



FACSIMILE NO.

STATE OF MARYLAND
OFFICE OF THE ATTORNEY GENERAL

WRITER'S DIRECT DIAL NO.
410-576-6584

February 11, 2020

TO: The Honorable Dereck E. Davis
Chair, Economic Matters Committee

FROM: Brian E. Frosh, Attorney General

RE: HB 334 – Maryland Collection Agency Licensing Act – Definitions and
Legislative Intent (**SUPPORT**)

In August 2018, the Court of Appeals issued a 5-2 majority opinion in a group of consolidated cases, referred to collectively as *Blackstone v. Sharma*, reversing a well-reasoned Court of Special Appeals opinion and the decisions of multiple different trial courts.¹ The majority concluded that foreign statutory trusts, which were created by Wall Street hedge funds as a vehicle to purchase *defaulted* residential mortgage debts and then foreclose on those debts for the benefit of the trusts, are not required to be licensed as collection agencies under the Maryland Collection Agency Licensing Act. Since the Sharma ruling, hedge funds that have taken over the defaulted, secondary mortgage marketplace have gone unregulated in Maryland.

These hedge funds, commonly referred to as “vulture funds,” represent new mortgage players who are purchasing distressed mortgages for significantly less than the amount owed, and then aggressively pursuing collection actions on those debts by initiating foreclosure litigation and other collection activities.

These vulture funds are hurting thousands of struggling homeowners in Maryland. They have no interest in providing loan modifications, but rather are an investment vehicle intended to bring returns to investors as quickly as possible by foreclosure. Unlike traditional lenders, vulture funds are unlikely to work with consumers to obtain modifications or take other steps to prevent foreclosure. Lack of regulations has allowed their predatory conduct to grow.

As reported by the Baltimore Sun, between January 2013 and February 2017, vulture funds have taken over thousands of mortgages here in Maryland:

¹ 461 Md. 87, 191 A.3d 1188 (2018).

3,210	Prince George's County
2,688	Baltimore County
2397	Baltimore City
1,464	Anne Arundel County
1,178	Montgomery County

It's no surprise that the operators of these funds would be opposed to regulation. Opponents claim that requiring these funds to become licensed debt collection agencies would adversely impact borrowers and have a chilling effect on the secondary mortgage market. We have found these claims to be doubtful. In fact:

- States with statutes that require foreign trusts to register as debt collectors do not have any less active a secondary mortgage market;²
- Instead, these foreign statutory trusts that purchase default mortgages are really only designed to benefit investors, not homeowners.

In short, there is no merit to the vulture funds' claims that requiring them to be licensed will make it harder for Marylanders to obtain mortgages.

This Bill would not create a new requirement for "statutory trusts" to become licensed as collection agencies. The term "statutory trusts" is not used anywhere in HB 334. Rather, the Bill clarifies that pursuing foreclosure actions on loans that were in default at the time of purchase is included in the type of collection activities subject to the licensing act. Such a position is consistent with the plain statutory language of multiple other states with similarly-worded licensing/registration statutes.

Identical legislation passed the House overwhelmingly (98-39) during the 2019 Session. To better regulate these predatory vulture funds, and protect consumers, I urge the Committee to favorably report HB 334 (SB 262).

cc: Members of the Economic Matters Committee

² These states include: Arizona, Connecticut, Colorado, Florida, Hawaii, Idaho, Illinois, Kansas, Maine, New Jersey, North Carolina, and Oregon.