

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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HOUSE BILL 313
Committee Substitute Favorable 3/26/07
Committee Substitute #2 Favorable 4/11/07
Committee Substitute #3 Favorable 4/25/07
Committee Substitute #4 Favorable 5/9/07
Senate Judiciary I (Civil) Committee Substitute Adopted 6/19/07
Seventh Edition Engrossed 6/20/07

Short Title: Identify Loan Originator on Deed of Trust. (Public)

Sponsors:

Referred to:

February 22, 2007

A BILL TO BE ENTITLED

AN ACT TO REQUIRE THAT SETTLEMENT AGENTS INCLUDE THE IDENTITY OF THE LOAN ORIGINATOR ON THE DEED OF TRUST, AND THAT LENDERS INCLUDE INFORMATION REGARDING THE LOAN ORIGINATION IN THE LOAN CLOSING INSTRUCTIONS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 45A-4 reads as rewritten:

"§ 45A-4. Duty of settlement agent.

(a) The settlement agent shall cause recordation of the deed, if any, the deed of trust or mortgage, or other loan documents required to be recorded at settlement. The settlement agent shall not disburse any of the closing funds prior to the recordation of any deeds or loan documents required to be filed by the lender, if applicable, and verification that the closing funds used to fund disbursement are deposited in the settlement agent's trust or escrow account in one or more forms prescribed by this Chapter. Unless otherwise provided in this Chapter, a settlement agent shall not cause a disbursement of settlement proceeds unless those settlement proceeds are collected funds. Notwithstanding that a deposit made by a settlement agent to its trust or escrow account does not constitute collected funds, the settlement agent may cause a disbursement of settlement proceeds from its trust or escrow account in reliance on that deposit if the deposit is in one or more of the following forms:

- (1) A certified check;
- (2) A check issued by the State, the United States, a political subdivision of the State, or an agency or instrumentality of the United States, including an agricultural credit association;

- 1 (3) A cashier's check, teller's check, or official bank check drawn on or
- 2 issued by a financial institution insured by the Federal Deposit
- 3 Insurance Corporation or a comparable agency of the federal or state
- 4 government;
- 5 (4) A check drawn on the trust account of an attorney licensed to practice
- 6 in the State of North Carolina;
- 7 (5) A check or checks drawn on the trust or escrow account of a real estate
- 8 broker licensed under Chapter 93A of the General Statutes;
- 9 (6) A personal or commercial check or checks in an aggregate amount not
- 10 exceeding five thousand dollars (\$5,000) per closing if the settlement
- 11 agent making the deposit has reasonable and prudent grounds to
- 12 believe that the deposit will be irrevocably credited to the settlement
- 13 agent's trust or escrow account;
- 14 (7) A check drawn on the account of or issued by a mortgage banker
- 15 licensed under Article 19A of Chapter 53 of the General Statutes that
- 16 has posted with the Commissioner of Banks a surety bond in the
- 17 amount of at least three hundred thousand dollars (\$300,000). The
- 18 surety bond shall be in a form satisfactory to the Commissioner and
- 19 shall run to the State for the benefit of any settlement agent with a
- 20 claim against the licensee for a dishonored check.

21 (b) If the settlement agent receives information from the lender as provided in
 22 G.S. 45A-5(b) or otherwise has actual knowledge that a mortgage broker or other
 23 person acted as a mortgage broker in the origination of the loan, the settlement agent
 24 shall place an entry on page 1 of the deed of trust showing the name of the mortgage
 25 broker or other person who acted as a mortgage broker in the origination of the loan.
 26 Information pertaining to the identity of the mortgage broker or other person who acted
 27 as a mortgage broker in the origination of the loan shall not be considered confidential
 28 information. The terms "mortgage broker" and "act as a mortgage broker" shall have the
 29 same meaning as provided in G.S. 53-243.01."

30 **SECTION 2.** G.S. 45A-5 reads as rewritten:

31 **"§ 45A-5. Duty of lender, purchaser, or seller.**

32 (a) The lender, purchaser, or seller shall, at or before closing, deliver closing
 33 funds, including the gross or net loan funds, if applicable, to the settlement agent either
 34 in the form of collected funds or in the form of a negotiable instrument described in
 35 ~~G.S. 45A-4(1) through (7)~~, G.S. 45A-4(a)(1) through (7), provided that the lender,
 36 purchaser, or seller, as applicable, shall cause that negotiable instrument to be honored
 37 upon presentment for payment to the bank or other depository institution upon which
 38 the instrument is drawn. However, in the case of a refinancing, or any other loan where
 39 a right of rescission applies, the lender shall, no later than the business day after the
 40 expiration of the rescission period required under the federal Truth-in-Lending Act, 15
 41 U.S.C. § 1601, et seq., cause disbursement of loan funds to the settlement agent in one
 42 or more of the forms prescribed by provisions in this Chapter.

1 (b) The lender shall include in the loan closing instructions to the settlement
2 agent the name of the mortgage broker or other person, if any, who acted as a mortgage
3 broker in the origination of the loan."

4 **SECTION 3.** This act is effective when it becomes law and applies to deeds
5 of trust registered on or after April 1, 2008.