

# **Title 09 DEPARTMENT OF LABOR, LICENSING, AND REGULATION**

## **Subtitle 03 COMMISSIONER OF FINANCIAL REGULATION**

### **Chapter 11 Recordation of Security Instruments for Residential Property**

**Authority: Real Property Article, §§3-104.1, Annotated Code of Maryland**

#### **.01 Definitions.**

A. In this chapter, the following terms have the meanings indicated.

B. Terms Defined.

(1) "Mortgage lender licensee" means a person licensed under Financial Institutions Article, §§11-501—11-524, Annotated Code of Maryland.

(2) "Mortgage loan" means any loan or extension of credit secured by residential property.

(3) "Mortgage originator licensee" means an individual licensed under Financial Institutions Article, §§11-601—11-618, Annotated Code of Maryland.

(4) "Residential property" has the meaning stated in Real Property Article, §3-104.1, Annotated Code of Maryland.

(5) "Security instrument" means a mortgage, deed of trust, or any other instrument securing a mortgage loan.

(6) Single Family Dwelling Unit.

(a) "Single family dwelling unit" means a structure principally designed for the residential habitation of one family.

(b) "Single family dwelling unit" includes an individual residential condominium unit within a larger structure or complex, regardless of the total number of individual units in that structure or complex.

(c) "Single family dwelling unit" does not include a structure that:

(i) Is not intended, and has never been used, for human habitation; or

(ii) Is intended for human habitation, has never been occupied, but for which a use and occupancy permit, if required, has never been issued.

## **.02 Information in Recorded Security Instrument.**

### A. Licensee Information or Affidavit in Lieu of Licensee Information.

(1) If a mortgage lender licensee is named in the promissory note or agreement evidencing a mortgage loan on a residential property that is secured by a security instrument to be recorded under Real Property Article, §3-104.1, Annotated Code of Maryland, the following information shall be filed with the security instrument:

- (a) The name of the mortgage lender licensee; and
- (b) The Maryland mortgage lender license number of the mortgage lender licensee.

(2) If a mortgage originator licensee originated the mortgage loan on residential property that is secured by a security instrument to be recorded under Real Property Article, §3-104.1, Annotated Code of Maryland, the following information shall be filed with the security instrument:

- (a) The name of mortgage originator licensee; and
- (b) The Maryland mortgage originator license number of the mortgage originator licensee.

(3) A person exempt or excepted from the requirement to be licensed as a Maryland mortgage lender shall file an affidavit with the security instrument to be recorded in lieu of mortgage lender licensee information.

(4) A person exempt or excepted from the requirement to be licensed as a Maryland mortgage originator, or that person's employer, shall file an affidavit with the security instrument to be recorded in lieu of mortgage originator licensee information.

### B. Information/Affidavit Form.

(1) Persons filing licensee information or an affidavit in lieu of licensee information under this regulation shall use a form that is substantially the same as the following:

#### **Licensee Information or Affidavit Filed in Accordance with Real Property Article, §3-104.1, Annotated Code of Maryland**

##### **Licensee Information**

Maryland Mortgage Lender Name: \_\_\_\_\_

Maryland Mortgage Lender License Number: \_\_\_\_\_

Maryland Mortgage Originator Name: \_\_\_\_\_

Maryland Mortgage Originator License Number: \_\_\_\_\_

##### **Affidavit in Lieu of Maryland Mortgage Lender or Maryland Mortgage Originator Licensee Information**

(Check the box and complete the information for the applicable selection(s) below. As used herein, the term "Loan" means the mortgage loan secured by the security instrument attached hereto [for subsequent

filings insert: "or, if no instrument is attached, by the security instrument recorded at liber/book \_\_\_\_\_, folio/page \_\_\_\_\_".)

Affidavit of Individual Mortgage Originator:

I, \_\_\_\_\_ [Insert name of affiant], whose address is \_\_\_\_\_ [Insert address of affiant], hereby affirm, under the penalties of perjury, that I am the individual who originated the Loan and, in connection therewith, I am exempt from the licensing requirements under Financial Institutions Article, §§11-601 through 11-618, Annotated Code of Maryland.

Affidavit of Lender:

I, \_\_\_\_\_ [Insert name of affiant], hereby affirm, under the penalties of perjury, that I am the [Insert Title] of \_\_\_\_\_ [Insert the name of the lender (the "Lender") that made the Loan]. The Lender's address is \_\_\_\_\_ [Insert address of Lender]. I am duly authorized by the Lender to execute this affidavit. The Lender, in connection with the Loan, is exempt from the licensing requirements under Financial Institutions Article, §§11-501 through 11-524, Annotated Code of Maryland.

