CHAPTER 708

MORTGAGES AND LAND CONTRACTS

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708.01 Effect of mortgage. A mortgage on real property creates a lien on the property mortgaged; except for the lien and subject to s. 708.11, the mortgagor retains the interest that the mortgagor had at the time of mortgage until that interest is divested by some later act.

History: 1993 a. 486; 1995 a. 283.

An acceleration clause providing that a mortgage becomes due and payable, at the option of the mortgagee, if the mortgaged premises are leased or transferred without its written permission, while not contrary to public policy, is enforceable only in accord with equitable principles governing foreclosure actions. Mutual Federal Savings & Loan v. American Medical Services, 66 Wis. 2d 210, 223 N.W.2d 921 (1974).

708.02 Foreclosure; effect in lease. If property subject to lien created by mortgage or land contract is leased after the lien has attached, the lease is subject to termination at the time the interest of the lienor is terminated.

708.03 Prohibiting lender from designating attorney for mortgagor. A bank, savings bank, savings and loan association or other lender or lending agency requiring a borrower to give a mortgage on real estate as security for a loan or an existing indebtedness may not designate the attorney to represent the mortgagor's interest in connection with the giving of the mortgage if the mortgagor has or desires a different attorney for that purpose. Any person violating this section shall be fined not more than $100 for each violation.

History: 1991 a. 221.

708.04 Removal of buildings from mortgaged premises. The removal, without the consent of the mortgagee or the mortgagee's assigns, of any building from any real estate upon which there is an unsatisfied mortgage, properly recorded, shall not destroy the lien of such mortgage upon such removed building, but the mortgagee or the mortgagee's assigns shall be entitled to recover the possession of the same in an action of replevin, from any person, and wherever the same may be situated, without regard to the question of the adequacy of the real estate remaining to pay the mortgage debt. If such removal be made by the mortgagor or with the mortgagor's consent, all reasonable expense incurred in recovering such building shall be added to, and collected as a part of, the mortgage debt.

History: 1993 a. 486.

708.05 Mortgages, power to sell under. When a power to sell lands shall be given to the grantee in any mortgage or other conveyance intended to secure the payment of money the power shall be deemed a part of the security and shall vest in and may be executed by any person, who, by assignment or otherwise, shall become entitled to the money so secured to be paid.

708.07 Satisfaction of state mortgages. In any case where the records of the offices of the state treasurer and secretary of state fail to show any payments made upon any mortgage of real estate to the state or territory of Wisconsin since January 1, 1865, it shall be the duty of the state treasurer, on demand, to execute, acknowledge and deliver to the owner of all or any portion of the land conveyed by any such mortgage a satisfaction in due form of law acknowledging the satisfaction and discharge of such mortgage, and such satisfaction when so executed shall be conclusive evidence of the payment and discharge of such mortgage and the satisfaction of the lien thereby secured.

708.09 Purchase money mortgage defined. A purchase money mortgage is one given as part of the transaction of purchase to the vendor of real estate for all or part of the purchase money or to a 3rd person who advances all or a part of the purchase money.

A purchase money mortgage executed at the time of delivery of the conveyance of legal title has priority, as to the property conveyed, over existing judgments and executions against the mortgagor−vendee, whether the mortgagee is the vendor or a 3rd party who furnishes the purchase price. Northern State Bank v. Toal, 69 Wis. 2d 50, 230 N.W.2d 153 (1975).

708.10 Loan funds at closings. (1) DEFINITIONS. In this section:

(a) "Affiliate" means, with respect to any lender, any person that controls, is controlled by, or is under common control with, the lender.

(b) "Borrower" means a person who borrows money from a lender to finance a transaction under a loan that is secured by a real estate mortgage.

(c) "Lender" means all lenders identified under s. 706.11 (1), mortgage brokers, as defined under s. 224.71 (4), and savings and loan associations organized under ch. 215, except that "lender" does not include any federal, state or local unit of government or any agency, political subdivision or instrumentality of such a unit of government.

(d) "Loan settlement" means the occurrence of all of the following:

1. The execution by the borrower of a promissory note, mortgage and any other documents that are required by the lender to be signed as a condition to the granting of a loan to the borrower.

2. The delivery of the proceeds of the loan to the borrower or to a 3rd party on behalf of the borrower.

3. If the borrower has a right to rescind the loan under federal or state law, the expiration of the borrower's right of recision.

(e) "Qualified loan funds" means any of the following:

1. Wire transfer.

2. Cashier's check or teller's check.

3. A check that is negotiable, as defined in s. 403.104 (1), and on which the lender or an affiliate of the lender is the drawee, as defined in s. 403.103 (1) (b).

