

NORTH CAROLINA GENERAL ASSEMBLY
1969 SESSION

CHAPTER 984
SENATE BILL 793

1 AN ACT TO AMEND SEVERAL MISCELLANEOUS SECTIONS OF THE GENERAL
2 STATUTES TO CONFORM THE LANGUAGE TO THE UNIFORM COMMERCIAL
3 CODE.
4

5 The General Assembly of North Carolina do enact:
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7 **Section 1.** G.S. 45-21.12 is hereby amended and rewritten to read as follows:

8 **"Sec. 45-21.12. Power of sale barred when foreclosure barred.** (a) Except as provided in
9 subsection (b), no person shall exercise any power of sale contained in any mortgage or deed of
10 trust, or provided by statute, when an action to foreclose the mortgage or deed of trust, is barred
11 by the statute of limitations.

12 "(b) If a sale pursuant to a power of sale contained in a mortgage or deed of trust, or
13 provided by statute, is commenced within the time allowed by the statute of limitations to
14 foreclose such mortgage or deed of trust, the sale may be completed although such completion
15 is effected after the time when commencement of an action to foreclose would be barred by the
16 statute. For the purpose of this Section, a sale is commenced when the notice of the sale is first
17 posted or published as provided by this Article or by the terms of the instrument pursuant to
18 which the power of sale is being exercised."

19 **Sec. 2.** G.S. 14-114 is hereby amended and rewritten to read as follows:

20 **"Sec. 14-114. Fraudulent disposal of personal property on which there is a security**
21 **interest.** If any person, after executing a security agreement on personal property for a lawful
22 purpose, shall make any disposition of any property embraced in such security agreement, with
23 intent to hinder, delay or defeat the rights of the secured party, every person so of Tending and
24 every person with a knowledge of the security interest buying any property embraced in which
25 security agreement, and every person assisting, aiding or abetting the unlawful disposition of
26 such property, with intent to hinder, delay or defeat the rights of any secured party in such
27 security agreement, shall be guilty of a misdemeanor, and shall be punished by fine or
28 imprisonment, or both, in the discretion of the court. In all indictments for violations of the
29 provisions of this Section it shall not be necessary to allege or prove the person to whom any
30 sale or disposition of the property was made, but proof of the possession of the property
31 embraced in such security agreement by the grantor thereof, after the execution of said security
32 agreement, and while it is in force, the further proof of the fact that the sheriff or other officer
33 charged with the execution of process cannot after due diligence find such property under
34 process directed to him for its seizure, for the satisfaction of such security agreement, or that
35 the secured party demanded the possession thereof of the grantor for the purpose of sale to
36 foreclose said security agreement, after the right to such foreclosure had accrued, and that the
37 grantor failed to produce, deliver or surrender the same to the secured party for that purpose,
38 shall be prima facie proof of the fact of the disposition or sale of such property, by the grantor,
39 with the intent to hinder, delay or defeat the rights of the secured party."

40 **Sec. 3.** G.S. 14-115 is hereby amended and rewritten to read as follows:

41 **"Sec. 14-115. Secreting property to hinder enforcement of lien or security interest.** Any
42 person removing, exchanging or secreting any personal property on which a lien or security

- 1 interest exists, with intent to prevent or hinder the enforcement of the lien or security interest,
2 shall be guilty of a misdemeanor."
3 **Sec. 4.** All laws and clauses of laws in conflict with this Act are hereby repealed.
4 **Sec. 5.** This Act shall become effective on October 1, 1969.
5 In the General Assembly read three times and ratified, this the 23rd day of June,
6 1969.