

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001**

**SESSION LAW 2001-420
SENATE BILL 790**

AN ACT TO REVISE THE GOOD FUNDS SETTLEMENT ACT TO CLARIFY THE AUTHORITY OF A SETTLEMENT AGENT TO DISBURSE SETTLEMENT PROCEEDS IN RELIANCE ON A DEPOSIT IN THE FORM OF A CHECK ISSUED BY AN AGRICULTURAL CREDIT ASSOCIATION OR IN THE FORM OF A CHECK DRAWN ON THE ACCOUNT OF OR ISSUED BY A LICENSED MORTGAGE BANKER.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 45A-4 reads as rewritten:

"§ 45A-4. Duty of settlement agent.

The settlement agent shall cause recordation of the deed, if any, the deed of trust or mortgage, or other loan documents required to be recorded at settlement. The settlement agent shall not disburse any of the closing funds prior to the recordation of any deeds or loan documents required to be filed by the lender, if applicable, and verification that the closing funds used to fund disbursement are deposited in the settlement agent's trust or escrow account in one or more forms prescribed by this Chapter. Unless otherwise provided in this Chapter, a settlement agent shall not cause a disbursement of settlement proceeds unless those settlement proceeds are collected funds. Notwithstanding that a deposit made by a settlement agent to its trust or escrow account does not constitute collected funds, the settlement agent may cause a disbursement of settlement proceeds from its trust or escrow account in reliance on that deposit if the deposit is in one or more of the following forms:

- (1) A certified check;
- (2) A check issued by the ~~State of North Carolina, State,~~ the United States, ~~or a political subdivision of the State of North Carolina or the United States; State, or an agency or instrumentality of the United States,~~ including an agricultural credit association;
- (3) A cashier's check, teller's check, or official bank check drawn on or issued by a financial institution insured by the Federal Deposit Insurance Corporation or a comparable agency of the federal or state government;
- (4) A check drawn on the trust account of an attorney licensed to practice in the State of North Carolina;
- (5) A check or checks drawn on the trust or escrow account of a real estate broker licensed under Chapter 93A of the General Statutes;
- (6) A personal or commercial check or checks in an aggregate amount not exceeding five thousand dollars (\$5,000) per closing if the settlement agent making the deposit has reasonable and prudent grounds to believe that the deposit will be irrevocably credited to the settlement agent's trust or escrow account;
- (7) A check drawn on the account of or issued by a ~~lender which is approved by the United States Department of Housing and Urban Development as either a supervised or nonsupervised mortgagee as defined in 24 C.F.R. section 202.2. mortgage banker registered under Article 19 of Chapter 53 of the General Statutes that has posted with~~

the Commissioner of Banks a surety bond in the amount of at least three hundred thousand dollars (\$300,000). The surety bond shall be in a form satisfactory to the Commissioner and shall run to the State for the benefit of any settlement agent with a claim against the licensee for a dishonored check."

SECTION 2. G.S. 45A-4, as amended by Section 1 of this act, reads as rewritten:

"§ 45A-4. Duty of settlement agent.

The settlement agent shall cause recordation of the deed, if any, the deed of trust or mortgage, or other loan documents required to be recorded at settlement. The settlement agent shall not disburse any of the closing funds prior to the recordation of any deeds or loan documents required to be filed by the lender, if applicable, and verification that the closing funds used to fund disbursement are deposited in the settlement agent's trust or escrow account in one or more forms prescribed by this Chapter. Unless otherwise provided in this Chapter, a settlement agent shall not cause a disbursement of settlement proceeds unless those settlement proceeds are collected funds. Notwithstanding that a deposit made by a settlement agent to its trust or escrow account does not constitute collected funds, the settlement agent may cause a disbursement of settlement proceeds from its trust or escrow account in reliance on that deposit if the deposit is in one or more of the following forms:

- (1) A certified check;
- (2) A check issued by the State, the United States, a political subdivision of the State, or an agency or instrumentality of the United States, including an agricultural credit association;
- (3) A cashier's check, teller's check, or official bank check drawn on or issued by a financial institution insured by the Federal Deposit Insurance Corporation or a comparable agency of the federal or state government;
- (4) A check drawn on the trust account of an attorney licensed to practice in the State of North Carolina;
- (5) A check or checks drawn on the trust or escrow account of a real estate broker licensed under Chapter 93A of the General Statutes;
- (6) A personal or commercial check or checks in an aggregate amount not exceeding five thousand dollars (\$5,000) per closing if the settlement agent making the deposit has reasonable and prudent grounds to believe that the deposit will be irrevocably credited to the settlement agent's trust or escrow account;
- (7) A check drawn on the account of or issued by a mortgage banker ~~registered under Article 19~~ licensed under Article 19A of Chapter 53 of the General Statutes that has posted with the Commissioner of Banks a surety bond in the amount of at least three hundred thousand dollars (\$300,000). The surety bond shall be in a form satisfactory to the Commissioner and shall run to the State for the benefit of any settlement agent with a claim against the licensee for a dishonored check."

SECTION 3. Section 1 of this act becomes effective January 1, 2002. Section 2 of this act becomes effective July 1, 2002. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 12th day of September, 2001.

s/ Beverly E. Perdue
President of the Senate

s/ James B. Black
Speaker of the House of Representatives

s/ Michael F. Easley
Governor

Approved 11:13 a.m. this 22nd day of September, 2001