

SENATE BILL 220

N1

71r0848

By: **Senator Frosh**

Introduced and read first time: January 29, 2007

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Real Property – Release of Mortgage, Security Instrument, or Deed of Trust**

3 FOR the purpose of authorizing a security instrument to be released in a certain
4 manner; altering the procedures by which a mortgage, security instrument, or
5 deed of trust may be released when the party whose debt is satisfied fails to
6 provide a release; altering the persons who are authorized to prepare and record
7 a certain release and affidavit; authorizing, under certain conditions, the
8 release of a mortgage, security instrument, or deed of trust when the debt
9 secured by the mortgage or deed of trust is paid fully or satisfied by wire
10 transfer; providing a form for a certain affidavit; and generally relating to
11 recording of releases of mortgages, security instruments, and deeds of trust.

12 BY repealing and reenacting, with amendments,
13 Article – Real Property
14 Section 3–105(a) and (d)(3)
15 Annotated Code of Maryland
16 (2003 Replacement Volume and 2006 Supplement)

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

19 **Article – Real Property**

20 3–105.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (a) A mortgage, **SECURITY INSTRUMENT**, or deed of trust may be released
2 validly by any procedure enumerated in this section.

3 (d) (3) When the debt secured by a mortgage, **SECURITY INSTRUMENT**,
4 or deed of trust is paid fully or satisfied [, and the canceled check evidencing final
5 payment or, if the canceled check is unavailable, a copy of the canceled check
6 accompanied by a certificate from the institution on which the check was drawn
7 stating that the copy is a true and genuine image of the original check is presented, it]
8 **BY A SETTLEMENT AGENT LICENSED BY THE MARYLAND INSURANCE**
9 **ADMINISTRATION AS A TITLE INSURANCE PRODUCER UNDER TITLE 10,**
10 **SUBTITLE 1 OF THE INSURANCE ARTICLE, THE SETTLEMENT AGENT MAY**
11 **PREPARE AND RECORD A SETTLEMENT AGENT'S RELEASE THAT** may be received
12 by the clerk and indexed and recorded as any other instrument in the nature of a
13 release[. The canceled check or copy accompanied by the certificate] **OR CERTIFICATE**
14 **OF SATISFACTION AND** has the same effect as a release of the property for which the
15 mortgage, **SECURITY INSTRUMENT**, or deed of trust is the security, as if a release
16 were executed by the [mortgagee] **SECURED PARTY** or named trustees, if:

17 (i) The [party making satisfaction of the mortgage or deed of
18 trust] **SETTLEMENT AGENT** has:

19 1. Allowed at least a 60-day waiting period, from the
20 date the mortgage, **SECURITY INSTRUMENT**, or deed of trust is paid fully or is
21 satisfied, for the party satisfied to provide a release suitable for recording;

22 2. Sent the party satisfied a copy of this section and a
23 notice that, unless a release is provided within 30 days, the [party making
24 satisfaction] **SETTLEMENT AGENT** will obtain a release by utilizing the provisions of
25 this paragraph; and

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

29 (ii) The **SETTLEMENT AGENT'S RELEASE IS ACCOMPANIED**
30 **BY:**

31 1. **A. THE** canceled check **EVIDENCING FINAL**
32 **PAYMENT, WHICH SHALL CONTAIN THE NAME OF THE PARTY WHOSE DEBT IS**
33 **BEING SATISFIED, THE DEBT ACCOUNT NUMBER, IF ANY, AND WORDS**

1 INDICATING THAT THE CHECK IS INTENDED AS PAYMENT IN FULL OF THE DEBT
2 BEING SATISFIED; or

3 **B. IF THE CANCELED CHECK IS UNAVAILABLE, A COPY**
4 **OF THE CANCELED CHECK FROM THE REMITTER'S BANK THAT CONTAINS THE**
5 **INFORMATION REQUIRED UNDER ITEM A OF THIS ITEM AND THAT CONFORMS**
6 **TO THE PROVISIONS OF THE FEDERAL CHECK 21 ACT, P.L. 108-100,**
7 accompanied by [the certificate contains the name of the party whose debt is being
8 satisfied, the debt account number, if any, and words indicating that the check is
9 intended as payment in full of the debt being satisfied] **A CERTIFICATION FROM AN**
10 **AUTHORIZED AGENT OF THE INSTITUTION ON WHICH THE CHECK WAS DRAWN**
11 **STATING THE COPY IS A TRUE AND GENUINE IMAGE OF THE ORIGINAL CHECK;**

12 **2. IF THE NOTE SECURING THE MORTGAGE,**
13 **SECURITY INSTRUMENT, OR DEED OF TRUST WAS PAID OFF BY A WIRE**
14 **TRANSFER, THE WIRE TRANSFER ADVICE, WHICH SHALL:**

