

# LEGISLATIVE HISTORY CHECKLIST

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## *LAWS of 1999*

**CHAPTER:** 40

**NJSA:** 46:18-11.5  
(Canceling mortgage)

**BILL NO:** A161(Substituted for S347 - 1<sup>st</sup> Reprint)

**SPONSOR(S):** Bateman and Cohen

**DATE INTRODUCED:** Pre-filed

**COMMITTEE:**

*ASSEMBLY:* Banking and Insurance

*SENATE:*---

**AMENDED DURING PASSAGE:** Yes

**DATES OF PASSAGE:**

*ASSEMBLY:* December 17, 1998

*SENATE:* January 28, 1999

**DATE OF APPROVAL:** March 12, 1999

**THE FOLLOWING ARE ATTACHED IF AVAILABLE:**

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**FINAL TEXT OF BILL:** *YES*1<sup>st</sup> Reprint  
(Amendments during passage denoted by superscript numbers)

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**A161**

**SPONSORS STATEMENT:** *Yes* (Begins on page 3 of original bill)

**COMMITTEE STATEMENT:**

**ASSEMBLY:** *Yes*

**SENATE:** *No*

**FLOOR AMENDMENT STATEMENTS:** *No*

**LEGISLATIVE FISCAL ESTIMATE:** *No*

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## S347

**SPONSORS STATEMENT:** *Yes (Begins on page 3 of original bill)*

Bill and Sponsor's Statement identical to A161

**COMMITTEE STATEMENT:**

**ASSEMBLY:** *No*

**SENATE:** *Yes*

Identical to Assembly Statement for A161

**FLOOR AMENDMENT STATEMENTS:** *No*

**LEGISLATIVE FISCAL ESTIMATE:** *No*

**LAST VERSION:** *Yes (1<sup>st</sup> Reprint)*

(Amendments during passage denoted by superscript numbers)

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### GOVERNOR'S ACTIONS

**VETO MESSAGE:** *No*

**GOVERNOR'S PRESS RELEASE ON SIGNING:** *Yes*

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### THE FOLLOWING WERE PRINTED:

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**REPORTS:** *No*

**HEARINGS:** *No*

**NEWSPAPER ARTICLES:** *No*

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§§1-3  
C. 46:18-11.5  
To  
46:18-11.7  
§4  
Note To §§1-3

P.L. 1999, CHAPTER 40, *approved March 12, 1999*  
Assembly, No. 161 (*First Reprint*)

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 <sup>1</sup>1. 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.<sup>1</sup>  
29

30 <sup>1</sup>**[1.] 2.**<sup>1</sup> 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

**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:**

<sup>1</sup> **Assembly ABI committee amendments adopted June 1, 1998.**

1 long as:

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

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

9 b. A person which is the owner or holder of a mortgage duly  
10 recorded or registered in this State <sup>1</sup>【by unrecorded assignment, or】<sup>1</sup>  
11 for which a prior assignment thereof is unrecorded, may execute a  
12 discharge, satisfaction-piece, release, subordination or postponement  
13 thereof, which instrument shall be accepted for recording by the  
14 county clerk or register of deeds and mortgages, so long as:

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

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

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

25

26 <sup>1</sup>【2.】 <sup>1</sup>3. <sup>1</sup>a. <sup>1</sup>【A person which】 An attorney-at-law of this State  
27 or a person duly licensed as an insurance producer pursuant to the  
28 "New Jersey Insurance Producer Licensing Act," P.L.1987, c.293  
29 (C.17:22A-1 et seq.), in the line of title insurance who<sup>1</sup> has caused  
30 payment in full to be made of a mortgage duly recorded or registered  
31 in this State, <sup>1</sup>【and】<sup>1</sup> which mortgage has not been timely <sup>1</sup>【submitted  
32 for cancellation by the owner or holder thereof】 canceled<sup>1</sup> in  
33 accordance with section 1 of P.L.1975, c.137 (C.46:18-11.2), <sup>1</sup>【or  
34 other party authorized by law to execute a satisfaction-piece,】<sup>1</sup> may  
35 submit for recording <sup>1</sup>a discharge or satisfaction-piece, executed as  
36 agent or attorney-in-fact for the owner or holder of the mortgage, by  
37 virtue of this section, provided the discharge or satisfaction-piece is  
38 accompanied by<sup>1</sup> an affidavit setting forth the circumstances of  
39 payment, which <sup>1</sup>discharge or satisfaction-piece and affidavit<sup>1</sup> shall be  
40 accepted for recording by the county clerk or register of deeds and  
41 mortgages, so long as<sup>1</sup> 【:

