

HOUSE BILL 632

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2001 Regular Session
(1r1294)

ENROLLED BILL
-- Economic Matters/Judicial Proceedings --

Introduced by **Delegates Benson and Conroy**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this
____ day of _____ at _____ o'clock, ____ M.

Speaker.

CHAPTER _____

1 AN ACT concerning

2 **Real Property - Recordation - Releases of Mortgages and Deeds of Trust**

3 FOR the purpose of requiring certain holders of certain loans secured by certain
4 mortgages or deeds of trust to take certain action within a reasonable time after
5 the loan is paid in full; requiring a release of a recorded mortgage or deed of
6 trust securing a certain loan to be in writing and prepared at the expense of the
7 holder; requiring a holder that does not record a release or provide the release to
8 a certain responsible person for recording to furnish the borrower with the
9 release in a certain form and a certain notice; requiring a holder that records a
10 release to furnish the borrower with a copy of the release; authorizing a holder
11 to collect a certain fee from the borrower under certain circumstances; altering
12 the application of certain provisions of law relating to releases of certain
13 recorded mortgages, deeds of trust, security agreement, or other liens securing
14 certain loans; defining certain terms; and generally relating to releases of
15 certain mortgages and deeds of trust.

16 BY repealing and reenacting, with amendments,

1 Article - Commercial Law
2 Section 12-924 and 12-1024
3 Annotated Code of Maryland
4 (2000 Replacement Volume and 2000 Supplement)

5 BY adding to
6 Article - Real Property
7 Section 3-105.1
8 Annotated Code of Maryland
9 (1996 Replacement Volume and 2000 Supplement)

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

12 **Article - Commercial Law**

13 12-924.

14 (a) (1) [This] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS
15 SUBSECTION, THIS section applies only to a plan between a credit grantor and a
16 consumer borrower under which a credit grantor has taken any property as security
17 for credit extended under the plan.

18 (2) THIS SECTION DOES NOT APPLY TO A LOAN TO WHICH § 3-105.1 OF
19 THE REAL PROPERTY ARTICLE APPLIES.

20 (b) A credit grantor shall release any recorded mortgage, deed of trust,
21 security agreement, or other lien securing the extension of credit within a reasonable
22 time after:

23 (1) The outstanding unpaid indebtedness under a plan has been paid in
24 full;

25 (2) There are no further obligations of the credit grantor or the consumer
26 borrower under the plan; and

27 (3) The account under the plan is closed.

28 (c) The release shall be:

29 (1) In writing; and

30 (2) Prepared at the expense of the credit grantor.

31 (d) (1) If the credit grantor does not record the release, the credit grantor
32 shall furnish the consumer borrower with the release in a recordable form.

33 (2) If the credit grantor records the release, the credit grantor shall
34 furnish the consumer borrower with a copy of the release.

1 (e) (1) If a fee is collected by a credit grantor for the recording of a release:

2 (i) The release shall be recorded by the credit grantor; and

3 (ii) Any portion of the fee not paid to a governmental entity for
4 recording the release shall be refunded to the borrower.

5 (2) If a fee is not collected by a credit grantor for the recording of a
6 release, the credit grantor is not obligated to record the release.

7 12-1024.

8 (a) (1) [This] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS
9 SUBSECTION, THIS section applies only to a loan made by a credit grantor to a
10 consumer borrower.

11 (2) THIS SECTION DOES NOT APPLY TO A LOAN TO WHICH § 3-105.1 OF
12 THE REAL PROPERTY ARTICLE APPLIES.

13 (b) Within a reasonable time after a loan to a consumer borrower has been
14 repaid in full and all other obligations under the agreement, note, or other evidence of
15 the loan have been fulfilled, a credit grantor shall:

16 (1) (i) Indelibly mark with the word "paid" or "canceled" and return to
17 the consumer borrower each agreement, note, or other evidence of the loan; or

18 (ii) Furnish the consumer borrower with a written statement that
19 identifies the loan transaction and states that the loan has been paid in full; and

20 (2) Release any recorded mortgage, deed of trust, security agreement, or
21 other lien securing the loan.

22 (c) The release shall be:

23 (1) In writing; and

24 (2) Prepared at the expense of the credit grantor.

25 (d) (1) If the credit grantor does not record the release, the credit grantor
26 shall furnish the consumer borrower with the release in a recordable form.

27 (2) If the credit grantor records the release, the credit grantor shall
28 furnish the consumer borrower with a copy of the release.

29 (e) (1) If a fee is collected by a credit grantor for the recording of a release:

30 (i) The release shall be recorded by the credit grantor; and

31 (ii) Any portion of the fee not paid to a governmental entity for
32 recording the release shall be refunded to the borrower.

1 (2) If a fee is not collected by a credit grantor for the recording of a
2 release, the credit grantor is not obligated to record the release.

3 **Article - Real Property**

4 3-105.1.

5 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
6 INDICATED.

7 (2) "BORROWER" MEANS AN INDIVIDUAL WHO IS MORTGAGOR OR
8 GRANTOR ON A MORTGAGE OR DEED OF TRUST AND WHOSE LOAN WAS FOR
9 PERSONAL, HOUSEHOLD, OR FAMILY PURPOSES OR FOR A COMMERCIAL PURPOSE
10 NOT IN EXCESS OF \$75,000.

11 (3) (I) "HOLDER" MEANS THE PERSON TO WHOM A LOAN SECURED BY
12 A MORTGAGE OR DEED OF TRUST IS OWED OR THAT PERSON'S DESIGNEE.

