

CHAPTER 105

PROPERTY

HOUSE BILL 07-1265

BY REPRESENTATIVE(S) McNulty, Casso, Garcia, Gardner B., Hodge, Kerr J., Massey, and Stephens;
also SENATOR(S) Tochtrop.

AN ACT

CONCERNING THE FORM OF A REQUEST TO A PUBLIC TRUSTEE TO RELEASE A LIEN OF A DEED OF TRUST.

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

SECTION 1. Part 1 of article 39 of title 38, Colorado Revised Statutes, is amended BY THE ADDITION OF THE FOLLOWING NEW SECTIONS to read:

38-39-107. Form of written request for release of a deed of trust with production of the evidence of debt. A WRITTEN REQUEST TO A PUBLIC TRUSTEE MADE PURSUANT TO SECTION 38-39-102 (1) (a) TO RELEASE A DEED OF TRUST WITH PRODUCTION OF THE ORIGINAL CANCELED EVIDENCE OF DEBT MAY BE IN SUBSTANTIALLY THE FOLLOWING FORM:

ORIGINAL NOTE AND DEED OF TRUST RETURNED TO:
WHEN RECORDED RETURN TO:
PREPARED/RECEIVED BY:

REQUEST FOR FULL [] / PARTIAL []
RELEASE OF DEED OF TRUST AND RELEASE
BY OWNER OF INDEBTEDNESS WITH
PRODUCTION OF EVIDENCE OF DEBT PURSUANT
TO § 38-39-102 (1) (a), COLORADO REVISED STATUTES

_____ DATE
_____ ORIGINAL GRANTOR (BORROWER)
_____ ORIGINAL BENEFICIARY (LENDER)

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

DATE OF DEED OF TRUST
 DATE OF RECORDING AND/OR RE-RECORDING
 OF DEED OF TRUST
 RECORDING INFORMATION

COUNTY RCPT. NO. AND/OR FILM NO. AND/OR BOOK/PAGE NO. AND/OR TORRENS REG. NO.

TO THE PUBLIC TRUSTEE OF _____ COUNTY
 (THE COUNTY OF THE PUBLIC TRUSTEE WHO IS THE APPROPRIATE GRANTEE TO WHOM THE ABOVE DEED OF TRUST SHOULD GRANT AN INTEREST IN THE PROPERTY DESCRIBED IN THE DEED OF TRUST)

PLEASE EXECUTE AND RECORD A RELEASE OF THE DEED OF TRUST DESCRIBED ABOVE. THE INDEBTEDNESS SECURED BY THE DEED OF TRUST HAS BEEN FULLY OR PARTIALLY PAID AND/OR THE PURPOSE OF THE DEED OF TRUST HAS BEEN FULLY OR PARTIALLY SATISFIED IN REGARD TO THE PROPERTY ENCUMBERED BY THE DEED OF TRUST AS DESCRIBED THEREIN AS TO A FULL RELEASE OR, IN THE EVENT OF A PARTIAL RELEASE, ONLY THAT PORTION OF THE REAL PROPERTY DESCRIBED AS:

 (IF NO LEGAL DESCRIPTION IS LISTED THIS WILL BE DEEMED A FULL RELEASE.)

NAME AND ADDRESS OF CURRENT OWNER AND HOLDER OF THE INDEBTEDNESS SECURED BY DEED OF TRUST (LENDER)

 NAME, TITLE, AND ADDRESS OF OFFICER, AGENT, OR ATTORNEY OF CURRENT OWNER AND HOLDER

 SIGNATURE SIGNATURE
 STATE OF , COUNTY OF

THE FOREGOING REQUEST FOR RELEASE WAS ACKNOWLEDGED BEFORE ME ON

(DATE) BY* (NOTARY SEAL)

 DATE COMMISSION EXPIRES

*IF APPLICABLE, INSERT TITLE OF OFFICER AND NAME OF CURRENT OWNER AND HOLDER

 NOTARY PUBLIC WITNESS MY HAND AND OFFICIAL SEAL

RELEASE OF DEED OF TRUST

WHEREAS, THE GRANTOR(S) NAMED ABOVE, BY DEED OF TRUST, GRANTED CERTAIN REAL PROPERTY DESCRIBED IN THE DEED OF TRUST TO THE PUBLIC TRUSTEE OF THE COUNTY REFERENCED ABOVE, IN THE STATE OF COLORADO, TO BE HELD IN TRUST TO SECURE THE PAYMENT OF THE INDEBTEDNESS REFERRED TO THEREIN; AND

