

Maryland Real Estate Practices



Closing Costs — Payment Splits

Generally buyer pays lender-permitted and/or imposed closing costs, including but not limited to title search/examination, document preparation, title insurance premium and recording fees (except for recording release of seller's mortgage). Transfer and recordation taxes can be negotiated by contract as to whether they are paid by the buyer or seller. In residential transactions, where the contract is silent, these taxes are generally shared equally by buyer and seller.

For first-time Maryland homebuyers:

(1) The entire amount of recordation tax and local transfer tax shall be paid by the seller of improved, residential real property that is sold to a first-time Maryland home buyer who will occupy the property as a principal residence, unless there is an express agreement between the parties to the agreement that the recordation tax and local transfer tax will not be paid entirely by the seller.

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(2) The entire amount of State transfer tax shall be paid by the seller of improved, residential real property that is sold to a first-time Maryland home buyer who will occupy the property as a principal residence. (See Maryland Code, Real Property, §14-104.)

Closing Customs

Real estate closings are conducted by attorneys or by licensed non-attorney agents with the services of a local attorney necessary to certify the preparation of deeds and deeds of trust/mortgages.

Document of Conveyance

Conveyance is by special warranty deed. The document must recite the actual consideration paid; must contain a Certificate of Preparation, which Certificate of Preparation can be either: (1) a certificate that states that the instrument was prepared by a Maryland Attorney admitted to the Bar by the Court of Appeals; or (2) a certificate that states that the instrument was prepared by a party to the instrument. Both forms of certification must be signed, with individuals name printed under signature, and must also contain within the body of the document (3) reference to the fact that the Grantor is a Maryland resident or Maryland resident entity.

(1) THIS IS TO CERTIFY that the foregoing document was prepared by or under the supervision of the undersigned, an attorney at law admitted to practice by the Court of Appeals of the State of Maryland.

(2) I hereby certify that the within instrument was prepared by _____, the _____ of _____ a party to the within instrument.

(3) AND Grantor further states under penalties of perjury that he is a resident of the State of Maryland for the purpose of claiming an exemption from the tax withholding requirements of Section 10-912 of the Tax General Article of the Annotated Code of Maryland and as defined in (COMAR) 03.04.12.02B(11)

Deeds for non-principal residence must be submitted with either Maryland Form MW506NRS or Maryland Form WH-AR.

Document of Encumbrance

The deed of trust is the customary security instrument for institutional lenders while use of the mortgage is permitted and is common in non-institutional seller "take-back" financing. Private power of sale is permitted in security instruments. The deed of trust must also contain a preparer's certification as defined under "Document of Conveyance" section prior hereto.

Indemnity Deeds of Trust (IDOT): Subject to prior approval by county recorders, Maryland also recognizes IDOT. If approved by the county, indemnity deeds of trust less than \$3 million are exempt from county recordation tax. Among other requirements for indemnity deeds of trust:

1. The grantor of the IDOT must be a separate and distinct entity from the maker of the note.
2. The grantor of the IDOT must have signed a guaranty of the note.
3. The IDOT must secure the guaranty and only the guaranty.



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If the IDOT secures the obligations, the indebtedness or the obligations and indebtedness under the loan documents or the guaranty, it may be fully taxable. Prior to submitting an indemnity deed of trust for recording, check with any county recording office for pre-approval, as requirements can be changed at any time.

Foreclosure Procedures

When contained in the security instrument, foreclosure may be under power of sale or by an assent to decree (i.e., a provision whereby mortgagor assents to a decree for the sale of the property). Mortgages also may be foreclosed in the same manner as an assent to decree where not provided under the terms of the security instrument, or by court order. Private sales must be ratified by court.

Maryland foreclosure procedure for commercial properties is generally governed under Maryland Code, Real Property §7-105.2. In an effort to combat the foreclosure crisis, Maryland revised foreclosure law for residential property on April 3, 2008. See: Maryland Annotated Code, Real Property, §7-105.1. Residential property foreclosure procedure; see also §7-301 et seq., Protection of Homeowners in Foreclosure. See also Maryland Rules of Procedure 14-201, et seq., and 14-301, et seq.

Leasehold Tax

[Note: Maryland changes its practices frequently. Please contact the local county recorder for the most current requirements/taxes/recording fees.]

State Transfer tax computed at 0.5%. County transfer tax varies by county from 1.0-2.0% based on 10% of capitalized value of Lease. Recordation tax varies by county from \$3.30 - \$12.00 per thousand of consideration. Leasehold tax only applies to leases for a term of seven (7) years or more

Miscellaneous Information

[Note: Maryland changes its practices frequently. Please contact the local county recorder or assessor for the most current requirements/taxes/recording fees.]

In Baltimore County, Baltimore City and some surrounding counties, a lien certificate must accompany deeds presented for recording. The lien certificate is valid for 45 days from date of issue. If a lien certificate is outdated, documents cannot be recorded. Requests for Baltimore County and/or city lien certificates must be made in person or in writing and must be paid for at the time of order and range from \$10 to \$55. . Typical delivery time is ten (10) business days after order date. Prior to accepting any deed for recording, Maryland also requires payment in full of any outstanding real estate taxes (and in certain counties, unpaid water bills). Further requirement for recording are set forth in Maryland Code, Real Property, §3-104.

