

CAPITOL ♦ TITLE

Goldstein & Levy, P. A.
General Counsel

November 4, 2008

MARYLAND LEGAL BULLETIN

REVISIONS IN MARYLAND FORECLOSURE LAWS AND TIMELINES

On April 3, 2008 Governor O'Malley signed emergency legislation restructuring Maryland's mortgage foreclosure laws. The legislation features new requirements for deeds of trust and mortgages, pre-foreclosure filing notice requirements and personal service of the foreclosure complaint and a new consumer notice in an effort to provide borrowers more notice and information regarding foreclosure proceedings.

The new law dramatically changes procedures and time frames for foreclosure on Residential Property (property improved by 4 or fewer dwelling units)

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In addition to a normal default letter, prior to filing a foreclosure proceeding a lender must send a 45 day Notice of Intent to Foreclose by regular and certified mail to the mortgagor, with a copy to the Commissioner of Financial Regulation.

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Exceptions to the above 45 day notice requirement are allowed if the lender can prove borrower fraud, that no payments have ever been made on the loan, the property has been destroyed or the default occurred after a bankruptcy stay has been lifted.

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Once the 45 day notice expires AND the loan is at least 90 days in default, a foreclosure action can be filed

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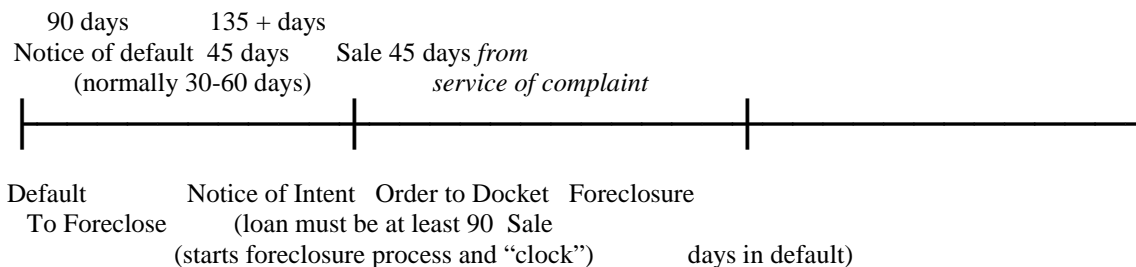
The filing now includes additional documentation and affidavits and requires a statutory notice to the borrower warning that a sale can be held 45 days from the date the complaint to foreclose is served and providing contact information for reinstatement

- Once docketed a copy of the Order to Docket the foreclosure along with all supporting documents must be personally served on each mortgagor (or left with person of suitable age at the mortgagor's dwelling house or usual place of abode)

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- If two good faith attempts at service prove unsuccessful an affidavit confirming such attempts must be filed with the court and the documents can be posted on the property and sent to mortgagor's last known address by regular and certified mail
- Requires that on the borrower's request for reinstatement ("bring current") figures, the lender must provide the amount due and instructions for delivering funds within a reasonable period of time
- Contrary to the terms of most loan documents, borrowers now have the statutory right to cure (i. e. "bring current") financial defaults up to one business day before the actual foreclosure sale
- Other requirements are unchanged (including requirement for notice of sale date and process for ratification of sale by Court)

The effect of these changes is to significantly extend the time frame required for the filing of foreclosure and conducting of a foreclosure sale. The "minimum" time line of 135 days for a foreclosure is now as follows:



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