4. Transfer of the loan funds by the lender into an account maintained by the lender or an affiliate of the lender in favor of the settlement agent or borrower.

(f) "Settlement agent" means a person retained by the lender who provides services that benefit the lender and borrower in a transaction and who receives and disburses money in connection with the transaction.

(g) "Transaction" means a transaction under s. 706.001 (1), including a refinancing of an existing indebtedness that is secured by a mortgage on real property, except that "transaction" does not include an open end credit plan as defined under 15 USC 1602 (i).

(h) "Wire transfer" means the electronic funds transfer system of the federal reserve banks. When funds are transferred by wire

transfer, delivery of the funds is complete when a transaction number has been assigned to the wire transfer.

(2) LOAN FUND DISBURSAL. (a) Except as provided in par. (b), if a settlement agent is to deliver qualified loan funds to the borrower in a transaction, or to a 3rd party on behalf of the borrower, a lender may not permit or require a borrower to complete a loan settlement unless the lender unconditionally delivers qualified loan funds to the settlement agent before or immediately on completion of the loan settlement.

(b) If the lender and the borrower have agreed that less than all of the loan funds are to be disbursed at the loan settlement, the lender shall deliver qualified loan funds to the settlement agent only in the amount to be disbursed at the loan settlement.

History: 1995 a. 394; 1997 a. 35, 145, 152; 1999 a. 85; 2009 a. 180.

708.11 Assignments of rents, leases and profits. (1) In this section, "assignment" means any assignment, pledge, transfer or any other conveyance of an interest in rents, leases or profits, whether contained in a mortgage, security agreement or other document executed by the assignor.

(2) When any debt or other obligation is secured by an assignment, the assignment shall be effective as to the assignor upon the execution and delivery of the assignment to the assignee. The assignment shall be perfected as to all subsequent purchasers, mortgagees, lien creditors, and all other 3rd parties for all purposes from the time and date of recording the assignment in the register of deeds office of the county in which the real property affected by the assignment is located. The assignment shall be governed by ch. 706 and shall be considered a conveyance for the purposes of ch. 706. An assignee who enforces an assignment in accordance with its terms shall not be considered to be a mortgagee in possession with attendant liability.

(3) (a) Unless otherwise agreed upon in writing, the assignee shall be entitled to enforce the assignment without the necessity of any of the following:

1. Furnishing notice to the assignor or any lessee.
2. Obtaining possession of the real property.
3. Impounding the rents.
4. Securing the appointment of a receiver.
5. Taking any other affirmative action.

(b) Unless otherwise agreed upon in writing, the assignee may not exercise any right to collect rents or profits created under an assignment until the assignor is in default on the obligation to the assignee. Enforcement of the assignment shall not be considered a cure of an event of default not withstanding the collection of rents or profits in excess of any delinquent amounts due the assignee.

(4) Any tenant or lessee who, upon notice from an assignee, makes rent payments to the assignee in accordance with the terms of the assignment shall be given credit for the payment as if the payment had been made to the assignor, but nothing in this section shall affect the other rights and obligations of the assignor or the tenant or lessee as to one another.

(5) This section does not invalidate assignments of leases, rents or profits that were perfected by other means before May 9, 1996.

History: 1995 a. 283.

Enforcing Assignments of Leases, Rents and Profits. Leibsle. Wis. Law. May 1996.

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

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

(b) "Day" means calendar day.

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

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

(e) "Entitled person" means any of the following:

1. A person liable for payment or performance of the obligation secured by the real property described in a security instrument.
2. The landowner.
3. The settlement agent.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

2. Sending it by facsimile transmission, electronic mail, or other electronic transmission to the recipient's address for giving a notification.

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

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

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

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

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

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

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

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

1. The entitled person's name.

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

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

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

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

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

(c) 1. Except as provided in subd. 2., within 7 business days after the effective date of a notification that complies with par. (a) or, if the security interest encumbers real property that is not residential real property, within a reasonable longer time after the effective date of such a notification, the secured creditor shall issue a payoff statement and send it as directed under par. (a) 3. in the manner prescribed in sub. (2) for giving a notification.

2. If the person to whom the notification is given once held an interest in the secured obligation but has since assigned that interest, the person need not send a payoff statement but shall, within 7 business days after the effective date of the notification, give a notification of the assignment to the person to whom the payoff statement otherwise would have been sent, providing the name and address of the assignee.

