Basic Information

Local Organization: 23 counties and one independent city (Baltimore); one office per county/city.
Head Official Title: Clerk of Circuit Court
Types of Real Estate Liens: Mortgage or Trust Deed → Release
Web Access: Statewide assessment data is available at www.dat.state.md.us.

Format of Documents

Items marked with an asterisk (*) are required by statute. Triple fees apply to documents that do not meet these standards. Items marked with ** are required by Anne Arundel County. The other rules are the suggestions of the editors for assuring that your documents are legibly reproducible by any micrographic or imaging equipment.

Paper:

Quality: White*, 20 lb. (“weight to be easily readable*)
First Page:          Other Pages:
   Size: 8½” by 11” or 8½” by 14”**       Size: 8½” by 11” or 8½” by 14”**
   Margins: 3” top margin; 1” other margins**
   margins**

Last Page: Type or print the return-to name and address at the bottom of the last page of all documents.

Print: Typed or computer generated
   Minimum Size: 8 point (elite type*)
   Color: Black ink*

Title/Caption: Include a caption briefly stating the nature of the instrument
Legibility Standard: legible for recording* (Clerk may return if not legible)

Content of Documents

Legal Description of Property: Include an “adequate description” in deeds, mortgages, and deeds of trust. Include statement that buyer will use property as a principal residence where applicable.

Signatures: Required on acknowledgment. Names of grantor, grantee and notary must be typed or printed above or beneath their signatures (see penalty fee).

Addresses: All documents must include the mailing addresses of the grantor.

Notarization/Acknowledgment: All instruments must state that they are prepared by an attorney or by one of the parties thereto. Notarial certificate required. Seal is not required.

Witnesses: Not required.

Preparer/return-to: Include a preparer’s signed affidavit/certificate (“…certification of an attorney at law that the instrument has been prepared by an attorney or under an attorney’s supervision, or a certification that the instrument was prepared by one of the parties named in the instrument.”) with all deeds, mortgages, deeds of trust or modifications thereto. Use one of the following two forms of certificate (10/97):

(1) This is to certify that the within instrument has been prepared under the supervision of the undersigned Maryland attorney.
    __________________________________________
    John M. Jones, Esq.

(2) This is to certify that the within instrument has been prepared by a party to the instrument.
    __________________________________________
    Mary Jones, Authorized Agent

Type or print the return-to name and address at the bottom of the last page of all documents.

Reference Number: Generally, liber & folio. Some recording offices request all previously recorded document references be included on subsequent related documents.

Other: Marginal notations cannot be used to release mortgages. If applicable, include an affidavit with deeds that buyer is a first-time Maryland home buyer who intends to use property as principal residence in order to take advantage of reduced transfer tax rates (see taxes below). Also required for a mortgage (omission of the information is not grounds for rejection): (1) Name and license number of mortgage originator, if any, or affidavit of exemption from licensing (2) name and mortgage lender license number or affidavit of exemption from licensing.
Common Reasons for Rejection

1. Fee incorrect
2. Tax exemption affidavit missing
3. Name not type or printed above or below signature
4. Document does not meet statutory standards
5. Reference on subsequent recording missing or wrong
6. Taxes not paid with submission
7. Certificate of preparation missing

Fee Structure

Document Fee: $20.00 plus surcharge (releases—$10.00 plus surcharge) up to 9 pages; $75.00 plus surcharge if more than 9 pages (releases—$20.00 plus surcharge). Surcharge does not apply to a document with respect to a principal residence or to any satisfaction/release document. There is no other per page fee.

Penalty Fees: $1.00 if names are not typed or printed below signatures. Triple the fees if the format of document does not meet statutory requirements.

Special Fees: A surcharge of $40.00 will apply to all documents recorded.

Taxes: State Transfer Tax applies to transfers of property, and is at a base rate ½% of consideration, including the amount of a purchase money mortgage or amount of existing debt at time of transfer. Qualified first time buyers of owner-occupied residential property may receive a reduced rate of ¼%.

County Transfer Tax applies in some counties at varying rates up to 1.5%, including various levels of exemption, as stated on detail pages.

In Prince George's County, the county transfer tax is due on the difference between the new loan amount and the original loan amount in two types of transactions: (1) on a separate mortgage refinancing transaction for a principal residence, where there was no previous purchase money trust or the purchase money trust has been on record for less than 12 months; and (2) on a separate mortgage refinancing for a non-principal residence, where the mortgagor is the same or the mortgagor assumed the debt from the original mortgagor. As of April 1, 2006, a copy of the previously recorded document that is refinanced (mortgage or deed of trust) must accompany the submission of a refinance transaction document. There is no recording fee for the submission of the copies of the previous instrument. The copy of the previously recorded document must include the following: (1) borrower’s name; (2) amount of loan; (3) legal description of property; and (4) Prince George's County taxation stamps. If taxation stamps are not on the previous document, the submitter must provide a copy of the Finance Affidavit, which would have the Prince George's County taxation stamps. The submitter is required only to provide a copy of the pages of the previously recorded document which include the foregoing information; however, if additional copies of the pages of the previous document are included, the document will be accepted for recording and no penalty will be imposed.

