



House of Representatives

General Assembly

File No. 95

February Session, 2004

Substitute House Bill No. 5341

House of Representatives, March 17, 2004

The Committee on Banks reported through REP. DOYLE of the 28th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING THE VALIDATION OF MORTGAGE RELEASES.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective July 1, 2004*) (a) Notwithstanding the
2 provisions of chapter 846 of the general statutes, a release of mortgage
3 executed by any person other than the record owner of the real
4 property that is invalid because it is not issued or executed by, or fails
5 to appear in the name of the record holder of the mortgage on one,
6 two, three or four family residential real property located in the state
7 of Connecticut including, but not limited to, a residential unit in any
8 common interest community, as defined in section 47-202 of the
9 general statutes, shall be as valid as if it had been issued or executed
10 by, or appeared in the name of the record holder of such mortgage
11 unless an action challenging the validity of the release is commenced
12 and a notice of lis pendens is recorded in the land records of the town
13 where the release is recorded within two years after the release is
14 recorded, provided an affidavit is recorded in the land records where

15 the mortgage was recorded which states the following:

16 (1) The affiant has been the record owner of the real property
17 described in the mortgage for at least two years prior to the date of the
18 affidavit;

19 (2) The recording information for the mortgage, any assignments
20 and release;

21 (3) Since the date of the recording of the release, the affiant has
22 received no demand for payment of all or any portion of the debt
23 secured by said mortgage and has received no notice or
24 communication that would indicate that all or any portion of the
25 mortgage debt remains due or owing;

26 (4) To the best of the affiant's knowledge and belief, the mortgage
27 has been paid in full.

28 (b) The provisions of subsection (a) of this section shall not apply to
29 any release obtained by forgery or fraud.

This act shall take effect as follows:	
Section 1	July 1, 2004

Statement of Legislative Commissioners:

In subsection (a), the phrase "the record owner of the real property" was substituted for "an individual" for accuracy.

BA Joint Favorable Subst.-LCO

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 05 \$	FY 06 \$
Banking Dept.	BF - None	None	None

Note: BF=Banking Fund

Municipal Impact: None

Explanation

The bill modifies the conditions under which a mortgage release is valid. The bill has no fiscal impact on the Banking Department.

OLR Bill Analysis

sHB 5341

AN ACT CONCERNING THE VALIDATION OF MORTGAGE RELEASES

SUMMARY:

This bill validates mortgage releases executed by someone other than the property's record owner that would otherwise be invalid because they were not issued or executed by, or fail to appear in the name of, the record holder of the mortgage on one- to four-family residential real estate in Connecticut. Under the bill, such mortgage releases are valid as if released in the mortgage-holder's name unless (1) an action challenging the validity is brought and notice of the pending litigation is recorded in the town where the release is recorded within two years after the release's recording or (2) the release was obtained by forgery or fraud.

The person executing the mortgage release also must record in the land records where the mortgage was recorded an affidavit stating:

1. the person making the affidavit has been the record owner of the property described in the mortgage for at least the last two years;
2. the recording information for the mortgage, any assignments, and release;
3. since the date the release was recorded, the person has not received a demand for payment of any or all of the debt the mortgage secures and has received no notice or communication indicating that any or all of the mortgage debt remains due or owing; and
4. to the best of his knowledge and belief, the mortgage has been paid in full.

EFFECTIVE DATE: July 1, 2004

COMMITTEE ACTION

Banks Committee

Joint Favorable Report
Yea 17 Nay 0