

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

SESSION LAW 2012-150
HOUSE BILL 203

AN ACT TO PROVIDE AN ALTERNATIVE MORTGAGE SATISFACTION FORM THAT ALLOWS A SECURED CREDITOR TO INDICATE THAT THE UNDERLYING OBLIGATION HAS BEEN EXTINGUISHED; TO MAKE IT A CLASS I FELONY TO SIMULATE COURT PROCESS IN CONNECTION WITH THE COLLECTION OF A CLAIM, DEMAND, OR ACCOUNT, TO KNOWINGLY FILE A FALSE LIEN OR ENCUMBRANCE AGAINST THE REAL OR PERSONAL PROPERTY OF A PUBLIC OFFICER OR PUBLIC EMPLOYEE, OR TO FILE A FALSE SECURITY INSTRUMENT; AND TO PROVIDE THAT IT IS A VIOLATION OF THE RESIDENTIAL MORTGAGE FRAUD ACT FOR A PERSON TO KNOWINGLY FILE A DOCUMENT FALSELY CLAIMING THAT A MORTGAGE LOAN HAS BEEN SATISFIED OR DISCHARGED.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 45-36.11 reads as rewritten:

"§ 45-36.11. **Satisfaction: form.**

(a) Standard Form. – No particular phrasing is required for a satisfaction of a security instrument. The following form, when properly completed, is sufficient to satisfy the requirements of G.S. 45-36.10(a):

'SATISFACTION OF SECURITY INSTRUMENT
(G.S. 45-36.10; G.S. 45-37(a)(7))

The undersigned is now the secured creditor in the security instrument identified as follows:

Type of Security Instrument: (identify type of security instrument, such as deed of trust or mortgage)

Original Grantor(s): (Identify original grantor(s), trustor(s), or mortgagor(s))

Original Secured Party(ies): (Identify the original beneficiary(ies), mortgagee(s), or secured party(ies) in the security instrument)

Recording Data: The security instrument is recorded in Book ____ at Page ____ or as document number _____ in the office of the Register of Deeds for _____ County, North Carolina.

This satisfaction terminates the effectiveness of the security instrument.

Date: _____

(Signature of secured creditor)

[Acknowledgment before officer authorized to take acknowledgments]'

(b) Alternate Form. – A secured creditor who would like to indicate that the underlying obligation secured by the instrument has been extinguished may use the following form, which, when properly completed, is also sufficient to satisfy the requirements of G.S. 45-36.10(a):

'SATISFACTION OF SECURITY INSTRUMENT
(G.S. 45-36.10; G.S. 45-37(a)(7))

The undersigned is now the secured creditor in the security instrument identified as follows:

Type of Security Instrument: (identify type of security instrument, such as deed of trust or mortgage)

Original Grantor(s): (Identify original grantor(s), trustor(s), or mortgagor(s))



Original Secured Party(ies): (Identify the original beneficiary(ies), mortgagee(s), or secured party(ies) in the security instrument)

Recording Data: The security instrument is recorded in Book _____ at Page _____ or as document number _____ in the office of the Register of Deeds for _____ County, North Carolina.

This satisfaction terminates the effectiveness of the security instrument and extinguishes the underlying obligation secured by the instrument.

Date: _____

(Signature of secured creditor)

[Acknowledgment before officer authorized to take acknowledgments]"

SECTION 2. G.S. 45-36.21 reads as rewritten:

"§ 45-36.21. Trustee's satisfaction of deed of trust: form.

(a) Standard Form. – No particular phrasing is required for a trustee's satisfaction of a deed of trust. The following form, when properly completed, is sufficient to satisfy the requirements of G.S. 45-36.20:

'TRUSTEE'S SATISFACTION OF DEED OF TRUST
(G.S. 45-36.20; G.S. 45-37(a)(7))

The undersigned is now serving as the trustee or substitute trustee under the terms of the deed of trust identified as follows:

Original Grantor(s): (Identify original grantor(s) or trustor(s))

Original Secured Party(ies): (Identify the original beneficiary(ies) or secured party(ies) in the deed of trust)

Recording Data: The deed of trust is recorded in Book _____ at Page _____ or as document number _____ in the office of the Register of Deeds for _____ County, North Carolina.

