

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  
Third Edition Engrossed 6/27/12

Short Title: Mortgage Satisfaction Forms/No False Liens.

(Public)

Sponsors:

Referred to:

March 2, 2011

A BILL TO BE ENTITLED

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

The General Assembly of North Carolina enacts:

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

"§ 45-36.11. **Satisfaction: form.**

(a) **Standard Form.** – No particular phrasing is required for a satisfaction of a security instrument. The following form, when properly completed, is 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.

Date: \_\_\_\_\_

\_\_\_\_\_  
(Signature of secured creditor)



1 [Acknowledgment before officer authorized to take acknowledgments]'
2 (b) Alternate Form. – A secured creditor who would like to indicate that the underlying
3 obligation secured by the instrument has been extinguished may use the following form, which,
4 when properly completed, is also sufficient to satisfy the requirements of G.S. 45-36.10(a):

6 'SATISFACTION OF SECURITY INSTRUMENT
7 (G.S. 45-36.10; G.S. 45-37(a)(7))

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

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

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

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

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

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

20 Date: \_\_\_\_\_
21 \_\_\_\_\_
22 (Signature of secured creditor)

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

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

25 "§ 45-36.21. Trustee's satisfaction of deed of trust: form.

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

30 'TRUSTEE'S SATISFACTION OF DEED OF TRUST
31 (G.S. 45-36.20; G.S. 45-37(a)(7))

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

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

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

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

44 This satisfaction terminates the effectiveness of the deed of trust.

46 Date: \_\_\_\_\_
47 \_\_\_\_\_
48 (Signature of trustee or substitute trustee)

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

'TRUSTEE'S SATISFACTION OF DEED OF TRUST  
AND  
CREDITOR'S RELEASE  
(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]

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

Date: \_\_\_\_\_

(Signature of secured creditor)

[Acknowledgment before officer authorized to take acknowledgments]".

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

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

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

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

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

1       (a) It shall be unlawful for any person to present for filing in a public record or a private  
2 record generally available to the public a false lien or encumbrance against the real or personal  
3 property of a public officer or public employee on account of the performance of the public  
4 officer or public employee's official duties, knowing or having reason to know that the lien or  
5 encumbrance is false or contains a materially false, fictitious, or fraudulent statement or  
6 representation. Any person who violates this subsection shall be guilty of a Class I felony.

7       (b) In the case of a record presented for filing, if the entity receiving the filing has a  
8 reasonable suspicion that the lien or encumbrance is false, the entity may refuse to file the lien  
9 or encumbrance. No entity shall be liable for filing or refusing to file a lien or encumbrance  
10 under this section. If the filing of the lien or encumbrance is denied, the entity shall allow the  
11 filing of a Notice of Denied Lien Filing on a form approved by the Administrative Office of the  
12 Courts. The Notice of Denied Lien Filing shall not itself constitute a lien or encumbrance. If  
13 the filing of the lien or encumbrance is denied, any interested person may file a special  
14 proceeding in the county where the filing was denied within ten (10) business days of the filing  
15 of the Notice of Denied Lien Filing asking the court to find that the proposed filing has a  
16 statutory or contractual basis and to order that the document be filed. If, after hearing, upon a  
17 minimum of five (5) days' notice and opportunity to be heard to all interested persons and all  
18 persons claiming an ownership interest in the property, the court finds that there is a statutory  
19 or contractual basis for the proposed filing, the court shall order the document filed. A lien or  
20 encumbrance, other than a lien filed pursuant to Chapter 44A of the General Statutes, filed  
21 upon order of the court under this subsection shall have a priority interest as of the time of the  
22 filing of the Notice of Denied Lien Filing. A lien filed pursuant to Chapter 44A of the General  
23 Statutes upon order of the court under this subsection shall be deemed to have been filed when  
24 originally presented for filing, and shall have a priority interest as set forth in Chapter 44A of  
25 the General Statutes. If the court finds that there is no statutory or contractual basis for the  
26 proposed filing, the court shall order that the proposed filing is null and void and that it shall  
27 not be filed, indexed, docketed or recorded and a copy of that order shall be filed by the entity  
28 that originally denied the filing. The review by the judge under this subsection is a ministerial  
29 act only and shall not be deemed a finding as to any underlying claim of the parties involved. If  
30 a special proceeding is not filed under this subsection within ten (10) business days of the filing  
31 of the Notice of Denied Lien Filing, the lien or encumbrance is deemed null and void.

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

38       (d) In addition to any criminal penalties provided for in this section, a violation of this  
39 section shall constitute a violation of G.S. 75-1.1."

40       **SECTION 5.** G.S. 14-118.12 reads as rewritten:  
41 **"§ 14-118.12. Residential mortgage fraud.**

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

- 44       (1) Knowingly makes or attempts to make any material misstatement,  
45       misrepresentation, or omission within the mortgage lending process with the  
46       intention that a mortgage lender, mortgage broker, borrower, or any other  
47       person or entity that is involved in the mortgage lending process relies on it.
- 48       (2) Knowingly uses or facilitates or attempts to use or facilitate the use of any  
49       misstatement, misrepresentation, or omission within the mortgage lending  
50       process with the intention that a mortgage lender, borrower, or any other  
51       person or entity that is involved in the mortgage lending process relies on it.

- 1 (3) Receives or attempts to receive proceeds or any other funds in connection  
2 with a residential mortgage closing that the person knew, or should have  
3 known, resulted from a violation of subdivision (1) or (2) of this subsection.  
4 (4) Conspires or solicits another to violate any of the provisions of subdivision  
5 (1), (2), or (3) of this subsection.  
6 (5) Knowingly files in a public record or a private record generally available to  
7 the public a document falsely claiming that a mortgage loan has been  
8 satisfied, discharged, released, revoked, or terminated or is invalid.  
9 ...."

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

11 "**§ 14-401.19. Filing false security agreements.**

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

18 **SECTION 7.** Section 1, 2 and 7 of this act become effective October 1, 2012, and  
19 apply to satisfactions filed on or after that date. The remainder of this act becomes effective  
20 December 1, 2012, and applies to offenses committed on or after that date.