S T A T E  O F  N E W  Y O R K

2906

2011-2012 Regular Sessions

I N  S E N A T E

February 3, 2011

Introduced by Sens. DeFRANCISCO, JOHNSON, LARKIN, RANZENHOFER -- read twice and ordered printed, and when printed to be committed to the Committee on Judiciary

AN ACT to amend the real property law, in relation to allowing an assignment of mortgage in lieu of a certificate of discharge

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Subdivision 2 of section 275 of the real property law is amended by adding a new closing paragraph to read as follows:

IN THE SITUATION PROVIDED FOR IN PARAGRAPH (C) OF THIS SUBDIVISION, THE MORTGAGOR, AT HIS OR HER OPTION MAY DEMAND AN ASSIGNMENT OF THE MORTGAGOR'S NOTE AND MORTGAGE SECURING ITS PAYMENT TO ANOTHER LENDER. THE ORIGINAL LENDER SHALL ASSIGN THE MORTGAGOR'S NOTE AND MORTGAGE SECURING ITS PAYMENT TO ANOTHER LENDER UPON SUCH DEMAND. THE DEMAND FOR THE ASSIGNMENT OF MORTGAGE SHALL BE MADE BY THE MORTGAGOR TO THE MORTGAGEE IN WRITING WITHIN TWENTY DAYS OF CLOSING ON THE REFINANCING AND SHALL STATE THAT THE PURPOSE FOR SUCH ASSIGNMENT IS TO EFFECTUATE THE REFINANCING OF THE EXISTING LOAN WITH A NEW LENDER. THE PERSON SIGNING THE ASSIGNMENT SHALL DELIVER THE ASSIGNMENT AND ANY NECESSARY ACCOMPANYING PAPERS OR AFFIDAVITS AT LEAST TWO DAYS PRIOR TO SUCH CLOSING, TO THE ESCROW AGENT DESIGNATED BY THE MORTGAGOR AND THE MORTGAGEE OR ORIGINAL LENDER. UPON CLOSING, THE ESCROW AGENT SHALL TRANSMIT THE ASSIGNMENT AND ANY NECESSARY ACCOMPANYING PAPERS OR AFFIDAVITS TO THE NEW LENDER OR MORTGAGEE. THE PROVISIONS OF THIS PARAGRAPH SHALL NEITHER EXPAND NOR DIMINISH THE LIABILITY AGAINST A MORTGAGEE WHO, AFTER A GOOD FAITH EFFORT, IS UNABLE TO DELIVER THE NOTE TO THE ESCROW AGENT BECAUSE THE NOTE WAS MISPLACED OR LOST.

S 2. This act shall take effect on the thirtieth day after it shall have become a law.

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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