

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2009

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HOUSE BILL 1057\*

Short Title: Abolish Certain Deficiency Judgments. (Public)

Sponsors: Representatives Blue; Harrison, Hughes, Lucas, Mackey, Parmon, and Weiss.

Referred to: Commerce, Small Business, and Entrepreneurship, if favorable, Judiciary II.

April 6, 2009

A BILL TO BE ENTITLED

AN ACT TO ABOLISH DEFICIENCY JUDGMENTS WHERE THE MORTGAGE IS  
SECURED BY PRIMARY RESIDENCE.

The General Assembly of North Carolina enacts:

**SECTION 1.** Article 2B of Chapter 45 of the General Statutes is amended by  
adding a new section to read:

**"§ 45-21.38A. Deficiency judgments abolished where mortgage secured by primary  
residence and foreclosed under power of sale.**

In all sales of real property secured by a primary residence by mortgagees or trustees under  
powers of sale contained in any mortgage or deed of trust, the mortgagee or trustee or holder of  
the notes secured by such mortgage or deed of trust shall not be entitled to a deficiency  
judgment on account of such mortgage, deed of trust, or obligation secured by the same."

**SECTION 2.** Article 2B of Chapter 45 of the General Statutes is amended by  
adding a new section to read:

**"§ 45-21.38B. Deficiency judgments abolished where mortgage secured by primary  
residence and made on or after January 1, 2010.**

In all sales of real property secured by a primary residence, the mortgagee or trustee or  
holder of the notes secured by such mortgage or deed of trust shall not be entitled to a  
deficiency judgment on account of such mortgage, deed of trust, or obligation secured by the  
same. This section applies regardless of whether the real property is sold under a power of sale  
or as a result of court action. This section applies to mortgages made on or after January 1,  
2010."

**SECTION 3.** Article 2B of Chapter 45 of the General Statutes is amended by  
adding a new section to read:

**"§ 45-21.38C. Severability.**

The provisions of this Article shall be severable, and if any phrase, clause, sentence, or  
provision is declared to be unconstitutional or otherwise invalid or is preempted by federal law  
or regulation, the validity of the remainder of this section shall not be affected thereby."

**SECTION 4.** This act is effective when it becomes law.

