

Sixty-first
Legislative Assembly
of North Dakota

SENATE BILL NO. 2233

Introduced by

Senator Holmberg

1 A BILL for an Act to create and enact two new sections to chapter 47-19 of the North Dakota
2 Century Code, relating to recording of change of name or identity of mortgagee and the
3 assignment, satisfaction, release, or authorization of foreclosure by a mortgagee; and to
4 provide for retroactive application.

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

6 **SECTION 1.** Two new sections to chapter 47-19 of the North Dakota Century Code are
7 created and enacted as follows:

8 **Corporate change noted in assignment, satisfaction, or release.** When a change in
9 the name or identity of a corporate mortgagee or assignee of the mortgagee is caused by or
10 results from a merger, consolidation, amendment to charter or articles of incorporation, or
11 conversion of articles of incorporation or charter from federal to state, from state to federal, or
12 from one form of entity to another, a mortgage assignment, satisfaction, or release that is
13 otherwise recordable and that specifies in the body of the instrument the merger, consolidation,
14 amendment, or conversion event causing the change in name or identity is in recordable form.
15 The assignment, satisfaction, or release is entitled to be recorded in the office of the county
16 recorder without further evidence of corporate merger, consolidation, amendment, or
17 conversion. For purposes of assigning, satisfying, or releasing the mortgage, the assignment,
18 satisfaction, or release is prima facie evidence of the facts stated in it with respect to the
19 corporate merger, consolidation, amendment, or conversion, and the county recorder shall rely
20 upon it to assign, satisfy, or release the mortgage.

21 **Authority of mortgagee designated as nominee or agent - Retroactive application.**

22 1. An assignment, satisfaction, release, or power of attorney to foreclose is entitled to
23 be recorded in the office of the county recorder and is sufficient to assign, satisfy,
24 release, or authorize the foreclosure of a mortgage if:

- 1 a. A mortgage is granted to a mortgagee as nominee or agent for a third party
2 identified in the mortgage, and the third party's successors and assigns;
- 3 b. A subsequent assignment, satisfaction, release of the mortgage, or power of
4 attorney to foreclose the mortgage is executed by the mortgagee or the third
5 party, its successors or assigns; and
- 6 c. The assignment, satisfaction, release, or power of attorney to foreclose is in
7 recordable form.
- 8 2. The county recorder and registrar of titles shall rely upon the recorded assignment,
9 satisfaction, release, or power of attorney to foreclose in subsection 1 to assign,
10 satisfy, release, or foreclose the mortgage.
- 11 3. This section applies to any mortgage, assignment, satisfaction, release, or power
12 of attorney to foreclose executed, recorded, or filed before, on, or after August 1,
13 2009.