

## **Mortgages - Penalties for Failure of Mortgage to Present a Certificate of Discharge**

Recent amendments to section 275 of the Real Property Law (RPL) and Section 1921 of the Real Property Actions and Proceedings Law (RPAPL) impose monetary penalties on mortgagees who fail to present a certificate of discharge of mortgage for recording within 30 days of payment in full of the mortgage.

The amendments can be found in Chapter 467 of Laws of 2005 that became effective on November 7, 2005. Section 275 of the RPL now requires that where full payment of the principal and interest due on a mortgage is paid, a certificate of discharge must be given to the mortgagor within 30 days of payment. The failure of the person signing the discharge to arrange to have the certificate presented for recording within 30 days period will render the mortgagee liable to the mortgagor for the sum of \$500.00. If the discharge is not presented for recording within 60 days, the penalty is \$1000.00, and if not presented within 90 days, the penalty goes to \$1500.00.

Similarly, RPAPL Section 1921 now provides that where payment in full has been made, a mortgagee must execute a satisfaction of mortgage and arrange, within 30 days of payment, to have the satisfaction presented for recording in the county where the mortgage was recorded. Failure to do so will result in the mortgagee's liability to the mortgagor for the amount of \$500.00. If not presented for recording within 60 days, the penalty is \$1000.00,, and if not presented within 90 days, \$1500.00.

These provisions do not apply to a mortgagee that makes less than 500 mortgage loans in any calendar year, Nevertheless, they would apply to loans made by most institutional lenders.

While these penalties probably do not go far enough, they represent an attempt by the legislature to help eliminate the backlog of paid but unsatisfied mortgages throughout the State. It is hoped that these increased penalties will move the lenders into action.