

Hall of the House of Representatives
88th General Assembly - Regular Session, 2011
Amendment Form

**

Subtitle of House Bill No. 1811

TO REQUIRE ADDITIONAL INFORMATION AND TO ENCOURAGE LOSS MITIGATION
AND LOAN MODIFICATIONS BEFORE INITIATING A STATUTORY FORECLOSURE.

Amendment No. 1 to House Bill No. 1811

Amend House Bill No. 1811 as originally introduced:

Page 2, line 25, delete "power." and substitute "power of sale."

AND

Page 2, delete lines 30 through 36 and substitute the following:

"(2)(A) The beneficiary or mortgagee:

(i) Has personal knowledge of the records
and information provided under this subdivision (2); and

(ii) At least ten (10) days before
initiating the foreclosure has provided by standard mail to the
grantor, mortgagor, or obligor at the address of the property
encumbered by the mortgage or deed of trust or the mailing
address of the grantor, mortgagor, or obligor:

(a) A true and correct copy of the
note with all required endorsements, the mortgage, or the deed
of trust;

(b) The name of the holder and the
physical location of the original note;

(c) A true and correct copy of the
original mortgage or deed of trust and if in the possession of
the beneficiary or mortgagee, each assignment or allonge of the
mortgage or deed of trust;

(d) Information, including the
applicable telephone number and Internet address, regarding the
availability to the grantor, mortgagor, or obligor of each
program for loan modification assistance or forbearance



assistance offered:

(1) Solely by the beneficiary or the mortgagee; or
(2) By a government agency if the beneficiary or mortgagee participates in the government agency's program; and

(e) If the default is the result of the failure to make payment, a payment history showing the date of default.
(B) If a true and correct copy of the original note, mortgage, deed of trust, or an assignment or allonge of the note, mortgage, or deed of trust is lost or otherwise unavailable, the beneficiary or mortgagee may instead of providing true and correct copies of the note, mortgage, deed of trust, or assignment or allonge of the note, mortgage, or deed of trust, provide a statement that the document is lost or otherwise unavailable, and shall recite the good faith efforts the beneficiary or mortgagee has made to locate the document.

(C) The duties of the beneficiary or mortgagee to provide information under subdivision (2) of this section are not delegable to the beneficiary's trustee or the mortgagee's attorney-in-fact."

AND

Page 3, delete line 1.

AND

Page 3, line 2, delete "~~(2)(4)~~" and substitute "~~(2)(3)~~"

AND

Page 3, line 6, delete "provision;" and substitute "provision;
and"

AND

Page 3, line 11, delete "~~(4)(5)~~" and substitute "(4)"

AND

Page 3, line 13, delete "dismissed; and" and substitute "dismissed;~~and~~."

AND

Page 3, delete lines 16 and 17

AND

Page 3, line 20, delete "Initiation of foreclosure – Contents of notice" and substitute "Prerequisites for foreclosure sale – Contents of notice of sale"

AND

Page 3, line 26, delete "section; and" and substitute "section;"

AND

Page 3, delete line 28, and substitute the following:

"recording of the notice of default and intention to sell; and

(3)(A)(i) The beneficiary or mortgagee has certified to its trustee or attorney-in-fact under § 18-50-102 that each mortgagor, grantor, or obligor who applied for loan modification or forbearance assistance has been notified that the mortgagor, grantor, or obligor does not meet the criteria for loan modification or forbearance assistance under any program offered by:

(a) The beneficiary or mortgagee; or

(b) A government agency if the

beneficiary or mortgagee participates in the government agency's program.

(ii) The notice shall be sent to the property address or mailing address of the mortgagor, grantor, or obligor by certified and first class mail at least ten (10) business days before the sale.

(B) The duties of the beneficiary or mortgagee under subdivision (a)(3)(A) of this section are not delegable to the beneficiary's trustee or the mortgagee's attorney-in-fact."

AND

Page 4, line 5, delete "sale;" and substitute "sale; and"

AND

Page 4, delete lines 7 through 13 and substitute: "initiating
foreclosure."

The Amendment was read _____

By: Representative T. Rogers

DLP/DLP - 03/21/11 04:34

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Chief Clerk