

Department of Legislative Services
 Maryland General Assembly
 2010 Session

FISCAL AND POLICY NOTE

Revised

House Bill 472

(Delegate Niemann and the Speaker, *et al.*) (By Request - Administration)

Environmental Matters

Judicial Proceedings

Real Property - Residential Property Foreclosure Procedures - Foreclosure Mediation

This Administration bill establishes processes for loan modification or mitigation and mediation relating to foreclosure activity on residential property. The bill requires that an application for a loan modification or loss mitigation program be sent to the borrower and record owner of a residential property at least 45 days before a foreclosure action is filed. A lender must complete a loss mitigation analysis no later than 30 days before the date of a foreclosure sale. If the residential property subject to the foreclosure action is owner-occupied, the mortgagor or grantor (borrower) may request a foreclosure mediation conducted by the Office of Administrative Hearings (OAH) before the foreclosure sale is scheduled. The bill imposes an additional \$300 filing fee on every order to docket or complaint to foreclose a mortgage or deed of trust on residential property and requires a borrower to pay a \$50 filing fee with a request for foreclosure mediation. Filing fee revenue must be distributed to the newly created Housing Counseling and Foreclosure Mediation Fund administered by the Department of Housing and Community Development (DCHD).

The bill takes effect July 1, 2010, and applies only prospectively to any order to docket or complaint to foreclose on residential property filed on or after the bill's effective date.

Fiscal Summary

State Effect: Housing Counseling and Foreclosure Mediation Fund revenues increase by \$11.1 million in FY 2011 from additional filing fees imposed on order to dockets and foreclosure mediation requests. Out-years assume a year-over-year decline in foreclosure filings and corresponding filing fee revenues. Special fund expenditures increase by \$1.83 million in FY 2011 for additional OAH personnel to staff foreclosure mediations, the Judiciary's costs associated with heavily impacted jurisdictions, and related

Department of Labor, Licensing, and Regulation (DLLR) expenditures as discussed below. DHCD expenditures related to housing counseling have not been quantified. Future year expenditures reflect ongoing costs. **This bill establishes a mandated appropriation beginning in FY 2012.**

(in dollars)	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
SF Revenue	\$11,121,300	\$7,853,800	\$5,575,900	\$3,958,700	\$2,810,600
SF Expenditure	\$1,833,000	\$1,417,100	\$1,468,300	\$1,521,900	\$1,578,300
Net Effect	\$9,288,300	\$6,436,700	\$4,107,600	\$2,436,800	\$1,232,300

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: No effect on local finances or operations.

Small Business Effect: The Administration has determined that this bill has minimal or no impact on small business (attached). Legislative Services concurs with this assessment, as explained below. (The attached assessment does not reflect amendments to the bill.)

Analysis

Bill Summary:

Additional Requirements for a Notice of Intent to Foreclose

The bill requires a notice of intent to foreclose to include a statement recommending the borrower to seek housing counseling services. The notice of intent to foreclose must also contain specified contact information about nonprofit and government foreclosure assistance programs and an explanation and timeline for the residential foreclosure process in Maryland.

The borrower and the record owner of the property must be sent the following documents along with the notice of intent to foreclose and the applicable loss mitigation application at least 45 days before the order to docket or complaint to foreclose is filed:

- instructions for completing the loss mitigation application and a telephone number to call to confirm receipt of the application;
- a description of the eligibility requirements for the applicable loss mitigation programs offered by the secured party; and
- an envelope preprinted with the address of the person responsible for conducting the loss mitigation analysis on behalf of the secured party.

A “loss mitigation program” includes options in connection with a loan secured by owner-occupied residential property that avoid foreclosure through a loan modification or other loan workout, present alternatives to simplify relinquishment of the property (such as a short sale or deed in lieu of foreclosure), or lessen the harmful impact of foreclosure on the borrower.

