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Judicial Proceedings Committee

Vice Chair, Baltimore County  
Senate Delegation



**THE SENATE OF MARYLAND**  
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Senate Judicial Proceedings Committee  
The Honorable William C. Smith  
2 East Miller Senate Building  
Annapolis, Maryland 21401-1991

**RE: SB 675 – Baltimore County – Foreclosure Proceedings – Affidavit That Property Is Vacant or Unfit for Human Inhabitation**

Dear Chairman Smith and Members of the Committee:

When the Great Recession hit in 2008, a lot of foreclosures were initiated in Maryland by banking institutions holding mortgages and deeds of trust on private residences. Reacting to the large number of homeowners being dispossessed of their homes, the Maryland General Assembly quickly enacted legislation whose practical effect was to greatly slow down the foreclosure process.

This legislation did the job it was intended to do, but there have been unexpected collateral consequences. Sometimes, the owners of houses have literally walked away from their homes and left them vacant. The existing foreclosure law makes no exceptions for these cases, even though vacant homes are easy targets for vagrants or burglars who enter the vacant homes and strip them of everything of value – hardware, plumbing fixtures, even electrical wiring. Similarly, there are instances in which residences have become unfit for human habitation. Here again, the existing law slows down the foreclosure process and forces holders of mortgages and deeds of trust to jump through numerous legal hoops before they can foreclose on these properties.

It is in no one's interest to have hulking vacant residences or homes that are unfit for human habitation sitting derelict on a residential street for long periods of time because the lenders holding mortgages or deeds of trust on the homes are prevented from using the State's foreclosure laws to sell the homes at public auction to new owners who will stabilize them and rehabilitate them.

This local Baltimore County bill provides a simple way in these limited situations for holders of mortgages and deeds of trust to much more rapidly invoke their rights of foreclosure.

The bill provides that a holder of a mortgage or deed of trust can initiate a foreclosure proceeding in the Circuit Court accompanied by an Affidavit stating that the home is either

vacant or unfit for human habitation under the County's housing code. The holder of the mortgage or deed of trust then must serve the foreclosure documents, including the Affidavit, on the record owner or occupant of the property along with a description of the right of the owner or occupant to challenge the accuracy of the Affidavit. The owner or occupant then has 30 days to file a Motion to Strike the Affidavit. If the Court then finds that a controversy as to the accuracy of the Affidavit exists, the Court *must* strike the Affidavit, *must* require the holder of the mortgage or deed of trust to comply with all of the requirements of the Maryland foreclosure law and, if the Court finds that the Affidavit was fraudulent, *must* award attorney's fees to the owner or occupant to pay for the expenses incurred in getting the Affidavit stricken.

In most cases, if the house is indeed vacant or not fit for human habitation, the owner or occupant will not challenge the accuracy of the Affidavit, and in such an event, this bill provides that the holder of the mortgage or deed of trust will not have to comply with Section 7-105.1 of the Real Property Article, which contains the various provisions which serve to slow down the foreclosure process.

So this bill will facilitate the rapid foreclosure of vacant properties or properties unfit for human habitation in Baltimore County neighborhoods. It will enable the holders of mortgages or deeds of trust on these homes to quickly gain possession of the homes, stabilize them, put them in shape for sale and sell them at public auction to new owners. Instead of neighborhood blight, this bill will lead to a recovery and rehabilitation of these properties, to the benefit of the surrounding neighborhoods.

I ask the committee for a favorable report.