13 (II) "HOLDER" DOES NOT INCLUDE A RESPONSIBLE PERSON.

14 (4) "LOAN" MEANS ALL INDEBTEDNESS AND OTHER OBLIGATIONS OF A
15 BORROWER SECURED BY A MORTGAGE OR DEED OF TRUST.

16 (5) "MORTGAGE OR DEED OF TRUST" MEANS A MORTGAGE, DEED OF
17 TRUST, SECURITY AGREEMENT, OR OTHER LIEN SECURED BY A BORROWER'S
18 PRINCIPAL DWELLING.

19 (6) (I) "RESPONSIBLE PERSON" MEANS A PERSON OTHER THAN THE
20 HOLDER OR THE HOLDER'S DESIGNEE WHO HAS UNDERTAKEN RESPONSIBILITY FOR
21 FILING A RELEASE OF A MORTGAGE OR DEED OF TRUST WITH THE GOVERNMENTAL
22 AGENCY CHARGED WITH RECORDING THE RELEASE.

23 (II) "RESPONSIBLE PERSON" INCLUDES:

24 1. THE PERSON RESPONSIBLE FOR THE DISBURSEMENT OF
25 FUNDS IN CONNECTION WITH THE GRANT OF TITLE TO THE PROPERTY; AND

26 2. AN ATTORNEY OR OTHER PERSON RESPONSIBLE FOR
27 PREPARING THE HUD-1 SETTLEMENT STATEMENT REQUIRED UNDER THE FEDERAL
28 REAL ESTATE SETTLEMENT PROCEDURES ACT.

29 (B) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THIS
30 SECTION DOES NOT APPLY TO A MORTGAGE OR DEED OF TRUST GIVEN TO SECURE
31 OR GUARANTY A COMMERCIAL LOAN AS DEFINED IN § 12-101 OF THE COMMERCIAL
32 LAW ARTICLE.

33 (2) THIS SECTION APPLIES TO A MORTGAGE OR DEED OF TRUST GIVEN
34 BY AN INDIVIDUAL TO SECURE A COMMERCIAL LOAN TO THAT INDIVIDUAL IF THE
35 COMMERCIAL LOAN WAS NOT IN EXCESS OF \$75,000 AND WAS SECURED BY THE
36 BORROWER'S PRINCIPAL DWELLING.

1 (C) WITHIN A REASONABLE TIME AFTER A LOAN SECURED BY AN EXISTING
2 MORTGAGE OR DEED OF TRUST HAS BEEN PAID IN FULL AND THERE IS NO FURTHER
3 COMMITMENT BY THE HOLDER TO MAKE AN ADVANCE OR BY THE BORROWER TO
4 INCUR AN OBLIGATION SECURED BY THAT MORTGAGE OR DEED OF TRUST, THE
5 HOLDER SHALL:

6 (1) (I) INDELIBLY MARK WITH THE WORD "PAID" OR "CANCELED" AND
7 RETURN TO THE BORROWER EACH AGREEMENT, NOTE, OR OTHER EVIDENCE OF THE
8 LOAN SECURED BY THAT MORTGAGE OR DEED OF TRUST; OR

9 (II) FURNISH THE BORROWER WITH A WRITTEN STATEMENT THAT
10 IDENTIFIES THE LOAN SECURED BY THAT MORTGAGE OR DEED OF TRUST AND
11 STATES THAT THE LOAN HAS BEEN PAID IN FULL; AND

12 (2) RELEASE ANY RECORDED MORTGAGE OR DEED OF TRUST SECURING
13 THE LOAN.

14 (D) THE RELEASE SHALL BE:

15 (1) IN WRITING; AND

16 (2) PREPARED AT THE EXPENSE OF THE HOLDER.

17 (E) (1) IF THE HOLDER DOES NOT RECORD THE RELEASE OR PROVIDE THE
18 RELEASE TO A RESPONSIBLE PERSON FOR RECORDING, THE HOLDER SHALL
19 FURNISH THE BORROWER WITH:

20 (I) THE RELEASE IN A RECORDABLE FORM; AND

21 (II) A NOTICE DISCLOSING THE LOCATION WHERE THE RELEASE
22 SHOULD BE RECORDED AND THE ESTIMATED AMOUNT OF ANY FEE REQUIRED TO BE
23 PAID TO A GOVERNMENTAL ENTITY IN ORDER TO RECORD THE RELEASE.

24 (2) IF THE HOLDER RECORDS THE RELEASE, THE HOLDER SHALL
25 FURNISH THE BORROWER WITH A COPY OF THE RELEASE.

26 (F) (1) A FEE FOR THE RECORDING OF A RELEASE MAY BE COLLECTED BY
27 THE HOLDER FROM THE BORROWER SUBJECT TO THIS SUBSECTION.

28 (2) IF A FEE IS COLLECTED FOR THE RECORDING OF A RELEASE:

29 (I) THE RELEASE SHALL BE RECORDED BY THE HOLDER; AND

30 (II) ANY PORTION OF THE FEE NOT PAID TO A GOVERNMENTAL
31 ENTITY FOR RECORDING THE RELEASE THAT EXCEEDS ~~\$15~~ \$5 \$15 SHALL BE
32 REFUNDED TO THE BORROWER.

33 (3) A FEE AUTHORIZED UNDER THIS SUBSECTION IS NOT INTEREST
34 WITH RESPECT TO ANY LOAN.

1 (4) IF A FEE IS NOT COLLECTED FOR THE RECORDING OF A RELEASE,
2 THE HOLDER IS NOT OBLIGATED TO RECORD THE RELEASE.

3 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
4 October 1, 2001.