

VIRGINIA FORECLOSURE TASK FORCE  
LEGAL PERSPECTIVES

**DUTY TO RESPOND TO INQUIRIES**

**HB 1665**

- Focuses on beneficiary of Deed of Trust.
- Duty to respond arises when loan in default, accelerated or in collection.
- Beneficiary shall not unreasonably refuse to:
  - (a) Provide Grantor with information regarding loan status, including cure amounts or
  - (b) Reply to inquiries from Grantor regarding status of loan or programs or options which beneficiary provides or has knowledge of that may permit Grantor to avoid foreclosure.
- These new proposed "Notice" Requirements are in addition to other required notices under foreclosure statutes.
- Comment: May give Borrower grounds for injunction to delay foreclosure sale if the Beneficiary does not provide the requested information.

**RIGHT TO CURE**

**HB 1665**

Day One

- Loan to Borrower  
\$100,000.00 at 5% for 30 years
- Repayment 360 equal monthly payments of \$536.82.

Year Two

- Borrower misses three payments  
 $3 \times 536.82 = \$1,610.46$   
Late Charge of 5% would be \$80.52  
Arrearage Amount would be \$1,690.98
- Lender calls loan, accelerates balance due – total due approximately \$98,500.00.
- In order to stop foreclosure Borrower must pay in full \$98,500.00.

**PROPOSED LEGISLATION**

- Applies only to first Deed of Trust on residential property which serves as primary residence of Borrower.
- May be exercised only once every 18 months.
- Borrower has right to cure default, de-accelerate and reinstate loan if the following requirements are met:

Actions needed to cure:

- (a) Pay all sums due which would be due absent default.
  - (b) Perform any other obligations required.
  - (c) Pay all attorneys' fees and Trustee's fees incurred.
  - (d) Pay late charges.
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- Lender may charge no fee for reinstatement itself.
  - Cure of loan is retroactive.

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