

2013 DRAFTING REQUEST

Bill

Received: **9/21/2012** Received By: **pkahler**
Wanted: **As time permits** Same as LRB: **-2805**
For: **Duey Stroebel (608) 267-2369** By/Representing: **John Soper**
May Contact: **Peter Christianson** Drafter: **pkahler**
Subject: **Real Estate - miscellaneous** Addl. Drafters:
Extra Copies:

Submit via email: **YES**
Requester's email: **rep.stroebel@legis.wisconsin.gov**
Carbon copy (CC) to: **Fern.Knepp@legis.wisconsin.gov**
aaron.gary@legis.wisconsin.gov

Pre Topic:

No specific pre topic given

Topic:

Mortgage satisfaction requirements

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	pkahler 9/25/2012	evinz 10/4/2012		_____			
/P1	pkahler 12/5/2012		rschluet 10/4/2012	_____	srose 10/4/2012		State Tax
/1	pkahler 4/24/2013	evinz 12/7/2012	jmurphy 12/10/2012	_____	sbasford 12/10/2012		State Tax

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/2	pkahler 7/18/2013	evinz 4/25/2013	phenry 4/25/2013	_____	sbasford 4/25/2013		State Tax
/3	pkahler 8/7/2013	evinz 7/18/2013	jfrantze 7/18/2013	_____	sbasford 7/18/2013		State Tax
/4		evinz 8/14/2013	rschluet 8/15/2013	_____	sbasford 8/15/2013	lparisi 9/5/2013	State Tax

FE Sent For:

7/30/2013 ~~12:00:00 AM~~

<END>

(1/3)

OLD
VERSION

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intro

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7/30/2013 12:00:00 AM

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14 eev
8/14/13

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07-30-2013
("13")

see attached

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FE Sent For:

13 eev
2/18/13

Jo 7/18

<END>

2013 DRAFTING REQUEST

Bill

Received: 9/21/2012
Wanted: As time permits
For: Dale Kooyenga (608) 266-9180
May Contact: Peter Christianson
Subject: Real Estate - miscellaneous

Received By: pkahler
Same as LRB:
By/Representing: Bill Neville
Drafter: pkahler
Addl. Drafters:
Extra Copies:

Note new requests

Submit via email: YES
Requester's email: Rep.Kooyenga@legis.wi.gov
Carbon copy (CC) to: Fern.Knepp@legis.wisconsin.gov

Pre Topic:

No specific pre topic given

Topic:

Mortgage satisfaction requirements

Instructions:

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12 ee 4/24/13

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Wanted: **As time permits** Companion to LRB:
For: **Dale Kooyenga (608) 266-9180** By/Representing: **Bill Neville**
May Contact: **Peter Christianson** Drafter: **pkahler**
Subject: **Real Estate - miscellaneous** Addl. Drafters:
Extra Copies:

Submit via email: **YES**
Requester's email: **Rep.Kooyenga@legis.wi.gov**
Carbon copy (CC) to: **Fern.Knepp@legis.wisconsin.gov**

Pre Topic:

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Topic:

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1 eev 12/7/12 1 eev 12/7/12 Jm 12/7/12

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/?	pkahler	/pl cev 10/1/12 /pl sac 10/1/12			_____	_____	_____

FE Sent For:

<END>

Kahler, Pam

From: Peter C. Christianson <pcc@dewittross.com>
Sent: Wednesday, September 19, 2012 3:13 PM
To: Kahler, Pam
Cc: Neville, William
Subject: REVISED WLTA bill draft -- 2011 Assembly Bill 390
Attachments: [2/2]Attached Image

[#2 of 2.]

Pam --

Here is the document I discussed during our conversation a few minutes ago. I have copied Bill in Rep. Kooyenga's office.

Please let me know if you have any questions.

IRS Circular 230 Disclosure: To comply with requirements imposed by the IRS, we inform you that any U.S. federal tax advice contained herein (including any attachments), unless specifically stated otherwise, is not intended or written to be used, and cannot be used, for the purposes of (i) avoiding penalties under the Internal Revenue Code or (ii) promoting, marketing or recommending to another party any transaction or matter herein.

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Kahler, Pam

From: Peter C. Christianson <pcc@dewittross.com>
Sent: Wednesday, September 19, 2012 3:59 PM
To: Kahler, Pam
Subject: RE: REVISED WLTA bill draft -- 2011 Assembly Bill 390

Nope. You have it all – 13 pages total. 1-6 minus 9-11. Complicated, eh?

