

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 one-to-four family residential real property in
9 this State given to secure a loan in the original principal
10 amount of less than \$500,000. Trust deeds are not included.

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

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

20 "Mortgagor" means the grantor of a mortgage.

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

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

1 "Record" means to deliver the certificate of release for
2 recording with the county recorder.

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

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

7 Section 10. Content of notice of intention to file
8 certificate of release. The notice of intention to file a
9 certificate of release shall state that if a release is not
10 received by the title insurance company or title insurance
11 agent within 60 days of the receipt of payoff of the loan
12 secured by the mortgage, a certificate of release will be
13 delivered for recording to the recorder of each county in
14 which the mortgage is recorded. The notice of intention to
15 file a certificate of release shall be sent by first class
16 mail, postage prepaid, at least 15 days before the
17 certificate of release is to be delivered to the recorder.

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

1 Section 20. Contents of certificate of release. A
2 certificate of release executed under this Act must contain
3 substantially all of the following:

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

11 (b) A statement that the mortgage was paid in accordance
12 with the written payoff statement received from the mortgagee
13 or mortgage servicer and there is no notice from the
14 mortgagee or mortgage servicer that the amount received was
15 inadequate.

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

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

26 (e) A statement that the mortgagee or mortgage servicer
27 provided a written payoff statement.

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

1 Section 30. Appointment of title insurance agent.

2 (a) The appointment of a title insurance agent must be
3 executed and acknowledged as required by law, as in the case
4 of a deed, and must state all of the following:

5 (1) the identity of the title insurance company as
6 the principal;

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

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

17 (4) the term of appointment of the title insurance
18 agent; and

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

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

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

1 Section 35. Effect recording certificate of release.
2 For purposes of releasing the lien of the mortgage, a
3 certificate of release containing the information and
4 statements provided for in Section 20 and executed as
5 provided in Section 25 is prima facie evidence of the facts
6 contained therein, and upon being recorded with the recorder,
7 shall constitute a release of the lien of the mortgage
8 described in the certificate of release. The title insurance
9 company or title insurance agent recording the certificate of
10 release may use the recording fee collected for the recording
11 of a release or satisfaction of the mortgage to effect the
12 recording of the certificate of release.

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

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

1 effect as the original. In all cases, the certificate of
2 release shall be entered and indexed where satisfactions or
3 releases of mortgage are entered and indexed.

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

7 CERTIFICATE OF RELEASE

8 Date:.....Title Order No.:.....

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

10 2. Name of original mortgagee:.....

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

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

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

15 6. Last assignment recording (if any):

16 Vol.:.....Page:.....or Document No.:.....

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

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

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

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

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

31 Permanent Index Number:.....

32 Common Address:.....

33 (Name of title insurance company)

1 By:.....
 2 (Name of officer and title or name of agent and name of
 3 officer / representative thereof)
 4 Address:.....
 5 Telephone No.:.....
 6 State of Illinois)
 7)
 8 County of)
 9 This instrument was acknowledged before me on(date) by
 10(name of person) as(officer for / agent of)
 11(title insurance company).
 12
 13 Notary Public
 14 My commission expires on.....

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

20 APPOINTMENT OF TITLE INSURANCE AGENT OR AGENTS FOR ISSUANCE OF
 21 CERTIFICATES OF RELEASE

22 (name of title insurance company) appoints
 23 (name of title insurance agent or agents) to act as its agent
 24 or agents for the purpose of executing and delivering for
 25 recording certificates of release as provided by the Mortgage
 26 Certificate Of Release Act. This appointment shall commence
 27 on (date) and (select one) continue until revoked as
 28 provided by that Act / terminate on (date). The agent
 29 or agents appointed has/have consented to and accept the
 30 terms of this appointment.
 31 Dated this (date).
 32 By:
 33 (title insurance company)

1(address)
 2 Dated this (date).
 3 By:
 4 (title insurance company)
 5 (signature)
 6 (typed / printed name & title)
 7 (address)
 8 (telephone number)
 9 State of Illinois)
 10)
 11 County of)
 12 This instrument was acknowledged before me on(date)
 13 by(name of person) as(officer for / agent of)
 14(title insurance company).
 15
 16 Notary Public
 17 My commission expires on.....

18 Section 95. The Mortgage Act is amended by changing
 19 Section 2 as follows:

20 (765 ILCS 905/2) (from Ch. 95, par. 52)
 21 Sec. 2. Every mortgagee of real property, his assignee
 22 of record, or other legal representative, having received
 23 full satisfaction and payment of all such sum or sums of
 24 money as are really due to him from the mortgagor, and every
 25 trustee, or his successor in trust, in a deed of trust in the
 26 nature of a mortgage, the notes, bonds or other indebtedness
 27 secured thereby having been fully paid before September 7,
 28 1973, shall, at the request of the mortgagor, or grantor in a
 29 deed of trust in the nature of a mortgage, his heirs, legal
 30 representatives or assigns, in case such mortgage or trust
 31 deed has been recorded or registered, make, execute and
 32 deliver to the mortgagor or grantor in a deed of trust in the

1 nature of a mortgage, his heirs, legal representatives or
2 assigns, an instrument in writing executed in conformity with
3 the provisions of this section releasing such mortgage or
4 deed of trust in the nature of a mortgage, which release
5 shall be entitled to be recorded or registered and the
6 recorder or registrar upon receipt of such a release and the
7 payment of the recording fee therefor shall record or
8 register the same.

9 Mortgages of real property and deeds of trust in the
10 nature of a mortgage shall be released of record only in the
11 manner provided herein or as provided in the Mortgage
12 Certificate of Release Act; however, nothing contained in
13 this Act shall in any manner affect the validity of any
14 release of a mortgage or deed of trust made prior to January
15 1, 1952 on the margin of the record.

16 Every mortgagee of real property, his assignee of record,
17 or other legal representative, having received full
18 satisfaction and payment of all such sum or sums of money as
19 are really due to him from the mortgagor, and every trustee,
20 or his successor in trust, in a deed of trust in the nature
21 of a mortgage, the notes, bonds or other indebtedness secured
22 thereby having been fully paid after September 7, 1973, shall
23 make, execute and deliver to the mortgagor or grantor in a
24 deed of trust in the nature of a mortgage, his heirs, legal
25 representatives or assigns, an instrument in writing
26 releasing such mortgage or deed of trust in the nature of a
27 mortgage or shall deliver that release to the recorder or
28 registrar for recording or registering. If the release is
29 delivered to the mortgagor or grantor, it must have imprinted
30 on its face in bold letters at least 1/4 inch in height the
31 following: "FOR THE PROTECTION OF THE OWNER, THIS RELEASE
32 SHALL BE FILED WITH THE RECORDER OR THE REGISTRAR OF TITLES
33 IN WHOSE OFFICE THE MORTGAGE OR DEED OF TRUST WAS FILED".
34 The recorder, or registrar, upon receipt of such a release

1 and the payment of the recording or registration fee, shall
2 record or register the release.

3 (Source: P.A. 83-358.)