

SENATE BILL NO. 2184

Introduced by

Senator Holmberg

1 A BILL for an Act to create and enact two new sections to chapter 35-03 of the North Dakota
2 Century Code, relating to the satisfaction of a mortgage; and to provide for an application.

3 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

4 **SECTION 1.** Two new sections to chapter 35-03 of the North Dakota Century Code are
5 created and enacted as follows:

6 **Certificate of mortgage satisfactory by assignee.**

- 7 1. A satisfaction of mortgage that complies with this section is effective to discharge
8 the mortgage even if one or more assignments of the mortgage have not been
9 recorded or filed.
- 10 2. The satisfaction must identify the mortgagor and the original mortgagee, have the
11 legal description and recording information of the mortgage, and make a statement
12 that the assignee is the present holder, owner, or successor of the original
13 mortgagee. The satisfaction must be executed and acknowledged by a duly
14 authorized officer or duly appointed agent of the assignee.
- 15 3. A satisfaction that contains the required information and statements and is duly
16 executed is prima facie evidence of the facts contained in the satisfaction and the
17 county recorder shall record the satisfaction. When recorded, the satisfaction
18 operates as any other satisfaction of the mortgage. Recording a wrongful,
19 erroneous, or unauthorized satisfaction does not relieve the mortgagor or the
20 mortgagor's successors or assigns from liability on the loan or other obligation
21 secured by the mortgage. In addition to any other remedy provided by law, an
22 assignee who wrongfully or erroneously executes a satisfaction under this section
23 is liable to the mortgagee or an assignee for actual damage sustained due to the

1 recording of the satisfaction and reasonable attorney's fees, costs, and
2 disbursements incurred in the enforcement of this section.
3 4. If a mortgage is recorded in more than one county and a satisfaction is recorded in
4 one county, a certified copy of the satisfaction may be recorded in any other county
5 with the same effect as the original. The county recorder shall index the
6 satisfaction as any other satisfaction of the mortgage.

7 **Authority of mortgagee designated as nominee or agent.** An assignment,
8 satisfaction, or release assigns, satisfies, or releases a mortgage if a mortgage is granted to a
9 mortgagee as nominee or agent for a third party identified in the mortgage, including the
10 third-party's successors and assigns; a subsequent assignment satisfaction or release of the
11 mortgage is executed by the mortgagee or the third party, including the third-party's successors
12 or assigns; and the assignment, satisfaction, or release is in recordable form. The county
13 recorder shall rely upon the assignment, satisfaction, or release of the mortgage made under
14 this section.

15 **SECTION 2. APPLICATION.** This Act applies to any satisfaction of a mortgage
16 executed, recorded, or filed before, on, or after the effective date of this Act.