

2566

2009-2010 Regular Sessions

I N S E N A T E

February 24, 2009

Introduced by Sen. DeFRANCISCO -- 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 ASSEM-
BLY, DO ENACT AS FOLLOWS:

1 Section 1. Subdivision 2 of section 275 of the real property law is
2 amended by adding a new closing paragraph to read as follows:
3 IN THE SITUATION PROVIDED FOR IN PARAGRAPH (C) OF THIS SUBDIVISION,
4 THE MORTGAGOR, AT HIS OR HER OPTION MAY DEMAND AN ASSIGNMENT OF THE
5 MORTGAGOR'S NOTE AND MORTGAGE SECURING ITS PAYMENT TO ANOTHER LENDER.
6 THE ORIGINAL LENDER SHALL ASSIGN THE MORTGAGOR'S NOTE AND MORTGAGE
7 SECURING ITS PAYMENT TO ANOTHER LENDER UPON SUCH DEMAND. THE DEMAND FOR
8 THE ASSIGNMENT OF MORTGAGE SHALL BE MADE BY THE MORTGAGOR TO THE MORTGA-
9 GEE IN WRITING WITHIN TWENTY DAYS OF CLOSING ON THE REFINANCING AND
10 SHALL STATE THAT THE PURPOSE FOR SUCH ASSIGNMENT IS TO EFFECTUATE THE
11 REFINANCING OF THE EXISTING LOAN WITH A NEW LENDER. THE PERSON SIGNING
12 THE ASSIGNMENT SHALL DELIVER THE ASSIGNMENT AND ANY NECESSARY ACCOMPANY-
13 ING PAPERS OR AFFIDAVITS AT LEAST TWO DAYS PRIOR TO SUCH CLOSING, TO THE
14 ESCROW AGENT DESIGNATED BY THE MORTGAGOR AND THE MORTGAGEE OR ORIGINAL
15 LENDER. UPON CLOSING, THE ESCROW AGENT SHALL TRANSMIT THE ASSIGNMENT AND
16 ANY NECESSARY ACCOMPANYING PAPERS OR AFFIDAVITS TO THE NEW LENDER OR
17 MORTGAGEE. THE PROVISIONS OF THIS PARAGRAPH SHALL NEITHER EXPAND NOR
18 DIMINISH THE LIABILITY AGAINST A MORTGAGEE WHO, AFTER A GOOD FAITH
19 EFFORT, IS UNABLE TO DELIVER THE NOTE TO THE ESCROW AGENT BECAUSE THE
20 NOTE WAS MISPLACED OR LOST.
21 S 2. This act shall take effect on the thirtieth day after it shall
22 have become a law.

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

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