

House Research Act Summary

CHAPTER: 10

SESSION: 2013 Regular Session

TOPIC: Mortgage satisfaction, partial satisfaction, affidavit of survivorship

Analyst: Mary Mullen

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Overview

This act includes the partial release of liens and mortgages with the mortgage satisfaction recording provisions to allow them to be recorded in the same manner as the satisfaction of a mortgage. This act changes the liability related to the filing of erroneous or wrongful certificates and moves it to a new subdivision. It allows an affidavit of survivorships to be recorded to change the address where property tax statements are mailed. It also makes technical and conforming changes to paragraph structure and terms.

Section

1 To get tax statements. Allows the affidavit of survivorship to be recorded by the county to change the address where the property tax statements will be sent.

2 Certificate of satisfaction and release or partial release of mortgage.

Sub. 1. Changes the current subdivision on filing a certificate to satisfy or release a mortgage or lien on real estate to include real estate from a lien or mortgage and to allow the certificate to be recorded when the current mortgage holder is not recorded as having an assignment of the mortgage.

Sub. 2. Adds requirements that a certificate of satisfaction must be executed and acknowledged as required by law for a deed. Changes the information that must be contained in the certificate by: (1) removing the name of the assignee, (2) adding that the entity or person executing the certificate is the current holder of the mortgagee's interest, (3) adding that when there is a partial release, a legal description of the real property being released from the lien of the mortgage must be included.

Sub. 3. Removes a requirement that the section is executed according to the same

Section

law as a deed, which is now located in subdivision 2 of this section.

Sub. 4. Adds release or partial release of a mortgage to the satisfaction of mortgage provision in this section, allowing the certificate to be recorded and operate as the release, partial release, or satisfaction of a lien or mortgage. Removes the language in subdivision 4 and subdivision 5 related to wrongful or erroneous recordings.

Sub. 5a. Provides that execution of a wrongful or erroneous certificate under this section will not relieve the mortgagor or the successor or assignees for personal liability on the obligation secured by the mortgage and that a person wronged by recording an erroneous certificate can seek actual damages sustained due to the execution or recording of a certificate as well as reasonable attorneys fees, costs, and disbursements.

Sub. 6. Provides that this section is effective the day following enactment, and is retroactively applied to all certificates filed at any time.

- 3** **Technical changes.** Makes technical changes to paragraph breaks.
- 4** **Updates terms.** Removes the abbreviation “CECT” for Condominium Common Elements Certificates, which is no longer the term used in statute, and replaces it with “CICCT” for Common Interest Community Certificate of Title.
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