From: Kahler, Pam [<mailto:Pam.Kahler@legis.wisconsin.gov>]
Sent: Wednesday, September 19, 2012 3:58 PM
To: Peter C. Christianson
Subject: RE: REVISED WLTA bill draft -- 2011 Assembly Bill 390

Correction – this one was missing pp. 9, 10, and 11. Are there any changes on those pages?

From: Peter C. Christianson [<mailto:pcc@dewittross.com>]
Sent: Wednesday, September 19, 2012 3:51 PM
To: Kahler, Pam
Cc: Neville, William
Subject: REVISED WLTA bill draft -- 2011 Assembly Bill 390

Did you receive this one? This is all 13 pages. This is almost comical! Almost...



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IRS Circular 230 Disclosure: To comply with requirements imposed by the IRS, we inform you that any U.S. federal tax advice contained herein (including any attachments), unless specifically stated otherwise, is not intended or written to be used, and cannot be used, for the purposes of (i) avoiding penalties under the Internal Revenue Code or (ii) promoting, marketing or recommending to another party any transaction or matter herein.

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State of Wisconsin
2011 - 2012 LEGISLATURE



LRB-2366/1
PJK:kjf:ph

2013

2011 ASSEMBLY BILL 390

Rep Kooyoung
amendment
in black

WMBA amendments
appear in RED.
(pages 7-8)

Bush Nielsen
amendment
appears in
BLUE;
(page 3)

November 23, 2011 - Introduced by Representative D. CULLEN, cosponsored by
Senator RISSER. Referred to Committee on Financial Institutions.

Blitenthal-Haskins-Higenbecher amendments in
GREEN

to amend
77.25(13); / 706.02(1)(f) and

- 1 AN ACT to repeal 706.05 (9) and (10); and to create 708.15 of the statutes;
- 2 relating to: mortgage satisfaction.

Analysis by the Legislative Reference Bureau

Under current law, the holder of any type of mortgage is required to record a satisfaction of mortgage within 30 days after the mortgagor completes full performance of the conditions of the mortgage. However, if the mortgage is fully performed and the mortgage-holder receives by certified mail a written request from the mortgagor for a full satisfaction, the mortgage-holder must record a satisfaction of mortgage within seven days or is liable to the mortgagor for actual damages plus penalty damages of \$100 for each day that the violation remains uncorrected, up to \$2,000 in penalty damages. This bill repeals those provisions and replaces them with mortgage satisfaction provisions that are similar to the Uniform Residential Mortgage Satisfaction Act (URMSA), except that, with the exception of affidavits of satisfaction, the new provisions apply to all mortgages, not just mortgages on residential property.

Under the bill, a creditor who has a security interest in real property must record a satisfaction of the security instrument (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. If the creditor does not do so within the required time, the creditor is liable to the landowner for \$500, plus any actual damages and reasonable attorney fees and court costs, but no punitive damages.

The bill provides another mortgage satisfaction option for mortgages on residential real property: recording an affidavit of satisfaction of a security

ASSEMBLY BILL 390

instrument. Under this option, if a secured creditor has not recorded a mortgage satisfaction within 30 days after full performance or payment as provided in a payoff statement by the residential property owner, 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. Under the bill, only a title insurance company acting directly or through an authorized agent may act as a satisfaction agent. The bill specifies the information that must be contained in the notice that is sent to the secured 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 or payment as provided in a payoff statement. 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 secured obligation has not been satisfied or 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. An affidavit of satisfaction that complies with the requirements in the bill is entitled to be recorded in the office of the register of deeds, and a recorded affidavit of satisfaction constitutes a satisfaction of the security instrument described in the affidavit. The bill contains penalties against a satisfaction agent who records an affidavit of satisfaction erroneously or with knowledge that the statements in the affidavit are false, and authorizes a satisfaction agent to charge fees for providing the notice and preparing and executing the affidavit.

The bill sets out the right of a person who is obligated under a security instrument to request a payoff statement from the secured creditor. The person or his or her authorized agent may give notice to the secured creditor requesting a payoff statement for a specified payoff date that is not more than 30 days from the date the notice is given. The secured creditor must issue a payoff statement within four days after the effective date of a notice that contains the information specified in the bill and may not charge the person for one payoff statement in any two-month period. The bill specifies the information that the payoff statement must contain, and provides penalties against a secured creditor for not sending a timely payoff statement that substantially complies with the content requirements in the bill. If the payoff amount in a payoff statement is understated, the secured creditor may send a corrected payoff statement, but the secured creditor is prohibited from denying the accuracy of the payoff amount as against any person who reasonably and detrimentally relies on the understated amount. If the secured creditor receives payment as provided in an understated payoff statement, the secured creditor must still record a satisfaction of the mortgage within 30 days but may recover from the obligated party any amount that was incorrectly not included in the payoff statement.

