



# DUEY STROEBEL

STATE REPRESENTATIVE • 60<sup>TH</sup> DISTRICT

## SB 290 Testimony

My name is John Soper. I am Representative Stroebel's Research Assistant and am here on his behalf to testify in favor of SB 290.

SB 290, also known as "The Mortgage Satisfaction Act", is based on the Residential Mortgage Satisfaction Act prepared by the National Conference of Commissioners on Uniform State Laws ("NCCUSL").

When a mortgage is to be paid off, the mortgage holder generally owes the landowner two things:

1. A payoff statement showing the exact amount of funds required to pay off the loan on a given payoff date, and
2. A publicly recorded document in the local land records clearing the title of the mortgage lien once it is paid.

The sale of mortgages in the secondary market has complicated the payoff process. Historically, the entity holding the mortgage was a local bank and it was reasonable to expect title clearance to occur roughly at the same time as the sale or refinance of mortgaged land. The local mortgage holder would simply record a satisfaction, either at the time payment was received or within a few days' time.

Today that is often not the case. As a consequence of the secondary mortgage market, the mortgagee who provides the purchase money to the landowner is almost never the same entity that holds the mortgage at the time it is paid off. Consolidation in the mortgage loan industry and the now-common practice of mortgage holders outsourcing loan servicing responsibilities have further complicated these transactions. The timely transmittal of payoff statements and recording of mortgage satisfactions has become problematic.

This legislation addresses these issues by requiring mortgage servicers to provide payoff statements which closing agents can rely upon. The legislation also permits title insurance companies to authorize their agents to prepare and record a mortgage satisfaction based upon the payoff statement, in the event that the mortgage holder does not record the satisfaction within the time period prescribed by statute.

Authorizing a title insurance company, an essential entity already involved in any Wisconsin real estate closing, to handle this problem is simplest. Title insurance companies are in the business of protecting marketable title by insuring against unlikely, unknown claims. The



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Mortgage Satisfaction Act will allow title insurance companies to insure against their risk to clear title for Wisconsin home buyers and home sellers whose only misfortune was that their mortgage bank, broker, or company is unable or unwilling to live up to their responsibility.

This situation can arise in different ways. A mortgage company could be in bankruptcy or receivership. There could be a dispute over who owns the mortgage; even though there is no dispute it was paid. Whatever the cause for the delay, this efficient, free market solution addresses the problem in context of how closings work and does not impose any new government regulation to follow or form to fill out.

The bill also raises the *de minimis* exemption to the real estate transfer tax from \$100 to \$1000. The \$100 cap has not been changed in a long time and is meant to prevent a very small transaction, such as one neighbor selling a tiny strip of land on which a shed was built by another neighbor, from requiring a real estate tax transaction.

SB 290 started with the work put in by the nonpartisan National Conference of Commissioners on Uniform State Laws ("NCCUSL"). In adapting it for Wisconsin, we accepted input from and made changes and compromises at the request of all major stakeholders in a real estate closing: title companies, realtors and banks. Representative Stroebel is proud to have bipartisan co-sponsorship of this bill in both chambers of the Legislature. Please support AB 371 as a fair, free-market, efficient way to solve a problem that homeowners and future homeowners of Wisconsin face. Thank you.



## State Senator Sheila Harsdorf

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Date: September 26, 2013

To: Senate Committee on Financial Institutions and Rural Issues

Fr: Senator Sheila Harsdorf

Re: Senate Bill 290 – Mortgage Satisfaction

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Dear Chair Schultz and Committee Members:

Thank you for holding a public hearing on Senate Bill 290 (SB 290), relating to mortgage satisfactions. I regret that I am unable to testify in support of this bill in person due to scheduling conflicts but I appreciate the opportunity to share with you the need for this legislation.

The holder of a mortgage generally has two responsibilities to the property owner; a payoff statement showing the exact amount of funds required to pay the loan on a given date and a publicly recorded document in the local land records clearing the title of the mortgage lien. SB 290 seeks to enact provisions of the Uniform Residential Mortgage Satisfaction Act to clarify these responsibilities and bring our requirements in line with those in other states.

Traditionally, the holder of a mortgage has been with a local bank with ties to the community that allowed the clearance of a title to be roughly around the same time of a sale or refinance. However, the sale of mortgages to the secondary industry, the consolidation of mortgage companies, and companies outsourcing loan servicing responsibilities have complicated the process of clearing titles. Ultimately, problems in the transmittal of payoff statements and recording mortgage satisfaction documents have increased, resulting in frustrating delays for those seeking to sell or purchase property.

This legislation includes provisions to ensure a speedy and accurate resolution to title issues with a minimum amount of confusion for the residential property or homeowner. These provisions establish requirements for secured creditors, including mortgage service providers, to provide payoff statements within 30 days. In addition, the owner or satisfaction agent may record an affidavit of satisfaction of the mortgage. The satisfaction agent must have reasonable grounds to believe that the property is residential property and that the secured creditor has received payment in full. Finally, the bill provides that the owner or satisfaction agent may request a payoff statement from the secured creditor who must respond within 7 business days.

SB 290 seeks to help streamline and reduce barriers to real estate closings, while ensuring that homeowners are not burdened by delays in receiving a clear title to their property. I urge your support of these changes and passage of this legislation. I would welcome the opportunity to respond to any questions or concerns you might have.