

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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SENATE BILL 953
Judiciary I Committee Substitute Adopted 4/28/09

Short Title: Protect Tenants in Foreclosed Property.

(Public)

Sponsors:

Referred to:

March 26, 2009

1 A BILL TO BE ENTITLED
2 AN ACT TO INCREASE THE TIME PERIOD TENANTS OF RESIDENTIAL PROPERTY
3 SOLD UNDER POWER OF SALE MUST BE GIVEN NOTICE PRIOR TO AN ORDER
4 FOR POSSESSION.

5 The General Assembly of North Carolina enacts:

6 SECTION 1. G.S. 45-21.29 reads as rewritten:

7 "§ 45-21.29. Orders for possession.

8 (a)-(j) Repealed by Session Laws 1993, c. 305, s. 18.

9 (k) Orders for possession of real property sold pursuant to this Article, in favor of the
10 purchaser and against any party or parties in possession at the time of application therefor, may
11 be issued by the clerk of the superior court of the county in which the property is sold if all of
12 the following apply:

13 (1) The property has been sold in the exercise of the power of sale contained in
14 any mortgage, deed of trust, leasehold mortgage, leasehold deed of trust, or a
15 power of sale authorized by any other statutory provisions.

16 (2) Repealed by Session Laws 1993, c. 305, s. 18.

17 (2a) The provisions of this Article have been complied with.

18 (3) The sale has been consummated, and the purchase price has been paid.

19 (4) The purchaser has acquired title to and is entitled to possession of the real
20 property sold.

21 (5) Ten days' notice has been given to the party or parties who remain in
22 possession at the time application is made, or, in the case of residential
23 property ~~containing 15 or more rental units, 30-60~~ days' notice has been
24 given to the party or parties who remain in possession at the time the
25 application is made.

26 (6) Application is made by petition to the clerk by the mortgagee, the trustee,
27 the purchaser of the property, or any authorized representative of the
28 mortgagee, trustee, or purchaser of the property.

29 (l) An order for possession issued pursuant to G.S. 45-21.29(k) shall be directed to the
30 sheriff and shall authorize the sheriff to remove all occupants and their personal property from
31 the premises and to put the purchaser in possession, and shall be executed in accordance with
32 the procedure for executing a writ or order for possession in a summary ejectment proceeding
33 under G.S. 42-36.2. The purchaser shall have the same rights and remedies in connection with
34 the execution of an order for possession and the disposition of personal property following
35 execution as are provided to a landlord under North Carolina law, including Chapters 42 and
36 44A of the General Statutes.



1 (m) When the real property sold is situated in more than one county, the provisions of
2 subsection (l) of this section shall be complied with in each county in which any part of the
3 property is situated.

4 (n) Notwithstanding subdivision (k)(5) of this section, after the date of the notice
5 required by subdivision (k)(5) of this section, a purchaser may institute proceedings for ejection
6 under Article 3 of Chapter 42 of the General Statutes for failure to pay rent that becomes due
7 during the 60-day notice period at the rate required by the rental agreement in effect prior to the
8 purchase of the residential property within five days of the date stated in that rental agreement.
9 In determining the amount of rent due, rent paid to the previous owner shall be included and the
10 rent subsidy by the United States Department of Housing and Urban Development, by the
11 United States Department of Agriculture, by a State agency, by a public housing authority, or
12 by a local government shall not be included."

13 **SECTION 2.** This act becomes effective October 1, 2009.