

1 SB347  
2 136891-1  
3 By Senators Scofield, Marsh, Waggoner, Allen, Holley,  
4 Brewbaker, Reed, Whatley, Bussman, Sanford, Ward, Blackwell,  
5 Figures, Glover, Beasley, Singleton, Fielding, Dunn, Coleman,  
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7 RFD: Banking and Insurance  
8 First Read: 21-FEB-12

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8 SYNOPSIS: This bill would adopt the Alabama Uniform  
9 Residential Mortgage Satisfaction Act.

10 This bill would provide a method for a  
11 landowner or other entitled person to request a  
12 payoff statement pursuant to a notification that  
13 may be transmitted to a secured creditor by first  
14 class mail, facsimile, or email.

15 This bill would require a secured creditor,  
16 upon notification, to comply with the request for a  
17 payoff statement within a certain period of time or  
18 be liable for damages.

19 This bill would require secured creditors to  
20 record mortgage satisfactions within 30 days of the  
21 day the mortgage is paid or be liable for damages.

22 This bill would provide damages in certain  
23 circumstances for failing to comply.

24 This bill would provide a self-help title  
25 clearing remedy for a person entitled to the  
26 recording of a mortgage satisfaction pursuant to

1           the use of an Affidavit of Satisfaction and a  
2           Satisfaction Agent.

3           This bill would also provide for the use of  
4           a Document of Rescission by a secured creditor to  
5           rescind an erroneous recording of a mortgage  
6           satisfaction and limit potential liability.

7  
8                           A BILL  
9                           TO BE ENTITLED  
10                          AN ACT

11  
12           To adopt the Alabama Residential Mortgage  
13   Satisfaction Act as a new Chapter 10B, Title 35, Code of  
14   Alabama 1975, to provide a uniform method for clearing  
15   residential land titles for subsequent transactions; to  
16   provide a method for a landowner or other entitled person to  
17   request a payoff statement pursuant to a notification  
18   transmitted to a secured creditor; to require a secured  
19   creditor, upon notification, to comply with the request for a  
20   payoff statement within a certain period of time; to require  
21   secured creditors to record mortgage satisfactions within a  
22   certain period of time of the payment date; to provide  
23   penalties for violations; to provide a self-help title  
24   clearing remedy pursuant to the use of an Affidavit of  
25   Satisfaction and a Satisfaction Agent; to provide for the use  
26   of a Document of Rescission by a secured creditor to rescind  
27   an erroneous recording of a mortgage; and to amend Sections

1 35-10-26 and 35-10-30, Code of Alabama 1975, to conform those  
2 code sections to the new chapter.

3 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

4 Section 1. Chapter 10B is added to Title 35 of the  
5 Code of Alabama 1975, to read as follows:

6 CHAPTER 10B. THE ALABAMA RESIDENTIAL MORTGAGE  
7 SATISFACTION ACT

8 ARTICLE 1

9 DEFINITIONS AND GENERAL PROVISIONS

10 Section 35-10B-101. Short title.

11 This chapter may be cited as the Alabama Residential  
12 Mortgage Satisfaction Act.

13 Section 35-10B-102. Definitions.

14 For purposes of this chapter, the following terms  
15 shall have the following meanings:

16 (1) ADDRESS FOR GIVING A NOTIFICATION. For the  
17 purpose of a particular type of notification, the most recent  
18 address provided in a document relating to the secured  
19 obligation by the intended recipient of the notification to  
20 the person giving the notification, unless the person giving  
21 the notification knows of a more recent or accurate address of  
22 the person then owning the mortgage, or agent of the owner for  
23 purposes of recording the satisfaction of the mortgage, in  
24 which case the term means that address.

25 (2) DAY. Calendar day.

1           (3) DOCUMENT. Information that is inscribed on a  
2           tangible medium or that is stored in an electronic or other  
3           medium and is retrievable in perceivable form.

4           (4) ELECTRONIC. Relating to technology having  
5           electrical, digital, magnetic, wireless, optical,  
6           electromagnetic, or similar capabilities.

7           (5) ENTITLED PERSON. A person liable for payment or  
8           performance of the obligation secured by the real property  
9           described in a security instrument, or the landowner.

10          (6) GOOD FAITH. Honesty in fact in the conduct  
11          concerned.

