

March 21, 2007

S 1264. PROTECT HOMEOWNERS/REDUCE FORECLOSURE. Filed 3/21/07. *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.*

Amends GS 1-53(2) to provide that an action to recover the penalty for usury, including an action regarding the financing of usurious points, fees, or other charges, accrues at the time of the last payment made on a loan. Amends GS 1-75.4(6) to recognize among actions regarding local property a claim related to a loan made in this state or deemed to have been made in this state under GS 24-2.1, regardless of the situs of the lender, assignee, or other holder of the loan note and regardless of whether the loan payment or fee is received directly by the defendant or indirectly through a loan servicer, trustee, or other intermediary, as long as the loan was made to a borrower who is a resident of the state and the loan is secured by real property located in the state. Amends GS 24-2.1 to provide that any person who acquires a right by contract or by assignment to receive payments under a loan made in this state and who benefits from the laws of this state by having the loan secured by real property located in this state is 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.

Effective October 1, 2007, amends the provisions for notices of foreclosure under GS 45-21.16(c) to require more specific statements related to (1) the debtor's rights to cure a default within a prescribed period of time and to reinstate the loan, (2) the note holder's confirmation that the note holder has provided the debtor with a statement of the amount owed that includes an specific itemized transaction history, and (3) the debtor's rights related to the foreclosure hearing before the clerk of court.

Effective October 1, 2007, enacts new Article 10 of GS Chapter 45 to establish a duty of good faith and fair dealing owed by a lender and servicer to a borrower, to regulate the kinds of fees that may be assessed by a lender or servicer, and to require monthly periodic statements to the borrower that show the application of the previous month's payment and the status of the escrow account. Restricts the conditions upon which collateral insurance protection may be obtained and charged to the borrower. Requires the servicer or lender to make all payments from the escrow account held for the borrower in a timely manner so as to avoid the assessment of late payment penalties. Adds provisions providing the borrower with the right to request and receive information related to the resolution of disputes and the right to cure and reinstate the home loan. Violations of the article are an unfair and deceptive practice in violation of GS 75-1-1.

Intro. by Nesbitt. GS 1, 24, 45