WHEREAS, THE INDEBTEDNESS SECURED BY THE DEED OF TRUST HAS BEEN FULLY OR PARTIALLY PAID AND/OR THE PURPOSE OF THE DEED OF TRUST HAS BEEN FULLY OR PARTIALLY SATISFIED ACCORDING TO THE WRITTEN REQUEST OF THE CURRENT OWNER AND HOLDER OF THE INDEBTEDNESS;

NOW THEREFORE, IN CONSIDERATION OF THE PREMISES AND THE PAYMENT OF THE STATUTORY SUM, RECEIPT OF WHICH IS HEREBY ACKNOWLEDGED, I, AS THE PUBLIC TRUSTEE IN THE COUNTY NAMED ABOVE, DO HEREBY FULLY AND ABSOLUTELY RELEASE, CANCEL AND FOREVER DISCHARGE THE DEED OF TRUST OR THAT PORTION OF THE REAL PROPERTY DESCRIBED ABOVE IN THE DEED OF TRUST, TOGETHER WITH ALL PRIVILEGES AND APPURTENANCES THERETO BELONGING.

PUBLIC TRUSTEE

DEPUTY PUBLIC TRUSTEE

(PUBLIC TRUSTEE USE ONLY; USE APPROPRIATE LABEL)
(PUBLIC TRUSTEE'S SEAL)
(IF APPLICABLE: NOTARY SEAL)

(IF APPLICABLE, NAME AND ADDRESS OF PERSON CREATING NEW LEGAL DESCRIPTION AS REQUIRED BY § 38-35-106.5, COLORADO REVISED STATUTES.)

38-39-108. Form of written request for release of a deed of trust without production of the evidence of debt. A WRITTEN REQUEST TO A PUBLIC TRUSTEE MADE PURSUANT TO SECTION 38-39-102 (1) (a) AND (3.5) TO RELEASE A DEED OF TRUST WITHOUT PRODUCTION OF THE ORIGINAL CANCELED EVIDENCE OF DEBT MAY BE IN SUBSTANTIALLY THE FOLLOWING FORM:

ORIGINAL NOTE AND DEED OF TRUST RETURNED TO:
WHEN RECORDED RETURN TO:
PREPARED/RECEIVED BY:

REQUEST FOR FULL [] / PARTIAL []
RELEASE OF DEED OF TRUST AND RELEASE
BY OWNER OF INDEBTEDNESS WITHOUT
PRODUCTION OF EVIDENCE OF DEBT PURSUANT TO
§ 38-39-102 (1) (a) AND (3.5), COLORADO REVISED STATUTES

DATE

ORIGINAL GRANTOR (BORROWER)

ORIGINAL BENEFICIARY (LENDER)

DATE OF DEED OF TRUST

DATE OF RECORDING AND/OR RE-RECORDING

OF DEED OF TRUST

RECORDING INFORMATION

COUNTY RCPT. NO. AND/OR FILM NO. AND/OR BOOK/PAGE NO. AND/OR TORRENS
REG. NO.

TO THE PUBLIC TRUSTEE OF _____ COUNTY
(THE COUNTY OF THE PUBLIC TRUSTEE WHO IS THE APPROPRIATE GRANTEE TO WHOM THE ABOVE DEED OF TRUST SHOULD GRANT AN INTEREST IN THE PROPERTY DESCRIBED IN THE DEED OF TRUST)

PLEASE EXECUTE AND RECORD A RELEASE OF THE DEED OF TRUST DESCRIBED ABOVE. THE INDEBTEDNESS SECURED BY THE DEED OF TRUST HAS BEEN FULLY OR PARTIALLY PAID AND/OR THE PURPOSE OF THE DEED OF TRUST HAS BEEN FULLY OR PARTIALLY SATISFIED IN REGARD TO THE PROPERTY ENCUMBERED BY THE DEED OF TRUST AS DESCRIBED THEREIN AS TO A FULL RELEASE OR, IN THE EVENT OF A PARTIAL RELEASE, ONLY THAT PORTION OF THE REAL PROPERTY DESCRIBED AS:

(IF NO LEGAL DESCRIPTION IS LISTED THIS WILL BE DEEMED A FULL RELEASE.)