12          (7) LANDOWNER. A person that, before foreclosure,  
13          has the right of redemption in the real property described in  
14          a security instrument. The term does not include a person that  
15          holds only a lien on the real property.

16          (8) NOTIFICATION. A document containing information  
17          required under this chapter and signed by the person required  
18          to provide the information.

19          (9) PAYOFF AMOUNT. The sum necessary to satisfy a  
20          secured obligation.

21          (10) PAYOFF STATEMENT. A document containing the  
22          information specified in Section 35-10B-201(d).

23          (11) PERSON. An individual, corporation, business  
24          trust, estate, trust, partnership, limited liability company,  
25          association, joint venture, public corporation, government, or  
26          governmental subdivision, agency, or instrumentality, or any  
27          other legal or commercial entity.

1           (12) RECORDING DATA. The date and book and page  
2           number or instrument/document number that indicate where a  
3           document is recorded in the office of the judge of probate.

4           (13) RESIDENTIAL REAL PROPERTY. Real property  
5           located in this state which is used primarily for personal,  
6           family, or household purposes and is improved by one to four  
7           dwelling units.

8           (14) SECURED CREDITOR. A person that holds or is the  
9           beneficiary of a security interest or that is authorized both  
10          to receive payments on behalf of a person that holds a  
11          security interest and to record a satisfaction of the security  
12          instrument upon receiving full performance of the secured  
13          obligation. The term does not include a trustee under a  
14          security instrument.

15          (15) SECURED OBLIGATION. An obligation the payment  
16          or performance of which is secured by a security interest.

17          (16) SECURITY INSTRUMENT. An agreement, however  
18          denominated, that creates or provides for an interest in  
19          residential real property to secure payment or performance of  
20          an obligation, whether or not it also creates or provides for  
21          a lien on personal property.

22          (17) SECURITY INTEREST. An interest in residential  
23          real property created by a security instrument.

24          (18) SIGN. With present intent to authenticate or  
25          adopt a document, to do either of the following:

26               a. To execute or adopt a tangible symbol.

1           b. To attach to or logically associate with the  
2 document an electronic sound, symbol, or process.

3           (19) STATE. A state of the United States, the  
4 District of Columbia, Puerto Rico, the United States Virgin  
5 Islands, or any territory or insular possession subject to the  
6 jurisdiction of the United States.

7           (20) SUBMIT FOR RECORDING. To deliver, with required  
8 fees and taxes, a document sufficient to be recorded under  
9 this chapter, to the judge of probate of the county in which  
10 the property is located.

11           Section 35-10B-103. Notification: Manner of giving  
12 and effective date.

13           (a) A person gives a notification by any of the  
14 following methods:

15           (1) Depositing it with the United States Postal  
16 Service by certified mail, return receipt requested, or with a  
17 commercially reasonable delivery service with cost of delivery  
18 provided, properly addressed to the recipient's address for  
19 giving a notification.

20           (2) Sending it by facsimile transmission, electronic  
21 mail, or other electronic transmission to the recipient's  
22 address for giving a notification, but only if the recipient  
23 agreed to receive notification in that manner.

24           (3) Causing it to be received at the address for  
25 giving a notification within the time that it would have been  
26 received if given pursuant to subdivision (1).

27           (b) A notification is effective:

1           (1) The day after it is deposited with a  
2       commercially reasonable delivery service for overnight  
3       delivery.

4           (2) The day it is given, if given pursuant to  
5       subsection (a) (2).

6           (3) The day it is received, if given by a method  
7       other than as provided in subsection (a) (2).

8           Section 35-10B-104. Document of rescission: Effect;  
9       liability for wrongful recording.

10          (a) In this section, "document of rescission" means  
11       a document stating that an identified satisfaction or  
12       affidavit of satisfaction of a security instrument was  
13       recorded erroneously, the secured obligation remains  
14       unsatisfied, and the security instrument remains in force.

15          (b) If ownership of the property has not been  
16       transferred, a person who records a satisfaction or affidavit  
17       of satisfaction of a security instrument in error may execute  
18       and record a document of rescission. Upon recording, the  
19       document rescinds an erroneously recorded satisfaction or  
20       affidavit.

