

GENERAL ASSEMBLY OF NORTH CAROLINA
1987 SESSION

CHAPTER 662
HOUSE BILL 83

AN ACT TO INCREASE THE CIVIL PENALTY FOR FAILURE TO CANCEL
INSTRUMENTS OF INDEBTEDNESS AND DEEDS OF TRUST AND MAKE
OTHER TECHNICAL CHANGES TO G.S. 45-36.3 AND G.S. 47-46.1.

The General Assembly of North Carolina enacts:

Section 1. G.S. 45-36.3(a) is amended by adding ", trustor" immediately after the word "grantor" in subdivision (1); and by rewriting subdivision (2) as follows:

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

Sec. 2. G.S. 45-36.3(b) is rewritten to read:

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

Sec. 3. G.S. 45-36.3 is amended by adding a new subsection as follows:

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

Sec. 4. G.S. 47-46.1, as enacted by Chapter 405, Session Laws of 1987, is amended by deleting "notice of satisfaction (or annexed notice of satisfaction)", and substituting "acknowledgement".

Sec. 5. Sections 1 through 3 of this act shall become effective October 1, 1987. Section 4 of this act is effective on the same date as Chapter 405, Session Laws of 1987.

In the General Assembly read three times and ratified this the 24th day of July, 1987.