

NORTH CAROLINA GENERAL ASSEMBLY  
1977 SESSION

CHAPTER 833  
HOUSE BILL 1280

AN ACT TO ALLOW THE PURCHASER IN A PARTITION SALE OF REAL PROPERTY  
TO WITHDRAW HIS OFFER TO PURCHASE WITHIN FIFTEEN DAYS OF THE  
ORDER CONFIRMING THE SALE BECAUSE OF UNSATISFIED LIENS.

The General Assembly of North Carolina enacts:

**Section 1.** A new section is added to Article 2 of Chapter 46 of the General Statutes to read as follows:

**"§ 46-28.1. Petition for revocation of confirmation order.** — (a) Notwithstanding G.S. 46-28 or any other provision of law, an order confirming the partition sale of real property shall not become final and effective until 15 days after entered. At any time before the confirmation order becomes final and effective, the purchaser may petition the court to revoke its order of confirmation and to order the withdrawal of the purchaser's offer to purchase the property because a lien or liens remain unsatisfied on the property to be conveyed. In no event shall the confirmation order become final or effective during the pendency of a petition under this section. No upset bid shall be permitted after the entry of the confirmation order.

(b) The purchaser shall deliver a copy of the petition to all parties required to be served under Rule 5 of G.S. 1A-1, and the officer or person designated to make such sale in the manner provided for service of process in Rule 4(j) of G.S. 1A-1. The court shall schedule a hearing on the petition within a reasonable time and shall cause a notice of the hearing to be served on the petitioner, the officer or person designated to make such a sale and all parties required to be served under Rule 5 of G.S. 1A-1.

(c) If the purchaser proves by a preponderance of the evidence that:

- (1) a lien remains unsatisfied on the property to be conveyed;
- (2) the purchaser has not agreed in writing to assume the lien;
- (3) the lien will not be satisfied out of the proceeds of the sale; and
- (4) the existence of the lien was not disclosed in the notice of sale of the property, the court may revoke the order confirming the sale, order the withdrawal of the purchaser's offer, and order the return of any monies or security to the purchaser tendered pursuant to his offer.

(d) The order of the court in revoking an order of confirmation under this section may not be introduced in any other proceeding to establish or deny the existence of a lien."

**Sec. 2.** G.S. 46-33, as is found in the 1976 Replacement to Volume 2A of the General Statutes, is amended by deleting the words "Upon confirmation of the report" and by inserting in lieu thereof the following "At the time that the order of confirmation becomes final".

**Sec. 3.** After the Order of Confirmation has been entered, the successful bidder may immediately purchase the property upon which he bid; and upon the exercise of such election, the Order of Confirmation shall become final.

**Sec. 4.** That this act shall become effective October 1, 1977, but shall not affect pending litigation.

In the General Assembly read three times and ratified, this the 30th day of June, 1977.