

Revised Statutes of 1846 (EXCERPT)
CHAPTER 65. OF ALIENATION BY DEED, AND THE PROOF AND RECORDING OF
CONVEYANCES, AND THE CANCELING OF MORTGAGES.

565.44 Discharge of mortgage; refusal; civil liability; penalty; time periods.

Sec. 44. (1) If a mortgagee or the personal representative or assignee of the mortgagee, after full performance of the condition of the mortgage, whether before or after a breach of the mortgage, or, if the mortgage is entirely due, after a tender of the whole amount due, within the applicable time period in subsection (2) after being requested and after tender of the mortgagee's reasonable charges, refuses or neglects to discharge the mortgage as provided in this chapter or to execute and acknowledge a certificate of discharge or release of the mortgage, the mortgagee is liable to the mortgagor or the mortgagor's heirs or assigns for \$1,000.00 damages. The mortgagee is also liable for all actual damages caused by the neglect or refusal to the person who performs the condition of the mortgage or makes the tender to the mortgagee or the mortgagee's heirs or assigns, or to anyone who has an interest in the mortgaged premises. Damages under this section may be recovered in an action for money damages or to procure a discharge or release of the mortgage. The court may, in its discretion, award double costs in an action under this section.

(2) The discharge of mortgage, execution and acknowledgment of a certificate, or filing of a discharge of mortgage required by this section or section 41 shall be performed within whichever of the following time periods is applicable:

- (a) For the first 2 years after the effective date of the amendatory act that added this subsection, 75 days.
- (b) Beginning 2 years after the effective date of the amendatory act that added this subsection, 60 days.

History: R.S. 1846, Ch. 65;—CL 1857, 2763;—Am. 1861, Act 13, Eff. June 15, 1861;—CL 1871, 4246;—How. 5704;—CL 1897, 9010;—CL 1915, 11745;—CL 1929, 13318;—CL 1948, 565.44;—Am. 2004, Act 447, Imd. Eff. Dec. 27, 2004.