HOUSE BILL 524

N1 6lr1856

By: **Delegates Cluster and Parrott**
Introduced and read first time: February 1, 2016
Assigned to: Environment and Transportation

A BILL ENTITLED

AN ACT concerning

Foreclosure – Responsibility for Maintenance of Residential Property and Registration Requirement

FOR the purpose of establishing that, on and after the filing of an action to foreclose a mortgage or deed of trust on residential property, the secured party shall be responsible for maintenance of the property until the foreclosure sale occurs; requiring the secured party to submit a registration to the Foreclosed Property Registry within a certain period of time after the filing of an action to foreclose a mortgage or deed of trust on residential property; requiring the registration to be in a certain form and contain certain information; establishing certain fees; making a certain conforming change; providing for the application of this Act; and generally relating to foreclosure of residential property.

BY repealing and reenacting, with amendments,
Article – Real Property
Section 14–126.1
Annotated Code of Maryland
(2015 Replacement Volume)

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

Article – Real Property

14–126.1.

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

(2) "Department" means the Department of Labor, Licensing, and Regulation.

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

(3) "Foreclosed Property Registry" means the Foreclosed Property Registry established by the Department under subsection (b) of this section.

(4) "Foreclosure purchaser" means the person identified as the purchaser on the report of sale required by Maryland Rule 14–305 for a foreclosure sale of residential property.

(5) "Fund" means the Foreclosed Property Registry Fund established by the Department under subsection (i) of this section.

(6) "Local jurisdiction" means:

(i) A county; or

(ii) A municipal corporation.

(7) "Residential property" means real property improved by four or fewer dwelling units that are designed principally and are intended for human habitation.

(b) The Department shall establish and maintain an Internet–based Foreclosed Property Registry for information relating to foreclosure sales of residential property.

(c) At the time of a foreclosure sale of residential property, the person responsible for conducting the foreclosure shall obtain from the foreclosure purchaser a written acknowledgment of the requirements of this section.

(d) (1) Within 30 days after a foreclosure sale of residential property, a foreclosure purchaser shall submit an initial registration to the Foreclosed Property Registry.

(2) The initial registration shall:

(i) Be in the form the Department requires; and

(ii) Contain the following information:

1. The name, telephone number, and address of the foreclosure purchaser;

2. The street address of the property that is the subject of the foreclosure sale;

3. The date of the foreclosure sale;

4. Whether the property is a single–family or multifamily property;

5. The name and address of the person, including a substitute purchaser, who is authorized to accept legal service for the foreclosure purchaser;

6. To the best of the foreclosure purchaser's knowledge at the time of registration:

A. Whether the residential property is vacant; and

B. The name, telephone number, and street address of the person who is responsible for the maintenance of the property; and

7. Whether the foreclosure purchaser has possession of the property.

(3) Within 30 days after a deed transferring title to the residential property has been recorded, the foreclosure purchaser shall submit a final registration to the Foreclosed Property Registry.

(4) The final registration shall:

(i) Be in the form the Department requires; and

(ii) Contain the following information as of the date of final registration:

1. The name, telephone number, and address of the owner on the deed;

2. The date of the ratification of the sale; and

3. The date the deed was recorded.

(e) **(1) ON AND AFTER THE FILING OF AN ACTION TO FORECLOSE A MORTGAGE OR DEED OF TRUST ON RESIDENTIAL PROPERTY UNDER § 7–105.1 OF THIS ARTICLE, THE SECURED PARTY SHALL BE RESPONSIBLE FOR MAINTENANCE OF THE PROPERTY UNTIL THE FORECLOSURE SALE OCCURS.**

(2) WITHIN 30 DAYS AFTER THE FILING OF AN ACTION TO FORECLOSE A MORTGAGE OR DEED OF TRUST ON RESIDENTIAL PROPERTY UNDER § 7–105.1 OF THIS ARTICLE, THE SECURED PARTY SHALL SUBMIT A REGISTRATION TO THE FORECLOSED PROPERTY REGISTRY.

(3) THE REGISTRATION SHALL:

(I) BE IN THE FORM THE DEPARTMENT REQUIRES; AND

1 **(II) CONTAIN THE FOLLOWING INFORMATION:**

2 **1. THE NAME, TELEPHONE NUMBER, AND ADDRESS OF**
3 **THE SECURED PARTY;**

4 **2. THE STREET ADDRESS OF THE PROPERTY THAT IS**
5 **THE SUBJECT OF THE FORECLOSURE ACTION;**

6 **3. THE DATE THE FORECLOSURE ACTION WAS FILED;**

7 **4. WHETHER THE PROPERTY IS A SINGLE–FAMILY OR**
8 **MULTIFAMILY PROPERTY;**

9 **5. THE NAME AND ADDRESS OF THE PERSON WHO IS**
10 **AUTHORIZED TO ACCEPT LEGAL SERVICE FOR THE SECURED PARTY;**

11 **6. TO THE BEST OF THE SECURED PARTY'S KNOWLEDGE**
12 **AT THE TIME OF REGISTRATION:**

13 **A. WHETHER THE RESIDENTIAL PROPERTY IS VACANT;**
14 **AND**

15 **B. THE NAME, TELEPHONE NUMBER, AND STREET**
16 **ADDRESS OF THE PERSON WHO IS RESPONSIBLE FOR THE MAINTENANCE OF THE**
17 **PROPERTY; AND**

