
By: **Senator Della**

Introduced and read first time: February 25, 2005

Assigned to: Rules

A BILL ENTITLED

1 AN ACT concerning

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

3 FOR the purpose of requiring recordation within a certain period of time after a
4 certain event or after the execution or endorsement of certain instruments
5 relating to the release of mortgages and deeds of trust; and generally relating to
6 the release and recordation of a mortgage or deed of trust.

7 BY repealing and reenacting, with amendments,
8 Article - Real Property
9 Section 3-105
10 Annotated Code of Maryland
11 (2003 Replacement Volume and 2004 Supplement)

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

14 **Article - Real Property**

15 3-105.

16 (a) (1) A mortgage or deed of trust may be released validly by any procedure
17 enumerated in this section.

18 (2) THE PARTY MAKING SATISFACTION OF A MORTGAGE OR DEED OF
19 TRUST SHALL RECORD A RELEASE, CERTIFICATE OF SATISFACTION, OR OTHER
20 INSTRUMENT IN THE NATURE OF A RELEASE WITHIN 30 DAYS:

21 (I) OF THE DATE THAT THE RELEASE OR CERTIFICATE OF
22 SATISFACTION SUITABLE FOR RECORDING UNDER THIS SECTION IS EXECUTED OR
23 ENDORSED BY THE MORTGAGEE OR THE MORTGAGEE'S ASSIGNEE, THE TRUSTEE OR
24 THE TRUSTEE'S SUCCESSOR UNDER A DEED OF TRUST, OR BY THE HOLDER OF THE
25 DEBT OR OBLIGATION SECURED BY THE DEED OF TRUST;

26 (II) OF THE DATE THAT THE BOND, NOTE, OR OTHER EVIDENCE OF
27 THE TOTAL INDEBTEDNESS IS MARKED "PAID" OR "CANCELED" BY THE HOLDER OR
28 THE HOLDER'S AGENT;

1 (III) OF THE DATE THAT THE ORIGINAL MORTGAGE IS MARKED
2 "PAID" OR "CANCELED" BY THE MORTGAGEE OR THE MORTGAGEE'S AGENT; OR

3 (IV) OF THE DATE THAT THE ADDITIONAL WAITING PERIOD
4 REQUIRED UNDER SUBSECTION (D)(3)(I)3 OF THIS SECTION EXPIRES.

5 (b) A release may be endorsed on the original mortgage or deed of trust by the
6 mortgagee or his assignee, the trustee or his successor under a deed of trust, or by the
7 holder of the debt or obligation secured by the deed of trust. The mortgage or the deed
8 of trust, with the endorsed release, then shall be filed in the office in which the
9 mortgage or deed of trust is recorded. The clerk shall record the release
10 photographically, with an attachment or rider affixed to it containing the names of
11 the parties as they appear on the original mortgage or deed of trust, together with a
12 reference to the book and page number where the mortgage or deed of trust is
13 recorded. When the mortgage or deed of trust, with the attached release, is filed for
14 the purpose of recording the release, the clerk shall retain the mortgage or deed of
15 trust in his office and not permit it to be withdrawn for 25 years, after which time he
16 may destroy it. If, however, the clerk preserves a photographic copy of the release, he
17 may permit the original mortgage or deed of trust with the release to be withdrawn.

18 (c) At the option of the clerk of the court in whose office the book form of
19 recording is used, the release may be written by the mortgagee, or his assignee, or the
20 trustee, or his successor under a deed of trust, on the record in the office where the
21 mortgage or deed of trust is recorded and attested by the clerk of the court. At the
22 time of recording any mortgage or deed of trust, the clerk of the court in whose office
23 the book form of recording is used shall leave a blank space at the foot of the mortgage
24 or deed of trust for the purpose of entering such release.

25 (d) (1) When the debt secured by a deed of trust is paid fully or satisfied,
26 and any bond, note, or other evidence of the total indebtedness is marked "paid" or
27 "cancelled" by the holder or his agent, it may be received by the clerk and indexed and
28 recorded as any other instrument in the nature of a release. The marked note has the
29 same effect as a release of the property for which it is the security, as if a release were
30 executed by the named trustees, if there is attached to or endorsed on the note an
31 affidavit of the holder, the party making satisfaction, or an agent of either of them,
32 that it has been paid or satisfied, and specifically setting forth the land record
33 reference where the original deed of trust is recorded.

34 (2) When the debt secured by a mortgage is paid fully or satisfied, and
35 the original mortgage is marked "paid" or "cancelled" by the mortgagee or his agent,
36 it may be received by the clerk and indexed and recorded as any other instrument in
37 the nature of a release. The marked mortgage has the same effect as a release of the
38 property for which it is the security, as if a release were executed by the mortgagee, if
39 there is attached to or endorsed on the mortgage an affidavit of the mortgagee, the
40 mortgagor, the party making satisfaction, or the agent of any of them, that it has been
41 paid or satisfied, and specifically setting forth the land record reference where the
42 mortgage is recorded.

