

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

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HOUSE DRH50063-RO-3A (01/17)

Short Title: Upset Bidder Notice in Foreclosure.

(Public)

Sponsors: Representative Randleman.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO REQUIRE THAT THE NOTICE OF SALE AND THE NOTICE FILED BY AN UPSET BIDDER IN A FORECLOSURE PROCEEDING INCLUDE AN EXPLANATION OF THE EFFECT OF A BANKRUPTCY PETITION THAT IS FILED DURING THE TEN-DAY UPSET BID PERIOD.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 45-21.16A(a) is amended by adding a new subdivision to read:

"(a) Except as provided in subsection (b) of this section, the notice of sale shall include all of the following:

...
(9) State that in the event the debtor files a bankruptcy petition prior to the expiration of the 10-day period required by G.S. 45-21.27, an automatic stay of the foreclosure sale will be imposed in accordance with the Bankruptcy Code (11 U.S.C. § 362) and the bidder must pursue relief through the bankruptcy court."

SECTION 2. G.S. 45-21.27(e) reads as rewritten:

"(e) At the same time that an upset bid on real property is submitted to the court as provided for in subsection (a) ~~above, of this section,~~ together with a compliance bond if one is required, the upset bidder shall simultaneously file with the clerk a notice of upset bid. The notice of upset bid shall:

- (1) State the name, address, and telephone number of the upset bidder;
- (2) Specify the amount of the upset bid;
- (3) Provide that the sale shall remain open for a period of 10 days after the date on which the notice of upset bid is filed for the filing of additional upset bids as permitted by law; ~~and~~

(3a) State that in the event the debtor files a bankruptcy petition prior to the expiration of the 10-day period, an automatic stay of the foreclosure sale will be imposed in accordance with the Bankruptcy Code (11 U.S.C. § 362) and the bidder must pursue relief through the bankruptcy court; and

- (4) Be signed by the upset bidder or the attorney or the agent of the upset bidder."

SECTION 3. This act becomes effective October 1, 2011, and applies to upset bid notices filed on or after that date.