21          (c) A recorded document of rescission has no effect  
22       on the rights of a person that:

23               (1) Acquired an interest in the real property  
24       described in a security instrument after the recording of the  
25       satisfaction or affidavit of satisfaction of the security  
26       instrument and before the recording of the document of  
27       rescission; and



1           (2) Would otherwise have priority over or take free  
2 of the lien created by the security instrument under Article  
3 3, Chapter 4, of this title.

4           (d) A person that erroneously or wrongfully records  
5 a document of rescission is liable to any person injured  
6 thereby for the actual damages caused by the recording.

7           ARTICLE 2

8           SECURED CREDITOR TO RECORD SATISFACTION; LIABILITY  
9 FOR FAILURE

10           Section 35-10B-201. Payoff statement: Request and  
11 content.

12           (a) An entitled person, or an agent authorized by an  
13 entitled person to request a payoff statement, may give to the  
14 secured creditor a notification requesting a payoff statement  
15 for a specified payoff date not more than 30 days after the  
16 notification is given. The notification must contain all of  
17 the following:

18               (1) The entitled person's name.

19               (2) If given by a person other than an entitled  
20 person, the name of the person giving the notification and a  
21 statement that the person is an authorized agent of the  
22 entitled person.

23               (3) Direction as to whether the statement is to be  
24 sent to the entitled person or that person's authorized agent.

25               (4) The address to which the creditor must send the  
26 statement.

1           (5) Sufficient information to enable the creditor to  
2 identify the secured obligation and the real property  
3 encumbered by the security interest.

4           (6) If the secured obligation contains a commitment  
5 or agreement by the mortgagee to make advances, secure  
6 obligations, or otherwise give value under any agreement,  
7 including, without limitation, agreements providing for future  
8 advances, open end, revolving, or other lines of credit, or  
9 letters of credit, a statement that the entitled person  
10 intends to close the commitment or agreement of credit and is  
11 requesting the secured creditor not to extend any additional  
12 amounts for a period of 30 days from receipt of the notice.

13           (b) If a notification under subsection (a) directs  
14 the secured creditor to send the payoff statement to a person  
15 identified as an authorized agent of the entitled person, the  
16 secured creditor must send the statement to the agent.

17           (c) Within 14 days after the effective date of a  
18 notification that complies with subsection (a), the secured  
19 creditor shall issue a payoff statement and send it as  
20 directed pursuant to subsection (a)(3) in the manner  
21 prescribed in Section 35-10B-103 for giving a notification. A  
22 secured creditor that sends a payoff statement to the entitled  
23 person or the authorized agent may not claim that the  
24 notification did not satisfy subsection (a). If the person to  
25 whom the notification is given once held an interest in the  
26 secured obligation but has since assigned that interest, that  
27 person need not send a payoff statement but shall give a

1 notification of the assignment to the person to whom the  
2 payoff statement otherwise would have been sent, providing the  
3 name and address of the assignee.

4 (d) If a secured obligation cannot be prepaid, a  
5 statement of that fact is sufficient, otherwise a payoff  
6 statement must contain all of the following:

7 (1) The date on which it was prepared and the payoff  
8 amount as of that date, including the amount by type of each  
9 fee, charge, or other sum included within the payoff amount.

10 (2) The information reasonably necessary to  
11 calculate the payoff amount as of the requested payoff date,  
12 including the per diem interest amount.

13 (3) The payment cutoff time, if any, the address or  
14 place where payment must be made, and any limitation as to the  
15 authorized method of payment.

16 (e) A payoff statement may contain the amount of any  
17 fees authorized under this section not included in the payoff  
18 amount.

19 (f) A secured creditor may not qualify a payoff  
20 amount or state that it is subject to change before the payoff  
21 date unless the payoff statement provides information  
22 sufficient to permit the entitled person or the person's  
23 authorized agent to request an updated payoff amount at no  
24 charge and to obtain that updated payoff amount during the  
25 secured creditor's normal business hours on the payoff date or  
26 the immediately preceding business day.

1 (g) A secured creditor may charge a fee of  
2 twenty-five dollars (\$25) for each additional payoff statement  
3 requested during a one-year period; however, a secured  
4 creditor may not charge a fee for providing an updated payoff  
5 amount under subsection (f) or a corrected payoff statement  
6 under Section 35-10B-202(a).

7 (h) A secured creditor is not required to send a  
8 payoff statement by means other than first class mail,  
9 facsimile, or electronic mail. If the creditor agrees to send  
10 a statement by another means, it may charge a reasonable fee  
11 for complying with the requested manner of delivery.