Preliminary or Final Loss Mitigation Affidavit to Accompany an Order to Docket

An order to docket or complaint to foreclose a mortgage or deed of trust on residential property must include payment of an additional \$300 filing fee and be accompanied by:

- if a loss mitigation analysis has been completed, a final loss mitigation affidavit; or
- if a loss mitigation analysis has not been completed, a preliminary loss mitigation affidavit; the loss mitigation application and a description of the eligibility requirements for specified loss mitigation programs; instructions for completing the application; and an envelope preprinted with the address of the foreclosure attorney.

If the order to docket or complaint to foreclose a mortgage concerns owner-occupied residential property and is accompanied by a final loss mitigation affidavit, a form for the homeowner to request foreclosure mediation must also be included. However, if a preliminary loss mitigation affidavit is filed with the order to docket or complaint to foreclose, the secured party must file a final loss mitigation affidavit at least 30 days before the date of the foreclosure sale, and no earlier than 28 days after the order to docket or complaint to foreclose is served on the homeowner. At least 30 days before the date of a foreclosure sale, the secured party must send to the borrower a copy of the final loss mitigation affidavit and a form to request foreclosure mediation. The final loss mitigation affidavit must contain an explanation if a loan modification or other loss mitigation is denied.

Homeowner’s Request for Foreclosure Mediation

If the residential property is owner-occupied, the homeowner may file a request for foreclosure mediation with the court no later than 15 days after service or mailing of the final loss mitigation affidavit, provided the homeowner also pays a \$50 filing fee. The court may reduce or waive the fee if the borrower is eligible under the Maryland Legal Services guidelines.

The borrower must also send to the secured party a copy of the mediation request. The secured party may file a motion to strike the request in accordance with the Maryland

Rules. The bill establishes a presumption, however, that the borrower is entitled to mediation unless good cause is shown. If a motion to strike is filed, the borrower has the right to respond, as specified.

Within five days of receiving a foreclosure mediation request, the court must transmit the request to OAH for scheduling. OAH must conduct a mediation session within 60 days of the request being transmitted by the court. For good cause, OAH may extend the time for completing the mediation for an additional 30 days. OAH must also file a report with the court that states the outcome of the request for foreclosure mediation within the earlier of (1) five days after a foreclosure mediation is held; or (2) the end of the 60-day mediation period, plus any extension granted by OAH.

If the parties cannot reach an agreement during the foreclosure mediation or if the 60-day period expires without OAH granting an extension, the foreclosure attorney may schedule the foreclosure sale. However, a homeowner may file a motion to stay the foreclosure sale that alleges specific reasons why loss mitigation should have been granted within 15 days after:

- the date the foreclosure mediation is held; or
- if a foreclosure mediation is not held, the date OAH files its report with the court.

Amended Timeline for a Foreclosure Sale of Residential Property

A foreclosure sale of nonowner-occupied residential property may not occur until at least 45 days after the borrower is properly served with a copy of the order to docket or complaint to foreclose. However, if the residential property is owner-occupied and foreclosure mediation is not held, the foreclosure sale may not occur until the later of:

- at least 45 days after service of process that includes a final loss mitigation affidavit; or
- at least 30 days after mailing of a final loss mitigation affidavit.

If the residential property is owner-occupied and the homeowner requests foreclosure mediation, the foreclosure sale may not occur until at least 15 days after the foreclosure mediation is held. In the event a foreclosure mediation is not held, the foreclosure sale may not take place until at least 15 days after the date OAH files its report with the court.

Housing Counseling and Foreclosure Mediation Fund

The bill creates the Housing Counseling and Foreclosure Mediation Fund administered by DHCD to:

- support nonprofit and government housing counselors and other nonprofit entities with providing foreclosure-related legal assistance to homeowners or occupants and homebuyer education services;
- support the establishment and operation of nonprofit housing counseling entities;
- support efforts by DHCD and DLLR to provide advice and assistance to homeowners or occupants facing financial difficulty or foreclosure; and
- assist in funding the costs of foreclosure mediations conducted by OAH.