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

44 (2) annexed thereto as exhibits are a true copy of the letter from  
45 the owner, holder or servicer, specifying the amount for payment in  
46 full thereof and true copies of both sides of the canceled check or

1 other evidence of payment in full] the affidavit is substantially in the  
2 form set forth below:

3 AFFIDAVIT OF PAYMENT TO DISCHARGE MORTGAGE

4 PURSUANT TO SECTION 3 OF P.L. \_\_\_\_\_, c. \_\_\_\_\_

5 (C. \_\_\_\_\_)(now before the Legislature as this bill)

6  
7 State of New Jersey

8 County of \_\_\_\_\_, ss. :

9  
10 The undersigned, being duly sworn upon the undersigned's oath, avers  
11 as follows:

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

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

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

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

42 5. On \_\_\_\_\_, \_\_\_\_\_, at least 30 days having elapsed since the  
43 date the notice as set forth in paragraph 4 of this affidavit was  
44 received, I caused a notice to be sent to \_\_\_\_\_, located at  
45 \_\_\_\_\_ (the address designated for receipt of payment in the  
46 pay-off letter, or if no address is designated, the address given on the

1 letter head of the pay-off letter), by registered or certified mail, return  
2 receipt requested, of my intention to cause the mortgage to be  
3 discharged by affidavit pursuant to section 3 of P.L. , c. (C. )  
4 (now before the Legislature as this bill), if the mortgage remains  
5 uncancelled 15 days after the notice is received.

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

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

18  
19 \_\_\_\_\_  
20 Sworn and subscribed before me  
21 this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_<sup>1</sup>.

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

27  
28 <sup>1</sup>**[3.] 4.**<sup>1</sup> This act shall take effect on the 90th day after enactment.

29  
30  
31 \_\_\_\_\_  
32  
33 Provides alternative means of canceling mortgage of record upon  
34 satisfaction.

# 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)**

**SYNOPSIS**

Provides alternative means of canceling mortgage of record upon satisfaction.

**CURRENT VERSION OF TEXT**

As Introduced.



**(Sponsorship Updated As Of: 3/24/1998)**

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

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

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

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

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

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

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

38  
39 2. a. A person which has caused payment in full to be made of a  
40 mortgage duly recorded or registered in this State, and which  
41 mortgage has not been timely submitted for cancellation by the owner  
42 or holder thereof in accordance with section 1 of P.L.1975, c.137  
43 (C.46:18-11.2), or other party authorized by law to execute a  
44 satisfaction-piece, may submit for recording an affidavit setting forth  
45 the circumstances of payment, which shall be accepted for recording  
46 by the county clerk or register of deeds and mortgages, so long as:



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

3 (2) annexed thereto as exhibits are a true copy of the letter from  
4 the owner, holder or servicer, specifying the amount for payment in  
5 full thereof and true copies of both sides of the canceled check or  
6 other evidence of payment in full.

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

12

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

14

15

16

#### STATEMENT

17

18 This bill provides an alternative to the current method of canceling  
19 mortgages of record upon satisfaction. With the consolidation of the  
20 servicing of mortgage loans and the location of more mortgage loan  
21 servicers out-of-State, mortgagors are finding it more and more  
22 difficult to obtain the timely cancellation of a mortgage of record upon  
23 satisfaction of that mortgage.

# ASSEMBLY BANKING AND INSURANCE COMMITTEE

## STATEMENT TO

### **ASSEMBLY, No. 161**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: JUNE 1, 1998

The Assembly Banking and Insurance Committee reports favorably and with committee amendments Assembly Bill No. 161.

Assembly, No. 161, as amended, provides an alternative to the current method of canceling mortgages of record upon satisfaction. If a mortgage has been paid in full and the mortgagee has not submitted the mortgage to be canceled of record as required pursuant to section 1 of P.L.1975, c.137 (C.46:18-11.2), an attorney-in-fact or a person licensed in this State as a title insurance producer may submit for recording a discharge or satisfaction-piece, executed as agent or attorney-in-fact for the owner or holder of the mortgage, provided that the discharge or satisfaction-piece is accompanied by an affidavit setting forth the circumstances of payment. The 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 which is set forth in the bill. The affidavit requires information to be provided which rehearses the steps which have been taken to gain compliance from the mortgagee with respect to the submission of the mortgage for cancellation of record, including following the provisions of section 2 of P.L.1975, c.137 (C.46:18-11.3). Under the bill, after the appropriate fees have been paid, the county clerk or register of deeds is to enter the marginal notation on the record of the mortgage described in the affidavit which indicates the discharge of the mortgage.

