

[First Reprint]

ASSEMBLY, No. 161

STATE OF NEW JERSEY

208th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 1998 SESSION

Sponsored by:

Assemblyman CHRISTOPHER "KIP" BATEMAN

District 16 (Morris and Somerset)

Assemblyman NEIL M. COHEN

District 20 (Union)

Co-Sponsored by:

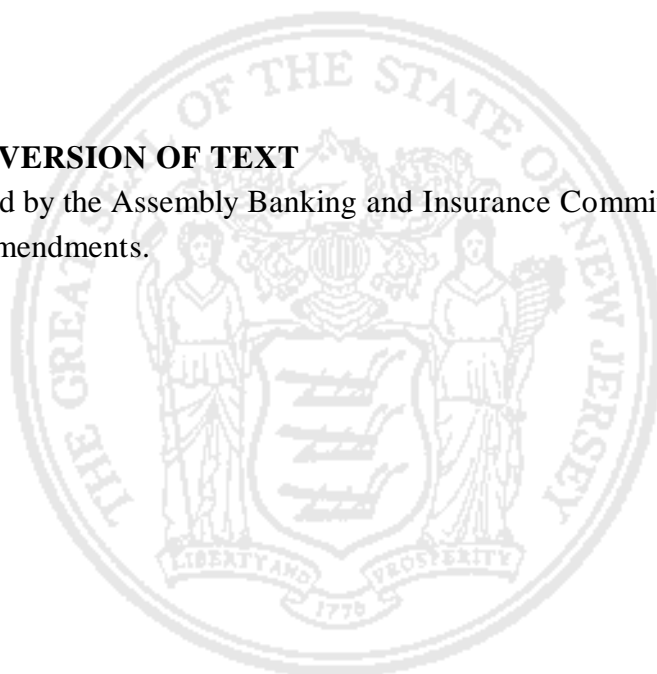
Senators Inverso and Bryant

SYNOPSIS

Provides alternative means of canceling mortgage of record upon satisfaction.

CURRENT VERSION OF TEXT

As reported by the Assembly Banking and Insurance Committee on June 1, 1998, with amendments.



(Sponsorship Updated As Of: 1/29/1999)

1 AN ACT concerning the cancellation of mortgages of record upon
2 satisfaction and supplementing P.L.1975, c.137 (C.46:18-11.2 et
3 seq.).

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 ¹1. As used in this act:

9 "Mortgage" means a residential mortgage, security interest or the
10 like, in which the security is a residential property such as a house, real
11 property or condominium, which is occupied, or is to be occupied, by
12 the debtor, who is a natural person, or a member of the debtor's
13 immediate family, as that person's residence. The provisions of
14 sections 2 and 3 of P.L. , c. (C.)(now before the Legislature
15 as this bill) shall apply to all residential mortgages wherever made,
16 which have as their security a residence in the State of New Jersey,
17 provided that the real property which is the subject of the mortgage
18 shall not have more than four dwelling units, one of which shall be, or
19 is planned to be, occupied by the debtor or a member of the debtor's
20 immediate family as the debtor's or family member's residence at the
21 time the loan is originated.

22 "Pay-off letter" means a written document prepared by the holder
23 or servicer of the mortgage being paid, which is dated not more than
24 60 days prior to the date the mortgage is paid, and which contains a
25 statement of all the sums due to satisfy the mortgage debt, including,
26 but not limited to, interest accrued to the date the statement is
27 prepared and a means of calculating per diem interest accruing
28 thereafter.¹

29
30 ¹[1.] 2.¹ a. A person which is entitled to receive payment of a
31 mortgage duly recorded or registered in this State pursuant to a
32 written agreement, whether or not recorded, entered into with the
33 holder or owner of the mortgage may execute a discharge,
34 satisfaction-piece, release, subordination or postponement on behalf
35 of the holder or owner thereof, which instrument shall be accepted for
36 recording by the county clerk or register of deeds and mortgages, so
37 long as:

38 (1) it meets the requirements of section 2 of P.L.1991, c.308
39 (C.46:15-1.1); and

40 (2) it contains the following wording in the body thereof:
41 " _____ is authorized to execute this instrument pursuant to

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Assembly ABI committee amendments adopted June 1, 1998.

1 the terms of a written agreement dated _____, between
2 _____, as owner or holder of the mortgage, and
3 _____, as servicer thereof."

4 b. A person which is the owner or holder of a mortgage duly
5 recorded or registered in this State ¹["by unrecorded assignment, or"]¹
6 for which a prior assignment thereof is unrecorded, may execute a
7 discharge, satisfaction-piece, release, subordination or postponement
8 thereof, which instrument shall be accepted for recording by the
9 county clerk or register of deeds and mortgages, so long as:

10 (1) it meets the requirements of section 2 of P.L.1991, c.308
11 (C.46:15-1.1); and

12 (2) it contains wording in the body of the instrument setting forth
13 the particulars concerning all assignments of the mortgage, whether or
14 not recorded.

