

1 AN ACT concerning mortgages.

2 Be it enacted by the People of the State of Illinois,  
3 represented in the General Assembly:

4 Section 1. Short Title. This Act may be cited as the  
5 Mortgage Certificate of Release Act.

6 Section 5. Definitions. As used in this Act:

7 "Mortgage" means a mortgage or mortgage lien on an  
8 interest in one-to-four family residential real property in  
9 this State given to secure a loan in the original principal  
10 amount of less than \$500,000. Trust deeds are not included.

11 "Mortgagee" means either: (i) the grantee of a mortgage;  
12 or (ii) if a mortgage has been assigned of record, the last  
13 person to whom the mortgage has been assigned of record.

14 "Mortgage servicer" means the last person to whom a  
15 mortgagor or the mortgagor's successor in interest has been  
16 instructed by a mortgagee to send payments on a loan secured  
17 by a mortgage. A person transmitting a payoff statement is  
18 the mortgage servicer for the mortgage described in the  
19 payoff statement.

20 "Mortgagor" means the grantor of a mortgage.

21 "Notice of intention to file certificate of release"  
22 means a statement from a title insurance company or title  
23 insurance agent to the person to whom payment of the loan  
24 secured by the mortgage was made in accordance with the  
25 payoff statement of the intention to record a certificate of  
26 release.

27 "Payoff statement" means a statement for the amount of  
28 the (i) unpaid balance of a loan secured by a mortgage,  
29 including principal, interest, and any other charges due  
30 under or secured by the mortgage; and (ii) interest on a per  
31 day basis for the unpaid balance.

1 "Record" means to deliver the certificate of release for  
2 recording with the county recorder.

3 "Title insurance agent" has the same meaning ascribed to  
4 it as in Section 3 of the Title Insurance Act.

5 "Title insurance company" has the same meaning ascribed  
6 to it as in Section 3 of the Title Insurance Act.

7 Section 10. Content and delivery of notice of intention  
8 to file certificate of release.

9 (a) The notice of intention to file a certificate of  
10 release shall state that if the title insurance company or  
11 title insurance agent does not receive from the mortgagee or  
12 mortgage servicer or its successor in interest either a  
13 release or a written objection to the issuance of a  
14 certificate of release pursuant to subsection (c) of this  
15 Section, a certificate of release may be delivered for  
16 recording to the recorder of each county in which the  
17 mortgage is recorded. A notice of intention to file a  
18 certificate of release should be in a form and include  
19 content that substantially complies with Section 65 of this  
20 Act. The notice of intention shall include a copy of the  
21 closing statement or HUD-1 form and the payoff check or a  
22 copy of it, or a copy of the wire transfer order.

23 (b) The notice of intention to file a certificate of  
24 release shall be sent by certified mail, return receipt  
25 requested, with postage prepaid, or by another service  
26 providing receipted delivery, no sooner than the day of  
27 closing and no later than 30 days after receipt of payment.  
28 The notice shall be delivered to the location identified in  
29 the payoff statement or as otherwise directed in writing by  
30 the mortgagee or mortgage servicer or its successor in  
31 interest. The notice may be sent with the payment, and need  
32 not be sent separately.

33 (c) Within 90 days after receipt of the notice of

1 intention to file a certificate of release, the mortgagee or  
2 mortgage servicer or its successor in interest may issue a  
3 release or may object in writing to the issuance of a  
4 certificate of release, and by doing so shall prevent the  
5 title insurance company or title insurance agent from  
6 executing and recording a certificate of release pursuant to  
7 this Act. Any written objection submitted by the mortgagee or  
8 mortgage servicer or its successor in interest shall state  
9 the reason for which the release or certificate of release  
10 should not be issued. The written objection shall be sent to  
11 the title insurance company or title insurance agent by  
12 certified mail, return receipt requested, with postage  
13 prepaid, or by another service providing receipted delivery.  
14 A title insurance company or title insurance agent shall not  
15 cause a certificate of release to be recorded pursuant to  
16 this Section if the title insurance company or title  
17 insurance agent receives a written objection from the  
18 mortgagee or mortgage servicer or its successor in interest.

19 Section 15. Certificate of release. An officer or duly  
20 appointed agent of a title insurance company may, on behalf  
21 of a mortgagor or a person who has acquired from a mortgagor  
22 title to all or part of the property described in the  
23 mortgage, execute a certificate of release that complies with  
24 the requirements of this Act and record the certificate of  
25 release with the recorder of each county in which the  
26 mortgage is recorded, provided that payment of the loan  
27 secured by the mortgage was made in accordance with a written  
28 payoff statement furnished by the mortgagee or the mortgage  
29 servicer, that a satisfaction or release of the mortgage has  
30 not previously been recorded, and that a notice of intention  
31 to file a certificate of release was sent in accordance with  
32 Section 10.

