

§ 45-36.6. Document of rescission: effect; liability for wrongful recording.

- (a) Definitions. – The following definitions apply in this section:
- (1) Document of rescission. – A document that rescinds either (i) a release that was recorded in error or (ii) the erroneous satisfaction of a security instrument.
 - (2) Release. – A document that either (i) releases property from the lien of a security instrument or (ii) indicates that an obligation is no longer secured by a security instrument.
- (b) If a release is recorded in error or a security instrument is erroneously satisfied of record, then the secured creditor or the person who caused the release to be recorded in error or the security instrument to be erroneously satisfied of record may execute and record a document of rescission. The document of rescission must be duly acknowledged before an officer authorized to make acknowledgments. Upon recording, the document of rescission either (i) rescinds a release that was recorded in error and deprives the release of any effect or (ii) rescinds the erroneous satisfaction of record of the security instrument and reinstates the security instrument.
- (c) A recorded document of rescission has no effect on the rights of a person that:
- (1) Records an interest in the real property described in a security instrument after the recording of a release that was recorded in error or the erroneous satisfaction of record of the security instrument and before the recording of the document of rescission; and
 - (2) Would otherwise have priority over or take free of the lien created by the security instrument as reinstated under Chapter 47 of the General Statutes.
- (d) A person that erroneously or wrongfully records a document of rescission is liable to any person injured thereby for the actual loss caused by the recording and reasonable attorneys' fees and costs.
- (e) A document is a document of rescission if it does all of the following:
- (1) Identifies the related security instrument, including the type of security instrument, the original parties to the security instrument, the recording data for the security instrument, and the office in which the security instrument is recorded.
 - (2) If the document of rescission is intended to rescind a release that was recorded in error, (i) identifies the release that was recorded in error by its recording data and the office in which it is recorded, (ii) states that the release was recorded in error, and (iii) states that the release is rescinded.
 - (3) If the document of rescission is intended to rescind the erroneous satisfaction of record of a security instrument, (i) identifies the satisfaction document that was recorded in error by its recording data and the office in which it is recorded, (ii) states that the security instrument was erroneously satisfied of record, and (iii) states that the satisfaction of the security instrument is rescinded and the security instrument reinstated.
 - (4) States that the person signing the document of rescission is either (i) the secured creditor or (ii) the person who caused the release to be recorded in error or the security instrument to be erroneously satisfied of record.
 - (5) Is signed and acknowledged as required by law for a conveyance of an interest in real property.
- (f) The register of deeds shall accept a document of rescission for recording unless one of the following applies:

- (1) The document is submitted by a method or in a medium not authorized for registration by the register of deeds under applicable law.
- (2) The required recording fee is not paid.
- (3) The document is not signed and acknowledged as required by law for a conveyance of an interest in real property by either the secured creditor or the person who caused the release to be recorded in error or the security instrument to be erroneously satisfied of record. The register of deeds shall not be required to verify or make inquiry concerning (i) the truth of the matters stated in any document of rescission or (ii) the authority of the person executing any document of rescission to do so.

(g) No particular phrasing is required for a document of rescission that rescinds a release that was recorded in error. The following form, when properly completed, is sufficient to satisfy the requirements of subsection (e) of this section:

"DOCUMENT OF RESCISSION
(G.S. 45-36.6(e))

The security instrument to which this Document of Rescission relates is identified as follows:

Type of Security Instrument: (identify type of security instrument, such as deed of trust or mortgage)

Original Grantor(s): (identify original grantor(s), trustor(s), or mortgagor(s))

Original Secured Party(ies): (identify the original beneficiary(ies), mortgagee(s), or secured party(ies) in the security instrument)

Recording Data: The security instrument is recorded in Book _____ at Page ____ or as document number ____ in the office of the Register of Deeds for _____ County, North Carolina.

This Document of Rescission rescinds the release recorded in Book _____ at Page ____ or as document number ____ in the office of the Register of Deeds for _____ County, North Carolina. The release was recorded in error, is hereby rescinded, and is declared to be of no effect.

The undersigned is: (check applicable box)

_____ The secured creditor in the security instrument identified above.

_____ The person who caused the release to be recorded in error.

Date: _____

Signature of secured creditor or person
who caused the release to be recorded in
error

[Acknowledgment before officer authorized to take acknowledgments]"

(h) No particular phrasing is required for a document of rescission that rescinds the erroneous satisfaction of a security instrument. The following form, when properly completed, is sufficient to satisfy the requirements of G.S. 45-36.6(e):

"DOCUMENT OF RESCISSION
(G.S. 45-36.6(e))

The security instrument to which this Document of Rescission relates is identified as follows:

Type of Security Instrument: (identify type of security instrument, such as deed of trust or mortgage)

Original Grantor(s): (identify original grantor(s), trustor(s), or mortgagor(s))

Original Secured Party(ies): (identify the original beneficiary(ies), mortgagee(s), or secured party(ies) in the security instrument)

Recording Data: The security instrument is recorded in Book _____ at Page _____ or as document number _____ in the office of the Register of Deeds for _____ County, North Carolina.

The security instrument was erroneously satisfied of record by that satisfaction document recorded in Book _____ at Page _____ or as document number _____ in the office of the Register of Deeds for _____ County, North Carolina. The satisfaction of the security instrument is hereby rescinded, the security instrument is reinstated, and the security instrument is declared to be in full force and effect.

The undersigned is: (check applicable box)

_____ The secured creditor in the security instrument identified above.

_____ The person who caused the security instrument to be satisfied of record erroneously.

Date: _____

Signature of secured creditor or person
who caused the security instrument to be
satisfied of record erroneously

[Acknowledgment before officer authorized to take acknowledgments]".

(2005-123, s. 1; 2006-259, s. 52(b); 2006-264, s. 40(a); 2011-312, s. 4.)