
SENATE FLOOR AMENDMENTS

Amendments proposed by Senator Mount to Engrossed Senate Bill No. 225 by Senator Mount

1 AMENDMENT NO. 1

2 On page 1, delete lines 13 through 17 in their entirety and insert the following:

3 " A. The provisions of this Section shall apply only to residential
4 mortgages, where a mortgage has been granted by a consumer on a one-to-four
5 family residential immovable property, including a mortgage to finance the
6 initial construction of the one-to-four family residential immovable property.
7 The provisions of this Section shall apply only to mortgages recorded on and
8 after January 1, 2012.

9 B. (1) Upon extinction of the mortgage in accordance with Louisiana
10 Civil Code Article 3319, the mortgagor, his successor in ownership or settlement
11 agent may submit a written request, signed by the mortgagor to the mortgagee,
12 to issue a written act of release directing the appropriate recorder of mortgages
13 to cancel the inscription of the mortgage from the public mortgage records.
14 This written request that the mortgage be cancelled shall extinguish any
15 obligation on the part of the mortgagee and all additional lenders, on whose
16 behalf the mortgagee may be representing or acting for the benefit of, to make
17 any further loan or advance that would be secured by the mortgage.

18 (2) If the mortgagee has assigned, transferred, or delegated the servicing
19 rights to a third party then the duties and liabilities of the mortgagee under this
20 Section shall apply solely to the third party.

21 (3) The written request shall be mailed to the mortgagee at the address
22 designated by the mortgagee to be used for such written requests. If the request
23 is accompanied by a payoff check from a settlement agent, the written request
24 shall be delivered to the same address where the payoff check is sent.

25 (4) The mortgagee shall submit the act of release of the mortgage
26 directly to the settlement agent if a written request was received by the
27 mortgagee from a settlement agent. The written request to issue an act of
28 release of the mortgage must be accompanied by sufficient payment to the
29 mortgagee to pay the mortgagee a reasonable fee for this service. The
30 mortgagee may charge a reasonable fee to the mortgagor or his agent for all
31 services and costs to prepare, execute, and mail the act of release. Any fees
32 charged by the mortgagee under this Subsection shall be clearly itemized to the
33 requesting mortgagor or settlement agent in the payoff letter or statement or
34 other communication.

35 (5) The mortgagee shall issue within forty-five days after receipt from
36 the mortgagor of a written request for cancellation of the mortgage
37 accompanied by the fees required by Subsection (B)(4), the act of release along
38 with a request for cancellation that complies with Louisiana Civil Code Article
39 3366.

40 (6) If the mortgagee receives a signed written request, in accordance with
41 Subsection (B)(1), directly from the mortgagor or the successor in ownership,
42 and there is no settlement agent involved in forwarding the request, and the
43 required fees are received in accordance with Subsection (B)(4) along with the
44 appropriate cancellation fees for the recorder of mortgages, then the mortgagee
45 shall within forty-five days of receiving such request prepare and submit to the
46 appropriate recorder of mortgages an act of release along with the request for
47 cancellation that complies with Louisiana Civil Code Article 3366.

48 C. Upon receipt of the act of release and request for cancellation, the
49 settlement agent shall file same with the appropriate recorder of mortgages
50 within forty-five days.

51 (1) The mortgagee shall not be liable for damages, fees or costs caused
52 by the failure of the settlement agent to timely file the act of release and request

1 for cancellation, if the act of release and request for cancellation are in
2 compliance with the law and sufficient to cancel the inscription of the mortgage
3 from the mortgage records.

4 (2) If the settlement agent fails to timely file the release, he shall be liable
5 for the statutory and actual damages, costs and fees provided for in Subsection
6 E.

7 D. In the event either the mortgagee or settlement agent has failed to
8 comply with the requirements of this Section, the mortgagee and settlement
9 agent shall be provided with written notice of noncompliance identifying the
10 mortgage at issue and the explanation of how they failed to comply with the
11 requirements of this Section, and then the mortgagee and settlement agent shall
12 be given an opportunity to prepare and submit an act of release of mortgage
13 and request for cancellation to the appropriate recorder of mortgages within
14 fifteen days of receiving the notice before any rights accrue under Subsection
15 E.

16 E. If the mortgagee fails to perform the duty described in this Section,
17 the mortgagor or his successor in ownership may, by summary proceedings
18 instituted against the mortgagee, in the parish where the mortgaged property
19 is located, obtain a judgment ordering the mortgage inscription to be cancelled
20 from the records and for the costs, reasonable attorney fees, statutory damages
21 in the amount of five hundred dollars, and actual damages he has suffered from
22 the failure to comply with this Section. Any judgment for damages may be
23 awarded individually, but not in a representative capacity. The rights to
24 recover damages under this Section are personal to the mortgagor or his
25 successor in ownership of the property and may not be assigned.

26 F. A mortgagee complying with the provisions of this Section shall not
27 be subject to the requirements of R.S. 9:5167.2.

28 AMENDMENT NO. 2

29 On page 2, delete lines 1 through 29 in their entirety

30 AMENDMENT NO. 3

31 On page 3, delete lines 1 through 27 in their entirety