

CHAPTER 224  
HB 230 – FINAL VERSION

25Mar2015... 0966h  
05/28/2015 1838s

2015 SESSION

15-0044  
05/10

HOUSE BILL           **230**

AN ACT               relative to the discharge of a mortgage.

SPONSORS:       Rep. Chirichiello, Rock 6; Rep. Hinch, Hills 21; Rep. Chandler, Carr 1; Rep. Gidge, Hills 33; Rep. DeSimone, Rock 14; Rep. Webb, Rock 6; Rep. Leeman, Straf 23; Rep. Coffey, Hills 25; Rep. Fraser, Belk 1; Rep. Cardon, Rock 6

COMMITTEE:       Commerce and Consumer Affairs

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AMENDED ANALYSIS

This bill revises requirements for discharge of a mortgage by affidavit. The bill also permits the mortgagor to recover damages from a mortgagee who fails to release a mortgage in a timely manner.

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Explanation:       Matter added to current law appears in ***bold italics***.  
                          Matter removed from current law appears [~~in brackets and struck through~~].  
                          Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Fifteen*

AN ACT                   relative to the discharge of a mortgage.

*Be it Enacted by the Senate and House of Representatives in General Court convened:*

1           224:1 Mortgages of Realty; Discharge by Affidavit. RSA 479:7-a is repealed and reenacted to  
2 read as follows:

3           479:7-a Discharge by Affidavit.

4           I. Notwithstanding the provisions of RSA 479:10, if such mortgagee fails to make such  
5 discharge of the mortgage within 60 days from receipt of payment of the mortgage in accordance  
6 with the payoff statement furnished to the mortgagor by the mortgagee; the mortgagor or the  
7 mortgagor's executor, administrator, assignee, transferee, or other successor in title; or the  
8 mortgagee of the mortgagor's transferee or other successor in title may execute and cause to be  
9 recorded in the registry of deeds in which the mortgage is recorded, an affidavit which states that:

10           (a) The affiant is the mortgagor; the mortgagor's executor, administrator, assignee,  
11 transferee, or other successor in title; or the mortgagee of the mortgagor's transferee or other  
12 successor in title.

13           (b) The mortgagee provided a payoff statement with respect to the loan secured by the  
14 mortgage.

15           (c) The mortgagee received full payment of the loan secured by the mortgage in  
16 accordance with the payoff statement, and the affiant has evidence that the mortgagee is in receipt  
17 of the funds.

18           (d) More than 60 days have elapsed since such payment was received by the mortgagee.

19           (e) The affiant has given the mortgagee at least 15 days' notice in writing by certified  
20 mail, sent to the mortgagee's last known address, of intention to execute and cause to be recorded an  
21 affidavit in accordance with this section, together with a copy of the proposed affidavit; and the  
22 mortgagee has not delivered a discharge in response to such notification and the mortgagor has  
23 complied with any request made by the mortgagee for additional payment at least 15 days prior to  
24 the date of the affidavit.

25           II. The affidavit shall include the names and addresses of both the mortgagor and the  
26 mortgagee, the date of the mortgage, and the title reference. Similar information shall be included  
27 with respect to any recorded assignment of the mortgage.

28           III. The affidavit, when recorded, shall constitute a discharge of the mortgage and a release

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1 of the lien created by the mortgage on the mortgaged premises.

2 IV. Any person who causes an affidavit to be recorded in accordance with this section,  
3 knowing the information and statements contained in the affidavit to be false, shall be punished by a  
4 fine of not more than \$5,000.

5 V. In this section, the term "payoff statement" means a written statement of the amount of  
6 the unpaid balance on the mortgage including principal, interest, and other charges properly  
7 assessed pursuant to the loan documentation of such mortgage and a statement of the interest on a  
8 per diem basis with respect to the unpaid principal balance on the mortgage. For the purposes of  
9 this section, a regular periodic account statement is not considered a payoff statement unless the  
10 mortgagee expressly states thereon that the statement represents a final payoff statement and it  
11 also contains a per diem rate or amount for calculating the final mortgage payoff amount.

12 224:2 Penalty for Failure to Timely Discharge a Mortgage. Amend RSA 479:8 to read as follows:

13 479:8 Penalty. Any mortgagee violating the provisions of RSA 479:7, or any mortgagee who  
14 after the satisfaction of ~~[his]~~ **the** mortgage refuses to give a sufficient discharge of such mortgage,  
15 shall ~~[be guilty of a violation]~~ **be liable for damages to the mortgagor at the rate of \$200 for**  
16 **each week after the expiration of the 60 days up to a maximum of \$2,500 or in an amount**  
17 **equal to the loss sustained as a result of the failure of the mortgagee to execute and deliver**  
18 **a release, whichever is greater, plus costs and reasonable attorney's fees.**

19 224:3 Effective Date. This act shall take effect January 1, 2016.

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21 Approved: July 13, 2015

22 Effective Date: January 1, 2016