

46:16A-1 to 46:16A-5

LEGISLATIVE HISTORY CHECKLIST

(Real estate settlements--provide for form, filing and effect of notices)

WISA 46:16A-1 to 46:16A-5

LAWS OF 1979

CHAPTER 406

Bill No. S3169

Sponsor(s) Merlino

Date Introduced April 23, 1979

Committee: Assembly Judiciary, Law, Public Safety and Defense

Senate Judiciary

Amended during passage Yes

~~xx~~ Amendments during passage denoted by asterisks. Substituted for A3442 (not attached since identical to S3169)

Date of Passage: Assembly Jan. 7, 1980

Senate Dec. 10, 1979

Date of approval Feb. 8, 1980

Following statements are attached if available:

Sponsor statement Yes ~~Yes~~

Committee Statement: Assembly Yes ~~Yes~~ No

Senate Yes ~~Yes~~

Assembly committee statement to A3442 (attached)

Fiscal Note Yes ~~Yes~~ No

Veto message Yes ~~Yes~~ No

Message on signing Yes ~~Yes~~ No

Following were printed:

Reports Yes ~~Yes~~ No

Hearings Yes ~~Yes~~ No

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SENATE, No. 3169

STATE OF NEW JERSEY

INTRODUCED APRIL 23, 1979

By Senator MERLINO

Referred to Committee on Judiciary

AN ACT providing for the form, ***[recording]*** **filing** and effect of notices of real estate settlements and supplementing Title 46 of the Revised Statutes.

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

1 1. Any party, or his legal representative, to a settlement which
2 will convey legal or equitable title to real estate or any interest
3 therein or create any lien thereon by way of a mortgage, may file
4 an instrument to be designated a "notice of settlement" with the
5 county recording officer of the county in which the real estate is
6 situate. The notice shall be ***[recorded]*** **filed** in a book to be kept
7 for that purpose entitled "Notices of Settlement," and shall
8 immediately be indexed in an index book entitled "Index of Notices
9 of Settlement," which index shall indicate the date of filing, the
10 place of record and the names of the parties thereto. The county
11 recording officer may charge a fee not to exceed the fee charged
12 for the filing and recording of notices of Federal tax liens.

1 2. The notice of settlement shall be signed by said party or
2 legal representative and shall set forth the names of the parties
3 to the settlement and a description of the real estate. If the notice
4 is executed by anyone other than an attorney at law of this State,
5 the execution shall be acknowledged or proved in the manner
6 provided by law for the acknowledgement or proof of deeds.

1 3. The form of the notice of settlement shall be as follows:

2	Name	} NOTICE OF SETTLEMENT
3	Address	
	(Seller or Mortgagor)	
4	and	
5	Name	
6	Address	
	(Purchaser or Mortgagee)	

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

7 NOTICE is hereby given of a (contract,
8 agreement or mortgage commitment) between the parties hereto.

9 THE lands to be affected are described as follows:

10 ALL that certain tract or parcel of land and premises situate,
11 lying and being in the of
(municipality)

12 County of and State of New Jersey,
13 commonly known as and more particularly
(street address)

14 described as follows:

(legal description)

15 Name of party or legal representative

16 Address
(acknowledgement)

1 4. After the filing of a notice of settlement, any person claiming
2 title to, an interest in or a lien upon the real estate described in
3 the notice through any party in the notice, shall be deemed to
4 have acquired said title, interest or lien with knowledge of the
5 anticipated settlement and shall be subject to the terms, conditions
6 and provisions of the deed or mortgage between the parties filed
7 within the period provided by section 5 of this act.

1 5. The notice of settlement shall be effective for 20 days from
2 the date of filing. Any lien filed during said 20 days shall attach
3 to the premises described in the notice immediately upon the ex-
4 piration of the 20 days, provided the premises have not been
5 conveyed and notwithstanding the filing of a subsequent notice of
6 settlement.

1 6. This act shall take effect 90 days after enactment.

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8 agreement or mortgage commitment) between the parties hereto.

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(municipality)

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5 conveyed and notwithstanding the filing of a subsequent notice of
6 settlement.

1 6. This act shall take effect 90 days after enactment.

SPONSOR'S STATEMENT

The purpose of this bill is to facilitate the sale and mortgaging of real estate for the benefit of buyers, sellers, mortgagors and brokers, attorneys, lenders and recording officers by barring the conveyance of specific land or the imposition of any State lien thereon for a limited period, except as to the parties named in the notice. This will prevent the attaching of intervening interests during the "gap" in time between the closing of title and the recording of the instruments from the closing.

S. 3169 (1979)

**ASSEMBLY JUDICIARY, LAW, PUBLIC SAFETY AND
DEFENSE COMMITTEE**

STATEMENT TO

ASSEMBLY, No. 3442

with Assembly committee amendment

STATE OF NEW JERSEY

DATED: DECEMBER 17, 1979

The purpose of this bill is to facilitate the sale and mortgaging of real estate for the benefit of buyers, sellers, mortgagors and brokers, attorneys, lenders and recording officers by barring the conveyance of specific land or the imposition of any State lien thereon for a limited period, except as to the parties named in the notice. This will prevent the attaching of intervening interests during the "gap" in time between the closing of title and the recording of the instruments from the closing.

The committee amendment substitutes the word "filed" for "recorded" as a legally more precise description of the process.

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SENATE JUDICIARY COMMITTEE

STATEMENT TO

SENATE, No. 3169

STATE OF NEW JERSEY

DATED: SEPTEMBER 10, 1979

Under the present system for recording real estate transactions, there is no practical way to protect totally the prospective buyer or mortgagee from acquiring deficient title because between the "closing of title" and the "recording of the deed or mortgage" intervening liens can and often do appear.

The purpose of this bill which was developed by a special committee appointed by the New Jersey State Bar Association, is to solve this problem through the institution of a procedure known as the Notice of Settlement. The Notice of Settlement would be filed in a manner similar to a Mechanic's Notice of Intention. During the specified 20 day time period, it would insulate a proposed conveyance or lien against intervening conveyances or liens much in the manner of a "Lis Pendens" or "Notice of Suit." After its stated period, it would be of no force or effect.

If the closing instruments are not recorded within the stated period, the notice would be void and any liens filed during that time would attach immediately upon the expiration of that period in its legal priority.

During the stated period of time, the home buyer and mortgagee would be protected. No one could confront the home buyer or mortgagee with an unexpected and superior claim after title had been acquired or the mortgage recorded.

In addition to the Bar Association, the bill is supported by Title Abstractors Association of New Jersey, Association of Title Insurance Agents, County Officers Association of New Jersey and The New Jersey Land Title Insurance Association.