

# SENATE BILL 654

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EMERGENCY BILL

0lr2271  
CF HB 711

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By: **Senators Lenett, Gladden, Muse, and Raskin**

Introduced and read first time: February 5, 2010

Assigned to: Judicial Proceedings

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## A BILL ENTITLED

1 AN ACT concerning

2 **Real Property – Tenants in Foreclosure – Conforming to Federal Law**

3 FOR the purpose of providing that an immediate successor in interest who has  
4 acquired legal title to certain residential property pursuant to a foreclosure  
5 shall assume the interest subject to the provision of a certain notice to vacate  
6 and certain rights of a certain bona fide tenant; establishing the circumstances  
7 under which a lease or tenancy shall be considered bona fide; authorizing  
8 termination of a lease if the purchaser will occupy the property as the  
9 purchaser's primary residence; establishing certain requirements for a notice to  
10 vacate; providing for the construction of a certain provision of this Act; altering  
11 the contents of certain notices required to be sent to occupants of certain  
12 residential property in foreclosure; requiring a certain notice to be sent to  
13 certain persons if a foreclosure action is dismissed, withdrawn, or terminated;  
14 defining a certain term; making this Act an emergency measure; and generally  
15 relating to tenants in foreclosure.

16 BY repealing and reenacting, with amendments,  
17 Article – Real Property  
18 Section 7–105.6 and 7–105.9  
19 Annotated Code of Maryland  
20 (2003 Replacement Volume and 2009 Supplement)

21 Preamble

22 WHEREAS, President Obama signed the Helping Families Save Their Homes  
23 Act (Public Law No: 111–22) into law on May 20, 2009; and

24 WHEREAS, The new federal law preempts Chapter 615 of the Acts of the  
25 General Assembly of 2009, making it necessary to make changes to conform to the  
26 federal requirements; now, therefore,

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

3 **Article – Real Property**

4 7–105.6.

5 (a) [Any] **EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION,**  
6 **ANY** purchaser at a foreclosure sale of a mortgage or deed of trust has the same rights  
7 and remedies against the tenants of the mortgagor or grantor as the mortgagor or  
8 grantor had, and the tenants have the same rights and remedies against the  
9 purchaser as they would have had against the mortgagor or grantor on the date the  
10 mortgage or deed of trust was recorded.

11 **(B) (1) FOR PURPOSES OF THIS SUBSECTION, A LEASE OR TENANCY**  
12 **SHALL BE CONSIDERED “BONA FIDE” ONLY IF:**

13 **(I) THE MORTGAGOR OR GRANTOR OR THE CHILD, SPOUSE,**  
14 **OR PARENT OF THE MORTGAGOR OR GRANTOR UNDER THE CONTRACT IS NOT**  
15 **THE TENANT;**

16 **(II) THE LEASE OR TENANCY WAS THE RESULT OF AN ARM’S**  
17 **LENGTH TRANSACTION; AND**

18 **(III) THE LEASE OR TENANCY REQUIRES THE RECEIPT OF**  
19 **RENT THAT IS NOT SUBSTANTIALLY LESS THAN FAIR MARKET RENT FOR THE**  
20 **PROPERTY OR THE UNIT’S RENT IS REDUCED OR SUBSIDIZED DUE TO A**  
21 **FEDERAL, STATE, OR LOCAL SUBSIDY.**

22 **(2) IN THE CASE OF A FORECLOSURE ON ANY RESIDENTIAL**  
23 **PROPERTY, AN IMMEDIATE SUCCESSOR IN INTEREST WHO HAS ACQUIRED**  
24 **LEGAL TITLE TO THE PROPERTY UNDER THE FORECLOSURE SHALL ASSUME THE**  
25 **INTEREST SUBJECT TO:**

26 **(I) THE PROVISION BY THE SUCCESSOR IN INTEREST OF A**  
27 **NOTICE TO VACATE TO ANY BONA FIDE TENANT AT LEAST 90 DAYS BEFORE THE**  
28 **EFFECTIVE DATE OF THE NOTICE; AND**