The amendments to the bill: delete the language "by unrecorded assignment" from subsection b. of section 2 of the bill; add a definition section which limits the applicability of the act to residential mortgages and defines "pay-off letter"; require an attorney licensed to practice in this State or a person licensed as a title insurance producer in this State to take the actions which result in having a residential mortgage canceled of record, if the mortgagee fails to have a mortgage which has been paid in full canceled of record in a timely basis; and provide the form for the AFFIDAVIT OF PAYMENT TO DISCHARGE MORTGAGE.

As released by the committee, this bill is identical to Senate Bill No. 347(1R).

# SENATE, No. 347

## STATE OF NEW JERSEY 208th LEGISLATURE

INTRODUCED JANUARY 20, 1998

**Sponsored by:**

**Senator PETER A. INVERSO**

**District 14 (Mercer and Middlesex)**

**Senator WAYNE R. BRYANT**

**District 5 (Camden and Gloucester)**

**SYNOPSIS**

Provides alternative means of canceling mortgage of record upon satisfaction.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 5/22/1998)**

S347 INVERSO, BRYANT

2

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

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

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

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

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

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

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

38  
39 2. a. A person which has caused payment in full to be made of a  
40 mortgage duly recorded or registered in this State, and which  
41 mortgage has not been timely submitted for cancellation by the owner  
42 or holder thereof in accordance with section 1 of P.L.1975, c.137  
43 (C.46:18-11.2), or other party authorized by law to execute a  
44 satisfaction-piece, may submit for recording an affidavit setting forth  
45 the circumstances of payment, which shall be accepted for recording  
46 by the county clerk or register of deeds and mortgages, so long as:

**S347 INVERSO, BRYANT**

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

3 (2) annexed thereto as exhibits are a true copy of the letter from  
4 the owner, holder or servicer, specifying the amount for payment in  
5 full thereof and true copies of both sides of the canceled check or  
6 other evidence of payment in full.

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

12

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

14

15

16

STATEMENT

17

18 This bill provides an alternative to the current method of canceling  
19 mortgages of record upon satisfaction. With the consolidation of the  
20 servicing of mortgage loans and the location of more mortgage loan  
21 servicers out-of-State, mortgagors are finding it more and more  
22 difficult to obtain the timely cancellation of a mortgage of record upon  
23 satisfaction of that mortgage.

SENATE STATE GOVERNMENT, BANKING AND FINANCIAL  
INSTITUTIONS COMMITTEE

STATEMENT TO

**SENATE, No. 347**

with committee amendments

**STATE OF NEW JERSEY**

DATED: MAY 21, 1998

The Senate State Government, Banking and Financial Institutions Committee reports favorably and with committee amendments Senate Bill No. 347.

This bill, as amended, provides an alternative to the current method of canceling mortgages of record upon satisfaction. If a mortgage has been paid in full and the mortgagee has not submitted the mortgage to be canceled of record as required pursuant to section 1 of P.L.1975, c.137 (C.46:18-11.2), an attorney-in-fact or a person licensed in this State as a title insurance producer may submit for recording a discharge or satisfaction-piece, executed as agent or attorney-in-fact for the owner or holder of the mortgage, provided that the discharge or satisfaction-piece is accompanied by an affidavit setting forth the circumstances of payment. The 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 which is set forth in the bill. The affidavit requires information to be provided which rehearses the steps which have been taken to gain compliance from the mortgagee with respect to the submission of the mortgage for cancellation of record, including following the provisions of section 2 of P.L.1975, c.137 (C.46:18-11.3). Under the bill, after the appropriate fees have been paid, the county clerk or register of deeds is to enter the marginal notation on the record of the mortgage described in the affidavit which indicates the discharge of the mortgage.

COMMITTEE AMENDMENTS:

The committee amended the bill to: delete the language "by unrecorded assignment" from subsection b. of section 2 of the bill; add a definition section which limits the applicability of the act to residential mortgages and defines "pay-off letter"; require an attorney licensed to practice in this State or a person licensed as a title

insurance producer in this State to take the actions which result in having a residential mortgage canceled of record, if the mortgagee fails to have a mortgage which has been paid in full canceled of record in a timely basis; and provide the form for the AFFIDAVIT OF PAYMENT TO DISCHARGE MORTGAGE.

