

## Chapter 485

(House Bill 472)

AN ACT concerning

### **Real Property – Residential Property Foreclosure Procedures – Foreclosure Mediation**

FOR the purpose of requiring a certain notice of intent to foreclose to include certain information; requiring a certain notice of intent to foreclose to be accompanied by a certain loss mitigation application, instructions for completing the application, certain other information, and a certain envelope; requiring an order to docket or complaint to foreclose to be accompanied by ~~a certain loss mitigation affidavit in a certain form, a certain request for foreclosure mediation, affidavit, and worksheet in a certain form, certain envelopes, and an additional filing fee in a certain amount; requiring the fee to be used for certain purposes; prohibiting the fee from being passed on to the mortgagor or grantor;~~ an additional filing fee, a certain final loss mitigation affidavit or a certain preliminary loss mitigation affidavit, and, if applicable, a certain request for foreclosure mediation; altering the information required to be included in a certain notice form; ~~requiring the clerk of the court to schedule a case for foreclosure mediation if the defendant in a certain foreclosure action files a certain completed request and affidavit within a certain time;~~ requiring the secured party to file a certain final loss mitigation affidavit and send to the mortgagor or grantor a copy of the affidavit and a request for foreclosure mediation form; authorizing the mortgagor or grantor in a foreclosure action on owner-occupied residential property to file a certain request for foreclosure mediation with the court; requiring the request to be accompanied by a filing fee in a certain amount; authorizing a court to reduce or waive the filing fee under certain circumstances; authorizing the secured party to file a motion to strike the request for foreclosure mediation; providing that there is a presumption that a mortgagor or grantor is entitled to foreclosure mediation under certain circumstances; requiring the court to forward a request for foreclosure mediation to the Office of Administrative Hearings for scheduling; requiring the Office to conduct a foreclosure mediation within a certain time period; requiring the Office to send certain notice to certain persons; requiring and authorizing certain individuals to be present at a foreclosure mediation; providing that the participants in a foreclosure mediation should address certain ~~options~~ loss mitigation programs; ~~authorizing the defendant in a certain foreclosure action to file a motion to stay the sale under certain circumstances; providing that a request for foreclosure mediation constitutes good cause for failure to file a motion to stay within a certain time;~~ requiring the Office to file a certain report with the court at a certain time; providing that, with a certain exception, the rules of procedure for certain contested cases do not govern a foreclosure

mediation conducted by the Office; providing that if the parties do not reach an agreement at the foreclosure mediation, or the mediation period expires without an extension by the Office, the foreclosure attorney may schedule the foreclosure sale; authorizing the mortgagor or grantor to file a motion to stay the foreclosure sale under certain circumstances; altering the time after which a foreclosure sale may occur; requiring that the revenue from certain filing fees be distributed to the Housing Counseling and Foreclosure Mediation Fund; establishing the Fund as a special, nonlapsing fund; providing for purposes, administration, and contents of the Fund; defining certain terms; ~~making this Act an emergency measure;~~ providing that until the Commissioner of Financial Regulation identifies certain information and prescribes a certain foreclosure process and time line, a certain notice of intent to foreclose shall be deemed to be in compliance with certain provisions of this Act; requiring the Commissioner of Financial Regulation to adopt certain regulations; providing that until the Commissioner of Financial Regulation adopts certain regulations, instructions regarding information and documents required for foreclosure mediation shall be deemed to be in compliance with certain provisions of this Act; providing that until the Commissioner of Financial Regulation adopts certain regulations, certain documents shall be in substantially a certain form; providing that when the Commissioner of Financial Regulation adopts certain regulations, certain documents may no longer be used and the documents prescribed by the regulations shall be used; authorizing the Governor to process certain budget amendments during a certain fiscal year that appropriate certain sums from the Housing Counseling and Foreclosure Mediation Fund to certain units of State government for certain purposes; requiring the Governor, for certain fiscal years, to appropriate a certain sum from the Fund to a certain unit of State government for a certain purpose; providing for the application of this Act; and generally relating to foreclosure of mortgages and deeds of trust on certain residential property.

BY repealing and reenacting, with amendments,  
 Article – Real Property  
 Section 7–105.1  
 Annotated Code of Maryland  
 (2003 Replacement Volume and 2009 Supplement)

BY adding to  
Article – Housing and Community Development  
Section 4–507  
Annotated Code of Maryland  
(2006 Volume and 2009 Supplement)

~~Preamble~~

~~WHEREAS, Thousands of Marylanders are struggling to keep their homes, with foreclosures continuing to rise; and~~

~~WHEREAS, Despite the federal Home Affordable Modification Program and other loss mitigation options available to help borrowers, many homeowners who may be eligible for loan modifications that could save their homes do not receive them; and~~

~~WHEREAS, The State seeks to ensure that those homeowners who are eligible for loan modifications are able to obtain them, and that others can pursue alternatives to avoid foreclosure or lessen its harmful impact; and~~

~~WHEREAS, Many homeowners have their home go to foreclosure while loan modification reviews are still pending or have not even begun; and~~

~~WHEREAS, Lenders should conduct meaningful efforts to determine whether an alternative to foreclosure is possible prior to involving the judicial system, with all its attendant costs and expenditure of resources; and~~

~~WHEREAS, Increasing the number of eligible homeowners receiving loan modifications on the front end will keep more people in their homes and conserve judicial resources by reducing the number of foreclosure actions filed; and~~

~~WHEREAS, Borrowers who may be eligible for loan modifications to save their homes but find themselves facing foreclosure should be afforded the opportunity to talk directly with their lenders to find a resolution before their homes are sold; now, therefore;~~

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

### Article – Real Property

7-105.1.

(a) (1) In this section[,] THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) “FINAL LOSS MITIGATION AFFIDAVIT” MEANS AN AFFIDAVIT THAT:

(I) IS MADE BY A PERSON AUTHORIZED TO ACT ON BEHALF OF A SECURED PARTY OF A MORTGAGE OR DEED OF TRUST ON OWNER-OCCUPIED RESIDENTIAL PROPERTY THAT IS THE SUBJECT OF A FORECLOSURE ACTION;

(II) CERTIFIES THE COMPLETION OF THE FINAL DETERMINATION OF LOSS MITIGATION ANALYSIS IN CONNECTION WITH THE MORTGAGE OR DEED OF TRUST; AND

(III) ~~PROVIDES~~ *IF DENIED, PROVIDES* AN EXPLANATION FOR THE DENIAL OF A LOAN MODIFICATION OR OTHER LOSS MITIGATION.

~~(2)~~ (3) “FORECLOSURE MEDIATION” MEANS A SETTLEMENT CONFERENCE, AS DEFINED IN MARYLAND RULE 17-102(H) AT WHICH THE PARTIES IN A FORECLOSURE ACTION, THEIR ATTORNEYS, ADDITIONAL REPRESENTATIVES OF THE PARTIES, OR A COMBINATION OF THOSE PERSONS APPEAR BEFORE AN IMPARTIAL INDIVIDUAL TO DISCUSS THE POSITIONS OF THE PARTIES IN AN ATTEMPT TO REACH AGREEMENT ON A LOSS MITIGATION PROGRAM FOR THE MORTGAGOR OR GRANTOR.

(4) “HOUSING COUNSELING SERVICES” MEANS ASSISTANCE PROVIDED TO MORTGAGORS OR GRANTORS BY NONPROFIT AND GOVERNMENTAL ENTITIES THAT ARE IDENTIFIED ON A LIST MAINTAINED BY THE DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT.

(5) “LOSS MITIGATION ANALYSIS” MEANS AN EVALUATION OF THE FACTS AND CIRCUMSTANCES OF A LOAN SECURED BY OWNER-OCCUPIED RESIDENTIAL PROPERTY TO DETERMINE:

(I) WHETHER A MORTGAGOR OR GRANTOR QUALIFIES FOR A LOAN MODIFICATION; AND

(II) IF THERE WILL BE NO LOAN MODIFICATION, WHETHER ANY OTHER LOSS MITIGATION PROGRAM MAY BE MADE AVAILABLE TO THE MORTGAGOR OR GRANTOR.

