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Wisconsin Enacts Provisions Regarding Mortgage Satisfaction and Real Estate Transfer Fees

By Matthew Dailey, Esq.

The state of Wisconsin enacted provisions relating to mortgage satisfaction and an exception to the real estate transfer fee. The bill replaces the old provisions with mortgage satisfaction provisions that are similar to the Uniform Residential Mortgage Satisfaction Act (URMSA). These provisions are effective immediately.

Under the bill, a creditor who has a security interest in real property must record a satisfaction of the mortgage within 30 days after the secured creditor receives full payment of the secured obligation or payment as provided in a payoff statement provided by the creditor to the landowner or other person authorized to request a payoff statement. If the creditor does not do so within the required time, the creditor is liable for damages.

The bill provides another way to satisfy mortgages on residential real property by recording an affidavit of satisfaction. Here, after full performance or payoff, a "satisfaction agent" authorized by the owner may give the secured creditor notice that the satisfaction agent may record an affidavit of satisfaction of the security instrument. The agent must be a title insurance company acting directly or through an authorized agent. The bill specifies the information that must be contained in the notice that is sent to the creditor, such as that the satisfaction agent has reasonable grounds to believe that the property is residential real property and that the secured creditor has received full payment.

After providing the notice, the satisfaction agent may submit the "affidavit of satisfaction" to the register of deeds for recording if the secured creditor authorizes the satisfaction agent to do so or if the secured creditor does not, within 30 days after receiving the notice, record a satisfaction. The satisfaction agent may not record the affidavit of satisfaction, however, if the agent receives notice from the secured creditor that the security instrument has been assigned, in which case the satisfaction agent must provide the notice to record an affidavit of satisfaction to the assignee, or that the secured obligation has not been satisfied, unless the satisfaction agent has reasonable grounds to believe that a person paid an understated payoff amount on which the person reasonably and detrimentally relied. The bill contains penalties against a satisfaction agent who records an affidavit of satisfaction by mistake or with knowledge that the statements in the affidavit are false. A satisfaction agent can charge fees for providing the notice and preparing and executing the affidavit.

The bill also provides for the recording of rescission, which voids a mistakenly recorded satisfaction or affidavit of satisfaction and keeps the mortgage as valid.

REAL ESTATE TRANSFER FEES

Under current law, a real estate transfer fee must be paid when an ownership interest in real property is transferred. There is an exception however when property valued at or under $100 is transferred. The bill changes this real property value amount for the exception to $1,000 or less.

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