In Frederick County, the Treasurer's Office requires a Refinance Affidavit to accompany any deed of trust or mortgage that refinances an existing debt. Include a Spousal Addendum if one party was not named on the original document. A Spousal Addendum to Refinance Affidavit must be submitted where the new mortgagor is married to the original mortgagor, but was not an original mortgagor at the time of the original loan. Each page of the forms counts as a page for fee calculation.

In Frederick County, the Treasurer's Office requires a Refinance Affidavit to accompany any deed of trust or mortgage that refinances an existing debt.

Recodarion Tax is at a base rate of $1.65 plus county surcharges up to an additional $6.00 per $500 or fraction thereof of “consideration.” Please see additional information on pages 4 and 4.1. The tax is levied on indemnity deeds of trust (IDOT’s) in an amount of $3,000,000 or more effective for documents submitted on or after July 1, 2013.

(1) On a transfer of property without a concurrent purchase-money mortgage/deed of trust, consideration is the same as the basis for computation of the transfer tax. On transfer of property with a purchase-money mortgage the recodarion tax is payable only on the total consideration, and not separately on the mortgage/deed of trust.

(2) In the City of Baltimore, a partial exemption of recodarion tax applies to the first $22,000 of the consideration payable on the conveyance for an owner-occupied residence if the statement regarding owner occupancy is submitted. See Forms section for sample statement. Please note this exemption is in addition to the state transfer tax of ¼% for first-time buyers of owner-occupied residential property.

(3) In Montgomery County, a partial exemption of recodarion tax applies to the first $50,000 of the consideration payable on the conveyance for an owner-occupied residence if the statement regarding owner-occupied.
owner occupancy is submitted. See Forms section for sample statement. Please note this exemption is in addition to the state transfer tax of ¼% for first-time buyers of owner-occupied residential property.

(4) On a separate mortgage refinancing transaction for a principal residence, the tax is applied to the net amount of new financing. Senate Bill 76, enacted as of July 1, 2004, extends the definition of principal residence to include properties owned by an inter vivos (revocable) trust on behalf of the individual occupants. A Finance Affidavit (see Forms) needs to be included with the mortgage document in Prince George’s County in order to obtain the exemption. In other counties, a statement in the recitals or acknowledgment containing the following information is sufficient: (1) the individual is the original mortgagor or agent of mortgagor; (2) the mortgaged property is the individual’s principal residence; and (3) the amount of unpaid principal of the original mortgage/deed of trust being refinanced. Where the agent makes such declaration, the agent must also state that the statement (1) is based on a diligent inquiry made by the agent with respect to the facts set forth in the statement; and (2) is true to the best of the knowledge, information, and belief of the agent.

(5) On a combined deed/mortgage or deed/deed of trust transaction (purchase-money trust deed or mortgage), the recordation tax applies only to the deed, not to the mortgage/deed of trust. Basis is same as for computation of transfer tax. If the amount of a mortgage is higher than the consideration stated in the concurrent conveyance, at least some counties assess the tax based on the higher amount.

Agricultural Transfer Tax surcharge, not detailed in this Guide, is 3-5% of the value of agricultural land, depending on acreage and zoning. Include a four-part Land Instrument Intake Sheet (see illustration) with deeds, mortgages and deeds of trust. Only one form is necessary to be submitted with a simultaneously recorded deed/mortgage transactions. The taxes are computed based upon entries on this form.

Recording Practices

Blanket Assignments: Many recording offices will accept blanket assignments generally at no additional fee, as noted on detail pages.

Blanket Releases: Some recording offices will accept blanket releases generally at no additional fee, as noted on detail pages.

Self Addressed Stamped Envelope: Many recording offices request, and some require, as noted on detail pages.

Turnaround Time: Varies widely from county to county.

Indexing System: Generally a grantor/grantee index of all documents, usually called “Land Records.”

UCC Filing—Equipment Collateral

Forms Designations: UCC-1, UCC-3 (amendment, continuation, termination); UCC-11 (search request).

Central Filing Office Mailing Address:

UCC Division  
Department of Assessments & Taxation  
301 West Preston Street, 8th Floor  
Baltimore, MD  21201

Telephone: 410-767-1459 (EST)

Basic Filing Fee (standard form UCC-1, no attachments, one debtor, one secured party): $25.00

Notes:

(1) Real estate financing instruments that include fixture collateral are sufficient as to that collateral only as a fixture if the requirements of Article 9 of the UCC are met. If the fixture collateral could also be construed as equipment, an equipment filing under the UCC may be required to perfect an interest in that collateral.

(2) Certain types of equipment collateral may require local filing.

