

SHORT SALE AMENDMENTS

2013 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Marc K. Roberts

Senate Sponsor: _____

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

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.

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

Office of Legislative Research and General Counsel