

BY: Judicial Proceedings Committee

AMENDMENTS TO SENATE BILL 220
(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 2, strike “Security Instrument, or”; in the same line, after “Deed of Trust” insert “, or Lien Instrument”; strike beginning with the first “a” in line 3 down through “affidavit” in line 10 and substitute “certain persons to prepare and record a statutory release affidavit when the debt secured by a mortgage, deed of trust, or lien instrument is paid fully or satisfied and the party satisfied fails to provide a release suitable for recording; providing for the effect of a statutory release affidavit; requiring a person to send a certain notice in a certain manner to the party satisfied and allow a certain waiting period before recording a statutory release affidavit; requiring a statutory release affidavit to be in a certain form and be accompanied by certain evidence of payment; making a certain technical correction; defining a certain term”; in line 11, strike “security instruments, and”; in the same line, after “deeds of trust” insert “, and lien instruments”; in line 14, strike “(d)(3)” and substitute “(i)”; and after line 16, insert:

“BY adding to

Article – Real Property

Section 3–105.2

Annotated Code of Maryland

(2003 Replacement Volume and 2006 Supplement)”.

AMENDMENT NO. 2

On page 2, in line 1, strike “, **SECURITY INSTRUMENT,**”; and in line 2, after “section” insert “**OR § 3–105.2 OF THIS SUBTITLE**”.

AMENDMENT NO. 3

On page 2, after line 2, insert:

(Over)

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

AMENDMENT NO. 4

On page 2, before line 3, insert:

“3-105.2.

(A) IN THIS SECTION, “LIEN INSTRUMENT” MEANS:

(1) A LIEN CREATED UNDER THE MARYLAND CONTRACT LIEN ACT;

(2) AN INSTRUMENT CREATING OR AUTHORIZING THE CREATION OF A LIEN IN FAVOR OF A HOMEOWNERS’ ASSOCIATION, A CONDOMINIUM COUNCIL OF UNIT OWNERS, A PROPERTY OWNERS ASSOCIATION, OR A COMMUNITY ASSOCIATION;

(3) A SECURITY AGREEMENT; OR

(4) A VENDOR’S LIEN.

(B) A MORTGAGE, DEED OF TRUST, OR LIEN INSTRUMENT MAY BE RELEASED VALIDLY IN ACCORDANCE WITH THIS SECTION.

(C) WHEN THE DEBT SECURED BY A MORTGAGE, DEED OF TRUST, OR LIEN INSTRUMENT IS PAID FULLY OR SATISFIED BY A SETTLEMENT AGENT LICENSED BY THE MARYLAND INSURANCE ADMINISTRATION AS A TITLE INSURANCE PRODUCER UNDER TITLE 10, SUBTITLE 1 OF THE INSURANCE ARTICLE, A TITLE INSURER, OR A LAWYER ADMITTED TO THE MARYLAND BAR,

AND THE PARTY SATISFIED FAILS TO PROVIDE A RELEASE SUITABLE FOR RECORDING, THE SETTLEMENT AGENT, TITLE INSURER, OR LAWYER MAY PREPARE AND RECORD A STATUTORY RELEASE AFFIDAVIT THAT:

(1) MAY BE RECEIVED BY THE CLERK AND INDEXED AND RECORDED AS ANY OTHER INSTRUMENT IN THE NATURE OF A RELEASE OR CERTIFICATE OF SATISFACTION; AND

(2) HAS THE SAME EFFECT AS A RELEASE OF THE PROPERTY FOR WHICH THE MORTGAGE, DEED OF TRUST, OR LIEN INSTRUMENT IS THE SECURITY, AS IF A RELEASE WERE EXECUTED BY THE MORTGAGEE, NAMED TRUSTEES, OR SECURED PARTY.

(D) BEFORE THE SETTLEMENT AGENT, TITLE INSURER, OR LAWYER MAY RECORD A STATUTORY RELEASE AFFIDAVIT UNDER THIS SECTION, THAT PERSON SHALL:

(1) ALLOW AT LEAST A 60-DAY WAITING PERIOD FROM THE DATE THE MORTGAGE, DEED OF TRUST, OR LIEN INSTRUMENT IS PAID FULLY OR SATISFIED FOR THE PARTY SATISFIED TO PROVIDE A RELEASE SUITABLE FOR RECORDING;

(2) SEND BY CERTIFIED MAIL, WITH OR WITHOUT A RETURN RECEIPT, TO THE PARTY SATISFIED:

(I) A COPY OF THIS SECTION;

(II) A COPY OF THE PROPOSED STATUTORY RELEASE AFFIDAVIT THAT THE PERSON INTENDS TO RECORD; AND

(III) A NOTICE THAT UNLESS A RELEASE SUITABLE FOR RECORDING IS PROVIDED WITHIN 30 DAYS, THE PERSON WILL OBTAIN A RELEASE IN ACCORDANCE WITH THE PROVISIONS OF THIS SECTION;

(3) AFTER THE MAILING OF THE NOTICE UNDER ITEM (2) OF THIS SUBSECTION, ALLOW AN ADDITIONAL WAITING PERIOD OF AT LEAST 30 DAYS FOR THE PARTY SATISFIED TO PROVIDE A RELEASE SUITABLE FOR RECORDING.

(E) A STATUTORY RELEASE AFFIDAVIT RECORDED UNDER THIS SECTION SHALL:

(1) BE IN SUBSTANTIALLY THE FOLLOWING FORM:

“STATUTORY RELEASE AFFIDAVIT

I HEREBY DECLARE OR AFFIRM, UNDER THE PENALTIES OF PERJURY, THAT:

(1) ON (INSERT DATE), I CAUSED TO BE PAID OFF THE DEBT SECURED BY THE MORTGAGE, DEED OF TRUST, OR LIEN INSTRUMENT, FOUND IN LIBER/BOOK _____, AT FOLIO/PAGE _____, IN THE LAND RECORDS OF _____ COUNTY/BALTIMORE CITY, MARYLAND.

