

46:18-11.2

LEGISLATIVE HISTORY CHECKLIST  
Compiled by the NJ State Law Library

NJSA: 46:18-11.2

(Mortgages--  
cancelled)

LAWS OF: 1991

CHAPTER: 289

Bill No: A2826

Sponsor(s): Penn and Littell

Date Introduced: January 14, 1991

Committee: Assembly: Financial Institutions

Senate: Labor, Industry and Professions

Amended during passage: No Assembly Committee Substitute  
enacted

Date of Passage: Assembly: March 4, 1991

Senate: July 25, 1991

Date of Approval: September 20, 1991

Following statements are attached if available:

Sponsor statement: Yes

Committee Statement: Assembly: Yes

Senate: Yes

Fiscal Note: No

Veto Message: No

Message on signing: No

Following were printed:

Reports: No

Hearings: No

KBG/SLJ

ASSEMBLY COMMITTEE SUBSTITUTE FOR  
ASSEMBLY, No. 2826

STATE OF NEW JERSEY

ADOPTED JANUARY 14, 1991

Sponsored by Assemblymen PENN, Roberts and  
Assemblywoman Bush

1 AN ACT concerning the cancellation of mortgages upon  
2 satisfaction and amending the title and body of P.L.1975, c.137.

3

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

6 1. The title of P.L.1975, c.137 (C.46:18-11.2 et seq.) is  
7 amended to read as follows:

8 AN ACT [requiring mortgagees to apply] establishing certain  
9 procedures for cancellation of a mortgage [within 45 days]  
10 after [said] the mortgage is redeemed, paid and satisfied,  
11 providing penalties for violation thereof, and supplementing  
12 Title 46 of the Revised Statutes.

13 (cf: P.L.1975, c.137, title)

14 2. Section 1 of P.L.1975, c.137 (C.46:18-11.2) is amended to  
15 read as follows:

16 1. a. When any mortgage registered or recorded pursuant to  
17 R.S.46:17-1 et seq.[.] shall be redeemed, paid and satisfied, [the]  
18 a mortgagee, other than a bank, savings bank, savings and loan  
19 association, credit union or other corporation engaged in the  
20 business of making or purchasing mortgage loans, or his agents or  
21 [his] assigns shall within 10 days notify the mortgagor that he has  
22 the right to demand the mortgagee to cancel the mortgage of  
23 record upon payment by the mortgagor of the [required] fee  
24 required by the county to effect the cancellation and the  
25 mortgagee shall within [45] 30 days of the receipt by the  
26 mortgagee of the required fee from the mortgagor apply to the  
27 county recording officer to have the mortgage canceled of record.

28 b. When any mortgage registered or recorded pursuant to  
29 R.S.46:17-1 et seq. shall be redeemed, paid and satisfied and the  
30 mortgagee is bank, savings bank savings and loan association,  
31 credit union or other corporation in the business of making or  
32 purchasing mortgage loans, that mortgagee, its agents or assigns  
33 shall cause the mortgage to be submitted to the county recording  
34 officer for cancellation of record within 30 days of receipt of all  
35 fees which are required to be paid by the mortgagor pursuant to  
36 this subsection. The mortgagee shall have the right to receive  
37 from the mortgagor the amount of the fee charged by the county  
38 recording officer to cancel the mortgage plus an additional

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

Matter underlined thus is new matter.

1 service fee from the mortgagor, which service fee shall not  
2 exceed \$25 or such higher amount which the Commissioner of  
3 Banking may approve by regulation, provided the mortgagor has  
4 received notice of the fees required by the mortgagee. The  
5 mortgagee may collect the service fee at the time of the  
6 mortgage transaction or at the time the mortgage is redeemed,  
7 paid and satisfied. The fee charged by the county recording  
8 officer to cancel the mortgage of record shall be collectible at  
9 the time the mortgage is redeemed, paid and satisfied.

10 c. If the final payment is made in cash, by certified check or  
11 cashier's check, the mortgage shall be deemed paid, satisfied and  
12 redeemed upon receipt of the cash, certified check or cashier's  
13 check by the mortgagee, his agents or assigns.

