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By: **Senator Dorman**  
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Committee Report: Favorable with amendments  
Senate action: Adopted  
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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 SHALL BE REFUNDED TO  
24 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.