(6) “LOSS MITIGATION PROGRAM” MEANS AN OPTION IN CONNECTION WITH A LOAN SECURED BY OWNER-OCCUPIED RESIDENTIAL PROPERTY THAT:

(I) AVOIDS FORECLOSURE THROUGH LOAN MODIFICATION OR OTHER CHANGES TO EXISTING LOAN TERMS THAT ARE INTENDED TO ALLOW THE MORTGAGOR OR GRANTOR TO STAY IN THE PROPERTY;

(II) AVOIDS FORECLOSURE THROUGH A SHORT SALE, DEED IN LIEU OF FORECLOSURE, OR OTHER ALTERNATIVE THAT IS INTENDED TO SIMPLIFY THE MORTGAGOR’S OR GRANTOR’S RELINQUISHMENT OF OWNERSHIP OF THE PROPERTY; OR

(III) LESSENS THE HARMFUL IMPACT OF FORECLOSURE ON THE MORTGAGOR OR GRANTOR.

**(7) “OWNER-OCCUPIED RESIDENTIAL PROPERTY” MEANS RESIDENTIAL PROPERTY IN WHICH AT LEAST ONE ~~OF THE UNITS~~ UNIT IS OCCUPIED BY AN INDIVIDUAL WHO:**

**(I) HAS AN OWNERSHIP INTEREST IN THE PROPERTY; AND**

**(II) USES THE PROPERTY AS THE INDIVIDUAL’S PRIMARY RESIDENCE.**

**(8) “PRELIMINARY LOSS MITIGATION AFFIDAVIT” MEANS AN AFFIDAVIT THAT:**

**(I) IS MADE BY A PERSON AUTHORIZED TO ACT ON BEHALF OF A SECURED PARTY OF A MORTGAGE OR DEED OF TRUST ON OWNER-OCCUPIED RESIDENTIAL PROPERTY THAT IS THE SUBJECT OF A FORECLOSURE ACTION;**

**(II) CERTIFIES THE STATUS OF AN INCOMPLETE LOSS MITIGATION ANALYSIS IN CONNECTION WITH THE MORTGAGE OR DEED OF TRUST; AND**

**(III) INCLUDES REASONS WHY THE LOSS MITIGATION ANALYSIS IS INCOMPLETE.**

~~**(3) “NET PRESENT VALUE CALCULATION” MEANS THE CALCULATION, USING THE FEDERAL HOME AFFORDABLE MODIFICATION PROGRAM BASE NET PRESENT VALUE MODEL, THAT COMPARES THE EXPECTED ECONOMIC OUTCOME OF A LOAN WITH OR WITHOUT A LOAN MODIFICATION.**~~

~~**(4)**~~ **(9)** [“residential] **“RESIDENTIAL** property” means real property improved by four or fewer single family dwelling units that are designed principally and are intended for human habitation.

(b) (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) (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. A NOTICE ENCOURAGING STATEMENT RECOMMENDING THAT THE MORTGAGOR OR GRANTOR TO SEEK HOUSING COUNSELING SERVICES;
  5. THE TELEPHONE NUMBER OF THE MARYLAND HOPE HOTLINE AND THE INTERNET ADDRESS OF THE HOPE INITIATIVE WEBSITE NONPROFIT AND STATE GOVERNMENT RESOURCES AVAILABLE TO ASSIST MORTGAGORS AND GRANTORS FACING FORECLOSURE, AS IDENTIFIED BY THE COMMISSIONER OF FINANCIAL REGULATION;
  6. AN EXPLANATION OF THE MARYLAND FORECLOSURE PROCESS AND TIME LINE, AS PRESCRIBED BY THE COMMISSIONER OF FINANCIAL REGULATION; AND
- [4.] 7. Any other information that the Commissioner of Financial Regulation requires by regulation.

(5) THE NOTICE OF INTENT TO FORECLOSE SHALL BE ACCOMPANIED BY:

(i) A LOSS MITIGATION APPLICATION:

1. FOR A FEDERAL LOSS MITIGATION PROGRAM IN WHICH THE SECURED PARTY PARTICIPATES; LOSS MITIGATION PROGRAMS THAT ARE APPLICABLE TO THE LOAN SECURED BY THE MORTGAGE OR DEED OF TRUST THAT IS THE SUBJECT OF THE FORECLOSURE ACTION; OR
2. FOR ANY OTHER LOSS MITIGATION PROGRAM OFFERED BY THE SECURED PARTY, IF A FEDERAL PROGRAM IS INAPPLICABLE OR UNAVAILABLE; OR

~~3. THAT MAY BE REQUIRED BY REGULATION IF THE SECURED PARTY DOES NOT HAVE ITS OWN LOSS MITIGATION APPLICATION, IN THE FORM PRESCRIBED BY THE COMMISSIONER OF FINANCIAL REGULATION TO BE THE STATE'S UNIFORM LOSS MITIGATION APPLICATION USED BY ALL SECURED PARTIES, SERVICERS, AND OTHER AGENTS OF A SECURED PARTY;~~

(II) INSTRUCTIONS FOR COMPLETING THE LOSS MITIGATION APPLICATION AND A TELEPHONE NUMBER TO CALL TO CONFIRM RECEIPT OF THE APPLICATION;

~~(III) AN EXPLANATION A DESCRIPTION OF THE ELIGIBILITY REQUIREMENTS FOR THE FEDERAL LOSS MITIGATION PROGRAM IN WHICH PROGRAMS OFFERED BY THE SECURED PARTY, SERVICER, OR OTHER AGENT OF THE SECURED PARTY PARTICIPATES OR, IF A FEDERAL PROGRAM IS INAPPLICABLE OR UNAVAILABLE, ANY OTHER APPLICABLE LOSS MITIGATION PROGRAM; THAT MAY BE APPLICABLE TO THE LOAN SECURED BY THE MORTGAGE OR DEED OF TRUST THAT IS THE SUBJECT OF THE FORECLOSURE ACTION; AND~~

~~(IV) AN EXPLANATION OF ADDITIONAL LOSS MITIGATION OPTIONS, INCLUDING A GRACE PERIOD FOR POSTPONING PAYMENT, SHORT SALE, DEED IN LIEU OF FORECLOSURE, MOVING TO A LESS COSTLY HOME IN THE LENDER'S INVENTORY, "CASH FOR KEYS", OR ANY OTHER OPTION THAT MAY BE AVAILABLE TO HELP AVOID FORECLOSURE OR LESSEN ITS HARMFUL IMPACT ON THE MORTGAGOR OR GRANTOR; AND~~

~~(V) (IV) A STAMPED AN ENVELOPE PREPRINTED WITH THE ADDRESS OF THE PERSON RESPONSIBLE FOR CONDUCTING LOSS MITIGATION DEPARTMENT OF THE SECURED PARTY, SERVICER, OR OTHER AGENT AUTHORIZED BY THE SECURED PARTY TO MODIFY THE TERMS OF ANALYSIS ON BEHALF OF THE SECURED PARTY FOR THE MORTGAGE LOAN LOAN SECURED BY THE MORTGAGE OR DEED OF TRUST THAT IS THE SUBJECT OF THE FORECLOSURE ACTION.~~

(d) 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 LOSS MITIGATION AFFIDAVIT THAT IS IN SUBSTANTIALLY THE FOLLOWING FORM AND THAT CONTAINS ANY OTHER INFORMATION THAT THE COMMISSIONER OF FINANCIAL REGULATION REQUIRES BY REGULATION;~~

~~“LOSS MITIGATION AFFIDAVIT  
CASE NUMBER \_\_\_\_\_~~

~~MY NAME IS \_\_\_\_\_, I AM A \_\_\_\_\_ FOR THE PLAINTIFF IN THE ABOVE REFERENCED CASE. I HAVE PERSONAL KNOWLEDGE~~

~~OF THE FACTS SET FORTH IN THIS AFFIDAVIT AND AM AUTHORIZED TO EXECUTE IT ON THE PLAINTIFF'S BEHALF.~~

**SECTION I**

~~===== (1) THE MORTGAGE LOAN IS OWNED, SECURITIZED, INSURED, OR GUARANTEED BY THE FEDERAL NATIONAL MORTGAGE ASSOCIATION, FEDERAL HOME LOAN MORTGAGE CORPORATION, OR FEDERAL HOUSING ADMINISTRATION.~~

~~(2) THE SECURED PARTY, SERVICER, OR OTHER AGENT AUTHORIZED TO MODIFY THE TERMS OF THE MORTGAGE LOAN:~~

~~===== (A) IS PARTICIPATING IN A FEDERAL LOAN MODIFICATION PROGRAM CALLED =====; OR~~

~~===== (B) HAS OFFERED THE MORTGAGOR OR GRANTOR THE OPPORTUNITY TO PARTICIPATE IN AN ALTERNATIVE LOAN MODIFICATION PROGRAM.~~