14 (cf: P.L.1975, c.137, s.1)

15 3. Section 2 of P.L.1975, c.137 (C.46:18-11.3) is amended to  
16 read as follows:

17 2. [Failure of a] a. If the mortgagee, his agent or assigns fails  
18 to comply with the applicable provisions of section 1 of this act  
19 [shall subject said] , the mortgagor may serve the mortgagee or  
20 his assigns with written notice of the noncompliance, which  
21 notice shall identify the mortgage and the date and means of its  
22 redemption, payment and satisfaction. If the mortgagee has not  
23 complied within 15 business days after receipt of the written  
24 notice from the mortgagor pursuant to this subsection a., the  
25 mortgagee or his assigns shall be subject to a fine of [\$2.00] \$50  
26 per day for each day [thereafter that the mortgage remains  
27 uncanceled. The] after the 15-day period until compliance,  
28 except that the total fine imposed pursuant to this subsection a.  
29 shall not exceed \$1,000.

30 b. Of each fine collected pursuant to subsection a. of this  
31 section, 25% shall be payable to the county clerk for deposit in  
32 the county treasury, and 75% shall be payable to the mortgagor.  
33 The fine may be collected by summary proceedings instituted by  
34 the county clerk or the Attorney General in accordance with "the  
35 penalty enforcement law" (N.J.S.2A:58-1 et seq.).

36 c. If a mortgagee, his agent or assigns has not applied to the  
37 county recording officer to cancel the mortgage of record  
38 pursuant to section 1 of P.L.1975, c.137 (C.46:18-11.2), within  
39 the 15 business day period provided by subsection a. of this  
40 section, the mortgagee shall be liable to the mortgagor for the  
41 greater of the mortgagor's actual damages or the sum of \$1,000,  
42 less any fines recovered by the mortgagor pursuant to subsections  
43 a. and b. of this section. In any successful action to recover  
44 damages pursuant to this subsection c., the mortgagee shall  
45 reimburse the mortgagor for the costs of the action including the  
46 mortgagor's reasonable attorneys' fees.

47 (cf: P.L.1975, c.137, s.2)

48 4. This act shall take effect immediately.

BANKING AND FINANCE

1

2

3

4

5

Requires mortgagee to apply to have mortgage canceled of record under certain circumstances and increases applicable penalties.

ASSEMBLY, No. 2826

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1990 SESSION

By Assemblymen PENN and LITTELL

1 AN ACT concerning the cancellation of mortgages upon  
2 satisfaction and amending P.L. 1975, c. 137.

3

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

6 1. Section 1 of P.L. 1975, c. 137 (C. 46:18-11.2) is amended to  
7 read as follows:

8 1. a. When any mortgage registered or recorded pursuant to  
9 R.S. 46:17-1 et seq., shall be redeemed, paid and satisfied, the  
10 mortgagee, his agents or his assigns shall within 10 days notify  
11 the mortgagor that he has the right to demand the mortgagee to  
12 cancel the mortgage of record upon payment by the mortgagor of  
13 the [required] mortgage cancellation fee charged by the  
14 mortgagee, if any, and the fee required by the county to cancel  
15 the mortgage of record and the mortgagee shall within [45] 30  
16 days of the receipt by the mortgagee of the [required fee] fees  
17 from the mortgagor apply to the county recording officer to have  
18 the mortgage canceled of record.

19 b. If the final payment is made in cash, by certified check or  
20 cashier's check, the mortgage shall be deemed paid, satisfied and  
21 redeemed upon receipt of the cash, certified check or cashier's  
22 check by the mortgagee, his agents or assigns.

23 (cf: P.L.1975, c.137, s.1)

24 2. Section 2 of P.L. 1975, c. 137 (C. 46:18-11.3) is amended to  
25 read as follows:

26 2. a. Failure of a mortgagee, his agent or assigns to comply  
27 with any provision of section 1 of [this act] P.L. 1975, c. 137 (C.  
28 46:18-11.2), shall subject [said] the mortgagee or his assigns to a  
29 fine of [\$2.00] \$10 for each day thereafter [that the mortgage  
30 remains uncanceled. The fine] of noncompliance.

