

Why States Should Adopt the Uniform Residential Mortgage Satisfaction Act (2004)

The Uniform Residential Mortgage Satisfaction Act (URMSA), promulgated by the National Conference of Commissioners in 2004, provides a comprehensive framework to govern the payoff and release of mortgage loans secured by residential real property. Many states have mortgage satisfaction laws created when mortgage lending was essentially a local transaction, even though today the secondary market and securitization have transformed residential mortgage lending into a national practice. The fundamental purpose of this Act is to create a realistic framework within which responsible mortgage lenders can satisfy their responsibility to record timely releases, while also protecting the reasonable expectations of mortgage borrowers (especially in cases where a mortgage lender fails to comply with its responsibility).

There are many reasons why every state should adopt the Uniform Residential Mortgage Satisfaction Act:

- URMSA creates a reasonable time period within which a responsible mortgage lender can satisfy its responsibility to record timely mortgage satisfactions.
- URMSA provides a simplified, standard mortgage satisfaction document that will minimize recorder rejection of mortgage satisfactions and the delays attendant to such rejections.
- URMSA establishes minimum standards for the content of a residential mortgage payoff statement and obligates a mortgage lender to provide such a statement within 10 days of a proper request by the borrower or the borrower's authorized agent.
- URMSA clarifies the extent to which a mortgage lender may qualify the accuracy of a payoff statement, thus providing greater certainty to borrowers and purchasers in sale and refinancing transactions.
- URMSA provides a workable "self-help" mortgage satisfaction procedure that allows a responsible satisfaction agent (either a title insurance company or a licensed attorney in good standing) to assist a landowner in clearing title without judicial process when a mortgage lender has received full payment but has failed to record a timely satisfaction despite receiving notice and an opportunity to cure.
- URMSA imposes a reasonable statutory penalty against a lender that fails to record a mortgage satisfaction within 30 days following notice and an opportunity to cure, thereby providing mortgage lenders with an appropriate incentive to comply with their responsibilities.
- URMSA provides an explicit "safe harbor" against liability for a mortgage lender that has established and followed a reasonable procedure for complying with its obligation to satisfy mortgages but is unable to comply with that obligation due to circumstances beyond its control.
- URMSA authorizes a mortgage lender to rescind an erroneously filed satisfaction and thereby reinstate the lien of its mortgage in appropriate cases.