12 (i) Except as otherwise provided in Section  
13 35-10B-205, if a secured creditor to which a notification has  
14 been given pursuant to subsection (a) does not send a timely  
15 payoff statement that substantially complies with subsection  
16 (d), the creditor is liable to the entitled person for any  
17 actual damages and an additional five hundred dollars (\$500)  
18 as statutory damages where the creditor fails to act without  
19 reasonable cause.

20 Section 35-10B-202. Erroneous payoff statement:  
21 Correction; effect.

22 (a) If a secured creditor determines that the payoff  
23 statement it provided was erroneous, the creditor may send a  
24 corrected payoff statement. If the entitled person or the  
25 person's authorized agent receives and has a reasonable  
26 opportunity to act upon a corrected payoff statement before

1 making payment, the corrected statement supersedes an earlier  
2 statement.

3 (b) A secured creditor that sends a payoff statement  
4 containing an understated payoff amount or other erroneous  
5 terms may not deny the accuracy of the payoff amount as  
6 against any person that reasonably and detrimentally relies  
7 upon the understated payoff amount or other erroneous terms.

8 (c) This chapter does not do either of the  
9 following:

10 (1) Affect the right of a secured creditor to  
11 recover any sum that it did not include in a payoff amount  
12 from any person liable for payment of the secured obligation.

13 (2) Limit any claim or defense that a person liable  
14 for payment of a secured obligation may have under law other  
15 than this chapter.

16 Section 35-10B-203. Secured creditor to submit  
17 satisfaction for recording; liability for failure.

18 (a) A secured creditor shall submit for recording a  
19 satisfaction of a security instrument within 30 days after the  
20 creditor receives full payment or performance of the secured  
21 obligation. If a security instrument secures a line of credit  
22 or future advances, the secured obligation is fully performed  
23 only if, included with the full payment, the secured creditor  
24 has received a notification requesting the creditor to  
25 terminate the line of credit or containing a statement  
26 sufficient to terminate the effectiveness of the provision for  
27 future advances in the security instrument.

1           (b) Except as otherwise provided in Section  
2     35-10B-205, a secured creditor that is required to submit a  
3     satisfaction of a security instrument for recording and does  
4     not do so by the end of the period specified in subsection (a)  
5     is liable to the landowner for any damages caused by the  
6     failure to comply with this act. Loss caused by a failure to  
7     comply may include loss resulting from the landowner's  
8     inability to obtain, or increased costs of, alternative  
9     financing or loss of sale.

10           (c) Except as otherwise provided in subsection (e)  
11     and in Section 35-10B-205, a secured creditor that is required  
12     to submit a satisfaction of a security instrument for  
13     recording and does not do so by the end of the period  
14     specified in subsection (a) may also be liable to the  
15     landowner for two hundred dollars (\$200) in addition to any  
16     damages recoverable under subsection (b).

17           (d) The landowner may recover actual damages  
18     recoverable in subsection (b) if the mortgage has not been  
19     satisfied within the initial 30-day period after the creditor  
20     receives full payment as required in subsection (a), when both  
21     of the following occur:

22           (1) The landowner gives the creditor a notification,  
23     by any method authorized by Section 35-10B-103 that provides  
24     proof of receipt, demanding that the creditor submit a  
25     satisfaction for recording.

26           (2) The creditor does not submit a satisfaction for  
27     recording within 30 days after receipt of the notification.

1           (e) Subsection (c) does not apply if the secured  
2 creditor received full payment or performance of the secured  
3 obligation before the effective date of this chapter.

4           (f) All actions for recovery of the penalties  
5 mentioned in this chapter shall be brought in the county where  
6 the security instrument is recorded.

7           Section 35-10B-204. Form and effect of satisfaction.

8           (a) A document is a satisfaction of a security  
9 instrument if it does all of the following:

10           (1) Identifies the security instrument, the original  
11 parties to the security instrument, the recording data for the  
12 security instrument, and the office in which the security  
13 instrument is recorded.

14           (2) States that the person signing the satisfaction  
15 is the secured creditor or its authorized agent to execute the  
16 release.

17           (3) Contains language terminating the effectiveness  
18 of the security instrument.