In addition to the security instrument satisfaction provisions, the bill specifies acceptable methods for and the effective dates of providing notice under the bill. The

ASSEMBLY BILL 390

bill also provides for the recording of a document of rescission, which rescinds an erroneously recorded satisfaction or affidavit of satisfaction, keeping the security instrument in force.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 15, 706.02 (1)(f) is repealed

1 SECTION 1a, 706.05 (9) and (10) of the statutes are repealed.

2 SECTION 2. 708.15 of the statutes is created to read:

3 708.15 Mortgage satisfaction. (1) DEFINITIONS. In this section:

4 (a) "Address for giving a notification" means, for the purpose of a particular
5 type of notification, the most recent address provided in a document by the intended
6 recipient of the notification to the person giving the notification, unless the person
7 giving the notification knows of a more accurate address, in which case the term
8 means that address.

9 (b) "Day" means calendar day.

10 (c) "Document" means information that is inscribed on a tangible medium or
11 that is stored in an electronic or other medium and is retrievable in perceivable form.

12 (d) "Electronic" means relating to technology having electrical, digital,
13 magnetic, wireless, optical, electromagnetic, or similar capabilities.

14 (e) "Entitled person" means ⁽¹⁾ a person liable for payment or performance of the
15 obligation secured by the real property described in a security instrument; ⁽²⁾ or the
16 landowner; or (3) the settlement agent.

17 (f) "Good faith" means honesty in fact and the observance of reasonable
18 commercial standards of fair dealing.

SECTION 1a. 77.25(13) is amended to read:
"(13) of real estate having a value of ~~\$100~~
\$1000 or less."

1 (g) "Landowner" or "owner" means a person that, before foreclosure, has the
2 right of redemption in the real property described in a security instrument. The term
3 does not include a person that holds only a lien on the real property.

4 (h) "Notification" means a document containing information required under
5 this section and signed by the person required to provide the information.

6 (i) "Payoff amount" means the sum necessary to satisfy a secured obligation, *as set*
7 *forth in a payoff statement by the secured creditor.*

8 (j) "Payoff statement" means a document containing the information specified
9 in sub. (3) (d).

10 (k) "Person" means an individual, corporation, business trust, estate, trust,
11 partnership, limited liability company, association, joint venture, public corporation,
12 government, or governmental subdivision, agency, or instrumentality, or any other
13 legal or commercial entity.

14 (L) "Recording data" means the date, document number, volume and page
15 number, if any, that indicate where a document is recorded in the office of the register
16 of deeds under s. 59.43.

17 (m) "Residential real property" means real property located in this state that
18 is used primarily for personal, family, or household purposes and is improved by one
19 to 4 dwelling units.

20 (n) "Secured creditor" means a person that holds or is the beneficiary of a
21 security interest or that is authorized both to receive payments on behalf of a person
22 that holds a security interest and to record a satisfaction of the security instrument
23 upon receiving full performance of the secured obligation. The term does not include
24 a trustee under a security instrument.

25 (o) "Secured obligation" means an obligation the payment or performance of
which is secured by a security interest.

ASSEMBLY BILL 390

1 (p) "Security instrument" means an agreement, however denominated, that
2 creates or provides for an interest in real property to secure payment or performance
3 of an obligation, whether or not it also creates or provides for a lien on personal
4 property.

5 (q) "Security interest" means an interest in real property created by a security
6 instrument.

7 ^(r)
(s) ~~(s)~~ "Sign" means, with present intent to authenticate or adopt a document, any
8 of the following:

- 9 1. To execute or adopt a tangible symbol.
- 10 2. To attach to or logically associate with the document an electronic sound,
11 symbol, or process.

12 (s) "State" means a state of the United States, the District of Columbia, Puerto
13 Rico, the United States Virgin Islands, or any territory or insular possession subject
14 to the jurisdiction of the United States.

15 (t) "Submit for recording" means to deliver, with required fees and taxes, a
16 document sufficient to be recorded under this section, to the office of the register of
17 deeds under s. 59.43.

18 (u) "Title insurance company" means an organization authorized to conduct the
19 business of insuring titles to real property in this state.

