

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2007

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SENATE DRS15269-MD-120 (05/15)

Short Title: Mortgage Crisis/Funds. (Public)

Sponsors: Senator Queen.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO CREATE AN EMERGENCY PROGRAM TO REDUCE FORECLOSURES AND TO APPROPRIATE FUNDS TO ENHANCE HOUSING COUNSELING IN THIS STATE, PREVENT FORECLOSURES OF SUBPRIME LOANS, STIMULATE THE HOUSING MARKET, AND PROVIDE CONTINUED SUPPORT OF THE HOUSING FINANCE AGENCY.

The General Assembly of North Carolina enacts:

**SECTION 1.** Chapter 45 of the General Statutes is amended by adding a new Article to read:

"Article 11.

"Emergency Program to Reduce Foreclosures.

**"§ 45-100. Title.**

This Article shall be known as the 'Emergency Program to Reduce Foreclosures Act.'

**"§ 45-101. Definitions.**

The following definitions apply throughout this Article:

(1) Mortgage servicer. – A person who is in the business of receiving any scheduled periodic payment from a borrower pursuant to the terms of any loan, including amounts for escrow accounts, and making the payments of principal and interest and such other payments with respect to the amounts received from the borrower as may be required under the terms of the mortgage servicing loan document or servicing contract.

(2) Qualifying loan. – A mortgage loan with all of the following characteristics:

- 1           a.     The property securing the loan is occupied by the mortgagor at  
2           the time of the submission required in G.S. 45-102 as the  
3           mortgagor's principal residence.
- 4           b.     The loan is a subprime loan.
- 5           c.     The mortgagor has not received assistance under the Home  
6           Protection Pilot Program administered by the North Carolina  
7           Housing Finance Agency.
- 8           d.     The mortgagor has not previously received assistance under this  
9           Article for a prior delinquency.
- 10          e.     Efforts by the Commissioner of Banks to encourage  
11          communication have a realistic likelihood of preventing  
12          foreclosure as determined by the Commissioner.
- 13          (3)    Recently originated. – A subprime loan originated on or after January  
14          1, 2005.
- 15          (4)    Subprime loan. – A loan that would meet the definition of a rate spread  
16          home loan under G.S. 24-1-1F(a)(7), if that section had been in effect  
17          when the loan was originated. A mortgage servicer may rely on a chart  
18          reflecting the appropriate interest rate triggers for rate spread home  
19          loans for each day of the period covered by this Article provided by  
20          the Commissioner of Banks for the purposes of determining if a loan is  
21          a subprime loan covered by this Article.

22    **"§ 45-102. Creation of database of subprime loans facing foreclosure.**

23        No later than September 1, 2008, the Commissioner of Banks shall create a database  
24        comprised of qualifying loans in which a foreclosure filing is reasonably anticipated as  
25        described in G.S. 45-103. The Commissioner shall utilize this database in order to  
26        encourage communications between mortgage servicers and willing homeowners.

27    **"§ 45-103. Submission of information to the database.**

28        Mortgage servicers of recently originated subprime home loans shall submit  
29        information required by the Commissioner of Banks to the database created pursuant to  
30        G.S. 45-102 at least 30 days prior to the institution of any foreclosure proceeding. The  
31        Commissioner shall use the information to determine if a loan is a qualifying loan. The  
32        Commissioner shall publicly provide the form, manner, and content of the filing no later  
33        than 30 days prior to the date the database becomes active.

34    **"§ 45-104. Assistance for qualifying loans.**

35        In the case of a qualifying loan, the Commissioner of Banks shall notify the  
36        mortgage servicer, the homeowner, and other parties, as appropriate, that the loan is a  
37        qualifying loan and shall make efforts to facilitate communication between the parties to  
38        avoid foreclosure. The mortgage servicer shall not institute foreclosure proceedings for  
39        at least 60 days after receiving notice that the loan is a qualifying loan, in order to allow  
40        the parties to determine if there is an alternative to foreclosure.

41    **"§ 45-105. Notification.**

42        For loans that are not qualifying loans, the Commissioner of Banks shall notify the  
43        holder, or the mortgage servicing agent of the determination that the loan is not a  
44        qualifying loan within 30 days of the receipt of the initial notice required by this Article

1 so as not to disrupt foreclosure proceedings for loans not receiving assistance under this  
2 program.

3 **"§ 45-106. Emergency powers of the Commissioner of Banks.**

4 The Commissioner of Banks shall be exempt from rule making under Chapter 150B  
5 of the General Statutes solely with regard to establishing procedures to implement the  
6 purposes of this Article. The Commissioner may employ agents to act on behalf of the  
7 Commissioner to accomplish the purposes of this Article.