1 (3) When the debt secured by a mortgage or deed of trust is paid fully or
2 satisfied, and the canceled check evidencing final payment or, if the canceled check is
3 unavailable, a copy of the canceled check accompanied by a certificate from the
4 institution on which the check was drawn stating that the copy is a true and genuine
5 image of the original check is presented, it may be received by the clerk and indexed
6 and recorded as any other instrument in the nature of a release. The canceled check
7 or copy accompanied by the certificate has the same effect as a release of the property
8 for which the mortgage or deed of trust is the security, as if a release were executed by
9 the mortgagee or named trustees, if:

10 (i) The party making satisfaction of the mortgage or deed of trust
11 has:

12 1. Allowed at least a 60-day waiting period, from the date
13 the mortgage or deed of trust is paid fully or is satisfied, for the party satisfied to
14 provide a release suitable for recording;

15 2. Sent the party satisfied a copy of this section and a notice
16 that, unless a release is provided within 30 days, the party making satisfaction will
17 obtain a release by utilizing the provisions of this paragraph; and

18 3. Following the mailing of the notice required under
19 sub-subparagraph 2 of this subparagraph, allowed an additional waiting period of at
20 least 30 days for the party satisfied to provide a release suitable for recording; and

21 (ii) The canceled check or copy accompanied by the certificate
22 contains the name of the party whose debt is being satisfied, the debt account
23 number, if any, and words indicating that the check is intended as payment in full of
24 the debt being satisfied; and

25 (iii) There is attached to the canceled check or copy accompanied by
26 the certificate an affidavit made by a member of the Maryland Bar that the mortgage
27 or deed of trust has been satisfied, that the notice required under subparagraph (i) of
28 this paragraph has been sent, and specifically setting forth the land record reference
29 where the original mortgage or deed of trust is recorded.

30 (4) When the debt secured by a mortgage or deed of trust is fully paid or
31 satisfied and the holder or the agent of the holder of the mortgage or deed of trust
32 note or other obligation secured by the deed of trust, or the trustee or successor
33 trustee under the deed of trust, executes and acknowledges a certificate of
34 satisfaction substantially in the form specified under § 4-203(d) of this article,
35 containing the name of the debtor, holder, the authorized agent of the holder, or the
36 trustee or successor trustee under the deed of trust, the date, and the land record
37 recording reference of the instrument to be released, it may be received by the clerk
38 and indexed and recorded as any other instrument in the nature of a release. The
39 certificate of satisfaction shall have the same effect as a release executed by the
40 holder of a mortgage or the named trustee under a deed of trust.

41 (5) When the holder of a mortgage or deed of trust note or other
42 obligation secured by the deed of trust has agreed to release certain property from the

1 lien of the mortgage or deed of trust and the holder or the agent of the holder of the
2 mortgage or deed of trust note or other obligation secured by the deed of trust, or the
3 trustee or successor trustee under the deed of trust executes and acknowledges a
4 certificate of partial satisfaction or partial release substantially in the form specified
5 under § 4-203(e) of this article, containing the name of the debtor, holder, the
6 authorized agent of the holder, or the trustee or successor trustee under the deed of
7 trust, the date, the land record recording reference of the instrument to be partially
8 released, and a description of the real property being released, it may be received by
9 the clerk and indexed and recorded as any other instrument in the nature of a partial
10 release. The certificate of partial satisfaction or partial release shall have the same
11 effect as a partial release executed by the holder of a mortgage, the holder of the debt
12 secured by a deed of trust, or the named trustee under a deed of trust.

13 (e) A release of a mortgage or deed of trust may be made on a separate
14 instrument if it states that the mortgagee, holder of the debt or obligation secured by
15 the deed of trust, trustee, or assignee releases the mortgage or deed of trust and
16 states the names of the parties to the mortgage or deed of trust and the date and
17 recording reference of the mortgage or deed of trust to be released. In addition, any
18 form of release that satisfies the requirements of a deed and is recorded as required
19 by this article is sufficient.

20 (f) (1) A holder of a debt secured by a mortgage or deed of trust, or a
21 successor of a holder, may release part of the collateral securing the mortgage or deed
22 of trust by executing and acknowledging a partial release on an instrument separate
23 from the mortgage or deed of trust.

24 (2) A partial release shall:

25 (i) Be executed and acknowledged;

26 (ii) Contain the names of the parties to the mortgage or deed of
27 trust, the date, and the land record recording reference of the instrument subject to
28 the partial release; and

29 (iii) Otherwise satisfy the requirements of a valid deed.

30 (3) The clerk of the court shall accept, index, and record, as a partial
31 release, an instrument that complies with and is filed under this section.

32 (4) Unless otherwise stated in an instrument recorded among the land
33 records, a trustee under a deed of trust may execute, acknowledge, and deliver partial
34 releases.

35 (g) If a full or partial release of a mortgage or deed of trust is recorded other
36 than at the foot of the recorded mortgage or deed of trust, the clerk shall place a
37 reference to the book and page number or other place where the release is recorded on
38 the recorded mortgage or deed of trust.

39 (h) Unless otherwise expressly provided in the release, a full or partial release
40 that is recorded for a mortgage or deed of trust that is re-recorded, amended,

1 modified, or otherwise altered or affected by a supplemental instrument and which
2 cites the released mortgage or deed of trust by reference to only the original recorded
3 mortgage, deed of trust, or supplemental instrument to the original mortgage or deed
4 of trust, shall be effective as a full or partial release of the original mortgage or deed
5 of trust and all supplemental instruments to the original mortgage or deed of trust.

6 (i) Unless otherwise expressly provided in the release, a full or partial release
7 that is recorded for a mortgage or deed of trust, or for any re-recording, amendment,
8 modification, or supplemental instrument to the mortgage or deed of trust shall
9 terminate or partially release any related financial statements, but only to the extent
10 that the financing statements describe fixtures that are part of the collateral
11 described in the full or partial release.

12 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
13 October 1, 2005.