20 (2) NOTIFICATION: MANNER OF GIVING AND EFFECTIVE DATE. (a) A person gives a
21 notification by doing any of the following:

- 22 1. Depositing it with the U.S. Postal Service with 1st class postage paid or with
23 a commercially reasonable delivery service with cost of delivery provided, properly
24 addressed to the recipient's address for giving a notification.

(r) "Settlement agent" means the person or entity responsible for the preparation of the settlement statement for the conveyance of real property.

ASSEMBLY BILL 390

1 2. Sending it by facsimile transmission, electronic mail, or other electronic
2 transmission to the recipient's address for giving a notification, ~~(but only if the~~
3 ~~recipient agreed to receive notification in that manner.)~~

4 3. Causing it to be received at the address for giving a notification within the
5 time that it would have been received if given in the manner provided in subd. 1.

6 (b) A notification is effective at any of the following times:

7 1. The day after it is deposited with a commercially reasonable delivery service
8 for overnight delivery.

9 2. Three days after it is deposited with the U.S. Postal Service, with 1st class
10 mail with postage prepaid, or with a commercially reasonable delivery service for
11 delivery other than by overnight delivery.

12 3. The day it is given, if given as provided in par. (a) 2.

13 4. The day it is received, if given by a method other than as provided in par. (a)
14 1. or 2.

15 (c) If this section or a notification given under this section requires performance
16 on or by a certain day and that day is a Saturday, Sunday, or legal holiday under the
17 laws of this state or the United States, the performance is sufficient if performed on
18 the next day that is not a Saturday, Sunday, or legal holiday.

19 **(3) PAYOFF STATEMENT: REQUEST AND CONTENT.** (a) An entitled person ~~(or an agent~~
20 ~~authorized by an entitled person to request a payoff statement)~~ may give to the
21 secured creditor a notification requesting a payoff statement for a specified payoff
22 date not more than 30 days after the notification is given. The notification must
23 contain all of the following:

24 1. The entitled person's name.

ASSEMBLY BILL 390

1 2. If given by a person other than an entitled person, the name of the person
2 giving the notification and a statement that the person is an authorized agent of the
3 entitled person.

4 3. A direction whether the statement is to be sent to the entitled person or that
5 person's authorized agent.

6 4. The address, facsimile transmission number, or electronic mail or other
7 electronic transmission address to which the secured creditor must send the
8 statement.

9 5. Sufficient information to enable the secured creditor to identify the secured
10 obligation and the real property encumbered by the security interest.

11 (b) If a notification under par. (a) directs the secured creditor to send the payoff
12 statement to a person identified as an authorized agent of the entitled person, the
13 secured creditor must send the statement to the agent, unless the secured creditor
14 knows that the entitled person has not authorized the request.

15 (c) 1. Except as provided in subd. 2., within ^{business} 4 days after the effective date of a
16 notification that complies with par. (a), the secured creditor shall issue a payoff
17 statement and send it as directed under par. (a) 3. in the manner prescribed in sub.
18 (2) for giving a notification.

19 2. If the person to whom the notification is given once held an interest in the
20 secured obligation but has since assigned that interest, the person need not send a
21 payoff statement but shall, within ^{business} 4 days after the effective date of the notification,
22 give a notification of the assignment to the person to whom the payoff statement
23 otherwise would have been sent, providing the name and address of the assignee.

24 3. A secured creditor that sends a payoff statement to the entitled person or the
25 authorized agent may not claim that the notification did not satisfy par. (a).

ASSEMBLY BILL 390

1 (d) A payoff statement must contain all of the following:

2 1. The date on which it was prepared and the payoff amount as of that date. *If the*
3 *entitled person or agent specifically requests it, the payoff statement shall*
4 *including the amount by type of each fee, charge, or other sum included within the*
include →
payoff amount.

5 2. The information reasonably necessary to calculate the payoff amount as of
6 the requested payoff date, including the per diem interest amount, *if applicable.*

7 3. The payment cutoff time, if any, the address or place where payment,
8 including payment by electronic transmission, if available, must be made, and any
9 limitation as to the authorized method of payment.

10 (e) A payoff statement may contain the amount of any fees authorized under
11 this subsection not included in the payoff amount.

