

SENATE BILL NO. 2223

Introduced by

Senator Holmberg

1 A BILL for an Act to create and enact a new section to chapter 35-03 of the North Dakota
2 Century Code, relating to the satisfaction of a mortgage by an assignee; and to provide for
3 application.

4 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

5 **SECTION 1.** A new section to chapter 35-03 of the North Dakota Century Code is
6 created and enacted as follows:

7 **Certificate of mortgage satisfaction by assignee.**

- 8 1. A satisfaction of mortgage which complies with this section is effective to discharge
9 the mortgage even if one or more assignments of the mortgage have not been
10 recorded or filed.
- 11 2. A satisfaction under this section must identify the mortgagor, identify the original
12 mortgagee, contain the legal description and recording information of the
13 mortgage, and contain a statement that the assignee is the present holder, owner,
14 or successor of the original mortgagee. A satisfaction under this section must be
15 executed and acknowledged by a duly authorized officer or duly appointed agent of
16 the assignee.
- 17 3. A satisfaction that contains the required information and statements and which is
18 duly executed is prima facie evidence of the facts contained in it, is entitled to be
19 recorded, and operates as a satisfaction of the mortgage. The county recorder
20 shall rely on the satisfaction to satisfy the mortgage. Recording a wrongful,
21 erroneous, or unauthorized satisfaction does not relieve the mortgagor or the
22 mortgagor's successors or assigns from liability on the loan or other obligation
23 secured by the mortgage. In addition to any other remedy provided by law, an
24 assignee that wrongfully or erroneously executes a satisfaction under this section

- 1 is liable to the mortgagee or an assignee for actual damages sustained due to the
2 recording of the satisfaction, together with any reasonable attorney's fees, costs,
3 and disbursements incurred in the enforcement.
- 4 4. If a mortgage is recorded in more than one county and satisfaction is recorded in
5 one of those counties, a certified copy of the satisfaction may be recorded in any
6 other county with the same effect as the original. The satisfaction must be indexed
7 as a satisfaction of the mortgage.
- 8 5. An assignment, satisfaction, or release is entitled to and is sufficient to assign,
9 satisfy, or release a mortgage if:
- 10 a. A mortgage is granted to a mortgagee as nominee or agent for a third party
11 identified in the mortgage and the third-party's successors and assigns;
- 12 b. A subsequent assignment, satisfaction, or release of the mortgage is
13 executed by the mortgagee or the third party, its successors or assigns; and
- 14 c. The assignment, satisfaction, or release is in recordable form. The county
15 recorder shall rely upon the assignment, satisfaction, or release of the
16 mortgage.

17 **SECTION 2. APPLICATION.** This Act applies to a mortgage, satisfaction, assignment,
18 or release filed before, on, or after the effective date of this Act.