

46:18-11.2

LEGISLATIVE FACT SHEET

ON *Mortgage paid - 45 days passed*

N.J.R.S. *46:18-11.2*

(Amendment)

LAWS OF *1975*

CHAPTER *127* *7/7/75*

SENATE

ASSEMBLY *501* (*A909-OCR-1972*) *4/OCR*

INTRODUCED *Pre-filed*

BY *Periskie, Herman Salzkind*

STATEMENT

YES

NO

AMENDED DURING PASSAGE

YES

NO

HEARING

VETO

Conditional veto Feb. 27, 1975

Senate Labor, Industry and Professions Committee, Int. to A501

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ASSEMBLY, No. 501

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1974 SESSION

By Assemblyman PERSKIE

AN Act requiring mortgagees to apply for cancellation of a mortgage within *****[30]***** *****45***** days after said mortgage is redeemed, paid and *****[discharged]***** *****satisfied*****, providing penalties for violation thereof, 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. When any mortgage registered *****or recorded***** pursuant
2 to R. S. 46:17-1 et seq., shall be redeemed, paid and *****[dis-**
3 **charged]***** *****satisfied*****, the mortgagee, his agents or his
4 assigns shall *****within 10 days***** *****notify the mortgagor that**
5 **he has the right to demand the mortgagee to cancel the mortgage of**
6 **record upon payment by the mortgagor of the required fee and the**
7 **mortgagee shall***** within *****[30]***** *****45***** days of the receipt
8 by the mortgagee of the *****[requisite]***** *****required***** fee from
9 the mortgagor apply to the county recording officer to have the
10 mortgage canceled of record.

1 2. Failure of a mortgagee, his agent or assigns to comply with
2 section 1 of this act shall subject said mortgagee or his assigns to
3 a fine of \$2.00 for each day thereafter that the mortgage remains
4 uncanceled. The fine shall be payable to the county clerk for
5 deposit in the county treasury. The fine may be collected by sum-
6 mary proceedings in accordance with "the penalty enforcement
7 law" (N. J. S. 2A:58-1 et seq.).

1 *3. *Any mortgagee or his assigns who fail to comply with sec-*
2 *tion 1 of this act shall be liable to the mortgagor, or his heirs, suc-*
3 *cessors or assigns who have an interest in the mortgaged premises*

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

4 *for the cost of any legal action to have the mortgage canceled of*
5 *record, including reasonable attorneys' fees* **, but no attorneys'*
6 *fees shall be allowed unless 20 days written notice is given to*
7 *the mortgagee prior to institution of suit.***

1 **[3.]* *4.* This act shall take effect 90 days after enactment.*

SENATE LABOR, INDUSTRY AND
PROFESSIONS COMMITTEE

STATEMENT TO
ASSEMBLY, No. 501

STATE OF NEW JERSEY

DATED: APRIL 22, 1974

This bill requires a mortgagee to apply for cancellation of mortgage within 30 days after said mortgage is redeemed, paid, or discharged. Failure to do so will result in a \$2.00 fine for each day that the mortgage remains uncancelled. Heirs, successors, or assigns who have an interest in the mortgaged premises, may hold a mortgagee liable for not cancelling the mortgage. But no attorneys' fees shall be allowed unless 20 days written notice is "given to the mortgagee prior to institution of the suit."

The committee amended the bill to require a mortgagor to give a mortgagee notice of his right to have the mortgage cancelled of record and to increase from 30 to 45 the number of days a mortgagee would have to cancel a mortgage of record.

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

February 27, 1975

Assembly Bill No. 501 (3rd OCR)

To the General Assembly:

Pursuant to Article V, Section 1, Paragraph 14(b) of the Constitution, I return herewith Assembly Bill No. 501 (3rd OCR), with my objections, for reconsideration.

This bill is intended to oblige a mortgagee to record the cancellation of a mortgage within 45 days after it has been satisfied. Although I agree with that goal, I am convinced that a technical deficiency in the bill obstructs its accomplishment. Pursuant to this bill, the 45 day period begins to run only after the mortgagee has notified the mortgagor that he can demand that the mortgage effect cancellation. As a result, simply by deferring that original notice, a mortgagee can circumvent the 45 day time requirement which the bill purports to impose. Thus, in order to ensure full compliance, there should be injected a ten day time requirement which would attach to that initial notice.

Accordingly, I herewith return Assembly Bill No. 501 (3rd OCR) for reconsideration and recommend that it be amended as follows:

Page 1, Section 1, Line 4: After "shall" insert "within ten days"

Respectfully,

/s/ Brendan T. Byrne

GOVERNOR

[seal]

Attest:

/s/ Donald Lan

EXECUTIVE SECRETARY TO THE GOVERNOR