15 **A. BE ACCOMPANIED BY A CERTIFICATION FROM AN**
16 **AUTHORIZED AGENT OF THE INSTITUTION ON WHICH THE WIRE TRANSFER WAS**
17 **DRAWN STATING THAT THE DOCUMENT IS A TRUE AND GENUINE IMAGE OF THE**
18 **ORIGINAL WIRE TRANSFER CONFIRMATION ORDER ISSUED BY THE**
19 **INSTITUTION; AND**

20 **B. CONTAIN THE NAME OF THE PERSON FOR WHOM**
21 **THE PAYOFF WAS MADE, THE NAME OF THE INSTITUTION THAT WAS PAID THE**
22 **MONEY, THE NUMBER OF THE ACCOUNT FROM WHICH THE FUNDS WERE**
23 **TRANSFERRED, THE FEDERAL RESERVE BANK'S REFERENCE NUMBER FOR THE**
24 **WIRE TRANSFER, THE LOAN NUMBER FOR THE NOTE THAT WAS PAID OFF, THE**
25 **AMOUNT OF THE PAYOFF MADE BY THE WIRE TRANSFER, AND THE DATE AND**
26 **TIME OF THE WIRE TRANSFER; and**

27 [(iii)] **3. [There is attached to the canceled check or copy**
28 **accompanied by the certificate an] AN affidavit [made by a member of the Maryland**
29 **Bar that the mortgage or deed of trust has been satisfied, that the notice required**
30 **under subparagraph (i) of this paragraph has been sent, and specifically setting forth**
31 **the land record reference where the original mortgage or deed of trust is recorded] IN**
32 **THE FOLLOWING FORM:**

33 **"SETTLEMENT AGENT'S AFFIDAVIT**

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

2 (1) I HAVE CAUSED TO BE PAID OFF THE NOTE SECURING THE
 3 MORTGAGE, SECURITY INSTRUMENT, OR DEED OF TRUST FOUND IN
 4 LIBER/BOOK _____, AT FOLIO/PAGE _____, IN THE LAND RECORDS OF
 5 _____ COUNTY/BALTIMORE CITY, MARYLAND.

6 (2) I OBTAINED A WRITTEN PAYOFF STATEMENT FROM THE
 7 INSTITUTION HOLDING THE NOTE AND THE FUNDS PAID TO THE INSTITUTION
 8 WERE SUFFICIENT TO PAY OFF THE NOTE IN FULL.

9 (3) ON _____, 200_, I SENT THE INSTITUTION THE NOTICE REQUIRED
 10 UNDER § 3-105(D)(3)(I) OF THE REAL PROPERTY ARTICLE.

11 (4) I AM A SETTLEMENT AGENT WITH A RESIDENT INDIVIDUAL TITLE
 12 INSURANCE PRODUCER OR FIRM RESIDENT TITLE INSURANCE PRODUCER
 13 LICENSE IN GOOD STANDING FROM THE MARYLAND INSURANCE
 14 ADMINISTRATION.

15 (5) THE PAYOFF OF THE NOTE WAS ACCOMPLISHED BY (CHECK ONE):

16 _____ THE ORIGINAL CHECK, WRITTEN ON AN ESCROW ACCOUNT
 17 CONTROLLED BY THE UNDERSIGNED SETTLEMENT AGENT, WHICH IS ATTACHED
 18 TO THIS AFFIDAVIT AND INCORPORATED BY REFERENCE;

19 _____ A CHECK, WRITTEN ON AN ESCROW ACCOUNT CONTROLLED BY
 20 THE UNDERSIGNED SETTLEMENT AGENT, A COPY OF WHICH IS ATTACHED TO
 21 THIS AFFIDAVIT AND INCORPORATED BY REFERENCE, AND WHICH CONFORMS
 22 TO THE REQUIREMENTS OF THE FEDERAL CHECK 21 ACT AND HAS BEEN
 23 CERTIFIED AS A TRUE COPY OF THE ORIGINAL CHECK BY THE ISSUING BANK; OR

24 _____ A WIRE TRANSFER, THE WIRE TRANSFER REMITTANCE ADVICE
 25 FOR WHICH CONTAINS THE INFORMATION REQUIRED UNDER § 3-105(D)(3)(II)2
 26 OF THE REAL PROPERTY ARTICLE AND IS ATTACHED TO THIS AFFIDAVIT AND
 27 INCORPORATED BY REFERENCE.

28 _____
 29 (SIGNATURE)

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2
3
4
5
6

(PRINTED OR TYPED NAME)

TITLE INSURANCE PRODUCER LICENSE NUMBER”.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
July 1, 2007.