~~(3) A LOAN MODIFICATION REVIEW FOR THIS MORTGAGE LOAN:~~

~~===== (A) HAS BEEN COMPLETED, AND THE MORTGAGOR OR GRANTOR HAS BEEN DENIED A LOAN MODIFICATION OR HAS BEEN DETERMINED TO BE INELIGIBLE FOR THE APPLICABLE LOAN MODIFICATION PROGRAM FOR THE REASONS CHECKED IN SECTION II BELOW; OR~~

~~===== (B) CANNOT BE COMPLETED BECAUSE THE SECURED PARTY, SERVICER, OR OTHER AGENT AUTHORIZED TO MODIFY THE TERMS OF A MORTGAGE LOAN HAS ATTEMPTED REPEATEDLY WITHOUT SUCCESS TO CONTACT AND OBTAIN, BY TELEPHONE, MAIL, OR OTHER METHOD, ON THE DATES AND IN THE MANNER SET FORTH BELOW, NECESSARY INFORMATION FROM THE MORTGAGOR OR GRANTOR IN COMPLIANCE WITH THE REQUIREMENTS OF THE FEDERAL OR ALTERNATIVE LOAN MODIFICATION PROGRAM IN WHICH THE SECURED PARTY PARTICIPATES.~~

~~=====~~  
~~DATE~~

~~=====~~  
~~MODE OF CONTACT~~

~~=====~~  
~~BORROWER'S RESPONSE~~

~~=====~~  
~~DATE~~

~~=====~~  
~~MODE OF CONTACT~~

~~=====~~  
~~BORROWER'S RESPONSE~~

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DATE	MODE OF CONTACT	BORROWER'S RESPONSE
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~~===== CHECK HERE IF ADDITIONAL DOCUMENTATION IS ATTACHED.~~

**SECTION II**

~~THIS MORTGAGE LOAN IS INELIGIBLE FOR LOAN MODIFICATION OR HAS BEEN DENIED A LOAN MODIFICATION FOR THE FOLLOWING REASONS (CHECK ALL THAT APPLY AND ATTACH DOCUMENTATION TO SUPPORT EACH REASON):~~

~~===== (1) THE PROPERTY IS NOT A PRIMARY RESIDENCE AND THE MORTGAGOR OR GRANTOR IS NOT CURRENTLY LIVING IN THE PROPERTY.~~

~~===== (2) THE PROPERTY IS NOT A ONE TO FOUR UNIT PROPERTY (INCLUDING A CONDOMINIUM, COOPERATIVE, OR MANUFACTURED HOME).~~

~~===== (3) THE PROPERTY IS VACANT OR CONDEMNED.~~

~~===== (4) THE LOAN SUBJECT TO FORECLOSURE IS NOT A FIRST LIEN LOAN.~~

~~===== (5) THE LOAN WAS ORIGINATED AFTER JANUARY 1, 2009, OR THE DATE SPECIFIED BY THE APPLICABLE LOAN MODIFICATION PROGRAM.~~

~~===== (6) THE AMOUNT CURRENTLY OWED ON THE LOAN IS GREATER THAN \$729,750, OR THE AMOUNT SPECIFIED BY THE APPLICABLE LOAN MODIFICATION PROGRAM (NOT INCLUDING ATTORNEY'S FEES AND PAST DUE PAYMENTS).~~

~~===== (7) THE MONTHLY AMOUNT DUE ON THE MORTGAGE LOAN, INCLUDING THE TOTAL PAYMENT OF PRINCIPAL, INTEREST, TAXES, INSURANCE, AND HOMEOWNERS ASSOCIATION DUES (IF APPLICABLE), IS LESS THAN THE PERCENTAGE INCOME THRESHOLD OF THE APPLICABLE LOAN MODIFICATION PROGRAM IN EFFECT AT THE TIME OF THE LOAN MODIFICATION DENIAL, AND THE APPLICABLE THRESHOLD IS \_\_\_\_\_ % OF THE MORTGAGOR'S OR GRANTOR'S GROSS MONTHLY INCOME.~~

~~===== (8) THE BORROWER HAS ALREADY FAILED A TRIAL LOAN MODIFICATION PLAN.~~

~~===== (9) THE LOAN IS OWNED BY AN INVESTOR OR POOL OF INVESTORS THAT HAS NOT GIVEN THE SERVICING AGENT THE CONTRACTUAL AUTHORITY TO ENTER INTO ANY LOAN MODIFICATION WITH THE BORROWER.~~

~~===== (10) THE MORTGAGE LOAN FAILED THE NET PRESENT VALUE CALCULATION, AND THE BASIS FOR THIS CALCULATION IS AS FOLLOWS:~~

~~===== (11) THE LOAN MODIFICATION REVIEW COULD NOT BE COMPLETED BECAUSE THE SECURED PARTY, SERVICER, OR OTHER AGENT AUTHORIZED TO MODIFY THE TERMS OF A MORTGAGE LOAN HAS ATTEMPTED REPEATEDLY WITHOUT SUCCESS TO CONTACT AND OBTAIN, BY TELEPHONE, MAIL, OR OTHER METHOD, ON THE DATES AND IN THE MANNER SET FORTH BELOW, NECESSARY INFORMATION FROM THE MORTGAGOR OR GRANTOR IN COMPLIANCE WITH THE REQUIREMENTS OF THE FEDERAL OR ALTERNATIVE LOAN MODIFICATION PROGRAM IN WHICH THE SECURED PARTY PARTICIPATES.~~

<del>=====</del> <del>DATE</del>	<del>=====</del> <del>MODE OF CONTACT</del>	<del>=====</del> <del>BORROWER'S RESPONSE</del>
<del>=====</del> <del>DATE</del>	<del>=====</del> <del>MODE OF CONTACT</del>	<del>=====</del> <del>BORROWER'S RESPONSE</del>
<del>=====</del> <del>DATE</del>	<del>=====</del> <del>MODE OF CONTACT</del>	<del>=====</del> <del>BORROWER'S RESPONSE</del>

~~===== (12) OTHER (EXPLAIN AND ATTACH DOCUMENTATION):~~

~~=====~~  
~~SECTION III~~

~~===== THE LOAN HAS BEEN REVIEWED FOR OTHER LOSS MITIGATION RELIEF, SUCH AS A GRACE PERIOD FOR POSTPONING PAYMENT, SHORT SALE, DEED IN LIEU OF FORECLOSURE, OR MOVING TO A LESS COSTLY HOME IN THE LENDER'S INVENTORY, AND SUCH OTHER RELIEF WAS NOT OFFERED OR WAS DECLINED BY THE MORTGAGOR OR GRANTOR.~~

~~EXPLAIN:~~

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~~=====~~  
~~(PRINT NAME/TITLE)~~

~~I, HEREBY CERTIFY THAT ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_, BEFORE ME THE SUBSCRIBER, A NOTARY PUBLIC OF THE STATE OF MARYLAND, PERSONALLY APPEARED, \_\_\_\_\_, AND ACKNOWLEDGED THE FOREGOING.~~

~~AS WITNESS, MY HAND AND NOTARIAL SEAL.~~

~~\_\_\_\_\_  
MY COMMISSION EXPIRES:~~

~~NOTARY PUBLIC";~~

~~(VIII) A REQUEST FOR FORECLOSURE MEDIATION, AFFIDAVIT, AND WORKSHEET THAT IS IN SUBSTANTIALLY THE FOLLOWING FORM AND THAT CONTAINS ANY OTHER INFORMATION THAT THE COMMISSIONER OF FINANCIAL REGULATION REQUIRES BY REGULATION:~~

~~“REQUEST FOR FORECLOSURE MEDIATION  
AND BORROWER’S AFFIDAVIT  
CASE NUMBER \_\_\_\_\_~~

~~I AM REQUESTING THAT FORECLOSURE MEDIATION BE SCHEDULED BEFORE A FORECLOSURE SALE OF MY HOME CAN GO FORWARD BECAUSE I CONTEST THE FOLLOWING REASONS WHY MY LENDER DENIED ME A LOAN MODIFICATION OR OTHER LOSS MITIGATION:~~