This satisfaction terminates the effectiveness of the deed of trust.

Date: _____

(Signature of trustee or substitute trustee)

[Acknowledgment before officer authorized to take acknowledgments]'

(b) Alternate Form. – A trustee and secured creditor who would like to indicate that the underlying obligation secured by the deed of trust has been extinguished may use the following form, which, when properly completed, is also sufficient to satisfy the requirements of G.S. 45-36.20:

'TRUSTEE'S SATISFACTION OF DEED OF TRUST
AND
CREDITOR'S RELEASE
(G.S. 45-36.20; G.S. 45-37(a)(7))

The undersigned is now serving as the trustee or substitute trustee under the terms of the deed of trust identified as follows:

Original Grantor(s): (Identify original grantor(s) or trustor(s))

Original Secured Party(ies): (Identify the original beneficiary(ies) or secured party(ies) in the deed of trust)

Recording Data: The deed of trust is recorded in Book _____ at Page _____ or as document number _____ in the office of the Register of Deeds for _____ County, North Carolina.

This satisfaction terminates the effectiveness of the deed of trust.

Date: _____

(Signature of trustee or substitute trustee)

[Acknowledgment before officer authorized to take acknowledgments]

The obligation secured by the deed of trust has been extinguished.

Date: _____

(Signature of secured creditor)

[Acknowledgment before officer authorized to take acknowledgments]".

SECTION 3. G.S. 14-118.1 reads as rewritten:

"§ 14-118.1. Simulation of court process in connection with collection of claim, demand or account.

It shall be unlawful for any person, firm, corporation, association, agent or employee in any manner to coerce, intimidate, or attempt to coerce or intimidate any person in connection with any claim, demand or account, by the issuance, utterance or delivery of any matter, printed, typed or written, which (i) simulates or resembles a summons, warrant, writ or other court process or pleading; or (ii) by its form, wording, use of the name of North Carolina or any officer, agency or subdivision thereof, use of seals or insignia, or general appearance has a tendency to create in the mind of the ordinary person the false impression that it has judicial or other official authorization, sanction or approval. Any violation of the provisions of this section shall be a ~~Class 2 misdemeanor.~~ **Class I felony.**"

SECTION 4. Article 20 of Chapter 14 of the General Statutes is amended by adding a new section to read as follows:

"§ 14-118.6. Filing false lien or encumbrance.

(a) It shall be unlawful for any person to present for filing in a public record or a private record generally available to the public a false lien or encumbrance against the real or personal property of a public officer or public employee on account of the performance of the public officer or public employee's official duties, knowing or having reason to know that the lien or encumbrance is false or contains a materially false, fictitious, or fraudulent statement or representation. Any person who violates this subsection shall be guilty of a Class I felony.

(b) In the case of a lien or encumbrance presented to the register of deeds for filing, if the register of deeds has a reasonable suspicion that the lien or encumbrance is false, the register of deeds may refuse to file the lien or encumbrance. Neither the register of deeds nor any other entity shall be liable for filing or refusing to file a lien or encumbrance under this section. If the filing of the lien or encumbrance is denied, the register of deeds shall allow the filing of a Notice of Denied Lien or Encumbrance Filing on a form adopted by the Secretary of State. The Notice of Denied Lien or Encumbrance Filing shall not itself constitute a lien or encumbrance. If the filing of the lien or encumbrance is denied, any interested person may file a special proceeding in the county where the filing was denied within ten (10) business days of the filing of the Notice of Denied Lien or Encumbrance Filing asking the court to find that the proposed filing has a statutory or contractual basis and to order that the document be filed. If, after hearing, upon a minimum of five (5) days' notice and opportunity to be heard to all interested persons and all persons claiming an ownership interest in the property, the court finds that there is a statutory or contractual basis for the proposed filing, the court shall order the document filed. A lien or encumbrance filed upon order of the court under this subsection shall have a priority interest as of the time of the filing of the Notice of Denied Lien or Encumbrance Filing. If the court finds that there is no statutory or contractual basis for the proposed filing, the court shall order that the proposed filing is null and void and that it shall not be filed, indexed, or recorded and a copy of that order shall be filed by the register of deeds that originally denied the filing. The review by the judge under this subsection shall not be deemed a finding as to any underlying claim of the parties involved. If a special proceeding is not filed under this subsection within ten (10) business days of the filing of the Notice of Denied Lien or Encumbrance Filing, the lien or encumbrance is deemed null and void.

