
By: **Delegate Benson**
Introduced and read first time: March 8, 1999
Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **Residential Home Mortgages - Mortgagee's Duty to Record Satisfaction or**
3 **Release**

4 FOR the purpose of requiring a mortgagee of a residential home mortgage to take
5 certain steps to record the satisfaction or release of the mortgage within a
6 certain period of time; providing a certain punishment; making a stylistic
7 change; and generally relating to a mortgagee's duty to record the satisfaction or
8 release of a mortgage on a residential home.

9 BY repealing and reenacting, with amendments,
10 Article - Real Property
11 Section 7-106 and 15-102(15)
12 Annotated Code of Maryland
13 (1996 Replacement Volume and 1998 Supplement)

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

16 **Article - Real Property**

17 7-106.

18 (a) No trustee of a deed of trust may charge, demand, or receive any money or
19 any other item of value exceeding \$15 for the partial or complete release of the deed
20 of trust unless the fee is specified in the instrument. Any person who violates this
21 [section] SUBSECTION is guilty of a misdemeanor and on conviction is subject to a
22 fine not exceeding \$100.

23 (B) (1) FOR A MORTGAGE ON A RESIDENTIAL HOME THAT HAS BEEN
24 SATISFIED IN FULL OR RELEASED BY THE MORTGAGEE, THE MORTGAGEE SHALL
25 TAKE THE APPROPRIATE STEPS TO RECORD THE SATISFACTION OR RELEASE OF THE
26 MORTGAGE AS PROVIDED IN § 3-105 OF THIS ARTICLE WITHIN 30 DAYS AFTER THE
27 DATE OF THE MORTGAGE'S SATISFACTION OR RELEASE.

1 (2) ANY PERSON WHO VIOLATES THIS SUBSECTION IS GUILTY OF A
2 MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING \$5,000.

3 [(b)] (C) (1) Subject to the provisions of paragraph (5) of this subsection a
4 person who has undertaken responsibility for the disbursement of funds in connection
5 with the grant of title to property, shall mail or deliver to the vendor and purchaser in
6 the transaction, the original or a photographic, photostatic, or similarly reproduced
7 copy of the recorded release of any mortgage or deed of trust which the person was
8 obliged to obtain and record with all or part of the funds to be disbursed. If the
9 original or copy of a recorded release is not readily obtainable at the time of recording,
10 the person may mail or deliver to the purchaser or vendor the original or a copy of the
11 court's recordation receipt for the release, or any other certified court document
12 clearly evidencing the recordation of the release.

13 (2) The required evidence of a recorded release shall be mailed or
14 delivered to the vendor and purchaser within 30 days from the delivery of the deed
15 granting title to the property. However, if the recording of the release is delayed
16 beyond the 30-day period for causes not attributable to the neglect, omission, or
17 malfeasance of the person responsible for the disbursement of funds, a letter
18 explaining the delay shall be mailed or delivered to the vendor and purchaser within
19 the 30-day period, and the person shall mail or deliver to the vendor and purchaser
20 the required evidence of the recorded release at the earliest opportunity. The person
21 shall follow the procedure of mailing or delivering a letter of explanation every 30
22 days until the required evidence of a recorded release is mailed or delivered to the
23 purchaser and vendor.

24 (3) If the person responsible for the disbursement of funds does not
25 comply with the provisions of paragraphs (1) and (2), the vendor, purchaser, or a duly
26 organized bar association of the State may petition a court of equity to order an audit
27 of the accounts maintained by the person for funds received in connection with closing
28 transactions in the State. The petition shall state concisely the facts showing
29 noncompliance and shall be verified. On receipt of the petition, the court shall issue
30 an order to the person to show cause within ten days why the audit should not be
31 conducted. If cause is not shown, the court may order the audit to be conducted. The
32 court may order other relief as it deems appropriate under the circumstances of the
33 case.

34 (4) Prior to delivery of the deed granting title to the property, the person
35 responsible for the disbursement of funds shall inform the vendor and purchaser in
36 writing of the provisions of this section.

37 (5) Unless specifically requested to do so by either the purchaser or the
38 vendor, a person responsible for the disbursement of funds in a closing transaction is
39 not required to provide the purchaser or vendor with the required evidence of a
40 recorded release if the person properly disburses all funds entrusted to him in the
41 course of the closing transaction within five days from the date of the delivery of any
42 deed granting title to the property.