29 **(II) THE RIGHTS OF ANY BONA FIDE TENANT AS OF THE**  
30 **DATE OF TRANSFER OF LEGAL TITLE UNDER THE FORECLOSURE:**

31 **1. EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS**  
32 **SUBSECTION, UNDER A BONA FIDE LEASE ENTERED INTO BEFORE THE**  
33 **TRANSFER OF LEGAL TITLE, TO OCCUPY THE PREMISES UNTIL THE END OF THE**  
34 **REMAINING TERM OF THE LEASE; OR**

1                   **2. WITHOUT A LEASE OR WITH A LEASE TERMINABLE**  
2 **AT WILL UNDER STATE LAW, SUBJECT TO THE RECEIPT BY THE TENANT OF THE**  
3 **NOTICE REQUIRED UNDER ITEM (I) OF THIS PARAGRAPH.**

4                   **(3) SUBJECT TO THE RECEIPT BY THE TENANT OF THE NOTICE TO**  
5 **VACATE UNDER PARAGRAPH (2)(I) OF THIS SUBSECTION, A SUCCESSOR IN**  
6 **INTEREST MAY TERMINATE A LEASE EFFECTIVE ON THE DATE OF THE SALE OF**  
7 **THE RESIDENTIAL PROPERTY TO A PURCHASER WHO WILL OCCUPY THE**  
8 **PROPERTY AS THE PURCHASER'S PRIMARY RESIDENCE.**

9                   **(4) THE NOTICE REQUIRED UNDER PARAGRAPH (2)(I) OF THIS**  
10 **SUBSECTION SHALL:**

11                   **(I) BE IN WRITING;**

12                   **(II) BE SENT BY FIRST-CLASS AND CERTIFIED MAIL,**  
13 **RETURN RECEIPT REQUESTED;**

14                   **(III) STATE THE DATE ON WHICH THE NOTICE IS BEING**  
15 **GIVEN;**

16                   **(IV) STATE THE DATE ON WHICH THE TERMINATION OF THE**  
17 **TENANCY IS EFFECTIVE; AND**

18                   **(V) STATE WHETHER THE BASIS FOR TERMINATION OF THE**  
19 **TENANCY IS:**

20                   **1. EXPIRATION OF THE TERM OF THE LEASE;**

21                   **2. SALE OF THE PROPERTY TO A PURCHASER WHO**  
22 **WILL OCCUPY THE PROPERTY AS THE PURCHASER'S PRIMARY RESIDENCE; OR**

23                   **3. TERMINATION OF A MONTH-TO-MONTH OR**  
24 **OTHER TERMINABLE-AT-WILL TENANCY.**

25                   **(5) THIS SECTION DOES NOT AFFECT THE REQUIREMENTS FOR**  
26 **TERMINATION OF ANY FEDERAL- OR STATE-SUBSIDIZED TENANCY OR OF ANY**  
27 **STATE OR LOCAL LAW THAT PROVIDES LONGER TIME PERIODS OR ADDITIONAL**  
28 **PROTECTION FOR TENANTS.**

29                   **[(b)] (C) (1) If the required advertisement of sale so discloses, a**  
30 **foreclosure sale shall be made subject to one or more of the tenancies entered into**

1 subsequent to the recording of the mortgage or deed of trust or otherwise subordinated  
2 thereto.

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

6 7–105.9.

7 (a) (1) In this section[, “residential property”] **THE FOLLOWING WORDS**  
8 **HAVE THE MEANINGS INDICATED.**

9 (2) **“BONA FIDE TENANT” MEANS A TENANT UNDER A LEASE OR**  
10 **TENANCY DESCRIBED IN § 7–105.6(B)(1) OF THIS SUBTITLE.**

11 (3) **“RESIDENTIAL PROPERTY”** has the meaning stated in § 7–105.1  
12 of this subtitle.

