

SENATE BILL 876

N1

5lr2944
CF HB 1215

1 By: **Senators Benson, Currie, Lee, McFadden, Muse, Ramirez, and Raskin**
2 Introduced and read first time: March 2, 2015
3 Assigned to: Rules

4 A BILL ENTITLED

5 AN ACT concerning

6 **Foreclosure – Indorsement of Debt Instrument, Lost Note Affidavit, and**
7 **Penalties for False Statements**

8 FOR the purpose of altering the requirements for the debt instrument required to be filed
9 with an order to docket or complaint to foreclose a mortgage or deed of trust on
10 residential property; altering the requirements for a certain lost note affidavit;
11 establishing certain penalties for knowingly making a false statement in certain
12 documents required to be filed with a court; providing for the application of this Act;
13 and generally relating to actions to foreclose a mortgage or deed of trust on
14 residential property.

15 BY repealing and reenacting, with amendments,
16 Article – Real Property
17 Section 7–105.1(e) and (f)
18 Annotated Code of Maryland
19 (2010 Replacement Volume and 2014 Supplement)

20 BY adding to
21 Article – Real Property
22 Section 7–105.1(t)
23 Annotated Code of Maryland
24 (2010 Replacement Volume and 2014 Supplement)

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

27 **Article – Real Property**

28 7–105.1.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter deleted from existing law.



1 (e) An order to docket or a complaint to foreclose a mortgage or deed of trust on
2 residential property shall:

3 (1) Include:

4 (i) If applicable, the license number of:

5 1. The mortgage originator; and

6 2. The mortgage lender; and

7 (ii) An affidavit stating:

8 1. The date on which the default occurred and the nature of
9 the default; and

10 2. If applicable, that:

11 A. A notice of intent to foreclose was sent to the mortgagor or
12 grantor in accordance with subsection (c) of this section and the date on which the notice
13 was sent; and

14 B. At the time the notice of intent to foreclose was sent, the
15 contents of the notice of intent to foreclose were accurate; and

16 (2) Be accompanied by:

17 (i) The original or a certified copy of the mortgage or deed of trust;

18 (ii) A statement of the debt remaining due and payable supported by
19 an affidavit of the plaintiff or the secured party or the agent or attorney of the plaintiff or
20 secured party;

21 (iii) **[A] THE ORIGINAL OR A CERTIFIED** copy of the debt
22 instrument **INDORSED TO THE PLAINTIFF OR THE SECURED PARTY**, accompanied by
23 an affidavit certifying ownership of the debt instrument;

24 (iv) If applicable, the original or a certified copy of the assignment of
25 the mortgage for purposes of foreclosure or the deed of appointment of a substitute trustee;

26 (v) If any defendant is an individual, an affidavit that is in
27 compliance with § 521 of the Servicemembers Civil Relief Act, 50 U.S.C. App. § 501 et seq.;

28 (vi) If applicable, a copy of the notice of intent to foreclose;

1 (vii) If the secured party and mortgagor or grantor have elected to
2 participate in prefile mediation, the report of the prefile mediation issued by the Office of
3 Administrative Hearings;

4 (viii) If the secured party and the mortgagor or grantor have not
5 elected to participate in prefile mediation, a statement that the parties have not elected to
6 participate in prefile mediation;

7 (ix) In addition to any other filing fees required by law, a filing fee in
8 the amount of \$300; and

9 (x) 1. If the loss mitigation analysis has been completed subject
10 to subsection (g) of this section, a final loss mitigation affidavit in the form prescribed by
11 regulation adopted by the Commissioner of Financial Regulation; and

12 2. If the loss mitigation analysis has not been completed, a
13 preliminary loss mitigation affidavit in the form prescribed by regulation adopted by the
14 Commissioner of Financial Regulation.

15 (f) Notwithstanding any other law, the court may not accept a lost note affidavit
16 in lieu of a copy of the debt instrument required under subsection (e)(2)(iii) of this section,
17 unless the affidavit:

18 (1) [Identifies the owner of the debt instrument and states from whom and
19 the date on which the owner acquired ownership] **LISTS EACH OWNER IN THE CHAIN OF
20 TITLE OF THE DEBT INSTRUMENT AND STATES FROM WHOM AND THE DATE ON
21 WHICH EACH OWNER ACQUIRED OWNERSHIP;**

22 (2) States why a copy of the debt instrument cannot be produced; and

23 (3) Describes the good faith efforts made to produce a copy of the debt
24 instrument.

25 **(T) A PERSON WHO KNOWINGLY MAKES A FALSE STATEMENT IN A
26 DOCUMENT REQUIRED TO BE FILED WITH A COURT UNDER THIS SECTION IS GUILTY
27 OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT
28 EXCEEDING 1 YEAR OR A FINE NOT EXCEEDING \$10,000 OR BOTH.**

29 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to
30 apply only prospectively and may not be applied or interpreted to have any effect on or
31 application to any order to docket or complaint to foreclose filed before the effective date of
32 this Act.

33 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
34 October 1, 2015.