19           (4) Is signed by the secured creditor or its  
20 authorized agent and acknowledged as required by law for a  
21 conveyance of an interest in real property.

22           (b) The judge of probate shall accept for recording  
23 a satisfaction of a security instrument, unless any of the  
24 following occur:

25           (1) An amount equal to or greater than the  
26 applicable recording fees and taxes is not tendered.

1           (2) The document is submitted by a method or in a  
2 medium not authorized by the judge of probate.

3           (3) The document is not signed by the secured  
4 creditor or their authorized agent and acknowledged as  
5 required by law for a conveyance of an interest in real  
6 property.

7           Section 35-10B-205. Limitation of secured creditor's  
8 liability.

9           Absent negligence, wantonness, recklessness, or  
10 deliberate misconduct, a secured creditor is not liable under  
11 this chapter if it does all of the following:

12           (1) Established a reasonable procedure to achieve  
13 compliance with its obligations under this chapter.

14           (2) Complied with that procedure in good faith.

15           (3) Fails to comply with its obligations either  
16 because of circumstances beyond its control or as a result of  
17 a bona fide error, notwithstanding maintenance of reasonable  
18 procedures of compliance.

### 19           ARTICLE 3

### 20           SATISFACTION BY AFFIDAVIT

21           Section 35-10B-301. Non-application of Article 3 of  
22 this Act.

23           This article applies only to security agreements on  
24 residential real estate. This act does not apply to equity  
25 line security agreements unless the mortgagee has executed a  
26 statement that the equity line of credit is no longer  
27 applicable.



1           Section 35-10B-302. Definition; eligibility to serve  
2 as satisfaction agent; regulation of satisfaction agents.

3           (a) In this article, "title insurance company" means  
4 an organization authorized to conduct the business of insuring  
5 titles to real property in this state.

6           (b) Either of the following may serve as a  
7 satisfaction agent under this article:

8                 (1) A title insurer as defined in Section 27-25-3.

9                 (2) An attorney licensed to practice law in this  
10 state and in good standing.

11           (c) This chapter does not require a person to agree  
12 to serve as a satisfaction agent.

13           Section 35-10B-303. Affidavit of satisfaction:  
14 Notification to secured creditor.

15           (a) If a secured creditor has not submitted for  
16 recording a satisfaction of a security instrument within the  
17 period specified in Section 35-10B-203(a), a satisfaction  
18 agent acting for and with authority from the landowner may  
19 give the secured creditor a notification that the satisfaction  
20 agent intends to submit for recording an affidavit of  
21 satisfaction of the security instrument. The notification must  
22 include all of the following:

23                 (1) The identity and mailing address of the  
24 satisfaction agent.

25                 (2) Identification of the security instrument for  
26 which a recorded satisfaction is sought, including the names

1 of the original parties to, and the recording data for, the  
2 security instrument.

3 (3) A statement that the satisfaction agent has  
4 reasonable grounds to believe all of the following:

5 a. That the real property described in the security  
6 instrument is residential real property or, at the time the  
7 security interest was made, was residential real property.

8 b. That the person to which the notification is  
9 being given is the secured creditor.

10 c. That the secured creditor has received full  
11 payment or performance of the secured obligation.

12 (4) A statement that a satisfaction of the security  
13 instrument does not appear of record in the chain of title.

14 (5) A statement that the satisfaction agent, acting  
15 with the authorization of the landowner of the real property  
16 described in the security instrument, intends to sign and  
17 submit for recording an affidavit of satisfaction of the  
18 security instrument unless, within 30 days after the effective  
19 date of the notification, any of the following occur:

20 a. The secured creditor submits a satisfaction of  
21 the security instrument for recording.

22 b. The satisfaction agent receives from the secured  
23 creditor a notification stating that the secured obligation  
24 remains unsatisfied.

25 c. The satisfaction agent receives from the secured  
26 creditor a notification stating that the secured creditor has

1 assigned the security instrument and identifying the name and  
2 address of the assignee.

3 (b) A notification under subsection (a) must be sent  
4 by a method authorized by Section 35-10B-103 that provides  
5 proof of receipt to the secured creditor's address for giving  
6 a notification for the purpose of requesting a payoff  
7 statement or, if the satisfaction agent cannot ascertain that  
8 address, to the secured creditor's address for notification  
9 for any other purpose.

