

ACT 143

S.B. NO. 2418

A Bill for an Act Relating to the Release of Mortgages of Real Property or Fixtures.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 506, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§506- Release of mortgages of real property or fixtures. The mortgagee of real property or the record assignee of a mortgage interest shall provide to the mortgagor a release of mortgage upon full satisfaction of the mortgage and discharge of any debt secured thereby. The instrument shall be duly acknowledged, shall sufficiently describe the mortgage which has been satisfied, and be recordable in the bureau of conveyances or office of the assistant registrar of the land court, or both, as appropriate. If the mortgagee or record assignee fails to provide a release of the mortgage as required by this section within sixty days from the date of a request made in writing by any party in interest, and sent by certified or registered mail to the mortgagee or record assignee at its last known address, the mortgagor or a company issuing title insurance to a new owner of the mortgaged subject real property or to another mortgagee of the subject real property, or the escrow company

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charged by the mortgagor with obtaining such release of mortgage, or any other party in interest, as plaintiff, may institute an action in any circuit court to obtain the release of mortgage. The plaintiff in such action shall mail a copy of the complaint to the mortgagee or record assignee by certified or registered mail addressed to the mortgagee or record assignee at its last known address. If the mortgagee or record assignee does not file an answer to the complaint within forty-five days after such mailing, the court, upon receipt of an affidavit of mailing required by this section and upon satisfactory proof that the mortgage debt has been discharged and the mortgage has been fully satisfied, shall issue an order releasing the mortgage, and this order shall be recorded in the bureau of conveyances or office of the assistant registrar of the land court, or both, as appropriate. Upon a finding of good cause by the court, the plaintiff shall be entitled to treble damages and reasonable attorneys fees and costs incurred in any such action unless the court finds that the mortgagee had a reasonable basis for believing that a dispute existed regarding whether the mortgage should have been released.”

SECTION 2. New statutory material is underscored.¹

SECTION 3. This Act shall take effect upon its approval.

(Approved June 1, 1988.)

Note

1. Edited pursuant to HRS §23G-16.5.