31 b. If the mortgagee, his agent or assigns fails to comply with  
32 the notice provision of section 1 of P.L. 1975, c. 137 (C.  
33 46:18-11.2), the mortgagor may serve the mortgagee with written  
34 notice of the noncompliance, which notice shall identify the  
35 mortgage and the date and means of its redemption, payment and  
36 satisfaction. If the mortgagee has not complied within 15  
37 business days after receipt of the written notice from the  
38 mortgagor pursuant to this subsection, the mortgagee shall be

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

Matter underlined thus is new matter.

1 subject to a fine of \$50 per day for each day after the 15-day  
2 period until compliance, provided, however, that the total fine  
3 imposed pursuant to this subsection b. shall not exceed \$1,000.

4 c. If the mortgagee, his agent, or assigns fails to apply to the  
5 county recording officer to cancel the mortgage of record  
6 pursuant to section 1 of P.L. 1975, c. 137 (C. 46:18-11.2), the  
7 mortgagor may serve the mortgagee with written notice of the  
8 noncompliance, which notice shall identify the mortgage and the  
9 date and means of its redemption, payment and satisfaction. If  
10 the mortgagee has not complied within 15 business days after  
11 receipt of the written notice from the mortgagor pursuant to this  
12 subsection, the mortgagee shall be subject to a fine of \$50 per  
13 day for each day after the 15-day period until compliance,  
14 provided, however, that the total fine imposed pursuant to this  
15 subsection c. shall not exceed \$1,000.

16 d. Of each fine collected pursuant to this section, 25% shall be  
17 payable to the county clerk for deposit in the county treasury,  
18 and 75% shall be payable to the mortgagor. The fine may be  
19 collected by summary proceedings instituted by the county clerk,  
20 the mortgagor or the Attorney General in accordance with "the  
21 penalty enforcement law" (N.J.S. 2A:58-1 et seq.).

22 e. If a mortgagee, his agent or assigns has not applied to the  
23 county recording officer to cancel the mortgage of record  
24 pursuant to section 1 of P.L. 1975, c. 137 (C. 46:18-11.2), within  
25 the 15 business day period provided by subsection c. of this  
26 section, the mortgagee shall be liable to the mortgagor for the  
27 greater of the mortgagor's actual damages or the sum of \$1,000,  
28 less any fines recovered by the mortgagor pursuant to subsection  
29 c. of this section. In any successful action to recover damages  
30 pursuant to this subsection e., the mortgagee shall reimburse the  
31 mortgagor for the costs of the action including the mortgagor's  
32 reasonable attorneys' fees.

33 (cf: P.L.1975, c.137, s.2)

34 3. This act shall take effect immediately.

35

36

37

*Sponsors'*

#### STATEMENT

38

39 This bill establishes a new procedure for effecting the  
40 cancellation of mortgages upon redemption, payment and  
41 satisfaction of the mortgage. When a mortgage is redeemed, paid  
42 and satisfied, the mortgagee is to notify the mortgagor within 10  
43 days that the mortgagor has the right to demand the mortgagee  
44 to cancel the mortgage of record upon receipt by the mortgagee  
45 from the mortgagor of a cancellation fee charged by the  
46 mortgagee, if any, and the fee required by the county to cancel  
47 the mortgage of record. The mortgagee would have 30 days from  
48 receipt of the fees from the mortgagor to apply to the county

1 recording officer to have the mortgage canceled of record.

2 If a mortgagee, his agent or assigns fails to comply with any  
3 provision of section 1 of P.L. 1975, c. 137 (C. 46:18-11.2), the  
4 mortgagee is subject to a fine of \$10 per day for each day of  
5 noncompliance.

6 If the mortgagee, his agent or assigns fails to comply with the  
7 notice provision of section 1 of P.L. 1975, c. 137 (C. 46:18-11.2),  
8 the mortgagor may serve the mortgagee with written notice of  
9 noncompliance. If the mortgagee has not complied within 15  
10 business days after receipt of the written notice from the  
11 mortgagor, the mortgagee shall then be subject to a fine of \$50  
12 per day for each day after the 15-day period until compliance,  
13 provided, however, that the total fine levied against the  
14 mortgagee for failure to notify the mortgagor pursuant to this  
15 requirement is not to exceed \$1,000.