The fund consists of the \$300 filing fee that accompanies an order to docket or complaint to foreclose, the \$50 filing fee that accompanies the request for foreclosure mediation, investment earnings, money appropriated in the State budget to the fund, and any other money from any other source accepted for the benefit of the fund.

The bill authorizes the Governor to process a budget amendment in fiscal 2011 that appropriates \$250,000 from the fund to DLLR to pay for the development and implementation of an electronic system to track, receive, and store information contained in the copies of the notices of intent to foreclose sent to Commissioner of Financial Regulation. In fiscal 2012 through 2014, the Governor must appropriate at least \$150,000 annually from the fund in the DLLR budget to cover related staffing and outreach expenditures.

In fiscal 2011, the Governor is authorized to process a budget amendment that appropriates \$300,000 from the fund to pay the Administrative Office of the Courts' (AOC) costs of processing foreclosure actions in heavily impacted jurisdictions in the State.

Current Law:

Foreclosure Process – Filing

“Residential property” is defined as real property improved by four or fewer single-family dwelling units designed principally and intended for human habitation. Except under specified circumstances, an action to foreclose a mortgage or deed of trust on residential property cannot be filed until the later of 90 days after a default in a condition on which the mortgage or deed of trust states that a sale may be made or 45 days after a notice of intent to foreclose is sent. (*See Real Property Article § 7-105.1(a)-(b).*)

A written notice of intent to foreclose must be sent to the borrower and the record owner at least 45 days before the filing of an action to foreclose a mortgage or deed of trust on residential property. This notice must be sent by certified mail, postage prepaid, return receipt requested, and by first-class mail. A copy of the notice must also be sent to the

Commissioner of Financial Regulation in DLLR. The notice must be in the form that the commissioner prescribes by regulation and contain specified information. (*See Real Property Article § 7-105.1(c).*)

An order to docket or a complaint to foreclose a mortgage or deed of trust on residential property must contain specified information and be accompanied by specified documents.

Service of Process

A copy of the order to docket or complaint and all other papers filed with it must be served by either personal delivery to the borrower, or by leaving the papers with a resident of suitable age and discretion at the borrower's dwelling house or usual place of abode. (*See Real Property Article § 7-105.1(d).*)

If at least two good faith efforts to complete service of process on different days have not succeeded, the plaintiff may effect service by (1) filing an affidavit with the court describing the good faith efforts to complete service; (2) mailing a copy of the order to docket or complaint and all accompanying papers by certified mail, return receipt requested, and first-class mail to the borrower's last known address; and (3) posting a copy of the order to docket or complaint and all accompanying papers in a conspicuous place on the property subject to the mortgage or deed of trust. The individual making service of process must file proof of service with the court in accordance with the Maryland Rules. A foreclosure sale of residential property may not occur until at least 45 days after service of process is made. (*See Real Property Article § 7-105.1(e).*)

Notice of a Proposed Foreclosure Sale to the Record Owner, Occupants, and Subordinate Interest Holders

At the same time the borrower is served with all required documents, the person authorized to sell the residential property must send written notice to all occupants of the property. The notice must inform the occupants that a foreclosure sale of the property may occur at any time after 45 days from the date of the notice. The notice must also state that the person could be evicted, even if the person is a tenant and has paid all rent due and otherwise complied with the terms of the lease.

Within 10 to 30 days before a foreclosure sale of residential property, the person authorized to sell the property must notify the record owner of the property and any holder of a subordinate mortgage, deed of trust, or other subordinate interest, including a judgment, of the time and place of the sale. Written notice must also be sent to all occupants no earlier than 30 days and no later than 10 days prior to the date of the foreclosure sale, and a final notice must be sent after the entry of a judgment awarding possession of the property and before any attempt to execute the writ of possession. The

person giving each notice must file an affidavit of compliance in the foreclosure proceeding after each notice is sent. If the foreclosure sale is postponed, no additional notice is required to be sent to the occupants of the property. (*See Real Property Article §§ 7-105.2, 7-105.3, 7-105.9.*)

