**South Carolina General Assembly**

120th Session, 2013-2014

**A198, R247, H3134**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. Nanney and Taylor

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Introduced in the House on January 8, 2013

Introduced in the Senate on March 5, 2014

Last Amended on March 4, 2014

Passed by the General Assembly on May 22, 2014

Governor's Action: June 2, 2014, Signed

Summary: Methods of entering a satisfaction of mortgage

**HISTORY OF LEGISLATIVE ACTIONS**

 Date Body Action Description with journal page number

 12/11/2012 House Prefiled

 12/11/2012 House Referred to Committee on **Judiciary**

 1/8/2013 House Introduced and read first time ([House Journal‑page 100](file:///H%3A%5CHJ%20Archive%5C2013%5C01-08-13.docx))

 1/8/2013 House Referred to Committee on **Judiciary** ([House Journal‑page 100](file:///H%3A%5CHJ%20Archive%5C2013%5C01-08-13.docx))

 3/13/2013 House Member(s) request name added as sponsor: Taylor

 2/26/2014 House Committee report: Favorable with amendment **Judiciary** ([House Journal‑page 55](file:///H%3A%5CHJ%20Archive%5C2014%5C02-26-14.docx))

 3/4/2014 House Amended ([House Journal‑page 96](file:///H%3A%5CHJ%20Archive%5C2014%5C03-04-14.docx))

 3/4/2014 House Read second time ([House Journal‑page 96](file:///H%3A%5CHJ%20Archive%5C2014%5C03-04-14.docx))

 3/4/2014 House Roll call Yeas‑101 Nays‑0 ([House Journal‑page 102](file:///H%3A%5CHJ%20Archive%5C2014%5C03-04-14.docx))

 3/5/2014 House Read third time and sent to Senate ([House Journal‑page 16](file:///H%3A%5CHJ%20Archive%5C2014%5C03-05-14.docx))

 3/5/2014 Senate Introduced and read first time ([Senate Journal‑page 5](file:///H%3A%5CSJ%20Archive%5C2014%5C03-05-14.docx))

 3/5/2014 Senate Referred to Committee on **Banking and Insurance** ([Senate Journal‑page 5](file:///H%3A%5CSJ%20Archive%5C2014%5C03-05-14.docx))

 5/20/2014 Senate Committee report: Favorable **Banking and Insurance** ([Senate Journal‑page 10](file:///H%3A%5CSJ%20Archive%5C2014%5C05-20-14.docx))

 5/21/2014 Senate Read second time ([Senate Journal‑page 45](file:///H%3A%5CSJ%20Archive%5C2014%5C05-21-14.docx))

 5/21/2014 Senate Roll call Ayes‑42 Nays‑0 ([Senate Journal‑page 45](file:///H%3A%5CSJ%20Archive%5C2014%5C05-21-14.docx))

 5/22/2014 Senate Read third time and enrolled ([Senate Journal‑page 15](file:///H%3A%5CSJ%20Archive%5C2014%5C05-22-14.docx))

 5/29/2014 Ratified R 247

 6/2/2014 Signed By Governor

 6/6/2014 Effective date 06/02/14

 6/10/2014 Act No. 198

**VERSIONS OF THIS BILL**

[12/11/2012](file:///p%3A%5Cpprever%5C2013-14%5C3134_20121211.docx)

[2/26/2014](file:///p%3A%5Cpprever%5C2013-14%5C3134_20140226.docx)

[3/4/2014](file:///p%3A%5Cpprever%5C2013-14%5C3134_20140304.docx)

[5/20/2014](file:///p%3A%5Cpprever%5C2013-14%5C3134_20140520.docx)

(A198, R247, H3134)

**AN ACT** **TO AMEND SECTION 29‑3‑330, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO METHODS by which certain parties may cancel, discharge, or satisfy a mortgage, so as to define necessary terms, to expand applicability to include written instruments securing the payment of money and being a lien upon real property, to revise related procedures and forms, and to make conforming changes.**

Be it enacted by the General Assembly of the State of South Carolina:

**Applicability expanded, definitions, conforming changes**

SECTION 1. Section 29‑3‑330 of the 1976 Code, as last amended by Act 19 of 2011, is further amended to read:

 “Section 29‑3‑330. (A) In this section these words shall have the following meaning:

 (1) ‘Mortgage’ means a lien against real property that is granted to secure the payment of money; a deed of trust must be given the same meaning as a ‘mortgage’.

