

Second Regular Session
Seventieth General Assembly
STATE OF COLORADO

REREVISED

*This Version Includes All Amendments
Adopted in the Second House*

LLS NO. 16-0044.01 Bart Miller x2173

HOUSE BILL 16-1356

HOUSE SPONSORSHIP

Kraft-Tharp and Nordberg,

SENATE SPONSORSHIP

Jahn and Holbert,

House Committees
Business Affairs and Labor

Senate Committees
Finance

A BILL FOR AN ACT

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

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/bills/summaries>.)

The bill makes the following changes to certain requirements upon satisfaction of indebtedness secured by real property:

! For indebtedness consisting of a line of credit secured by a lien on real property:

! The lien continues and no lien release is required until the line of credit expires and the debt is

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

SENATE
3rd Reading Unamended
April 25, 2016

SENATE
2nd Reading Unamended
April 22, 2016

HOUSE
3rd Reading Unamended
April 8, 2016

HOUSE
2nd Reading Unamended
April 7, 2016

satisfied unless, before expiration of the line of credit, the outstanding indebtedness is satisfied and the debtor relinquishes in writing all right to make any further draw upon the line of credit; and

! 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 the 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 required by law.

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

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

4 **38-35-124. Requirements upon satisfaction of indebtedness.**

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

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

10 (3) Upon satisfaction of the indebtedness, the creditor or holder
11 shall return to the person satisfying the indebtedness all papers and
12 personal property of the debtor that have been held by the creditor or
13 holder in connection with the indebtedness. ~~Any~~ A creditor or holder who
14 fails to comply with this section ~~shall be~~ IS liable to the owner of the real
15 property encumbered by such indebtedness and to any other person liable
16 on such indebtedness for all actual economic loss incurred enforcing the
17 rights provided under this section, including reasonable attorney fees and
18 costs.

19 (4) (a) FOR INDEBTEDNESS SECURED BY A LIEN ON REAL PROPERTY
20 WHERE THE ABILITY OF A DEBTOR TO DRAW UPON A LINE OF CREDIT
21 CONTINUES NOTWITHSTANDING THAT ALL AMOUNTS OUTSTANDING UNDER
22 THE LINE OF CREDIT HAVE BEEN PAID IN FULL, ANY LIEN ON REAL
23 PROPERTY SECURING THAT LINE OF CREDIT CONTINUES, AND NO LIEN
24 RELEASE UNDER THIS SECTION IS REQUIRED, UNTIL THE LINE OF CREDIT
25 EXPIRES AND ALL INDEBTEDNESS, WHETHER ABSOLUTE OR CONTINGENT,
26 HAS BEEN SATISFIED UNLESS, BEFORE EXPIRATION OF THE LINE OF CREDIT,
27 ALL OUTSTANDING INDEBTEDNESS IS SATISFIED AND THE DEBTOR

1 RELINQUISHES IN WRITING ALL RIGHT TO MAKE ANY FURTHER DRAW UPON
2 THE LINE OF CREDIT.

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

15 **SECTION 2. Act subject to petition - effective date -**
16 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following
17 the expiration of the ninety-day period after final adjournment of the
18 general assembly (August 10, 2016, if adjournment sine die is on May 11,
19 2016); except that, if a referendum petition is filed pursuant to section 1
20 (3) of article V of the state constitution against this act or an item, section,
21 or part of this act within such period, then the act, item, section, or part
22 will not take effect unless approved by the people at the general election
23 to be held in November 2016 and, in such case, will take effect on the
24 date of the official declaration of the vote thereon by the governor.

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