Court clerks, noting lien satisfaction methods

Number: AGO 77-90

Date: January 26, 1998

Subject:
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CIRCUIT COURT CLERKS--METHOD OF NOTING SATISFACTION OF LIEN WHEN RECORDS KEPT ON MICROFILM

To: Freda Wright, Clerk, Circuit Court, Vero Beach

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QUESTION:

When the official records required to be kept by the clerk of circuit court are on microfilm, what is the proper method of making marginal notations such as satisfaction of a mortgage or partial release or discharge of a lien?

SUMMARY:

A clerk of the circuit court whose official records are kept on microfilm may note satisfaction or partial release or discharge of mortgages or liens by making notations of the *index* to the photographic or microfilm record of such mortgage or lien [pursuant to s. 696.05(1), F. S.] or by recording a separate instrument showing satisfaction or partial release or discharge of a mortgage, lien, or judgment or showing final determination of the action in question [pursuant to ss. 701.04 and 713.21, F. S.].

Your question may be answered by reference to ss. 696.05(1), 701.04 and 713.21, F. S., which provide both a method of making marginal notations when microfilm is used and a method which may be used as an alternative to marginal notation.

Section 696.05, F. S., provides the necessary statutory authorization whereby clerks of the circuit court "may record any and all instruments filed for record by photographic process . . . including microfilming . . .." Section 696.05(1). It is expressly provided in subsection (1) of s. 696.05 that "[t]he clerk of the circuit court may note *on the index to* the photographic (microfilm) record of a mortgage or lien a note of assignment or a note of satisfaction of the mortgage or lien." (Emphasis supplied.) This provision for noting satisfaction of a mortgage or lien is broad enough to include noting on the index to the microfilm record of a mortgage or lien a partial release or discharge thereof.

However, I would note that there is also provided, in ss. 701.04 and 713.21, F. S., an alternate method, whereby a separate instrument may be recorded to show satisfaction of a mortgage, lien or judgment.

Section 701.04, F. S., provides:

"Whenever the amount of money due on any mortgage, lien or judgment shall be fully paid to the person or party entitled to the payment thereof, the mortgagee, creditor or assignee, or the attorney of record in the case of a judgment, to whom such payment shall have been made, shall enter on the margin of the record of such mortgage, notice of lien or judgment, in the presence of the custodian of such record, to be attested by said custodian, satisfaction of said mortgage, notice of lien or judgment, and sign the same with his, her, or their hand; *or shall execute in writing an instrument acknowledging satisfaction of said mortgage, lien, or judgment, and have the same acknowledged or proven, and duly entered of record in the book provided by law for such purpose in the proper county*." (Emphasis supplied.)

Section 713.21, F. S., provides five alternative methods of discharging a "lien properly perfected under this chapter." Subsection (1) of s. 713.21 provides for marginal notation of satisfaction of the lien upon the margin of the record thereof in the clerk's office. Subsection (2) provides for the recording of a separate satisfaction of lien, by the lienor, in the official records. And subsection (5) provides for recording in the clerk's office of the original or certified copy of a judgment or decree of a court showing final determination of the action in question.