1           Section 20. Contents of certificate of release. A  
2 certificate of release executed under this Act must contain  
3 substantially all of the following:

4           (a) The name of the mortgagor, the name of the original  
5 mortgagee, and, if applicable, the mortgage servicer at the  
6 date of the mortgage, the date of recording, and the volume  
7 and page or document number or other official recording  
8 designation in the real property records where the mortgage  
9 is recorded, together with similar information for the last  
10 recorded assignment of the mortgage.

11           (b) A statement that the mortgage was paid in accordance  
12 with the written payoff statement received from the mortgagee  
13 or mortgage servicer and there is no objection from the  
14 mortgagee or mortgage servicer or its successor in interest.

15           (c) A statement that the person executing the  
16 certificate of release is an officer or a duly appointed  
17 agent of a title insurance company authorized and licensed to  
18 transact the business of insuring titles to interests in real  
19 property in this State pursuant to subsections (2) and (3) of  
20 Section 3 of the Title Insurance Act.

21           (d) A statement that the certificate of release is made  
22 on behalf of the mortgagor or a person who acquired title  
23 from the mortgagor to all or a part of the property described  
24 in the mortgage.

25           (e) A statement that the mortgagee or mortgage servicer  
26 provided a written payoff statement.

27           Section 25. Execution. A certificate of release  
28 authorized by Section 15 must be executed and acknowledged as  
29 required by law, as in the case of a deed, and may be  
30 executed by an officer or a duly appointed agent of a title  
31 insurance company. The agent must be a currently registered  
32 title insurance agent of the title insurance company.

1 Section 30. Appointment of title insurance agent.

2 (a) The appointment of a title insurance agent must be  
3 executed and acknowledged as required by law, as in the case  
4 of a deed, and must state all of the following:

5 (1) the identity of the title insurance company as  
6 the principal;

7 (2) the identity of the person, partnership, limited  
8 partnership, limited liability company, limited liability  
9 partnership, or corporation authorized to act as title  
10 insurance agent to execute and record certificates of  
11 release provided for in this Act on behalf of the title  
12 insurance company;

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

17 (4) the term of appointment of the title insurance  
18 agent; and

19 (5) that the title insurance agent has consented to  
20 and accepts the terms of the appointment.

21 (b) The delegation to a title insurance agent by a title  
22 insurance company shall not relieve the title insurance  
23 company of any liability for actual damages as provided in  
24 Section 40.

25 (c) A title insurance company may create an instrument,  
26 executed by an officer of that company and acknowledged in  
27 the same manner as a deed, appointing one or more title  
28 insurance agents authorized to issue certificates of release  
29 under this Act. This instrument shall designate the county  
30 or counties in which it is to be effective and shall be  
31 recorded with the recorder in each of those counties, either  
32 as an original instrument or by recording a copy certified by  
33 the recorder of one of the counties. A separate appointment  
34 of title insurance agent shall not be necessary for each

1 certificate of release. The appointment of an agent may be  
2 re-recorded where necessary to establish authority of the  
3 agent, but the authority shall continue until a revocation of  
4 appointment is recorded in the office of the recorder where  
5 the appointment of title insurance agent was recorded or on  
6 the date, if any, in the recorded appointment document.

7 Section 35. Effect of recording certificate of release.  
8 For purposes of releasing the lien of the mortgage, a  
9 certificate of release containing the information and  
10 statements provided for in Section 20 and executed as  
11 provided in Section 25 is prima facie evidence of the facts  
12 contained therein, and upon being recorded with the recorder,  
13 shall constitute a release of the lien of the mortgage  
14 described in the certificate of release. The title insurance  
15 company or title insurance agent recording the certificate of  
16 release may use the recording fee collected for the recording  
17 of a release or satisfaction of the mortgage to effect the  
18 recording of the certificate of release.

19 Section 40. Wrongful or erroneous certificate of  
20 release. Recording of a wrongful or erroneous certificate  
21 of release by a title insurance company or its title  
22 insurance agent shall not relieve the mortgagor or the  
23 mortgagor's successors or assignees from any personal  
24 liability on the loan or other obligations secured by the  
25 mortgage. In addition to any other remedy provided by law, a  
26 title insurance company executing or recording a certificate  
27 of release under this Act that has actual knowledge that the  
28 information and statements contained therein are false is  
29 liable to the mortgagee for actual damages sustained due to  
30 the recording of the certificate of release. The prevailing  
31 party in any action or proceeding seeking actual damages due  
32 to the recording of a certificate of release shall be

1 entitled to the recovery of reasonable attorneys fees and  
2 costs incurred in that action or proceeding.

