

ACT No. 62

2017 Regular Session

HOUSE BILL NO. 400

BY REPRESENTATIVE GAROFALO

1 AN ACT

2 To amend and reenact R.S. 9:5172(A)(introductory paragraph) and (1) and (B) and 5173 and
3 to enact R.S. 9:5172(A)(3) and 5173.1, relative to the cancellation of mortgages; to
4 provide for procedure; to change certain form requirements; to provide a form for
5 partial cancellation of a mortgage; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 9:5172(A)(introductory paragraph) and (1) and (B) and 5173 are
8 hereby amended and reenacted and R.S. 9:5172(A)(3) and 5173.1 are hereby enacted to read
9 as follows:

10 §5172. Cancellation; partial cancellation; licensed financial institution

11 A. In lieu of complying with the provisions of R.S. 9:5169, 5170, and 5171,
12 a request for cancellation or partial cancellation may have attached to it the signed,
13 written act of a licensed financial institution ~~executed before a notary public~~
14 represented by one of its officers and executed or duly acknowledged before a notary
15 public with or without witnesses, ~~or any act in any form~~ that is otherwise self-
16 proving under the provisions of Code of Evidence Article 902(1), (2), (3), or (8), or
17 an act under private signature by two authorized officers of the licensed financial
18 institution, declaring that the obligee is a licensed financial institution as defined in
19 Subsection C of this Section and that the institution meets any of the following
20 criteria:

(1) Was the obligee or the authorized agent of the obligee of the obligation secured by the mortgage or privilege when the obligation was extinguished and that the secured obligation has been paid or otherwise satisfied or extinguished; ~~or~~ .

* * *

(3) Is the obligee or authorized agent of the obligee of the secured obligation and that it partially releases the mortgage or privilege and directs the recorder to partially cancel its recordation.

B. When a request for cancellation or partial cancellation is made by the licensed financial institution, in lieu of attaching a separate act of release or partial release, the financial institution may include the information required by R.S. 9:5169, 5170, and 5171 if the request is in authentic or authenticated form or otherwise complies with Subsection A of this Section.

* * *

§5173. Mortgage or privilege cancellation by financial institution-standard form

A financial institution seeking to cancel a mortgage or privilege inscription pursuant to R.S. 9:5172 may use, and the recorder of mortgages for each and every parish in the state of Louisiana shall accept, the following form as fully compliant as a request for cancellation and act of release. The form contained in this Section is not the exclusive form to be accepted for filing, and any other form meeting the requirements of R.S.9:5172 may be used and filed for canceling the recordation of a mortgage or privilege:

R.S. 9:5172 FORM:

REQUEST FOR CANCELLATION OF MORTGAGE OR PRIVILEGE AND

RELEASE BY LICENSED FINANCIAL INSTITUTION

PURSUANT TO R.S. 9:5172

State of _____

Parish or County of _____

BE IT KNOWN THAT on this _____ day of _____, 20____, ~~before me, the undersigned Notary Public, appeared~~ _____ (name of financial institution) herein represented by its undersigned duly authorized

1 ~~representative, which declared~~ officer or officers, declares that it is a licensed
 2 financial institution as defined in R.S. 9:5172 et seq. and that one of the following
 3 statements is true and correct:

4 (1) The institution was the obligee or the authorized agent of the obligee of
 5 the obligation secured by the mortgage or privilege described below when the
 6 obligation was extinguished, and the secured obligation has been paid or otherwise
 7 satisfied or extinguished; or

8 (2) The institution is the obligee or authorized agent of the obligee of the
 9 secured obligation, and it releases the mortgage or privilege described below.

10 The Clerk of Court and Ex-Officio Recorder of Mortgages for the Parish
 11 identified below is hereby expressly requested, authorized, and directed to cancel the
 12 recordation of the mortgage or privilege described as follows:

13 A mortgage or privilege granted by:

14 In favor of: _____

15 Date of Instrument: _____

16 Parish of Recordation: _____

17 Recording Data: _____

18 Legal description is as follows or is hereby attached as Exhibit "A":

19 _____
 20 _____
 21 _____
 22 _____
 23 _____.

