

Senate File 2138 - Introduced

SENATE FILE 2138
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 3013)

A BILL FOR

1 An Act relating to mortgage releases.

2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 535B.11, subsection 5, Code 2018, is
2 amended by striking the subsection.

3 Sec. 2. Section 655.1, Code 2018, is amended to read as
4 follows:

5 **655.1 Written instrument acknowledging satisfaction.**

6 When the amount due on a mortgage is paid off, the mortgagee,
7 the mortgagee's personal representative or assignee, or those
8 legally acting for the mortgagee, and in case of payment
9 of a school fund mortgage the county auditor, ~~must~~ within
10 thirty days of payment in full, shall acknowledge satisfaction
11 thereof by execution of an instrument of satisfaction which
12 is in writing, referring refers to the mortgage, and is duly
13 acknowledged and recorded. Notwithstanding the foregoing,
14 if the mortgage secures a revolving line of credit, future
15 advances, or other future obligations, the mortgagee is not
16 required to file a satisfaction upon payment in full unless
17 the mortgagor makes a written request to the mortgagee that
18 the mortgage be released and, if such written request is made,
19 the mortgagee shall file the release within thirty days after
20 payment in full or such written request is made whichever
21 occurs later.

22 Sec. 3. Section 655.3, Code 2018, is amended to read as
23 follows:

24 **655.3 Penalty for failure to discharge.**

25 If a mortgagee, or a mortgagee's personal representative
26 or assignee, upon full performance of the conditions of the
27 mortgage, fails to discharge such mortgage ~~within thirty days~~
28 ~~after a request for discharge as set forth in section 655.1,~~
29 the mortgagee is liable to the mortgagor and the mortgagor's
30 heirs or assigns, for all actual damages caused by such
31 failure and a penalty of five hundred dollars, including plus
32 reasonable attorney fees. A claim for such damages may be
33 asserted in an action for discharge of the mortgage. ~~If the~~
34 ~~defendant is not a resident of this state, such action may~~
35 ~~be maintained upon the expiration of thirty days after the~~

1 ~~conditions of the mortgage have been performed, without such~~
2 ~~previous request or tender.~~

3 Sec. 4. Section 655.5, Code 2018, is amended to read as
4 follows:

5 **655.5 Instrument of satisfaction.**

6 When the judgment is paid in full, the mortgagee shall file
7 with the clerk a satisfaction of judgment which shall release
8 the mortgage underlying the action. A mortgagee who fails to
9 file a satisfaction within thirty days of receiving a written
10 request shall be subject to reasonable damages and a penalty of
11 ~~one~~ five hundred dollars plus reasonable attorney fees incurred
12 by the aggrieved party, to be recovered in an action for the
13 satisfaction by the party aggrieved.

14 Sec. 5. NEW SECTION. **655.6 Limitation of liability.**

15 A mortgagee is not liable under section 655.3 if all of the
16 following apply:

- 17 1. The mortgagee established reasonable procedures to
18 achieve compliance with its obligations under 655.3.
- 19 2. The mortgagee complied with that procedure in good faith.
- 20 3. The mortgagee was unable to comply with its obligations
21 because of circumstances beyond its control.

22 **EXPLANATION**

23 The inclusion of this explanation does not constitute agreement with
24 the explanation's substance by the members of the general assembly.

25 This bill relates to mortgage releases. The bill strikes
26 Code section 535B.11(5), which leaves Code chapter 655 as the
27 sole standard and set of remedies.

28 The bill amends Code section 655.1 to require that within 30
29 days of a mortgagor fully paying off a mortgage, a mortgagee
30 must execute, acknowledge, and record a written instrument of
31 satisfaction referring to the mortgage. The bill provides that
32 if the mortgage secures a revolving line of credit, future
33 advances, or other future obligations, the mortgagee is not
34 required to file a satisfaction upon payment in full unless the
35 mortgagor makes a written request to the mortgagee that the

1 mortgage be released and, if such written request is made, the
2 mortgagee shall file the release within 30 days after payment
3 in full or after the request is made whichever occurs later.

4 The bill amends Code section 655.3 to establish a penalty
5 of \$500 and to allow reasonable attorney fees to be awarded
6 in addition to rather than included in, actual damages,
7 where a mortgagee, or a mortgagee's personal representative
8 or assignee, upon full performance of the conditions of the
9 mortgage, fails to discharge such mortgage as set forth in
10 Code section 655.1. The bill eliminates an authorization that
11 provides that if the defendant is not a resident of this state,
12 such action may be maintained upon the expiration of 30 days
13 after the conditions of the mortgage have been performed,
14 without such previous request of tender.

15 The bill also amends Code section 655.5 to increase the
16 penalty from \$100 to \$500 if a mortgagee fails to file a
17 satisfaction of judgment within 30 days of receiving a written
18 request.

19 The bill creates new Code section 655.6 to provide that a
20 mortgagee is not liable under Code section 655.3 if all of the
21 following circumstances are present: the mortgagee established
22 reasonable procedures to achieve compliance with its
23 obligations under Code section 655.3; the mortgagee complied
24 with that procedure in good faith; and the mortgagee was unable
25 to comply with its obligations because of circumstances beyond
26 its control.