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

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

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

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

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

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

(f) A secured creditor may not qualify a payoff amount or state that the payoff amount is subject to change before the payoff date.

(g) A secured creditor must provide upon request one payoff statement without charge during any 2−month period. A secured creditor may charge a fee of $25 for each additional payoff statement requested during that 2−month period. However, a secured creditor may not charge a fee for providing a corrected payoff statement under sub. (4) (a).

(h) Except as otherwise provided in sub. (7), if a secured creditor to which a notification has been given under par. (a) does not send a timely payoff statement that substantially complies with par. (d), the secured creditor is liable to the entitled person for any actual damages caused by the failure plus $500, but not punitive damages. A secured creditor that does not pay the damages provided in this paragraph within 30 days after receipt of a notification demanding payment may also be liable for reasonable attorney fees and costs.

(4) UNDERSTATED PAYOFF STATEMENT: CORRECTION; EFFECT. (a) If a secured creditor determines that the payoff amount it provided in a payoff statement was understated, the secured creditor may send a corrected payoff statement. If the entitled person or the person's authorized agent receives and has a reasonable opportunity to act upon a corrected payoff statement before making payment, the corrected statement supersedes an earlier statement.

(b) Subject to par. (c) 1., a secured creditor that sends a payoff statement containing an understated payoff amount may not deny the accuracy of the payoff amount as against any person that reasonably and detrimentally relies upon the understated payoff amount.

(c) This section does not do any of the following:

1. Affect the right of a secured creditor to recover any sum that it did not include in a payoff amount from any person liable for payment of the secured obligation.

2. Limit any claim or defense that a person liable for payment of a secured obligation may have under law other than this section.

(5) SECURED CREDITOR TO SUBMIT SATISFACTION FOR RECORDING; LIABILITY FOR FAILURE. (a) A secured creditor shall submit for recording a satisfaction of a security instrument within 30 days after the secured creditor receives full payment or performance of the secured obligation or payment as provided in a payoff statement under sub. (3) or a corrected payoff statement under sub. (4), whichever is applicable. If a security instrument secures a line of credit or future advances, the secured obligation is fully performed only if, in addition to full payment or performance of the secured obligation or payment as provided in a payoff statement under sub. (3) or a corrected payoff statement under sub. (4), the secured creditor has received a notification requesting the secured creditor to terminate the line of credit or containing a statement

sufficient to terminate the effectiveness of the provision for future advances in the security instrument.

(b) Except as otherwise provided in sub. (7), a secured creditor that is required to submit a satisfaction of a security instrument for recording and that does not do so by the end of the period specified in par. (a) is liable to the landowner for $500, plus any actual damages caused by the failure, but not punitive damages, and any reasonable attorney fees and court costs incurred.

(c) Paragraph (b) applies to a secured creditor that receives full payment or performance of the secured obligation or payment as provided in a payoff statement under sub. (3) or a corrected payoff statement under sub. (4) on or after December 14, 2013. Section 706.05 (9) and (10), 2011 stats., applies to a secured creditor that received partial or full payment or performance of the secured obligation before December 14, 2013.

(6) FORM AND EFFECT OF SATISFACTION. A document is a satisfaction of a security instrument if it satisfies s. 706.05 (8).

(7) LIMITATION OF SECURED CREDITOR'S LIABILITY. A secured creditor is not liable under this section if all of the following apply:

(a) The secured creditor established a reasonable procedure to achieve compliance with its obligations under this section.

(b) The secured creditor complied with that procedure in good faith.

(c) The secured creditor was unable to comply with its obligations because of circumstances beyond its control.

(8) SATISFACTION AGENT; NOTIFICATION TO CREDITOR OF AFFIDAVIT OF SATISFACTION. (a) Only a title insurance company, acting directly or through an authorized agent, may serve as a satisfaction agent under this section. An affidavit of satisfaction under this section is valid only for security instruments recorded against residential real property.

(b) Upon, or at any time after, full payment or performance of the secured obligation or payment as provided in a payoff statement under sub. (3) or a corrected payoff statement under sub. (4), a satisfaction agent acting for and with authority from the landowner may give the secured creditor a notification that the satisfaction agent may submit for recording an affidavit of satisfaction of the security instrument against residential real property. The notification must include all of the following:

1. The identity and mailing address of the satisfaction agent.

2. Identification of the security instrument for which a recorded satisfaction is sought, including the names of the original parties to the security instrument.

3. A statement that the satisfaction agent has reasonable grounds to believe all of the following:

a. That the real property described in the security instrument is residential real property.

b. That the person to which the notification is being given is the secured creditor.

c. That the secured creditor has received full payment or performance of the secured obligation or payment as provided in a payoff statement under sub. (3) or a corrected payoff statement under sub. (4).

