

NORTH CAROLINA GENERAL ASSEMBLY  
1961 SESSION

CHAPTER 356  
SENATE BILL 37

1 AN ACT RELATING TO RELEASE OF THE MORTGAGOR BY UNAUTHORIZED  
2 DEALINGS BETWEEN THE MORTGAGEE AND THE MORTGAGOR'S ASSUMING  
3 GRANTEE.

4  
5 The General Assembly of North Carolina do enact:

6  
7 **Section 1.** Chapter 45 of the General Statutes entitled "Mortgages and Deeds of  
8 Trust", is hereby amended by adding at the end thereof a new Article to be numbered Article 6  
9 and to read as follows:

10 "Article 6.

11 "Miscellaneous Provisions.

12 **"G.S. 45-45. Release of mortgagor by dealings between mortgagee and assuming grantee.**  
13 Except where otherwise provided in the mortgage or deed of trust or in the note or other  
14 instrument secured thereby, or except where the mortgagor or grantor of a deed of trust  
15 otherwise consents:

16 (a) Whenever real property which is encumbered by a mortgage or deed of trust is sold  
17 and the grantee assumes and agrees to pay such mortgage or deed of trust, and thereafter the  
18 mortgagee or secured creditor under the deed of trust gives the grantee a legally binding  
19 extension of time, or releases the grantee from liability on the obligation, the mortgagor or  
20 grantor of the deed of trust is released from any further liability on the obligation.

21 (b) Whenever real property which is encumbered by a mortgage or deed of trust is sold  
22 and the grantee assumes and agrees to pay such mortgage or deed of trust, and thereafter the  
23 mortgagee or secured creditor under the deed of trust or trustee acting in his behalf releases any  
24 of the real property included in the mortgage or deed of trust, the mortgagor or grantor of the  
25 deed of trust is released to the extent of the value of the property released, which shall be the  
26 value at the time of the release or at the time an action is commenced on the obligation secured  
27 by the mortgage or deed of trust, whichever value is the greater.

28 (c) Whenever real property which is encumbered by a mortgage or deed of trust is sold  
29 expressly subject to the mortgage or deed of trust, but the grantee does not assume the same,  
30 and thereafter the mortgagee or secured creditor under the deed of trust makes a binding  
31 extension of time of the mortgage or deed of trust, the mortgagor or grantor of the deed of trust  
32 is released to the extent of the value of the property at the time of the extension agreement.

33 (d) Whenever real property which is encumbered by a mortgage or deed of trust is sold  
34 expressly subject to the mortgage or deed of trust, but the grantee does not assume the same,  
35 and thereafter the mortgagee or secured creditor under the deed of trust, or trustee acting in his  
36 behalf, releases any of the real property included in the mortgage or deed of trust, the  
37 mortgagor or grantor of the deed of trust is released to the extent of the value of the property  
38 released, which shall be the value at the time of the release or at the time an action is  
39 commenced on the obligation secured by the mortgage or deed of trust, whichever value is the  
40 greater."

41 **Sec. 2.** The provisions of this Act shall not apply to pending litigation.

42 **Sec. 3.** All laws and clauses of laws in conflict with this Act are hereby repealed.

43 **Sec. 4.** This Act shall become effective October 1, 1961.

1  
2 1961.

In the General Assembly read three times and ratified, this the 5th day of May,