

April 10, 2007

H 1374. PROTECT HOMEOWNERS/REDUCE FORECLOSURE (=S 1264). Filed 4/9/07. (1) *TO OVERTURN THE SHEPARD CASE AND AMEND THE LIMITATION REGARDING ACTIONS TO RECOVER FOR USURY*; (2) *TO OVERTURN THE SKINNER CASE AND AMEND THE LONG-ARM STATUTE TO ALLOW NORTH CAROLINA COURTS TO EXERCISE PERSONAL JURISDICTION OVER CERTAIN NONRESIDENT DEFENDANTS*; (3) *TO ALLOW THE REINSTATEMENT OF A DEBT SECURED BY A MORTGAGE OR DEED OF TRUST WHERE THE DEBTOR MAKES OR TENDERS PAYMENT OF CERTAIN SUMS*; (4) *TO REQUIRE THAT A NOTICE OF FORECLOSURE CONTAIN CERTAIN INFORMATION*; AND (5) *TO MAKE OTHER AMENDMENTS TO THE LAW GOVERNING HOME LOANS*.

Identical to S 1264, filed 3/21/07.

Intro. by Blue.

GS 1, 24, 45

May 15, 2007

H 1374. PROTECT HOMEOWNERS/ REDUCE FORECLOSURE. Filed 4/9/07. House committee substitute makes the following changes to 1st edition. Modifies GS 1-75.4(6)d. to provide that a NC court having subject matter jurisdiction has personal jurisdiction over a person served in certain actions relating to loans regardless of whether the loan payment or fee is received (was, received directly by the defendant or indirectly) through a loan servicer (was, also, trustee or other intermediary). Deletes proposed amendments to GS 45-21.16(c)(4a), (5), and (5a) regarding allowing the reinstatement of debt secured by a mortgage or deed of trust when the debtor makes or tenders payment of certain sums, and makes conforming changes to title. Effective January 1, 2008 (was October 1, 2007), modifies GS 45-21.16(c)(7) by requiring that the notice to the debtor of the debtor's right to appear in court and be given the opportunity to show cause as to why foreclosure should not be permitted must contain (1) a statement that the debtor has the right to seek legal advice from an attorney and (2) information including contact information about the potential availability of free legal services from Legal Aid of NC. Modifies proposed GS 45-85 to include in the definition of *home loan* a loan to refinance the prior purchase of the home, and to expand the definition of *servicer* to include an entity under contract, a trustee for a securitized trust, a licensed attorney, and others. Deletes proposed GS 45-86 through 45-88, GS 45-90 through 45-92, and GS 45-94, and renumbers the remaining new statutes appropriately. Makes technical and conforming changes.

May 16, 2007

H 1374. PROTECT HOMEOWNERS/REDUCE FORECLOSURE. Filed 4/9/07. House amendment makes the following changes to 2nd edition. Amends proposed GS 45-24.16(c)(7)g. to remove the actual phone number for Legal Aid of North Carolina and instead require the notice to the debtor to list the organization's then current phone number.

July 26, 2007

H 1374. PROTECT HOMEOWNERS/REDUCE FORECLOSURE. Filed 4/9/07. Senate committee substitute makes the following changes to 3rd edition. Deletes the proposed new GS 1-53(2a) and amends GS 1-53(2) to provide that an action to recover the penalty for usury includes an action regarding the financing of usurious points, fees, or other charges and provides that the two-year limitation period accrues with each payment made and accepted on the loan. Modifies proposed GS 1-75.4(6)d. to modify the conditions under which a NC court having subject matter jurisdiction has personal jurisdiction over a person served in certain actions relating to loans regardless of whether the loan payment or fee is received through a loan servicer. Amends GS 24-2.1 to limit those deemed to have consented to this state's courts having jurisdiction over the person for any claim under GS Chapter 24 and for any claim related to the loan instrument to any person who acquires a right by contract or by assignment to receive payments under a loan made in this state to an individual who is a resident of the state at the time of the loan. Further amends GS 45-21.16(c) to require notice to make a party aware whether to the knowledge of the holder (1) any requests for information have been made by the borrower to the servicer in the two years

preceding the statement and (2) the requests have been complied with. Also modifies what must be included in the notice of the right of the debtor to appear before the clerk of court to show why the foreclosure should not be held. Also amends subsection (c1) to make conforming changes and to delete the provision prohibiting disputes about the mailing or accuracy of the written statement to be considered in a hearing under the statute.

Renames proposed new GS Chapter 45 Article 10 as Mortgage Debt Collection and Servicing. Modifies proposed new GS 45-85 to limit the definition of home loan to a loan secured by real property (was, real or personal). Enacts new GS 45-86 requiring servicers to comply with the following requirements for all home loans: (1) fees incurred by the services must be assessed within 45 days of the date on which the fee was incurred and explained clearly and conspicuously in a statement mailed to the borrower at least 30 days after assessing the fee; (2) amounts received by a servicer on a home loan at the instructed address must be credited and accepted within one business day of the date received if the borrower made the full payment and has given sufficient information to credit the account. If payment is not received and credited, the borrower must be notified within 10 business days of why and any actions needed to make the loan current; (3) the fee is waived if the fee is not charged within the allowable time or in the required manner; and (4) all fees charged must be permitted under applicable law and the contracts between the parties. Modifies proposed GS 45-87 (escrow funds) to provide that the statute does not apply if the loan is more than 90 days in default. Enacts new GS 45-88 requiring the servicer to make reasonable attempts to comply with a borrower's request for information about the home loan account and to respond to any dispute initiated by the borrower about the account. Requires the servicer to: (1) provide a written statement to the borrower within 10 days after receiving the request that includes the name and account of the borrower and a statement of the account that may be in error; (2) provide specified information or documents within 25 days of receiving the request; and (3) promptly correct errors relating to the allocation of payments, statement of account, or payoff balance. Enacts new GS 45-89 allowing an injured borrower to bring an action for the recovery of actual damages. Allows the Commissioner of Banks, the Attorney General, or any party to a home loan to enforce the statute. Requires notice of error to be given for specified actions. Provides for when a servicer is not in violation of the Article.

Changes the effective date of the amendments to GS 45-21.16 and new Article 10 from January 1, 2008, to April 1, 2008. Makes technical statute numbering changes and amends the title.

July 27, 2007

H 1374. PROTECT HOMEOWNERS/REDUCE FORECLOSURE. Filed 4/9/07. Senate amendment makes the following changes to 4th edition. Modifies proposed GS 45-21.16(c)(5b) to provide that if the holder is not the one giving the notice, then the holder must provide written confirmation to the person giving the notice of the information that is required to be in the notice.

August 27, 2007

SL 2007-351 (H 1374). PROTECT HOMEOWNERS/REDUCE FORECLOSURE. AN ACT TO OVERTURN THE SHEPARD CASE AND AMEND THE LIMITATION REGARDING ACTIONS TO RECOVER FOR USURY; TO OVERTURN THE SKINNER CASE AND AMEND THE LONG-ARM STATUTE TO ALLOW NORTH CAROLINA COURTS TO EXERCISE PERSONAL JURISDICTION OVER CERTAIN NONRESIDENT DEFENDANTS; TO REQUIRE THAT A NOTICE OF FORECLOSURE CONTAIN CERTAIN INFORMATION; AND TO PROVIDE FOR MORTGAGE DEBT COLLECTION AND SERVICING. Summarized in *Daily Bulletin* 4/10/07, 5/15/07, 5/16/07, 7/26/07, and 7/27/07. Enacted August 16, 2007. Sections 4 and 5 are effective April 1, 2008. The remainder is effective August 16, 2007.