

1 AN ACT concerning mortgages.

2 Be it enacted by the People of the State of Illinois,
3 represented in the General Assembly:

4 Section 1. Short Title. This Act may be cited as the
5 Mortgage Certificate of Release Act.

6 Section 5. Definitions. As used in this Act:

7 "Mortgage" means a mortgage or mortgage lien on an
8 interest in real property in this State given to secure a
9 loan in the original principal amount of less than \$500,000.

10 "Mortgagee" means either: (i) the grantee of a mortgage;
11 or (ii) if a mortgage has been assigned of record, the last
12 person to whom the mortgage has been assigned of record.

13 "Mortgage servicer" means the last person to whom a
14 mortgagor or the mortgagor's successor in interest has been
15 instructed by a mortgagee to send releases on a loan secured
16 by a mortgage. A person transmitting a payoff statement is
17 the mortgage servicer for the mortgage described in the
18 payoff statement.

19 "Mortgagor" means the grantor of a mortgage.

20 "Notice of intention to file certificate of release"
21 means a statement from a title insurance company or title
22 insurance agent to the person to whom release of the loan
23 secured by the mortgage was made in accordance with the
24 payoff statement of the intention to record a certificate of
25 release.

26 "Payoff statement" means a statement for the amount of
27 the (i) unpaid balance of a loan secured by a mortgage,
28 including principal, interest, and any other charges due
29 under or secured by the mortgage; and (ii) interest on a per
30 day basis for the unpaid balance.

31 "Record" means to deliver the certificate of release for

1 recording with the county recorder.

2 "Title insurance agent" has the same meaning ascribed to
3 it as in Section 3 of the Title Insurance Act.

4 "Title insurance company" has the same meaning ascribed
5 to it as in Section 3 of the Title Insurance Act.

6 Section 10. Content of notice of intention to file
7 certificate of release. The notice of intention to file a
8 certificate of release shall state that if a release is not
9 received by the title insurance company or title insurance
10 agent within 45 days of the receipt of payoff of the loan
11 secured by the mortgage, a certificate of release will be
12 delivered for recording to the recorder of each county in
13 which the mortgage is recorded. The notice of intention to
14 file certificate of release shall be sent by first class
15 mail, postage prepaid, at least 15 days before the
16 certificate of release is to be delivered to the recorder.

17 Section 15. Certificate of release. An officer or duly
18 appointed agent of a title insurance company may, on behalf
19 of a mortgagor or a person who has acquired from a mortgagor
20 title to all or part of the property described in the
21 mortgage, execute a certificate of release that complies with
22 the requirements of this Act and record the certificate of
23 release with the recorder of each county in which the
24 mortgage is recorded, provided that release of the loan
25 secured by the mortgage was made in accordance with a payoff
26 statement furnished by the mortgagee or the mortgage
27 servicer, that a satisfaction or release of the mortgage has
28 not previously been recorded, and that a notice of intention
29 to file certificate of release was sent in accordance with
30 Section 10.

31 Section 20. Contents of certificate of release. A

1 certificate of release executed under this Act must contain
2 substantially all of the following:

3 (a) The name of the mortgagor, the name of the original
4 mortgagee, and, if applicable, the mortgage servicer at the
5 date of the mortgage, the date of recording, and the volume
6 and page or document number or other official recording
7 designation in the real property records where the mortgage
8 is recorded, together with similar information for the last
9 recorded assignment of the mortgage.

10 (b) A statement that the mortgage was paid in accordance
11 with the payoff statement received from the mortgagee or
12 mortgage servicer.

13 (c) A statement that the person executing the
14 certificate of release is an officer or a duly appointed
15 agent of a title insurance company authorized and licensed to
16 transact the business of insuring titles to interest in real
17 property in this State pursuant to subsections (2) and (3) of
18 Section 3 of the Title Insurance Act.