(2) I OBTAINED A WRITTEN PAYOFF STATEMENT FROM THE PERSON TO WHOM THE DEBT WAS OWED OR THE PERSON’S AGENT, THE FUNDS PAID TO THE PERSON OR THE PERSON’S AGENT WERE SUFFICIENT TO PAY OFF THE DEBT IN FULL, AND, AS AUTHORIZED BY THE OBLIGOR ON THE ACCOUNT, I INSTRUCTED THE PERSON OR THE PERSON’S AGENT TO CLOSE THE ACCOUNT.

(3) ON (INSERT DATE), I SENT THE NOTICE REQUIRED UNDER § 3-105.2(D)(2) OF THE REAL PROPERTY ARTICLE TO THE PERSON SATISFIED BY CERTIFIED MAIL.

(4) THE PERSON SATISFIED HAS FAILED TO PROVIDE A RELEASE SUITABLE FOR RECORDING.

(5) I AM:

_____ A SETTLEMENT AGENT WHO HOLDS A TITLE INSURANCE PRODUCER LICENSE IN GOOD STANDING FROM THE MARYLAND INSURANCE ADMINISTRATION;

AN OFFICER OF A TITLE INSURER; OR

A MEMBER OF THE MARYLAND BAR.

(6) THE PAYOFF OF THE DEBT WAS ACCOMPLISHED BY:

THE ORIGINAL CHECK, WRITTEN ON AN ESCROW ACCOUNT CONTROLLED BY THE UNDERSIGNED INDIVIDUAL, WHICH IS ATTACHED TO THIS AFFIDAVIT AND INCORPORATED BY REFERENCE;

A CHECK, WRITTEN ON AN ESCROW ACCOUNT CONTROLLED BY THE UNDERSIGNED INDIVIDUAL, A CHECK FACSIMILE OF WHICH IS ATTACHED TO THIS AFFIDAVIT AND INCORPORATED BY REFERENCE, AND WHICH HAS BEEN CERTIFIED AS A TRUE COPY OF THE ORIGINAL CHECK BY THE ISSUING BANK; OR

A WIRE TRANSFER, THE WIRE TRANSFER REMITTANCE ADVICE FOR WHICH CONTAINS THE INFORMATION REQUIRED UNDER § 3-105.2(E)(2)(III)2 OF THE REAL PROPERTY ARTICLE AND IS ATTACHED TO THIS AFFIDAVIT AND INCORPORATED BY REFERENCE.

(SIGNATURE)

(PRINTED OR TYPED NAME)

(DATE)”

; AND

(2) BE ACCOMPANIED BY:

(1) THE CANCELED CHECK EVIDENCING FINAL PAYMENT, WHICH SHALL CONTAIN THE NAME OF THE PARTY WHOSE DEBT IS BEING

(Over)

SATISFIED, THE DEBT ACCOUNT NUMBER, IF ANY, AND WORDS INDICATING THAT THE CHECK IS INTENDED AS PAYMENT IN FULL OF THE DEBT BEING SATISFIED;

(II) IF THE CANCELED CHECK IS UNAVAILABLE, A CHECK FACSIMILE, AS DEFINED IN § 5-513 OF THE FINANCIAL INSTITUTIONS ARTICLE, THAT CONTAINS THE INFORMATION REQUIRED UNDER ITEM (I) OF THIS ITEM, ACCOMPANIED BY A CERTIFICATION FROM AN AUTHORIZED AGENT OF THE INSTITUTION ON WHICH THE CHECK WAS DRAWN STATING THE CHECK FACSIMILE IS A TRUE AND GENUINE IMAGE OF THE ORIGINAL CHECK; OR

(III) IF THE DEBT SECURING THE MORTGAGE, DEED OF TRUST, OR LIEN INSTRUMENT WAS PAID OFF BY A WIRE TRANSFER, THE WIRE TRANSFER REMITTANCE ADVICE, WHICH SHALL:

1. BE ACCOMPANIED BY A CERTIFICATION FROM AN AUTHORIZED AGENT OF THE INSTITUTION FROM WHICH THE WIRE TRANSFER WAS INITIATED STATING THAT THE DOCUMENT IS A TRUE AND GENUINE IMAGE OF THE ORIGINAL WIRE TRANSFER CONFIRMATION ORDER ISSUED BY THE INSTITUTION; AND

2. CONTAIN THE NAME OF THE PERSON FOR WHOM THE PAYOFF WAS MADE, THE NAME OF THE INSTITUTION THAT WAS PAID THE MONEY, A TRUNCATED VERSION OF THE NUMBER OF THE ACCOUNT FROM WHICH THE FUNDS WERE TRANSFERRED, A TRUNCATED VERSION OF THE NUMBER OF THE ACCOUNT TO WHICH THE FUNDS WERE TRANSFERRED, THE FEDERAL RESERVE BANK'S REFERENCE NUMBERS FOR THE WIRE TRANSFER, THE LOAN NUMBER FOR THE NOTE THAT WAS PAID OFF, THE AMOUNT OF THE PAYOFF MADE BY THE WIRE TRANSFER, AND THE DATE AND TIME OF THE WIRE TRANSFER."

On pages 2 through 5, strike in their entirety the lines beginning with line 3 on page 2 through line 4 on page 5, inclusive.