

HOUSE BILL No. 2125

AN ACT relating to mortgages on real property; concerning the entry of satisfaction; fees; amending K.S.A. 2004 Supp. 58-2309a and repealing the existing section.

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

Section 1. K.S.A. 2004 Supp. 58-2309a is hereby amended to read as follows: 58-2309a. (a) When the indebtedness secured by a recorded mortgage is paid and there is no agreement for the making of future advances to be secured by the mortgage, the mortgagee or the mortgagee's assignee shall enter satisfaction or cause satisfaction of such mortgage to be entered of record forthwith, paying the required fee. *The fee may be collected from the mortgagor pursuant to K.S.A. 16-207, and amendments thereto, except that the failure of the mortgagor to pay such fee shall not relieve the mortgagee or the mortgagee's assignee from entering satisfaction of such mortgage in compliance with the provisions of this section.* In the event the mortgagee or the mortgagee's assignee fails to enter satisfaction or cause satisfaction of such mortgage to be entered within 20 days after written demand by certified or registered mail, the lender or a designated closing agent acting as a closing agent in the sale, financing or refinancing of the real estate subject to such mortgage, who upon reliance of written payoff information provided by the mortgagee, and which payoff information shall be deemed as the correct and full amount due and owing under such mortgage, has caused the indebtedness to be paid in full may cause satisfaction of the mortgage to be entered. If in fact the mortgagee or mortgagee's assignee was not paid in accordance with the aforesaid payoff information when the mortgage was released the lender or the closing agent in the sale, financing or refinancing of the real estate subject to such mortgage who signed the false release shall be liable in damages to the mortgagee or mortgagee's assignee for the entire indebtedness together with interest thereon, attorney fees, and any additional damages that the mortgagee or mortgagee's assignee has incurred. Upon recording of such satisfaction by the lender or closing agent in the sale, financing or refinancing of the real estate subject to such mortgage, who has caused the indebtedness to be paid in full, such mortgage shall be deemed fully released as if discharged by the mortgagee or mortgagee's assignee.

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

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

- (1) A mortgagor, a mortgagor's heirs or assigns or anyone acting for such mortgagor, heirs or assigns;
- (2) an owner of real estate upon which a mortgage has been recorded by someone having no interest in the real estate; or
- (3) a lender or designated closing agent acting as a closing agent in the sale, financing or refinancing of the real estate subject to such mortgage.

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

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

Sec. 2. K.S.A. 2004 Supp. 58-2309a is hereby repealed.

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

I hereby certify that the above BILL originated in the HOUSE, and passed that body

Speaker of the House.

Chief Clerk of the House.

Passed the SENATE _____

President of the Senate.

Secretary of the Senate.

APPROVED _____

Governor.