10 Section 35-10B-304. Affidavit of satisfaction:  
11 Authorization to submit for recording.

12 (a) Subject to subsections (b) and (c), a  
13 satisfaction agent may sign and submit for recording an  
14 affidavit of satisfaction of a security instrument complying  
15 with Section 35-10B-305 if either of the following occur:

16 (1) There does not appear of record a satisfaction  
17 of a security instrument within 30 days after the effective  
18 date of a notification complying with Section 35-10B-303(a).

19 (2) The secured creditor authorizes the satisfaction  
20 agent to do so.

21 (b) A satisfaction agent may not sign and submit for  
22 recording an affidavit of satisfaction of a security  
23 instrument if it has received a notification under Section  
24 35-10B-303(a)(5)b. stating that the secured obligation remains  
25 unsatisfied.

26 (c) If a satisfaction agent receives a notification  
27 under Section 35-10B-303(a)(5)c. stating that the security

1 instrument has been assigned, the satisfaction agent may not  
2 submit for recording an affidavit of satisfaction of the  
3 security instrument without doing both of the following:

4 (1) Giving a notification of intent to submit for  
5 recording an affidavit of satisfaction to the identified  
6 assignee at the identified address.

7 (2) Complying with Section 35-10B-303 with respect  
8 to the identified assignee.

9 Section 35-10B-305. Affidavit of satisfaction:  
10 Content.

11 An affidavit of satisfaction of a security  
12 instrument must do all of the following:

13 (1) Identify the original parties to the security  
14 instrument, the secured creditor, and the recording data for  
15 the security instrument.

16 (2) State the basis upon which the person signing  
17 the affidavit is a satisfaction agent.

18 (3) State that the person signing the affidavit has  
19 reasonable grounds to believe that the real property described  
20 in the security instrument is residential real property or was  
21 residential real property at the time the security instrument  
22 was made.

23 (4) State that the person signing the affidavit has  
24 reasonable grounds to believe that the secured creditor has  
25 received full payment or performance of the secured  
26 obligation.

1           (5) State that the person signing the affidavit,  
2           acting with the authority of the owner of the real property  
3           described in the security instrument, gave notification to the  
4           secured creditor of its intention to sign and submit for  
5           recording an affidavit of satisfaction.

6           (6) Describe the method by which the person signing  
7           the affidavit gave notification in compliance with this  
8           chapter.

9           (7) State either of the following:

10           a. That more than 30 days have elapsed since the  
11           effective date of that notification, no satisfaction has been  
12           recorded, and the satisfaction agent has not received a  
13           notification that the secured obligation remains unsatisfied.

14           b. That the secured creditor authorized the person  
15           signing the affidavit to sign and record an affidavit of  
16           satisfaction.

17           (8) Be sworn or affirmed, signed, and acknowledged  
18           as required by law for a conveyance of an interest in real  
19           property.

20           Section 35-10B-306. Affidavit of satisfaction: Form.

21           No particular phrasing of an affidavit of  
22           satisfaction is required. The following form of affidavit,  
23           when properly completed, is sufficient to satisfy the  
24           requirements of Section 35-10B-305:

25           "Prepared by \_\_\_\_\_ State of Alabama

26           "Address \_\_\_\_\_ County of \_\_\_\_\_

27           " \_\_\_\_\_

1                   " \_\_\_\_\_  
2                   "(Date of Affidavit)  
3                   " \_\_\_\_\_  
4                   "Source of Title:  
5                   "Mortgagor \_\_\_\_\_  
6                   "Mortgagee \_\_\_\_\_  
7                   "Mortgage Recorded: Book \_\_\_\_\_ Page \_\_\_\_\_  
8                   "Instrument/Document No. \_\_\_\_\_  
9                   "AFFIDAVIT OF SATISFACTION  
10                  "Before me \_\_\_\_\_ a notary public in and for  
11 the county and state, personally appeared \_\_\_\_\_,  
12 whose name is signed to this Affidavit of Satisfaction and who  
13 is known to me, and who being by me first duly sworn deposes  
14 and pays as follows:  
15                  "1. I am: [check appropriate line]  
16                  "\_\_\_\_\_ An officer or an authorized agent of  
17 \_\_\_\_\_ [Name of title insurance company] (the  
18 "Company"), which is authorized to transact the business of  
19 insuring titles to interests in real property in this state,  
20 and I have been authorized by the Company to sign and submit  
21 for recording an affidavit of satisfaction.  
22                  "\_\_\_\_\_ An attorney licensed to practice law in this  
23 state and in good standing.  
24                  "2. I am signing this Affidavit of Satisfaction to  
25 evidence full payment or performance of the obligations  
26 secured by real property covered by the following security

