

## 2007 Legislative Session

Nebraska's 100th Legislature convened at the State Capitol in Lincoln on January 3, 2007. There were 705 legislative bills introduced in the first ten days of the session, and the public hearings for each bill started soon thereafter.

NLTA's Legislative Committee met on Monday, January 22, 2007 to review all the introduced bills and make a recommendation to NLTA's Board of Directors as to which bills should be supported, opposed or just monitored.

The NLTA Board adopted their recommendations as follows:

### **SUPPORT:**

**LB 62** Authorize insurance producers to charge incidental fees

**LB 225** Provide for acknowledgment of satisfaction of judgment and unsworn certification

**LB 364** Change apportionment of inheritance tax revenue (*NLTA will support with a filing provision*)

**LB 382** Change provisions relating to notaries public

**LB 386** Adopt the Nebraska Security Instrument Satisfaction Act (*see below for more information on this bill*)

### **MAY OPPOSE:**

**LB 384** Prohibit certain actions by judgment creditors (*NLTA will monitor and possibly oppose*)

### **MONITOR:**

LB 10	LB 172	LB 368
LB 11	LB 173	LB 488
LB 22	LB 237	LB 502
LB 99	LB 282	LB 527
LB 104	LB 314	LB 554
LB 123	LB 341	LB 591
LB 132	LB 346	LB 597
LB 137	LB 352	LB 627
LB 162	LB 356	LB 672

### **LB 386 Adopt the Nebraska Security Instrument Satisfaction Act**

*by Kent Barney, NLTA President*

One of NLTA's goals this year was the introduction of a release/ reconveyance legislative bill. John Daum, Kim Robak and I met with members of the Nebraska Bankers Association to work together to come up with a bill that would be acceptable to both associations. The result was a bill introduced for us by Senator Chris Langemeier (District 23, Schuyler).

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LB 386 will allow a title insurance agent who paid off a lien to release mortgages and deeds of trust after a waiting period if the lender fails to do so. The bill was modeled after a law in Minnesota and was drafted and introduced with Kim's help. We believe that this bill is fair, will protect all parties and will be a good business tool for our members. It is currently being amended so that a Satisfaction form will be included in the statute. The public hearing for LB386 is scheduled for Monday, February 12, and we will continue to work with all affected parties to make sure the final bill is fair for all sides. ♦

### Introducer's Statement of Intent for LB 386

The following constitutes the reasons for this bill and the purposes which are sought to be accomplished thereby:

LB 386 requires that a secured creditor record a certificate of satisfaction in the county real property records upon receipt of full payment or performance of a secured obligation. If a certificate of satisfaction is not filed within 60 days of receiving full performance, a closing agent may execute and file a certificate of satisfaction on behalf of the landowner.

A certificate of satisfaction must: identify the parties to the transaction, the landowner, the secured creditor and the closing agent; state that a payoff statement has been provided and that there is evidence of payment in full; state that the property in question is residential; and be executed and acknowledged as a conveyance of real property.

The bill defines and sets forth the required contents of a closing statement.

The bill provides that a closing agent acting on behalf of a land owner or purchaser may sign and file a certificate of satisfaction if the secured creditor has not recorded a satisfaction within 60 days after receiving full performance or, at any time, if the secured creditor authorizes the closing agent to do.

A certificate of satisfaction that is in compliance with the provisions of LB 386 is evidence of the facts contained in the certificate, shall be accepted for recording in the county in which the security interest is recorded, and operates as a satisfaction of the security interest described therein.

The bill provides that, in addition to any other remedy provided by law, the secured creditor who fails to record a satisfaction within 60 days of receiving full performance is liable to the land owner for actual damages. The bill provides penalties for a closing agent who wrongfully or erroneously records a certificate of satisfaction.

The recording of a certificate of satisfaction does not itself extinguish the liability of any person liable for payment of the underlying secured obligation.