

CHAPTER 348

FINANCIAL INSTITUTIONS

HOUSE BILL 16-1356

BY REPRESENTATIVE(S) Kraft-Tharp and Nordberg, Becker K., Priola, Rosenthal;
also SENATOR(S) Jahn and Holbert, Heath, Woods.

AN ACT

CONCERNING REQUIREMENTS RELATED TO THE SATISFACTION OF INDEBTEDNESS SECURED BY REAL PROPERTY.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, **amend** 38-35-124 as follows:

38-35-124. Requirements upon satisfaction of indebtedness. (1) Except as provided in articles 22 and 23 of this title OR AS OTHERWISE PROVIDED IN THIS SECTION, when all indebtedness, whether absolute or contingent, secured by a lien on real property has been satisfied, unless the debtor requests in writing that the lien not be released, the creditor or holder of the indebtedness shall, within ninety days after the satisfaction of the indebtedness and receipt from the debtor of the reasonable costs of procuring and recording the release documents, record with the appropriate clerk and recorder the documents necessary to release or satisfy the lien of record or, in the case of an indebtedness secured by a deed of trust to a public trustee, file with the public trustee the documents required for a release as prescribed by section 38-39-102.

(2) If the debtor requests in writing that the lien be released, or fails to request in writing that the lien not be released, then the debtor's request or the actual release ~~shall cancel~~ CANCELS any obligations on the part of the creditor or holder to make any further loan or advance that would be secured by the lien. If the person satisfying the indebtedness requests in writing delivery to him or her of the cancelled instruments of indebtedness at the time of satisfaction, the creditor or holder ~~shall be~~ IS relieved of any further obligation or liability under this section after ~~such~~ THE delivery has been completed.

(3) Upon satisfaction of the indebtedness, the creditor or holder shall return to the

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

person satisfying the indebtedness all papers and personal property of the debtor that have been held by the creditor or holder in connection with the indebtedness. ~~Any~~ A creditor or holder who fails to comply with this section ~~shall be~~ is liable to the owner of the real property encumbered by such indebtedness and to any other person liable on such indebtedness for all actual economic loss incurred enforcing the rights provided under this section, including reasonable attorney fees and costs.

(4) (a) FOR INDEBTEDNESS SECURED BY A LIEN ON REAL PROPERTY WHERE THE ABILITY OF A DEBTOR TO DRAW UPON A LINE OF CREDIT CONTINUES NOTWITHSTANDING THAT ALL AMOUNTS OUTSTANDING UNDER THE LINE OF CREDIT HAVE BEEN PAID IN FULL, ANY LIEN ON REAL PROPERTY SECURING THAT LINE OF CREDIT CONTINUES, AND NO LIEN RELEASE UNDER THIS SECTION IS REQUIRED, UNTIL THE LINE OF CREDIT EXPIRES AND ALL INDEBTEDNESS, WHETHER ABSOLUTE OR CONTINGENT, HAS BEEN SATISFIED UNLESS, BEFORE EXPIRATION OF THE LINE OF CREDIT, ALL OUTSTANDING INDEBTEDNESS IS SATISFIED AND THE DEBTOR RELINQUISHES IN WRITING ALL RIGHT TO MAKE ANY FURTHER DRAW UPON THE LINE OF CREDIT.

(b) THE DEBTOR RELINQUISHES ALL RIGHT TO MAKE A FURTHER DRAW BY EITHER REQUESTING IN WRITING THAT THE LINE OF CREDIT BE CLOSED BY THE CREDITOR OR BY WRITTEN NOTIFICATION BY THE DEBTOR OR DEBTOR'S DESIGNEE THAT THE REAL PROPERTY IS BEING CONVEYED UPON PAYMENT OF ALL INDEBTEDNESS. UPON SATISFACTION OF ALL INDEBTEDNESS IN CONNECTION WITH THE CONVEYANCE OF THE REAL PROPERTY AND NOTICE TO THE CREDITOR OR HOLDER OF THE CONVEYANCE, THE CREDITOR OR HOLDER SHALL TERMINATE THE LINE OF CREDIT, RECORD THE RELEASE OF THE LIEN ON REAL PROPERTY, OR IN THE CASE OF A DEED OF TRUST, FILE WITH THE PUBLIC TRUSTEE THE DOCUMENTS REQUIRED FOR RELEASE, AND RETURN ALL PAPERS AND PERSONAL PROPERTY AS SET FORTH IN THIS SECTION.

SECTION 2. Act subject to petition - effective date - applicability. (1) This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 10, 2016, if adjournment sine die is on May 11, 2016); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2016 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

(2) This act applies to requirements upon satisfaction of indebtedness secured by real property on or after the applicable effective date of this act.

Approved: June 10, 2016