

Maryland Code

- 📁 Maryland Code
- 📁 REAL PROPERTY.
- 📁 TITLE 7. Mortgages, Deeds of Trust; Vendor's Liens.
- 📁 Subtitle 1. Mortgages, Deeds of Trust.

§ 7-105.1 REAL PROP. Procedure for foreclosure.

****Update Notice:** This section has been amended by

[CHAPTER 149 OF 2009](#)

[CHAPTER 691 OF 2009](#)

[CHAPTER 692 OF 2009](#)

(a) *"Residential property" defined.* – In this section, "residential property" means real property improved by four or fewer single family dwelling units.

(b) *Timing.* – (1) Except as provided in paragraph (2) of this subsection, an action to foreclose a mortgage or deed of trust on residential property may not be filed until the later of:

(i) 90 days after a default in a condition on which the mortgage or deed of trust provides that a sale may be made; or

(ii) 45 days after the notice of intent to foreclose required under subsection (c) of this section is sent.

(2)(i) **The secured party** may petition the circuit court for leave to immediately commence an action to foreclose the mortgage or deed of trust if:

1. The loan secured by the mortgage or deed of trust was obtained by fraud or deception;

2. No payments have ever been made on the loan secured by the mortgage or deed of trust;

3. The property subject to the mortgage or deed of trust has been destroyed; or

4. The default occurred after the stay has been lifted in a bankruptcy proceeding.

(ii) The court may rule on the petition with or without a hearing.

(iii) If the petition is granted, the action may be filed at any time after a default in a condition on which the mortgage or deed of trust provides that a sale may be made and **the secured party** need not send the written notice of intent to foreclose required under subsection (c) of this section.

(c) *Written notice.* – (1) Except as provided in subsection (b)(2)(iii) of this section, at least 45 days before the filing of an action to foreclose a mortgage or deed of trust on residential property, **the secured party** shall send a written notice of intent to foreclose to the mortgagor or grantor and the record owner.

(2) **The notice of intent to foreclose shall be sent:**

(i) By certified mail, postage prepaid, return receipt requested, bearing a postmark from the United States Postal Service; and

(ii) By first-class mail.

(3) A copy of the notice of intent to foreclose shall be sent to the Commissioner of Financial Regulation.

(4) **The notice of intent to foreclose shall:**

(i) Be in the form that the Commissioner of Financial Regulation prescribes by regulation; and

(ii) Contain:

1. The name and telephone number of:
 - A. The secured party;
 - B. The mortgage servicer, if applicable; and
 - C. An agent of the secured party who is authorized to modify the terms of the mortgage loan;
2. The name and license number of the Maryland mortgage lender and mortgage originator, if applicable;
3. The amount required to cure the default and reinstate the loan, including all past due payments, penalties, and fees; and
4. Any other information that the Commissioner of Financial Regulation requires by regulation.

(d) *Order to docket or complaint to foreclose.* – An order to docket or a complaint to foreclose a mortgage or deed of trust on residential property shall:

- (1) **Include:**
 - (i) If applicable, the license number of:
 1. The mortgage originator; and
 2. The mortgage lender; and
 - (ii) An affidavit stating:
 1. The date on which the default occurred and the nature of the default; and
 2. If applicable, that a notice of intent to foreclose was sent to the mortgagor or grantor in accordance with subsection (c) of this section and the date on which the notice was sent; and
- (2) **Be accompanied by:**
 - (i) The original or a certified copy of the mortgage or deed of trust;
 - (ii) A statement of the debt remaining due and payable supported by an affidavit of the plaintiff or the secured party or the agent or attorney of the plaintiff or secured party;
 - (iii) A copy of the debt instrument accompanied by an affidavit certifying ownership of the debt instrument;
 - (iv) If applicable, the original or a certified copy of the assignment of the mortgage for purposes of foreclosure or the deed of appointment of a substitute trustee;
 - (v) If any defendant is an individual, an affidavit that:
 1. The individual is not a servicemember, as defined in the Servicemembers Civil Relief Act, [50 U.S.C. Appendix § 511](#); or
 2. The action is authorized by the Act;
 - (vi) If applicable, a copy of the notice of intent to foreclose; and
 - (vii) A notice to the mortgagor in substantially the following form, as prescribed by regulation by the Commissioner of Financial Regulation:

"NOTICE

An action to foreclose the mortgage/deed of trust on the property located at (insert address) has been filed in the Circuit Court for (county).

