



Client Alert Regarding New Procedure for Georgia Releases

Client Notice Issued 8-12-08

House Bill number 1093 upon signing of by the governor May 12, 2008 has revised code Section 44-14-3 of the Official Code of Georgia. This code has been in place for years, however, there is a key addition to this law that will now drastically affect lien release/satisfaction procedures for loans in the state of Georgia. The following paragraphs explain the changes to this new law as well as new procedures being implemented at NTC to accommodate this new law and protect our clients from exposure to penalties.

[Click here to view complete NEW law.](#)

The most consequential change in this new law involves sending a notice to the grantor (typically borrower/homeowner). The requirement states that the grantee (typically lender/servicer in this scenario) is required to send the borrower (grantor) a notice within 60 days of payoff that the satisfaction is being processed. This notice must also inform the borrower of their right to demand up to \$500 in damages for the grantee's failure to perform a satisfaction/cancellation of mortgage within a timely manner. While the penalty of \$500 has been in place for years, the requirement to inform the borrower of it is a new addition to Georgia law.

Since borrowers will be more aware of their right to \$500 in damages from the grantee not producing the cancellation/satisfaction in a timely manner, it is critical that files are processed timely in this state.

Another interesting point in this law is actually not a new addition, but apparently has never been enforced, possibly since there has been no penalty in place to enforce it. The law states that the county recorder shall forward the original recorded satisfaction to the borrower (grantor). Typically county recorders have been requested by the preparer to return the recorded document back to the sender (servicer, title company or release service provider). This law may pose a great deal of trouble for servicers, since adherence to it will eliminate the sender receiving the official recording confirmation.

The good news is you are allowed to pass through recording costs to the borrower. This is not a new addition to the law, but it is wise to review your current procedures. The law states: "A grantee or holder of the instrument shall be authorized to add to the pay-off amount the costs of recording a cancellation or satisfaction of an instrument." Since this states "cost of recording" it is open to a certain degree of interpretation. Our advice is for you to consult your legal counsel regarding this statement and to review the amount you are currently passing through to the borrower. It is our opinion that one could interpret that statement to include all costs associated with the function of getting a satisfaction recorded, such as county recording fees, postage and costs to produce such a document. Shops that outsource their satisfaction/cancellations in this state may find it easier to justify including third party costs to prepare and record the document in their pass through amount. It is also a good idea to have the most up-to-date figures on what the county is charging for recording fees, so that you are passing through as much cost as possible associated with these new processes.

Nationwide Title Clearing's new procedures with regard to the processing of satisfactions for loans in the state of Georgia to conform to this new law are listed below. All of these procedures

are being added to NTC's standard service for NO ADDITIONAL FEE. (Except for standard postage pass-through fees.)

- 1) We will assist clients with the sending of notices to borrowers as in requirement mentioned above. The dates of the notices will be recorded and stored within NTC's system as proof of compliance to this particular portion of the law to help protect clients from possible claims arising from this new law. A sample of the notice that will be sent is available upon request.
- 2) All satisfactions sent to the state of Georgia will now have "Return To" instructions for the county clerk to send the recorded satisfaction directly to the borrower.
- 3) To compensate for the lack of return of recorded original, at the appropriate time NTC will obtain recording information online and enter into the NTC system as evidence of recording. Clients that must have an image of the recorded document, can request NTC to also contact the county and obtain a copy either through online methods or retrieval services as an optional service. Any county copy costs will be passed through to the client as usual.
- 4) All releases/satisfactions received timely from clients will be processed well ahead of the statutory deadline of 60 days. Exception files (where information is missing in order to prepare a recordable satisfaction) will be processed with the utmost priority to be completed within the statutory timeline. We also recommend that clients send files for satisfaction processing as a top priority to ensure that they do not open the door to the \$500 penalty.
- 5) NTC's existing standard indemnity coverage includes mistakes or delays by NTC in processing your satisfaction. This is a great benefit in terms of protection for your company because it also includes coverage for rejected documents caused by errors on behalf of NTC. However, NTC will not be liable for circumstances beyond NTC's control, such as client's failure to provide the file to us within the allotted time or bad mailing addresses provided, etc.
- 6) NTC is reaching out to clients to ensure that they are providing the borrower's current mailing address for all releases in the State of Georgia in addition to the other states that also require mailings to homeowners.
- 7) NTC is willing to customize this process for our clients to establish the best possible method of compliance for this or any state to reduce exposure without adding exorbitant costs to the process.

If you are a client of NTC's and have any questions concerning this new law and how it relates to your company/account, please contact your Account Manager. If you are not currently a client of NTC's, please feel free to call the number below for more information.

Nationwide Title Clearing

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[Send us an Email.](#)