

**SHORT SALE AMENDMENTS**

2013 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Marc K. Roberts**

Senate Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill modifies provisions related to the reconveyance of a trust deed or release of a mortgage.

**Highlighted Provisions:**

This bill:

- ▶ modifies provisions related to the reconveyance of a trust deed or release of a mortgage to include satisfaction of the obligation secured by the trust deed or mortgage as an event that makes a trust deed eligible for reconveyance or a mortgage eligible for release; and

- ▶ makes technical changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**57-1-40**, as last amended by Laws of Utah 2006, Chapter 250

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*Be it enacted by the Legislature of the state of Utah:*

Section 1. Section **57-1-40** is amended to read:



28           **57-1-40. Reconveyance of trust deed or release of mortgage -- Procedures --**  
29 **Forms.**

30           (1) A title insurer or title agent may reconvey a trust deed or release a mortgage in  
31 accordance with the provisions of Subsections (2) through (6) if:

32           (a) the obligation secured by the trust deed or mortgage has been fully paid by the title  
33 insurer or title agent; ~~[or]~~

34           **(b) the obligation secured by the trust deed or mortgage has been partially paid by the**  
35 **title insurer or title agent in an amount agreed to by the beneficiary, mortgagee, or servicer as**  
36 **sufficient to satisfy the obligation and obtain a release of the mortgage or reconveyance of the**  
37 **trust deed; or**

38           ~~[(b)]~~ (c) the title insurer or title agent possesses satisfactory evidence ~~[of the full~~  
39 ~~payment of the obligation secured by a trust deed or mortgage]~~ that an event described in either  
40 Subsection (1)(a) or (1)(b) has occurred.

41           (2) A title insurer or title agent may reconvey a trust deed or release a mortgage under  
42 Subsection (1) regardless of whether the title insurer or title agent is named as a trustee under a  
43 trust deed or has the authority to release a mortgage.

44           (3) ~~[At the time]~~ After the obligation secured by the trust deed or mortgage is paid in  
45 full~~[-, or at any time thereafter]~~ or is partially paid as described in Subsection (1)(b), the title  
46 insurer or title agent shall deliver a notice of intent to release or reconvey, as described in  
47 Subsection (4), to the beneficiary, mortgagee, or servicer at:

48           (a) the address specified in the trust deed or mortgage;

49           (b) any address for the beneficiary or mortgagee specified in the last recorded  
50 assignment of the trust deed or mortgage;

51           (c) any address for the beneficiary, mortgagee, or servicer specified in a request for  
52 notice recorded under Section 57-1-26; or

53           (d) the address shown on any payoff statement received by the title insurer or agent  
54 from the beneficiary, mortgagee, or servicer.

55           (4) The notice of intent to release or reconvey shall contain the name of the beneficiary  
56 or mortgagee and the servicer if loan payments on the trust deed or mortgage are collected by a  
57 servicer, the name of the title insurer or title agent, the date, and be substantially in the  
58 following form:

59 NOTICE OF INTENT TO RELEASE OR RECONVEY

60 Notice is hereby given to you as follows:

61 1. This notice concerns the (trust deed or mortgage) described as follows:

62 (Trustor or Mortgagor): \_\_\_\_\_

63 (Beneficiary or Mortgagee): \_\_\_\_\_

64 Recording information: \_\_\_\_\_

65 Entry Number: \_\_\_\_\_

66 Book Number: \_\_\_\_\_

67 Page Number: \_\_\_\_\_

68 2. The undersigned claims [~~to have paid in full or possesses satisfactory evidence of~~  
69 ~~the full payment of the obligation secured by the trust deed or mortgage described above]~~ or  
70 possesses satisfactory evidence that the obligation secured by the trust deed or mortgage was  
71 paid in full or that the obligation secured by the trust deed or mortgage was partially paid in an  
72 amount agreed to by the beneficiary, mortgagee, or servicer as sufficient to satisfy the  
73 obligation and obtain a release of the mortgage or reconveyance of the trust deed.

74 3. The undersigned will fully release the mortgage or reconvey the trust deed described  
75 in this notice unless, within 60 days from the date stated on this notice, the undersigned has  
76 received by certified mail a notice stating that the obligation secured by the trust deed or  
77 mortgage has not been paid in full [~~or that you otherwise object~~], that satisfaction in an amount  
78 less than the whole obligation was not agreed to or was not received by the beneficiary,  
79 mortgagee, or servicer, or that the beneficiary, mortgagee, or servicer otherwise objects to the  
80 release of the mortgage or the reconveyance of the trust deed. Notice shall be mailed to the  
81 address stated on this form.

82 (Signature of title insurer or title agent)

83 (Address of title insurer or title agent)

84 (5) (a) If, within 60 days from the day on which the title insurer or title agent delivered  
85 the notice of intent to release or reconvey in accordance with Subsections (3) and (4), a  
86 reconveyance of trust deed or release of mortgage is not recorded, and the beneficiary,  
87 mortgagee, or servicer does not send by certified mail to the title insurer or title agent a notice  
88 that the obligation secured by the trust deed or mortgage has not been paid in full, that  
89 satisfaction in an amount less than the whole obligation was not agreed to or was not received

90 by the beneficiary, mortgagee, or servicer, or that the beneficiary, mortgagee, or servicer  
91 objects to the release of the mortgage or reconveyance of the trust deed, the title insurer or title  
92 agent may execute, acknowledge, and record a reconveyance of a trust deed or release of a  
93 mortgage.

