



## 101ST GENERAL ASSEMBLY

### State of Illinois

2019 and 2020

SB1657

Introduced 2/15/2019, by Sen. Laura M. Murphy

#### SYNOPSIS AS INTRODUCED:

765 ILCS 905/2  
765 ILCS 905/4

from Ch. 95, par. 52  
from Ch. 95, par. 54

Amends the Mortgage Act. Adds a person authorized by the mortgagor, grantor, heir, legal representative, or assign to the list of those who may request that the mortgagee of real property shall make, execute, and deliver an instrument in writing releasing a mortgage or deed of trust. Provides that if any mortgagee or trustee shall not, within 30 days (rather than "one month") after the payment of the debt secured by the mortgage or trust deed complies with specific requirements, then he or she shall be liable for the sum of \$200 to the aggrieved party. Provides that the successor in interest to the mortgagee or trustee shall not be liable for the \$200 penalty if he or she complies with specific requirements within 30 days (rather than "one month") after succeeding to the interest.

LRB101 09638 LNS 54736 b

1 AN ACT concerning civil law.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Mortgage Act is amended by changing Sections  
5 2 and 4 as follows:

6 (765 ILCS 905/2) (from Ch. 95, par. 52)

7 Sec. 2. Every mortgagee of real property, his or her  
8 assignee of record, or other legal representative, having  
9 received full satisfaction and payment of all such sum or sums  
10 of money as are really due to him or her from the mortgagor,  
11 and every trustee, or his or her successor in trust, in a deed  
12 of trust in the nature of a mortgage, the notes, bonds or other  
13 indebtedness secured thereby having been fully paid before  
14 September 7, 1973, shall, at the request of the mortgagor, or  
15 grantor in a deed of trust in the nature of a mortgage, his or  
16 her heirs, legal representatives or assigns, or a person  
17 authorized by such mortgagor, grantor, heir, legal  
18 representative, or assign, in case such mortgage or trust deed  
19 has been recorded or registered, make, execute and deliver to  
20 the mortgagor or grantor in a deed of trust in the nature of a  
21 mortgage, his or her heirs, legal representatives or assigns,  
22 or a person authorized by the mortgagor, grantor, heir, legal  
23 representative, or assign, an instrument in writing executed in

1 conformity with the provisions of this Section ~~section~~  
2 releasing such mortgage or deed of trust in the nature of a  
3 mortgage, which release shall be entitled to be recorded or  
4 registered and the recorder or registrar upon receipt of such a  
5 release and the payment of the recording fee therefor shall  
6 record or register the same.

7 Mortgages of real property and deeds of trust in the nature  
8 of a mortgage shall be released of record only in the manner  
9 provided herein or as provided in the Mortgage Certificate of  
10 Release Act; however, nothing contained in this Act shall in  
11 any manner affect the validity of any release of a mortgage or  
12 deed of trust made prior to January 1, 1952 on the margin of  
13 the record.

14 Except in the case of a mortgage that is required to be  
15 released under the Mortgage Certificate of Release Act, every  
16 mortgagee of real property, his or her assignee of record, or  
17 other legal representative, having received full satisfaction  
18 and payment of all such sum or sums of money as are really due  
19 to him or her from the mortgagor, and every trustee, or his or  
20 her successor in trust, in a deed of trust in the nature of a  
21 mortgage, the notes, bonds or other indebtedness secured  
22 thereby having been fully paid after September 7, 1973, shall  
23 make, execute and deliver to the mortgagor or grantor in a deed  
24 of trust in the nature of a mortgage, his or her heirs, legal  
25 representatives or assigns, or person authorized by such  
26 mortgagor, grantor, heir, legal representative, or assign, an

1 instrument in writing releasing such mortgage or deed of trust  
2 in the nature of a mortgage or shall deliver that release to  
3 the recorder or registrar for recording or registering. If the  
4 release is delivered to the mortgagor or grantor, it must have  
5 imprinted on its face in bold letters at least 1/4 inch in  
6 height the following: "FOR THE PROTECTION OF THE OWNER, THIS  
7 RELEASE SHALL BE FILED WITH THE RECORDER OR THE REGISTRAR OF  
8 TITLES IN WHOSE OFFICE THE MORTGAGE OR DEED OF TRUST WAS  
9 FILED". The recorder, or registrar, upon receipt of such a  
10 release and the payment of the recording or registration fee,  
11 shall record or register the release. A certificate of release  
12 issued and recorded by a title insurance company or its duly  
13 appointed agent pursuant to the Mortgage Certificate of Release  
14 Act shall satisfy the requirements of this Section 2.

15 (Source: P.A. 92-765, eff. 8-6-02; 93-428, eff. 12-31-03.)

16 (765 ILCS 905/4) (from Ch. 95, par. 54)

17 Sec. 4. If any mortgagee or trustee, in a deed in the  
18 nature of a mortgage, of real property, or his or her executor  
19 or administrator, heirs or assigns, knowing the same to be  
20 paid, shall not, within 30 days ~~one month~~ after the payment of  
21 the debt secured by such mortgage or trust deed, comply with  
22 the requirements of Section 2 of this Act, he or she shall, for  
23 every such offense, be liable for and pay to the party  
24 aggrieved the sum of \$200 which may be recovered by the party  
25 aggrieved in a civil action, together with reasonable

1 attorney's fees. In any such action, introduction of a loan  
2 payment book or receipt which indicates that the obligation has  
3 been paid shall be sufficient evidence to raise a presumption  
4 that the obligation has been paid. Upon a finding for the party  
5 aggrieved, the court shall order the mortgagee or trustee, or  
6 his or her executor or administrator, heirs or assigns, to  
7 make, execute and deliver the release as provided in Section 2  
8 of this Act. The successor in interest to the mortgagee or  
9 trustee in a deed in the nature of a mortgage shall not be  
10 liable for the penalty prescribed in this Section if he or she  
11 complies with the requirements of Section 2 of this Act within  
12 30 days ~~one month~~ after succeeding to the interest.

13 (Source: P.A. 78-587.)