

2A:50-2.3

LEGISLATIVE HISTORY CHECKLIST

NJSA 2A:50-2.3 (Secondary mortgage lenders - allow suits for debt collection without foreclosure)

LAWS 1981

CHAPTER 333

Bill No. S1409

Sponsor(s) Feldman

Date Introduced June 26, 1980

Committee: Assembly Banking and Insurance

Senate Labor, Industry and Professions

Amended during passage Yes No

Date of Passage: Assembly Nov. 30, 1981

Senate June 29, 1981

Date of approval Dec. 14, 1981

Following statements are attached if available:

Sponsor statement Yes No

Committee Statement: Assembly Yes No

Senate Yes No

Fiscal Note Yes No

Veto Message Yes No

Message on signing Yes No

Following were printed:

Reports Yes No

Hearings Yes No

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CHAPTER 333 LAWS OF N. J. 1981
APPROVED 12-14-81

SENATE, No. 1409

STATE OF NEW JERSEY

INTRODUCED JUNE 26, 1980

By Senator FELDMAN

Referred to Committee on Labor, Industry and Professions

AN ACT to amend "An act governing civil actions for the collection of bonds or notes secured by mortgages, amending sections 2A:50-2 to 2A:50-10, inclusive and section 2A:50-22 of the New Jersey Statutes, and supplementing chapter 50 of the New Jersey Statutes," approved January 14, 1980 (P. L. 1979, c. 286).

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

1 1. Section 13 of P. L. 1979, c. 286 (C. 2A:50-2.3) is amended
2 to read as follows:

3 13. This act shall not apply to proceedings to collect a debt evi-
4 denced by a note and secured by a mortgage on real property in
5 the following instances:

6 a. Where the debt secured is for a business or commercial
7 purpose other than a two-family, three-family or four-family
8 residence in which the owner or his immediate family resides;

9 b. Where the mortgaged property is other than a one-family,
10 two-family, three-family or four-family dwelling in which the
11 owner or his immediate family resides at the time of institution of
12 proceedings to collect the debt;

13 c. Where a banking institution, savings and loan association or
14 building and loan association, operating pursuant to State or
15 Federal law, is the lender or his assignee and the mortgage is not
16 the primary security for the debt, as evidenced by (1) the financial
17 condition of one or more persons directly or indirectly liable on
18 the note, or (2) the giving of collateral in addition to the mortgage
19 as security for the debt;

20 d. Where a banking institution, savings and loan association,
21 **[or]** building and loan association *or licensed secondary mortgage*
22 *lenders*, operating pursuant to State or Federal law, is the lender,
23 and the mortgage is given to secure payment of a loan evidenced

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

24 by a note, and where the mortgage so given is subject to the lien
25 or liens of a prior mortgage or mortgages not held by such insti-
26 tution or association or by any holder in which such institution or
27 association has an interest or with which such institution or asso-
28 ciation has an affiliation.

1 2. This act shall take effect immediately.

STATEMENT

This legislation is intended to correct an omission in P. L. 1979, c. 286 which has the effect of requiring licensed secondary mortgage loan licensees to foreclose on a debt secured by a second mortgage loan, which other lenders in a similar position may sue on a mortgage note. This bill gives secondary mortgage loan licensees the same option as other lenders.

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ASSEMBLY BANKING AND INSURANCE COMMITTEE

STATEMENT TO

SENATE, No. 1409

STATE OF NEW JERSEY

DATED: NOVEMBER 23, 1981

This legislation would permit licensed secondary mortgage lenders to sue a borrower who is in default on a secondary mortgage loan.

At present, existing law requires secondary mortgage loan licensees to foreclose on a second mortgage rather than sue for the debt, although depository institutions, such as banks and savings and loan associations, are permitted to sue without going through a foreclosure proceeding. This legislation would extend the right to sue to secondary mortgage loan licensees, which would give them parity with the depository institutions.

SENATE LABOR, INDUSTRY AND
PROFESSIONS COMMITTEE

STATEMENT TO

SENATE, No. 1409

STATE OF NEW JERSEY

DATED: JUNE 25, 1981

This bill provides secondary mortgage loan licensees the option to sue to collect a debt secured by a mortgage on real property.

P. L. 1979, c. 286 (C. 2A:50-2.3) now permits a banking institution, savings and loan association, or building and loan association to sue to collect a debt secured by a mortgage on real property. Secondary mortgage loan licensees, however, must follow the debt collection procedure mandated by N. J. S. 2A:50-2, which requires that all proceedings to collect any debt secured by a mortgage on real property must be by foreclosure of that mortgage. This bill would give secondary mortgage loan licensees parity with other lenders in the collection, by suit rather than foreclosure, of debts secured by a mortgage on real property.

DECEMBER 14, 1981

BOB DOWD

Governor Brendan Byrne today signed the following bills into law:

A-544, sponsored by Assemblyman Dennis Riley (D-Camden), will permit local government to sell surplus property at public auctions rather than by sealed bids. The legislation, however, will continue the practice of sealed bids for any leasing of government property.

A-1518, sponsored by Assemblywoman Jane Burgio (R-Essex), permits child actors to work in dinner theatres where alcoholic beverages are sold.

The bill also makes minor amendments to the Child Labor Law discovered after special legislation was passed to allow Alene Quinn to film the movie "Annie" in Monmouth County.

Although A-1518 allows minors to work in a dinner theatre, the law would continue to prevent minors working in casino stage shows or where the production was "dangerous to life, limb, health or morals of a minor."

The bill makes a knowing violation of the Child Labor Law subject to prosecution as a fourth degree crime, requiring a grand jury indictment. Unknowing violations would be prosecuted as a disorderly persons offense. The law also makes clear that despite any waivers, a child actor may not be on call, on the set or in performance for more than eight hours per day.

S-413, sponsored by Senator John Russo (D-Ocean), amends the "Sales and Use Tax Act" to exempt the purchase of aircraft, boats and other vessels from the State sales tax if the purchaser is a) a non-resident of the State; b) does not permanently live in the State; c) and is not engaged in business in the State in which the aircraft or boat would be used.

S-1409, sponsored by Senator Matthew Feldman (D-Bergen), allows a holder of a second mortgage to sue on the note or foreclose on the debt, in effect giving the same options as other lenders to recover on defaults. Present law requires secondary mortgage holders to foreclose on the note and the mortgage rather than suing to obtain a judgment on the debt.

Consumers, however, will benefit from the new legislation because the new law allows a mortgage defaulter to pay a money judgment rather than lose their home.

S-3278, sponsored by Senator Carmen Orechio (D-Essex), authorizes the sale of a 2.6 acre parcel of land owned by the Department of Human Services' Greystone Psychiatric Hospital in Morris Plains, New Jersey. The sale would be held under terms and conditions set by the State House Commission.

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