

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. **[410.33] SAVINGS CLAUSE.**

If a city charter is silent on a matter that is addressed for statutory cities by chapter 412 or other general law and general law does not prohibit a city charter from addressing the matter or expressly provide that a city charter prevails over general law on the matter, then the city may apply the general law on the matter.

Presented to the governor April 12, 1994

Signed by the governor April 15, 1994, 1:52 p.m.

CHAPTER 447—S.F.No. 2267

An act relating to real estate; authorizing title insurance companies governed by chapter 68A, or their appointed agents to execute certificates of release of mortgages; proposing coding for new law in Minnesota Statutes, chapter 507.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. **[507.401] TITLE INSURANCE COMPANIES; CERTIFICATES OF RELEASE OF MORTGAGE.**

Subdivision 1. DEFINITIONS. (a) The definitions in this subdivision apply to this section.

(b) "Mortgage" means a mortgage or mortgage lien on an interest in real property in this state given to secure a loan in the original principal amount of \$500,000 or less.

(c) "Mortgagee" means:

(1) the grantee of a mortgage; or

(2) if a mortgage has been assigned of record, the last person to whom the mortgage has been assigned of record.

(d) "Mortgage servicer" means the last person to whom a mortgagor or the mortgagor's successor in interest has been instructed by a mortgagee to send payments on a loan secured by a mortgage. A person transmitting a payoff statement is the mortgage servicer for the mortgage described in the payment statement.

(e) "Mortgagor" means the grantor of a mortgage.

(f) "Payoff statement" means a statement of the amount of:

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(1) the unpaid balance of a loan secured by a mortgage, including principal, interest, and any other charges properly due under or secured by the mortgage; and

(2) interest on a per day basis for the unpaid balance.

(g) "Record" means to record with the county recorder or file with the registrar of titles.

(h) "Title insurance company" means a corporation or other business entity authorized and licensed to transact the business of insuring titles to interests in real property in this state under chapter 68A.

Subd. 2. CERTIFICATE OF RELEASE. An officer or duly appointed agent of a title insurance company may, on behalf of a mortgagor or a person who acquired from the mortgagor title to all or a part of the property described in a mortgage, execute a certificate of release that complies with the requirements of this section and record the certificate of release in the real property records of each county in which the mortgage is recorded if: (i) a satisfaction or release of the mortgage has not been executed and recorded within 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 (ii) the title insurance company, its officer, or agent has sent to the last known address of the mortgagee or the mortgage servicer, at least 30 days prior to 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 60-day period.

Subd. 3. CONTENTS. A certificate of release executed under this section must contain substantially all of the following:

(1) the name of the mortgagor, the name of the original mortgagee, and, if applicable, the mortgage servicer, the date of the mortgage, the date of recording, and volume and page or document number 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 mortgage was in the original principal amount of \$500,000 or less;

(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 this state under chapter 68A;

(4) a statement that the certificate of release is made on behalf of the mortgagor or a person who acquired title from the mortgagor to all or a part of the property described in the mortgage;

(5) a statement that the mortgagee or mortgage servicer provided a payoff

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statement which 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 pay-off statement, and received by the mortgagee or mortgage servicer, as evidenced by one or more of the following in the records of the title insurance company or its agent:

(i) a bank check, certified check, escrow account check from the title company or title insurance agent, or attorney trust account check that has been negotiated by the mortgagee or mortgage servicer; or

(ii) other documentary evidence of payment to the mortgagee or mortgage servicer;

(7) a statement that more than 60 days have elapsed since the date payment in full was sent;

(8) a statement that after the expiration of the 60-day period referred to in subdivision 2, the title insurance company, its officer, or agent sent to the last known address of the mortgagee or mortgage servicer, at least 30 days prior to executing the certificate of release, notice in writing of its intention to execute and record a certificate of release in accordance with this section, with an unexecuted copy of the proposed certificate of release attached to the written notice; and

(9) a statement that the title insurance company, its officer, or agent has not received notification in writing of any reason why the certificate of release should not be executed and recorded after the expiration of the 30-day notice period referred to in subdivision 2.

Subd. 4. EXECUTION. (a) A certificate of release authorized by subdivision 2 must be executed and acknowledged as required by law in the case of a deed and may be executed by a duly appointed agent of a title insurance company, but such delegation to an agent by a title insurance company shall not relieve the title insurance company of any liability for damages caused by its agent for the wrongful or erroneous execution of a certificate of release.

(b) The appointment of agent must be executed and acknowledged as required by law in the case of a deed and must state:

(1) the title insurance company as the grantor;

(2) the identity of the person, partnership, or corporation authorized to act as agent to execute and record certificates of release provided for in this section on behalf of the title insurance company;

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

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(4) the term of appointment of the agent; and

(5) that the agent has consented to and accepts the terms of the appointment.

(c) A single appointment of agent may be recorded in each county in each recording or filing office. A separate appointment of agent shall not be necessary for each certificate of release. For registered land the appointment of agent shall be shown as a memorial on each certificate of title on which a mortgage to be released by a certificate of release under this section is a memorial. The appointment of agent may be rerecorded where necessary to establish authority of the agent, but such authority shall continue until a revocation of appointment is recorded in the office of the county recorder, or registrar of titles, where the appointment of agent was recorded.

Subd. 5. EFFECT. For purposes of releasing the mortgage, a certificate of release containing the information and statements provided for in subdivision 3 and executed as provided in this section is prima facie evidence of the facts contained in it, is entitled to be recorded with the county recorder or registrar of titles, and operates as a release of the mortgage described in the certificate of release. The county recorder and the registrar of titles shall rely upon it to release the mortgage. Recording of a wrongful or erroneous certificate of release by a title insurance company or its agent shall not relieve the mortgagor, or the mortgagor's successors or assigns, from any personal liability on the loan or other obligations secured by the mortgage. In addition to any other remedy provided by law, a title insurance company wrongfully or erroneously recording a certificate of release under this section shall be liable to the mortgagee for actual damage sustained due to the recordings of the certificate of release.

Subd. 6. RECORDING. If a mortgage is recorded in more than one county and a certificate of release is recorded in one of them, a certified copy of the certificate of release may be recorded in another county with the same effect as the original. In all cases, the certificate of release shall be entered and indexed as satisfactions of mortgage are entered and indexed.

Subd. 7. APPLICATION. This section applies only to a mortgage in the original principal amount of \$500,000 or less.

Sec. 2. EXPIRATION.

Section 1 expires July 31, 1996, but real property released from a mortgage by a certificate of release recorded on or before July 31, 1996 continues to be released after July 31, 1996.

Presented to the governor April 12, 1994

Signed by the governor April 15, 1994, 1:55 p.m.

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