All documents to be recorded must state in writing that they are prepared by one of the parties to the instrument or by or under the supervision of an attorney admitted to practice by the Maryland Court of Appeals. The certification must be signed by the member of the Maryland bar or if prepared by one of the parties to instrument,



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it must be signed by said party. WE RECOMMEND YOU CONTACT LOCAL COUNSEL REGARDING PAYMENT OF TAXES IN THE STATE OF MARYLAND.

Standard recording fees throughout the state are:

1. \$10 for a release 9 pages in length or less;(this does not apply to a termination of financing statement
2. \$20 for any other instrument 9 pages or less in length or for any instrument over 9 pages in length if it involves solely a principal residence;
3. Except as provided in Item 1 above, \$20 for an instrument, regardless of length, involving solely a principal residence;
4. \$75 for any other instrument 10 pages or more.

In addition to the fees listed above, a surcharge of \$40.00 is charged for every instrument recorded in the land records other than:

- Powers of attorney
- Requests for notice of (foreclosure) sale
- Plats
- Homeowners' Association Disclosures

Mortgage Tax/Recordation Tax

Maryland does not have a mortgage tax, but rather a recordation tax. A recordation tax is imposed upon defined instruments of writing conveying title to real property or creating liens or encumbrances upon real property. In a purchase transaction, recordation tax is charged on the purchase price. If the transaction involves a mortgage or deed of trust, the recordation tax is still calculated using the purchase price unless the mortgage or deed of trust amount is higher than the purchase price. In that instance, the recordation tax would be calculated on the loan amount. In refinance transactions, recordation tax is charged on the difference between the principal balance of the existing loan, and the amount of the new loan, rounded up to the nearest \$500.

Recordation tax varies by county from \$3.30 - \$12.00 per thousand of consideration. For most current recordation tax information, see: [Recordation Tax by County](#). Recordation tax is imposed in Maryland Code Tax - Property, §12-101et seq., while exemptions are set forth in §12-108

Notary Requirements

The notary seal (printed or embossed) and expiration date are required. Provided the notary form is proper in the jurisdiction where executed, Maryland will accept notary forms from other jurisdictions.

Real Estate Taxes

In Maryland, the tax levy year runs from July 1st through June 30th of each year. Annual tax bills are due September 30th. For residential properties, first semi-annual installments are due September 30, while second semi-annual installments are due December 31. Supplemental and revised tax bills are due 30 days from the time of issue.



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Pursuant to Maryland Law, tax payments must be made on or before the due date to avoid interest and penalty charges. Since postmarking only indicates when a payment was mailed and not actually made, postmarks are not accepted. Any unpaid property taxes, if due, and/or unpaid water charges must be paid prior to deed recordation.

Title Insurance Forms

Title insurance policy and endorsement forms must be filed with and approved by the State Insurance Department prior to use. ALTA policies and endorsements are used. The policy is issued upon closing and recording of documents. The following policy forms are available in Maryland:

- ALTA Loan Policy (6-17-06)
- ALTA Owner Policy (6-17-06)
- ALTA Homeowners Policy (EAGLE)(Rev. 2-3-10)
- ALTA Short Form Residential Loan Policy (6-17-06)
- ALTA Expanded Coverage Residential Loan Policy (EAGLE Rev. 7-26-10)
- ALTA Residential Limited Coverage Junior Loan Policy (Rev. 8-1-12)
- ALTA Short Form Expanded Coverage Residential Loan Policy (EAGLE Rev. 7-26-10)
- ALTA Short Form Residential Limited Coverage Junior Loan (Rev. 4-2-13)

Title Insurance Rates

Title Insurance rates must be filed with and approved by the State Insurance Department, and by law insurers cannot deviate from the filed rates. Criminal sanctions are present for filing false or misleading information. MD ANN. CODE art. 48-A, §242A. Special rates are offered for simultaneous issuance of lender's and owner's policies and for residential refinance transactions. A discount is given for reissuance of a prior owner's policy. The title premium does not include search and examination fees.

Transfer Tax

[Note: Maryland changes its practices frequently. Please contact the local county recorder for the most current requirements/taxes/recording fees and exemption amounts.]

The state transfer tax is computed at ½ of 1 percent of the total consideration. There is a .25% state transfer tax rate for first-time Maryland homebuyers purchasing a principal residence. If there are multiple grantees on the deed, all must be first-time Maryland homebuyers. To qualify for this exemption, each grantee must provide a statement under oath (First-Time Maryland Homebuyers Affidavit).

Local transfer taxes vary from 0 -1.4 percent. Deed must set forth value or affidavit of consideration must be filed. Deeds must include an Affidavit of Grantee(s) as First-Time Maryland Home Buyers, if applicable

[Transfer Tax by County](#)

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All underlined documents are searchable within the system.



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