16 If the mortgagee, his agent or assigns fails to apply to the  
17 county recording officer to cancel the mortgage of record  
18 pursuant to section 1 of P.L. 1975, c. 137 (C. 46:18-11.2), the  
19 mortgagor may serve the mortgagee with written notice of  
20 noncompliance. If the mortgagee has not complied within 15  
21 business days after receipt of the written notice from the  
22 mortgagor, the mortgagee shall then be subject to a fine of \$50  
23 per day for each day after the 15-day period until compliance,  
24 provided, however, that the total fine levied against the  
25 mortgagee for failure to apply to the county recording officer to  
26 cancel the mortgage of record is not to exceed \$1,000.

27 Finally, the bill provides that if the mortgagee fails to apply to  
28 the county recording officer to cancel the mortgage of record  
29 pursuant to section 1 of P.L. 1975, c. 137 (C. 46:18-11.2), before  
30 the expiration of the 15-business day period, the mortgagee is  
31 liable to the mortgagor for the greater of the mortgagor's actual  
32 damages or the sum of \$1,000 less any fines recovered by the  
33 mortgagor for the mortgagee's failure to apply to the county  
34 recording officer to cancel the mortgage of record.

35

36

37

#### BANKING AND FINANCE

38

39 Requires mortgagee to apply to have mortgage canceled of  
40 record under certain circumstances and increases applicable  
41 penalties.

ASSEMBLY FINANCIAL INSTITUTIONS COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE

ASSEMBLY, No. 2826

STATE OF NEW JERSEY

DATED: JANUARY 14, 1991

The Assembly Financial Institutions Committee reports favorably Assembly Committee Substitute for Assembly, No. 2826.

This bill, Assembly Committee Substitute for Assembly, No. 2826, makes a distinction between persons who make a mortgage loan on occasion, such as to a family member, and those who are in the business of making or purchasing mortgage loans. It establishes a new procedure for effecting the cancellation of mortgages upon redemption, payment and satisfaction of the mortgage loan for persons in the business of making or purchasing mortgage loans.

When any mortgage properly registered or recorded is redeemed, paid and satisfied and the mortgagee is not a bank, savings bank, savings and loan association, credit union or other corporation in the business of making or purchasing mortgage loans, the bill requires that mortgagee, his agents or assigns to notify the mortgagor within 10 days that the mortgagor has the right to demand the mortgagee to cancel the mortgage of record upon receipt by the mortgagee from the mortgagor of the fee required by the county to cancel the mortgage of record. The mortgagee would have 30 days from receipt of this fee from the mortgagor to apply to the county recording officer to have the mortgage canceled of record.

When any mortgage properly registered or recorded is redeemed, paid and satisfied and the mortgagee is a bank, savings bank, savings and loan association, credit union or other corporation in the business of making or purchasing mortgage loans, the bill requires that mortgagee, its agents or assigns to submit the mortgage to the county recording officer for cancellation of record within 30 days of receipt of the payment of fees required from the mortgagor.

Provided that the mortgagee has properly notified the mortgagor, the mortgagee has the right to receive from the mortgagor the amount charged by the county recording officer plus an additional service fee of \$25 or a higher amount if permitted by the Commissioner of Banking by regulation. The service fee may be collected by the mortgagee at the time of the mortgage transaction or at the time the mortgage is redeemed, paid and satisfied. The fee required by the county recording officer to cancel the mortgage of record is collectible by the mortgagee from the mortgagor at the time the mortgage is redeemed, paid and satisfied.

If the final payment is made in cash, by certified check or cashier's check, the mortgage is considered paid, satisfied and redeemed upon receipt of the cash, certified check or cashier's check by the mortgagee, his agents or assigns.



If the final payment on the mortgage loan is made in cash, by certified check or cashier's check, the mortgage is considered paid, satisfied and redeemed upon receipt of the cash, certified check or cashier's check by the mortgagee.