13 (b) (1) In addition to any other notice required to be given by this Code or  
14 the Maryland Rules, the person authorized to make a sale in an action to foreclose a  
15 mortgage or deed of trust on residential property shall send, at the same time as the  
16 notice required by § 7–105.1(d)(2)(vii) of this subtitle, a written notice addressed to “all  
17 occupants” at the address of the residential property in substantially the following  
18 form:

19 **“IMPORTANT NOTICE**

20 A foreclosure action has been filed against the property located at (insert  
21 address) in the circuit court for (insert name of county). This notice is being sent to you  
22 as a person who lives in this property. **IF YOU ARE RENTING THE PROPERTY NOW,**  
23 **YOU MAY HAVE THE RIGHT TO CONTINUE RENTING THE PROPERTY EVEN AFTER**  
24 **THE PROPERTY IS SOLD TO A NEW OWNER THROUGH A FORECLOSURE SALE.**

25 A foreclosure sale of the property may occur at any time after 45 days from the  
26 date of this notice. You may want to consult with an attorney [because if a foreclosure  
27 sale of the property occurs, **YOU COULD BE EVICTED**, even if you are a tenant and  
28 even if you have paid the rent due and complied with your lease] **TO DETERMINE**  
29 **WHETHER YOU ARE A BONA FIDE TENANT WITH THE RIGHT TO CONTINUE**  
30 **RENTING THE PROPERTY AFTER FORECLOSURE. IF YOU ARE A BONA FIDE**  
31 **TENANT WITH A LEASE FOR A SPECIFIC PERIOD OF TIME, YOU HAVE THE RIGHT**  
32 **TO CONTINUE RENTING THE PROPERTY UNTIL THE END OF YOUR LEASE TERM**  
33 **OR 90 DAYS AFTER THE NEW LEGAL TITLE HOLDER SENDS YOU A WRITTEN**  
34 **NOTICE TO VACATE, WHICHEVER IS LONGER. THERE IS ONE EXCEPTION TO**  
35 **THIS RIGHT: IF A NEW OWNER INTENDS TO OCCUPY THE PROPERTY AS HIS OR**  
36 **HER PRIMARY RESIDENCE, AFTER ACQUIRING LEGAL TITLE, THE NEW OWNER**  
37 **MAY SEND YOU A WRITTEN NOTICE TO VACATE IN 90 DAYS.**

1           **IF YOU ARE A BONA FIDE TENANT WITH A MONTH-TO-MONTH OR OTHER**  
 2 **TERMINABLE-AT-WILL TENANCY, YOU HAVE THE RIGHT TO CONTINUE RENTING**  
 3 **THE PROPERTY FOR UP TO 90 DAYS AFTER RECEIVING A WRITTEN NOTICE TO**  
 4 **VACATE FROM THE NEW OWNER.**

5           **IF YOU ARE NOT A BONA FIDE TENANT AND A FORECLOSURE SALE OF THE**  
 6 **PROPERTY OCCURS, YOU COULD BE EVICTED SHORTLY AFTER THE**  
 7 **FORECLOSURE SALE, EVEN IF YOU HAVE PAID THE RENT DUE AND COMPLIED**  
 8 **WITH YOUR LEASE.**

9           Below you will find the name, address, and telephone number of the person  
 10 authorized to sell the property. You may contact this person to **NOTIFY HIM OR HER**  
 11 **THAT YOU ARE A TENANT AT THE PROPERTY AND TO** find out more about the sale.  
 12 For further information, you may review the file in the office of the clerk of the circuit  
 13 court. You also may contact the Maryland Department of Housing and Community  
 14 Development, at (insert telephone number), or consult the Department’s website,  
 15 (insert website address), for assistance.

16 Person authorized to sell the property:

17 \_\_\_\_\_

18 Name

19 \_\_\_\_\_

20 Address

21 \_\_\_\_\_

22 Telephone

23 \_\_\_\_\_

24 Date of this notice”.

25           (2) The written notice required by this subsection shall be:

26                   (i) A separate document;

27                   (ii) Printed in at least 12 point type; and

28                   (iii) Sent by first-class mail.

