

**57-1-40.5 Partial reconveyance of trust deed or release of mortgage -- Procedures -- Forms.**

- (1)
  - (a) If a trustor or mortgagor pledges more than one parcel of real property as collateral under a trust deed or mortgage, the beneficiary, mortgagee, or servicer may agree for a sum certain to release a portion of the real property pledged on the trust deed or mortgage when a sum certain is paid.
  - (b) When the sum certain is paid, a title insurer or title agent may partially convey a trust deed or partially release a mortgage in accordance with the provisions of Subsections (2) through (6) if:
    - (i) the sum certain that is part of the obligation secured by the trust deed or mortgage has been paid by the title insurer or title agent to release or reconvey a portion of the real property pledged as collateral; or
    - (ii) the title insurer or title agent possesses satisfactory evidence of the payment of the sum certain thus authorizing release or reconveyance of a portion of the real property pledged.
- (2) A title insurer or title agent may partially reconvey a trust deed or partially release a mortgage under Subsection (1) regardless of whether the title insurer or title agent is named as a trustee under a trust deed or has the authority to release a mortgage.
- (3) At the time the obligation secured by the trust deed or mortgage is paid as required by Subsection (1), or at any later time, the title insurer or title agent shall deliver a notice of intent to partially release or partially reconvey, and a copy of the partial release or partial reconveyance that is to be recorded, as described in Subsection (4), to the beneficiary, mortgagee, or servicer at:
  - (a) the address specified in the trust deed or mortgage;
  - (b) any address for the beneficiary or mortgagee specified in the last recorded assignment of the trust deed or mortgage;
  - (c) any address for the beneficiary, mortgagee, or servicer specified in a request for notice recorded under Section 57-1-26; or
  - (d) the address shown on any payoff statement received by the title insurer or agent from the beneficiary, mortgagee, or servicer.
- (4) The notice of intent to partially release or partially reconvey shall:
  - (a) contain the name of:
    - (i) the beneficiary or mortgagee;
    - (ii) the servicer, if any;
    - (iii) the title insurer or title agent;
  - (b) contain the date; and
  - (c) be substantially in the following form:

**NOTICE OF INTENT TO PARTIALLY RELEASE OR PARTIALLY RECONVEY**  
Notice is hereby given to you as follows:

    - 1. This notice concerns the (trust deed or mortgage) described as follows:  
(Trustor or Mortgagor): \_\_\_\_\_  
(Beneficiary or Mortgagee): \_\_\_\_\_  
Recording Information: \_\_\_\_\_  
Entry Number: \_\_\_\_\_  
Book Number: \_\_\_\_\_  
Page Number: \_\_\_\_\_
    - 2. To release only a portion of the real property pledged as collateral, the undersigned claims to have paid or possess satisfactory evidence of the payment of a sum certain

necessary to release or reconvey a specific portion of the real property pledged as collateral under the mortgage or trust deed.

3. Within 60 days after the date stated on this notice, the undersigned will partially release the mortgage or partially reconvey the trust deed described in this notice unless the undersigned receives by certified mail a notice stating that the sum certain that is part of the obligation secured by the trust deed or mortgage has not been paid or that you otherwise object to the partial release of the mortgage or the partial reconveyance of the trust deed. Notice shall be mailed to the address stated on this form.

4. A copy of the partial release of mortgage or partial reconveyance of trust deed is enclosed with this Notice.

(Signature of title insurer or title agent)

(Address of title insurer or title agent)

(5)

(a) If, within 60 days after the day on which the title insurer or title agent delivered the notice of intent to partially release or partially reconvey in accordance with Subsections (3) and (4), a partial reconveyance of trust deed or partial release of mortgage is not recorded, and the beneficiary, mortgagee, or servicer does not send by certified mail to the title insurer or title agent a notice that the obligation secured by the trust deed or mortgage has not been paid or that the beneficiary, mortgagee, or servicer objects to the partial release of the mortgage or partial reconveyance of the trust deed, the title insurer or title agent may execute, acknowledge, and record a partial reconveyance of a trust deed or partial release of a mortgage.

