**South Carolina General Assembly**

119th Session, 2011-2012

**A19, R39, H3104**

**STATUS INFORMATION**

General Bill

Sponsors: Rep. Nanney

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Introduced in the House on January 11, 2011

Introduced in the Senate on February 15, 2011

Passed by the General Assembly on April 20, 2011

Governor's Action: May 9, 2011, Signed

Summary: Satisfaction of mortgage

**HISTORY OF LEGISLATIVE ACTIONS**

 Date Body Action Description with journal page number

 12/7/2010 House Prefiled

 12/7/2010 House Referred to Committee on **Judiciary**

 1/11/2011 House Introduced and read first time ([House Journal‑page 46](file:///h%3A%5Chj%20archive%5C2011%5C01-11-11.docx))

 1/11/2011 House Referred to Committee on **Judiciary** ([House Journal‑page 46](file:///h%3A%5Chj%20archive%5C2011%5C01-11-11.docx))

 2/2/2011 House Committee report: Favorable **Judiciary** ([House Journal‑page 4](file:///h%3A%5Chj%20archive%5C2011%5C02-02-11.docx))

 2/3/2011 Scrivener's error corrected

 2/8/2011 House Debate adjourned until Wednesday, February 9, 2011 ([House Journal‑page 77](file:///h%3A%5Chj%20archive%5C2011%5C02-08-11.docx))

 2/9/2011 House Read second time ([House Journal‑page 22](file:///h%3A%5Chj%20archive%5C2011%5C02-09-11.docx))

 2/10/2011 House Read third time and sent to Senate ([House Journal‑page 15](file:///h%3A%5Chj%20archive%5C2011%5C02-10-11.docx))

 2/15/2011 Senate Introduced and read first time ([Senate Journal‑page 8](file:///h%3A%5Csj%20archive%5C2011%5C02-15-11.docx))

 2/15/2011 Senate Referred to Committee on **Banking and Insurance** ([Senate Journal‑page 8](file:///h%3A%5Csj%20archive%5C2011%5C02-15-11.docx))

 4/14/2011 Senate Committee report: Favorable **Banking and Insurance** ([Senate Journal‑page 18](file:///h%3A%5Csj%20archive%5C2011%5C04-14-11.docx))

 4/19/2011 Senate Read second time ([Senate Journal‑page 18](file:///h%3A%5Csj%20archive%5C2011%5C04-19-11.docx))

 4/19/2011 Senate Roll call Ayes‑41 Nays‑0 ([Senate Journal‑page 18](file:///h%3A%5Csj%20archive%5C2011%5C04-19-11.docx))

 4/20/2011 Senate Read third time and enrolled ([Senate Journal‑page 14](file:///h%3A%5Csj%20archive%5C2011%5C04-20-11.docx))

 5/5/2011 Ratified R 39

 5/9/2011 Signed By Governor

 5/13/2011 Effective date 05/09/11

 5/17/2011 Act No. 19

**VERSIONS OF THIS BILL**

[12/7/2010](file:///p%3A%5Cpprever%5C2011-12%5C3104_20101207.docx)

[2/2/2011](file:///p%3A%5Cpprever%5C2011-12%5C3104_20110202.docx)

[2/3/2011](file:///p%3A%5Cpprever%5C2011-12%5C3104_20110203.docx)

[4/14/2011](file:///p%3A%5Cpprever%5C2011-12%5C3104_20110414.docx)

(A19, R39, H3104)

**AN ACT** **TO AMEND SECTION 29‑3‑330, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO ENTERING A SATISFACTION OF MORTGAGE IN THE PUBLIC RECORD, SO AS TO INCLUDE AN ACKNOWLEDGEMENT FORM IN THE SATISFACTION AFFIDAVIT.**

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

**Mortgage satisfaction affidavits, acknowledgement required**

SECTION 1. Section 29‑3‑330(c) and (e) of the 1976 Code is amended to read:

 “(c)(i) In case the original mortgage, deed of trust, or other instrument securing the payment of money and being a lien upon real property has been lost or destroyed it may be satisfied, either by the owner and holder of the instrument in person or his personal representative or duly authorized attorney in fact, by an instrument 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, and in addition the person executing the satisfaction shall make an affidavit that he or the person he represents is at the time of the satisfaction a bona fide owner and holder of the mortgage, deed of trust, or other instrument securing the payment of money and being a lien upon real property and that has not been assigned, hypothecated, or otherwise disposed of. The affidavit must be recorded along with the satisfaction. The maker of any affidavit which is false is guilty of perjury and punished as by law provided for the punishment of perjury.

 (ii) The signature of the owner or holder of the instrument which has been lost or destroyed to which this section applies may be proved in the manner provided above or in the alternative may also be acknowledged by the owner or holder of the instrument in the presence of two witnesses, taken before an officer competent to administer an oath. The form of the acknowledgement must be as provided in Section 30‑5‑30(C) and if the acknowledgement is taken outside this State, it may be taken in the manner provided in Section 30‑5‑30(B).

 (e) 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 mortgage or other instrument securing the payment of money and being a lien upon real property 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 shall be sufficient to satisfy, release, or discharge the lien. Upon presentation of the instrument of satisfaction, release, or discharge, the officer or his deputy having charge of the recording of instruments shall 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

 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 given by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ to \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ dated \_\_\_\_\_\_\_ and recorded in the offices of the 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(e) and mark the mortgage satisfied of record.”

**Savings clause**

SECTION 2. The repeal or amendment by this act of any law, whether temporary or permanent or civil or criminal, does not affect pending actions, rights, duties, or liabilities founded thereon, or alter, discharge, release or extinguish any penalty, forfeiture, or liability incurred under the repealed or amended law, unless the repealed or amended provision shall so expressly provide. After the effective date of this act, all laws repealed or amended by this act must be taken and treated as remaining in full force and effect for the purpose of sustaining any pending or vested right, civil action, special proceeding, criminal prosecution, or appeal existing as of the effective date of this act, and for the enforcement of rights, duties, penalties, forfeitures, and liabilities as they stood under the repealed or amended laws.

**Time effective**

SECTION 3. This act takes effect upon approval by the Governor.

Ratified the 5th day of May, 2011.

Approved the 9th day of May, 2011.

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