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

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

b. The satisfaction agent receives from the secured creditor a notification stating that the secured obligation remains unsatisfied, except that the satisfaction agent may submit for recording an affidavit of satisfaction even if the satisfaction agent receives a notification that the secured obligation remains unsatisfied if the satisfaction agent has reasonable grounds to believe that the person who paid the payoff amount reasonably and detrimentally relied upon an understated payoff amount.

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

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

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

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

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

(9) AUTHORIZATION TO SUBMIT AFFIDAVIT OF SATISFACTION FOR RECORDING; FEES. (a) Subject to pars. (am), (b), and (c), a satisfaction agent may sign and submit for recording an affidavit of satisfaction of a security instrument against residential real property that complies with sub. (10) if either of the following applies:

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

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

(am) An affidavit of satisfaction is signed by the satisfaction agent only if it is signed by 2 persons who are employees of, and who have been authorized by, the title insurance company to sign an affidavit of satisfaction on behalf of the title insurance company acting as satisfaction agent.

(b) A satisfaction agent may not sign and submit for recording an affidavit of satisfaction of a security instrument if it has received a notification under sub. (8) (b) 4. b. stating that the secured obligation remains unsatisfied, unless the satisfaction agent has reasonable grounds to believe that the person who paid the payoff amount reasonably and detrimentally relied upon an understated payoff amount.

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

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

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

(d) A satisfaction agent may submit for recording an affidavit of satisfaction that complies with this section even if full payment or performance of the secured obligation or payment as provided in a payoff statement under sub. (3) or a corrected payoff statement under sub. (4) was made before December 14, 2013.

(e) The satisfaction agent may charge a reasonable, one−time fee per real property transaction for sending the notification under sub. (8) and preparing and executing the affidavit of satisfaction. A fee charged by a satisfaction agent under this paragraph that does not exceed $75 is conclusively presumed to be reasonable.

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

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

(b) State the basis upon which the entity on whose behalf the affidavit is signed is a satisfaction agent.

(c) State that the persons signing the affidavit have reasonable grounds to believe that the real property described in the security instrument is residential real property.

(d) State that the persons signing the affidavit have reasonable grounds to believe that the secured creditor has received either of the following:

1. Full payment or performance of the secured obligation.

2. Payment as provided in a payoff statement under sub. (3) or a corrected payoff statement under sub. (4).

(e) State that the entity on whose behalf the affidavit is signed, acting with the authority of the owner of the real property described in the security instrument, gave notification to the secured creditor of its authorization to sign and submit for recording an affidavit of satisfaction.

(f) State either of the following:

1. That the secured creditor authorized the entity on whose behalf the affidavit is signed to sign and record an affidavit of satisfaction.

2. That more than 30 days have elapsed since the effective date of the notification, and the persons signing the affidavit have no knowledge that the secured creditor has submitted a satisfaction of the security instrument for recording and either of the following apply:

a. The persons signing the affidavit have not received a notification that the secured obligation remains unsatisfied.

b. The persons signing the affidavit have received a notification that the secured obligation remains unsatisfied, but the persons signing the affidavit have reasonable grounds to believe that the person who paid the payoff amount reasonably and detrimentally relied upon an understated payoff amount.

(g) Be signed by the satisfaction agent, as provided in sub. (9)(am), and contain a form of authentication authorized by s. 706.06 or 706.07.

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

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

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

(12) LIABILITY OF SATISFACTION AGENT. (a) A satisfaction agent that records an affidavit of satisfaction of a security instrument erroneously is not liable to the secured creditor if the satisfaction agent properly complied with this section.

(b) A satisfaction agent that records an affidavit of satisfaction of a security instrument with knowledge that the statements contained in the affidavit are false is liable to the secured creditor for any actual damages caused by the recording and reasonable attorney fees and costs. Nothing in this paragraph precludes any of the following:

1. A court from awarding punitive damages on account of the conduct.

2. The secured creditor from proceeding against the satisfaction agent under the law of this state other than this section.

3. The enforcement of any criminal statute prohibiting the conduct.

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

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

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

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

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

(d) A person that erroneously or wrongfully records a document of rescission is liable to any person injured thereby for the actual damages caused by the recording and reasonable attorney fees and costs.

(14) RIGHT OF ACTION NOT AFFECTED. Nothing in this section affects a person's right to bring an action under s. 847.09.

History: 2013 a. 66, 151.