



Hundredth Legislature - First Session - 2007
Introducer's Statement of Intent
LB 386

Chairperson: Rich Pahls
Committee: Banking, Commerce and Insurance
Date of Hearing: February 12, 2007

The following constitutes the reasons for this bill and the purposes which are sought to be accomplished thereby:

LB 386 requires that a secured creditor record a certificate of satisfaction in the county real property records upon receipt of full payment or performance of a secured obligation. If a certificate of satisfaction is not filed within 60 days of receiving full performance, a closing agent may execute and file a certificate of satisfaction on behalf of the landowner.

A certificate of satisfaction must: identify the parties to the transaction, the landowner, the secured creditor and the closing agent; state that a payoff statement has been provided and that there is evidence of payment in full; state that the property in question is residential; and be executed and acknowledged as a conveyance of real property.

The bill defines and sets forth the required contents of a closing statement.

The bill provides that a closing agent acting on behalf of a land owner or purchaser may sign and file a certificate of satisfaction if the secured creditor has not recorded a satisfaction within 60 days after receiving full performance or, at any time, if the secured creditor authorizes the closing agent to do.

A certificate of satisfaction that is in compliance with the provisions of LB 386 is evidence of the facts contained in the certificate, shall be accepted for recording in the county in which the security interest is recorded, and operates as a satisfaction of the security interest described therein.

The bill provides that, in addition to any other remedy provided by law, the secured creditor who fails to record a satisfaction within 60 days of receiving full performance is liable to the land owner for actual damages. The bill provides penalties for a closing agent who wrongfully or erroneously records a certificate of satisfaction.

The recording of a certificate of satisfaction does not itself extinguish the liability of any person liable for payment of the underlying secured obligation.

Principal Introducer:

Senator Chris Langemeier