

As Introduced

**130th General Assembly
Regular Session
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H. B. No. 201

Representative Butler

Cosponsors: Representatives Adams, J., Terhar, Thompson, Hayes

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A B I L L

To amend section 5301.36 and to enact section 1
5301.234 of the Revised Code to make changes 2
relative to mortgage subrogation and entries of 3
satisfaction. 4

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That section 5301.36 be amended and section 5
5301.234 of the Revised Code be enacted to read as follows: 6

Sec. 5301.234. (A) A mortgage encumbering real property 7
granted to secure funds that are used to satisfy a prior mortgage 8
or lien on the real property shall be subrogated to the priority 9
of the prior mortgage or lien that was satisfied, to the extent of 10
the amount satisfied, if both of the following apply: 11

(1) The parties to the mortgage granted to secure funds that 12
are used to satisfy a prior mortgage or lien intend that mortgage 13
to have the priority of the satisfied mortgage or lien. 14

(2) At the time the holder of a subordinate mortgage or lien 15
received its interest, the holder expected the interest to be 16
junior to the satisfied mortgage or lien. 17

(B) A mortgagee seeking to be subrogated pursuant to division 18

(A) of this section shall not be denied subrogation for the 19
priority of the satisfied mortgage or lien for any of the 20
following reasons: 21

(1) The mortgagee is engaged in the business of lending. 22

(2) The mortgagee had actual knowledge or constructive notice 23
of a mortgage or lien over which the mortgagee would gain priority 24
through subrogation. 25

(3) The mortgagee committed a mistake or was negligent or a 26
third party committed a mistake or was negligent. 27

(4) The lien for which the mortgagee seeks to be subrogated 28
was released. 29

(5) The mortgagee obtained a title insurance policy. 30

(C) Notwithstanding the application of division (A) of this 31
section, the holder of a subordinate mortgage or lien shall retain 32
the same subordinate position that the holder would have had if 33
the prior mortgage or lien had not been satisfied. 34

Sec. 5301.36. (A) Except in a county in which the county 35
recorder has elected to require that all satisfactions of 36
mortgages be recorded by separate instrument as allowed under 37
section 5301.28 of the Revised Code, when recording a mortgage, 38
county recorders shall leave space on the margin of the record for 39
the entry of satisfaction, and record therein the satisfaction 40
made on the mortgage, or permit the owner of the claim secured by 41
the mortgage to enter such satisfaction. Such record shall have 42
the same effect as the record of a release of the mortgage. 43

(B) Within ninety days from the date of the satisfaction of a 44
~~residential~~ mortgage, the mortgagee shall record a release of the 45
mortgage evidencing the fact of ~~the~~ its satisfaction in the 46
appropriate county recorder's office and pay any fees required for 47
the recording. The mortgagee may, by contract with the mortgagor, 48

recover the cost of the fees required for the recording of the 49
satisfaction by the county recorder. 50

(C) If the mortgagee fails to comply with division (B) of 51
this section, the mortgagor may recover, in a civil action, 52
damages ~~of two hundred~~ up to fifty dollars for each day of 53
noncompliance and reasonable attorneys' fees and costs incurred in 54
such an action or otherwise to obtain the recording of a 55
satisfaction of mortgage. This division does not preclude or 56
affect any other legal remedies or damages that may be available 57
to the mortgagor. 58

(D) As used in this section, ~~"residential mortgage" means an~~ 59
~~obligation to pay a sum of money evidenced by a note and secured~~ 60
~~by a lien upon:~~ 61

(1) "Mortgagee" includes the original mortgagee or any 62
successor to or assignee of the original mortgagee. 63

(2) "Mortgagor" includes the original mortgagor and any 64
successor to the interest of the original mortgagor in the real 65
property located within this state ~~containing two or fewer~~ 66
~~residential units or on which two or fewer residential units are~~ 67
~~to be constructed and shall include such an obligation on a~~ 68
~~residential condominium or cooperative unit.~~ 69

(3) "Satisfaction" means that the obligation secured by a 70
mortgage has been paid in full and the underlying obligation 71
terminated, with no opportunities for future advancements. 72

Section 2. That existing section 5301.36 of the Revised Code 73
is hereby repealed. 74

Section 3. With respect to an unreleased mortgage that has 75
been satisfied, but not recorded, prior to the effective date of 76
this act, the mortgagor shall provide the mortgagee written 77
notice, addressed to the last address of public record for the 78

mortgagee, of the failure to enter the release of the mortgage of 79
record. The mortgagee shall have sixty days from the delivery of 80
the notice to record the satisfaction and release of the mortgage 81
in the appropriate county recorder's office. The mortgagee shall 82
pay any fees required for the recording within one hundred eighty 83
days after the effective date of this act. A mortgagor may 84
institute an action and recover damages under division (C) of 85
section 5301.36 of the Revised Code as amended by this act. 86