

SENATE BILL 330

N1

6lr2557
CF 6lr1762

By: **Senator Conway**

Introduced and read first time: January 27, 2016

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Residential Property – Foreclosure Sale – Recordation of Instrument of Writing**

3 FOR the purpose of requiring a secured party to record an instrument of writing
4 transferring residential property within a certain period of time after the entry of a
5 court order ratifying a foreclosure sale of the residential property under certain
6 circumstances; providing that no transfer tax may be assessed on a secured party
7 that records an instrument of writing transferring residential property within a
8 certain period of time after the entry of the court order ratifying the foreclosure sale
9 of the residential property; requiring the court to send to certain persons notice of
10 the failure to timely record an instrument of writing transferring residential
11 property under certain circumstances; authorizing certain persons to enforce this
12 Act; authorizing a mortgagor or grantor to bring an action for certain damages
13 incurred as a result of a violation of this Act; altering the time period within which
14 a purchaser of residential property must provide a copy of a court order ratifying a
15 foreclosure sale of residential property to a local supervisor of assessments under
16 certain circumstances; and generally relating to the recordation of an instrument of
17 writing after a foreclosure sale of residential property.

18 BY repealing and reenacting, with amendments,

19 Article – Real Property

20 Section 7–105.12

21 Annotated Code of Maryland

22 (2015 Replacement Volume)

23 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,

24 That the Laws of Maryland read as follows:

25 **Article – Real Property**

26 7–105.12.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

2 (2) "Instrument of writing" has the meaning stated in § 12-101 of the Tax
3 – Property Article.

4 (3) (i) "Residential property" means real property improved by a
5 dwelling unit that is designed principally and is intended for human habitation.

6 (ii) "Residential property" includes:

7 1. A residential condominium unit; and

8 2. A unit in a cooperative project, as defined in § 5-6B-01 of
9 the Corporations and Associations Article.

10 (4) "Tax" has the meaning stated in § 14-801 of the Tax – Property Article.

11 (b) (1) Except as provided in subsection [(c)] (D) of this section, if residential
12 property is purchased at a sale in an action to foreclose a mortgage or deed of trust on the
13 residential property, the [purchaser shall provide a copy of the court order ratifying the
14 foreclosure sale to the supervisor of assessments for] **SECURED PARTY SHALL RECORD**
15 **THE INSTRUMENT OF WRITING TRANSFERRING THE RESIDENTIAL PROPERTY IN THE**
16 **LAND RECORDS OF** the county in which the residential property is located by the later of:

17 [(1)] (I) [60] **30** days after the entry of the court order ratifying the
18 foreclosure sale; or

19 [(2)] (II) If a motion is filed under Maryland Rule 2-535 before the
20 expiration of the time period set forth in item [(1)] (I) of this [subsection] **PARAGRAPH**, 30
21 days after the entry of a court order that resolves the motion without nullifying the
22 ratification order.

23 (2) **IF THE SECURED PARTY RECORDS THE INSTRUMENT OF WRITING**
24 **WITHIN 20 DAYS AFTER THE ENTRY OF THE COURT ORDER RATIFYING THE**
25 **FORECLOSURE SALE, NO TRANSFER TAX MAY BE ASSESSED ON THE SECURED PARTY.**

26 [(c) Subsection (b) of this section does not apply if:

27 (1) An instrument of writing transferring the residential property has been
28 recorded in the land records of the county in which the residential property is located before
29 the expiration of the time period set forth in subsection (b) of this section; or

30 (2) The foreclosure sale is subject to:

31 (i) A pending appeal of the ratification order;

1 (ii) A bankruptcy stay; or

2 (iii) An unexpired right of redemption in favor of the United States
3 or any agency or department of the United States.]

4 (C) (1) EXCEPT AS PROVIDED IN SUBSECTION (D) OF THIS SECTION, THIS
5 SUBSECTION APPLIES IF AN INSTRUMENT OF WRITING TRANSFERRING
6 RESIDENTIAL PROPERTY IS NOT RECORDED AS REQUIRED UNDER SUBSECTION (B)
7 OF THIS SECTION.

