



COMMISSIONER OF FINANCIAL REGULATION
ADVISORY NOTICE

SEPTEMBER 25, 2013



Refinance Mortgage – Priority over Junior Liens Bill - SB 199/HB 88

(adding Real Property Article § 7-112, the “Act”)

Signed into Law by Governor Martin O'Malley on May 2, 2013
Effective as to certain refinance mortgages recorded or having an effective date
from October 1, 2013

The **Refinance Mortgage – Priority over Junior Liens Bill** provides important assistance for homeowners attempting to refinance their first mortgages at a lower interest rate by eliminating the need to obtain the consent of a currently subordinate mortgage lender.

Background: When a first mortgage is refinanced, the lien on the real property is released of record, and a new mortgage lien is recorded. Because lien priority is determined by recording order, the lien of the refinance mortgage becomes subordinate to any other mortgages already of record. A condition of refinancing commonly includes an agreement by a subordinate mortgagee to stay in its subordinate lien position. However, negotiation with a subordinate mortgagee can cost value time, money and opportunity.

The new law: The Act generally provides that a refinance mortgage that meets specified criteria shall have, upon recordation, the same lien priority as the first mortgage or deed of trust that the refinance mortgage replaces.

Overview:

In order to qualify, the refinance mortgage:

- Must be given to secure the refinancing of the loan secured by the first mortgage or deed of trust;
- Secure residential property as well as refinance a mortgage that secured residential property as defined in the Act,
- Be made by a mortgagor to refinance in full the unpaid indebtedness secured by the first mortgage;
- Cannot exceed the unpaid outstanding principal balance secured by the first mortgage or deed of trust plus an amount not exceeding \$5,000 to pay closing costs; and
- The principal amount secured by the subordinate lien does not exceed \$150,000.

The above information is intended only as a brief summary of the Act. For the full text see:
http://mqaleq.maryland.gov/2013RS/Chapters_noln/CH_205_sb0199t.pdf