PURSUANT TO § 38-39-102 (3.5), COLORADO REVISED STATUTES, IN SUPPORT OF THIS REQUEST FOR RELEASE OF DEED OF TRUST, THE UNDERSIGNED, AS THE OWNER OF THE EVIDENCE OF DEBT SECURED BY THE DEED OF TRUST DESCRIBED ABOVE, IN LIEU OF THE PRODUCTION OR EXHIBITION OF THE ORIGINAL EVIDENCE OF DEBT WITH THIS REQUEST FOR RELEASE, CERTIFIES AS FOLLOWS:

1. THE PURPOSE OF THE DEED OF TRUST HAS BEEN FULLY OR PARTIALLY SATISFIED.
2. THE ORIGINAL EVIDENCE OF DEBT IS NOT BEING EXHIBITED OR PRODUCED HERewith.
3. THE OWNER OF THE EVIDENCE OF DEBT AGREES THAT IT IS OBLIGATED TO INDEMNIFY THE PUBLIC TRUSTEE PURSUANT TO § 38-39-102 (3.5) (a), COLORADO REVISED STATUTES, FOR ANY AND ALL DAMAGES, COSTS, LIABILITIES, AND REASONABLE ATTORNEY FEES INCURRED AS A RESULT OF THE ACTION OF THE PUBLIC TRUSTEE TAKEN IN ACCORDANCE WITH THIS REQUEST FOR RELEASE.
4. IT IS ONE OF THE ENTITIES DESCRIBED IN § 38-39-102 (3.5) (b), COLORADO REVISED STATUTES.

NAME AND ADDRESS OF CURRENT OWNER AND HOLDER OF THE INDEBTEDNESS SECURED BY DEED OF TRUST (LENDER)

NAME, TITLE, AND ADDRESS OF OFFICER, AGENT, OR ATTORNEY OF CURRENT OWNER AND HOLDER

SIGNATURE SIGNATURE
STATE OF _____, COUNTY OF _____

THE FOREGOING REQUEST FOR RELEASE WAS ACKNOWLEDGED BEFORE ME ON

(DATE) BY* (NOTARY SEAL)

DATE COMMISSION EXPIRES

*IF APPLICABLE, INSERT TITLE OF OFFICER AND NAME OF CURRENT OWNER AND HOLDER

NOTARY PUBLIC WITNESS MY HAND AND OFFICIAL SEAL

RELEASE OF DEED OF TRUST

WHEREAS, THE GRANTOR(S) NAMED ABOVE, BY DEED OF TRUST, GRANTED CERTAIN REAL PROPERTY DESCRIBED IN THE DEED OF TRUST TO THE PUBLIC TRUSTEE OF THE COUNTY REFERENCED ABOVE, IN THE STATE OF COLORADO, TO BE HELD IN TRUST TO SECURE THE PAYMENT OF THE INDEBTEDNESS REFERRED TO THEREIN; AND

WHEREAS, THE INDEBTEDNESS SECURED BY THE DEED OF TRUST HAS BEEN FULLY OR PARTIALLY PAID AND/OR THE PURPOSE OF THE DEED OF TRUST HAS BEEN FULLY OR PARTIALLY SATISFIED ACCORDING TO THE WRITTEN REQUEST OF THE CURRENT OWNER AND HOLDER OF THE INDEBTEDNESS;

NOW THEREFORE, IN CONSIDERATION OF THE PREMISES AND THE PAYMENT OF THE STATUTORY SUM, RECEIPT OF WHICH IS HEREBY ACKNOWLEDGED, I, AS THE PUBLIC TRUSTEE IN THE COUNTY NAMED ABOVE, DO HEREBY FULLY AND ABSOLUTELY RELEASE, CANCEL AND FOREVER DISCHARGE THE DEED OF TRUST OR THAT PORTION OF THE REAL PROPERTY DESCRIBED ABOVE IN THE DEED OF TRUST, TOGETHER WITH ALL PRIVILEGES AND APPURTENANCES THERETO BELONGING.

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(PUBLIC TRUSTEE USE ONLY; USE APPROPRIATE LABEL)
(PUBLIC TRUSTEE'S SEAL)
(IF APPLICABLE: NOTARY SEAL)

(IF APPLICABLE, NAME AND ADDRESS OF PERSON CREATING NEW LEGAL DESCRIPTION AS REQUIRED BY § 38-35-106.5, COLORADO REVISED STATUTES.)

SECTION 2. Effective date - applicability. This act shall take effect July 1, 2007, and shall apply to written requests for release of liens of deeds of trust received by a public trustee on or after said date.

SECTION 3. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: April 9, 2007