3 Section 45. Recording. If a mortgage is recorded in  
4 more than one county and a certificate of release is recorded  
5 in one of them, a certified copy of the certificate of  
6 release may be recorded in another county with the same  
7 effect as the original. In all cases, the certificate of  
8 release shall be entered and indexed where satisfactions or  
9 releases of mortgage are entered and indexed.

10 Section 50. Form of certificate of release. A certificate  
11 of release in substantially the following form complies with  
12 this Act.

13 CERTIFICATE OF RELEASE

- 14 Date:.....Title Order No.:.....
- 15 1. Name of mortgagor(s):.....
- 16 2. Name of original mortgagee:.....
- 17 3. Name of mortgage servicer (if any):.....
- 18 4. Name of last assignee of mortgage or record (if any):.....
- 19 5. Mortgage recording: Vol.:.....Page:.....or Document
- 20 No.:.....
- 21 6. Last assignment recording (if any):
- 22 Vol.:.....Page:.....or Document No.:.....
- 23 7. The above referenced mortgage has been paid in accordance
- 24 with the payoff statement received from....., and there is no
- 25 objection from the mortgagee or mortgage servicer or its
- 26 successor in interest to the recording of this certificate of
- 27 release.
- 28 8. The person executing this certificate of release is an
- 29 officer or duly appointed agent of a title insurance company
- 30 authorized and licensed to transact the business of insuring
- 31 titles to interests in real property in this State pursuant
- 32 to Section 30 of this Act.

1 9. This certificate of release is made on behalf of the  
2 mortgagor or a person who acquired title from the mortgagor  
3 to all or part of the property described in the mortgage.

4 10. The mortgagee or mortgage servicer provided a payoff  
5 statement.

6 11. The property described in the mortgage is as follows:

7 Permanent Index Number:.....

8 Common Address:.....

9 (Name of title insurance company)

10 By:.....

11 (Name of officer and title or name of agent and name of  
12 officer / representative thereof)

13 Address:.....

14 Telephone No.:.....

15 State of Illinois)

16 )

17 County of )

18 This instrument was acknowledged before me on .....(date) by  
19 .....(name of person) as .....(officer for / agent of)  
20 .....(title insurance company).

21 .....

22 Notary Public

23 My commission expires on.....

24 Section 55. Form of appointment of title insurance agent  
25 for issuance of certificates of release. A title insurance  
26 company shall use the following form for the appointment of  
27 its title insurance agents for the purpose of executing  
28 certificates of release pursuant to this Act.

29 APPOINTMENT OF TITLE INSURANCE AGENT OR AGENTS FOR ISSUANCE OF  
30 CERTIFICATES OF RELEASE

31 ..... (name of title insurance company) appoints .....  
32 (name of title insurance agent or agents) to act as its agent  
33 or agents for the purpose of executing and delivering for



1 recording certificates of release as provided by the Mortgage  
 2 Certificate of Release Act. This appointment shall commence  
 3 on ..... (date) and (select one) continue until revoked as  
 4 provided by that Act / terminate on ..... (date). The agent  
 5 or agents appointed has/have consented to and accept the  
 6 terms of this appointment.

7 Dated this ..... (date).

8 By:

9 ..... (title insurance company)

10 ..... (signature)

11 ..... (typed / printed name & title)

12 ..... (address)

13 ..... (telephone number)

14 State of Illinois)

15 )

16 County of )

17 This instrument was acknowledged before me on .....(date)

18 by .....(name of person) as .....(officer for / agent of)

19 .....(title insurance company).

20 .....

21 Notary Public

22 My commission expires on.....

23 Section 60. Form of revocation of appointment of title  
 24 insurance agent or agents for issuance of certificates of  
 25 release. A title insurance company shall use the following  
 26 form for the purpose of revoking the appointment of its title  
 27 insurance agent's authorization for executing certificates of  
 28 release pursuant to this Act.

29 REVOCATION OF APPOINTMENT OF TITLE INSURANCE

30 AGENT OR AGENTS FOR

31 ISSUANCE OF CERTIFICATES OF RELEASE

32 .... (name of title insurance company) revokes the

33 appointment of ..... (name of title insurance agent or

1 agents) to act as its agent for the purpose of executing and  
 2 delivering for recording certificates of release as provided  
 3 by the Mortgage Certificate of Release Act. This Revocation  
 4 shall be effective upon the recording in each county, or on  
 5 ..... (date), if subsequent to recording. A copy of this  
 6 Revocation has been delivered to the named title insurance  
 7 agent or agents by certified U. S. mail, return receipt  
 8 requested, at the following address or addresses:

9 .....(name of title insurance agent)  
 10 .....(address)

11 Dated this ..... (date).

12 By:

13 ..... (title insurance company)  
 14 ..... (signature)  
 15 ..... (typed / printed name & title)  
 16 ..... (address)  
 17 ..... (telephone number)

18 State of Illinois)

19 )

20 County of )

21 This instrument was acknowledged before me on .....(date)  
 22 by .....(name of person) as .....(officer for / agent of)  
 23 .....(title insurance company).  
 24 .....

