

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

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HOUSE BILL 164

Short Title: Upset Bidder Notice in Foreclosure. (Public)

Sponsors: Representatives Randleman, Hurley, Spear, and Jordan (Primary Sponsors).
For a complete list of Sponsors, see Bill Information on the NCGA Web Site.

Referred to: Judiciary Subcommittee A.

February 24, 2011

1 A BILL TO BE ENTITLED
2 AN ACT TO REQUIRE THAT THE NOTICE OF SALE AND THE NOTICE FILED BY AN
3 UPSET BIDDER IN A FORECLOSURE PROCEEDING INCLUDE AN EXPLANATION
4 OF THE EFFECT OF A BANKRUPTCY PETITION THAT IS FILED DURING THE
5 TEN-DAY UPSET BID PERIOD.

6 The General Assembly of North Carolina enacts:

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

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

10 ...

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

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

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

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

26 (3a) State that in the event the debtor files a bankruptcy petition prior to the
27 expiration of the 10-day period, an automatic stay of the foreclosure sale will
28 be imposed in accordance with the Bankruptcy Code (11 U.S.C. § 362) and
29 the bidder must pursue relief through the bankruptcy court; and

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

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

