

Department of Legislative Services
Maryland General Assembly
2000 Session

FISCAL NOTE

House Bill 148 (Delegates Benson and Conrov)
Commerce and Government Matters

Releases of Mortgages and Deeds of Trust - Recordation

This bill requires, for loans securing residential real property, the mortgagee or mortgagee's assignee, or the trustee or trustee's successor under a deed of trust, within 60 days from the date the loan is paid fully or satisfied, to: (1) record the release; (2) send notice by certified mail that the release has been satisfied; and (3) retain a copy of the notice in the loan file. The bill authorizes the mortgagee or trustee to charge a fee to cover: (1) the recordation of the release of the mortgage or deed of trust; and (2) the mailing of the notice of the recordation. The fee must be reasonable and may not exceed actual costs.

The bill requires a mortgagee or mortgagee's assignee, or a trustee or trustee's successor under a deed of trust, on or before October 1, 2001, to notify the party responsible for making satisfaction of a loan secured by residential real property made before October 1, 2000, of the necessity and procedures for recording a release of the mortgage or deed of trust.

Fiscal Summary

State Effect: None. This bill would not materially affect State finances.

Local Effect: None.

Small Business Effect: Meaningful.

Analysis

Current Law: When a property is sold or a mortgage or deed of trust is refinanced, the settlement officer is required to provide the buyer and seller with a copy of the recorded

release of the mortgage or deed of trust within 30 days of the delivery of the deed. The settlement officer is not required to provide this notice if all the funds are distributed within

five days of the delivery of the deed, unless either the buyer or seller requests it. The settlement officer must notify the buyer and seller in writing of these requirements prior to the delivery of the deed. No provision of law requires a mortgagee or trustee to record a release on final payment of a loan.

Background: When a mortgage or deed of trust is paid in full at the end of its term, without being part of a refinancing or sale, the mortgagee or trustee frequently follows one of two options. The mortgagee or trustee may record a release on the mortgage or deed of trust, in which case the mortgagee or trustee will frequently charge a fee. Conversely, the mortgagee or trustee may send a copy of the mortgage or deed of trust, with a signed release, to the borrower, who may then record the release.

Small Business Effect: Many mortgages or deeds of trust are repaid and releases recorded as part of a sale of the property or a refinancing of the mortgage or deed of trust. In those cases, the settlement officer, frequently a title company, ordinarily charges a fee for obtaining and recording the release. To the extent that these fees exceed the actual cost, small business settlement officers could lose a revenue source. To the extent that settlement officers no longer record the releases of the mortgages or deeds of trust on sale or refinancing, risk could increase on title insurance policies. The cost of the increased risk would be passed on, in the form of higher premiums, to trustees or mortgagees and to consumers who buy title insurance.

Additional Information

Prior Introductions: A substantially similar bill was introduced in the 1999 session as HB 1198 and received an unfavorable report from the House Economic Matters Committee.

Cross File: None.

Information Source(s): Office of the Attorney General, Judiciary (Administrative Office of the Courts), Department of Legislative Services

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