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Alabama Considers Increasing Fines for Failure to Timely Satisfy Mortgages

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The Alabama Legislature is considering passage of the Alabama Uniform Residential Mortgage Satisfaction Act. The act is based on the Uniform Residential Mortgage Satisfaction Act proposed by the National Conference of Commissioners on Uniform State Laws and is designed to remedy two problems faced by residential home owners. First, the act requires a mortgage lender to provide a timely payoff statement upon request. Second, it sets forth requirements for the timely satisfaction of mortgages on the record.

When a debtor requests a payoff figure, the creditor must respond with a payoff statement within 10 days. If the amount is subject to change prior to the specified date, the creditor must give the debtor the means to acquire an accurate payoff on the date scheduled for payment. If the loan involves an equity line of credit, the request for a payoff must include: (1) a statement that the debtor intends to close the equity line and (2) a request that the creditor not lend any additional sums to the debtor. A creditor who fails to timely respond to the payoff request is liable for any actual damages, plus \$500.

Additionally, a creditor must submit a satisfaction to the probate court within 30 days of satisfaction of the obligation. Failure to comply with this deadline subjects the creditor to liability for actual damages. Failure of the creditor to file a satisfaction within 30 days of notice subjects the creditor to a \$1,000 fine, attorneys' fees, and court costs. This would increase Alabama's current \$200 fine for failure to file a satisfaction of mortgage. In cases where a creditor delegates the servicing of its loans to a servicer, the servicer may be held liable in the same manner as the creditor.

Finally, if the creditor fails to act within the time required, the legislation provides that an attorney or a title company may file an affidavit with the court releasing the mortgage. The “satisfaction agent” must give the creditor notice that he intends to file the affidavit of satisfaction. If a satisfaction agent wrongfully records an affidavit of satisfaction, he is liable for damages caused by the wrongful recording.

The proposed act would dramatically change the law in Alabama regarding the satisfaction of mortgages; it provides mechanisms to clear title when a creditor is out of business or unresponsive and drastically increases fines if a creditor fails to timely record a satisfaction of mortgage. The legislation is currently under review in committees in the Alabama House (House Bill 494) and Senate (Senate Bill 396).

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