15 c. Upon payment of the appropriate fees therefor, the county clerk
16 or register of deeds and mortgages shall cause a marginal notation to
17 be made upon the record of a mortgage which is specifically described
18 in an instrument submitted in accordance with subsection a. or b. of
19 this section.

20

21 ¹[2.] 3.¹ a. ¹["A person which"] An attorney-at-law of this State
22 or a person duly licensed as an insurance producer pursuant to the
23 "New Jersey Insurance Producer Licensing Act," P.L.1987, c.293
24 (C.17:22A-1 et seq.), in the line of title insurance who¹ has caused
25 payment in full to be made of a mortgage duly recorded or registered
26 in this State, ¹["and"]¹ which mortgage has not been timely ¹["submitted
27 ¹for cancellation by the owner or holder thereof"] canceled¹ in
28 accordance with section 1 of P.L.1975, c.137 (C.46:18-11.2), ¹["or
29 ¹other party authorized by law to execute a satisfaction-piece,]¹ may
30 submit for recording ¹a discharge or satisfaction-piece, executed as
31 agent or attorney-in-fact for the owner or holder of the mortgage, by
32 virtue of this section, provided the discharge or satisfaction-piece is
33 accompanied by¹ an affidavit setting forth the circumstances of
34 payment, which ¹discharge or satisfaction-piece and affidavit¹ shall be
35 accepted for recording by the county clerk or register of deeds and
36 mortgages, so long as¹ [:

37 (1) it contains an acknowledgment pursuant to section 1 of
38 P.L.1991, c.308 (C.46:14-2.1); and

39 (2) annexed thereto as exhibits are a true copy of the letter from
40 the owner, holder or servicer, specifying the amount for payment in
41 full thereof and true copies of both sides of the canceled check or
42 other evidence of payment in full] the affidavit is substantially in the
43 form set forth below:

AFFIDAVIT OF PAYMENT TO DISCHARGE MORTGAGE

PURSUANT TO SECTION 3 OF P.L. , c.

(C.)(now before the Legislature as this bill)

State of New Jersey

County of , ss. :

The undersigned, being duly sworn upon the undersigned's oath, avers
as follows:

1. I am: (a) an attorney-at-law duly admitted to practice before the
Courts of this State; or (b) duly licensed as an insurance producer in
the line of title insurance.

2. On , I caused to be sent to
, located at
(the address designated for receipt of
payment in the pay-off letter, or if no address is designated, the
address given on the letter head of the pay-off letter), the sum of
\$, in full payment of a certain mortgage dated ,
, in the face amount of \$, between
(mortgagor) and
(mortgagee), which mortgage was recorded on , in
the Office of the County Clerk/Register of Deeds of the County of
in Mortgage Book , page (and
which mortgage was subsequently assigned to by
assignment of mortgage dated , in Assignment
of Mortgage Book , page).

3. Said payment was made by check or electronic wire transfer, in
accordance with a pay-off letter received from , dated
, ; and I have received advice that (a) the check has been
negotiated and canceled on , ; or (b) the wire transfer
was received and credited to the recipient's account on ,
.

4. On , at least 30 days notice having elapsed since
the date the payment was received, I caused a notice to be sent to
, located at (the address designated
for receipt of payment in the pay-off letter, or if no address is
designated, the address given on the letter head of the pay-off letter),
by registered or certified mail, return receipt requested, pursuant to
section 2 of P.L.1975, c.137 (C.46:18-11.3).

5. On , at least 30 days having elapsed since the
date the notice as set forth in paragraph 4 of this affidavit was
received, I caused a notice to be sent to , located at
(the address designated for receipt of payment in the
pay-off letter, or if no address is designated, the address given on the
letter head of the pay-off letter), by registered or certified mail, return

1 receipt requested, of my intention to cause the mortgage to be
2 discharged by affidavit pursuant to section 3 of P.L. , c. (C.)
3 (now before the Legislature as this bill), if the mortgage remains
4 uncancelled 15 days after the notice is received.

5 6. At least 15 days have now elapsed since the notice described in
6 paragraph 5 of this affidavit was received. To the best of my
7 knowledge and belief, no letter or other written communication has
8 been received from _____, to the effect that it denies or
9 disputes that the mortgage has been paid in full and ought to be
10 discharged of record at this time.

11 7. Wherefore, the undersigned directs the county clerk or register
12 of deeds of the County of _____ to cause to be recorded the
13 discharge or satisfaction-piece accompanying this affidavit, and further
14 directs the county clerk or register of deeds to cause a marginal
15 notation of discharge to be made upon the record of the mortgage
16 described in paragraph 2 of this affidavit.

17
18 _____
19 Sworn and subscribed before me

20 this _____ day of _____, _____¹.

21 b. Upon payment of the appropriate fees therefor, the county clerk
22 or register of deeds and mortgages shall cause the marginal notation
23 "¹**[affidavit of payment] Discharge¹** recorded in Book _____, Page
24 _____" to be made upon the record of any mortgage which is
25 specifically described in the affidavit.

26
27 ¹**[3.] 4.¹** This act shall take effect on the 90th day after enactment.