Notice of the time, place, and terms of a foreclosure sale of residential property must be published in a newspaper of general circulation at least once a week for three successive weeks, with the first publication at least 15 days before the sale and the last not more than one week before the sale. (*See Md. Rule 14-210(a).*)

Cure of Loan Default

The borrower of a mortgage or deed of trust on residential property has the right to cure a default and reinstate the loan at any time up to one business day before a foreclosure sale by paying all past-due payments, penalties, and fees. Upon request, and within a reasonable time, the secured party or the secured party's authorized agent must notify the borrower or the individual's attorney of the amount necessary to cure the default and reinstate the loan as well as provide instructions for delivering the payment. (*See Real Property Article § 7-105.1(h).*)

Background:

State Response to the Mortgage Crisis

The State's multi-faceted approach to the foreclosure crisis has involved legislative reforms of mortgage lending laws, extensive consumer outreach efforts, and enhanced mortgage industry regulation and enforcement. Legislation passed during the 2008 and 2009 sessions:

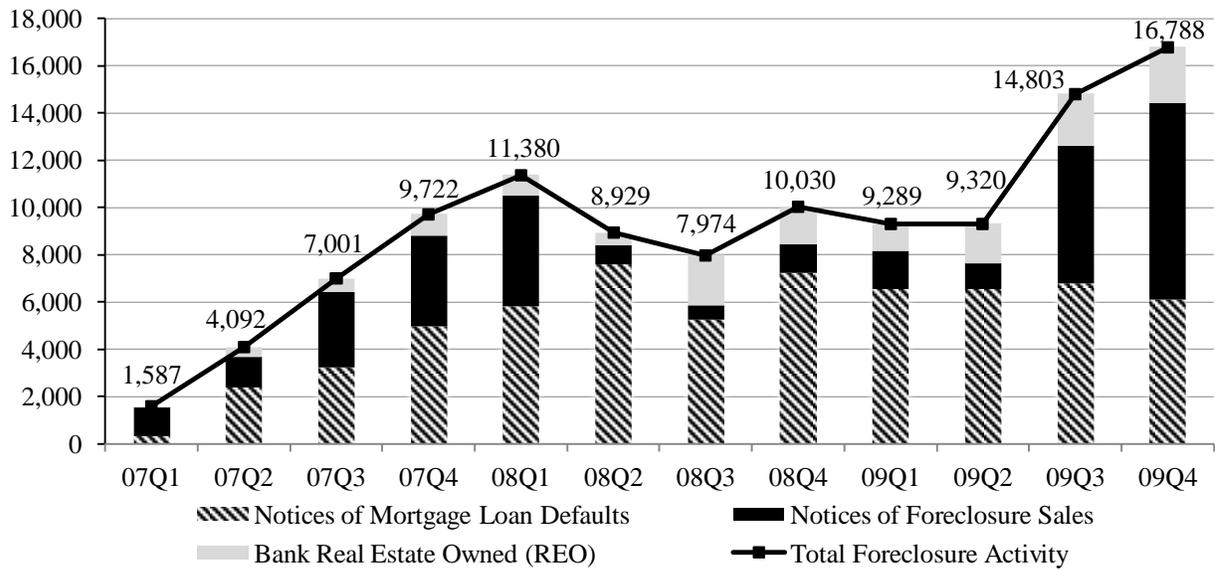
- created the Mortgage Fraud Protection Act, Maryland's first comprehensive mortgage fraud statute;
- tightened mortgage lending standards and required a lender to give due regard to a borrower's ability to repay a loan;
- prohibited foreclosure rescue transactions and granted the Commissioner of Financial Regulation additional enforcement powers;
- reformed the foreclosure process to provide homeowners with greater time and additional notices before their properties are sold; and
- required additional notices to be given to residential tenants renting properties pending foreclosure.