25 Notary Public

26 My commission expires on.....

27 Section 65. Form of notice of intention to file  
 28 certificate of release. A notice of intention to file  
 29 certificate of release shall be in the following form. Use  
 30 of a form substantially similar to this form complies with  
 31 this Act.

32 NOTICE OF INTENTION TO FILE CERTIFICATE OF RELEASE

1 (Name of title insurance company or title insurance  
2 agent), authorized to issue certificates of release, having  
3 participated in the real estate closing resulting in the  
4 funding of the payoff of the mortgage originally recorded as  
5 Document No. ..., or Book at page or other filing made to  
6 (name of original mortgagee) hereby gives this notice of  
7 intention to file certificate of release. If, within 90 days  
8 from the receipt of this notice by you, we have not received  
9 a release or satisfaction of the mortgage or an objection to  
10 the issuance of a certificate of release, we may record a  
11 certificate of release of this mortgage with the office of  
12 the recorder.

13 Enclosed is a copy of the closing statement or HUD-1 form  
14 and the payoff check or a copy of it, or copy of the wire  
15 transfer order.

16 Dated: (Insert date)

17 By: (Title Insurance Company or Title Insurance Agent as  
18 authorized agent of title insurance company)

19 By: (Name of officer of title insurance company or  
20 authorized title insurance agent)

21 (signed) ...

22 Section 90. Repeal. This Act is repealed on January 1,  
23 2004. A certificate of release executed during the period in  
24 which this Act is in effect is valid and entitled to  
25 recording. Any certificate of release of record is effective  
26 as provided in Section 35 of this Act.

27 Section 95. The Mortgage Act is amended by changing  
28 Section 2 as follows:

29 (765 ILCS 905/2) (from Ch. 95, par. 52)

30 Sec. 2. Every mortgagee of real property, his assignee  
31 of record, or other legal representative, having received

1 full satisfaction and payment of all such sum or sums of  
2 money as are really due to him from the mortgagor, and every  
3 trustee, or his successor in trust, in a deed of trust in the  
4 nature of a mortgage, the notes, bonds or other indebtedness  
5 secured thereby having been fully paid before September 7,  
6 1973, shall, at the request of the mortgagor, or grantor in a  
7 deed of trust in the nature of a mortgage, his heirs, legal  
8 representatives or assigns, in case such mortgage or trust  
9 deed has been recorded or registered, make, execute and  
10 deliver to the mortgagor or grantor in a deed of trust in the  
11 nature of a mortgage, his heirs, legal representatives or  
12 assigns, an instrument in writing executed in conformity with  
13 the provisions of this section releasing such mortgage or  
14 deed of trust in the nature of a mortgage, which release  
15 shall be entitled to be recorded or registered and the  
16 recorder or registrar upon receipt of such a release and the  
17 payment of the recording fee therefor shall record or  
18 register the same.

19 Mortgages of real property and deeds of trust in the  
20 nature of a mortgage shall be released of record only in the  
21 manner provided herein or as provided in the Mortgage  
22 Certificate of Release Act; however, nothing contained in  
23 this Act shall in any manner affect the validity of any  
24 release of a mortgage or deed of trust made prior to January  
25 1, 1952 on the margin of the record.

26 Every mortgagee of real property, his assignee of record,  
27 or other legal representative, having received full  
28 satisfaction and payment of all such sum or sums of money as  
29 are really due to him from the mortgagor, and every trustee,  
30 or his successor in trust, in a deed of trust in the nature  
31 of a mortgage, the notes, bonds or other indebtedness secured  
32 thereby having been fully paid after September 7, 1973, shall  
33 make, execute and deliver to the mortgagor or grantor in a  
34 deed of trust in the nature of a mortgage, his heirs, legal

1 representatives or assigns, an instrument in writing  
2 releasing such mortgage or deed of trust in the nature of a  
3 mortgage or shall deliver that release to the recorder or  
4 registrar for recording or registering. If the release is  
5 delivered to the mortgagor or grantor, it must have imprinted  
6 on its face in bold letters at least 1/4 inch in height the  
7 following: "FOR THE PROTECTION OF THE OWNER, THIS RELEASE  
8 SHALL BE FILED WITH THE RECORDER OR THE REGISTRAR OF TITLES  
9 IN WHOSE OFFICE THE MORTGAGE OR DEED OF TRUST WAS FILED".  
10 The recorder, or registrar, upon receipt of such a release  
11 and the payment of the recording or registration fee, shall  
12 record or register the release.

13 (Source: P.A. 83-358.)

14 Section 99. Effective date. This Act takes effect upon  
15 becoming law.