

§553-A. Discharge by attorney

1. Affidavit. A recorded mortgage on a residential owner-occupied one-to-4-family dwelling may be discharged in the office of the registry of deeds by an attorney-at-law licensed to practice in the State if the mortgagee, after receipt of payment of the mortgage in accordance with the payoff statement furnished to the mortgagor by the mortgagee, fails to make that discharge or to execute and acknowledge a deed of release of the mortgage. The attorney shall execute and record an affidavit in the registry of deeds affirming that:

A. The affiant is an attorney-at-law in good standing and licensed to practice in the State; [PL 1993, c. 534, §2 (NEW).]

B. The affidavit is made at the request of the mortgagor or the mortgagor's executor, administrator, successor, assignee or transferee or the transferee's mortgagee; [PL 1993, c. 534, §2 (NEW).]

C. The mortgagee has provided a payoff statement with respect to the loan secured by the mortgage; [PL 1993, c. 534, §2 (NEW).]

D. The mortgagee has received payment that has been proved by a bank check, certified check or attorney client funds account check negotiated by the mortgagee or by evidence of receipt of payment by the mortgagee; [PL 1993, c. 534, §2 (NEW).]

E. More than 30 days have elapsed since the payment was received by the mortgagee; and [PL 1993, c. 534, §2 (NEW).]

F. The mortgagee has received written notification by certified mail 15 days in advance, sent to the mortgagee's last known address, that the affiant intends to execute and record an affidavit in accordance with this section, enclosing a copy of the proposed affidavit; the mortgagee has not delivered a discharge or deed of release in response to the notification; and the mortgagor has complied with any request made by the mortgagee for additional payment at least 15 days before the date of the affidavit. [PL 1993, c. 534, §2 (NEW).]

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2. Name; address; mortgagee; mortgagor. The affidavit must include the names and addresses of the mortgagor and the mortgagee, the date of the mortgage, the title reference and similar information with respect to recorded assignment of the mortgage.

[PL 1993, c. 534, §2 (NEW).]

3. Copy. The affiant shall attach to the affidavit the following, certifying that each copy is a true copy of the original document:

A. Photostatic copies of the documentary evidence that payment has been received by the mortgagee, including the mortgagee's endorsement of a bank check, certified check or attorney client funds account check; and [PL 1993, c. 534, §2 (NEW).]

B. A photostatic copy of the payoff statement if that statement is made in writing. [PL 1993, c. 534, §2 (NEW).]

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4. Effect. An affidavit recorded under this section has the same effect as a recorded discharge.

[PL 1993, c. 534, §2 (NEW).]

5. Exception. A mortgage may not be discharged as provided by this section if the holder of the mortgage at the time a discharge is sought is a financial institution or credit union authorized to do business in the State as defined in Title 9-B, section 131, subsection 12-A or 17-A.

[PL 1995, c. 94, §1 (AMD).]

SECTION HISTORY

PL 1993, c. 534, §2 (NEW). PL 1995, c. 94, §1 (AMD).

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