

HOUSE BILL 632

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2001 Regular Session
1lr1294
CF 1lr1681

By: **Delegates Benson and Conroy**

Introduced and read first time: February 7, 2001

Assigned to: Economic Matters

A BILL ENTITLED

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 to furnish the borrower
8 with the release in a certain form and a certain notice; requiring a holder that
9 records a release to furnish the borrower with a copy of the release; authorizing
10 a holder to collect a certain fee from the borrower under certain circumstances;
11 altering the application of certain provisions of law relating to releases of certain
12 recorded mortgages, deeds of trust, security agreement, or other liens securing
13 certain loans; defining certain terms; and generally relating to releases of
14 certain mortgages and deeds of trust.

15 BY repealing and reenacting, with amendments,
16 Article - Commercial Law
17 Section 12-924 and 12-1024
18 Annotated Code of Maryland
19 (2000 Replacement Volume and 2000 Supplement)

20 BY adding to
21 Article - Real Property
22 Section 3-105.1
23 Annotated Code of Maryland
24 (1996 Replacement Volume and 2000 Supplement)

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

Article - Commercial Law

12-924.

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

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

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

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

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

(3) The account under the plan is closed.

(c) The release shall be:

(1) In writing; and

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

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

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

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

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

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

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

12-1024.

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

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

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

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

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

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

12 (c) The release shall be:

13 (1) In writing; and

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

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

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

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

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

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

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

25 **Article - Real Property**

26 3-105.1.

27 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
28 INDICATED.

29 (2) "BORROWER" MEANS AN INDIVIDUAL WHO IS MORTGAGOR OR
30 GRANTOR ON A MORTGAGE OR DEED OF TRUST.

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

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

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

6 (B) THIS SECTION DOES NOT APPLY TO A MORTGAGE OR DEED OF TRUST
7 GIVEN TO SECURE OR GUARANTY A COMMERCIAL LOAN AS DEFINED IN § 12-101 OF
8 THE COMMERCIAL LAW ARTICLE.

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

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

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

20 (2) RELEASE ANY RECORDED MORTGAGE OR DEED OF TRUST SECURING
21 THE LOAN.

22 (D) THE RELEASE SHALL BE:

23 (1) IN WRITING; AND

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

25 (E) (1) IF THE HOLDER DOES NOT RECORD THE RELEASE, THE HOLDER
26 SHALL FURNISH THE BORROWER WITH:

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

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

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

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

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

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

2 (II) ANY PORTION OF THE FEE NOT PAID TO A GOVERNMENTAL
3 ENTITY FOR RECORDING THE RELEASE THAT EXCEEDS \$15 SHALL BE REFUNDED TO
4 THE BORROWER.

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

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

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