24 (3) The recorder of mortgages shall not be liable for any damages resulting
 25 to any person or entity as a consequence of canceling a mortgage or vendor's
 26 privilege pursuant to this form.

27 [Choose one of the two following signature options.]

1 ~~THUS DONE AND PASSED~~ SIGNED before me, Notary Public, on the date
2 set forth above.

3 _____

4 Name of officer and title

5 Name of financial institution

6 Requested mailing address

7 City, state, and zip code

8 _____

9 Notary Public

10 (Printed name of notary and bar roll or notary number)

11 OR

12 THUS DONE AND SIGNED by the two undersigned authorized officers of the
13 above named financial institution.

14 _____

15 Name of officer and title

16 Name of financial institution

17 Requested mailing address

18 City, state, and zip code

19 _____

20 Name of officer and title

21 Name of financial institution

22 Requested mailing address

23 City, state, and zip code

24 §5173.1. Mortgage or privilege partial cancellation by financial institution-standard
25 form

26 A financial institution seeking a partial cancellation of a mortgage or
27 privilege inscription pursuant to R.S. 9:5172 may use, and the recorder of mortgages
28 for each and every parish in the state of Louisiana shall accept, the following form
29 as fully compliant as a request for partial cancellation and act of partial release. The
30 form contained in this Section is not the exclusive form to be accepted for filing, and

1 any other form meeting the requirements of R.S. 9:5172 may be used and filed to
 2 partially cancel the recordation of a mortgage or privilege:

3 REQUEST FOR PARTIAL CANCELLATION OF MORTGAGE OR PRIVILEGE

4 AND PARTIAL RELEASE BY LICENSED FINANCIAL INSTITUTION

5 PURSUANT TO R.S. 9:5172

6 State of _____

7 Parish or County of _____

8 BE IT KNOWN THAT on this _____ day _____ of 20 _____,

9 _____ (name of financial institution), herein represented by its

10 undersigned duly authorized officer or officers, declares the following:

11 The institution is a licensed financial institution as defined in R.S. 9:5172 et

12 seq., and is the obligee or authorized agent of the obligee for the obligation secured

13 by the mortgage or privilege described as follows:

14 A mortgage or privilege granted by: _____

15 In favor of: _____

16 Date of Instrument: _____

17 Parish of Recordation: _____

18 Recording Data: _____

19 The institution grants a partial release of the above-described mortgage or

20 privilege, and does hereby release ONLY the following described property from the

21 above-described mortgage or privilege, to wit:

22 Legal description of released property is as follows or is hereby attached as

23 Exhibit "A":

24 _____

25 _____

26 _____

27 The institution hereby requests, authorizes, and directs the Clerk of Court and

28 Ex-Officio Recorder of Mortgages for the Parish in which the above-described

29 property is situated to release the above-described property from the mortgage or

1 privilege described above and to partially cancel the above-described mortgage or
 2 privilege ONLY AS TO such described property hereby released from the same.

3 The institution further expressly declares that the above-described mortgage
 4 or privilege is not released or cancelled as to any other property described in such
 5 mortgage or privilege, and such mortgage or privilege shall continue to encumber
 6 and remain in full force and effect as to all other property described therein.

7 The recorder of mortgages shall not be liable for any damages resulting to
 8 any person or entity as a consequence of partially cancelling a mortgage or vendor's
 9 privilege pursuant to this form.

10 [Choose one of the two following signature options.]

11 THUS DONE AND SIGNED, before me, Notary Public, on the date set forth
 12 above.

13 _____

14 Name of officer and title

15 Name of financial institution

16 Requested mailing address

17 City, state, and zip code

18 _____

19 Notary Public

20 (Printed name of notary and bar roll or notary number)

21 OR

22 THUS DONE AND SIGNED, by the two undersigned authorized officers of
 23 the above named financial institution on the date set forth above.

24 _____

25 Name of officer and title

26 Name of financial institution

27 Requested mailing address

28 City, state, and zip code

29 _____

30 Name of officer and title

- 1 Name of financial institution
- 2 Requested mailing address
- 3 City, state, and zip code

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____