

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

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HOUSE BILL 203
Senate Rules and Operations of the Senate Committee Substitute Adopted 6/7/12

Short Title: Mortgage Satisfaction Forms/No False Liens. (Public)

Sponsors:

Referred to:

March 2, 2011

1 A BILL TO BE ENTITLED
2 AN ACT TO PROVIDE AN ALTERNATIVE MORTGAGE SATISFACTION FORM THAT
3 ALLOWS A SECURED CREDITOR TO INDICATE THAT THE UNDERLYING
4 OBLIGATION HAS BEEN EXTINGUISHED; TO MAKE IT A CLASS I FELONY TO
5 SIMULATE COURT PROCESS IN CONNECTION WITH THE COLLECTION OF A
6 CLAIM, DEMAND, OR ACCOUNT, TO KNOWINGLY FILE A FALSE LIEN OR
7 ENCUMBRANCE AGAINST THE REAL OR PERSONAL PROPERTY OF A PUBLIC
8 OFFICER OR PUBLIC EMPLOYEE, OR TO FILE A FALSE SECURITY
9 INSTRUMENT; AND TO PROVIDE THAT IT IS A VIOLATION OF THE
10 RESIDENTIAL MORTGAGE FRAUD ACT FOR A PERSON TO KNOWINGLY FILE
11 A DOCUMENT FALSELY CLAIMING THAT A MORTGAGE LOAN HAS BEEN
12 SATISFIED OR DISCHARGED.

13 The General Assembly of North Carolina enacts:

14 SECTION 1. G.S. 45-36.11 reads as rewritten:

15 "§ 45-36.11. Satisfaction: form.

16 (a) Standard Form. – No particular phrasing is required for a satisfaction of a security
17 instrument. The following form, when properly completed, is sufficient to satisfy the
18 requirements of G.S. 45-36.10(a):

19
20 'SATISFACTION OF SECURITY INSTRUMENT
21 (G.S. 45-36.10; G.S. 45-37(a)(7))
22

23 The undersigned is now the secured creditor in the security instrument identified as follows:

24 Type of Security Instrument: (identify type of security instrument, such as deed of trust or
25 mortgage)

26 Original Grantor(s): (Identify original grantor(s), trustor(s), or mortgagor(s))

27 Original Secured Party(ies): (Identify the original beneficiary(ies), mortgagee(s), or secured
28 party(ies) in the security instrument)

29 Recording Data: The security instrument is recorded in Book ____ at Page ____ or as
30 document number _____ in the office of the Register of Deeds for _____ County,
31 North Carolina.

32 This satisfaction terminates the effectiveness of the security instrument.

33 Date: _____

34 _____
(Signature of secured creditor)

35
36 [Acknowledgment before officer authorized to take acknowledgments]'



(b) Alternate Form. – A secured creditor who would like to indicate that the underlying obligation secured by the instrument has been extinguished may use the following form, which, when properly completed, is also sufficient to satisfy the requirements of G.S. 45-36.10(a):

'SATISFACTION OF SECURITY INSTRUMENT

(G.S. 45-36.10; G.S. 45-37(a)(7))

The undersigned is now the secured creditor in the security instrument identified as follows:

Type of Security Instrument: (identify type of security instrument, such as deed of trust or mortgage)

Original Grantor(s): (Identify original grantor(s), trustor(s), or mortgagor(s))

Original Secured Party(ies): (Identify the original beneficiary(ies), mortgagee(s), or secured party(ies) in the security instrument)

Recording Data: The security instrument is recorded in Book _____ at Page _____ or as document number _____ in the office of the Register of Deeds for _____ County, North Carolina.

This satisfaction terminates the effectiveness of the security instrument and extinguishes the underlying obligation secured by the instrument.

Date: _____

(Signature of secured creditor)

[Acknowledgment before officer authorized to take acknowledgments]'".

SECTION 2. G.S. 45-36.21 reads as rewritten:

"§ 45-36.21. Trustee's satisfaction of deed of trust: form.

(a) Standard Form. – No particular phrasing is required for a trustee's satisfaction of a deed of trust. The following form, when properly completed, is sufficient to satisfy the requirements of G.S. 45-36.20:

'TRUSTEE'S SATISFACTION OF DEED OF TRUST

(G.S. 45-36.20; G.S. 45-37(a)(7))

The undersigned is now serving as the trustee or substitute trustee under the terms of the deed of trust identified as follows:

Original Grantor(s): (Identify original grantor(s) or trustor(s))

Original Secured Party(ies): (Identify the original beneficiary(ies) or secured party(ies) in the deed of trust)

Recording Data: The deed of trust is recorded in Book _____ at Page _____ or as document number _____ in the office of the Register of Deeds for _____ County, North Carolina.

This satisfaction terminates the effectiveness of the deed of trust.