29           (3) The outside of the envelope containing the written notice required  
 30 by this subsection shall state, on the address side, in bold, capitalized letters in at  
 31 least 12 point type, the following: “IMPORTANT NOTICE TO ALL OCCUPANTS:  
 32 FORECLOSURE INFORMATION ENCLOSED. OPEN IMMEDIATELY.”.

1 (c) (1) In addition to any other notice required to be given by this Code or  
 2 the Maryland Rules, the person authorized to make a sale in an action to foreclose a  
 3 mortgage or deed of trust on residential property shall send a written notice of the sale  
 4 not earlier than 30 days and not later than 10 days before the date of sale addressed to  
 5 “all occupants” at the address of the residential property in substantially the following  
 6 form:

7 “NOTICE OF IMPENDING FORECLOSURE SALE

8 A foreclosure action has been filed against the property located at (insert  
 9 address) in the circuit court for (insert name of county). This notice is being sent to you  
 10 as a person who lives in this property. **IF YOU ARE RENTING THE PROPERTY NOW,  
 11 YOU MAY HAVE THE RIGHT TO CONTINUE RENTING THE PROPERTY EVEN AFTER  
 12 THE PROPERTY IS SOLD TO A NEW OWNER THROUGH A FORECLOSURE SALE.**

13 A foreclosure sale of the property is scheduled to occur as follows:

14 Date: \_\_\_\_\_

15 Time: \_\_\_\_\_

16 Place: \_\_\_\_\_

17 [After this sale, YOU COULD BE EVICTED, even if you are a tenant and even if you  
 18 have paid the rent due and complied with your lease.]

19 **YOU MAY WANT TO CONSULT AN ATTORNEY TO DETERMINE WHETHER YOU  
 20 ARE A BONA FIDE TENANT WITH THE RIGHT TO CONTINUE RENTING THE  
 21 PROPERTY AFTER FORECLOSURE. IF YOU ARE A BONA FIDE TENANT WITH A  
 22 LEASE FOR A SPECIFIC PERIOD OF TIME, YOU HAVE THE RIGHT TO CONTINUE  
 23 RENTING THE PROPERTY UNTIL THE END OF YOUR LEASE TERM OR 90 DAYS  
 24 AFTER THE NEW LEGAL TITLE HOLDER SENDS YOU A WRITTEN NOTICE TO  
 25 VACATE, WHICHEVER IS LONGER. THERE IS ONE EXCEPTION TO THIS RIGHT: IF  
 26 A NEW OWNER INTENDS TO OCCUPY THE PROPERTY AS HIS OR HER PRIMARY  
 27 RESIDENCE, AFTER ACQUIRING LEGAL TITLE, THE NEW OWNER MAY SEND YOU A  
 28 WRITTEN NOTICE TO VACATE IN 90 DAYS.**

29 **IF YOU ARE A BONA FIDE TENANT WITH A MONTH-TO-MONTH OR OTHER  
 30 TERMINABLE-AT-WILL TENANCY, YOU HAVE THE RIGHT TO CONTINUE RENTING  
 31 THE PROPERTY FOR UP TO 90 DAYS AFTER RECEIVING A WRITTEN NOTICE TO  
 32 VACATE FROM THE NEW OWNER.**

33 **IF YOU ARE NOT A BONA FIDE TENANT AND A FORECLOSURE SALE OF THE  
 34 PROPERTY OCCURS, YOU COULD BE EVICTED SHORTLY AFTER THE**

1 **FORECLOSURE SALE, EVEN IF YOU HAVE PAID THE RENT DUE AND COMPLIED**  
 2 **WITH YOUR LEASE.**

3 Below you will find the name, address, and telephone number of the person  
 4 authorized to sell the property. You may contact this person to **NOTIFY HIM OR HER**  
 5 **THAT YOU ARE A TENANT AT THE PROPERTY AND TO** find out more about the sale.  
 6 For further information, you may review the file in the office of the clerk of the circuit  
 7 court. [You may want to consult an attorney to determine your rights.] You also may  
 8 contact the Maryland Department of Housing and Community Development, at (insert  
 9 telephone number), or consult the Department’s website, (insert website address), for  
 10 assistance.

