

HOUSE BILL 64

N1

0lr0397

(PRE-FILED)

By: **Delegate McConkey**

Requested: July 17, 2009

Introduced and read first time: January 13, 2010

Assigned to: Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Real Property – Residential Mortgages and Deeds of Trust – Foreclosure**
3 **Sales**

4 FOR the purpose of creating a rebuttable presumption that a foreclosure sale of
5 certain residential real property is invalid if the sale is delayed beyond a certain
6 time; and generally relating to foreclosure sales of residential real property.

7 BY repealing and reenacting, with amendments,
8 Article – Real Property
9 Section 7–105
10 Annotated Code of Maryland
11 (2003 Replacement Volume and 2009 Supplement)

12 Preamble

13 WHEREAS, The trustee overseeing a foreclosure sale of residential real
14 property must act in a prudent and businesslike manner to bring the best obtainable
15 sale price for the property; and

16 WHEREAS, The foreclosure sale of residential real property is to benefit the
17 mortgagor; and

18 WHEREAS, A mortgagor may be harmed if a foreclosure sale takes place more
19 than 30 minutes after the scheduled time; now, therefore,

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

22 **Article – Real Property**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 7-105.

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

7 (b) A sale made pursuant to this section, §§ 7-105.1 through 7-105.8 of this
8 subtitle, or the Maryland Rules, after final ratification by the court and grant of the
9 property to the purchaser on payment of the purchase money, has the same effect as if
10 the sale and grant were made under decree between the proper parties in relation to
11 the mortgage or deed of trust and in the usual course of the court, and, **SUBJECT TO**
12 **SUBSECTION (C) OF THIS SECTION**, operates to pass all the title which the borrower
13 had in the property at the time of the recording of the mortgage or deed of trust.

14 **(C) FOR PURPOSES OF THIS SECTION, THERE IS A REBUTTABLE**
15 **PRESUMPTION THAT A FORECLOSURE SALE OF RESIDENTIAL PROPERTY, AS**
16 **DEFINED IN § 7-105.1 OF THIS SUBTITLE, IS INVALID IF THE SALE BEGINS MORE**
17 **THAN 30 MINUTES AFTER THE SCHEDULED TIME FOR THE SALE.**

18 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
19 October 1, 2010.