of staffing outreach functions

related to the electronic tracking and retrieval system implemented by the Department.

SECTION 7. AND BE IT FURTHER ENACTED, That the Governor is authorized to process a budget amendment during fiscal year 2011 that appropriates \$300,000 from the Housing Counseling and Foreclosure Mediation Fund established under the Housing and Community Development Article, as enacted by Section 1 of this Act, for the purpose of paying the Administrative Office of the Courts' costs to process foreclosure actions in heavily impacted jurisdictions in the State.

SECTION 8. 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 filed before the effective date of this Act.

SECTION 9. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2010."