~~ATTENTION HOMEOWNER: CHECK ALL ITEMS THAT YOU CONTEST OUT OF THE ITEMS CHECKED BY YOUR LENDER ON THE LOSS MITIGATION AFFIDAVIT AS REASONS FOR DENIAL. IF YOU ARE CONTESTING ITEM NUMBER 7, USE THE WORKSHEET TO SHOW THAT YOUR MONTHLY MORTGAGE PAYMENT IS MORE THAN THE INCOME THRESHOLD APPLICABLE TO THE LOAN MODIFICATION YOU WERE DENIED. ATTACH THE WORKSHEET TO THIS REQUEST FOR FORECLOSURE MEDIATION. IF YOU HAVE QUESTIONS OR ARE UNSURE ABOUT HOW TO FILL OUT THESE FORMS, PLEASE SEEK THE ASSISTANCE OF A HOUSING COUNSELOR AND/OR ATTORNEY. TO GET MORE INFORMATION ABOUT COUNSELORS AND ATTORNEYS, CONTACT THE MARYLAND HOPE HOTLINE AT 1 877 462 7555 OR GO TO WWW.MDHOPE.ORG.~~

~~DEADLINE FOR REQUESTING FORECLOSURE MEDIATION: No LATER THAN 15 DAYS AFTER THE DATE ON WHICH YOU WERE SERVED WITH A COPY OF THIS ORDER TO DOCKET FORECLOSURE, YOU MUST SUBMIT THIS FORM TO THE COURT AT THE ADDRESS ON THE WORKSHEET (STAMPED ENVELOPE ENCLOSED), AND YOU MUST MAIL A COPY TO THE FORECLOSING ATTORNEY AT THE ADDRESS LISTED ON THE WORKSHEET (STAMPED ENVELOPE ENCLOSED).~~

~~===== (1) THE PROPERTY IS NOT A PRIMARY RESIDENCE AND THE MORTGAGOR OR GRANTOR IS NOT CURRENTLY LIVING IN THE PROPERTY.~~

~~===== (2) THE PROPERTY IS NOT A ONE TO FOUR UNIT PROPERTY (INCLUDING A CONDOMINIUM, COOPERATIVE, OR MANUFACTURED HOME).~~

~~===== (3) THE PROPERTY IS VACANT OR CONDEMNED.~~

~~===== (4) THE LOAN SUBJECT TO FORECLOSURE IS NOT A FIRST LIEN LOAN.~~

~~===== (5) THE LOAN WAS ORIGINATED AFTER JANUARY 1, 2009, OR THE DATE SPECIFIED BY THE APPLICABLE LOAN MODIFICATION PROGRAM.~~

~~===== (6) THE AMOUNT CURRENTLY OWED ON THE LOAN IS GREATER THAN \$729,750, OR THE AMOUNT SPECIFIED BY THE APPLICABLE LOAN MODIFICATION PROGRAM (NOT INCLUDING ATTORNEY'S FEES AND PAST DUE PAYMENTS).~~

~~===== (7) THE MONTHLY AMOUNT DUE ON THE MORTGAGE LOAN, INCLUDING THE TOTAL PAYMENT OF PRINCIPAL, INTEREST, TAXES, INSURANCE, AND HOMEOWNERS ASSOCIATION DUES (IF APPLICABLE), IS LESS THAN THE PERCENTAGE INCOME THRESHOLD OF THE APPLICABLE LOAN MITIGATION PROGRAM IN EFFECT AT THE TIME OF THE LOAN MITIGATION DENIAL, AND THE APPLICABLE THRESHOLD IS \_\_\_\_\_ % OF THE MORTGAGOR'S OR GRANTOR'S GROSS MONTHLY INCOME.~~

~~===== (8) THE BORROWER HAS ALREADY FAILED A TRIAL LOAN MODIFICATION PLAN.~~

~~===== (9) THE LOAN IS OWNED BY AN INVESTOR OR POOL OF INVESTORS THAT HAS NOT GIVEN THE SERVICING AGENT THE CONTRACTUAL AUTHORITY TO ENTER INTO ANY LOAN MODIFICATION WITH THE BORROWER.~~

~~===== (10) THE MORTGAGE LOAN FAILED THE NET PRESENT VALUE CALCULATION, AND THE BASIS FOR THIS CALCULATION IS AS FOLLOWS:~~

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~~===== (11) THE LOAN MODIFICATION REVIEW COULD NOT BE COMPLETED BECAUSE THE SECURED PARTY, SERVICER, OR OTHER AGENT AUTHORIZED TO MODIFY THE TERMS OF A MORTGAGE LOAN HAS ATTEMPTED REPEATEDLY WITHOUT SUCCESS TO CONTACT AND OBTAIN, BY TELEPHONE, MAIL, OR OTHER METHOD, ON THE DATES AND IN THE MANNER SET FORTH~~



~~§ \_\_\_\_\_ YOUR GROSS INCOME (THE AMOUNT ON YOUR PAYSTUB BEFORE TAXES AND OTHER DEDUCTIONS ARE TAKEN)~~

~~§ \_\_\_\_\_ YOUR ADDITIONAL GROSS INCOME FROM ANY OTHER SOURCES (RENT, PENSION, SOCIAL SECURITY BENEFITS)~~

~~§ \_\_\_\_\_ CO-BORROWER'S GROSS INCOME (IF APPLICABLE)~~

~~= \$ \_\_\_\_\_ YOUR TOTAL GROSS INCOME~~

~~2. PLEASE INSERT AND ADD THE TOTAL OF THE FOLLOWING INFORMATION:~~

~~§ \_\_\_\_\_ YOUR REGULAR MONTHLY MORTGAGE PAYMENT (NOT INCLUDING ANY LATE FEES OR OTHER CHARGES)~~

~~§ \_\_\_\_\_ YOUR MONTHLY TAXES AND INSURANCE IF NOT INCLUDED IN YOUR MONTHLY PAYMENT (SEE BELOW FOR CALCULATION OF MONTHLY TAXES AND INSURANCE IF YOU PAY THEM SEPARATELY)~~

~~§ \_\_\_\_\_ MONTHLY HOMEOWNERS ASSOCIATION OR CONDOMINIUM FEES (IF APPLICABLE)~~

~~= \$ \_\_\_\_\_ TOTAL MONTHLY PAYMENT~~

~~3. DOES THIS PAYMENT INCLUDE TAXES AND INSURANCE? IF YES, GO TO ITEM NUMBER 4. IF NO, INSERT AND ADD THE TOTAL:~~

~~§ \_\_\_\_\_ ANNUAL PROPERTY TAX BILL~~

~~§ \_\_\_\_\_ ANNUAL HOMEOWNER'S INSURANCE BILL~~

~~= \$ \_\_\_\_\_ TOTAL TAXES AND INSURANCE~~

~~DIVIDE TOTAL TAXES AND INSURANCE BY 12 TO GET YOUR MONTHLY TAXES AND INSURANCE.~~

~~TOTAL TAXES AND INSURANCE \$ \_\_\_\_\_ ÷ 12~~

~~= \$ \_\_\_\_\_ MONTHLY TAXES AND INSURANCE~~

~~INSERT MONTHLY TAXES AND INSURANCE IN ITEM NUMBER 2 ABOVE TO CALCULATE TOTAL MONTHLY PAYMENT.~~

~~4. INSERT TOTAL MONTHLY PAYMENT FROM ITEM NUMBER 2 ABOVE INTO THE FOLLOWING FORMULA. REFER TO ITEM NUMBER 7 ON THE~~



~~LENDER/SERVICER'S LOSS MITIGATION AFFIDAVIT TO DETERMINE WHAT INCOME THRESHOLD IS APPLICABLE:~~

~~\$ \_\_\_\_\_ TOTAL MONTHLY PAYMENT X (INCOME THRESHOLD DIVIDED BY 100) \_\_\_\_\_ = \$ \_\_\_\_\_~~

~~5. IS THIS AMOUNT MORE THAN YOUR CURRENT MONTHLY MORTGAGE PAYMENT? YES/NO~~

~~6. CAN YOU AFFORD TO MAKE THIS PAYMENT EVERY MONTH? YES/NO~~

~~MAIL COPIES OF THE COMPLETED REQUEST FOR FORECLOSURE MEDIATION BORROWER WORKSHEET TO:~~

~~1. CLERK OF CIRCUIT COURT, \_\_\_\_\_  
(ADDRESS)~~

~~2. (PLAINTIFF'S ATTORNEY)  
(ADDRESS);~~

(VII) IN ADDITION TO ANY OTHER FILING FEES REQUIRED BY LAW, A FILING FEE IN THE AMOUNT OF \$300;

(VIII) SUBJECT TO SUBSECTION (E) OF THIS SECTION:

1. IF THE LOSS MITIGATION ANALYSIS HAS BEEN COMPLETED, A FINAL LOSS MITIGATION AFFIDAVIT IN THE FORM PRESCRIBED BY REGULATION ADOPTED BY THE COMMISSIONER OF FINANCIAL REGULATION; AND