1 instrument (the "security instrument") currently held by  
2 \_\_\_\_\_ (the "secured creditor"):

3 "Title of security instrument:

4 "Original parties to security instrument:

5 "County and state of recording:

6 "Recording data for security instrument:

7 "3. I have reasonable grounds to believe that:

8 "a. The secured creditor has received full payment  
9 or performance of the balance of the obligations secured by  
10 the security instrument; and

11 "b. The real property described in the security  
12 instrument constitutes residential real property or was  
13 residential real property at the time the security interest  
14 was made.

15 "4. With the authorization of the landowner of the  
16 real property described in the security instrument, I gave  
17 notification to the secured creditor by \_\_\_\_\_  
18 [method authorized by Section 35-10B-103 that provides proof  
19 of receipt] that I would sign and record an affidavit of  
20 satisfaction of the security instrument if, within 30 days  
21 after the effective date of the notification, the secured  
22 creditor did not submit a satisfaction of the security  
23 interest for recording or give notification that the secured  
24 obligation remains unsatisfied.

25 "5. [check appropriate line]

26 "\_\_\_\_\_ (a) The 30-day period identified in  
27 paragraph 4 has elapsed, (b) The secured creditor has not

1 recorded a satisfaction, (c) I have not received notification  
2 that the secured obligation remains unsatisfied, and (d) I  
3 have not received notification that the secured obligation had  
4 been assigned.

5 "\_\_\_\_\_ The secured creditor responded to the  
6 notification in paragraph 4 by authorizing me to execute and  
7 record this affidavit of satisfaction.

8 "\_\_\_\_\_

9 "(Signature of Satisfaction Agent)

10 "I, \_\_\_\_\_, a notary public, in  
11 and for said county in said state, hereby certify that  
12 \_\_\_\_\_, whose name as \_\_\_\_\_  
13 corporation, is signed to the foregoing conveyance, and who is  
14 known to me, acknowledged before me on this day that, being  
15 informed of the contents of the affidavit of Satisfaction of  
16 Mortgage, as such officer and with full authority, executed  
17 the same voluntarily for and as the act of said corporation.

18 "Given under my hand this the \_\_\_\_\_ day of  
19 \_\_\_\_\_, 2\_\_\_\_ .

20 "\_\_\_\_\_

21 "Notary Public"

22 Section 35-10B-307. Affidavit of satisfaction:  
23 Effect.

24 (a) Upon recording, an affidavit substantially  
25 complying with the requirements of Section 35-10B-304  
26 constitutes a termination of the security interest described  
27 in the affidavit.



1           (b) The recording of an affidavit of satisfaction of  
2 a security instrument does not by itself extinguish any  
3 liability of a person for payment or performance of the  
4 underlying obligation.

5           (c) The office of the judge of probate may not  
6 refuse to accept for recording an affidavit of satisfaction of  
7 a security instrument unless any of the following occur:

8           (1) An amount equal to or greater than the  
9 applicable recording fees and taxes is not tendered.

10          (2) The affidavit is submitted by a method or in a  
11 medium not authorized by the judge of probate.

12          (3) The affidavit is not signed by the satisfaction  
13 agent and acknowledged as required by Section 35-10B-305(a).

14          Section 35-10B-308. Liability of satisfaction agent.

15          (a) Except as otherwise provided in subsection (b),  
16 a satisfaction agent or any other person who executes an  
17 affidavit of satisfaction of a security instrument erroneously  
18 or with knowledge that the statements contained in the  
19 affidavit are false is liable to the secured creditor for any  
20 damages caused by the recording and reasonable attorney's fees  
21 and costs.

22          (b) A satisfaction agent who executes an affidavit  
23 of satisfaction of a security instrument erroneously is not  
24 liable, absent negligence, wantonness, recklessness, or  
25 deliberate misconduct, if the agent properly complied with  
26 this chapter and the secured creditor did not respond in a

1       timely manner to the notification pursuant to Section 35-10B-302(a)(5).

