

HOUSE BILL 347

E1, N1

0lr1144

By: Delegates Serafini, Bates, Beitzel, Jenkins, Miller, Myers, Niemann,
Shank, Shewell, and F. Turner

Introduced and read first time: January 27, 2010

Assigned to: Judiciary

Committee Report: Favorable with amendments

House action: Adopted

Read second time: February 23, 2010

CHAPTER _____

1 AN ACT concerning

2 ~~Criminal Law—Foreclosed Residential Property—~~ Malicious Destruction of
3 ~~Property and Acts of Graffiti – Property of Another – Definition and~~
4 Foreclosure Notices

5 FOR the purpose of ~~prohibiting an owner, former owner, tenant, or occupant of certain~~
6 ~~residential property that is in foreclosure proceedings or has been sold in a~~
7 ~~foreclosure sale from committing certain acts of graffiti on the residential~~
8 ~~property or willfully and maliciously destroying, injuring, or defacing the~~
9 ~~residential property or the fixtures of the residential property; establishing~~
10 ~~penalties for a violation of this Act; requiring the court to order a person who~~
11 ~~violates this Act by an act of graffiti, in addition to other penalties, to pay~~
12 ~~restitution, perform community service, or both; defining “property of another”~~
13 for purposes of the prohibition against malicious destruction of property;
14 requiring that certain notices sent to occupants of residential property in
15 foreclosure contain a certain paragraph informing the occupants of the
16 provisions of this Act; defining certain terms; and generally relating to a
17 prohibition against acts of graffiti on or the willful and malicious destruction of
18 or injury to foreclosed residential property or its fixtures criminal sanctions for
19 malicious destruction of property provided under a certain provision of law; and
20 generally relating to malicious destruction of property.

21 BY ~~adding to~~ repealing and reenacting, with amendments,
22 Article – Criminal Law
23 Section ~~6–301.1~~ 6–301

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 Annotated Code of Maryland
2 (2002 Volume and 2009 Supplement)

3 BY adding to
4 Article – Real Property
5 Section 7–105.9(g)
6 Annotated Code of Maryland
7 (2003 Replacement Volume and 2009 Supplement)

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

10 **Article – Criminal Law**

11 ~~**6-301.1.**~~

12 ~~**(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE**~~
13 ~~**MEANINGS INDICATED.**~~

14 ~~**(2) “ACT OF GRAFFITI” MEANS THE MAKING OF A PERMANENT**~~
15 ~~**DRAWING, PAINTING, MARK, OR INSCRIPTION ON THE PROPERTY OF ANOTHER**~~
16 ~~**THAT SIGNIFICANTLY DECREASES THE VALUE OF THE PROPERTY WITHOUT THE**~~
17 ~~**PERMISSION OF THE OWNER OF THE PROPERTY.**~~

18 ~~**(3) “FIXTURE” INCLUDES:**~~

19 ~~**(I) CABINETS AND COUNTERTOPS;**~~

20 ~~**(II) BUILT-IN APPLIANCES, FURNACES, AND CENTRAL AIR**~~
21 ~~**CONDITIONING UNITS OR SYSTEMS;**~~

22 ~~**(III) PLUMBING AND COPPER PIPES;**~~

23 ~~**(IV) ELECTRICAL WIRING, LIGHT FIXTURES, AND CEILING**~~
24 ~~**FANS;**~~

25 ~~**(V) DOORS, HARDWARE, FLOORS, CEILINGS, AND WALLS;**~~

26 ~~**(VI) WINDOWS AND VENTS;**~~

27 ~~**(VII) MEDICINE CABINETS, SINKS, TUBS, TOILETS, SHOWERS,**~~
28 ~~**SINK DRAINS, AND FAUCETS;**~~

29 ~~**(VIII) BUILT-IN SHELVING AND BOOKCASES; AND**~~

1 ~~(IX) LANDSCAPING, FENCING, AND BUILT IN POOLS OR~~
2 ~~SPAS.~~

3 ~~(4) "RESIDENTIAL PROPERTY" MEANS REAL PROPERTY~~
4 ~~IMPROVED BY FOUR OR FEWER SINGLE FAMILY DWELLING UNITS THAT ARE~~
5 ~~DESIGNED PRINCIPALLY AND ARE INTENDED FOR HUMAN HABITATION.~~

6 ~~(B) AN OWNER, FORMER OWNER, TENANT, OR OCCUPANT OF~~
7 ~~RESIDENTIAL PROPERTY THAT IS SUBJECT TO A FORECLOSURE ACTION OR~~
8 ~~THAT HAS BEEN SOLD IN A FORECLOSURE SALE MAY NOT:~~