Consumer outreach efforts include statewide public workshops to assist distressed homeowners in coordination with the Maryland Foreclosure Prevention Pro Bono Project. Since July 2008, more than 1,000 volunteer attorneys trained through the project have provided free legal advice at foreclosure solutions workshops and represented borrowers referred from nonprofit housing counseling agencies. The project is coordinated by the Pro Bono Resource Center of Maryland in collaboration with other State agencies, the Maryland State Bar Association, and other nonprofit housing counseling service providers. In addition to the project, the State has sponsored more than 200 public foreclosure solution workshops attended by approximately 25,000 homeowners.

Despite the impact of extensive State legislative and consumer outreach efforts, **Exhibit 1** shows that total foreclosure activity in Maryland continues to increase as State residents feel the effects of rising unemployment and declining home values. The figures in Exhibit 1 incorporate data from DHCD's quarterly foreclosure reports that track documents filed in all three phases of the foreclosure process, including notices of mortgage loan default, notices of foreclosure sales, and properties that have been foreclosed on and repurchased by lenders. As shown in Exhibit 1, total foreclosure activity in the State has risen 67% year-over-year from the fourth quarter of 2008 to the fourth quarter of 2009, and over 13% from the third quarter of 2009 to the fourth quarter of 2009. According to AOC, 44,463 residential foreclosure orders to docket were filed in Maryland circuit courts in 2009. A county-by-county chart of orders to docket is shown in **Appendix 1**.

Although research from the Federal Reserve Bank of Richmond indicates that Maryland's mortgage delinquency and foreclosure rates are lower than the national average, **Exhibit 2** shows that both subprime and prime delinquencies and foreclosures continue to rise.

Exhibit 1
Total Foreclosure Activity in the State
First Quarter 2007 – Fourth Quarter 2009



Source: Department of Legislative Services using DHCD quarterly report data attributed to RealtyTrac

Exhibit 2
Maryland Owner-occupied Loan Statistics
September 2008-2009

	September 2008	March 2009	September 2009
Owner-occupied Subprime Loans			
90+ Days Past Due	13.4%	19.6%	23.4%
Foreclosure	8.0%	9.9%	11.4%
Owner-occupied Prime Loans			
90+ Days Past Due	1.5%	2.4%	3.6%
Foreclosure	0.9%	1.6%	1.9%

Source: Federal Reserve Bank of Richmond using data from Lender Processing Services Applied Analytics (September 2009)

From September 2008 to September 2009, the percentage of prime loans in Maryland more than 90 days delinquent rose from 1.5% to 3.6%. Over the same period, the foreclosure rate of prime loans more than doubled from 0.9% to 1.9%. According to the Federal Reserve Bank of Richmond, more than 23% of owner-occupied subprime loans in the State were more than 90 days overdue.

Federal Efforts to Promote Loan Modifications

Created in March 2009 and implemented two months later, the federal Home Affordable Modification Program was designed to facilitate loan modifications for qualifying homeowner occupants who are at risk of default or already in default, experiencing financial hardship, and meet other specified criteria. Participation in HAMP is mandatory for lenders that benefited from federal assistance through the U.S. Treasury’s Financial Stability Plan. Many of the nation’s largest loan servicers are required to participate in HAMP, as more than 85% of the outstanding mortgages in the country are covered under the program.

Exhibit 3 shows the number of active trial loan modifications and permanent modifications offered to Maryland homeowners from May through December 2009.

**Exhibit 3
HAMP Activity by State
May-December 2009**

<u>State</u>	<u>Active Trial Loan Modifications</u>	<u>Permanent Loan Modifications</u>	<u>Total</u>
Maryland	25,847	2,270	28,117
Virginia	19,791	1,898	21,689
Pennsylvania	18,459	1,388	19,847
District of Columbia	1,428	108	1,533

Source: *FinancialStability.gov*, Monthly Making Home Affordable Report (December 2009)

Homeowners seeking a loan modification under HAMP must have unpaid principal balances below the Fannie Mae and Freddie Mac conforming loan limit of \$729,750 (for a single-family home). To participate, an eligible home may not be investor-owned and may not be vacant or condemned. Loans subject to modification must have been originated on or before January 1, 2009, and may only be modified once under HAMP.

