

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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HOUSE BILL 794

Short Title: Substitution of Trustees. (Public)

Sponsors: Representatives Martin, Hall (Primary Sponsors); M. Alexander, Fisher, Goodwin, Harrison, Jackson, Love, Lucas, Ross, and Stam.

Referred to: Financial Institutions, if favorable, Judiciary I.

March 26, 2009

A BILL TO BE ENTITLED

AN ACT TO AMEND THE LAW GOVERNING SUBSTITUTION OF TRUSTEES IN MORTGAGES AND DEEDS OF TRUST.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 45-10 reads as rewritten:

"§ 45-10. **Substitution of trustees in mortgages and deeds of trust.**

(a) In addition to the rights and remedies now provided by law, the holders or owners of a majority in amount of the indebtedness, notes, bonds, or other instruments evidencing a promise or promises to pay money and secured by mortgages, deeds of trust, or other instruments conveying real property, or creating a lien thereon, may, in their discretion, substitute a trustee whether the trustee then named in the instrument is the original or a substituted trustee, by the execution of a written document properly recorded pursuant to Chapter 47 of the North Carolina General Statutes.

(b) If the name of a trustee is omitted from an instrument that appears on its face to be intended to be a deed of trust, the instrument shall be deemed to be a deed of trust, the owner or owners executing the deed of trust and granting an interest in the real property shall be deemed to be the constructive trustee or trustees of record for the secured party or parties named in the instrument, and a substitution of trustee may be undertaken under subsection (a) of this section."

SECTION 2. This act is effective when it becomes law and applies to all instruments recorded before, on, or after that date.