 (2) ‘Register’ means the official, including the register of deeds, register of mense conveyances or clerk of court charged with the recording and indexing duties in Chapter 5, Title 30.

 (3) ‘Release’ means an instrument releasing all real property encumbered from the lien of the mortgage.

 (4) ‘Satisfaction’ means a discharge signed by the mortgagee of record, the trustee of a deed of trust, or by an agent or officer, legal representative, or attorney‑in‑fact under a written instrument duly recorded, of either of the foregoing indicating that the property subject to the security instrument is released.

 (5) ‘Security instrument’ means any mortgage, deed of trust, or other written instrument securing the payment of money and being a lien upon real property.

 (B) A security instrument may be satisfied or released by any of the following methods:

 (1) The mortgagee of record, the owner or holder of the mortgage, the trustee of a deed of trust, or the legal representative, agent or officer, or attorney‑in‑fact, under a written instrument duly recorded of any of the foregoing, may exhibit the security instrument to the register who has charge of the recording of the security instrument and then in the presence of the register write across the face of the record of the security instrument the words ‘The debt secured is paid in full and the lien of this instrument is satisfied’, ‘The lien of this instrument has been released’, or words of like meaning and date the notation and sign it. The signature must be witnessed by the register.

 (2) The satisfaction or release of the security instrument may be written upon or attached to the original security instrument and executed by any person above named in the presence of two witnesses and acknowledged, in which event the satisfaction or release must be recorded across the face of the record of the original instrument.

 (3) The mortgagee of record, the trustee of a deed of trust, or an agent or officer, legal representative, or attorney‑in‑fact, under a written instrument duly recorded, of either of the foregoing, may execute a satisfaction or release of a mortgage or deed of trust. Any person executing such satisfaction or release which is false is guilty of perjury and subject to Section 16‑9‑10 and must be liable for damages that any person may sustain as a result of the false affidavit, including reasonable attorney’s fees incurred in connection with the recovery of such damages. This satisfaction or release must be signed in the presence of two witnesses, acknowledged, and must be in substantially the same form as follows:

 ‘STATE OF SOUTH CAROLINA MORTGAGE/DEED OF TRUST SATISFACTION

 PURSUANT TO SECTION 29‑3‑330(B)(3) OF THE SOUTH CAROLINA CODE OF LAWS, 1976

 The undersigned being the mortgagee of record, the trustee of a deed of trust, or the legal representative, agent or officer, or attorney‑in‑fact of the mortgagee of record or the trustee of the trust, under a written agreement duly recorded, of either of the foregoing, certifies:

 The debt secured by the mortgage/deed of trust recorded in the office of the Clerk of Court or Register of Deeds of \_\_\_\_\_\_\_\_\_\_\_\_ County in book \_\_\_\_\_\_ at page \_\_\_\_\_\_ is:

 [ ] paid in full and the lien or the foregoing instrument has been released; or

 [ ] the lien of the foregoing instrument has been released.

 The Clerk of Court or Register of Deeds may enter this cancellation into record.

 Under penalties of perjury, I declare that I have examined this affidavit this \_\_\_day of \_\_\_\_\_\_\_\_ and, to the best of my knowledge and belief, it is true, correct, and complete.

 WITNESS my/our hand this \_\_\_ day of \_\_\_\_, 20 \_\_\_.

 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 (Signature)

 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 (Witness Signature)

 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 (Witness Signature)

 State of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 County of \_\_\_\_\_\_\_\_\_\_\_\_\_\_

 This instrument was acknowledged before me this (date) by (name of officer/authorized signer, title of officer/authorized signer), of (name of corporation/entity acknowledging), a (type of entity and state or place of incorporation/formation), on behalf of the corporation/entity.