8 **"§ 45-107. Privacy of records.**

9 The Commissioner of Banks shall protect the privacy of personal financial  
10 information provided in accordance with this Article that is not otherwise a public  
11 record, and such information shall not be released to the public. A mortgage servicer  
12 shall be held harmless by the Commissioner for any breach of privacy rights of the  
13 mortgagor with respect to the information the mortgage servicer provides to the  
14 Commissioner in accordance with G.S. 45-103.

15 **"§ 45-108. Foreclosure filing.**

16 (a) For the duration of this program, foreclosure notices filed on or after  
17 September 1, 2008, shall contain a certification by the filing party that the loan was  
18 properly submitted to the database as required by G.S. 45-103 and that the loan is not  
19 currently receiving assistance under G.S. 45-104 or that the loan is not a qualifying  
20 loan.

21 (b) An inaccurate statement in the certification required by subsection (a) of this  
22 section shall be cause for the dismissal of any foreclosure proceeding initiated by the  
23 mortgage servicer and a payment by the filing party of costs incurred by the mortgagor  
24 in defending the foreclosure proceeding."

25 **SECTION 2.** There is appropriated from the General Fund to the North  
26 Carolina Housing Finance Agency the sum of one million dollars (\$1,000,000) in  
27 recurring funds for the 2008-2009 fiscal year to provide counseling to homeowners  
28 potentially at risk of losing their homes to foreclosure, to make grants to nonprofit  
29 counseling agencies in this State that are designated and approved by the Agency, and  
30 to provide funding for training of counselors where necessary as determined by the  
31 Agency. Nonprofit counseling agencies selected by the North Carolina Housing Finance  
32 Agency shall provide housing counseling and related services to help homeowners  
33 avoid home loss, foreclosure, and preserve home equity.

34 **SECTION 3.** There is appropriated from the General Fund to the North  
35 Carolina State Bar the sum of two million dollars (\$2,000,000) in recurring funds for the  
36 2008-2009 fiscal year to make grants to legal service providers to help prevent  
37 foreclosure and home loss, preserve home equity among low-income consumers, and  
38 assist low-income consumers in cases involving predatory mortgage lending, mortgage  
39 broker and loan services abuses, and related legal issues. The following organizations  
40 shall be eligible for grants under this section: Legal Services of Southern Piedmont,  
41 Pisgah Legal Services, the Land Loss Prevention Project, Legal Aid of North Carolina,  
42 Inc., and the Financial Protection Law Center.

43 **SECTION 4.** There is appropriated the sum of seven hundred thousand  
44 dollars (\$700,000) to the North Carolina Housing Finance Agency to be used to:

- 1 (1) Create a pilot program in five or six geographical regions of the State  
2 by identifying a nonprofit organization in each region to receive up to  
3 the sum of seventy-five thousand dollars (\$75,000) as a grant-in-aid to  
4 be used to create an affordable housing council. Each affordable  
5 housing council shall be composed of persons, nonprofits, and  
6 businesses representing all aspects of the housing market and shall  
7 work to identify the local needs and available resources for affordable  
8 housing as well as develop a strategic plan for increasing the amount  
9 of affordable housing in the region.
- 10 (2) Allocate the sum of two hundred fifty thousand dollars (\$250,000) to  
11 provide professional and other assistance to the councils, including the  
12 identification of best practices for increasing the stock of affordable  
13 housing, market data for the region and for the State, and coordination  
14 of the councils' efforts. The Housing Finance Agency may also use  
15 these funds to increase public awareness of these affordable housing  
16 councils and the actions the councils are taking to increase the amount  
17 of affordable housing across the State.

18 **SECTION 5.** The State Treasurer shall work with the entities listed in  
19 G.S. 147-69.1(c)(2) to develop a North Carolina specific mortgage portfolio in which  
20 the Treasurer may invest funds under G.S. 147-69.1(c)(2). The State Treasurer shall  
21 attempt to invest at least one hundred million dollars (\$100,000,000) in this mortgage  
22 portfolio in order to assist with mortgage financing liquidity in this State.

23 **SECTION 6.** There is appropriated from the General Fund to the North  
24 Carolina Housing Finance Agency the sum of two million dollars (\$2,000,000) in  
25 recurring funds for the 2008-2009 fiscal year to provide expanded funding for the  
26 Agency's existing programs.

27 **SECTION 7.** Section 1 of this act becomes effective July 1, 2008, and  
28 expires August 31, 2010. The remainder of this act becomes effective July 1, 2008.