12 (f) A secured creditor may not qualify a payoff amount or state that it is subject
13 to change ~~before the payoff date unless the payoff statement provides information~~
14 ~~sufficient to permit the entitled person or the person's authorized agent to request~~
15 ~~an updated payoff amount at no charge and to obtain that updated payoff amount~~
16 ~~during the secured creditor's normal business hours on the payoff date or the~~
17 ~~immediately preceding business day.~~

18 (g) A secured creditor must provide upon request one payoff statement without
19 charge during any 2-month period. A secured creditor may charge a fee of \$25 for
20 each additional payoff statement requested during that 2-month period. However,
21 a secured creditor may not charge a fee for providing an updated payoff amount
22 under par. (f) or a corrected payoff statement under sub. (4) (a).

23 (h) Except as otherwise provided in sub. (7), if a secured creditor to which a
24 notification has been given under par. (a) does not send a timely payoff statement
25 that substantially complies with par. (d), the secured creditor is liable to the entitled

(no changes on pp 9-11)

ASSEMBLY BILL 390

1 4. A statement that the satisfaction agent may sign and submit for recording
2 an affidavit of satisfaction of the security instrument unless, within 30 days after the
3 effective date of the notification, any of the following occurs:

4 a. The secured creditor submits a satisfaction of the security instrument for
5 recording.

6 b. The satisfaction agent receives from the secured creditor a notification
7 stating that the secured obligation remains unsatisfied. *Notwithstanding the foregoing, the*

8 c. The satisfaction agent receives from the secured creditor a notification
9 stating that the secured creditor has assigned the security instrument and
10 identifying the name and address of the assignee.

11 (c) 1. A notification under par. (b) may be sent by a method authorized by sub.
12 (2); alternatively, a notification under par. (b) may be sent to the electronic or other
13 address provided by the secured creditor on a payoff statement under sub. (3) (d) 3.

14 2. A notification under par. (b) may be sent along with a notification, if any, to
15 terminate a line of credit or future advances as provided in sub. (5) (a).

16 (d) The satisfaction agent is presumed to be acting for, and with authority from,
17 *an entitled person* ~~the owner~~ if the satisfaction agent, directly or through an agent, assisted in
18 completing full payment or performance of the secured obligation or payment as
19 provided in a payoff statement under sub. (3) or a corrected payoff statement under
20 sub. (4).

21 (e) Nothing in this section requires a person to agree to serve as a satisfaction
22 agent.

23 (9) AUTHORIZATION TO SUBMIT AFFIDAVIT OF SATISFACTION FOR RECORDING; FEES. (a)
24 Subject to pars. (b) and (c), a satisfaction agent may sign and submit for recording

Satisfaction agent may submit for recording the affidavit of satisfaction if the satisfaction agent reasonably and detrimentally relied upon an understated payoff amount as set forth under sub.(4)(b).

ASSEMBLY BILL 390

1 an affidavit of satisfaction of a security instrument against residential real property
2 that complies with sub. (10) if either of the following applies:

3 1. The secured creditor has not, to the knowledge of the satisfaction agent,
4 submitted for recording a satisfaction of a security instrument within 30 days after
5 the effective date of a notification complying with sub. (8) (b).

6 2. The secured creditor authorizes the satisfaction agent to do so.

7 (b) A satisfaction agent may not sign and submit for recording an affidavit of
8 satisfaction of a security instrument if it has received a notification under sub. (8)

9 (b) 4. b. stating that the secured obligation remains unsatisfied. *Notwithstanding*

10 (c) If a satisfaction agent receives a notification under sub. (8) (b) 4. c. stating
11 that the security instrument has been assigned, the satisfaction agent may not
12 submit for recording an affidavit of satisfaction of the security instrument without
13 doing both of the following:

14 1. Giving a notification of intent to submit for recording an affidavit of
15 satisfaction to the identified assignee at the identified address.

16 2. Complying with sub. (8) with respect to the identified assignee.

17 (d) A satisfaction agent may submit for recording an affidavit of satisfaction
18 that complies with this section even if full payment or performance of the secured
19 obligation or payment as provided in a payoff statement under sub. (3) or a corrected
20 payoff statement under sub. (4) was made before the effective date of this paragraph
21 [LRB inserts date].

22 (e) The satisfaction agent may charge a reasonable fee for sending the
23 notification under sub. (8) and preparing and executing the affidavit of satisfaction.
24 A fee charged by a satisfaction agent under this paragraph that does exceed \$75 is
25 conclusively presumed to be reasonable.

