

CHAPTER 40

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

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

C.46:18-11.5 Definitions relative to mortgage cancellations.

1. As used in this act:

"Mortgage" means a residential mortgage, security interest or the like, in which the security is a residential property such as a house, real property or condominium, which is occupied, or is to be occupied, by the debtor, who is a natural person, or a member of the debtor's immediate family, as that person's residence. The provisions of sections 2 and 3 of P.L.1999, c.40 (C.46:18-11.6 and C.46:18-11.7) shall apply to all residential mortgages wherever made, which have as their security a residence in the State of New Jersey, provided that the real property which is the subject of the mortgage shall not have more than four dwelling units, one of which shall be, or is planned to be, occupied by the debtor or a member of the debtor's immediate family as the debtor's or family member's residence at the time the loan is originated.

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

C.46:18-11.6 Conditions under which discharge of mortgage may be executed.

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

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

(2) it contains the following wording in the body thereof: "_____ is authorized to execute this instrument pursuant to the terms of a written agreement dated _____, between _____, as owner or holder of the mortgage, and _____, as servicer thereof."

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

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

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

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

C.46:18-11.7 Conditions for a discharge, satisfaction on the record.

3. a. An attorney-at-law of this State or a person duly licensed as an insurance producer pursuant to the "New Jersey Insurance Producer Licensing Act," P.L.1987, c.293 (C.17:22A-1 et seq.), in the line of title insurance who has caused payment in full to be made of a mortgage duly recorded or registered in this State, which mortgage has not been timely canceled in accordance with section 1 of P.L.1975, c.137 (C.46:18-11.2), may submit for recording a discharge or satisfaction-piece, executed as agent or attorney-in-fact for the owner or holder of the mortgage, by virtue of this section, provided the discharge or satisfaction-piece is accompanied by an affidavit setting forth the circumstances of payment, which discharge or satisfaction-piece and affidavit shall be accepted for recording by the county clerk or register of deeds and mortgages, so long as the affidavit is substantially in the form set forth below:

AFFIDAVIT OF PAYMENT TO DISCHARGE MORTGAGE

PURSUANT TO SECTION 3 OF P.L.1999, c.40
(C.46:18-11.7)

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 letterhead 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 letterhead of the pay-off letter), by registered or certified mail, return receipt requested, of my intention to cause the mortgage to be discharged by affidavit pursuant to section 3 of P.L.1999, c.40 (C.46:18-11.7), if the mortgage remains uncanceled 15 days after the notice is received.

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

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

Sworn and subscribed before me _____

this _____ day of _____, _____.

b. Upon payment of the appropriate fees therefor, the county clerk or register of deeds and mortgages shall cause the marginal notation " Discharge recorded in Book _____, Page _____ " to be made upon the record of any mortgage which is specifically described in the affidavit.

4. This act shall take effect on the 90th day after enactment.

Approved March 12, 1999.