(c) Upon being presented with an order duly issued by a court of this State declaring that a filed lien or encumbrance is false, and therefore null and void, the register of deeds that received the filing, in addition to filing the order, shall conspicuously mark on the first page of the original record previously filed the following statement: "THE CLAIM ASSERTED IN THIS DOCUMENT IS FALSE AND IS NOT PROVIDED FOR BY THE GENERAL LAWS OF THIS STATE.

(d) In addition to any criminal penalties provided for in this section, a violation of this section shall constitute a violation of G.S. 75-1.1.

(e) Subsections (b) and (c) of this section shall not apply to filings under Article 9 of Chapter 25 of the General Statutes or under Chapter 44A of the General Statutes."

SECTION 5. G.S. 14-118.12 reads as rewritten:

"§ 14-118.12. Residential mortgage fraud.

(a) A person is guilty of residential mortgage fraud when, for financial gain and with the intent to defraud, that person does any of the following:

- (1) Knowingly makes or attempts to make any material misstatement, misrepresentation, or omission within the mortgage lending process with the intention that a mortgage lender, mortgage broker, borrower, or any other person or entity that is involved in the mortgage lending process relies on it.
- (2) Knowingly uses or facilitates or attempts to use or facilitate the use of any misstatement, misrepresentation, or omission within the mortgage lending process with the intention that a mortgage lender, borrower, or any other person or entity that is involved in the mortgage lending process relies on it.
- (3) Receives or attempts to receive proceeds or any other funds in connection with a residential mortgage closing that the person knew, or should have known, resulted from a violation of subdivision (1) or (2) of this subsection.
- (4) Conspires or solicits another to violate any of the provisions of subdivision (1), (2), or (3) of this subsection.
- (5) Knowingly files in a public record or a private record generally available to the public a document falsely claiming that a mortgage loan has been satisfied, discharged, released, revoked, or terminated or is invalid.

...."

SECTION 6. G.S. 14-401.19 reads as rewritten:

"§ 14-401.19. Filing false security agreements.

It shall be unlawful for any person, firm, corporation, or any other association of persons in this State, under whatever name styled, to present a record for filing under the provisions of Article 9 of Chapter 25 of the General Statutes with knowledge that the record is not related to a valid security agreement or with the intention that the record be filed for an improper purpose, such as to hinder, harass, or otherwise wrongfully interfere with any person. A violation of this section shall be a ~~Class 2 misdemeanor~~ Class I felony."

SECTION 6.1. G.S. 44A-12.1(c) reads as rewritten:

"(c) Any person who causes or attempts to cause a claim of lien on real property or other document to be filed, knowing that the filing is not authorized by statute, or with the intent that the filing is made for an improper purpose such as to hinder, harass, or otherwise wrongfully interfere with any person, shall be guilty of a ~~Class 1 misdemeanor~~ Class I felony."

SECTION 7. Section 1, 2 and 7 of this act become effective October 1, 2012, and apply to satisfactions filed on or after that date. The remainder of this act becomes effective December 1, 2012, and applies to offenses committed on or after that date.

In the General Assembly read three times and ratified this the 3rd day of July, 2012.

s/ Walter H. Dalton
President of the Senate

s/ Thom Tillis
Speaker of the House of Representatives

s/ Beverly E. Perdue
Governor

Approved 4:03 p.m. this 12th day of July, 2012