

Chapter 521

(Senate Bill 376)

AN ACT concerning

~~**Mortgages and Deeds of Trust – Certification Requirement for Recordation –
Repeal Real Property – Certification Requirement for Recordation**~~
Mortgages and Deeds of Trust – Prerequisites to Recording

FOR the purpose of repealing the requirement that a mortgage or deed of trust bear a certain ~~attorney~~ certification ~~or a certification~~ that the instrument was prepared by a certain ~~party~~ *person* in order to be recorded; ~~requiring that a deed or lease bear a certain attorney certification or a certification that the instrument was prepared by a certain party in order to be recorded; providing that the clerk of the circuit court may record a mortgage or deed of trust prepared by one of the parties named in the instrument without a certain certification~~ *providing that a deed other than a mortgage, deed of trust, or an assignment or release of a mortgage or deed of trust may not be recorded unless the instrument bears certain certification of preparation; providing that a mortgage, deed of trust, or an assignment or release of a mortgage or deed prepared by any attorney or one of the parties named in the instrument may be recorded without certain certification*; making a certain stylistic change; ~~defining a certain~~ ~~terms~~ *term*; and generally relating to the recording of mortgages and deeds of trust.

BY repealing and reenacting, without amendments,

Article – Real Property

Section 1–101(a), (c), (d), (e), (h), and (i)

Annotated Code of Maryland

(2015 Replacement Volume and 2016 Supplement)

BY repealing and reenacting, with amendments,

Article – Real Property

Section 3–104(f)(1)

Annotated Code of Maryland

(2015 Replacement Volume and 2016 Supplement)

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

Article – Real Property

1–101.

(a) In this article the following words have the meanings indicated unless otherwise apparent from context.

(c) “Deed” includes any deed, grant, mortgage, deed of trust, lease, assignment, and release, pertaining to land or property or any interest therein or appurtenant thereto, including an interest in rents and profits from rents.

(d) “Deed of trust” means only a deed of trust which secures a debt or the performance of an obligation, and does not include a voluntary grant unrelated to security purposes.

(e) “Grant” includes conveyance, assignment, and transfer.

(h) “Lease” means any oral or written agreement, express or implied, creating a landlord and tenant relationship, including any “sublease” and any further sublease.

(i) “Mortgage” means any mortgage, including a deed in the nature of mortgage.

3-104.

(f) (1) ~~(I) 1. IN THIS PARAGRAPH THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED:~~

~~2. A. “DEED” MEANS A WRITTEN INSTRUMENT THAT CONVEYS LEGAL TITLE TO PROPERTY.~~

~~B. “DEED” DOES NOT INCLUDE:~~

~~I. A DEED OF TRUST;~~

~~II. A MORTGAGE;~~

~~III. AN INSTRUMENT OR THE ASSIGNMENT OF AN INSTRUMENT THAT CREATES OR GIVES NOTICE OF A SECURITY INTEREST IN PROPERTY; OR~~

~~IV. AN INSTRUMENT THAT TERMINATES OR PARTIALLY TERMINATES A LIEN CREATED BY A DEED OF TRUST, A MORTGAGE, OR AN INSTRUMENT THAT CREATES OR GIVES NOTICE OF A SECURITY INTEREST.~~

~~3. “UNDER, “UNDER THE ATTORNEY’S SUPERVISION” INCLUDES REVIEW OF AN INSTRUMENT BY THE CERTIFYING ATTORNEY.~~

~~(H) No deed[, mortgage, or deed of trust] OR LEASE may be recorded~~

(II) A DEED OTHER THAN A MORTGAGE, DEED OF TRUST, OR AN ASSIGNMENT OR RELEASE OF A MORTGAGE OR DEED OF TRUST MAY NOT BE RECORDED unless it bears:

1. ~~the~~ THE certification of an attorney [at law] ADMITTED TO THE BAR OF THIS STATE that the instrument has been prepared by ~~an~~ **THE** attorney or under ~~an~~ **THE** attorney's supervision, ~~or a~~; **OR**

2. A certification BY A PARTY NAMED IN THE INSTRUMENT that the instrument was prepared by ~~one of the parties named in the instrument~~ **THAT PARTY.**

(III) ~~THE CLERK OF THE CIRCUIT COURT MAY RECORD A MORTGAGE OR DEED OF TRUST PREPARED BY A MORTGAGE, DEED OF TRUST, OR AN ASSIGNMENT OR RELEASE OF A MORTGAGE OR DEED OF TRUST PREPARED BY ANY ATTORNEY OR ONE OF THE PARTIES NAMED IN THE INSTRUMENT MAY BE RECORDED WITHOUT THE CERTIFICATION REQUIRED UNDER SUBPARAGRAPH (II) OF THIS PARAGRAPH.~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2017.

Approved by the Governor, May 4, 2017.