

State of South Dakota

SEVENTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2002

490H0173

HOUSE BILL NO. 1226

Introduced by: Representatives Jaspers, Glenski, McCaulley, and Wick and Senators
Daugaard and Whiting

1 FOR AN ACT ENTITLED, An Act to eliminate certain waiting periods and notice requirements
2 associated with certificates of release for mortgages.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 44-8-30 be amended to read as follows:

5 44-8-30. Any officer or duly appointed agent of a title insurance company may, on behalf of
6 a mortgagor or a person who acquired from the mortgagor title to all or a part of the property
7 described in a mortgage, execute a certificate of release that complies with the requirements of
8 §§ 44-8-30 to 44-8-35, inclusive, and record the certificate of release in the real property records
9 of each county in which the mortgage is recorded if:

10 ~~(1)~~ A a satisfaction or release of the mortgage has not been executed and recorded ~~within~~
11 ~~sixty days~~ after the date payment in full of the loan secured by the mortgage was sent
12 in accordance with a payoff statement furnished by the mortgagee or the mortgage
13 servicer; ~~and~~

14 ~~(2)~~ ~~The title insurance company, its officer, or agent has sent to the last known address~~
15 ~~of the mortgagee or the mortgage servicer, at least thirty days before executing the~~



1 ~~certificate of release, written notice of its intention to execute and record a certificate~~
2 ~~of release in accordance with §§ 44-8-30 to 44-8-35, inclusive, after the expiration~~
3 ~~of the sixty-day period.~~

4 Section 2. That § 44-8-31 be amended to read as follows:

5 44-8-31. A certificate of release executed under §§ 44-8-30 to 44-8-35, inclusive, shall
6 contain substantially all of the following:

- 7 (1) The name of the mortgagor; the name of the original mortgagee; if applicable, the
8 mortgage servicer; the date of the mortgage; the date of recording; and the volume
9 and page or document number in the real property records where the mortgage is
10 recorded; together with similar information for the last recorded assignment of the
11 mortgage;
- 12 (2) A statement that the mortgage was in the original principal amount of five hundred
13 thousand dollars or less;
- 14 (3) A statement that the person executing the certificate of release is an officer or a duly
15 appointed agent of a title insurance company authorized and licensed to transact the
16 business ~~or~~ of insuring titles to interests in real property in this state under chapter
17 58-25;
- 18 (4) A statement that the certificate of release is made on behalf of the mortgagor or a
19 person who acquired title from the mortgagor to all or a part of the property
20 described in the mortgage;
- 21 (5) A statement that the mortgagee or mortgage servicer provided a payoff statement that
22 was used to make payment in full of the unpaid balance of the loan secured by the
23 mortgage; and
- 24 (6) A statement that payment in full of the unpaid balance of the loan secured by the

1 mortgage was made in accordance with the written or verbal payoff statement, and
2 received by the mortgagee or mortgage servicer, as evidenced by one or more of the
3 following in the records of the title insurance company or its agent: a bank check,
4 certified check, escrow account check from the title company or title insurance agent,
5 or attorney trust account check that has been negotiated by the mortgagee or
6 mortgage servicer, or other documentary evidence of payment to the mortgage or
7 mortgage servicer;

8 ~~(7) A statement that more than sixty days have elapsed since the date payment in full was~~
9 ~~sent;~~

10 ~~(8) A statement that after the expiration of the sixty-day period the title insurance~~
11 ~~company, its officer, or agent sent to the last known address of the mortgagee or~~
12 ~~mortgage servicer, at least thirty days before executing the certificate of release,~~
13 ~~notice in writing of its intention to execute and record a certificate of release in~~
14 ~~accordance with §§ 44-8-30 to 44-8-35, inclusive, with an unexecuted copy of the~~
15 ~~proposed certificate of release attached to the written notice; and~~

16 ~~(9) A statement that the title insurance company, its officer, or agent has not received~~
17 ~~notification in writing of any reason why the certificate of release should not be~~
18 ~~executed and recorded after the expiration of the thirty-day notice period.~~