9 ~~(1) COMMIT AN ACT OF GRAFFITI ON THE RESIDENTIAL~~
10 ~~PROPERTY; OR~~

11 ~~(2) WILLFULLY AND MALICIOUSLY DESTROY, INJURE, OR DEFACE~~
12 ~~THE RESIDENTIAL PROPERTY OR ITS FIXTURES.~~

13 ~~(C) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A~~
14 ~~MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT~~
15 ~~EXCEEDING 30 DAYS OR A FINE NOT EXCEEDING \$10,000 OR BOTH.~~

16 ~~(D) (1) IN ADDITION TO THE PENALTIES SET FORTH IN SUBSECTION~~
17 ~~(C) OF THIS SECTION, THE COURT SHALL ORDER A PERSON CONVICTED OF~~
18 ~~VIOLATING THIS SECTION BY AN ACT OF GRAFFITI TO PAY RESTITUTION OR~~
19 ~~PERFORM COMMUNITY SERVICE OR BOTH.~~

20 ~~(2) TITLE 11, SUBTITLE 6 OF THE CRIMINAL PROCEDURE~~
21 ~~ARTICLE APPLIES TO AN ORDER OF RESTITUTION UNDER THIS SUBSECTION.~~

22 6-301.

23 (A) IN THIS SECTION, "PROPERTY OF ANOTHER" MEANS PROPERTY IN
24 WHICH A PERSON OTHER THAN THE OFFENDER HAS AN INTEREST THAT THE
25 OFFENDER DOES NOT HAVE THE AUTHORITY TO DEFEAT OR IMPAIR, EVEN
26 THOUGH THE OFFENDER ALSO MAY HAVE AN INTEREST IN THE PROPERTY.

27 [(a)] (B) A person may not willfully and maliciously destroy, injure, or
28 deface the real or personal property of another.

29 [(b)] (C) A person who, in violation of this section, causes damage of at least
30 \$500 to the property is guilty of a misdemeanor and on conviction is subject to
31 imprisonment not exceeding 3 years or a fine not exceeding \$2,500 or both.

1 [(c)] (D) A person who, in violation of this section, causes damage of less
 2 than \$500 to the property is guilty of a misdemeanor and on conviction is subject to
 3 imprisonment not exceeding 60 days or a fine not exceeding \$500 or both.

4 [(d)] (E) (1) For purposes of this subsection, an act of "graffiti" means a
 5 permanent drawing, permanent painting, or a permanent mark or inscription on the
 6 property of another without the permission of the owner of the property.

7 (2) In addition to the penalties set forth in subsections [(b)] (C) and
 8 [(c)] (D) of this section, the court shall order a person convicted of causing malicious
 9 destruction by an act of graffiti to pay restitution or perform community service or
 10 both.

11 (3) Title 11, Subtitle 6 of the Criminal Procedure Article applies to an
 12 order of restitution under this subsection.

13 [(e)] (F) (1) Except as provided in paragraph (2) of this subsection, to
 14 determine a penalty, the court may consider as one crime the aggregate value of
 15 damage to each property resulting from one scheme or continuing course of conduct.

16 (2) If separate acts resulting in damage to the properties of one or
 17 more owners are set forth by separate counts in one or more charging documents, the
 18 separate counts may not be merged for sentencing.

19 [(f)] (G) (1) The value of damage is not a substantive element of a crime
 20 under this section and need not be stated in the charging document.

21 (2) The value of damage shall be based on the evidence and that value
 22 shall be applied for the purpose of imposing the penalties established in this section.

23 (3) If it cannot be determined from the evidence whether the value of
 24 the damage to the property is more or less than \$500, the value is deemed to be less
 25 than \$500.

26 Article – Real Property

27 7–105.9.

28 **(G) A NOTICE SENT UNDER SUBSECTION (B), (C), OR (D) OF THIS**
 29 **SECTION SHALL INCLUDE A PARAGRAPH INFORMING THE OCCUPANTS OF THE**
 30 **RESIDENTIAL PROPERTY OF THE ~~PROVISIONS OF § 6-301.1~~ CRIMINAL**
 31 **SANCTIONS FOR MALICIOUS DESTRUCTION OF PROPERTY PROVIDED UNDER §**
 32 **6-301 OF THE CRIMINAL LAW ARTICLE.**

33 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
 34 October 1, 2010.