[First Reprint]

**SENATE, No. 347**

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**STATE OF NEW JERSEY**

**208th LEGISLATURE**

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INTRODUCED JANUARY 20, 1998

**Sponsored by:**

**Senator PETER A. INVERSO**

**District 14 (Mercer and Middlesex)**

**Senator WAYNE R. BRYANT**

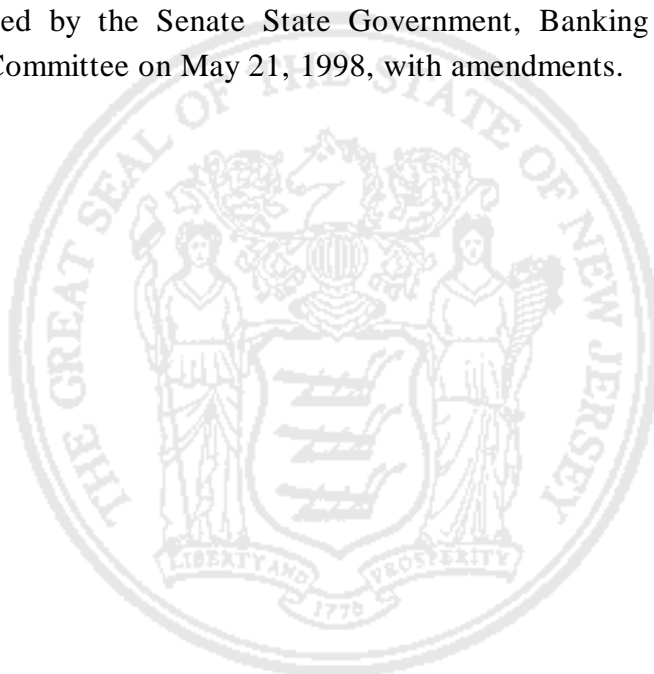
**District 5 (Camden and Gloucester)**

**SYNOPSIS**

Provides alternative means of canceling mortgage of record upon satisfaction.

**CURRENT VERSION OF TEXT**

As reported by the Senate State Government, Banking and Financial Institutions Committee on May 21, 1998, with amendments.



**(Sponsorship Updated As Of: 5/22/1998)**



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 <sup>1</sup>1. 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.<sup>1</sup>

29  
30 <sup>1</sup>[1.] 2.<sup>1</sup> 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

**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:**

<sup>1</sup> Senate SGB committee amendments adopted May 21, 1998.

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

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

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

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

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

22  
23 <sup>1</sup>【2.】 3.<sup>1</sup> a. <sup>1</sup>【A person which】 An attorney-at-law of this State  
24 or a person duly licensed as an insurance producer pursuant to the  
25 "New Jersey Insurance Producer Licensing Act," P.L.1987, c. 293  
26 (C.17:22A-1 et seq.), in the line of title insurance who<sup>1</sup> has caused  
27 payment in full to be made of a mortgage duly recorded or registered  
28 in this State, <sup>1</sup>【and】<sup>1</sup> which mortgage has not been timely <sup>1</sup>【submitted  
29 for cancellation by the owner or holder thereof】 canceled<sup>1</sup> in  
30 accordance with section 1 of P.L.1975, c.137 (C.46:18-11.2), <sup>1</sup>【or  
31 other party authorized by law to execute a satisfaction-piece,】<sup>1</sup> may  
32 submit for recording <sup>1</sup>a discharge or satisfaction-piece, executed as  
33 agent or attorney-in-fact for the owner or holder of the mortgage, by  
34 virtue of this section, provided the discharge or satisfaction-piece is  
35 accompanied by<sup>1</sup> an affidavit setting forth the circumstances of  
36 payment, which <sup>1</sup>discharge or satisfaction-piece and affidavit<sup>1</sup> shall be  
37 accepted for recording by the county clerk or register of deeds and  
38 mortgages, so long as<sup>1</sup>【:

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

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

1 AFFIDAVIT OF PAYMENT TO DISCHARGE MORTGAGE

2 PURSUANT TO SECTION 3 OF P.L. \_\_\_\_\_, c. \_\_\_\_\_

3 (C. \_\_\_\_\_)(now before the Legislature as this bill)

4  
5 State of New Jersey

6 County of \_\_\_\_\_, ss. :

7  
8 The undersigned, being duly sworn upon the undersigned's oath, avers  
9 as follows:

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

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

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

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

40 5. On \_\_\_\_\_, \_\_\_\_\_, at least 30 days having elapsed since the  
41 date the notice as set forth in paragraph 4 of this affidavit was  
42 received, I caused a notice to be sent to \_\_\_\_\_, located at  
43 \_\_\_\_\_ (the address designated for receipt of payment in the  
44 pay-off letter, or if no address is designated, the address given on the  
45 letter head of the pay-off letter), by registered or certified mail, return  
46 receipt requested, of my intention to cause the mortgage to be

1 discharged by affidavit pursuant to section 3 of P.L. \_\_\_\_\_, c. \_\_\_\_\_  
2 (C. \_\_\_\_\_)(now before the Legislature as this bill), if the mortgage  
3 remains uncanceled 15 days after the notice is received.

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

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

16 \_\_\_\_\_  
17 \_\_\_\_\_  
18 Sworn and subscribed before me  
19 this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_<sup>1</sup>.

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

25  
26 <sup>1</sup>**[3.] 4.**<sup>1</sup> This act shall take effect on the 90th day after enactment.

*Office of the Governor*  
**NEWS RELEASE**

PO BOX 004  
TRENTON, NJ 08625

CONTACT: Gene Herman  
609-777-2600

RELEASE: March 12, 1999

Gov. Christie Whitman today signed the following pieces of legislation:

**A-161**, sponsored by Assembly Members Christopher "Kip" Bateman (R-Morris/Somerset) and Neil M. Cohen (D-Union) and Senators Peter A. Inverso (R-Mercer/Middlesex) and Wayne R. Bryant (D-Camden/Gloucester), provides an alternative method of canceling residential mortgages of record after they have been paid off. If a mortgage has been paid in full and the lender has not submitted the mortgage to the county clerk to be canceled of record, an attorney licensed in New Jersey or a licensed title insurance producer may record a discharge of mortgage or a "satisfaction piece." The discharge or satisfaction piece must be accompanied by an affidavit setting forth circumstances of payment. The bill sets forth a sample affidavit. If the attorney or title producer has not received a notice of mortgage cancellation within 30 days after the payment was made, the attorney may send a notice to the lender. If another 15 days elapse without a response from the lender, the affidavit may be filed with the county clerk. This bill does not apply to real property with more than four dwelling units if the debtor or the debtor's family member occupies one of these units. The bill applies to all residential mortgages, whether executed or not, that use real property in New Jersey as security.

**A-928**, sponsored by Assembly Members Richard H. Bagger (R-Middlesex/Morris/ Somerset/ Union) and Alan M. Augustine (R-Middlesex/Morris/Somerset/Union) and Senators John O. Bennett (R-Monmouth) and Anthony R. Bucco (R-Morris), amends the criminal code to prohibit the operation of sexually-oriented businesses within 1,000 feet of a hospital or child care center. The Criminal Code defines a sexually-oriented business as a commercial establishment that, as one of its principal business purposes: (1) offers for sale, rental or display printed materials, photographs, movies or other visual representations that depict or describe a "specified sexual activity" or "specified anatomical area;" or (2) offers for sale, rental or display instruments, devices or paraphernalia that are designed for use in connection with specific sexual activity; or (3) is a commercial establishment that regularly features live performances characterized by the exposure of a "specified anatomical area" or by a "specified sexual activity," or that regularly shows movies or other similar photographic representations. Violation of the prohibitions is punishable as a crime of the fourth degree.

**A-1631**, sponsored by Assembly Members Neil M. Cohen (D-Union) and Christopher "Kip" Bateman (R-Morris/Somerset), makes it a disorderly persons offense for Division of Taxation employees to examine tax returns and records outside of the performance of their official duties or to permit another to do so. State law provides that the records of and files of the Division of Taxation are confidential and privileged. A disorderly person offense is punishable by a term of imprisonment of not more than six months.

**A-1692**, sponsored by Assembly Member Wilfredo Caraballo (D-Essex) and John S. Wisniewski (D-Middlesex), requires a cable television company to notify all subscribers in service areas when either the Board of Public Utilities or the Federal Communications Commission orders the company to provide a

rate reduction or refund. Such notice must occur within the next billing cycle following the approval of the order. The purpose of the bill is to allow customers of the same cable company in different towns to petition for the same rate decrease.