18 **7. WHETHER THE SECURED PARTY HAS POSSESSION OF**
19 **THE PROPERTY.**

20 **(F)** (1) The filing fees for registering a residential property are:

21 (i) $50 for an initial registration filed within the time period
22 required under subsection (d)(1) of this section; **[**and**]**

23 (ii) $100 for an initial registration filed after the time period
24 required under subsection (d)(1) of this section;

25 **(III) $50 FOR A REGISTRATION FILED WITHIN THE TIME PERIOD**
26 **REQUIRED UNDER SUBSECTION (E)(2) OF THIS SECTION; AND**

27 **(IV) $100 FOR A REGISTRATION FILED AFTER THE TIME PERIOD**
28 **REQUIRED UNDER SUBSECTION (E)(2) OF THIS SECTION.**

(2) There is no fee for a final registration.

(3) A filing fee paid under paragraph (1) of this subsection is nonrefundable.

(4) A local jurisdiction may enact a local law that imposes a civil penalty for failure to register under this section in an amount not exceeding $1,000.

[(f)] **(G)** (1) Subject to paragraph (2) of this subsection, a local jurisdiction that, in accordance with any applicable building code or local ordinance, abates a nuisance on a residential property registered under this section or takes action to maintain a residential property registered under this section may collect the cost associated with the abatement or other action as a charge included on the residential property's property tax bill.

(2) (i) The cost associated with an abatement or other action taken under paragraph (1) of this subsection may not be included as a charge on the residential property's property tax bill unless the local jurisdiction provides advance written notice in accordance with subparagraph (ii) of this paragraph to:

1. The person identified in the registry who is authorized to accept legal service for the **SECURED PARTY OR** foreclosure purchaser; and

2. The person identified in the registry who is responsible for the maintenance of the property.

(ii) The notice described in subparagraph (i) of this paragraph shall:

1. Describe the intended abatement or other action the local jurisdiction intends to take; and

2. Be provided:

A. In accordance with the notice provisions of the applicable building code or local ordinance; or

B. If the applicable building code or local ordinance does not provide for notice, at least 30 days before the local jurisdiction abates the nuisance or takes action to maintain the property.

[(g)] **(H)** (1) The Foreclosed Property Registry:

(i) Is not a public record as defined by § 4–101 of the General Provisions Article; and

(ii) Is not subject to Title 4 of the General Provisions Article.

(2) The Department may authorize access to the Foreclosed Property Registry only to local jurisdictions, their agencies, and representatives and State agencies.

(3) Notwithstanding paragraphs (1) and (2) of this subsection, the Department or a local jurisdiction may provide information for a specific property in the Foreclosed Property Registry to:

(i) A person who owns property on the same block; or

(ii) A homeowners association or condominium in which the property is located.

[(h)**]** **(I)** Revenue collected from the filing fees required under subsection **[**(e)(1)**]** **(F)(1)** of this section shall be distributed to the Fund.

[(i)**]** **(J)** (1) There is a Foreclosed Property Registry Fund in the Department.

(2) The purpose of the Fund is to support the development, administration, and maintenance of the Foreclosed Property Registry established under this section.

(3) The Department shall administer the Fund.

(4) (i) The Fund is a special, nonlapsing fund that is not subject to § 7–302 of the State Finance and Procurement Article.

(ii) The State Treasurer shall hold the Fund separately, and the Comptroller shall account for the Fund.

(5) The Fund consists of:

(i) Revenue distributed to the Fund under subsection **[**(h)**]** **(I)** of this section;

(ii) Investment earnings of the Fund;

(iii) Money appropriated in the State budget to the Fund; and

(iv) Any other money from any other source accepted for the benefit of the Fund.

(6) (i) The State Treasurer shall invest the money of the Fund in the same manner as other State money may be invested.

(ii) Any investment earnings of the Fund shall be paid into the Fund.

1 [(j)] **(K)** (1) Except as provided in paragraph (2) of this subsection, only the
2 State may enact a law requiring a notice to be filed with a unit of government to register
3 residential properties that are subject to foreclosure.

4 (2) This subsection does not restrict or otherwise affect the ability of a unit
5 of government to require a registration or notice to be filed for a purpose other than one
6 relating to foreclosure, even if a property to be identified in the registration or notice is
7 subject to foreclosure.

8 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to
9 apply only prospectively and may not be applied or interpreted to have any effect on or
10 application to any foreclosure action filed before the effective date of this Act.

11 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
12 October 1, 2016.