→ the foregoing, the satisfaction agent may submit for recording the affidavit of satisfaction if the satisfaction agent reasonably and detrimentally relied upon an understated payoff amount as set forth under sub. (4)(b).

not

ASSEMBLY BILL 390

1 **(10) CONTENT OF AFFIDAVIT OF SATISFACTION.** An affidavit of satisfaction of a
2 security instrument against residential real property must do all of the following:

3 (a) Identify the original parties to the security instrument, the secured creditor,
4 the recording data for the security instrument, and, if necessary for proper indexing
5 of the affidavit, a legal description of the real property identified in the security
6 instrument.

7 (b) State the basis upon which the person signing the affidavit is a satisfaction
8 agent.

9 (c) State that the person signing the affidavit has reasonable grounds to believe
10 that the real property described in the security instrument is residential real
11 property.

12 (d) State that the person signing the affidavit has reasonable grounds to believe
13 that the secured creditor has received full payment or performance of the secured
14 obligation, *or has received the payoff amount.*

15 (e) State that the person signing the affidavit, acting with the authority of the
16 owner of the real property described in the security instrument, gave notification to
17 the secured creditor of its authorization to sign and submit for recording an affidavit
18 of satisfaction.

19 (f) State either of the following:

20 1. That more than 30 days have elapsed since the effective date of that
21 notification, and the person signing the affidavit has no knowledge that the secured
22 creditor has submitted a satisfaction of the security instrument for recording and has
23 not received a notification that the secured obligation remains unsatisfied.

24 2. That the secured creditor authorized the person signing the affidavit to sign
25 and record an affidavit of satisfaction.

ASSEMBLY BILL 390

1 (g) Be signed by the satisfaction agent and contain a form of authentication
2 authorized by s. 706.06 or 706.07.

3 (11) EFFECT OF AFFIDAVIT OF SATISFACTION. (a) An affidavit of satisfaction of a
4 security instrument against residential real property that complies with the
5 requirements of sub. (10) shall be entitled to record in accordance with s. 706.05 in
6 the office of the register of deeds of the county in which the security instrument is
7 recorded.

8 (b) Upon recording, an affidavit substantially complying with the
9 requirements of sub. (10) constitutes a satisfaction of the security instrument
10 described in the affidavit.

11 (c) The recording of an affidavit of satisfaction of a security instrument does not
12 by itself extinguish any liability of a person for payment or performance of the
13 secured obligation.

14 (12) LIABILITY OF SATISFACTION AGENT; STATUTE OF LIMITATIONS. (a) ~~1. Except as~~
15 ~~provided in subd. 2., a satisfaction agent that records an affidavit of satisfaction of~~
16 ~~a security instrument erroneously is liable to the secured creditor for any actual~~
17 ~~damages caused by the recording and reasonable attorney fees and costs. An action~~
18 ~~under this subdivision shall be commenced within 2 years after the cause of action~~
19 ~~accrues or be barred.~~

20 ~~2.)~~ A satisfaction agent that records an affidavit of satisfaction of a security
21 instrument erroneously is not liable if the satisfaction agent properly complied with
22 this section.

23 (b) A satisfaction agent that records an affidavit of satisfaction of a security
24 instrument with knowledge that the statements contained in the affidavit are false

ASSEMBLY BILL 390

1 is liable to the secured creditor for any actual damages caused by the recording and
2 reasonable attorney fee and costs.

3 ~~✗~~ This subsection does not preclude any of the following:

- 4 1. A court from awarding punitive damages on account of the conduct.
- 5 2. The secured creditor from proceeding against the satisfaction agent under
6 the law of this state other than this section.
- 7 3. The enforcement of any criminal statute prohibiting the conduct.

8 (13) DOCUMENT OF RESCISSION: EFFECT; LIABILITY FOR WRONGFUL RECORDING. (a)
9 In this subsection, "document of rescission" means a document stating that an
10 identified satisfaction or affidavit of satisfaction of a security instrument was
11 recorded erroneously, the secured obligation remains unsatisfied, and the security
12 instrument remains in force.

13 (b) If a person records a satisfaction or affidavit of satisfaction of a security
14 instrument in error, the person may execute and record a document of rescission.
15 Upon recording, the document rescinds an erroneously recorded satisfaction or
16 affidavit.

17 (c) A recorded document of rescission has no effect on the rights of any of the
18 following persons:

19 1. A person that acquired an interest in the real property described in a security
20 instrument after the recording of the satisfaction or affidavit of satisfaction of the
21 security instrument and before the recording of the document of rescission.

22 2. A person that would otherwise have priority over or take free of the lien
23 created by the security instrument.