

VIRGINIA ACTS OF ASSEMBLY -- 1996 SESSION

CHAPTER 949

An Act to amend and reenact §§ 55-66.3 and 55-66.4:1 of the Code of Virginia, relating to certificates of satisfaction.

[S 504]

Approved April 17, 1996

Be it enacted by the General Assembly of Virginia:

1. That §§ 55-66.3 and 55-66.4:1 of the Code of Virginia are amended and reenacted as follows:

§ 55-66.3. Release of deed of trust or other lien.

A. 1. When payment or satisfaction is made of a debt secured by mortgage, deed of trust, vendor's lien, or other lien, or when any one or more of the obligations representing at least twenty-five percent of the whole amount secured by any such lien, but less than the whole number of the obligations so secured, when the debt secured thereby is evidenced by two or more separate written obligations sufficiently described in the instrument creating the lien, have been fully paid, the lien creditor, unless he has delivered a proper release deed, shall, within ninety days after notice that the full or partial payment or satisfaction has been made, cause such payment to be recorded on a certificate of satisfaction or certificate of partial satisfaction in the clerk's office. Any lien creditor who fails to cause such recordation or to mail or deliver to the appropriate clerk's office, the obligor or the obligor's designee an executed certificate of satisfaction and the note marked "paid" within the ninety-day period shall forfeit \$300 to the lien obligor. Following the ninety-day period, if the amount forfeited is not paid within ten business days after demand for payment, the lien creditor shall pay any court costs and reasonable attorney's fees incurred by the obligor in collecting the forfeiture.

2. If the note, bond or other evidence of debt secured by such mortgage, deed of trust, vendor's lien or other lien referred to in subdivision 1 of this subsection or any interest therein, has been assigned or transferred to a party other than the original lien creditor, and such subsequent holder is responsible for a failure to record a certificate of satisfaction or certificate of partial satisfaction or for a failure to mail or deliver to the appropriate clerk's office, the obligor or the obligor's designee an executed certificate of satisfaction and the note marked "paid," the subsequent holder shall be liable to the lien obligor for the \$300 penalty, court costs and attorney's fees specified in subdivision 1 of this subsection. It shall be the responsibility of the obligor or owner to provide the note holder with a current name and address of the person to whom the certificate of satisfaction or certificate of partial satisfaction should be sent.

B. The certificate of satisfaction shall be signed by the creditor or his duly authorized agent, attorney or attorney-in-fact, or any person to whom the instrument evidencing the indebtedness has been endorsed or assigned for the purpose of effecting such release. ~~If such debt is evidenced by a separate obligation the note, bond or other evidence of debt secured by such lien, duly cancelled, shall be produced before the clerk in whose office such encumbrance is recorded. If such evidence of debt cannot be produced~~ An affidavit shall be filed or recorded with the certificate of satisfaction, by the creditor, or his duly authorized agent, attorney or attorney-in-fact, with such clerk, stating that the debt therein secured and intended to be released or discharged has been paid to such creditor, his agent, attorney or attorney-in-fact, who was, when the debt was satisfied, entitled and authorized to receive the same; and that such note, bond or other evidence of the debt secured by the lien has been cancelled and delivered to the person by whom it was paid or has been lost or destroyed and cannot be produced as herein required. In the event the creditor or his duly authorized agent, attorney or attorney-in-fact is unable to make the affidavit above referred to and files with the clerk an affidavit to that effect, an affidavit may be filed with the clerk by the lien debtor, or such other person as may have paid the same, stating that he fully paid the note, bond or other evidence of debt and that it was cancelled and delivered to him and has been lost or destroyed and cannot be produced.

C. If the debt is not evidenced by a separate obligation an affidavit shall be filed or recorded with the certificate of satisfaction by the creditor, his duly authorized agent or attorney or attorney-in-fact with such clerk stating that the debt therein secured and intended to be released or discharged has been paid to such creditor, his agent, attorney or attorney-in-fact, who was, when such debt was satisfied, entitled and authorized to receive the same.

D. And when so signed and the signature thereto attested by such clerk, with a certificate that such note, bond or other evidence of debt duly cancelled was produced before such clerk, or that the affidavit hereinbefore required has been duly filed or recorded with the certificate of satisfaction with such clerk, the certificate of satisfaction shall operate as a release of the encumbrance as to which such payment or satisfaction is entered and, if the encumbrance be by deed of trust or mortgage, as a reconveyance of the legal title as fully and effectually as if such certificate of satisfaction were a formal deed of release duly executed and recorded.

E. D. As used in this section, the terms "lien creditor" and "creditor" shall be construed as synonymous and shall embrace the lien creditor or his successor in interest as evidenced by proper endorsement or assignment, general or restrictive, upon the note, bond or other evidence of debt. As used in this section, the term "obligor's designee" shall include an attorney or other settlement agent closing a transaction which results in the obligor's loan being paid off.

§ 55-66.4:1. Permissible form for certificate of satisfaction or certificate of partial satisfaction.

Any release by a certificate of satisfaction or certificate of partial satisfaction shall be in conformity with §§ 55-66.3, 55-66.3:1 and 55-66.4 and shall conform substantially with the following forms:

CERTIFICATE OF SATISFACTION

Place of Record
 Date of Note/Deed of Trust
 Face Amount Secured/Face Amount of Note:
 Deed Book Page
 Name(s) of Grantor(s)/Maker(s);
 Name(s) of Trustee(s)
 Face Amount of Note(s) \$

I/we, holder(s) of the above-mentioned note(s) secured by the above-mentioned deed of trust ~~to be produced before the clerk~~, do hereby certify that the same has/have been paid in full, and the lien therein created and retained is hereby released. GIVEN UNDER MY/OUR HAND(S) THIS DAY OF, 19.....

(NOTE HOLDERS)

Commonwealth of Virginia,

County/City of to wit:

Subscribed, sworn to and acknowledged before me by
 this day of, 19.....
 My Commission Expires:

NOTARY PUBLIC

~~I certify that the note(s) mentioned in the foregoing certificate duly cancelled was/were produced before the Clerk.~~

Attest:, Deputy Clerk

VIRGINIA;

IN THE CLERK'S OFFICE OF THE CIRCUIT COURT

This certificate was presented, and with the Certificate annexed, admitted to record on at o'clock m.
 Clerk's fees: \$ have been paid.

Attest:, Deputy Clerk

or:

CERTIFICATE OF PARTIAL SATISFACTION

Place of Record
 Date of Deed of Trust
 Deed Book Page
 Name(s) of Grantor(s)
 Name(s) of Trustee(s)
 Maker(s) of Note(s)
 Date of Note(s)
 Face Amount of Note(s)

The lien of the above-mentioned deed of trust securing the above-mentioned note is released insofar as the same is applicable to (description of property) recorded in deed book at page in the clerk's office of this court. The undersigned is/are the legal holder(s) of the obligation, note, bond or other evidence of debt secured by said deed of trust.

Given under my/our hand(s) this day of

....., 19.....
.....
.....

(NOTE HOLDERS)

Commonwealth of Virginia,
County/City of to wit:
Subscribed, sworn to and acknowledged before me by
this day of, 19....
My Commission Expires
.....

NOTARY PUBLIC

Notwithstanding the provisions of § 17-60.1, the clerk shall note on the margin of the deed book where a deed of trust is recorded, a reference to the deed book and page number where the certificate of satisfaction or certificate of partial satisfaction is recorded. The provisions of this paragraph shall not apply to procedural microfilm recording and microfilmed records.

Certificates conforming to this section prior to the amendment effective July 1, 1984, shall be deemed to be in substantial conformity thereto.