



SPONSOR: Rep. Mitchell & Rep. M. Smith & Rep. Lynn & Sen.
Henry & Sen. Townsend
Reps. Brady, J. Johnson, Paradee, Smyk, Spiegelman;
Sens. Lavelle, McDowell

HOUSE OF REPRESENTATIVES
148th GENERAL ASSEMBLY

HOUSE BILL NO. 353

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

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

1 Section 1. Amend Section 2101(b), Title 25 of the Delaware Code by making insertions as shown by underlining,
2 and deletions as shown by strike through, as follows:

3 (b) A mortgage in the above form duly executed, acknowledged and recorded shall operate and be
4 effective as a valid mortgage lien upon the entire interest of the mortgagors in the premises therein described, and
5 ~~proceedings thereon may be taken as now provided by law, for the foreclosure of mortgages.~~ irrespective of whether the
6 mortgage is under seal, it may be foreclosed in the Superior Court pursuant to Chapter 49, Title 10 of the Delaware Code.

7 Section 2. This Act shall be effective upon its enactment into law and shall apply to any foreclosure proceeding
8 filed on or after the effective date regardless of the date on which the mortgage was signed.

SYNOPSIS

This bill eliminates the requirement that a mortgage be under seal in order for it to be enforced through a foreclosure proceeding in the Superior Court pursuant to Chapter 49 of Title 10. The under seal requirement is most prominently described in the case of *Monroe Park v. Metropolitan Life Ins. Co.*, 457 A.2d 734, 736 (Del. 1983) (“[I]t is well settled that unless the seal requirement is abolished by statute, a mortgage must be under seal to be enforceable at law.”). This amendment is intended to supersede that specific holding, eliminating the need to bring an equitable foreclosure in the Court of Chancery for mortgages that are not under seal and correspondingly allow enforcement in Superior Court of mortgages that are not under seal.