2. IF THE LOSS MITIGATION ANALYSIS HAS NOT BEEN COMPLETED:

A. A PRELIMINARY LOSS MITIGATION AFFIDAVIT IN THE FORM PRESCRIBED BY REGULATION ADOPTED BY THE COMMISSIONER OF FINANCIAL REGULATION;

B. THE LOSS MITIGATION APPLICATION AND A DESCRIPTION OF THE ELIGIBILITY REQUIREMENTS FOR LOSS MITIGATION PROGRAMS OFFERED BY THE SECURED PARTY AS DESCRIBED IN SUBSECTION (C)(5) OF THIS SECTION;

**C. INSTRUCTIONS FOR COMPLETING THE LOSS MITIGATION APPLICATION, INCLUDING INSTRUCTIONS TO RETURN THE COMPLETED APPLICATION TO THE ATTORNEY HANDLING THE FORECLOSURE; AND**

**D. AN ENVELOPE PREPRINTED WITH THE ADDRESS OF THE ATTORNEY HANDLING THE FORECLOSURE;**

[(vii)] **(IX)** A notice to the mortgagor **OR GRANTOR** 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 MAY REQUEST THAT THE COURT SCHEDULE YOUR CASE FOR FORECLOSURE MEDIATION BY COMPLETING THE ENCLOSED “REQUEST FOR FORECLOSURE MEDIATION AND BORROWER’S AFFIDAVIT” AND MAILING IT TO THE CLERK OF THE COURT AND THE PLAINTIFF’S ATTORNEY IN THE ENCLOSED STAMPED ENVELOPES WITHIN 15 DAYS AFTER YOU ARE SERVED WITH THESE PAPERS. IF YOU FILE A REQUEST FOR FORECLOSURE MEDIATION, YOUR PROPERTY CANNOT GO TO SALE UNTIL AT LEAST 15 DAYS AFTER YOUR MEDIATION SESSION HAS BEEN HELD.~~

**IF YOU OWN AND LIVE IN THE HOME THAT IS SUBJECT TO FORECLOSURE, YOUR LENDER MAY BE REQUIRED TO CONDUCT AN ANALYSIS OF YOUR LOAN TO SEE IF YOU QUALIFY FOR A LOAN MODIFICATION OR SOME OTHER LOSS MITIGATION. YOU MUST APPLY AND PROVIDE YOUR LENDER WITH SPECIFIC INFORMATION AS PART OF THIS ANALYSIS. THE RESULTS OF YOUR LENDER’S ANALYSIS OF YOUR LOAN WILL BE PROVIDED TO YOU IN THE FORM OF AN AFFIDAVIT SUBMITTED TO THE COURT.**

**IF YOUR LENDER DETERMINES THAT YOU ARE NOT ELIGIBLE FOR ANY LOAN MODIFICATION OR OTHER RELIEF, YOU HAVE THE RIGHT TO FILE A REQUEST WITH THE COURT AND HAVE FORECLOSURE MEDIATION. THIS WILL BE A CONFERENCE WITH YOU, SOMEONE REPRESENTING YOUR LENDER, AND A NEUTRAL THIRD PARTY TO DISCUSS YOUR LOAN AND POSSIBLE OPTIONS. TO REQUEST FORECLOSURE MEDIATION, YOU MUST COMPLETE THE REQUEST FOR FORECLOSURE MEDIATION FORM THAT WILL ACCOMPANY THE LENDER'S FINAL LOSS MITIGATION AFFIDAVIT AND MAIL IT TO THE COURT AND THE LENDER'S FORECLOSURE ATTORNEY WITHIN 15 DAYS AFTER RECEIPT. IF YOU FILE A REQUEST FOR FORECLOSURE MEDIATION, YOUR PROPERTY CANNOT GO TO SALE UNTIL AT LEAST 15 DAYS AFTER YOUR MEDIATION HAS BEEN HELD.**

You are urged to obtain legal advice **AND THE ASSISTANCE OF A HOUSING COUNSELOR** to discuss **POSSIBLE LOSS MITIGATION PROGRAMS, FORECLOSURE MEDIATION,** AND 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.”;**

~~**(X) TWO STAMPED ENVELOPES PREPRINTED WITH THE ADDRESS OF THE CLERK OF THE COURT AND THE ADDRESS OF THE PLAINTIFF'S ATTORNEY; AND**~~

~~(XI) IN ADDITION TO ANY OTHER FILING FEES REQUIRED BY ANY OTHER LAW, A FILING FEE IN THE AMOUNT OF \$100, WHICH:~~

~~1. SHALL BE USED FOR ADDITIONAL HOUSING COUNSELING SERVICES AND TO DEFRAY THE COURTS' COST OF PROVIDING FORECLOSURE MEDIATION SERVICES UNDER THIS SECTION; AND~~

~~2. MAY NOT BE PASSED ON TO THE MORTGAGOR OR GRANTOR. AND~~

(X) IF THE ORDER TO DOCKET OR COMPLAINT TO FORECLOSE CONCERNS OWNER-OCCUPIED RESIDENTIAL PROPERTY AND IS ACCOMPANIED BY A FINAL LOSS MITIGATION AFFIDAVIT:

1. A REQUEST FOR FORECLOSURE MEDIATION IN THE FORM PRESCRIBED BY REGULATION ADOPTED BY THE COMMISSIONER OF FINANCIAL REGULATION; AND

2. AN ENVELOPE PREPRINTED WITH THE ADDRESS OF THE CLERK OF THE COURT; AND

3. AN ENVELOPE PREPRINTED WITH THE ADDRESS OF THE FORECLOSURE ATTORNEY.

(E) ~~FOR~~ ONLY FOR PURPOSES OF A FINAL LOSS MITIGATION AFFIDAVIT THAT IS FILED WITH AN ORDER TO DOCKET OR COMPLAINT TO FORECLOSE, A LOSS MITIGATION ANALYSIS IS NOT CONSIDERED COMPLETE IF THE REASON FOR THE DENIAL OR DETERMINATION OF INELIGIBILITY IS DUE TO THE INABILITY OF THE SECURED PARTY TO:

(1) ESTABLISH COMMUNICATION WITH THE MORTGAGOR OR GRANTOR; OR

(2) OBTAIN ALL DOCUMENTATION AND INFORMATION NECESSARY TO CONDUCT THE LOSS MITIGATION ANALYSIS.

~~(F)~~ (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.

**(G) (1) IF THE ORDER TO DOCKET OR COMPLAINT TO FORECLOSE IS ACCOMPANIED BY A PRELIMINARY LOSS MITIGATION AFFIDAVIT, THE SECURED PARTY, AT LEAST 30 DAYS BEFORE THE DATE OF A FORECLOSURE SALE, SHALL:**

**(I) FILE WITH THE COURT A FINAL LOSS MITIGATION AFFIDAVIT IN THE FORM PRESCRIBED BY REGULATION ADOPTED BY THE COMMISSIONER OF FINANCIAL REGULATION; AND**

**(II) SEND TO THE MORTGAGOR OR GRANTOR BY FIRST CLASS AND BY CERTIFIED MAIL:**

**1. A COPY OF THE FINAL LOSS MITIGATION AFFIDAVIT; AND**

**2. A REQUEST FOR FORECLOSURE MEDIATION FORM AND ENVELOPES DESCRIBED IN SUBSECTION (D)(2)(X) OF THIS SECTION.**

**(2) A FINAL LOSS MITIGATION AFFIDAVIT SHALL BE FILED UNDER THIS SUBSECTION NO EARLIER THAN 28 DAYS AFTER THE ORDER TO DOCKET OR COMPLAINT TO FORECLOSE IS SERVED ON THE MORTGAGOR OR GRANTOR.**

~~**(F) (1) IF THE DEFENDANT FILES A COMPLETED REQUEST FOR FORECLOSURE MEDIATION AND BORROWER'S AFFIDAVIT WITHIN 15 DAYS**~~

~~AFTER SERVICE OF PROCESS, THE CLERK OF THE COURT SHALL SCHEDULE THE CASE FOR FORECLOSURE MEDIATION AS SOON AS PRACTICABLE.~~

~~(2) AT A FORECLOSURE MEDIATION REQUESTED UNDER THIS SECTION:~~

~~(i) INDIVIDUALS WITH AUTHORITY TO SETTLE THE MATTER SHALL BE PRESENT OR READILY AVAILABLE FOR CONSULTATION;~~

~~(ii) A HOUSING COUNSELOR DESIGNATED BY THE MORTGAGOR OR GRANTOR MAY BE PRESENT; AND~~

(H) (1) (i) IN A FORECLOSURE ACTION ON OWNER-OCCUPIED RESIDENTIAL PROPERTY, THE MORTGAGOR OR GRANTOR MAY FILE WITH THE COURT A COMPLETED REQUEST FOR FORECLOSURE MEDIATION NOT LATER THAN:

1. IF THE FINAL LOSS MITIGATION AFFIDAVIT WAS DELIVERED ALONG WITH SERVICE OF THE COPY OF THE ORDER TO DOCKET OR COMPLAINT TO FORECLOSE UNDER SUBSECTION (F) OF THIS SECTION, 15 DAYS AFTER THAT SERVICE ON THE MORTGAGOR OR GRANTOR; OR

2. IF THE FINAL LOSS MITIGATION AFFIDAVIT WAS MAILED AS PROVIDED IN SUBSECTION (G) OF THIS SECTION, 15 DAYS AFTER THE MAILING OF THE FINAL LOSS MITIGATION AFFIDAVIT.