11 Person authorized to sell the property:

12 \_\_\_\_\_

13 Name

14 \_\_\_\_\_

15 Address

16 \_\_\_\_\_

17 Telephone

18 \_\_\_\_\_

19 Date of this notice”.

20 (2) The written notice required by this subsection shall be:

21 (i) A separate document;

22 (ii) Printed in at least 12 point type; and

23 (iii) Sent by first–class mail.

24 (3) The outside of the envelope containing the written notice required  
 25 by this subsection shall state, on the address side, in bold, capitalized letters in at  
 26 least 12 point type, the following: “IMPORTANT NOTICE TO ALL OCCUPANTS:  
 27 FORECLOSURE INFORMATION ENCLOSED. OPEN IMMEDIATELY.”.

28 (d) (1) In addition to any other notice required to be given by this Code or  
 29 the Maryland Rules, the person who purchases residential property in a foreclosure  
 30 sale shall send, after the entry of a judgment awarding possession and before any  
 31 attempt to execute the writ of possession, a written notice addressed to “all occupants”  
 32 at the address of the residential property in substantially the following form:

33 “IMPORTANT EVICTION NOTICE

1           The circuit court for (insert name of county) has entered a judgment awarding  
 2 possession of the property located at (insert address). **YOU COULD BE EVICTED**  
 3 **FROM THE PROPERTY ON ANY DAY AFTER** (insert **FIRST** date **AFTER WHICH**  
 4 **EVICTION COULD LEGALLY OCCUR UNDER STATE AND LOCAL LAW**).

5           Below you will find the name, address, and telephone number of the person who  
 6 purchased the property or the purchaser's agent. You may contact this person to find  
 7 out more about the court order. For further information, you may review the file in the  
 8 office of the clerk of the circuit court. You may want to consult an attorney to  
 9 determine your rights. You also may contact the Maryland Department of Housing  
 10 and Community Development, at (insert telephone number), or consult the  
 11 Department's website, (insert website address), for assistance.

12 Purchaser of the property or purchaser's agent:

13 \_\_\_\_\_  
 14 Name

15 \_\_\_\_\_  
 16 Address

17 \_\_\_\_\_  
 18 Telephone

19 \_\_\_\_\_  
 20 Date of this notice".

21           (2)     The written notice required by this subsection shall be:

22                   (i)     A separate document;

23                   (ii)    Printed in at least 12 point type; and

24                   (iii)   Sent by first-class mail.

25           (3)     The outside of the envelope containing the written notice required  
 26 by this subsection shall state, on the address side, in bold, capitalized letters in at  
 27 least 12 point type, the following: "IMPORTANT NOTICE TO ALL OCCUPANTS:  
 28 EVICTION INFORMATION ENCLOSED. OPEN IMMEDIATELY."

29           (e)     The person giving a notice required by this section shall file in the  
 30 foreclosure proceeding after each notice is sent an affidavit of compliance with the  
 31 provisions of this section.

32           (f)     In the event of postponement of the sale, which may be done in the  
 33 discretion of the person authorized to make the sale, no new or additional notice need  
 34 be given pursuant to this section.



1           **(G) IF A FORECLOSURE ACTION IS DISMISSED, WITHDRAWN, OR**  
2 **TERMINATED FOR ANY REASON BEFORE TRANSFER OF LEGAL TITLE, A NOTICE**  
3 **OF THE DISMISSAL, WITHDRAWAL, OR TERMINATION SHALL BE SENT TO EACH**  
4 **TENANT WHOSE IDENTITY IS KNOWN AND TO “ALL OCCUPANTS” BY FIRST-CLASS**  
5 **MAIL.**

6           SECTION 2. AND BE IT FURTHER ENACTED, That this Act is an emergency  
7 measure, is necessary for the immediate preservation of the public health or safety,  
8 has been passed by a yea and nay vote supported by three-fifths of all the members  
9 elected to each of the two Houses of the General Assembly, and shall take effect from  
10 the date it is enacted.