

Department of Legislative Services  
Maryland General Assembly  
2017 Session

FISCAL AND POLICY NOTE  
First Reader

House Bill 595 (Delegate McMillan, *et al.*)  
Environment and Transportation

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Mortgages and Deeds of Trust - Certification Requirement for Recordation -  
Repeal

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This bill repeals the prohibition against the recordation of a mortgage or deed of trust unless the instrument bears either (1) the certification of an attorney that the instrument has been prepared by an attorney or under an attorney's supervision or (2) a certification that the instrument was prepared by one of the parties named in the instrument. The bill also makes a stylistic change. The bill retains the certification requirement for a deed.

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Fiscal Summary

**State Effect:** The bill does not impact State government operations or finances.

**Local Effect:** The bill does not impact the operations or finances of the circuit courts.

**Small Business Effect:** Minimal. Small business mortgage providers may realize a minimal decrease in costs as they no longer need to employ an attorney specifically to prepare or supervise the preparation of mortgages or deeds of trust.

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Analysis

**Current Law:** A deed, mortgage, or deed of trust may not be recorded unless it bears either (1) the certification of an attorney that the instrument has been prepared by an attorney or under an attorney's supervision or (2) a certification that the instrument was prepared by one of the parties named in the instrument.

**Background:** In addition to the State requirement, individual jurisdictions may have a similar requirement in public local laws or ordinances. For example, in St. Mary's County,

the clerk of the circuit court is prohibited from accepting for inclusion in the land records any deed, assignment, mortgage, deed of trust, or other document concerning real property unless the instrument was prepared by (1) an attorney licensed to practice in the State; (2) an employee of the attorney; or (3) one of the parties named in the instrument.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** SB 376 (Senator Norman) - Judicial Proceedings.

**Information Source(s):** Judiciary (Administrative Office of the Courts); Department of Legislative Services

**Fiscal Note History:** First Reader - February 8, 2017  
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