

Department of Legislative Services
Maryland General Assembly
2005 Session

FISCAL AND POLICY NOTE

House Bill 1421

(Delegate Kelly)

Environmental Matters

Judicial Proceedings

Real Property - Release of Mortgages and Deeds of Trust - Retention Requirement

This bill repeals the requirement that the clerk of a circuit court retain a mortgage or deed of trust for 25 years after a release has been endorsed on the instrument for the purpose of recording the release.

The bill takes effect June 1, 2005.

Fiscal Summary

State Effect: The bill would not materially affect the operations or finances of the Judiciary.

Local Effect: None.

Small Business Effect: Minimal.

Analysis

Current Law: Generally, a mortgage or deed of trust may be released validly by releasing on the mortgage or deed of trust, on the land records, on the evidence of the debt, or in a separate instrument.

When the release is on the mortgage or deed of trust, it may be endorsed on the original instrument by the mortgagee or an assignee, the trustee or a successor, or by the holder of the debt or obligation secured by the deed of trust. The instrument, with the endorsed release must be filed in the office in which it is recorded. The clerk must record the

release in a prescribed manner, with an attachment or rider affixed to it containing the names of the parties as they appear on the original instrument.

When the mortgage or deed of trust, with the attached release, is filed for the purpose of recording the release, the clerk must retain the mortgage or deed of trust in the clerk's office and not permit it to be withdrawn for 25 years. After that, the clerk may destroy it. If the clerk preserves a photographic copy of the release, the clerk may permit the original mortgage or deed of trust with the release to be withdrawn.

Additional Information

Prior Introductions: None.

Cross File: None.

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

Fiscal Note History: First Reader - March 21, 2005
n/jr

Analysis by: T. Ryan Wilson

Direct Inquiries to:
(410) 946-5510
(301) 970-5510