

State of South Dakota

SEVENTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2002

490H0173

SENATE COMMERCE COMMITTEE ENGROSSED NO.

HB 1226 - 02/12/2002

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 received in accordance with a payoff statement furnished by the mortgagee or the
13 mortgage servicer; ~~and~~

14 ~~—(2)—~~ The title insurance company, its officer, or agent has sent to the last known address



1 ~~of the mortgagee or the mortgage servicer, at least thirty days before executing the~~
2 ~~certificate of release, written notice of its intention to execute and record a certificate~~
3 ~~of release in accordance with §§ 44-8-30 to 44-8-35, inclusive, after the expiration~~
4 ~~of the sixty-day period.~~

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

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

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

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

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

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

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