

58-2306. Discharge or assignment of recorded mortgage; procedure. (a) Except as otherwise provided by this section, any mortgage of real property that has been or may hereafter be recorded shall be assigned or discharged by an instrument acknowledging the assignment or satisfaction of such mortgage, signed by the mortgagee or such mortgagee's duly authorized attorney in fact, assignee of record, personal representative or by the lender or a designated closing agent acting as a closing agent in the sale, financing or refinancing of the real estate subject to such mortgage who has caused the indebtedness to be paid in full upon compliance with K.S.A. 58-2309a, and amendments thereto, and duly acknowledged and certified as other instruments affecting real estate. Such instrument shall contain the name of the mortgagor and mortgagee, a legal description of the property and the volume and page in which the mortgage is recorded.

(b) Where the mortgagee or assignee of record is deceased, and where the estate of such deceased mortgagee or assignee of record is in process of administration, in this or any other state, an assignment or a full release of such mortgage may be made by the executor or administrator without any showing as to the provisions of the will of the deceased, but there must accompany such assignment or release, as a part thereof, a certificate from a court of competent jurisdiction appointing such executor or administrator, under the hand of its proper officer, and attested by its seal, certifying as to such appointment, and that such executor or administrator is, at the date of such assignment or release, still so acting under the authority of such court. Such certificate shall not be required when the executor or administrator is acting under appointment of the district court of the county where the real estate mortgaged is located. Where the estate of such deceased has not been administered upon, or where the estate of such deceased has been administered and settled and the executor or administrator discharged, such assignment or release may be made by the heirs at law or legatee of such deceased mortgagee or assignee, and competent evidence must be furnished by them of the fact.

(c) Where the mortgagee or assignee of record is a firm or partnership, such mortgage shall be assigned or discharged by an instrument acknowledging the assignment or satisfaction of such mortgage as hereinbefore provided. Such instrument shall be signed either by each member of the firm or partnership, or by the firm or partnership, or by the firm or partnership by one of the members thereof.

(d) Any mortgage which, prior to July 1, 1977, has been released by a notation on the original mortgage instrument and signed by the mortgagee or the mortgagee's duly authorized attorney in fact, assignee of record or personal representative may be recorded in the office of the register of deeds of the county where the mortgaged property is located. When recorded, such release shall have the same force and effect as mortgages discharged in accordance with subsection (a).

History: G.S. 1868, ch. 68, § 5; L. 1903, ch. 365, § 1; R.S. 1923, 67-306; L. 1971, ch. 86, § 2; L. 1976, ch. 145, § 205; L. 1977, ch. 191, § 1; L. 1979, ch. 174, § 1; L. 1995, ch. 173, § 1; July 1.