

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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HOUSE BILL 1030

Short Title: Mortgage Satisfaction Amend.

(Public)

Sponsors: Representative Hensley.

Referred to: Judiciary III.

April 19, 1993

A BILL TO BE ENTITLED

1 AN ACT TO FACILITATE ENFORCEMENT OF THE LAW REQUIRING A
2 MORTGAGEE TO PROVIDE NOTIFICATION OF THE SATISFACTION OF A
3 MORTGAGE OR DEED OF TRUST.
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5 The General Assembly of North Carolina enacts:

6 Section 1. G.S. 45-36.3 reads as rewritten:

7 "**§ 45-36.3. Notification by mortgagee of satisfaction of provisions of deed of trust**
8 **or mortgage, or other instrument; civil penalty.**

9 (a) After the satisfaction of the provisions of any deed of trust or mortgage, or
10 other instrument intended to secure with real property the payment of money or the
11 performance of any other obligation and registered as required by law, the holder of the
12 evidence of the indebtedness, if it is a single instrument, or a duly authorized agent or
13 attorney of such holder shall within 60 days:

14 (1) Discharge and release of record such documents and forward the
15 cancelled documents to the grantor, trustor or mortgagor; or,

16 (2) Alternatively, the holder of the evidence of the indebtedness or a duly
17 authorized agent or attorney of such holder, at the request of the
18 grantor, trustor or mortgagor, shall forward said instrument and the
19 deed of trust or mortgage instrument, with payment and satisfaction
20 acknowledged in accordance with the requirements of G.S. 45-37, to
21 the grantor, trustor or mortgagor.

22 The requirement that the instrument or cancelled documents be forwarded to the
23 grantor, trustor, or mortgagor may be satisfied by forwarding them to the person

1 providing payment in satisfaction of the debt, if the final payment is accompanied by a
2 written request that the instrument or documents be forwarded to that person.

3 (b) Any person, institution or agent who fails to comply with this section may be
4 required to pay a civil penalty of not more than one thousand dollars (\$1,000) in
5 addition to reasonable attorneys' fees and any other damages awarded by the court to the
6 grantor, trustor or mortgagor, or to a subsequent purchaser of the property from the
7 grantor, trustor or mortgagor. A five hundred dollar (\$500.00) civil penalty may be
8 recovered by the grantor, trustor or mortgagor, and a five hundred dollar (\$500.00)
9 penalty may be recovered by the purchaser of the property from the grantor, trustor or
10 mortgagor. If that purchaser of the property consists of more than a single grantee, then
11 the civil penalty will be divided equally among all of the grantees. A petitioner may
12 recover damages under this section only if he has given the mortgagee, obligee,
13 beneficiary or other responsible party written notice of his intention to bring an action
14 pursuant to this section. Upon receipt of this notice, the mortgagee, obligee, beneficiary
15 or other responsible party shall have 30 days, in addition to the initial 60-day period, to
16 fulfill the requirements of this section.

17 (c) Should any person, institution or agent who is not the present holder of the
18 evidence of indebtedness be required to pay a civil penalty, attorneys' fees, or other
19 damages under this section, they will have an action against the holder of the evidence
20 of indebtedness for all sums they were required to pay.

21 (d) The person providing payment to the holder of the deed of trust, mortgage, or
22 other security instrument is a real party in interest to an action for the civil penalty
23 provided for in subsection (b) of this section. If that person is an attorney, the person is
24 also entitled to recover attorneys' fees.

25 (e) If the holder of the deed of trust, mortgage, or other security instrument is not
26 registered to do business in this State, service on the Secretary of State shall be
27 sufficient to give the court personal jurisdiction over the holder."

28 Sec. 2. G.S. 1-75.4 reads as rewritten:

29 **"§ 1-75.4. Personal jurisdiction, grounds for generally.**

30 A court of this State having jurisdiction of the subject matter has jurisdiction over a
31 person served in an action pursuant to Rule 4(j) or Rule 4(j1) of the Rules of Civil
32 Procedure under any of the following circumstances:

- 33 (1) Local Presence or Status. – In any action, whether the claim arises
34 within or without this State, in which a claim is asserted against a party
35 who when service of process is made upon such party:
36 a. Is a natural person present within this State; or
37 b. Is a natural person domiciled within this State; or
38 c. Is a domestic corporation; or
39 d. Is engaged in substantial activity within this State, whether such
40 activity is wholly interstate, intrastate, or otherwise.

- 41 (2) Special Jurisdiction Statutes. – In any action which may be brought
42 under statutes of this State that specifically confer grounds for personal
43 jurisdiction.