2               (c) If a satisfaction agent or any other person who  
3       executes an affidavit of satisfaction of a security instrument  
4       with knowledge that the statements contained in the affidavit  
5       are false, this section does not preclude any of the  
6       following:

7               (1) A court from awarding punitive damages on  
8       account of the conduct.

9               (2) The secured creditor from proceeding against the  
10       satisfaction agent or any other person who executes a  
11       satisfaction under law of this state other than this chapter.

12              (3) The enforcement of any criminal statute  
13       prohibiting the conduct.

#### 14               ARTICLE 4

#### 15               MISCELLANEOUS PROVISIONS

16              Section 35-10B-401. Uniformity of application and  
17       construction.

18              In applying and construing this uniform act,  
19       consideration must be given to the need to promote uniformity  
20       of the law with respect to its subject matter among states  
21       that enact it.

22              Section 35-10B-402. Relation to Electronic  
23       Signatures in Global and National Commerce Act.

24              This chapter modifies, limits, and supersedes  
25       Chapter 1A, Title 8, the Alabama Electronic Transactions Act,  
26       and the federal Electronic Signatures in Global and National  
27       Commerce Act (15 U.S.C. § 7001 et seq.), but does not modify,

1 limit, or supersede Section 101(c) of that act (15 U.S.C. §  
2 7001(c)), or authorize electronic delivery of any of the  
3 notices described in Section 103(b) of that act (15 U.S.C. §  
4 7003(b)).

5 Section 2. Sections 35-10-26 and 35-10-30 of the  
6 Code of Alabama 1975, are amended to read as follows:

7 "§35-10-26.

8 "The payment or satisfaction of the real property  
9 mortgage debt divests the title passing by the mortgage.

10 "Payment or satisfaction of the real property mortgage debt"  
11 shall not occur until there is no outstanding indebtedness or  
12 other obligation secured by the mortgage, and no commitment or  
13 agreement by the mortgagee to make advances, incur obligations  
14 or otherwise give value (collectively referred to as "extend  
15 value"), under any agreement, including, without limitation,  
16 agreements providing for future advances, open end, revolving  
17 or other lines of credit, or letters of credit. ~~Upon~~ Except as  
18 otherwise provided in Chapter 10B, the Alabama Residential  
19 Mortgage Satisfaction Act, upon the written request to satisfy  
20 a mortgage signed by the mortgagors and by all other persons  
21 who have a right to require the mortgagee to extend value or  
22 signed by other authorized representatives on behalf of the  
23 mortgagors and such other persons, which notice shall actually  
24 be served upon the mortgagee, and provided there is no  
25 outstanding obligation secured by the mortgage at that time,  
26 the mortgagee shall file a properly executed and notarized  
27 satisfaction of the mortgage or otherwise cause the mortgage

1 to be satisfied in accordance with other applicable provisions  
2 of law. From and after such written request for mortgage  
3 satisfaction, neither the mortgagors nor any other person who  
4 signed such request, or on whose behalf such request was  
5 signed, shall have the right to request or demand that the  
6 mortgagee extend value under the mortgage or other agreements  
7 and the mortgagee shall be released from all obligations and  
8 commitments to extend value thereunder.

9           "§35-10-30.

10           "(a) If, for 30 days after such request, the  
11 mortgagee or assignee or transferee, trustee or cestui que  
12 trust, fails to make any entry required by this article he  
13 forfeits to the party making the request ~~\$200~~ two hundred  
14 dollars (\$200) unless there is pending, or there is  
15 instituted, an action within that time, in which the fact of  
16 partial payment or satisfaction is or may be contested. In  
17 construing this article, the right of action given herein  
18 shall be considered as a personal right, and shall not be lost  
19 or waived by a sale of the property covered by the mortgage or  
20 deed of trust before a demand was made for the satisfaction to  
21 be entered upon the record.

22           "(b) All actions for the recovery of the penalties  
23 mentioned in this article shall be brought in the county where  
24 such mortgage or other instrument is recorded.

25           "(c) This section does not apply to satisfactions of  
26 residential mortgages, which are governed by Chapter 10B, the  
27 Alabama Residential Mortgage Satisfaction Act."

1                   Section 3. This act shall become effective January  
2    1, 2013, following its passage and approval by the Governor,  
3    or its otherwise become law.