

Department of Legislative Services
Maryland General Assembly
2001 Session

FISCAL NOTE
Revised

House Bill 632 (Delegates Benson and Conroy)

Economic Matters

Judicial Proceedings

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

This bill requires the holder of a mortgage or trust deed within a reasonable time after the loan secured by the mortgage or trust deed has been paid in full and there is no further obligation by the borrower, to release any recorded mortgage or trust deed and either: (1) furnish the borrower with a written statement identifying the loan as having been paid in full; or (2) indelibly marking the word "paid" or "cancelled" on any evidence of the loan and return it to the borrower. The release must be in writing and prepared at the holder's expense. If the holder records the release, the holder may keep up to \$15 of any fee collected from the borrower in excess of any recordation fee paid by the holder. If the holder does not record the release or provide it to a "responsible person" for recording, the holder must furnish the borrower with a notice disclosing the location where the release should be recorded and the estimated amount of any required fee.

The bill applies to a mortgage or deed of trust that secures: (1) a loan for personal, family, or household purposes; or (2) a commercial loan to an individual if the loan: (a) does not exceed \$75,000; and (b) was secured by the borrower's principal dwelling. The bill does not apply to grants of revolving credit or closed end credit under the Commercial Law Article.

Fiscal Summary

State Effect: None. The bill would not materially affect State finances or operations.

Local Effect: None.

Small Business Effect: Meaningful.

Analysis

Current Law: When a property is sold or a mortgage or trust deed is refinanced, the settlement officer is required to provide the buyer and seller with a copy of the recorded release of the mortgage or trust deed 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 requires a mortgagee or trustee to record a release on final payment of a loan.

For a grant of closed credit or revolving credit under the Commercial Law Article, a credit grantor, in a loan to a consumer borrower, must release any recorded mortgage, trust deed, security agreement, or other lien securing the extension of credit after: (1) the loan is repaid in full and no further balance is due; (2) there are no further obligations of the credit grantor or the consumer borrower; and (3) in the case of revolving credit, the account must be closed. The release must be in writing and prepared at the holder's expense. The credit grantor must furnish the borrower with a copy of the release if the grantor records or must furnish a recordable copy to the borrower. If a fee is collected by the credit grantor, any amount that exceeds what is paid to a government entity to record the release must be refunded to the borrower.

Background: When a mortgage or trust deed is paid in full at the end of its term, 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.

The recordation fee, which is applicable to mortgages and trust deeds, is \$15.

Small Business Effect: Small business mortgagees or trustees that charge a fee of more than \$15 to record a release would lose revenues to the extent that current fees exceed the bill's \$15 limit.

Additional Information

Prior Introductions: A similar bill, HB 148, was introduced in the 2000 session. It was not reported from the House Commerce and Government Matters Committee.

Cross File: SB 476 (Senator Dorman) – Judicial Proceedings.

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

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