

An. Code, sec. 1. 1904, sec. 1. 1888, sec. 1. 1825, ch. 203, sec. 2.

1. Every deed conveying real estate or chattels, which by any other instrument or writing shall appear to have been intended only as a security in the nature of a mortgage, though it be an absolute conveyance in terms, shall be considered as a mortgage, and the person for whose benefit such deed shall be made shall not have any benefit or advantage from the recording thereof, unless every instrument and writing operating as a defeasance of the same, or explanatory of its being designed to have the effect only of a mortgage or conditional deed, be also therewith recorded.

Failure to record defeasance causes beneficiary to lose benefit which recording would give him over subsequent *bona fide* purchasers; *contra*, as to subsequent grantee with notice. *McComas v. Amos*, 29 Md. 159.

Although defeasance was not recorded, deed is valid as between the parties, and equity has jurisdiction to enforce same as a lien in nature of a mortgage. *Harrison v. Morton*, 87 Md. 674. See also *Owens v. Miller*, 29 Md. 159.

This section does not apply to the case of deed absolute upon its face, and where no other instrument was executed, though deed was intended merely as security. *Ing v. Brown*, 3 Md. Ch. 522.

Agreement held not to be a defeasance, and hence, not required to be recorded under this section. *Snowden v. Pitcher*, 45 Md. 264. And see *Waters v. Riggin*, 19 Md. 553.

What is a defeasance? *Hoffman v. Gosnell*, 75 Md. 588.

Design of this section. *Gill v. Griffith*, 2 Md. Ch. 286.

This section applied. *Waters v. Riggin*, 19 Md. 553; *Charles v. Claggett*, 3 Md. 89. Act of 1825, ch. 203, held to have no application. *Preston v. Leighton*, 6 Md. 98. Cited but not construed in *Clabaugh v. Byerly*, 7 Gill, 361.

An. Code, sec. 2. 1904, sec. 2. 1888, sec. 2. 1825, ch. 50. 1872, ch. 213. 1882, ch. 471. 1924, ch. 224, sec. 2.

2. No mortgage or deed in the nature of a mortgage shall be a lien or charge on any estate or property for any other or different principal sum or sums of money than the principal sum or sums that shall appear on the face of such mortgage and be specified and recited therein, and particularly mentioned and expressed to be secured thereby at the time of executing the same; and no mortgage or deed in the nature of a mortgage shall be a lien or charge for any sum or sums of money to be loaned or advanced after the same is executed, except from the time said loan or advance shall be actually made; and no mortgage to secure future loans or advances shall be valid unless the amount or amounts of the same and the times when they are to be made shall be specifically stated in said mortgage; this not to apply to mortgages to indemnify the mortgagee against loss from being endorser or security, nor to any mortgages given by brewers to maltsters to secure the payment to the latter of debts contracted by the former for malt and other material used in the making of malt liquors; nor are the provisions hereof intended to apply to deeds of trust in the nature of mortgages or any other deeds of trust to secure bonds, notes or other obligations.

Application of this section.

This section held to have no application to a deed of trust for benefit of creditors. If such a deed were held to be a mortgage, this section would apply. *Bank of Commerce v. Lanahan*, 45 Md. 408.

This section has no application to judgments. *Robinson v. Consolidated Real Estate, etc., Co.*, 55 Md. 110.