A foreclosure sale of the property may occur at any time after 45 days from the date that this notice is served on you.

You may stop the sale and reinstate your mortgage loan by paying all amounts due on your loan, plus fees and costs of the foreclosure action, at any time up to one business day before the sale. Please contact (insert name of authorized agent of secured party) at (insert telephone number) to obtain the amount due to cure the default on your mortgage loan and instructions for delivering the payment.

You are urged to obtain legal advice to discuss other options to stop the foreclosure sale, which may include filing a motion for injunction with the circuit court or a petition for bankruptcy in federal bankruptcy court. A motion for injunction or a bankruptcy petition must be filed before the foreclosure sale occurs.

If you are interested in selling your home to avoid a foreclosure sale, you may wish to contact a licensed real estate broker or salesperson as soon as possible.

Housing counseling and financial assistance programs are available through the Maryland Department of Housing and Community Development. Please call (insert telephone number) for information on available resources.

Some people may approach you about "saving" your home. You should be careful about any such promises.

The State encourages you to become informed about your options in foreclosure before entering into any agreements with anyone in connection with the foreclosure of your home. There are government agencies and nonprofit organizations that you may contact for helpful information about the foreclosure process. For the name and telephone number of an organization near you, please call the Consumer Protection Division of the Office of the Attorney General of Maryland at (insert telephone number). The State does not guarantee the advice of these organizations.

DO NOT DELAY DEALING WITH THE FORECLOSURE BECAUSE YOUR OPTIONS WILL BECOME MORE LIMITED AS TIME PASSES."

(e) *Service.* – (1) A copy of the order to docket or complaint to foreclose on residential property and all other papers filed with it shall be served by:

(i) Personal delivery of the papers to the mortgagor or grantor; or

(ii) Leaving the papers with a resident of suitable age and discretion at the mortgagor's or grantor's dwelling house or usual place of abode.

(2) If at least two good faith efforts to serve the mortgagor or grantor under paragraph (1) of this subsection on different days have not succeeded, the plaintiff may effect service by:

(i) Filing an affidavit with the court describing the good faith efforts to serve the mortgagor or grantor; and

(ii) 1. Mailing a copy of the order to docket or complaint to foreclose and all other papers filed with it by certified mail, return receipt requested, and first-class mail to the mortgagor's or grantor's last known address and, if different, to the address of the residential property subject to the mortgage or deed of trust; and

2. Posting a copy of the order to docket or complaint to foreclose and all other papers filed with it in a conspicuous place on the residential property subject to the mortgage or deed of trust.

(3) The individual making service of process under this subsection shall file proof of service with the court in accordance with the Maryland Rules.

(f) *Foreclosure sale.* – A foreclosure sale of residential property may not occur until at least 45 days after service of process is made under subsection (e) of this section.

(g) *Publication of notice of foreclosure sale.* – Notice of the time, place, and terms of a foreclosure sale shall be

published in a newspaper of general circulation in the county where the action is pending at least once a week for 3 successive weeks, the first publication to be not less than 15 days before the sale and the last publication to be not more than 1 week before the sale.

(h) *Right to cure default.* – (1) The mortgagor or grantor has the right to cure the default by paying all past due payments, penalties, and fees and reinstate the loan at any time up to 1 business day before the foreclosure sale occurs.

(2) The secured party or an authorized agent of the secured party shall, on request, provide to the mortgagor or grantor or the mortgagor's or grantor's attorney within a reasonable time the amount necessary to cure the default and reinstate the loan and instructions for delivering the payment.

(i) *Limitation of actions for failure to comply.* – An action for failure to comply with the provisions of this section shall be brought within 3 years after the date of the order ratifying the sale.

(2008, chs. [1](#), [2](#); ch. 36, § 6.)