

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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HOUSE BILL 2230*

Short Title: HFA / Expand Home Protection Program. (Public)

Sponsors: Representatives Goforth, Underhill (Primary Sponsors); Adams, Brown, Faison, Farmer-Butterfield, Glazier, Harrison, Jones, Lucas, Parmon, Pierce, Wainwright, E. Warren, Weiss, and Wilkins.

Referred to: Judiciary II, if favorable, Appropriations.

May 20, 2008

A BILL TO BE ENTITLED

1 AN ACT TO CONTINUE AND EXPAND THE NORTH CAROLINA HOUSING
2 FINANCE AGENCY'S HOME PROTECTION PROGRAM TO EVERY COUNTY
3 IN NORTH CAROLINA.
4

5 The General Assembly of North Carolina enacts:

6 **SECTION 1.(a)** The North Carolina Housing Finance Agency shall
7 continue, develop, implement, and administer a program to assist North Carolina
8 workers who have lost jobs as a result of changing economic conditions in North
9 Carolina when the workers are in need of assistance to avoid losing their homes to
10 foreclosure. The Agency shall do all of the following:

- 11 (1) Develop and administer the North Carolina Home Protection Program
12 and Loan Fund to ensure that workers in North Carolina have
13 assistance to avoid losing their homes to foreclosure.
- 14 (2) Make loans secured by liens on residential real property located in
15 North Carolina to property owners who are eligible for those loans.
- 16 (3) Develop and administer procedures by which property owners at risk
17 of being foreclosed upon may qualify for assistance.
- 18 (4) Designate, approve, and fund nonprofit counseling agencies in North
19 Carolina to be available to assist the Agency in implementing the
20 provisions of this section, provide services such as direct mortgagee
21 negotiations on behalf of unemployed workers, and process loan
22 applications for the Agency.
- 23 (5) Develop and fund enhanced methods by which workers may be
24 notified of foreclosure mitigation services, may easily contact local
25 nonprofit counseling agencies, and may apply for loans from the
26 Agency.

- 1 (6) No later than April 1, 2009, report to the Chairs of the Appropriations
2 Committees of the Senate and the House of Representatives on the
3 effectiveness of the Program in accomplishing its purposes and
4 provide any other information the Agency determines is pertinent or
5 that the General Assembly requests.

6 **SECTION 1.(b)** As used in this section, the following definitions apply:

- 7 (1) Agency. – The North Carolina Housing Finance Agency.
8 (2) Counseling agency. – A nonprofit counseling agency located in North
9 Carolina that is approved by the North Carolina Housing Finance
10 Agency.
11 (3) Mortgage. – An obligation evidenced by a security document and
12 secured by a lien upon real property located within North Carolina,
13 including a deed of trust and land sale agreement. "Mortgage" also
14 means an obligation evidenced by a security lien on real property upon
15 which an owner-occupied mobile home is located.
16 (4) Mortgagee. – The owner of a beneficial interest in a mortgage loan, the
17 servicer for the owner of a beneficial interest in a mortgage loan, or the
18 trustee for a securitized trust that holds title to a beneficial interest in a
19 mortgage loan.

20 **SECTION 1.(c)** Notwithstanding Chapters 23, 24, and 45 of the General
21 Statutes or any other provision of law, upon the proper filing of an application for loan
22 assistance by a mortgagor under this section, a mortgagee shall not do the following for
23 a period of 120 days following the date of the mortgagor's properly filed application:

- 24 (1) Accelerate the maturity of any mortgage obligation covered under this
25 section.
26 (2) Commence or continue any legal action, including mortgage
27 foreclosure pursuant to Chapter 45 of the General Statutes, to recover
28 the mortgage obligation.
29 (3) Take possession of any security of the mortgagor for the mortgage
30 obligation.
31 (4) Procure or receive a deed in lieu of foreclosure.
32 (5) Enter judgment by confession pursuant to a note accompanying a
33 mortgage.
34 (6) Proceed to enforce the mortgage obligation pursuant to applicable
35 rules of civil procedure.

36 The provisions of this section shall not apply if the mortgagee receives notice
37 from the Agency that the mortgagor's application has been denied.

38 If a mortgagee acts as proscribed in subdivisions (1) through (6) of this
39 subsection, a mortgagor shall be entitled to injunctive relief without the necessity of
40 providing a bond. This relief shall be in addition to any defenses available under
41 G.S. 45-21.16(d) and any other remedies at law or equity.

42 Upon the Agency's receipt of a properly filed mortgagor's application for loan
43 assistance, the Agency shall mail notice of the application to the mortgagor's mortgagee
44 within 10 business days of the Agency's receipt of the application. The Agency shall

1 also mail notice of the acceptance or denial of the mortgagor's application to the
2 mortgagee within five days of the Agency's determination. Notice shall be deemed
3 sufficient if sent to the last known address of the mortgagee.

4 **SECTION 1.(d)** Rule Making. – Solely with respect to the adoption of
5 procedures for the program by which property owners at risk of being foreclosed upon
6 may qualify for assistance, the Agency is exempt from the requirements of Article 2A
7 of Chapter 150B of the General Statutes. Prior to adoption or amendment of procedures,
8 the Agency shall:

9 (1) Publish the proposed procedures in the North Carolina Register at least
10 30 days prior to the adoption of the final procedures.

11 (2) Accept oral and written comments on the proposed procedures.

12 (3) Hold at least one public hearing on the proposed procedures.

13 **SECTION 2.** There is appropriated from the General Fund to the North
14 Carolina Housing Finance Agency the sum of three million dollars (\$3,000,000) in
15 recurring funds for the 2008-2009 fiscal year for the North Carolina Home Protection
16 Program. Funds appropriated under this act to the North Carolina Housing Finance
17 Agency that are unexpended and unencumbered shall not revert but shall remain
18 available to be used by the North Carolina Housing Finance Agency for the North
19 Carolina Home Protection Program.

20 **SECTION 3.** This act becomes effective on July 1, 2008.