

Senate Study Bill 3013 - Introduced

SENATE FILE _____
BY (PROPOSED COMMITTEE
ON JUDICIARY BILL BY
CHAIRPERSON ZAUN)

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, then the
15 mortgagee is not required to file a satisfaction upon payment
16 in full unless the mortgagor makes a written request to the
17 mortgagee that the mortgage be released.

18 Sec. 3. Section 655.3, Code 2018, is amended to read as
19 follows:

20 **655.3 Penalty for failure to discharge.**

21 If a mortgagee, or a mortgagee's personal representative
22 or assignee, upon full performance of the conditions of the
23 mortgage, fails to discharge such mortgage within thirty days
24 after a request for discharge, the mortgagee is liable to the
25 mortgagor and the mortgagor's heirs or assigns, for all actual
26 damages caused by such failure and a penalty of five hundred
27 dollars, including plus reasonable attorney fees. A claim for
28 such damages may be asserted in an action for discharge of the
29 mortgage. If the defendant is not a resident of this state,
30 such action may be maintained upon the expiration of thirty
31 days after the conditions of the mortgage have been performed,
32 without such previous request or tender.

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

35 **655.5 Instrument of satisfaction.**

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

9 EXPLANATION

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

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

15 The bill amends Code section 655.1 to require that within 30
16 days of a mortgagor fully paying off a mortgage, a mortgagee
17 must execute, acknowledge, and record a written instrument of
18 satisfaction referring to the mortgage. The bill provides that
19 if the mortgage secures a revolving line of credit, then the
20 mortgagee is not required to file a satisfaction upon payment
21 in full unless the mortgagor makes a written request to the
22 mortgagee that the mortgage be released.

23 The bill amends Code section 655.3 to establish a penalty
24 of \$500 and to allow reasonable attorney fees to be awarded
25 in addition to rather than included in, actual damages,
26 where a mortgagee, or a mortgagee's personal representative
27 or assignee, upon full performance of the conditions of the
28 mortgage, fails to discharge such mortgage within 30 days after
29 a request for discharge.

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