

State of Arkansas
90th General Assembly
Regular Session, 2015

A Bill

SENATE BILL 937

By: Senator Rice
By: Representative Vines

For An Act To Be Entitled

AN ACT TO PERMIT THE RELEASE OF A MORTGAGE, DEED OF TRUST OR OTHER LIEN BASED ON AN AFFIDAVIT BY AN ATTORNEY OR A TITLE AGENT THAT THE LIEN HAS BEEN SATISFIED; TO DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES.

Subtitle

TO PERMIT THE RELEASE OF A MORTGAGE, DEED OF TRUST OR OTHER LIEN BASED ON AN AFFIDAVIT BY AN ATTORNEY OR A TITLE AGENT THAT THE LIEN HAS BEEN SATISFIED; AND TO DECLARE AN EMERGENCY.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 18-40-104 is amended to read as follows:

18-40-104. Acknowledgement of satisfaction on record.

(a) If ~~any~~ a mortgagee or his or her executor, administrator, or assignee ~~shall receive~~ receives full satisfaction for the amount due on any mortgage, then at the request of the person making satisfaction, the mortgagee shall acknowledge satisfaction of the amount due on the mortgage on the margin of the record in which the mortgage is recorded.

(b) Acknowledgment of satisfaction, made as stated in subsection (a) of this section, shall have the effect to release the mortgage, bar all actions brought on the mortgage, and revert in the mortgagor or his or her legal representative all title to the mortgaged property.



(c) The trustee of a deed of trust or a person employed by the trustee shall reconvey all or any part of the property encumbered by a deed of trust to the person entitled to the property on written request of the beneficiary of the deed of trust for a reasonable fee plus costs.

(d) If ~~any~~ a person receiving satisfaction does not, within sixty (60) days after being requested, acknowledge satisfaction as stated in subsection (a) of this section or request the trustee to reconvey the property as stated in subsection (c) of this section, he or she shall forfeit to the party aggrieved any sum not exceeding the amount of the mortgage money, to be recovered by a civil action in any court of competent jurisdiction.

(e) If a person receiving satisfaction does not, within sixty (60) days after being requested, acknowledge satisfaction as stated in subsection (a) of this section or fails to cause the trustee to reconvey the property as stated in subsection (c) of this section, then, in addition to the rights provided in subsection (d) of this section, a satisfaction affidavit may be recorded in the county where the lien is recorded which shall have the same effect as an acknowledgment of satisfaction as stated in subsection (b) of this section or a reconveyance of the property as stated in subsection (c) of this section.

(f) A satisfaction affidavit may be executed and recorded by a:

(1) Licensed attorney who prepared the original mortgage or deed of trust;

(2) Licensed attorney who represents the person making or having received satisfaction; or

(3) Licensed title agent employed by a title company that tendered the satisfaction on behalf of the person making satisfaction.

(g) A satisfaction affidavit shall:

(1) Be sworn to and acknowledged before a person authorized to administer an oath under the laws of this state;

(2) Conspicuously identify in its title that it is a "Satisfaction Affidavit"; and

(3) Contain the following information concerning the satisfaction:

(A) The names of all parties to the original instrument;

(B) The recording information, including the recording date of the original instrument;

(C) The date of payment and the amount paid to satisfy the indebtedness; and

(D) That more than sixty (60) days have elapsed since the request for the acknowledgement of satisfaction.

(h) A satisfaction affidavit may be prepared in substantially the following form:

“SATISFACTION AFFIDAVIT

KNOW ALL PERSONS BY THESE PRESENTS that:

I, [Name of Affiant], am the [Attorney for the Mortgagor or Employee of a Title Company that Tendered the Satisfaction on Behalf of the Mortgagor].

[Name of Mortgagor] mortgaged certain real property to [Name of Mortgagee] to secure the original principal indebtedness of [Amount of Indebtedness] which was evidenced by that certain [Name of Instrument] recorded on [Date] in the real property records of [Name of County] County, Arkansas as [Instrument Number or Book and Page].

On [Date], [Name of Mortgagor] tendered to [Name of Mortgagee] the sum of [Amount of Satisfaction], which sum represents the full satisfaction of the amount due on the [Name of Instrument]. [Name of Mortgagor] requested from [Name of Mortgagee] an acknowledgment of satisfaction on [Date]. More than sixty (60) days have elapsed since the request of the acknowledgement of satisfaction.

Further affiant sayeth naught.

WITNESS my hand and seal on this _____ day of _____, 20_____.

[Signature]

Name printed:

ACKNOWLEDGMENT

STATE OF _____ }

}ss.

COUNTY OF _____ }

On this day of _____ day of _____, 20_____, before me, a Notary Public in and for the said county and state, personally appeared _____, to me well known, and acknowledged that [he/shel] had executed the foregoing document for the consideration, uses, and purposes therein mentioned and set forth.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

bill; or

(3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.