(b) A partial reconveyance of a trust deed under Subsection (5)(a) shall be in substantially the following form:

PARTIAL RECONVEYANCE OF TRUST DEED

(Name of title insurer or title agent), a (title insurer or title agent) authorized to conduct business in the state reconveys, without warranty, only on the following trust property located in (name of county) County, state of Utah, that is covered by a trust deed naming (name of trustor) as trustor, and (name of beneficiary) as beneficiary and was recorded on (date) in Book \_\_\_\_\_ at Page \_\_\_\_\_ as Entry Number \_\_\_\_\_: (insert a description of the specific trust property to be reconveyed.)

The undersigned title insurer or title agent certifies as follows:

1. To release only this portion of the real property pledged as collateral, the undersigned has paid or possesses satisfactory evidence of the payment of a sum certain necessary to reconvey a specific portion of the real property pledged as collateral under the trust deed.

2. In accordance with the requirements of Utah Code Subsections 57-1-40.5(3) and (4), the title insurer or title agent delivered to the beneficiary or servicer, a notice of intent to partially release or partially reconvey and a copy of the partial reconveyance.

3. The trust deed has not been reconveyed, as to this property, and the title insurer or title agent did not receive, within 60 days after the day the title insurer or title agent delivered the notice of intent to partially release or partially reconvey, a notice from the beneficiary or servicer sent by certified mail stating the sum certain necessary to reconvey a specific portion of the real property pledged as collateral under the trust deed or that the beneficiary or servicer objects to the partial reconveyance of the trust deed.

\_\_\_\_\_  
(Notarization)

\_\_\_\_\_  
(Signature of title insurer or title agent)

(c) A release of a mortgage under Subsection (5)(a) shall be in substantially the following form:

PARTIAL RELEASE OF MORTGAGE

(Name of title insurer or title agent), a (title insurer or title agent) authorized to conduct business in the state partially releases the mortgage only on the following property located in (name of county) County, state of Utah, that is covered by a mortgage naming (name of mortgagor) as mortgagor, and (name of mortgagee) as mortgagee and was recorded on (date) in Book \_\_\_\_\_ at Page \_\_\_\_\_ as Entry Number \_\_\_\_\_: (insert a description of the specific property.)

The undersigned title insurer or title agent certifies as follows:

1. To release only this portion of the real property pledged as collateral, the undersigned has paid or possesses satisfactory evidence of the payment of a sum certain necessary to release a specific portion of the real property pledged as collateral under the mortgage.
2. In accordance with the requirements of Utah Code Subsections 57-1-40.5(3) and (4), the title insurer or title agent delivered to the mortgagee or servicer, a notice of intent to partially release or partially reconvey and a copy of the partial release.
3. The trust deed has not been released, as to this property, and the title insurer or title agent did not receive, within 60 days after the day the title insurer or title agent delivered the notice of intent to partially release or partially reconvey, a notice from the beneficiary or servicer sent by certified mail stating the sum certain necessary to release a specific portion of the real property pledged as collateral under the mortgage or that the mortgagee or servicer objects to the partial release of the mortgage.

\_\_\_\_\_  
(Notarization)

\_\_\_\_\_  
(Signature of title insurer or title agent)

(d)

- (i) A partial release of mortgage or partial reconveyance of trust deed that is executed or notarized in accordance with Subsection (5)(b) or (c) is entitled to be recorded.
- (ii)
  - (A) Except as provided in Subsection (5)(d)(ii)(B), a partial reconveyance of a trust deed or partial release of a mortgage that is recorded under Subsection (5)(d)(i) is valid regardless of any deficiency in the partial release or reconveyance procedure not disclosed in the partial release of mortgage or partial reconveyance of trust deed.
  - (B) If the title insurer's or title agent's signature on a partial release of mortgage or partial reconveyance of trust deed recorded under Subsection (5)(d)(ii)(A) is forged, the partial release of the mortgage or partial reconveyance of trust deed is void.
- (6) A partial release of mortgage or partial reconveyance of trust deed under this section does not, by itself, discharge any promissory note or other obligation secured by the trust deed or mortgage at the time the trust deed is partially reconveyed or the mortgage is partially released.

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