In determining HAMP eligibility, the lender must analyze a borrower's net present value (NPV) for modification versus foreclosure. The NPV calculation includes the borrower's payment history and credit score to predict (1) how likely the borrower will cure the loan default; and (2) the lender's potential losses incurred on the loan in the event of foreclosure based on geographic real estate trends. All borrowers must fully document income, including a signed copy of the most recent tax return, two most recent pay stubs, and a signed affidavit of financial hardship. The program requires participating loan servicers to follow a specific "waterfall" process in modifying loans to achieve a target monthly payment of 31% of the borrower's gross monthly income that includes first lowering the interest rate of the loan and then extending the term.

Maryland Foreclose Mediation Workgroup and Other States' Loan Modification Efforts

Over the course of six to eight weeks in fall 2009, the Governor convened a workgroup of various stakeholders at DHCD to explore the various options for instituting a foreclosure mediation program in the State. The workgroup examined the existing foreclosure process in the State and analyzed the advantages and disadvantages of other states' existing mediation programs. The ultimate goal was to draw upon other states' models to design a Maryland-specific program that would complement and help facilitate the success of the federal HAMP program.

Nevada's foreclosure mediation program was one of several analyzed by the Maryland foreclosure mediation workgroup. Under the Nevada program, homeowners who receive a foreclosure notice have 30 days from the date of the notice to opt-in to the state mediation program. The program is overseen by the Nevada judiciary and requires good faith participation from borrowers, lenders, and loan servicers. The Nevada Supreme Court promulgates mediation rules and requires lenders and servicers to disclose their loan modification analyses to the mediator during a mediation session.

Nevada's foreclosure mediation program is entirely self-funded through a \$400 fee split evenly between the borrower and lender. An additional \$50 fee increase is imposed on parties filing a foreclosure notice. From July 1, 2009, through December 1, 2009, more than 3,400 Nevada homeowners who received notices of default requested mediation. As of December 11, 2009, the Nevada Supreme Court had appointed and trained 170 mediators participating in Nevada's Foreclosure Mediation Program. From July 1 through November 15, the Nevada judiciary reports the following statistics concerning its program:

Notices of default filed:	29,242
Requests for mediation:	3,446 (11.7%)
Mediations conducted:	372
Mediations scheduled:	876
Cases to be scheduled:	1,402

In the first four and a half months of Nevada’s program, 29,242 notices of default had been filed. However, that figure includes commercial and nonowner-occupied properties that are ineligible for Nevada’s Foreclosure Mediation Program.

State Revenues: Legislative Services estimates that DHCD special fund revenues increase by \$11,121,250 in fiscal 2011 and \$7,853,800 in fiscal 2012. Using Mortgage Bankers Association estimated residential foreclosure starts in Maryland, DHCD projects 42,510 orders to docket will be filed in the circuit courts in calendar 2010, 30,178 in calendar 2011, and 21,155 in calendar 2012, an approximate 29% year-over-year decline.

Converting DHCD’s projected filings to a fiscal-year basis, 36,344 orders to docket will be filed in fiscal 2011 and 25,666 will be filed in fiscal 2012, as shown in **Exhibit 4**. However, out-year special fund revenues cannot be reliably estimated due to difficulties in forecasting the State residential foreclosure rate beyond fiscal 2012. Nevertheless, for purposes of this estimate, the Department of Legislative Services (DLS) assumes a similar 29% annual decrease in orders to docket filed in fiscal 2013 through 2015. Actual filings and fee revenue may vary considerably.