(ii) 1. A REQUEST FOR FORECLOSURE MEDIATION SHALL BE ACCOMPANIED BY A FILING FEE OF \$50.

2. THE COURT MAY REDUCE OR WAIVE THE FILING FEE UNDER SUBSUBPARAGRAPH 1 OF THIS SUBPARAGRAPH IF THE MORTGAGOR OR GRANTOR IS ELIGIBLE FOR A REDUCTION OR WAIVER UNDER THE MARYLAND LEGAL SERVICES GUIDELINES.

(iii) THE MORTGAGOR OR GRANTOR SHALL MAIL A COPY OF THE REQUEST FOR FORECLOSURE MEDIATION TO THE SECURED PARTY'S FORECLOSURE ATTORNEY.

(2) (i) THE SECURED PARTY MAY FILE A MOTION TO STRIKE THE REQUEST FOR FORECLOSURE MEDIATION IN ACCORDANCE WITH THE MARYLAND RULES.

**(II) THE MOTION TO STRIKE MUST BE ACCOMPANIED BY AN AFFIDAVIT THAT SETS FORTH THE REASONS WHY FORECLOSURE MEDIATION IS NOT APPROPRIATE.**

**(III) THE SECURED PARTY SHALL MAIL A COPY OF THE MOTION TO STRIKE AND THE ACCOMPANYING AFFIDAVIT TO THE MORTGAGOR OR GRANTOR.**

**(IV) THERE IS A PRESUMPTION THAT A MORTGAGOR OR GRANTOR IS ENTITLED TO FORECLOSURE MEDIATION UNLESS GOOD CAUSE IS SHOWN WHY FORECLOSURE MEDIATION IS NOT APPROPRIATE.**

**(3) (I) THE MORTGAGOR OR GRANTOR MAY FILE A RESPONSE TO THE MOTION TO STRIKE WITHIN 15 DAYS.**

**(II) THE MORTGAGOR OR GRANTOR SHALL MAIL A COPY OF THE RESPONSE TO THE FORECLOSURE ATTORNEY.**

**(III) IF THE COURT GRANTS THE MOTION TO STRIKE, THE COURT SHALL INSTRUCT THE OFFICE OF ADMINISTRATIVE HEARINGS TO CANCEL ANY SCHEDULED MEDIATION.**

**(1) (1) WITHIN 5 DAYS AFTER RECEIPT OF A REQUEST FOR FORECLOSURE MEDIATION, THE COURT SHALL ~~FORWARD~~ TRANSMIT THE REQUEST TO THE OFFICE OF ADMINISTRATIVE HEARINGS FOR SCHEDULING.**

**(2) (I) WITHIN 60 DAYS AFTER ~~RECEIPT~~ TRANSMITTAL OF THE REQUEST FOR FORECLOSURE MEDIATION, THE OFFICE OF ADMINISTRATIVE HEARINGS SHALL CONDUCT A FORECLOSURE MEDIATION.**

**(II) FOR GOOD CAUSE, THE OFFICE OF ADMINISTRATIVE HEARINGS MAY EXTEND THE TIME FOR COMPLETING THE FORECLOSURE MEDIATION FOR A PERIOD NOT EXCEEDING 30 DAYS.**

**(3) THE OFFICE OF ADMINISTRATIVE HEARINGS SHALL SEND NOTICE OF THE SCHEDULED FORECLOSURE MEDIATION TO THE FORECLOSURE ATTORNEY, THE SECURED PARTY, AND THE MORTGAGOR OR GRANTOR.**

**(4) THE NOTICE FROM THE OFFICE OF ADMINISTRATIVE HEARINGS SHALL:**

**(I) INCLUDE INSTRUCTIONS REGARDING THE DOCUMENTS AND INFORMATION, AS REQUIRED BY REGULATIONS ADOPTED BY THE**

COMMISSIONER OF FINANCIAL REGULATION, THAT MUST BE PROVIDED BY EACH PARTY TO THE OTHER PARTY AND TO THE MEDIATOR; AND

(II) REQUIRE THE INFORMATION AND DOCUMENTS TO BE PROVIDED NO LATER THAN 20 DAYS BEFORE THE SCHEDULED DATE OF THE FORECLOSURE MEDIATION.

(J) (1) AT A FORECLOSURE MEDIATION:

(I) THE MORTGAGOR OR GRANTOR SHALL BE PRESENT;

(II) THE MORTGAGOR OR GRANTOR MAY BE ACCOMPANIED BY A HOUSING COUNSELOR AND MAY HAVE LEGAL REPRESENTATION;

(III) THE SECURED PARTY, OR A REPRESENTATIVE OF THE SECURED PARTY, SHALL BE PRESENT; AND

(IV) ANY REPRESENTATIVE OF THE SECURED PARTY MUST HAVE THE AUTHORITY TO SETTLE THE MATTER OR BE ABLE TO READILY CONTACT A PERSON WITH AUTHORITY TO SETTLE THE MATTER.

(2) AT THE FORECLOSURE MEDIATION, THE PARTIES AND THE MEDIATOR SHALL ADDRESS LOSS MITIGATION PROGRAMS THAT MAY BE APPLICABLE TO THE LOAN SECURED BY THE MORTGAGE OR DEED OF TRUST THAT IS THE SUBJECT OF THE FORECLOSURE ACTION.

(3) THE OFFICE OF ADMINISTRATIVE HEARINGS SHALL FILE A REPORT WITH THE COURT THAT STATES THE OUTCOME OF THE REQUEST FOR FORECLOSURE MEDIATION *WITHIN THE EARLIER OF:*

(I) ~~WITHIN~~ 5 DAYS AFTER A FORECLOSURE MEDIATION IS HELD; OR

(II) ~~AT THE~~ *THE* END OF THE 60-DAY MEDIATION PERIOD SPECIFIED IN SUBSECTION (I)(2) OF THIS SECTION, PLUS ANY EXTENSION GRANTED BY THE OFFICE OF ADMINISTRATIVE HEARINGS.

(4) EXCEPT FOR A REQUEST FOR POSTPONEMENT, THE RULES OF PROCEDURE FOR CONTESTED CASES OF THE OFFICE OF ADMINISTRATIVE HEARINGS DO NOT GOVERN A FORECLOSURE MEDIATION CONDUCTED BY THE OFFICE.



~~(III) THE PARTICIPANTS SHOULD ADDRESS ALL FORECLOSURE AVOIDANCE OPTIONS, INCLUDING LOAN MODIFICATION, A GRACE PERIOD FOR POSTPONING PAYMENT, SHORT SALE, DEED IN LIEU OF FORECLOSURE, "CASH FOR KEYS", MOVING TO A LESS COSTLY HOME IN THE LENDER'S INVENTORY, AND ANY OTHER OPTION THAT MAY HELP TO AVOID FORECLOSURE OR LESSEN ITS HARMFUL IMPACT ON THE MORTGAGOR OR GRANTOR.~~

~~(3) (i) IF THE PARTIES ARE UNABLE TO REACH AN AGREEMENT AFTER PARTICIPATING IN FORECLOSURE MEDIATION, THE DEFENDANT MAY FILE A MOTION TO STAY THE SALE WITHIN 15 DAYS AFTER COMPLETION OF THE FORECLOSURE MEDIATION.~~

~~(ii) A DEFENDANT'S REQUEST FOR FORECLOSURE MEDIATION CONSTITUTES GOOD CAUSE FOR FAILURE TO FILE A MOTION TO STAY WITHIN THE TIME PRESCRIBED UNDER MARYLAND RULE 14-211(A)(2).~~

(K) (1) IF THE PARTIES DO NOT REACH AN AGREEMENT AT THE FORECLOSURE MEDIATION, OR THE 60-DAY MEDIATION PERIOD EXPIRES WITHOUT AN EXTENSION GRANTED BY THE OFFICE OF ADMINISTRATIVE HEARINGS, THE FORECLOSURE ATTORNEY MAY SCHEDULE THE FORECLOSURE SALE.

