

## CHAPTER 225

AN ACT concerning the recording of mortgages, amending P.L.1975, c.137 and P.L.1999, c.40, and supplementing chapter 18 of Title 46 of the Revised Statutes.

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

C.46:18-13 Action to foreclose.

1. a. Only the established holder of a mortgage shall take action to foreclose a mortgage.

b. A person, or entity, is the "established holder of a mortgage" if that person, or entity, is:

(1) the record holder of the mortgage as established by the latest record of assignment or by the original mortgage recording in the records of the county clerk or the register of deeds and mortgages, as appropriate to the county in which the mortgaged property is located, or

(2) found to be the holder of the mortgage in a civil action joining as defendants the record holder of the mortgage, the mortgagor, and any other person known to have an interest in the mortgage.

c. The provisions of this section shall not abridge, impair, invalidate, or supersede any other rights, under law, of any person known to have an interest in a mortgage.

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

C.46:18-11.3 Penalty.

2. a. (1) If the mortgagee fails to comply with the applicable provisions of subsection a. or b. of section 1 of P.L.1975, c.137 (C.46:18-11.2), the mortgagor or the mortgagor's agent may serve the mortgagee with written notice of the noncompliance, which notice shall identify the mortgage and the date and means of its redemption, payment and satisfaction. If the mortgagee has not complied within 15 business days after receipt of the written notice from the mortgagor or mortgagor's agent pursuant to this paragraph (1), the mortgagee shall be subject to a fine of \$50 per day for each day after the 15-day period until compliance, except that the total fine imposed pursuant to this paragraph (1) shall not exceed \$1,000.

(2) If the mortgagee fails to comply with the applicable provisions of section 1 of P.L.1975, c.137 (C.46:18-11.2), the purchaser or the purchaser's agent may serve the mortgagee with written notice of the noncompliance, which notice shall identify the mortgage and the date and means of its redemption, payment and satisfaction. If the mortgagee has not complied within 15 business days after receipt of the written notice from the purchaser or purchaser's agent pursuant to this paragraph (2), the mortgagee shall be subject to a fine of \$50 per day for each day after the 15-day period until compliance, except that the total fine imposed pursuant to this paragraph (2) shall not exceed \$1,000.

b. Of each fine collected pursuant to subsection a. of this section, 100% shall be payable to the private citizen instituting the action. The fine may be collected by summary proceedings instituted by a private citizen or the Attorney General in accordance with the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.).

c. (1) If a mortgagee has not applied to the county recording officer to cancel the mortgage of record pursuant to subsection a. or b. of section 1 of P.L.1975, c.137 (C.46:18-11.2), within the 15 business day period provided by paragraph (1) of subsection a. of this section, the mortgagee shall be liable to the mortgagor for the greater of the mortgagor's actual damages or the sum of \$1,000, less any fines recovered by the mortgagor pursuant to paragraph (1) of subsection a. and paragraph (1) of subsection b. of this section. In any successful action to recover damages pursuant to this paragraph (1), the mortgagee shall

reimburse the mortgagor for the costs of the action including the mortgagor's reasonable attorneys' fees.

(2) If a mortgagee has not applied to the county recording officer to cancel the mortgage of record pursuant to subsection a. or b. of section 1 of P.L.1975, c.137 (C.46:18-11.2), within the 15 business day period provided by paragraph (2) of subsection a. of this section, the mortgagee shall be liable to the purchaser for the greater of the purchaser's actual damages or the sum of \$1,000, less any fines recovered by the purchaser pursuant to paragraph (2) of subsection a. and paragraph (2) of subsection b. of this section. In any successful action to recover damages pursuant to this paragraph (2), the mortgagee shall reimburse the purchaser for the costs of the action including the purchaser's reasonable attorneys' fees.

3. Section 3 of P.L.1975, c.137 (C.46:18-11.4) is amended to read as follows:

C.46:18-11.4 Failure to comply; liability.

3. Any mortgagee who fails to comply with section 1 of P.L.1975, c.137 (C.46:18-11.2) shall be liable to the mortgagor, or his heirs, successors or assigns who have an interest in the mortgaged premises for the cost of any legal action to have the mortgage canceled of record, including reasonable attorneys' fees, but no attorneys' fees shall be allowed unless 20 days written notice is given to the mortgagee prior to institution of suit.

4. Section 1 of P.L.1999, c.40 (C.46:18-11.5) is amended to read as follows:

C.46:18-11.5 Definitions relative to mortgage cancellations.

1. As used in this act:

"Mortgage" means a residential mortgage, security interest or the like, in which the security is a residential property such as a house, real property or condominium, which is occupied, or is to be occupied, by the debtor, who is a natural person, or a member of the debtor's immediate family, as that person's residence. The provisions of sections 2 and 3 of P.L.1999, c.40 (C.46:18-11.6 and C.46:18-11.7) shall apply to all residential mortgages wherever made, which have as their security a residence in the State of New Jersey, provided that the real property which is the subject of the mortgage shall not have more than four dwelling units, one of which shall be, or is planned to be, occupied by the debtor or a member of the debtor's immediate family as the debtor's or family member's residence at the time the loan is originated.

"Pay-off letter" means a written document prepared by the holder or servicer of the mortgage being paid, which is dated not more than 60 days prior to the date the mortgage is paid, and which contains a statement of all the sums due to satisfy the mortgage debt, including, but not limited to, interest accrued to the date the statement is prepared and a means of calculating per diem interest accruing thereafter.

"Mortgagee" means the holder of the mortgage reflected in the latest record filed with the county recording office. If the entity that is recorded as the holder of the mortgage is no longer in existence, "mortgagee" shall mean the entity that was authorized to receive the latest payment on the mortgage.

5. This act shall take effect on the 30th day next following enactment.

Approved January 19, 2016.