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

96 RECONVEYANCE OF TRUST DEED

97 (Name of title insurer or title agent), a (title insurer or title agent) authorized to conduct  
98 business in the state does hereby reconvey, without warranty, the following trust property  
99 located in (name of county) County, state of Utah, that is covered by a trust deed naming (name  
100 of trustor) as trustor, and (name of beneficiary) as beneficiary and was recorded on (date) in  
101 Book \_\_\_\_\_ at Page \_\_\_\_\_ as Entry Number \_\_\_\_\_: (insert a description of the  
102 trust property.)

103 The undersigned title insurer or title agent certifies as follows:

104 1. The undersigned title insurer or title agent:

105 a. has fully paid the obligation secured by the trust deed [~~or~~];

106 b. has partially paid the obligation secured by the trust deed in an amount agreed to by  
107 the beneficiary or servicer as sufficient to satisfy the obligation;

108 c. possesses satisfactory evidence of [~~the~~] full payment of the obligation secured by the  
109 trust deed[-]; or

110 d. possesses satisfactory evidence of partial payment of the obligation secured by the  
111 trust deed in an amount agreed to by the beneficiary or servicer as sufficient to satisfy the  
112 obligation.

113 2. In accordance with the requirements of Utah Code Annotated Subsections  
114 57-1-40(3) and (4), the title insurer or title agent delivered to the beneficiary or servicer, a  
115 notice of intent to release or reconvey and a copy of the reconveyance.

116 3. The trust deed has not been reconveyed and the title insurer or title agent did not  
117 receive, within 60 days from the day on which the title insurer or title agent delivered the notice  
118 of intent to release or reconvey, a notice from the beneficiary or servicer sent by certified mail  
119 that the obligation secured by the trust deed has not been paid in full, that satisfaction in an  
120 amount less than the whole obligation secured by the trust deed was not agreed to or was not

121 received by the beneficiary or servicer, or that the beneficiary or servicer objects to the  
122 reconveyance of the trust deed.

123 \_\_\_\_\_  
124 (Notarization) (Signature of title insurer or title agent)

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

127 RELEASE OF MORTGAGE

128 (Name of title insurer or title agent), a (title insurer or title agent) authorized to conduct  
129 business in the state does hereby release the mortgage on the following property located in  
130 (name of county) County, state of Utah, that is covered by a mortgage naming (name of  
131 mortgagor) as mortgagor, and (name of mortgagee) as mortgagee and was recorded on (date) in  
132 Book \_\_\_\_\_ at Page \_\_\_\_\_ as Entry Number \_\_\_\_\_: (insert a description of the  
133 trust property.)

134 The undersigned title insurer or title agent certifies as follows:

135 1. The undersigned title insurer or title agent:

136 a. has fully paid the obligation secured by the mortgage [~~or~~];

137 b. has partially paid the obligation secured by the mortgage in an amount agreed to by  
138 the mortgagee or servicer as sufficient to satisfy the obligation;

139 c. possesses satisfactory evidence of [~~the~~] full payment of the obligation secured by the  
140 mortgage[~~;~~]; or

141 d. possesses satisfactory evidence of partial payment of the obligation secured by the  
142 mortgage in an amount agreed to by the mortgagee or servicer as sufficient to satisfy the  
143 obligation.

144 2. In accordance with the requirements of Utah Code Annotated Subsections  
145 57-1-40(3) and (4), the title insurer or title agent delivered to the mortgagee or servicer a notice  
146 of intent to release or reconvey.

147 3. The mortgage has not been released and the title insurer or title agent did not  
148 receive, within 60 days from the day on which the title insurer or title agent delivered the notice  
149 of intent to release or reconvey, a notice from the mortgagee or servicer sent by certified mail  
150 that the obligation secured by the mortgage has not been paid in full, that satisfaction in an  
151 amount less than the whole obligation secured by the mortgage was not agreed to or was not

152 received by the mortgagee or servicer, or that the mortgagee or servicer objects to the release of  
153 the mortgage.

154 \_\_\_\_\_

155 (Notarization) (Signature of title insurer or title agent)

156 (d) (i) A release of mortgage or reconveyance of trust deed that is executed and  
157 notarized in accordance with Subsection (5)(b) or (c) is entitled to recordation.

158 (ii) (A) Except as provided in Subsection (5)(d)(ii)(B), a reconveyance of a trust deed  
159 or release of a mortgage that is recorded under Subsection (5)(d)(i) is valid regardless of any  
160 deficiency in the release or reconveyance procedure not disclosed in the release of mortgage or  
161 reconveyance of trust deed.

162 (B) If the title insurer's or title agent's signature on a release of mortgage or  
163 reconveyance of trust deed recorded under Subsection (5)(d)(ii)(A) is forged, the release of  
164 mortgage or reconveyance of trust deed is void.

165 (6) A release of mortgage or reconveyance of trust deed under this section does not, by  
166 itself, discharge any promissory note or other obligation that was secured by the trust deed or  
167 mortgage at the time the trust deed was reconveyed or the mortgage was released.

167a **⚡→ (7) This section does not limit or modify the application of Section 57-1-33.1. ←⚡**

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**Legislative Review Note**  
as of **2-27-13 3:54 PM**

**Office of Legislative Research and General Counsel**