

SENATE BILL No. 256

By By Senator Kelsey

1-9

1 AN ACT concerning mortgages of real property; relating to entries of
2 satisfaction of mortgage, duties and liabilities of last mortgagee or
3 assignee of record; amending K.S.A. 58-2309a and repealing the
4 existing section.
5

6 *Be it enacted by the Legislature of the State of Kansas:*

7 Section 1. K.S.A. 58-2309a is hereby amended to read as follows: 58-
8 2309a. (a) When the indebtedness secured by a recorded mortgage is paid
9 and there is no agreement for the making of future advances to be secured
10 by the mortgage, the *last* mortgagee or the mortgagee's assignee *of record*
11 shall enter satisfaction or cause satisfaction of such mortgage to be entered
12 of record ~~forthwith~~ *immediately*, paying the required fee. The fee may be
13 collected from the mortgagor pursuant to K.S.A. 16-207, and amendments
14 thereto, except that the failure of the mortgagor to pay such fee shall not
15 relieve the *last* mortgagee or the mortgagee's assignee *of record* from
16 entering satisfaction of such mortgage in compliance with the provisions
17 of this section. In the event the *last* mortgagee or the mortgagee's assignee
18 *of record* fails to enter satisfaction or cause satisfaction of such mortgage
19 to be entered within 20 days after written demand by certified or registered
20 mail, the lender or a designated closing agent acting as a closing agent in
21 the sale, financing or refinancing of the real estate subject to such
22 mortgage, who upon reliance of written payoff information provided by
23 the mortgagee, and which payoff information shall be deemed as the
24 correct and full amount due and owing under such mortgage, has caused
25 the indebtedness to be paid in full may cause satisfaction of the mortgage
26 to be entered. If in fact the *last* mortgagee or mortgagee's assignee *of*
27 *record* was not paid in accordance with the aforesaid payoff information
28 when the mortgage was released the lender or the closing agent in the sale,
29 financing or refinancing of the real estate subject to such mortgage who
30 signed the false release shall be liable in damages to the *last* mortgagee or
31 mortgagee's assignee *of record* for the entire indebtedness together with
32 interest thereon, attorney fees, and any additional damages that the *last*
33 mortgagee or mortgagee's assignee *of record* has incurred. Upon recording
34 of such satisfaction by the lender or closing agent in the sale, financing or
35 refinancing of the real estate subject to such mortgage, who has caused the
36 indebtedness to be paid in full, such mortgage shall be deemed fully

1 released as if discharged by the *last* mortgagee or mortgagee's assignee of
2 *record*.

3 (b) When a mortgage is recorded covering real estate in which the
4 mortgagor has no interest, the *last* mortgagee or the mortgagee's assignee
5 *of record* shall enter satisfaction or cause satisfaction of such mortgage to
6 be entered of record, paying the required fee without charge to the
7 mortgagor or the mortgagor's assigns.

8 (c) The following persons may make demand upon ~~a~~ *the last*
9 mortgagee or assignee *of record* of a mortgagee for the entering of
10 satisfaction of the mortgage, as provided for in subsections (a) and (b):

11 (1) A mortgagor, a mortgagor's heirs or assigns or anyone acting for
12 such mortgagor, heirs or assigns;

13 (2) an owner of real estate upon which a mortgage has been recorded
14 by someone having no interest in the real estate; or

15 (3) a lender or designated closing agent acting as a closing agent in
16 the sale, financing or refinancing of the real estate subject to such
17 mortgage.

18 (d) Any *last* mortgagee or assignee *of record* of a mortgagee who
19 refuses or neglects to enter satisfaction of such mortgage within 20 days
20 after demand has been made as provided in subsection (c) shall be liable in
21 damages to the person for whom the demand was made in the sum of
22 \$500, together with a reasonable attorney's fee for preparing and
23 prosecuting the action. The plaintiff in such action may recover any
24 additional damages that the evidence in the case warrants. Civil actions
25 may be brought under this act before any court of competent jurisdiction,
26 and attachments may be had as in other cases.

27 (e) The *last* mortgagee or assignee *of record* of a mortgagee entering
28 satisfaction or causing to be entered satisfaction of a mortgage under the
29 provisions of subsection (a) shall furnish to the office of the register of
30 deeds the full name and last known post office address of the mortgagor or
31 the mortgagor's assignee. The register of deeds shall forward such
32 information to the county clerk who shall make any necessary changes in
33 address records for mailing tax statements.

34 Sec. 2. K.S.A. 58-2309a is hereby repealed.

35 Sec. 3. This act shall take effect and be in force from and after its
36 publication in the statute book.

37