Exhibit 4
Projected Orders to Docket, Fee Revenue, and Foreclosure Mediation Requests
Fiscal 2011-2012

<u>Fiscal Year</u>	<u>Projected Orders to Docket</u>	<u>\$300 Fee Revenue</u>	<u>Projected Mediation Requests (12% Participation)</u>	<u>\$50 Fee Revenue</u>	<u>Total Revenue</u>
2011	36,344	\$10,903,200	4,361	\$218,050	\$11,121,250
2012	25,666	\$7,699,800	3,080	\$154,000	\$7,853,800
2013	18,222	\$5,466,600	2,186	\$109,300	\$5,575,900
2014	12,937	\$3,881,100	1,552	\$77,600	\$3,958,700
2015	9,185	\$2,755,500	1,102	\$55,100	\$2,810,600

Source: DHCD Foreclosure Mediation Fiscal Impact Analysis, Environmental Matters Committee, March 25, 2010; Department of Legislative Services

This fiscal estimate assumes 12% of the 36,344 homeowners subject to orders to docket filed in the courts are eligible for the State foreclosure mediation program and would subsequently choose to opt-in (similar to Nevada’s participation rate). The estimate also assumes each of the 4,361 requests for foreclosure mediation is accompanied by the \$50 filing fee; the number of homeowners eligible for a fee waiver or reduction cannot be reliably estimated. To the extent the number of orders to docket filed or the number of homeowners opting in to the foreclosure mediation program exceed DHCD projections, special fund revenues (and corresponding expenditures) will significantly exceed DLS estimates.

State Expenditures: The bill authorizes the use of the Housing Counseling and Foreclosure Mediation Fund to support nonprofit and government housing counseling services, DLLR outreach efforts, and foreclosure mediation sessions conducted by OAH. In addition, the bill authorizes a one-time appropriation from the fund to the Administrative Office of the Courts in fiscal 2011 to pay AOC costs to process foreclosure actions in heavily impacted jurisdictions.

Special fund expenditures increase by at least \$1,832,996 in fiscal 2011. This estimate includes \$1,282,996 to assist in funding the costs of foreclosure mediations provided by OAH and reflects the cost of hiring six administrative law judges (ALJs), four docket clerks, one staff attorney, and one computer network specialist supervisor. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses. Although the bill authorizes the fund to support the establishment and operation of nonprofit housing counseling entities, it is unclear to what extent fiscal 2011 fund expenditures will be allocated for this purpose. Any such expenditures have not been quantified, but the special fund should have a sufficient balance to support DHCD expenditures for housing counseling and related homeowner assistance.

OAH Foreclosure Mediations

New Positions	12
Salaries and Fringe Benefits	\$1,002,128
Operating Expenses	280,868

DLLR Electronic Foreclosure Tracking

New Position	1
Salary and Fringe Benefits	80,000
Computer Programming Fees	100,000
Ongoing Operating Expenses	70,000

Administrative Office of the Courts

Foreclosure Support for High-impact Jurisdictions	<u>300,000</u>
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Minimum Special Fund Fiscal 2011 Expenditures **\$1,832,996**

OAH estimates 5,500 cases (annually) will be referred for mediation by the circuit courts. This workload is approximately 12% of the 44,463 mortgage foreclosures filed in the circuit courts in calendar 2009. Each foreclosure mediation will be docketed for approximately two hours. Given that each ALJ is available for 1,824 hours per year, and 11,000 hours are required to conduct 5,500 foreclosure mediations, OAH estimates that six ALJs plus additional support staff are needed to implement the bill. This estimate assumes that, with a declining number of foreclosure mediations in future years, OAH will absorb the new personnel for other types of hearings or conduct the mediations more expeditiously. However, to the extent the number of residential foreclosure orders to docket filed with the courts and corresponding mediation requests exceed AOC, DHCD, and DLS projections, OAH would need additional ALJs and related personnel to handle the increased workload.

