SENATE BILL No. 511

DIGEST OF INTRODUCED BILL

Citations Affected: IC 32-29-6.

Synopsis: Mortgage release by title insurance companies. Allows a title insurance company, or an officer or agent of a title insurance company, on behalf of a mortgagor or a person who acquired from the mortgagor a lien against all or part of the property described in a mortgage, to record a certificate of release in the real property records of each county in which the mortgage is recorded if the company, officer, or agent has not received an objection to the recording of the certificate of release from the: (1) mortgagee; or (2) mortgage servicer or mortgage servicer's successor in interest. Allows the company, officer, or agent to use any recording fee the company, officer, or agent collected for the: (1) recording of the certificate of release; or (2) satisfaction of the mortgage; to record the certificate of release. Provides that a certificate of release must contain: (1) a statement that the payoff amount of the mortgage was an amount of not more than $1,000,000 instead of a statement that the mortgage was in the original principal amount of not more than $1,000,000; and (2) a statement that the mortgagee or mortgage servicer provided a written payoff statement that was used to make payment in full of the unpaid balance of the loan secured by the mortgage. Provides that if a receipt of payment has been issued under a lender's written payoff statement: (1) the receipt of payment constitutes authority for a title insurance company, or an officer or agent of a title insurance company, to record a certificate of release; and (2) the company, officer, or agent may not be required to search the public record for a possible recorded satisfaction or release of the mortgage.

Effective: July 1, 2013.

Zakas

January 14, 2013, read first time and referred to Committee on Insurance.

C o p y

Introduced

First Regular Session 118th General Assembly (2013)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type.~~

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~*this style type*~~ reconciles conflicts between statutes enacted by the 2012 Regular Session of the General Assembly.

C o p y

SENATE BILL No. 511

A BILL FOR AN ACT to amend the Indiana Code concerning property.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 32-29-6-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 9. **(a)** An officer or appointed agent of a title insurance company may, on behalf of a mortgagor or a person who acquired from the mortgagor a lien against all or part of the property described in a mortgage, execute a certificate of release that complies with the requirements of this chapter and record the certificate of release in the real property records of each county in which the mortgage is recorded if

~~(1) a satisfaction or release of the mortgage has not been executed and recorded within sixty (60) days after the date payment in full of the loan secured by the mortgage was sent in accordance with a payoff statement furnished by the mortgagee or the mortgage servicer; and~~

~~(2)~~ the title insurance company, an officer of the title insurance company, or an agent of the title insurance company has ~~sent to the last known address of the mortgagee or the mortgage servicer, at least thirty (30) days before executing the certificate of release,~~

~~written notice of its intention to execute and record a certificate of release in accordance with this section after the expiration of the sixty (60) day period.~~ **not received an objection to the recording of the certificate of release from the:**

(1) mortgagee; or

(2) mortgage servicer or mortgage servicer's successor in interest.

(b) The title insurance company, officer of the title insurance company, or agent of the title insurance company may use any recording fee the company, officer, or agent collected for the:

(1) recording of the certificate of release; or

(2) satisfaction of the mortgage;

to record the certificate of release.

SECTION 2. IC 32-29-6-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 10. A certificate of release executed under this chapter must contain substantially all of the following:

(1) The name of the mortgagor, the name of the original mortgagee and, if applicable, the name of the mortgage servicer, the date of the mortgage, the date of recording of the mortgage, and the volume and page or instrument number for the mortgage in the real property records where the mortgage is recorded, together with similar information for the last recorded assignment of the mortgage.

(2) A statement that the **payoff amount of the** mortgage was ~~in the original principal~~ **an** amount of not more than one million dollars ($1,000,000).

(3) A statement that the person executing the certificate of release is an officer or a duly appointed agent of a title insurance company authorized and licensed to transact the business of insuring titles to interests in real property in Indiana under IC 27.

(4) A statement that the certificate of release is made on behalf of the mortgagor or a person who acquired a lien from the mortgagor against all or part of the property described in the mortgage.

(5) A statement that the mortgagee or mortgage servicer provided a **written** payoff statement that was used to make payment in full of the unpaid balance of the loan secured by the mortgage.

(6) A statement that payment in full of the unpaid balance of the loan secured by the mortgage was made in accordance with the written ~~or verbal~~ payoff statement and received by the mortgagee or mortgage servicer, as evidenced in the records of the title insurance company or its agents by:

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(A) a bank check;
(B) a certified check;
(C) an escrow account check from the title company or title insurance agent;
(D) an attorney trust account check that has been negotiated by the mortgagee or mortgage servicer; or
(E) any other documentary evidence of payment to the mortgagee or mortgage servicer.

~~(7) A statement indicating that more than sixty (60) days have elapsed since the date payment in full was sent.~~

~~(8) A statement that after the expiration of the sixty (60) day period referred to in section 9 of this chapter, the title insurance company, its officers, or its agent sent to the last known address of the mortgagee or mortgage servicer, at least thirty (30) days before executing the certificate of release, notice in writing of its intention to execute and record a certificate of release as required under this section, with an unexecuted copy of the proposed certificate of release attached to the written notice.~~

~~(9)~~ **(7)** A statement that neither the title insurance company nor its officers or agent have received notification in writing of any reason why the certificate of release should not be executed and recorded. ~~after the expiration of the thirty (30) day notice period referred to in section 9 of this chapter.~~

SECTION 3. IC 32-29-6-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 11. **(a)** A certificate of release authorized by this chapter shall be executed and acknowledged in the same manner as required by law in Indiana for the execution and acknowledgment of a deed.

(b) If a receipt of payment has been issued under a lender's written payoff statement:

(1) the receipt of payment constitutes authority for:
(A) a title insurance company; or
(B) an officer or agent of a title insurance company;
to record a certificate of release; and

(2) the company, officer, or agent may not be required to search the public record for a possible recorded satisfaction or release of the mortgage.

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