

Refinancing of mortgages statutory declaration

Note: In order to process a refinancing exemption or a refund application the following must be submitted with this statutory declaration:

- Either: a statement from the new lender or an approved agent of the new lender stating that they are satisfied that all the securities connected with securing the earlier loan will/have been discharged; OR a copy of all stamped mortgages connected with the earlier mortgage and the discharges of those mortgages; and
- Either: original new mortgage documents for stamping if an exemption is applied for; OR in the case of a refund application, the original duly stamped part of the new counterpart mortgage document, the stamped original loan agreement or a photocopy of the new registered mortgage from Land Registry Victoria.

In the matter of section 166 of the Duties Act 2000 (the Act) and a new (refinancing) mortgage

between

| | |
|--|--|
| The mortgagor | ACN (if applicable) |
| <input style="width: 95%;" type="text"/> | <input style="width: 95%;" type="text"/> |
| | ABN |
| | <input style="width: 95%;" type="text"/> |

and

| | |
|---|--|
| The lender in respect of the new (refinancing) mortgage | ACN (if applicable) |
| <input style="width: 95%;" type="text"/> | <input style="width: 95%;" type="text"/> |
| | ABN |
| | <input style="width: 95%;" type="text"/> |

I,

Full name

of

Address

State Postcode

do solemnly and sincerely declare that (tick (✓) applicable):

1. I am a borrower under the new mortgage; or
 I am one of the directors of the borrower and authorised to make this statutory declaration.
2. The new mortgage is not entered into for the purchase of a replacement property.
Note: The benefit is not available for a new mortgage to purchase replacement property where the principal purpose of the earlier mortgage was to finance the purchase of a property and that property has subsequently been sold.
3. All mortgages securing the earlier mortgage will be discharged after entering into the new mortgage.
Note: The benefit is not available where all earlier mortgages are not discharged and can be used for new advances or security for overdraft facilities.

4. The details of each separate loan are:

| | Earlier mortgage | New mortgage |
|-----------------------|---|---|
| Total amount borrowed | \$ <input style="width: 90%;" type="text"/> | \$ <input style="width: 90%;" type="text"/> |
| Lenders' name(s) | <input style="width: 95%;" type="text"/> | <input style="width: 95%;" type="text"/> |
| Borrowers' name(s) | <input style="width: 95%;" type="text"/> | <input style="width: 95%;" type="text"/> |

(If insufficient space, please attach a schedule specifying the details of each separate loan.)

5. The borrower is the same in both mortgages. (If not, see note on definition of borrowers overleaf.)
6. The amount of the principal outstanding under the earlier loan(s) (this is usually the payout figure, excluding interest and costs) at the date of refinancing is \$

Note: The applicant should contact the old lender to confirm the principal owing at the time of refinancing.

7. The mortgage securing the earlier loan(s) has/had duty of \$ paid or exempted under Victorian or corresponding legislation to secure \$

Note: The applicant should contact the earlier lender to verify the stamping. If the mortgage securing the earlier loan was exempt from duty a copy of the earlier stamped mortgage/s should be provided.

STATUTORY DECLARATION

I acknowledge that this statutory declaration is true and correct, and I make it in the belief that a person making a false declaration is liable to the penalties of perjury.

| | | | |
|------------------------|----------------------|--------------------------|-------------------------------|
| Declared at | <input type="text"/> | in the State of | <input type="text"/> |
| on this | <input type="text"/> | day of the month | <input type="text"/> |
| Signature of declarant | <input type="text"/> | | <input type="text"/> |
| * Before me | | | |
| Signature of witness | <input type="text"/> | Qualification to witness | <input type="text"/> |
| Full name | <input type="text"/> | | |
| Address | <input type="text"/> | State | Postcode <input type="text"/> |

* A person empowered under section 107A(1) of the *Evidence Act 1958* to witness signing of a statutory declaration.

EXPLANATORY NOTES

Who can sign the statutory declaration?

This statutory declaration should be made by a borrower. It may also be made by someone acting on the borrower's or mortgagor's behalf, such as an attorney under power.

If the borrower is a company, the statutory declaration must be made by a public officer of the company or some similarly authorised person.

Refinancing mortgage means

A mortgage that secures the amount of balance outstanding immediately before the execution of that mortgage under an earlier duly stamped mortgage, whether duly stamped under the *Duties Act 2000* or a corresponding Act, to the same borrower (whether over the same property or a property previously owned by the borrower). The refinancing mortgage is discharged or will be discharged as part of the arrangements for the new mortgage.

Duly stamped means

A mortgage that is duly stamped under the *Stamps Act 1958* is deemed to be duly stamped under the *Duties Act 2000*.

Borrower means

The person accommodated or identified in the new mortgage as the debtor or recognised as the borrower by the lender. Where the borrower is not identified in the new mortgage, evidence by the lender stating the identity of the borrower *must* accompany the application. The benefit will not be available where a party to the new mortgage was not a party to the old mortgage or accommodation arrangement.

Same Borrower means

The borrower(s) under the new mortgage must have been a party to the prior mortgage or accommodation arrangement.

Corresponding Act means

An Act of another state or of a Territory corresponding to this Act.

The total amount borrowed under the old/earlier mortgage means

The original amount borrowed plus any amount(s) added to the principal amount. Insert this amount in Point 4, for the Earlier Mortgage.

Concession calculation

The amount of exemption or refund will be calculated on the lesser of the amount stated in Point 6 of the statutory declaration or the amount stated in Point 7.

By correspondence

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