This estimate also includes \$250,000 in special fund expenditures for DLLR for an electronic notice of intent to foreclose tracking system and one staff person and \$300,000 in special fund expenditures for AOC to process foreclosure actions in high-impact jurisdictions. Any additional costs incurred by AOC to process foreclosure actions in excess of the budget amendment require general fund expenditures. However, given the authorized use of the fund for specified DLLR, DHCD, and OAH purposes, any costs incurred by DLLR in excess of the \$250,000 budget amendment in fiscal 2011 may be covered by the special fund. Nevertheless, this estimate assumes that the \$250,000 allocated for fiscal 2011 will be sufficient to cover DLLR's expenditures associated with implementing the bill that year. The bill also requires the Governor to appropriate at least \$150,000 from the fund in the fiscal 2012, 2013, and 2014 budgets to DLLR to cover the costs of staffing outreach functions related to the foreclosure tracking system. Although not mandated in fiscal 2015, the estimate assumes ongoing special fund expenditures of \$150,000.

Appendix 1
Residential Foreclosure Orders to Docket Filed in Maryland Circuit Courts
Calendar 2009

	<u>Q1</u>	<u>Q2</u>	<u>Q3</u>	<u>Q4</u>	<u>Total</u>	Share of <u>Total</u>
Allegany County	53	54	60	66	233	0.5%
Anne Arundel County	680	737	911	780	3,108	7.0%
Baltimore City	1,373	1,323	1,656	1,415	5,767	13.0%
Baltimore County	886	985	1,213	1,077	4,161	9.4%
Calvert County	130	161	196	164	651	1.5%
Caroline County	55	46	87	58	246	0.6%
Carroll County	150	184	223	183	740	1.7%
Cecil County	122	123	156	160	561	1.3%
Charles County	417	369	447	393	1,626	3.7%
Dorchester County	49	61	92	59	261	0.6%
Frederick County	435	413	548	460	1,856	4.2%
Garrett County	23	32	29	25	109	0.2%
Harford County	334	353	438	359	1,484	3.3%
Howard County	309	305	409	318	1,341	3.0%
Kent County	25	16	29	15	85	0.2%
Montgomery County	1,401	1,636	2,052	1,429	6,518	14.7%
Prince George's County	2,929	2,918	3,553	2,946	12,346	27.8%
Queen Anne's County	64	90	89	80	323	0.7%
Somerset County	38	32	36	36	142	0.3%
St. Mary's County	124	122	158	141	545	1.2%
Talbot County	34	29	64	56	183	0.4%
Washington County	224	220	285	295	1,024	2.3%
Wicomico County	130	100	154	134	518	1.2%
Worcester County	139	128	182	186	635	1.4%
Total	10,124	10,437	13,067	10,835	44,463	100%

Note: Data for 22 of 24 counties provided by the Administrative Office of the Courts. Prince George's County and Montgomery County data provided by their respective circuit courts and may include a limited number of commercial foreclosures. Statewide commercial mortgage foreclosures reflect 2.2% of overall foreclosures.

Source: Administrative Office of the Courts

Additional Information

Prior Introductions: None.

Cross File: SB 276 (The President, *et al.*) (By Request - Administration) - Judicial Proceedings.

Information Source(s): Department of Housing and Community Development; Federal Reserve Bank of Richmond, State of Nevada Judiciary; U.S. Department of the Treasury – *MakingHomeAffordable.gov*; Baltimore Preservation Housing Coalition; RealtyTrac, Judiciary (Administrative Office of the Courts); Department of Labor, Licensing, and Regulation; Department of Legislative Services

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mpc/kdm Revised - Updated Information - February 18, 2010
Revised - House Third Reader - April 5, 2010
Revised - Enrolled Bill - May 27, 2010

Analysis by: Jason F. Weintraub

Direct Inquiries to:
(410) 946-5510
(301) 970-5510

ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Real Property – Residential Property Foreclosure Procedures – Foreclosure Mediation

BILL NUMBER: HB 472

PREPARED BY: Department of Labor, Licensing and Regulation

PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND SMALL BUSINESS

OR

WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND SMALL BUSINESSES

PART B. ECONOMIC IMPACT ANALYSIS

The majority of mortgages in Maryland are held and serviced by large banks and corporations. For the minority serviced by small Maryland servicers and lenders, SB 276 will have a modest impact by assessing a \$100 fee for filing a foreclosure action.