19 (d) A statement that the certificate of release is made
20 on behalf of the mortgagor or a person who acquired title
21 from the mortgagor to all or a part of the property described
22 in the mortgage.

23 (e) A statement that the mortgagee or mortgage servicer
24 provided a payoff statement.

25 Section 25. Execution. A certificate of release
26 authorized by Section 15 must be executed and acknowledged as
27 required by law, as in the case of a deed, and may be
28 executed by a duly appointed agent of a title insurance
29 company. The agent must be a currently registered title
30 insurance agent of the title insurance company.

31 Section 30. Appointment of title insurance agent.

32 (a) The appointment of a title insurance agent must be

1 executed and acknowledged as required by law, as in the case
2 of a deed, and must state all of the following:

3 (1) the identity of the title insurance company as
4 the principal;

5 (2) the identity of the person, partnership, limited
6 partnership, limited liability company, limited liability
7 partnership, or corporation authorized to act as title
8 insurance agent to execute and record certificates of
9 release provided for in this Act on behalf of the title
10 insurance company;

11 (3) that the title insurance agent has the full
12 authority to execute and record certificates of release
13 provided for in this Act on behalf of the title insurance
14 company;

15 (4) the term of appointment of the title insurance
16 agent; and

17 (5) that the title insurance agent has consented to
18 and accepts the terms of the appointment.

19 (b) The delegation to a title insurance agent by a title
20 insurance company shall not relieve the title insurance
21 company of any liability for actual damages as provided in
22 Section 40.

23 (c) A single appointment of title insurance agent
24 instrument may be recorded in each county in the office of
25 the recorder. A separate appointment of title insurance agent
26 shall not be necessary for each certificate of release. The
27 appointment of an agent may be re-recorded where necessary to
28 establish authority of the agent, but the authority shall
29 continue until a revocation of appointment is recorded in the
30 office of the recorder where the appointment of title
31 insurance agent was recorded or on the date, if any, in the
32 recorded appointment document.

33 Section 35. Effect recording certificate of release.

1 For purposes of releasing the lien of the mortgage, a
2 certificate of release containing the information and
3 statements provided for in Section 20 and executed as
4 provided in Section 25 is prima facie evidence of the facts
5 contained therein, is entitled to be recorded with the
6 recorder, and operates as a release of the lien of the
7 mortgage described in the certificate of release. The title
8 insurance company or title insurance agent recording the
9 certificate of release may use the recording fee collected
10 for the recording of a release or satisfaction of the
11 mortgage to effect the recording of the certificate of
12 release. The recorder shall rely upon the certificate of
13 release to release the mortgage.

14 Section 40. Wrongful or erroneous certificate of
15 release. Recording of a wrongful or erroneous certificate
16 of release by a title insurance company or its title
17 insurance agent shall not relieve the mortgagor or the
18 mortgagor's successors or assignees from any personal
19 liability on the loan or other obligations secured by the
20 mortgage. In addition to any other remedy provided by law, a
21 title insurance company executing or recording a certificate
22 of release under this Act that has actual knowledge that the
23 information and statements contained therein are false is
24 liable to the mortgagee for actual damages sustained due to
25 the recording of the certificate of release. The prevailing
26 party in any action or proceeding seeking actual damages due
27 to the recording of a certificate of release shall be
28 entitled to the recovery of reasonable attorneys fees and
29 costs incurred in that action or proceeding.

30 Section 45. Recording. If a mortgage is recorded
31 in more than one county and a certificate of release is
32 recorded in one of them, a certified copy of the certificate

1 of release may be recorded in another county with the same
2 effect as the original. In all cases, the certificate of
3 release shall be entered and indexed where satisfactions or
4 releases of mortgage are entered and indexed.

5 Section 50. Form of certificate of release. A certificate
6 of release in substantially the following form complies with
7 this Act.

8 CERTIFICATE OF RELEASE

9 Date:....Title Order No.:.....

10 1. Name of mortgagor(s):.....

11 2. Name of original mortgagee:.....