Affidavit of Lender (on its own behalf and on behalf of its employee who originated the Loan):

I, \_\_\_\_\_ [Insert name of affiant], hereby affirm, under the penalties of perjury, that I am the \_\_\_\_\_ [Insert Title] of \_\_\_\_\_ [Insert the name of the lender (the "Lender") that made the Loan]. The Lender's address is \_\_\_\_\_ [Insert address of Lender]. I am duly authorized by the Lender to execute this affidavit. The Lender, in connection with the Loan, is exempt from the licensing requirements under Financial Institutions Article, §§11-501 through 11-524, Annotated Code of Maryland. The employee of the Lender who originated the Loan is exempt from the licensing requirements under Financial Institutions Article, §§11-601 through 11-618, Annotated Code of Maryland.

Affidavit of Mortgage Broker (on behalf of its employee who originated the mortgage loan):

I, \_\_\_\_\_ [Insert name of affiant], hereby affirm, under the penalties of perjury, that I am the \_\_\_\_\_ [Insert title] of \_\_\_\_\_ [Insert the name of the broker (the "Broker") that brokered the Loan]. The Broker's address is \_\_\_\_\_ [Insert address of Broker]. I am duly authorized by the Broker to execute this affidavit. The employee of the Broker, \_\_\_\_\_ [Insert name of employee (the "Employee")], is the individual who originated the Loan. The Employee, in connection with the Loan, is exempt from the licensing requirements under Financial Institutions Article, §§11-601 through 11-618, Annotated Code of Maryland.

I SOLEMNLY AFFIRM, under the penalties of perjury and upon personal knowledge, that the contents of the foregoing paper are true. \_\_\_\_\_ Date \_\_\_\_\_ Signature of Affiant (Signing on behalf of Lender) \_\_\_\_\_ Print Name and Title of Affiant \_\_\_\_\_ Date \_\_\_\_\_ Signature of Affiant (Individual Mortgage Originator) \_\_\_\_\_ Print Name of Affiant \_\_\_\_\_ Date \_\_\_\_\_ Signature of Affiant (Signing on Behalf of Mortgage Broker) \_\_\_\_\_ Print Name and Title of Affiant

(2) The affidavit recorded with a security instrument may be a duplicate of the original affidavit.

(3) The person who employs the individual who originated a mortgage loan to be secured by the security instrument to be recorded may provide the affidavit recorded with the security instrument under this regulation on behalf of that employee.

C. Location and Subsequent Filings.

(1) Location. Except as provided in §C(2) of this regulation, the licensee information or affidavit shall be contained in a separate sheet to be attached to and recorded after the last page of the security instrument and immediately preceding the intake sheet.

(2) Subsequent Filing.

(a) If the licensee information or affidavit required by this regulation is not attached to the security instrument at the time the security instrument is recorded, the licensee information or affidavit may be recorded separately as a supplemental instrument, after the date the security instrument is recorded, by the deed of trust note holder, mortgagee, mortgage assignee, deed of trust beneficiary, or agent of any of the foregoing.

(b) An amendment adding or correcting any information contained in the document filing required by this regulation may be recorded separately as a supplemental instrument, after the date the security instrument is recorded, by the deed of trust note holder, mortgagee, mortgage assignee, deed of trust beneficiary, or agent of any of the foregoing.

(c) A subsequently filed document recorded under this subsection shall contain:

(i) The date of the security instrument securing the mortgage loan;

(ii) The address of the property subject to the security instrument securing the mortgage loan;

(iii) The name of the parties to the security instrument securing the mortgage loan;

(iv) The liber/book and folio/page number for the security instrument securing the mortgage loan; and

(v) The original principal amount of the mortgage loan secured by the security instrument.

(d) A subsequently filed document recorded under this subsection shall be acknowledged before a notary public.

(e) The subsequent filing shall be indexed in the Grantor Index in the land records as to the grantor or mortgagor.

***Administrative History***  
***Effective date:***

**Regulation .01 adopted as an emergency provision effective April 10, 2008 (35:10 Md. R. 970); emergency status extended at 35:23 Md. R. 2012**

**Regulation .02 adopted as an emergency provision effective May 23, 2008 (35:13 Md. R. 1177); emergency status extended at 35:23 Md. R. 2012**

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**Regulations .01 and .02 adopted effective December 29, 2008 (35:26 Md. R. 2247)**