(3) See The Uniform Commercial Code Filing Guide for complete information on UCC filing practices.
Maryland Tax Computation

There are two separate taxes—transfer tax and recordation tax—both of which apply to “consideration” with respect to either deeds or mortgages/deeds of trust. (The transfer tax may have a state and a local component as well.) Both taxes apply to all deed and/or mortgage/deed of trust transactions, subject to certain credits and exemptions. Please refer to next page of this summary for any document with recordation tax due.

The actual tax computations are based entries on the Land Instrument Intake Form that must accompany each type of transaction, as follows:

1. Deed only—Both taxes are based on consideration, which includes cash paid or other consideration for the transfer, plus the open amount on any existing mortgage loan.

2. Mortgage/deed of trust only (refinancing or home equity loan)—The recordation tax is based on the amount of the new home equity loan or the increase in the amount of a refinanced loan. Although it is permissible not to pay the whole recordation tax on the maximum amount a credit line, it makes sense as a practical matter to pay the whole recordation tax up front. The transfer tax does not apply to mortgage-only transactions.

3. Deed with mortgage/deed of trust—When a purchase-money mortgage/deed of trust is recorded contemporaneously with the deed (there is a 30 day grace period between the dates when each instrument is recorded), and one Land Instrument Intake Form is prepared to accompany both transactions, the transfer tax and the recordation tax is based on the down payment, plus the amount of any existing mortgage loan and the amount of the purchase money loan. In this instance, there is no recordation tax on the mortgage/deed of trust.

Each tax has its own categories of exemptions. For example, a transfer among family members is exempt from the recordation tax.

You can find more information about tax credits and exemptions at the web site of the State Department of Assessments and Taxation: http://www.dat.state.md.us.

Non-resident Income Tax

Non-resident income tax applies to non-resident individuals and nonresident entities that sell or exchange real property, and is at a base rate of 6% for individuals and 7% for nonresident entities. Please refer to the guide entitled “Information on Maryland’s Withholding Requirements for Sales or Transfers of Real Property and Associated Personal Property by Nonresident” for details regarding details of income tax, together with sample forms and language for required affidavits at the following website: http://business.marylandtaxes.com/pdf/Withholding_requirement.pdf.
Instruments with Recordation Tax Due

When recordation tax is due with an instrument to be recorded, most counties require the document to be sent to an office other than the Clerk of Circuit Court first, as indicated on the following table. The name of the office and address is included on the county detail page. In those counties where you send the recordation tax to a different office than the Clerk of the Circuit Court and there is no interoffice transfer (see Allegany, below), you should only send the check for recordation tax to the first office, together with the deed and mortgage (but not the check for recordation fees). The documents are returned to the submitter to then send to the Clerk for recording. We have indicated on the table below where interoffice transfer of the documents is available and whether separate checks are required for taxes and recording fees. The county detail page includes the specific checks payable information.

<table>
<thead>
<tr>
<th>County</th>
<th>Different Address for Documents with Transfer Tax Due?</th>
<th>Interoffice Transfer Available?</th>
<th>Separate Checks necessary?</th>
</tr>
</thead>
<tbody>
<tr>
<td>Allegany</td>
<td>Yes</td>
<td>No</td>
<td>No</td>
</tr>
<tr>
<td>Anne Arundel</td>
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<td>Yes</td>
</tr>
<tr>
<td>Baltimore City</td>
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<td>No</td>
<td>Yes</td>
</tr>
<tr>
<td>Baltimore County</td>
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<td>Yes</td>
<td>Yes</td>
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<tr>
<td>Calvert</td>
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<td>No Mail</td>
<td>No</td>
</tr>
<tr>
<td>Caroline</td>
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<td>Prince George’s</td>
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<tr>
<td>Worcester</td>
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<td>No</td>
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</tbody>
</table>

*To record in counties that do not allow the recording of documents via the mail, we recommend using a source such as Local Court & County Retrievers, published by BRB Publications, Inc. to locate a public records research and recording firm. To order a subscription, visit the following website http://www.brbpub.com/ or call Mark Sankey at 1-800-929-3811.

Disclaimer

The Real Estate Recording Guide is not a legal manual. Rather, it is designed to be used as a tool by real estate documentation specialists to facilitate the recording of real estate related documents. All summaries of law and local practices included herein are based upon responses to inquiries of local recording officials, are presented for basic informational purposes, and do not purport to be statements of or interpretation of law. Real estate law is a complex subject with significant variations from state to state. The publisher, Legal Publications, LLC, an affiliate of Ernst Publishing Co., LLC, and the editors are not engaged in rendering legal, accounting, or other professional services. Questions regarding the legal sufficiency of any document should be referred to an attorney with competency in real estate law. Legal Publications, LLC, Ernst Publishing Co., LLC, and the editors specifically disclaim any liability for claims, damages, loss or risk which may arise as a consequence, directly or indirectly, of the use of information provided herein.

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