Date: _____

(Signature of trustee or substitute trustee)

[Acknowledgment before officer authorized to take acknowledgments]'

(b) Alternate Form. – A trustee and secured creditor who would like to indicate that the underlying obligation secured by the deed of trust has been extinguished may use the following

1 form, which, when properly completed, is also sufficient to satisfy the requirements of
2 G.S. 45-36.20:

3
4 TRUSTEE'S SATISFACTION OF DEED OF TRUST
5 AND
6 CREDITOR'S RELEASE
7 (G.S. 45-36.20; G.S. 45-37(a)(7))
8

9 The undersigned is now serving as the trustee or substitute trustee under the terms of the deed
10 of trust identified as follows:

11 Original Grantor(s): (Identify original grantor(s) or trustor(s))
12

13 Original Secured Party(ies): (Identify the original beneficiary(ies) or secured
14 party(ies) in the deed of trust)
15

16 Recording Data: The deed of trust is recorded in Book _____ at Page _____ or as
17 document number _____ in the office of the Register of Deeds for _____ County,
18 North Carolina.
19

20 This satisfaction terminates the effectiveness of the deed of trust.
21

22 Date: _____
23
24 (Signature of trustee or substitute trustee)
25

26 [Acknowledgment before officer authorized to take acknowledgments]
27

28 The obligation secured by the deed of trust has been extinguished.
29

30 Date: _____
31
32 (Signature of secured creditor)
33

34 [Acknowledgment before officer authorized to take acknowledgments]".

35 **SECTION 3.** G.S. 14-118.1 reads as rewritten:

36 **"§ 14-118.1. Simulation of court process in connection with collection of claim, demand or**
37 **account.**

38 It shall be unlawful for any person, firm, corporation, association, agent or employee in any
39 manner to coerce, intimidate, or attempt to coerce or intimidate any person in connection with
40 any claim, demand or account, by the issuance, utterance or delivery of any matter, printed,
41 typed or written, which (i) simulates or resembles a summons, warrant, writ or other court
42 process or pleading; or (ii) by its form, wording, use of the name of North Carolina or any
43 officer, agency or subdivision thereof, use of seals or insignia, or general appearance has a
44 tendency to create in the mind of the ordinary person the false impression that it has judicial or
45 other official authorization, sanction or approval. Any violation of the provisions of this section
46 shall be a ~~Class 2 misdemeanor.~~ Class I felony."

47 **SECTION 4.** Article 20 of Chapter 14 of the General Statutes is amended by
48 adding a new section to read as follows:

49 **"§ 14-118.6. Filing false lien or encumbrance.**

50 (a) It shall be unlawful for any person to file in a public record or a private record
51 generally available to the public a false lien or encumbrance against the real or personal

1 property of a public officer or public employee on account of the performance of the public
2 officer or public employee's official duties, knowing or having reason to know that the lien or
3 encumbrance is false or contains a materially false, fictitious, or fraudulent statement or
4 representation. Any person who violates this subsection shall be guilty of a Class I felony.

5 (b) In the case of a record presented for filing, if the entity receiving the filing has a
6 reasonable suspicion that the lien or encumbrance is false, the entity shall not allow the lien or
7 encumbrance to be filed. If the filing of the lien or encumbrance is denied, the person offering
8 the lien or encumbrance for filing may apply to any judge of the district court in the district
9 where the entity is located for an order permitting filing. The judge shall order the lien or
10 encumbrance filed, and the entity shall file the lien or encumbrance as originally requested. The
11 review by the judge under this subsection is a ministerial act only and shall not be deemed a
12 finding as to any underlying claim of the parties involved.

13 (c) Upon being presented with an order duly issued by a court of this State declaring
14 that a filed lien or encumbrance is false, and therefore null and void, the entity that received the
15 filing, in addition to filing the order, shall conspicuously mark on the first page of the original
16 record previously filed the following statement: "THE CLAIM ASSERTED IN THIS
17 DOCUMENT IS FALSE AND IS NOT PROVIDED FOR BY THE GENERAL LAWS OF
18 THIS STATE."

19 **SECTION 5.** G.S. 14-118.12 reads as rewritten:

20 **"§ 14-118.12. Residential mortgage fraud.**

21 (a) A person is guilty of residential mortgage fraud when, for financial gain and with
22 the intent to defraud, that person does any of the following:

- 23 (1) Knowingly makes or attempts to make any material misstatement,
24 misrepresentation, or omission within the mortgage lending process with the
25 intention that a mortgage lender, mortgage broker, borrower, or any other
26 person or entity that is involved in the mortgage lending process relies on it.
- 27 (2) Knowingly uses or facilitates or attempts to use or facilitate the use of any
28 misstatement, misrepresentation, or omission within the mortgage lending
29 process with the intention that a mortgage lender, borrower, or any other
30 person or entity that is involved in the mortgage lending process relies on it.
- 31 (3) Receives or attempts to receive proceeds or any other funds in connection
32 with a residential mortgage closing that the person knew, or should have
33 known, resulted from a violation of subdivision (1) or (2) of this subsection.
- 34 (4) Conspires or solicits another to violate any of the provisions of subdivision
35 (1), (2), or (3) of this subsection.
- 36 (5) Knowingly files in a public record or a private record generally available to
37 the public a document falsely claiming that a mortgage loan has been
38 satisfied, discharged, released, revoked, or terminated or is invalid.

39 "...."

40 **SECTION 6.** G.S. 14-401.19 reads as rewritten:

41 **"§ 14-401.19. Filing false security agreements.**

42 It shall be unlawful for any person, firm, corporation, or any other association of persons in
43 this State, under whatever name styled, to present a record for filing under the provisions of
44 Article 9 of Chapter 25 of the General Statutes with knowledge that the record is not related to
45 a valid security agreement or with the intention that the record be filed for an improper
46 purpose, such as to hinder, harass, or otherwise wrongfully interfere with any person. A
47 violation of this section shall be a ~~Class 2 misdemeanor~~ Class I felony."

48 **SECTION 7.** Sections 1 and 2 of this act become effective October 1, 2012, and
49 apply to satisfactions filed on or after that date. The remainder of this act becomes effective
50 December 1, 2012, and applies to offenses committed on or after that date.