



SPONSOR: Rep. Mitchell & Sen. Henry

HOUSE OF REPRESENTATIVES
149th GENERAL ASSEMBLY

HOUSE BILL NO. 353

AN ACT TO AMEND TITLE 25 OF THE DELAWARE CODE RELATING TO MORTGAGES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

1 Section 1. Amend § 2124, Title 25 of the Delaware Code by making deletions as shown by strike through and
2 insertions as shown by underline as follows:

3 § 2124. Recordation of mortgagee's change of address.

4 (a) Any mortgagee or any assignee of a mortgage under § 2109 of this title that changes its notice address from the
5 address stated in any mortgage or assignment of mortgage ~~must~~ must, within 60 days of a change in its notice address, file
6 in the recorder of deeds office in the county in which the mortgage or any assignment has been recorded a statement of
7 mortgagee address change.

8 (1) The filing of a statement of mortgagee address change is public notice to all parties interested in such
9 mortgage or assignment of mortgage, or the property upon which it is a lien, of the address where the legal holder of
10 such mortgage or assignment of mortgage must receive any notice.

11 (2) Until such time as a statement of mortgagee address change has been filed, any party having an interest in
12 such mortgage or assignment of mortgage, or the property upon which it is a lien, is fully protected by sending all
13 notices to the legal holder of such mortgage or assignment of mortgage at the notice address provided in the mortgage
14 or the last assignment of record.

15 (3) A mortgagee is not required to file a separate statement of mortgagee address change for each mortgage
16 recorded in the county or to include each mortgage recorded in the county on a statement of mortgagee address change.

17 (4) It is unlawful for a mortgagee to fail to file a statement of mortgagee address change as required under this
18 section. A violation of this paragraph (a)(4) of this section is punishable by a fine of not more than \$1,000 and costs of
19 not more than \$1,000.

20 (5) The Superior Court has jurisdiction over a violation of paragraph (a)(4) of this section.

21 (b) Each recorder of deeds may promulgate a sample form to be used to file a statement of mortgagee address
22 change. The following is a sufficient form of Statement of Mortgagee Address Change:

23 To: Recorder of Deed _____ This instrument prepared by:

24 County Name:

25 State of Delaware Address:

26 Tax Parcel Identification Number(s):

27 Name of Mortgagor(s)

28 Name of Mortgagee(s)

29 Property Address(es):

30 Recording Information

31 Let it be known that, the record holder of the mortgage(s) recorded at the Instrument

32 Number(s) listed above or in an exhibit attached to this Statement of Mortgage Address Change has changed its notice

33 address, such address is (City) (State) (Zip Code).

34 INDIVIDUAL SIGNATURE AND ACKNOWLEDGEMENT

35 IN WITNESS WHEREOF, Mortgagee(s), [Assignee(s)] has(ve) hereunto set its/their hand(s) and seal(s) this

36 ..day of,

37 (Seal)

38 WITNESS MORTGAGEE

39 State of

40 County of

41 This instrument was acknowledged before me on (date) by (Name(s) of person(s)).

42
43 (Signature of notarial officer)

44 (Seal, if any)
45 (Title and rank)

46 My commission expires

47 SIGNATURE AND ACKNOWLEDGEMENT IN A REPRESENTATIVE CAPACITY

48 IN WITNESS WHEREOF, Mortgagee [Assignee] has hereunto set its hand and seal thisday of

49
50 MORTGAGEE [ASSIGNEE] NAME

51 BY: (SEAL)

52 WITNESS ATTEST: (SEAL)

53 State of

54 County of

55 This Instrument was acknowledged before me on (date), by [name(s) of person(s)]

56 as [type of authority, e.g., officer, trustee, etc.] of [name of party on behalf of whom

57 instrument was executed].

(Signature of notarial officer)

(Seal, if any)

(Title and rank)

My commission expires _____

(c) Each recorder of deeds shall create and maintain a separate index for statements of mortgagee address change. The index must be called the "statement of mortgagee address change index" and must reference the mortgagee who has changed its address and include the mortgagee's notice address as provided in the statement of mortgagee address change. The index does not need to include reference to each mortgage recorded in the county by the mortgagee who filed a statement of mortgagee address change.

(d) Each recorder of deeds may charge a fee for accepting and recording a statement of mortgagee address change. The fee must reasonably reflect the costs necessary to defray expenses associated with creating and maintaining the statement of mortgagee address change index.

Section 2. Amend § 2111, Title 25 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 2111 Satisfaction of mortgages; penalty; enforcement in Superior Court.

(c) Each recorder shall either create and maintain a separate index and record of the recording of documents which are authorized to be recorded by this chapter including powers of attorney to satisfy mortgages, satisfaction pieces, and partial and complete releases of mortgages and security interests, and statements of mortgagee change of address, interests, or index the same in the index used for recorded mortgages. If the recorder creates a separate index, it may be called the "release and satisfaction index", which shall reference the mortgagor, mortgagee, record book, and page of the mortgage being released or satisfied and the address or lot number, if any, of the property being released or satisfied. ~~If the recorder creates a separate index for statements of mortgagee change of address, it may be called the "statement of mortgagee change of address index", which must reference the mortgagor, mortgagee, record book, and page of the mortgage for which the mortgagee has changed its address, and the mortgagee's notice address as provided in the statement of mortgagee change of address.~~ The recorder may also maintain a separate record of said instruments and shall not be required to maintain other than a micrographic or electronic record of said instruments.

SYNOPSIS

Section 1 of this Act clarifies that the intent of Senate Bill No. 32 of the 149th General Assembly was to require mortgagees to file a statement of mortgagee address change when its notice address changed, not to require mortgagees to include each mortgage affected by a change of notice address.

The form added to the Delaware Code by § 2124(b) of Title 25 is removed to further aid clarity. In its place, each recorder is granted authority to issue a sample form.

This Act also makes changes to § 2124 of Title 25 to do the following:

1. Clarify that each recorder must create a statement of mortgagee address change index and provide for the minimum information required by such an index. Section 2 of this Act removes the requirements related to the statement of mortgagee address change index that are located there in favor of placing these provisions within § 2124 of Title 25.

2. Provide a penalty for the failure to file a statement of mortgagee address change within 60 days of a change in notice address.

3. Grant each recorder the power to impose fees that reasonably reflect the costs necessary to defray expenses associated with creating and maintaining the statement of mortgagee address change index.