 Signature of Notary \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 Notary Public, State of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 Printed Name of Notary \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 My Commission Expires: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_’

 This notary acknowledgment form does not preclude the use of any other form of acknowledgment permitted by South Carolina law. The filing of this satisfaction shall satisfy or release the lien of the mortgage or deed of trust. Upon presentation, the register shall record this satisfaction or release pursuant to Section 29‑3‑330(B)(3) and mark the mortgage or deed of trust satisfied or released of record.

 (4) If the security instrument was recorded in counterparts, the original security instrument need not be presented and the satisfaction or release of it may be evidenced by an instrument of satisfaction or release, which may be executed in counterparts, by the mortgagee, the holder of the mortgage, the legal representative, agent or officer, or the attorney‑in‑fact under a written instrument duly recorded. Upon presentation of the instrument of satisfaction or release, or a counterpart of it, the register shall record the same.

 (5) Any licensed attorney admitted to practice in the State of South Carolina who can provide proof of payment of funds by evidence of payment made payable to the mortgagee, holder of record, servicer, or other party entitled to receive payment may record, or cause to be recorded, an affidavit, in writing, duly executed in the presence of two witnesses and acknowledged pursuant to the Uniform Recognition of Acknowledgments Act in Chapter 3, Title 26, which states that full payment of the balance or payoff amount of the security instrument has been made and that evidence of payment from the mortgagee, assignee, or servicer exists. This affidavit, duly recorded in the appropriate county, shall serve as notice of satisfaction of the mortgage and release of the lien upon the real property. The filing of the affidavit must be sufficient to satisfy or release the lien. Upon presentation of the instrument of satisfaction or release, the register must record the same. This section may not be construed to require an attorney to record an affidavit pursuant to this item or to create liability for failure to file such affidavit. The licensed attorney signing any such instrument which is false is guilty of perjury and subject to Section 16‑9‑10 and shall be liable for damages that any person may sustain as a result of the false affidavit, including reasonable attorney’s fees incurred in connection with the recovery of such damages. The affidavit referred to in this item shall be as follows:

 ‘STATE OF SOUTH CAROLINA MORTGAGE LIEN

 COUNTY OF \_\_\_\_\_\_\_\_\_\_\_ SATISFACTION AFFIDAVIT

 PURSUANT TO SECTION 29‑3‑330

 OF SC CODE OF LAWS, 1976

 FOR BOOK \_\_\_\_ PAGE \_\_\_\_\_

 The undersigned on oath, being first duly sworn, hereby certifies as follows:

 1. The undersigned is a licensed attorney admitted to practice in the State of South Carolina.

 2. That with respect to the mortgage or deed of trust given by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ to \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ dated \_\_\_\_\_\_\_ and recorded in the offices of the Clerk of Court or Register of Deeds in book \_\_\_\_\_\_\_\_\_ at page \_\_\_\_\_\_\_\_:

 a. [ ] That the undersigned was given written payoff information and made such payoff and is in possession of a canceled check or other evidence of payment to the mortgagee, holder of record, or representative servicer.

 b. [ ] That the undersigned was given written payoff information and made such payoff by wire transfer or other electronic means to the mortgagee, holder of record, or representative servicer and has confirmation from the undersigned’s bank of the transfer to the account provided by the mortgagee, holder of record, or representative servicer.

 Under penalties of perjury, I declare that I have examined this affidavit this \_\_\_ day of \_\_\_\_ and, to the best of my knowledge and belief, it is true, correct, and complete.

 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 (Witness) (Signature)

 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 (Witness) (Name‑‑Please Print)

 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_(Attorney’s S.C. Bar number)

 STATE OF SOUTH CAROLINA ACKNOWLEDGEMENT

 COUNTY OF \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 The foregoing instrument was acknowledged before me this \_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_ by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 Notary Public for South Carolina

 My Commission Expires: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_’

 Upon presentation to the office of the Register of Deeds, the register is directed to record pursuant to Section 29‑3‑330(B)(3) and mark the mortgage or deed of trust satisfied or released of record.”

**Time effective**

SECTION 2. This act takes effect upon approval by the Governor.

Ratified the 29th day of May, 2014.

Approved the 2nd day of June, 2014.

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