



Office of the Register of Deeds

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Important Notice

New Legislation to Rescind a Mortgage Satisfaction

The State of South Carolina has recently passed legislation, (Bill 3033), to permit the rescission of a mortgage satisfaction. The bill states that if a satisfaction or affidavit of satisfaction of a mortgage or other lien affecting real property is recorded in error or a mortgage or other lien affecting real property is satisfied erroneously by another means, a document of rescission may be recorded. The document of rescission will rescind the satisfaction or affidavit and reinstates the mortgage or lien as of the mortgage's original filing date.

We have attached a copy of the legislation for your convenience, along with a sample form with the required recording information. A new document type, *Mortgage Satisfaction Rescission Affidavit* will be added to our system. The recording fee will be \$6.00 – 1 page and \$1.00 for each additional page.

This information and the sample form will be placed on our website as well. Please let us know if you have any questions.

Sincerely,

Timothy L. Nanney
Greenville County
Register of Deeds

NOTE: THIS COPY IS A TEMPORARY VERSION. THIS DOCUMENT WILL REMAIN IN THIS VERSION UNTIL PUBLISHED IN THE ADVANCE SHEETS TO THE ACTS AND JOINT RESOLUTIONS. WHEN THIS DOCUMENT IS PUBLISHED IN THE ADVANCE SHEET, THIS NOTE WILL BE REMOVED.

(R409, H3033)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 29-3-345 SO AS TO PROVIDE FOR A DOCUMENT OF RESCISSION TO CORRECT AN ERRONEOUS RECORDING OF A SATISFACTION OF A MORTGAGE OR OTHER LIEN AFFECTING REAL PROPERTY, TO PROTECT A PRIORITY CREDITOR WHO RECORDS AFTER THE ERRONEOUS RECORDING, TO PROVIDE A CIVIL CAUSE OF ACTION FOR A PERSON INJURED BY A WRONGFUL RECORDING OF A DOCUMENT OF RESCISSION, TO ESTABLISH A RECORDING FEE, AND TO PROVIDE A FORM FOR THE DOCUMENT.

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

Document of rescission

SECTION 1. Article 5, Chapter 3, Title 29 of the 1976 Code is amended by adding:

“Section 29-3-345. (A) In this section, ‘document of rescission’ means a document stating that an identified satisfaction or affidavit of satisfaction of a mortgage or other lien affecting real property was recorded erroneously or that a mortgage or other lien affecting real property was satisfied of record erroneously, the secured obligation remains unsatisfied, and the mortgage or other lien affecting real property remains in force.

(B) If a satisfaction or affidavit of satisfaction of a mortgage or other lien affecting real property is recorded in error or a mortgage or other lien affecting real property is satisfied of record erroneously by another means, a document of rescission that has been duly witnessed and notarized in compliance with Section 30-5-30 may be executed and recorded. Upon recording, the document of rescission rescinds the erroneously recorded satisfaction or affidavit and the erroneous satisfaction of record of the mortgage or other lien affecting real property and reinstates the mortgage or other lien affecting real property as of the mortgage’s original filing date. The clerk of court, register of deeds, or registrar of mesne conveyance shall index the document of rescission as of the date of filing.

(C)(1) A recorded document of rescission has no effect and does not constitute a lien as to the rights of any grantee or lien creditor, their heirs, successors, or assigns who records an interest in the real property described in a mortgage or other lien affecting real property after the recording of the satisfaction or affidavit of satisfaction of the mortgage, or other lien affecting real property and before the recording of the document of rescission, with a grantee under deed of title taking the property free and clear of the mortgage or other lien that was erroneously satisfied if the deed of title was received during the time period between the recording of the erroneous satisfaction and the end of the next business day observed at the clerk of court, register of deeds, or registrar of mesne conveyance’s office following the recording of the document of rescission; and

(2) any person or entity otherwise having priority over or taking free of the lien created by the mortgage or other lien affecting real property as reinstated.

(D) A creditor who erroneously or wrongfully records a document of rescission is liable to a person

injured by the recording for a sum of money not exceeding one-half of the original face amount of the debt secured by the mortgage or twenty-five thousand dollars, whichever is less, plus actual damages, costs, and attorney's fees.

(E) The clerk of court, register of deeds, or registrar of mesne conveyance shall collect a filing fee of six dollars, and an additional one dollar per page for a document containing more than one page.

(F) The 'document of rescission' must be in a form substantially similar to: