

**58-2333i. Mortgages or deeds of trust recorded between January 1, 1955, and January 1, 1965, declared void; mortgages or deeds of trust recorded on or after January 1, 1965, declared void; exceptions.**

(a) Any mortgage or deed of trust against real property located in this state recorded on or after January 1, 1955, and before January 1, 1965, or referred to or described in any instrument of record within such period shall be void, unless, prior to July 1, 1998, the owner and holder thereof files, in the office of the register of deeds of the county in which the property is located, an affidavit stating:

- (1) The name and address of the owner and holder thereof;
- (2) the nature of the claim;
- (3) the amount due on the claim;
- (4) the date of the last payment on the claim; and
- (5) a description of the property.

(b) Any mortgage or deed of trust against real property located in this state recorded on or after January 1, 1965, or referred to or described in any instrument of record after such date, shall be void by operation of law if:

(1) More than 42 years shall have elapsed between the date of the initial recording of the mortgage; and

(2) prior to July 1 of the year next preceding the date 42 years after the date of initial recording, an action is not commenced to foreclose the mortgage or deed of trust, or the owner and holder of the mortgage does not file in the office of the register of deeds of the county in which the property is located, an affidavit stating:

- (A) The name and address of the owner and holder thereof;
- (B) the nature of the claim;
- (C) the amount due on the claim;
- (D) the date of the last payment on the claim; and
- (E) a description of the property.

(c) This section shall not apply to or affect mortgages, deeds of trust or liens against real property of railroad corporations recorded after January 1, 1890.

(d) Infancy, incompetency or nonresidency shall not affect the operation of this act.

**History:** L. 1997, ch. 14, § 1; L. 1997, ch. 176, § 8; L. 1998, ch. 25, § 1; July 1.