

AFFIDAVITS AND THEIR REQUIREMENTS

A. **Section 255 Affidavits:**

- The date of each mortgage previously reported.
- The names of all parties thereto.
- The prior mortgage tax paid for each mortgage must be clearly listed.
- The recording information for each mortgage must be clearly listed. (Include date, book-liber-reel and page numbers)
- The maximum amount of the principal indebtedness secured must be noted.
- The said amount was loaned or advanced thereon and became secured thereby, noting exceptions, if any.
- The balance of principal indebtedness outstanding under each such previously recorded mortgage at the date of execution of the supplemental instrument.
- That after the maximum amount became secured thereby no re-loans or re-advances have become secured thereunder to the date of execution of the supplemental instrument, noting exceptions, if any.
- A description of the new supplemental instrument must be given. (Include instrument date and party names)
- The maximum amount of principal indebtedness secured thereunder or in conjunction with the previously recorded mortgage.
- Request may then be made for exemption under Section 255.
- Must be signed by borrower or bank attorney and notarized. (Acknowledgment is not required)

B. **Section 253 Affidavits:** Attached to a mortgage. If lender is a natural person and property is a 1-6 family dwelling only, exemption from the ¼ pt. mortgage tax may be claimed. This exemption may not be claimed on vacant land.

- The date of the mortgage being recorded must be indicated.
- The names of all parties must be noted.
- The maximum amount of the principal indebtedness secured must be noted.
- The mortgage tax breakdown must be given. (Include total amount due less amount being paid by borrower less the amount for which the exemption is being claimed. {.25% })
- Must be signed by claimant and notarized. (Acknowledgment not required)

DOCUMENTS WHICH REQUIRE 255 AFFIDAVITS:

The following is a list of instruments which are considered supplemental to prior recorded mortgages and may not be accepted for recording without the filing, in duplicate original form of a sworn statement pursuant to Section 255 of the New York State Tax Law:

- Re-recorded Mortgage.
- Correction Mortgage.
- Wrap-around Mortgage
- Consolidation Agreement.
- Modification Agreement.
- Extension Agreement.
- Spreader Agreement.
- Any mortgage given as additional collateral security for a prior recorded mortgage.
- Any assignment of lessor's or lessee's interest in a lease as additional collateral security for a mortgage.
 - Any mortgage given pursuant to some provision or covenant contained in a prior recorded mortgage.

In addition to the above, any other supplemental instrument as defined in Section 255.

NOTE: If the sworn statement is not filed at recording, the recording officer must collect mortgage recording tax computed upon the maximum amount of principal indebtedness secured by the instrument or which under any contingency may become secured thereby.