If a mortgagee fails to comply with the applicable provisions of the bill, the mortgagor may serve the mortgagee with written notice of noncompliance. If the mortgagee has not complied within 15 business days after receipt of the written notice from the mortgagor, the mortgagee is subject to a fine of \$50 per day for each day after the 15-day period until compliance, except that the total fine levied against the mortgagee is not to exceed \$1,000. Any fines collected for noncompliance are to be divided, with 25% going to the county in which the mortgage was recorded or registered and 75% going to the mortgagor. The county clerk or the Attorney General may bring the penalty proceedings.

In addition to being subject to a \$50 per day fine for failure to comply within 15 business days after receipt of a written notice of noncompliance from a mortgagor, the mortgagee is liable to the mortgagor for the greater of the mortgagor's actual damages or the sum of \$1,000, less any fines already recovered by the mortgagor, and in any successful action to recover damages, the mortgagee is to reimburse the mortgagor for the costs of the action including the mortgagor's reasonable attorneys' fees.

SENATE LABOR, INDUSTRY AND PROFESSIONS COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR

ASSEMBLY, No. 2826

STATE OF NEW JERSEY

DATED: JUNE 24, 1991

The Senate Labor, Industry and Professions Committee reports favorably Assembly Bill No. 2826 Assembly Committee Substitute.

This bill establishes a new procedure for effecting the cancellation of mortgages upon redemption, payment and satisfaction of the mortgage loan for persons in the business of making or purchasing mortgage loans (including banks, savings banks, savings and loan associations, credit unions and others in the business of making or purchasing mortgage loans) and modifies the current procedures for cancellation of mortgages for those who are not in the business of making or purchasing mortgage loans.

When any mortgage properly registered or recorded is redeemed, paid and satisfied and the mortgagee is not a person in the business of making or purchasing mortgage loans, the bill requires that mortgagee to notify the mortgagor within 10 days that the mortgagor has the right to demand the mortgagee to cancel the mortgage of record upon receipt by the mortgagee from the mortgagor of the fee required by the county to cancel the mortgage of record. The mortgagee would have 30 days, instead of the current 45 days, from receipt of this fee from the mortgagor to apply to the county recording officer to have the mortgage canceled of record.

When any mortgage properly registered or recorded is redeemed, paid and satisfied and the mortgagee is a person in the business of making or purchasing mortgage loans, the bill requires that mortgagee to submit the mortgage to the county recording officer for cancellation of record within 30 days of receipt of the payment of fees required from the mortgagor.

Upon proper notification to the mortgagor, the mortgagee has the right to receive from the mortgagor the amount charged by the county recording officer plus an additional service fee of \$25 or a higher amount if permitted by the Commissioner of Banking by regulation. The service fee may be collected by the mortgagee at the time of the mortgage transaction or at the time the mortgage is redeemed, paid and satisfied. The fee required by the county recording officer to cancel the mortgage of record is collectible by the mortgagee from the mortgagor at the time the mortgage is redeemed, paid and satisfied.

The bill further provides that if a mortgagee, his agent or assigns fails to comply with the applicable provisions of section 1 of the bill, the mortgagor may serve the mortgagee with written notice of noncompliance. If the mortgagee has not complied within 15 business days after receipt of the written notice from the mortgagor, the mortgagee is subject to a fine of \$50 per day for each day after the 15-day period until compliance, except that the total fine levied against the mortgagee is not to exceed \$1,000.

In addition to being subject to a \$50 per day fine for failure to comply within 15 business days after receipt of a written notice of noncompliance from a mortgagor, the mortgagee is liable to the mortgagor for the greater of the mortgagor's actual damages or the sum of \$1,000, less any fines already recovered by the mortgagor, and in any successful action to recover damages, the mortgagee is to reimburse the mortgagor for the costs of the action including the mortgagor's reasonable attorneys' fees.

The bill provides that of any fines collected for noncompliance, 25% is to be deposited in the treasury of the county in which the mortgage was recorded or registered and 75% is to go to the mortgagor.