(2) (i) SUBJECT TO SUBPARAGRAPHS (ii), (iii), AND (iv) OF THIS PARAGRAPH, THE MORTGAGOR OR GRANTOR MAY FILE A MOTION TO STAY THE FORECLOSURE SALE.

(ii) A MOTION TO STAY UNDER THIS PARAGRAPH SHALL BE FILED WITHIN 15 DAYS AFTER:

1. THE DATE THE FORECLOSURE MEDIATION IS HELD; OR

2. IF NO FORECLOSURE MEDIATION IS HELD, THE DATE THE OFFICE OF ADMINISTRATIVE HEARINGS FILES ITS REPORT WITH THE COURT.

(iii) A MOTION TO STAY UNDER THIS PARAGRAPH MUST ALLEGE SPECIFIC REASONS WHY LOSS MITIGATION SHOULD HAVE BEEN GRANTED.

~~(iii) (3) NOTHING IN THIS SUBTITLE PRECLUDES THE DEFENDANT MORTGAGOR OR GRANTOR FROM PURSUING ANY OTHER REMEDY OR LEGAL DEFENSE AVAILABLE UNDER LAW TO THE MORTGAGOR OR GRANTOR.~~

[(f)] ~~(g)~~ **(L)** A foreclosure sale of residential property may not occur until [at]:

~~(1) AT least 45 days after service of process is made under subsection (e) of this section; AND~~

~~(2) (i) IF THE DEFENDANT FILES A COMPLETED REQUEST FOR FORECLOSURE MEDIATION AND BORROWER'S AFFIDAVIT WITHIN 15 DAYS AFTER SERVICE OF PROCESS, AT LEAST 15 DAYS AFTER THE FORECLOSURE MEDIATION IS HELD; OR~~

~~(ii) IF THE DEFENDANT FILES A MOTION TO STAY THE SALE WITHIN 15 DAYS AFTER THE FORECLOSURE MEDIATION IS HELD, AT LEAST 15 DAYS AFTER THE COURT DENIES THE MOTION OR OTHERWISE RESOLVES THE CASE.~~

**(1) IF THE RESIDENTIAL PROPERTY IS NOT OWNER-OCCUPIED RESIDENTIAL PROPERTY, AT LEAST 45 DAYS AFTER SERVICE OF PROCESS IS MADE UNDER SUBSECTION (F) OF THIS SECTION;**

**(2) IF THE RESIDENTIAL PROPERTY IS OWNER-OCCUPIED RESIDENTIAL PROPERTY AND FORECLOSURE MEDIATION IS NOT HELD, THE LATER OF:**

**(i) AT LEAST 45 DAYS AFTER SERVICE OF PROCESS THAT INCLUDES A FINAL LOSS MITIGATION AFFIDAVIT MADE UNDER SUBSECTION (F) OF THIS SECTION; OR**

**(ii) AT LEAST 30 DAYS AFTER A FINAL LOSS MITIGATION AFFIDAVIT IS MAILED UNDER SUBSECTION (G) OF THIS SECTION; AND**

**(3) IF THE RESIDENTIAL PROPERTY IS OWNER-OCCUPIED RESIDENTIAL PROPERTY AND FORECLOSURE MEDIATION IS REQUESTED, AT LEAST 15 DAYS AFTER:**

**(i) THE DATE THE FORECLOSURE MEDIATION IS HELD; OR**

**(ii) IF NO FORECLOSURE MEDIATION IS HELD, THE DATE THE OFFICE OF ADMINISTRATIVE HEARINGS FILES ITS REPORT WITH THE COURT.**

[(g)] ~~(H)~~ **(M)** 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)]~~ ~~(H)~~ **(N)** (1) The mortgagor or grantor of residential property 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)]~~ ~~(I)~~ **(O)** 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.

**(P) REVENUE COLLECTED FROM THE FILING FEES REQUIRED UNDER SUBSECTIONS (D)(2)(VII) AND (H)(1)(II) OF THIS SECTION SHALL BE DISTRIBUTED TO THE HOUSING COUNSELING AND FORECLOSURE MEDIATION FUND ESTABLISHED UNDER § 4-507 OF THE HOUSING AND COMMUNITY DEVELOPMENT ARTICLE.**

### **Article – Housing and Community Development**

#### **4-507.**

**(A) IN THIS SECTION, “FUND” MEANS THE HOUSING COUNSELING AND FORECLOSURE MEDIATION FUND.**

**(B) THERE IS A HOUSING COUNSELING AND FORECLOSURE MEDIATION FUND.**

**(C) THE PURPOSES OF THE FUND ARE TO:**

**(1) SUPPORT NONPROFIT AND GOVERNMENT HOUSING COUNSELORS AND OTHER NONPROFIT ENTITIES WITH PROVIDING:**

**(I) LEGAL ASSISTANCE TO HOMEOWNERS OR OCCUPANTS WHO ARE TRYING TO AVOID FORECLOSURE OR MANAGE FORECLOSURE PROCEEDINGS; AND**

**(II) HOMEBUYER EDUCATION, HOUSING ADVICE, OR FINANCIAL COUNSELING FOR HOMEOWNERS AND PROSPECTIVE HOMEOWNERS;**

**(2) SUPPORT THE ESTABLISHMENT AND OPERATION OF NONPROFIT HOUSING COUNSELING ENTITIES;**

**(3) SUPPORT EFFORTS BY THE DEPARTMENT AND THE DEPARTMENT OF LABOR, LICENSING, AND REGULATION TO:**

**(I) CONTACT AND PROVIDE ADVICE AND ASSISTANCE TO HOMEOWNERS OR OCCUPANTS FACING FINANCIAL DIFFICULTY OR FORECLOSURE; AND**

**(II) PROVIDE ADVICE AND ASSISTANCE TO PROSPECTIVE HOMEOWNERS; AND**

**(4) ASSIST IN FUNDING THE COSTS OF FORECLOSURE MEDIATIONS PROVIDED BY THE OFFICE OF ADMINISTRATIVE HEARINGS UNDER § 7-105.1 OF THE REAL PROPERTY ARTICLE.**

**(D) THE DEPARTMENT SHALL ADMINISTER THE FUND.**

**(E) (1) THE FUND IS A SPECIAL, NONLAPSING FUND THAT IS NOT SUBJECT TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.**

**(2) THE STATE TREASURER SHALL HOLD THE FUND SEPARATELY, AND THE COMPTROLLER SHALL ACCOUNT FOR THE FUND.**

**(F) THE FUND CONSISTS OF:**

**(1) REVENUE DISTRIBUTED TO THE FUND UNDER § 7-105.1 OF THE REAL PROPERTY ARTICLE;**

**(2) INVESTMENT EARNINGS OF THE FUND;**

**(3) MONEY APPROPRIATED IN THE STATE BUDGET TO THE FUND;**  
**AND**

**(4) ANY OTHER MONEY FROM ANY OTHER SOURCE ACCEPTED FOR THE BENEFIT OF THE FUND.**

**(G) THE FUND MAY BE USED ONLY FOR THE PURPOSES DESCRIBED IN SUBSECTION (C) OF THIS SECTION.**

**(H) (1) THE STATE TREASURER SHALL INVEST THE MONEY OF THE FUND IN THE SAME MANNER AS OTHER STATE MONEY MAY BE INVESTED.**

**(2) ANY INVESTMENT EARNINGS OF THE FUND SHALL BE PAID INTO THE FUND.**

**(I) EXPENDITURES FROM THE FUND MAY BE MADE ONLY IN ACCORDANCE WITH THE STATE BUDGET.**

SECTION 2. AND BE IT FURTHER ENACTED, That, until the Commissioner of Financial Regulation identifies information regarding nonprofit and State government resources available to assist mortgagors and grantors facing foreclosure and prescribes the foreclosure process and time line that are required to be included in a notice of intent to foreclose under § 7-105.1(c)(4)(ii)5 and 6 of the Real Property Article, as enacted by Section 1 of this Act, a notice of intent to foreclose shall be deemed to be in compliance with § 7-105.1(c)(4)(ii)5 and 6 of the Real Property Article, as enacted by Section 1 of this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That the Commissioner of Financial Regulation shall adopt regulations to prescribe the form and content of the following items required under this Act:

- (1) Final Loss Mitigation Affidavit;
- (2) Preliminary Loss Mitigation Affidavit;
- (3) Notice accompanying order to docket or complaint to foreclose;
- ~~(3)~~ (4) Request for Foreclosure Mediation; and

~~(4)~~ (5) Instructions regarding documents and information required for foreclosure mediation.

