

**ONE HUNDRED FIFTH LEGISLATURE - SECOND SESSION - 2018**  
**COMMITTEE STATEMENT**  
**LB750**

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**Hearing Date:** Tuesday January 23, 2018  
**Committee On:** Banking, Commerce and Insurance  
**Introducer:** Williams  
**One Liner:** Change provisions relating to recording of real property instruments and rights and duties of secured creditors

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**Roll Call Vote - Final Committee Action:**  
Advanced to General File with amendment(s)

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**Vote Results:**

**Aye:** 8 Senators Baker, Brewer, Harr, Kolterman, Lindstrom, McCollister, Schumacher, Williams  
**Nay:**  
**Absent:**  
**Present Not Voting:**

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**Verbal Testimony:**

<b>Proponents:</b> Senator Matt Williams Bob Hallstrom	<b>Representing:</b> Introducer NE Bankers Assn.
<b>Opponents:</b>	<b>Representing:</b>
<b>Neutral:</b>	<b>Representing:</b>

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**Summary of purpose and/or changes:**

This bill would amend the mortgage statutes, the Nebraska Trust Deeds Act, and the Nebraska Security Instrument Satisfaction Act to provide, in section 76-2803 of the Nebraska Security Instrument Satisfaction Act, a single set of remedies for failure of a mortgagee, beneficiary, or secured creditor to timely file, or cause to be filed, a release of mortgage, a deed or reconveyance, or a security instrument, as applicable.

The bill would provide in section 76-2803 that a secured creditor shall, after the secured creditor receives full payment or performance of the secured obligation and receives a written request by the trustor, mortgagor, or grantor, or the trustor's, mortgagor's, or grantor's successor in interest, record, or cause to be recorded, a deed of reconveyance or a release or satisfaction of a mortgage or other security instrument, as applicable. A secured creditor who fails to record or cause to be recorded a deed of reconveyance or a release or satisfaction of mortgage or other security instrument, as applicable, within sixty days after receiving full payment or performance of the secured obligation and receiving a written request, as described above, is liable (a) to the trustor, mortgagor, or grantor, or the successor in interest of such trustor, mortgagor, or grantor, for the greater of \$5,000 or actual damages, plus attorney's fees and costs or (b) to a successor in interest of a trustor, mortgagor, or grantor or of a landowner, purchaser, or holder of a junior trust deed, junior mortgage, or other junior security interest for actual damages plus attorney's fees and costs. The court may further order the trustee to reconvey the property or the mortgagee or grantee to record a release or satisfaction of the mortgage or other security instrument.

The bill would also amend section 76-238 of the mortgage statutes to specify that the transfer of any debt secured by a

mortgage shall also operate as a transfer of the security of such debt.

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**Explanation of amendments:**

The committee amendments would tighten up and clarify the new provisions in section 76-2803 and would insert and amend section 45-737 of Residential Mortgage Licensing Act to harmonize internal references to the sections in the mortgage statutes and the Nebraska Trust Deeds Act that would be amended by this bill.

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Brett Lindstrom, Chairperson