

HOUSE BILL 632

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2001 Regular Session
11r1294
CF 11r1681

By: **Delegates Benson and Conroy**
Introduced and read first time: February 7, 2001
Assigned to: Economic Matters

Committee Report: Favorable with amendments
House action: Adopted
Read second time: March 17, 2001

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,
17 Article - Commercial Law
18 Section 12-924 and 12-1024
19 Annotated Code of Maryland
20 (2000 Replacement Volume and 2000 Supplement)

21 BY adding to
22 Article - Real Property
23 Section 3-105.1
24 Annotated Code of Maryland
25 (1996 Replacement Volume and 2000 Supplement)

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

3 **Article - Commercial Law**

4 12-924.

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

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

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

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

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

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

19 (c) The release shall be:

20 (1) In writing; and

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

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

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

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

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

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

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

1 12-1024.

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

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

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

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

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

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

16 (c) The release shall be:

17 (1) In writing; and

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

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

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

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

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

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

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

29 **Article - Real Property**

30 3-105.1.

31 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
32 INDICATED.

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

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

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

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

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

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

17 (II) "RESPONSIBLE PERSON" INCLUDES:

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

20 2. AN ATTORNEY OR OTHER PERSON RESPONSIBLE FOR
21 PREPARING THE HUD-1 SETTLEMENT STATEMENT REQUIRED UNDER THE FEDERAL
22 REAL ESTATE SETTLEMENT PROCEDURES ACT.

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

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

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

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

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

4 (2) RELEASE ANY RECORDED MORTGAGE OR DEED OF TRUST SECURING
5 THE LOAN.

6 (D) THE RELEASE SHALL BE:

7 (1) IN WRITING; AND

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

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

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

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

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

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

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

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

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

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

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

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