SECTION 4. AND BE IT FURTHER ENACTED, That until the Commissioner of Financial Regulation adopts the regulations required under Section 3 of this Act:

(1) instructions regarding information and documents required for foreclosure mediation required under § 7-105.1(i)(4) of the Real Property Article, as enacted by Section 1 of this Act, shall be deemed to be in compliance with § 7-105.1(i)(4) of the Real Property Article, as ~~enacted~~ enacted by Section 1 of this Act;  
~~and~~

(2) the notice accompanying the order to docket or complaint to foreclose required under § 7-105.1(d)(2)(ix) of the Real Property Article, as enacted by Section 1 of this Act, shall be deemed in compliance with § 7-105.1(d)(2)(ix) of the Real Property Article, as enacted by Section 1 of this Act, if the language in the notice is substantially similar to the language in that section; and

~~(2)~~ (3) the following documents required under § 7-105.1 of the Real Property Article, as enacted by Section 1 of this Act, shall be in substantially the following form:

(i) Final Loss Mitigation AffidavitFINAL LOSS MITIGATION AFFIDAVIT

My name is \_\_\_\_\_ . I am authorized to act on behalf of the holder of the beneficial interest in the mortgage or deed of trust that is the subject of the above-referenced case, and I state the following:

- Yes  No The mortgage loan is owned, securitized, insured, or guaranteed by FNMA, FHLMC, or FHA or the servicing agent is participating in the federal Making Home Affordable Program or a similar loss mitigation program.
- The mortgage loan that is the subject of this foreclosure action is not eligible for loss mitigation because:
- The property is not the primary residence of at least one of the borrowers.
  - The property has more than four dwelling units.
  - The property is vacant or condemned.
  - The mortgage loan is not a first mortgage.
  - The amount of the mortgage loan makes it ineligible under all relevant loss mitigation programs.
  - The borrower's income makes the borrower ineligible under all relevant loss mitigation programs.
  - The borrower has already failed a modification trial period plan.
  - Other: \_\_\_\_\_.
- The mortgage loan that is the subject of this foreclosure action is eligible for loan modification or loss mitigation, and loan modification or loss mitigation has been denied.
- No other loss mitigation options have been identified as appropriate.

I affirm that the content of the foregoing affidavit is true to the best of my knowledge, information, and belief.

Executed on \_\_\_\_\_, 20\_\_.

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_ ;

(ii) Preliminary Loss Mitigation Affidavit

PRELIMINARY LOSS MITIGATION AFFIDAVIT

My name is \_\_\_\_\_ . I am authorized to act on behalf of the holder of the beneficial interest in the mortgage or deed of trust that is the subject of the above-referenced case, and I state the following:

Yes  No The mortgage loan is owned, securitized, insured, or guaranteed by FNMA, FHLMC, or FHA or the servicing agent is participating in the federal Making Home Affordable Program or in a similar loss mitigation program.

The mortgage loan that is the subject of this foreclosure action may be eligible for loss mitigation and:

- The loan currently is under loss mitigation analysis, but the analysis has not yet been completed.
- The servicer has not received all the information from the borrower that the servicer needs to perform a loss mitigation analysis.
- The servicer has had no contact with the borrower.
- Other \_\_\_\_\_ .

I affirm that the content of the foregoing affidavit is true to the best of my knowledge, information, and belief.

Executed on \_\_\_\_\_, 20\_\_ . By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_ ; and

(iii) Request for Foreclosure Mediation

REQUEST FOR FORECLOSURE MEDIATION

Instructions to Borrower [as completed by Plaintiff]:

This Request for Foreclosure Mediation is to be completed and filed in the Circuit Court for (appropriate court), Case Number (appropriate case number or identifier).

The court's address is: (address of the appropriate court). The foreclosure attorney's address is: (address).

This form must be filed with the court and sent to the foreclosure attorney before (date, which is not less than 15 days after either service of the order to docket or complaint to foreclose or the mailing of the final loss mitigation affidavit, whichever is later).

Please read carefully! If you have questions or are unsure about how to fill out this form, contact the Maryland Foreclosure Hotline at (phone number) or go to the website at (web address).

You must file this form with the court at the address above and you must also mail a copy to the foreclosure attorney at the address above.

You must pay \$50 when you file this form or it will be ineffective. If the form is ineffective, you will not be scheduled for foreclosure mediation and the foreclosure sale of your home can proceed.

DO NOT DELAY! You must file this form with the court and mail it to the foreclosure attorney before the date identified above.

Keep a copy of everything you send. Get a mail receipt confirmation for your records to show the date you sent everything.

My name is \_\_\_\_\_ . I request that this court schedule a foreclosure mediation. I understand that a foreclosure mediation is an opportunity for a meeting with a neutral third party who will try to assist me and my lender to reach an agreement about the foreclosure of my home. I also understand I must qualify for loan modification or other relief and that making this request does not guarantee that I will receive a loan modification or other relief.

The following answers will assist in the foreclosure mediation process:

Yes  No I requested a loan modification and I believe my loan should have been modified.

Yes  No I was not given an opportunity to see if my loan could be modified but I think I deserve that opportunity.

Yes  No The property is my home and I live there.

Yes  No The property does not have more than four dwelling units.

Yes  No I have not failed a trial modification plan and have not failed a prior modification under a federal loan modification program.



Yes  No If no loan modification or other option will work, I am willing to discuss giving up my home and the best way to do that.

\$ \_\_\_\_\_ This is my estimated current total gross monthly income (from all sources, and including co-borrower's income).

MEDIATION FEE

Yes  No I have enclosed my \$50 fee for filing this Request for Foreclosure Mediation.

Yes  No I am requesting the Court to reduce or waive my filing fee because I qualify for free legal services under court guidelines.

I affirm that the content of the foregoing affidavit is true to the best of my knowledge, information, and belief.

Executed on \_\_\_\_\_, 20 . By: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Title: \_\_\_\_\_.

SECTION 5. AND BE IT FURTHER ENACTED, That when the Commissioner of Financial Regulation adopts regulations as required under Section 3 of this Act, the documents described in Section 4(2) of this Act may no longer be used and the documents prescribed by regulations adopted by the Commissioner shall be used.

~~SECTION 2. AND BE IT FURTHER ENACTED, That this Act is an emergency measure, is necessary for the immediate preservation of the public health or safety, has been passed by a ye and nay vote supported by three fifths of all the members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted.~~

SECTION 6. AND BE IT FURTHER ENACTED, That:

(a) The Governor is authorized to process a budget amendment during fiscal year 2011 that appropriates \$250,000 from the Housing Counseling and Foreclosure Mediation Fund established under § 4-507 of the Housing and Community Development Article, as enacted by Section 1 of this Act, for the purpose of paying the Department of Labor, Licensing, and Regulation's costs to implement an electronic system to track and retrieve data gathered under § 7-105.1 of the Real Property Article, as enacted by Section 1 of this Act, and staffing related outreach functions.

(b) For each of fiscal years 2012, 2013, and 2014, at least \$150,000 of the money in the Housing Counseling and Foreclosure Mediation Fund established under § 4-507 of the Housing and Community Development Article, as enacted by Section 1

of this Act, shall be appropriated by the Governor in the budget of the Department of Labor, Licensing, and Regulation to cover the cost of staffing outreach functions related to the electronic tracking and retrieval system implemented by the Department.

SECTION 7. AND BE IT FURTHER ENACTED, That the Governor is authorized to process a budget amendment during fiscal year 2011 that appropriates \$300,000 from the Housing Counseling and Foreclosure Mediation Fund established under the Housing and Community Development Article, as enacted by Section 1 of this Act, for the purpose of paying the Administrative Office of the Courts' costs to process foreclosure actions in heavily impacted jurisdictions in the State.

SECTION 8. AND BE IT FURTHER ENACTED, That this Act shall be construed to apply only prospectively and may not be applied or interpreted to have any effect on or application to any order to docket or complaint to foreclose on residential property filed before the effective date of this Act.

SECTION 9. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2010.

**Approved by the Governor, May 20, 2010.**