8 (2) THE COURT SHALL SEND NOTICE OF THE FAILURE TO TIMELY
9 RECORD THE INSTRUMENT OF WRITING, INCLUDING THE DATE OF THE FINAL
10 RATIFICATION OF THE FORECLOSURE SALE, TO:

11 (I) THE COMMISSIONER OF FINANCIAL REGULATION;

12 (II) THE COUNTY ATTORNEY FOR THE COUNTY IN WHICH THE
13 RESIDENTIAL PROPERTY IS LOCATED; AND

14 (III) THE LAST KNOWN ADDRESS OF THE MORTGAGOR OR
15 GRANTOR OF MORTGAGE OR DEED OF TRUST ON THE RESIDENTIAL PROPERTY BY
16 CERTIFIED MAIL, POSTAGE PREPAID, RETURN RECEIPT REQUESTED, BEARING A
17 POSTMARK FROM THE UNITED STATES POSTAL SERVICE.

18 (3) (I) THE COMMISSIONER MAY ENFORCE THE PROVISIONS OF
19 THIS SECTION BY EXERCISING ANY OF THE POWERS PROVIDED UNDER §§ 2-113
20 THROUGH 2-116 OF THE FINANCIAL INSTITUTIONS ARTICLE.

21 (II) THE COUNTY ATTORNEY MAY ENFORCE THE PROVISIONS OF
22 THIS SECTION AS AUTHORIZED BY LAW.

23 (III) IN ADDITION TO ANY ACTION AUTHORIZED UNDER THIS
24 SECTION OR ANY OTHER LAW, THE MORTGAGOR OR GRANTOR MAY BRING AN ACTION
25 FOR DAMAGES INCURRED AS A RESULT OF A VIOLATION OF THIS SECTION,
26 INCLUDING AN AWARD FROM THE COURT FOR A PENALTY NOT EXCEEDING \$2,500
27 AND REASONABLE ATTORNEY'S FEES AND COSTS.

28 (4) (I) THE PURCHASER SHALL PROVIDE A COPY OF THE COURT
29 ORDER RATIFYING THE FORECLOSURE SALE TO THE SUPERVISOR OF ASSESSMENTS
30 FOR THE COUNTY IN WHICH THE RESIDENTIAL PROPERTY IS LOCATED BY THE
31 LATER OF:

32 1. 45 DAYS AFTER THE ENTRY OF THE COURT ORDER
33 RATIFYING THE FORECLOSURE SALE; OR

1 **2. IF A MOTION IS FILED UNDER MARYLAND RULE 2-535**
2 **BEFORE THE EXPIRATION OF THE TIME PERIOD SET FORTH IN ITEM 1 OF THIS**
3 **SUBPARAGRAPH, 30 DAYS AFTER THE ENTRY OF A COURT ORDER THAT RESOLVES**
4 **THE MOTION WITHOUT NULLIFYING THE RATIFICATION ORDER.**

5 [(d)] **(II)** The supervisor of assessments shall provide a receipt to the
6 person providing a copy of the ratification order.

7 [(e)] **(III)** If a copy of the ratification order is not provided to the supervisor
8 of assessments as required under [subsection (b) of this section] **SUBPARAGRAPH (I) OF**
9 **THIS PARAGRAPH**, any reduction in property tax received by the residential property
10 because of its status as an owner-occupied principal residence from the date of the entry of
11 the ratification order until the earlier of the receipt by the supervisor of assessments of a
12 copy of the ratification order or the recordation in the land records of an instrument of
13 writing transferring the property to a third party shall remain due and collectable as a
14 property tax under Title 14 of the Tax – Property Article.

15 **(D) SUBSECTIONS (B) AND (C) OF THIS SECTION DO NOT APPLY IF THE**
16 **FORECLOSURE SALE IS SUBJECT TO:**

17 **(1) A PENDING APPEAL OF THE RATIFICATION ORDER;**

18 **(2) A BANKRUPTCY STAY; OR**

19 **(3) AN UNEXPIRED RIGHT OF REDEMPTION IN FAVOR OF THE UNITED**
20 **STATES OR ANY AGENCY OR DEPARTMENT OF THE UNITED STATES.**

21 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July
22 1, 2016.