1 (6) The vendor shall bear the cost of reproducing and mailing a recorded
2 release under this section unless the parties otherwise agree.

3 [(c)] (D) (1) If a mortgage or deed of trust remains unreleased of record, the
4 mortgagor or grantor or any interested party is entitled to a presumption that it has
5 been paid if:

6 (i) 12 years have elapsed since the last payment date called for in
7 the instrument or the maturity date as set forth in the instrument or any amendment
8 or modification to the instrument and no continuation statement has been filed;

9 (ii) The last payment date or maturity date cannot be ascertained
10 from the record, 40 years have elapsed since the date of record of the instrument, and
11 no continuation statement has been filed; or

12 (iii) One or more continuation statements relating to the instrument
13 have been recorded and 12 years have elapsed since the recordation of the last
14 continuation statement.

15 (2) Except as otherwise provided by law, if an action has not been
16 brought to enforce the lien of a mortgage or deed of trust within the time provided in
17 paragraph (1) of this subsection and, notwithstanding any other right or remedy
18 available either at law or equity, the lien created by the mortgage or deed of trust
19 shall terminate, no longer be enforceable against the property, and shall be
20 extinguished as a lien against the property.

21 (3) (i) A continuation statement may be filed within 1 year before the
22 expiration of the applicable time period under paragraph (1) of this subsection.

23 (ii) A continuation statement shall:

24 1. Be signed by:

25 A. The current mortgagee, if the instrument is a mortgage; or

26 B. The current beneficiary or any one or more of the current
27 trustees if the instrument is a deed of trust;

28 2. Identify the original instrument by:

29 A. The office, docket or book, and first page where the
30 instrument is recorded; and

31 B. The name of the parties to the instrument; and

32 3. State that the purpose of the continuation statement is to
33 continue the effectiveness of the original instrument.

34 (iii) Upon timely recordation in the land records where the original
35 instrument was recorded of a continuation statement under this subparagraph, the

1 effectiveness of the original instrument shall be continued for 12 years after the day
2 on which the continuation statement is recorded.

3 (iv) A continuation statement is effective if it substantially complies
4 with the requirements of subparagraph (ii) of this paragraph.

5 [(d)] (E) Any person who has a lien on real property in this State, or the agent
6 of the lienholder, on payment in satisfaction of the lien, on written request, shall
7 furnish to the person responsible for the disbursement of funds in connection with the
8 grant of title to that property the original copy of the executed release of that lien. If
9 the lien instrument is a deed of trust the original promissory note marked "paid" or
10 "cancelled" in accordance with § 3-105(d)(1) of this article constitutes an executed
11 release. If the lien instrument is a mortgage, the original mortgage marked "paid" or
12 "cancelled" in accordance with § 3-105(d)(2) of this article constitutes an executed
13 release. This release shall be mailed or otherwise delivered to the person responsible
14 for the disbursement of funds:

15 (1) Within seven days of the receipt, by the holder of the lien, of currency,
16 a certified or cashier's check, or money order in satisfaction of the debt, including all
17 amounts due under the lien instruments and under instruments secured by the lien;
18 or

19 (2) Within seven days after the clearance of normal commercial channels
20 of any type of commercial paper, other than those specified in paragraph (1), received
21 by the holder of the lien in satisfaction of the outstanding debt, including all amounts
22 due under the lien instruments and under the instruments secured by the lien.

23 [(e)] (F) If the holder of a lien on real property or his agent fails to provide the
24 release within 30 days, the person responsible for the disbursement of funds in
25 connection with the grant of title to the property, after having made demand therefor,
26 may bring an action to enforce the provisions of this section in the circuit court for the
27 county in which the property is located. In the action the lienholder, or his agent, or
28 both, shall be liable for the delivery of the release and for all costs and expenses in
29 connection with the bringing of the action, including reasonable attorney fees.

30 15-102.

31 Unless otherwise specifically provided in this article, the provisions of this
32 article are applicable on the effective date. In addition,

33 (15) Section [7-106(c)] 7-106(D) applies to all proceedings instituted on or
34 after the effective date, whether the mortgage or deed of trust was executed before or
35 after the effective date.

36 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
37 October 1, 1999.