

By: **Delegate Minnick**
Introduced and read first time: February 28, 2002
Assigned to: Rules and Executive Nominations
Re-referred to: Economic Matters, March 6, 2002

Committee Report: Favorable with amendments
House action: Adopted
Read second time: March 23, 2002

CHAPTER _____

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, under
11 certain circumstances; authorizing a property owner who has satisfied a
12 mortgage or deed of trust on real property but not received the release in certain
13 circumstances to file an action to require delivery of the release; providing that
14 the lienholder is liable for the delivery of the release and for costs and expenses
15 of the action, including reasonable attorney's fees; and generally relating to the
16 release and recordation of the a 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~~

1 ~~Annotated Code of Maryland~~
2 ~~(1996 Replacement Volume and 2001 Supplement)~~

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

5 **Article - Real Property**

6 3-105.1.

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

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

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

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

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

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

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

22 (ii) "Responsible person" includes:

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

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

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

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

1 (c) Within [a reasonable time] ~~30~~ 45 DAYS after a loan secured by an existing
2 mortgage or deed of trust has been paid in full and there is no further commitment by
3 the holder to make an advance or by the borrower to incur an obligation secured by
4 that mortgage or deed of trust, the holder shall:

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

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

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

12 (d) The release shall be:

13 (1) In writing; and

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

15 (e) (1) If the holder does not record the release or provide the release to a
16 responsible person for recording WITHIN ~~30~~ 45 DAYS AFTER A LOAN SECURED BY AN
17 EXISTING MORTGAGE OR DEED OF TRUST HAS BEEN PAID IN FULL AND THERE HAS
18 BEEN NO FURTHER COMMITMENT BY THE HOLDER TO MAKE AN ADVANCE OR BY
19 THE BORROWER TO INCUR AN OBLIGATION SECURED BY THE MORTGAGE OR DEED
20 OF TRUST, the holder shall furnish the borrower with:

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

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

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

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

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

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

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

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

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

3 (G) (1) IF THE HOLDER FAILS TO COMPLY WITH SUBSECTION (C) OR (E) OF
4 THIS SECTION, THE BORROWER, AFTER HAVING MADE DEMAND FOR THE RELEASE,
5 MAY BRING AN ACTION TO REQUIRE DELIVERY OF THE RELEASE IN THE CIRCUIT
6 COURT FOR THE COUNTY IN WHICH THE PROPERTY IS LOCATED.

7 (2) IF THE BORROWER IS THE PREVAILING PARTY IN THE ACTION, THE
8 HOLDER IS LIABLE FOR THE DELIVERY OF THE RELEASE AND FOR ALL COSTS AND
9 EXPENSES IN CONNECTION WITH THE BRINGING OF THE ACTION, INCLUDING
10 REASONABLE ATTORNEY'S FEES.

11 ~~7-106.1.~~

12 (A) ~~AFTER SATISFACTION OF A MORTGAGE OR DEED OF TRUST, IF THE~~
13 ~~HOLDER OF A LIEN ON REAL PROPERTY OR HIS AGENT FAILS TO PROVIDE THE~~
14 ~~RELEASE WITHIN 30-45 DAYS, THE PROPERTY OWNER, AFTER HAVING MADE DEMAND~~
15 ~~FOR THE RELEASE, MAY BRING AN ACTION TO REQUIRE DELIVERY OF THE RELEASE~~
16 ~~IN THE CIRCUIT COURT FOR THE COUNTY IN WHICH THE PROPERTY IS LOCATED.~~

17 (B) ~~IN THE ACTION, THE LIENHOLDER OR HIS AGENT SHALL BE LIABLE FOR~~
18 ~~THE DELIVERY OF THE RELEASE AND FOR ALL COSTS AND EXPENSES IN~~
19 ~~CONNECTION WITH BRINGING THE ACTION, INCLUDING REASONABLE ATTORNEY'S~~
20 ~~FEES.~~

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