
By: **Delegate Minnick**

Introduced and read first time: February 28, 2002

Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **Real Property - Mortgage or Deed of Trust - Enforcement of Release**

3 FOR the purpose of establishing a certain time period after a loan secured by a
4 mortgage or deed of trust has been paid in full for the holder to take certain
5 action for the release and recordation of the satisfaction of the mortgage or deed
6 of trust; authorizing the borrower of a certain mortgage or deed of trust who has
7 satisfied the mortgage or deed of trust on certain property but not received a
8 copy of the release in certain circumstances to file an action to require delivery
9 of the release; providing that the holder is liable for delivery of the release and
10 for costs and expenses of the action, including reasonable attorney's fees;
11 authorizing a property owner who has satisfied a mortgage or deed of trust on
12 real property but not received the release in certain circumstances to file an
13 action to require delivery of the release; providing that the lienholder is liable
14 for the delivery of the release and for costs and expenses of the action, including
15 reasonable attorney's fees; and generally relating to the release and recordation
16 of the mortgage or deed of trust.

17 BY repealing and reenacting, with amendments,
18 Article - Real Property
19 Section 3-105.1
20 Annotated Code of Maryland
21 (1996 Replacement Volume and 2001 Supplement)

22 BY adding to
23 Article - Real Property
24 Section 7-106.1
25 Annotated Code of Maryland
26 (1996 Replacement Volume and 2001 Supplement)

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

1 **Article - Real Property**

2 3-105.1.

3 (a) (1) In this section the following words have the meanings indicated.

4 (2) "Borrower" means an individual who is mortgagor or grantor on a
5 mortgage or deed of trust and whose loan was for personal, household, or family
6 purposes or for a commercial purpose not in excess of \$75,000.

7 (3) (i) "Holder" means the person to whom a loan secured by a
8 mortgage or deed of trust is owed or that person's designee.

9 (ii) "Holder" does not include a responsible person.

10 (4) "Loan" means all indebtedness and other obligations of a borrower
11 secured by a mortgage or deed of trust.

12 (5) "Mortgage or deed of trust" means a mortgage, deed of trust, security
13 agreement, or other lien secured by a borrower's principal dwelling.

14 (6) (i) "Responsible person" means a person other than the holder or
15 the holder's designee who has undertaken responsibility for filing a release of a
16 mortgage or deed of trust with the governmental agency charged with recording the
17 release.

18 (ii) "Responsible person" includes:

19 1. The person responsible for the disbursement of funds in
20 connection with the grant of title to the property; and

21 2. An attorney or other person responsible for preparing the
22 HUD-1 settlement statement required under the federal Real Estate Settlement
23 Procedures Act.

24 (b) (1) Except as provided in paragraph (2) of this subsection, this section
25 does not apply to a mortgage or deed of trust given to secure or guaranty a commercial
26 loan as defined in § 12-101 of the Commercial Law Article.

27 (2) This section applies to a mortgage or deed of trust given by an
28 individual to secure a commercial loan to that individual if the commercial loan was
29 not in excess of \$75,000 and was secured by the borrower's principal dwelling.

30 (c) Within [a reasonable time] 30 DAYS after a loan secured by an existing
31 mortgage or deed of trust has been paid in full and there is no further commitment by
32 the holder to make an advance or by the borrower to incur an obligation secured by
33 that mortgage or deed of trust, the holder shall:

34 (1) (i) Indelibly mark with the word "paid" or "canceled" and return to
35 the borrower each agreement, note, or other evidence of the loan secured by that
36 mortgage or deed of trust; or

1 (ii) Furnish the borrower with a written statement that identifies
2 the loan secured by that mortgage or deed of trust and states that the loan has been
3 paid in full; and

4 (2) Release any recorded mortgage or deed of trust securing the loan.

5 (d) The release shall be:

6 (1) In writing; and

7 (2) Prepared at the expense of the holder.

8 (e) (1) If the holder does not record the release or provide the release to a
9 responsible person for recording WITHIN 30 DAYS AFTER A LOAN SECURED BY AN
10 EXISTING MORTGAGE OR DEED OF TRUST HAS BEEN PAID IN FULL AND THERE HAS
11 BEEN NO FURTHER COMMITMENT BY THE HOLDER TO MAKE AN ADVANCE OR BY
12 THE BORROWER TO INCUR AN OBLIGATION SECURED BY THE MORTGAGE OR DEED
13 OF TRUST, the holder shall furnish the borrower with:

14 (i) The release in a recordable form; and

15 (ii) A notice disclosing the location where the release should be
16 recorded and the estimated amount of any fee required to be paid to a governmental
17 entity in order to record the release.

18 (2) If the holder records the release, the holder shall furnish the
19 borrower with a copy of the release.

20 (f) (1) A fee for the recording of a release may be collected by the holder
21 from the borrower subject to this subsection.

22 (2) If a fee is collected for the recording of a release:

23 (i) The release shall be recorded by the holder; and

24 (ii) Any portion of the fee not paid to a governmental entity for
25 recording the release that exceeds \$15 shall be refunded to the borrower.

26 (3) A fee authorized under this subsection is not interest with respect to
27 any loan.

28 (4) If a fee is not collected for the recording of a release, the holder is not
29 obligated to record the release.

30 (G) (1) IF THE HOLDER FAILS TO COMPLY WITH SUBSECTION (C) OR (E) OF
31 THIS SECTION, THE BORROWER MAY BRING AN ACTION TO REQUIRE DELIVERY OF
32 THE RELEASE IN THE CIRCUIT COURT FOR THE COUNTY IN WHICH THE PROPERTY IS
33 LOCATED.

1 (2) IN THE ACTION, THE HOLDER IS LIABLE FOR THE DELIVERY OF THE
2 RELEASE AND FOR ALL COSTS AND EXPENSES IN CONNECTION WITH THE BRINGING
3 OF THE ACTION, INCLUDING REASONABLE ATTORNEY'S FEES.

4 7-106.1.

5 (A) AFTER SATISFACTION OF A MORTGAGE OR DEED OF TRUST, IF THE
6 HOLDER OF A LIEN ON REAL PROPERTY OR HIS AGENT FAILS TO PROVIDE THE
7 RELEASE WITHIN 30 DAYS, THE PROPERTY OWNER, AFTER HAVING MADE DEMAND
8 FOR THE RELEASE, MAY BRING AN ACTION TO REQUIRE DELIVERY OF THE RELEASE
9 IN THE CIRCUIT COURT FOR THE COUNTY IN WHICH THE PROPERTY IS LOCATED.

10 (B) IN THE ACTION, THE LIENHOLDER OR HIS AGENT SHALL BE LIABLE FOR
11 THE DELIVERY OF THE RELEASE AND FOR ALL COSTS AND EXPENSES IN
12 CONNECTION WITH BRINGING THE ACTION, INCLUDING REASONABLE ATTORNEY'S
13 FEES.

14 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take
15 effect October 1, 2002.