

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

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HOUSE BILL 782

Short Title: Receivership/Priority, Sale of Collateral. (Public)

Sponsors: Representative Blust (Primary Sponsor).
For a complete list of Sponsors, see Bill Information on the NCGA Web Site.

Referred to: Judiciary Subcommittee A.

April 7, 2011

1 A BILL TO BE ENTITLED
2 AN ACT TO AMEND RECEIVERSHIP AND ASSIGNMENT FOR THE BENEFIT OF
3 CREDITORS' LAW.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** Part 1 of Article 38 of Chapter 1 of the General Statutes is amended
6 by adding a new section to read:

7 "**§ 1-506.1. Priority of payments by the receiver.**

8 The receiver, after paying the necessary costs of the administration of the receivership, shall
9 pay as speedily as possible:

- 10 (1) All debts which are a lien upon any of the trust property in his hands, to the
11 extent of the net proceeds of the property upon which such debt is a lien.
12 (2) Wages due to workmen, clerks, traveling or city salesmen, or servants
13 which have been earned within three months before registration of said deed
14 of trust or deed of assignment.
15 (3) All other debts equally ratable."

16 **SECTION 2.** G.S. 23-8 reads as rewritten:

17 "**§ 23-8. ~~Only perishable property~~Property that may be sold within ten days of**
18 **registration.**

19 It is unlawful for any trustee, whether named in such deed of trust or appointed by a clerk
20 of the superior court, to sell any part of the property described in such deed of trust within ten
21 days from the registration thereof, unless such property or some part thereof (i) ~~be~~ is perishable,
22 in which case he may sell such property as is perishable, according to the powers conferred
23 upon him in said deed of ~~trust~~ trust or (ii) is sold for a price that satisfies all liens on the
24 property, as provided in G.S. 23-8.1."

25 **SECTION 3.** Article 1 of Chapter 23 of the General Statutes is amended by adding
26 a new section to read:

27 "**§ 23-8.1. Sale of property subject to claims permissible; lien attaches to proceeds.**

28 A trustee, whether named in a deed of trust or appointed by a clerk of the superior court,
29 may sell at any time a part or whole of trust property subject to one or more liens, provided that
30 the sales price is sufficient to satisfy the liens in full. The lien or liens shall attach to the
31 proceeds of the sale, and the liens on the property sold shall be extinguished. The liens on the
32 proceeds shall enjoy the same dates of attachment and perfection as the original property."

33 **SECTION 4.** This act becomes effective October 1, 2011.