12 3. Name of mortgage servicer (if any):.....

13 4. Name of last assignee of mortgage or record (if any):.....

14 5. Mortgage recording: Vol.:.....Page:.....or Document
15 No.:.....

16 6. Last assignment recording (if any):

17 Vol.:.....Page:.....or Document No.:.....

18 7. The above referenced mortgage has been paid in accordance
19 with the release statement received from.....

20 8. The person executing this certificate of release is an
21 officer or duly appointed agent of a title insurance company
22 authorized and licensed to transact the business of insuring
23 titles to interests in real property in this State pursuant
24 to subsections (2) and (3) of Section 3 of the Title
25 Insurance Act.

26 9. This certificate of release is made on behalf of the
27 mortgagor or a person who acquired title from the mortgagor
28 to all or part of the property described in the mortgage.

29 10. The mortgagee or mortgage servicer provided a payoff
30 statement.

31 11. The property described in the mortgage is as follows:

32 Permanent Index Number:.....

33 Common Address:.....

1 (Name of title insurance company)

2 By:.....

3 (Name of officer and title or name of agent and name of
4 officer / representative thereof)

5 Address:.....

6 Telephone No.:.....

7 State of Illinois)

8)

9 County of)

10 This instrument was acknowledged before me on(date) by
11(name of person) as(officer for / agent of)
12(title insurance company).

13

14 Notary Public

15 My commission expires on.....

16 Section 55. Form of appointment of title insurance agent
17 for issuance of certificates of release. A title insurance
18 company shall use the following form for the appointment of
19 its title insurance agents for the purpose of executing
20 certificates of release pursuant to this Act.

21 APPOINTMENT OF TITLE INSURANCE AGENT FOR ISSUANCE OF
22 CERTIFICATES OF RELEASE

23 (name of title insurance company) appoints
24 (name of title insurance agent) to act as its agent for the
25 purpose of executing and delivering for recording
26 certificates of release as provided by the Mortgage
27 Certificate Of Release Act. This appointment shall commence
28 on (date) and (select one) continue until revoked as
29 provided by that Act / terminate on (date).

30 Dated this (date).

31 By:

32 (title insurance company)

33 (signature)

1 (typed / printed name & title)

2 (address)

3 (telephone number)

4 Accepted this (date)

5 By:

6 (title insurance company)

7 (signature)

8 (typed / printed name & title)

9 (address)

10 (telephone number)

11 State of Illinois)

12)

13 County of)

14 This instrument was acknowledged before me on(date)

15 by(name of person) as(officer for / agent of)

16(title insurance company).

17

18 Notary Public

19 My commission expires on.....

20 Section 60. Form of revocation of appointment of title
21 insurance agent for issuance of certificates of release. A
22 title insurance company shall use the following form for the
23 purpose of revoking the appointment of its title insurance
24 agent's authorization for executing certificates of release
25 pursuant to this Act.

26 REVOCATION OF APPOINTMENT OF TITLE INSURANCE AGENT FOR
27 ISSUANCE OF CERTIFICATES OF RELEASE

28 (name of title insurance company) revokes the
29 appointment of (name of title insurance agent) to act
30 as its agent for the purpose of executing and delivering
31 for recording certificates of release as provided by the
32 Mortgage Certificate of Release Act. This Revocation shall
33 be effective upon the recording in each county, or on

1 (date), if subsequent to recording.

2 A copy of this Revocation has been delivered to the named
3 title insurance agent by certified U. S. mail, return
4 receipt requested, at the following address:

5(name of title insurance agent)

6(address)

7 Dated this (date).

8 By:

9 (title insurance company)

10 (signature)

11 (typed / printed name & title)

12 (address)

13 (telephone number)

14 State of Illinois)

15)

16 County of)

17 This instrument was acknowledged before me on(date)

18 by(name of person) as(officer for / agent of)

19(title insurance company).

20

21 Notary Public

22 My commission expires on.....