507.401 TITLE INSURANCE COMPANY; MORTGAGE RELEASE CERTIFICATE.

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

(b) "Assignment of rents and profits" means an assignment, whether in a separate document or in a mortgage, of any of the benefits accruing under a recorded or unrecorded lease or tenancy existing, or subsequently created, on property encumbered by a mortgage, which is given as additional security for the debt secured by the mortgage.

(c) "Mortgage" means a mortgage or mortgage lien, including any assignment of rents and profits given as additional security for the debt secured by that lien, on an interest in real property in this state given to secure a loan in the original principal amount of $1,500,000 or less.

(d) "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.

(e) "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 payoff statement.

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

(g) "Partial release" means the release of specified parcels of land from a mortgage.

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

(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 interest on a per day basis for the unpaid balance; or

(2) the portion of the unpaid balance of the loan secured by the mortgage required by the mortgagee or mortgage servicer to be paid as a condition for the issuance of a partial release.

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

(j) "Title insurer" 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 insurer 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 a satisfaction or release of the mortgage has not been executed and recorded 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.

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) if applicable, the date of any assignment of rents and profits, the date of its recording, and its volume and page or document number in the real property records where it has been recorded or filed, together with similar information for the last recorded assignment thereof;

(3) a statement that the mortgage was in the original principal amount of $1,500,000 or less;

(4) a statement that the person executing the certificate of release is an officer or a duly appointed agent of a title insurer authorized and licensed to transact the business of insuring titles to interests in real property in this state under chapter 68A;

(5) 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;

(6) a statement that the mortgagee or mortgage servicer provided a payoff statement which was used to make full or partial payment of the unpaid balance of the loan secured by the mortgage;

(7) a statement that full or partial payment of the unpaid balance of the loan secured by the mortgage was made in accordance with the written or verbal payoff statement; and

(8) where the certificate of release affects only a portion of the land encumbered by the mortgage, a legal description of the portion being released.

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 insurer, but such delegation to an agent by a title insurer shall not relieve the title insurer 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 insurer 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 insurer;

(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 insurer;

(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 insurer 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 insurer 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 and releases of assignments of rents and profits are entered and indexed.

Subd. 7. **Application.** This section applies only to a mortgage in the original principal amount of $1,500,000 or less.

History: *1994 c 447 s 1,2; 1996 c 338 art 1 s 13; 1997 c 222 s 58,59; 2000 c 450 s 1-4; 2014 c 198 art 4 s 19-23*