**A-1931**, sponsored by Assembly Members Joel M. Weingarten (R- Essex/Union) and Senator Peter A. Inverso (R-Mercer/Middlesex), regulates the purchase of collateral protection insurance by lenders. Collateral protection insurance is insurance purchased by a creditor to protect its interest in secured property when a debtor fails to maintain insurance on the secured property. The creditor is named as the loss payee or beneficiary on the policy. The legislation seeks to regulate the amount the creditor may bill the debtor for such insurance as well as other aspects of the transaction. If the term of the credit agreement requires the debtor to purchase collateral protection insurance and the debtor does not obtain the insurance, the creditor may purchase it on behalf of the debtor. Once the creditor purchases such insurance, it is allowed to bill the debtor for the insurance premiums and add these costs to the loan balance. If the debtor demonstrates that it already had collateral protection insurance coverage in place, the creditor must cancel its policy and refund the billed premiums to the debtor. The bill also permits the lender to obtain collateral protection insurance if the borrower does not comply with the borrower's obligations regarding the purchase of insurance. The bill requires the lender to inform the borrower that even if the lender purchases collateral protection insurance, it may not cover the value of the property, possibly resulting in the borrower being underinsured. The bill further provides that if the purchase of collateral protection insurance is due to the error of the lender, the borrower will not be liable to the lender for the cost of collateral protection insurance.

**S-946**, sponsored by Senators John O. Bennett (R-Monmouth) and Robert W. Singer (R-Burlington/Monmouth/Ocean), requires local contracting units to provide two additional documents with all plans, specifications and bid proposal documents for construction contracts which exceed the bid threshold amount which is currently \$12,300. The documents are: (1) a document for the bidder to acknowledge receipt of any notice or revisions to the advertisement or bid documents; and (2) a form listing those documents that the contracting agent requires each bidder to submit with the bid. Bidders are also subject to additional statutory requirements under the bill. The legislation requires bidders of construction contracts for more than \$100,000 to submit to the local contracting unit a bid guarantee and a certificate of surety. With regard to any other contracts, including construction contracts for \$100,000 or less and all non- construction contracts, it will remain within the discretion of the local contracting unit to determine whether to require a bid guarantee or a certificate of surety. The bill also clarifies which defects will render a bid unresponsive and incapable of being cured. The bill makes this clarification by listing five documents which are considered mandatory. These documents include a bid guarantee, a certificate of surety, a statement of corporate ownership, a listing of subcontractors and a document acknowledging the bidders receipt of any notice or revisions to the advertisement or bid documents. These documents will be considered mandatory only if the bid plans and specifications require their submission.

**A-2217**, sponsored by Assembly Members David W. Wolfe (R-Monmouth/Ocean) and Joseph V. Doria, Jr. (D-Hudson) and Senators Peter A. Inverso (R-Mercer/Middlesex) and John O. Bennett (R-Monmouth), consolidates higher education student assistance entities into one new authority. The bill consolidates the various student assistance functions of the Office of Student Assistance, the Student Assistance Board and the Higher Education Assistance Authority into one, new authority to be known

as the Higher Education Student Assistance Authority. The authority will be located in but not of the Department of State, consistent with the location of the Commission on Higher Education. The chief executive and administrative officer of the authority, which will administer, coordinate and implement student aid assistance in the state, will be the executive director who will be appointed by the Governor. The authority will have a board consisting of 18 members: the State Treasurer; chair of the Commission on Higher Education; the chair of the Board of Directors of the Educational Opportunity Fund; five representatives from state higher education institutions; two students from different collegiate institutional sectors; seven public members and the executive director of the authority. The seven public members will be appointed by the Governor with the advice and consent of the Senate. The institutional representatives shall be nominated by the institutions or sector associations and appointed by the Governor with the advice and consent of the Senate. The bill enlarges the membership on the Commission on Higher Education from nine to eleven members, adding a faculty member from an institution of higher education to be appointed by the Governor with the advice and consent of the Senate, and the chairperson of the Board of the Higher Education Student Assistance Authority, ex officio, or a designee from the public members on the authority. Regarding state colleges and universities, the bill changes the name of the New Jersey State College Governing Boards Association to the New Jersey Association of State Colleges and Universities to reflect the change in status of some of the state colleges.

In connection with county colleges, the bill clarifies that the board of trustees of a county college may not employ officers, agents and employees unless the president of the respective county college nominates such individuals. Under the bill, the University of Medicine and Dentistry of New Jersey may use income from the operation of faculty practice plans and income from overhead grant fund recovery as permitted by federal law. With respect to the New Jersey Educational Facilities Authority, the bill provides that the authority need not obtain same-day approval of bond authorizations or sales from the Governor. The authority will still be subject to other requirement of obtaining approval upon the Governor's receipt of the board minutes.