

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

H.B. 960  
May 16, 2012  
HOUSE PRINCIPAL CLERK

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HOUSE DRH11276-MDz-103 (01/23)

Short Title: Protect Homeowners With Underwater Mortgages. (Public)

Sponsors: Representatives Moffitt and Brawley (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED  
2 AN ACT TO ENSURE PAYMENT OF JUST COMPENSATION TO PROPERTY OWNERS  
3 WITH MORTGAGE DEBT EXCEEDING THE FAIR MARKET VALUE OF THE  
4 PROPERTY BY AUTHORIZING THE CONSIDERATION OF OUTSTANDING  
5 MORTGAGE DEBT WHEN DETERMINING DAMAGES IN A CONDEMNATION  
6 ACTION, AS RECOMMENDED BY THE HOUSE SELECT COMMITTEE ON STATE-  
7 OWNED ASSETS.

8 The General Assembly of North Carolina enacts:

9 SECTION 1. G.S. 136-112 reads as rewritten:

10 "§ 136-112. Measure of damages.

11 (a) Generally. – The following shall be the measure of damages to be followed by the  
12 commissioners, jury or judge who determines the issue of damages:

13 (1) Where only a part of a tract is taken, the measure of damages for said taking  
14 shall be the difference between the fair market value of the entire tract  
15 immediately prior to said taking and the fair market value of the remainder  
16 immediately after said taking, with consideration being given to any special  
17 or general benefits resulting from the utilization of the part taken for  
18 highway purposes.

19 (2) Where the entire tract is taken the measure of damages for said taking shall  
20 be the fair market value of the property at the time of taking.

21 (b) When Condemned Property Has Mortgage Debt Exceeding Fair Market Value. –  
22 Notwithstanding any other provision of law, the commissioners, jury, or judge who determines  
23 the issue of damages may add to the amount determined pursuant to subsection (a) of this  
24 section an amount equal to the difference between the outstanding balance of any eligible  
25 mortgage and the amount determined pursuant to subsection (a) of this section, but only if the  
26 property owner proves by a preponderance of the evidence that the fair market value of the  
27 property has declined since the property was purchased solely due to a decline in the market for  
28 real property.

29 (c) Eligible Mortgage Defined. – For purposes of this section, the term "eligible  
30 mortgage" includes only a debt secured by a mortgage or deed of trust executed prior to July 1,  
31 2008, to obtain money for the purchase of the property being condemned."

32 SECTION 2. This act is effective when it becomes law and shall expire on July 1,  
33 2014.

