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## MARYLAND ENACTS LAW TO ACCELERATE FORECLOSURES ON ABANDONED OR VACANT PROPERTIES.

Lenders may now foreclose faster on abandoned or vacant Maryland residential properties. [Senate Bill 1033](#) went into effect on October 1, 2017. It provides a short-cut to the existing foreclosure rules that prevent a lender from initiating foreclosure until 90 days have elapsed from the triggering event.

There must still be a triggering event, such as an extended failure to pay. But if the property is vacant or abandoned the lender may file a petition in the circuit court for permission to immediately foreclose without notice. The court is required to rule on the petition "promptly."

The petition must include admissible evidence to demonstrate that the property is vacant or abandoned. How is that to be done? The lender must demonstrate any three of the following eleven factors (the language is lifted from the new law):

- (1) gas, electric, sewer, or water utility services to the property have been disconnected;
- (2) windows or entrances to the structure on the property are boarded up or closed off, or multiple window panes are broken and unrepaired;
- (3) doors to the structure on the property are smashed through, broken off, unhinged, or continuously unlocked;
- (4) junk, litter, trash, debris, or hazardous, noxious, or unhealthy substances or materials have accumulated on the property;
- (5) furnishings, window treatments, or personal items are absent from the structure on the property;
- (6) the property is the object of vandalism, loitering, or criminal conduct, or there has been physical destruction or deterioration of the property;



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- (7) a mortgagor or grantor has made a written statement expressing the intention of all mortgagors or grantors to abandon the property;
- (8) there is a determination that no owner or tenant appears to be residing on the property at the time of an inspection of the property by:
  - (i) the the secured party; or
  - (1) (ii) an appropriate official of the county or municipal corporation in which the property is located;
- (9) two or more citations have been issued by a county or municipal corporation against the property for failure to maintain the property and a health and safety issue exists that has not been rectified;
- (10) the property has been condemned by a county or municipal corporation; or
- (11) other reasonable indicia of abandonment exist.

As you can see, there is a lot to pick from, and each alleged "fact" is an opportunity for dispute at the court's "prompt" hearing. The borrower has an opportunity under the new rule to deny the alleged facts supporting the petition. What is not clear is whether a borrower can be given the opportunity to cure the conditions on which the petition is based (in addition to bringing the loan current), and thus render the petition moot or premature.

But shortening the process for foreclosure on vacants may not be enough to entice lenders to execute on recorded liens. Lenders may continue the practice of electing a breach of contract action against the borrower in order to obtain a money judgment. It is the business practice of some lenders to seek court judgment against the borrower on the underlying promissory note, while leaving the recorded lien intact as a cloud on title. This practice makes it even less likely that a vacant or abandoned property will be recycled to productive use. The new rule does nothing to remove this choice from the lender--- a bank cannot be forced to foreclose, even if the borrower is delinquent, and especially if the property is abandoned or vacant.