

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 1999

HOUSE BILL 226
RATIFIED BILL

AN ACT TO REQUIRE THAT A NOTICE OF FORECLOSURE HEARING
INCLUDE ADDITIONAL INFORMATION, AS RECOMMENDED BY THE
GENERAL STATUTES COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 45-21.16(c) reads as rewritten:

"(c) Notice shall be in writing and shall state in a manner reasonably calculated to make the party entitled to notice aware of the following:

- (1) The particular real estate security interest being foreclosed, with such a description as is necessary to identify the real property, including the date, original amount, original holder, and book and page of the security instrument.
- (2) The name and address of the holder of the security instrument at the time that the notice of hearing is filed.
- (3) The nature of the default claimed.
- (4) The fact, if such be the case, that the secured creditor has accelerated the maturity of the debt.
- (5) Any right of the debtor to pay the indebtedness or cure the default if such is permitted.
- (5a) The holder has confirmed in writing to the person giving the notice, or if the holder is giving the notice, the holder shall confirm in the notice, that, within 30 days of the date of the notice, the debtor was sent by first-class mail at the debtor's last known address a written statement of the amount of principal and interest that the holder claims in good faith is owed as of the date of the written statement, a daily interest charge based on the contract rate as of the date of the statement, and the amount of other expenses the holder contends it is owed as of the date of the statement.
- (6) Repealed by Session Laws 1977, c. 359, s. 7.
- (7) The right of the debtor (or other party served) to appear before the clerk of court at a time and on a date specified, at which appearance he shall be afforded the opportunity to show cause as to why the foreclosure should not be allowed to be held. The notice shall contain a statement that if the debtor does not intend to contest the creditor's allegations of default, the debtor does not have to appear at the hearing and that his failure to attend the hearing will not affect his right to pay the indebtedness and thereby prevent the proposed sale, or to attend the actual sale, should he elect to do so.
- (8) That if the foreclosure sale is consummated, the purchaser will be entitled to possession of the real estate as of the date of delivery of his deed, and that the debtor, if still in possession, can then be evicted.
- (8a) The name, address, and telephone number of the trustee or mortgagee.
- (9) That the debtor should keep the trustee or mortgagee notified in writing of his address so that he can be mailed copies of the notice of foreclosure setting forth the terms under which the sale will be held, and notice of any postponements or resales.

- (10) If the notice of hearing is intended to serve also as a notice of sale, such additional information as is set forth in G.S. 45-21.16A.
- (11) That the hearing may be held on a date later than that stated in the notice and that the party will be notified of any change in the hearing date."

Section 2. G.S. 45-21.16 is amended by adding a new subsection to read:

"(c1) The person giving the notice of hearing, if other than the holder, may rely on the written confirmation received from the holder under subdivision (c)(5a) of this section and is not liable for inaccuracies in the written confirmation. Any dispute concerning the mailing or accuracy of the written statement described in subdivision (c)(5a) of this section shall not be considered in a hearing under this section."

Section 3. This act becomes effective January 1, 2000, and applies to foreclosure proceedings filed on or after that date.

In the General Assembly read three times and ratified this the 24th day of May, 1999.

Dennis A. Wicker
President of the Senate

James B. Black
Speaker of the House of Representatives

James B. Hunt, Jr.
Governor

Approved _____ .m. this _____ day of _____ , 19