- 1 (3) Local Act or Omission. – In any action claiming injury to person or
2 property or for wrongful death within or without this State arising out
3 of an act or omission within this State by the defendant.
- 4 (4) Local Injury; Foreign Act. – In any action for wrongful death
5 occurring within this State or in any action claiming injury to person or
6 property within this State arising out of an act or omission outside this
7 State by the defendant, provided in addition that at or about the time of
8 the injury either:
9 a. Solicitation or services activities were carried on within this
10 State by or on behalf of the defendant; or
11 b. Products, materials or thing processed, serviced or
12 manufactured by the defendant were used or consumed, within
13 this State in the ordinary course of trade.
- 14 (5) Local Services, Goods or Contracts. – In any action which:
15 a. Arises out of a promise, made anywhere to the plaintiff or to
16 some third party for the plaintiff's benefit, by the defendant to
17 perform services within this State or to pay for services to be
18 performed in this State by the plaintiff; or
19 b. Arises out of services actually performed for the plaintiff by the
20 defendant within this State, or services actually performed for
21 the defendant by the plaintiff within this State if such
22 performance within this State was authorized or ratified by the
23 defendant; or
24 c. Arises out of a promise, made anywhere to the plaintiff or to
25 some third party for the plaintiff's benefit, by the defendant to
26 deliver or receive within this State, or to ship from this State
27 goods, documents of title, or other things of value; or
28 d. Relates to goods, documents of title, or other things of value
29 shipped from this State by the plaintiff to the defendant on his
30 order or direction; or
31 e. Relates to goods, documents of title, or other things of value
32 actually received by the plaintiff in this State from the
33 defendant through a carrier without regard to where delivery to
34 the carrier occurred.
- 35 (6) Local Property. – In any action which arises out of:
36 a. A promise, made anywhere to the plaintiff or to some third
37 party for the plaintiff's benefit, by the defendant to create in
38 either party an interest in, or protect, acquire, dispose of, use,
39 rent, own, control or possess by either party real property
40 situated in this State; or
41 b. A claim to recover for any benefit derived by the defendant
42 through the use, ownership, control or possession by the
43 defendant of tangible property situated within this State either at
44 the time of the first use, ownership, control or possession or at

- 1 the time the action is ~~commenced~~; commenced, including an
2 action under G.S. 45-36.3 against an out-of-state defendant who
3 fails to comply with the provisions of that section with regard to
4 a mortgage or deed of trust secured by real property situated
5 within this State; or
- 6 c. A claim that the defendant return, restore, or account to the
7 plaintiff for any asset or thing of value which was within this
8 State at the time the defendant acquired possession or control
9 over it.
- 10 (7) Deficiency Judgment on Local Foreclosure or Resale. – In any action
11 to recover a deficiency judgment upon an obligation secured by a
12 mortgage, deed of trust, conditional sale, or other security instrument
13 executed by the defendant or his predecessor to whose obligation the
14 defendant has succeeded and the deficiency is claimed either:
- 15 a. In an action in this State to foreclose such security instrument
16 upon real property, tangible personal property, or an intangible
17 represented by an indispensable instrument, situated in this
18 State; or
- 19 b. Following sale of real or tangible personal property or an
20 intangible represented by an indispensable instrument in this
21 State under a power of sale contained in any security
22 instrument.
- 23 (8) Director or Officer of a Domestic Corporation. – In any action against
24 a defendant who is or was an officer or director of a domestic
25 corporation where the action arises out of the defendant's conduct as
26 such officer or director or out of the activities of such corporation
27 while the defendant held office as a director or officer.
- 28 (9) Taxes or Assessments. – In any action for the collection of taxes or
29 assessments levied, assessed or otherwise imposed by a taxing
30 authority of this State after the date of ratification of this act.
- 31 (10) Insurance or Insurers. – In any action which arises out of a contract of
32 insurance as defined in G.S. 58-1-10 made anywhere between the
33 plaintiff or some third party and the defendant and in addition either:
- 34 a. The plaintiff was a resident of this State when the event
35 occurred out of which the claim arose; or
- 36 b. The event out of which the claim arose occurred within this
37 State, regardless of where the plaintiff resided.
- 38 (11) Personal Representative. – In any action against a personal
39 representative to enforce a claim against the deceased person
40 represented, whether or not the action was commenced during the
41 lifetime of the deceased, where one or more of the grounds stated in
42 subdivisions (2) to (10) of this section would have furnished a basis for
43 jurisdiction over the deceased had he been living.

1 (12) Marital Relationship. – In any action under Chapter 50 that arises out
2 of the marital relationship within this State, notwithstanding
3 subsequent departure from the State, if the other party to the marital
4 relationship continues to reside in this State."

5 Sec. 3. This act is effective upon ratification, and applies to mortgages and
6 deeds of trust satisfied on or after that date.