

May 25, 2010

S 1400. NO FORECLOSURE/SOLDIERS ON ACTIVE DUTY/FUNDS. Filed 5/25/10. *TO PROHIBIT FORECLOSURES WHILE MORTGAGORS OR TRUSTORS ARE ON ACTIVE MILITARY DUTY.*

Enacts new GS 45-21.12A to prohibit a mortgagee or trustee from exercising a power of sale contained in a mortgage or deed of trust, or provided by statute, during the mortgagor's or trustor's period of military service. Prohibits the clerk of court from conducting a hearing without certification from the applicable mortgagee or trustee that the hearing will not take place at a time of military service for the mortgagor or trustor. Applies only to mortgages and deeds of trust that originated before the mortgagor's or trustor's period of military service. Explains that the purpose of the proposed section is to supplement and complement the provisions of the federal Servicemembers Civil Relief Act. Provides terms and definitions applicable to the section. Makes conforming changes to GS 45-21.16(c) (notice requirement) and GS 45-21.16(d).

Appropriates \$50,000 for 2010-11 from the General Fund to the Commissioner of Banks to fund advertising to affected parties about the bill's protections.

Intro. by Davis.

GS 45, APPROP

July 7, 2010

S 1400. NO FORECLOSURE/SOLDIERS ON ACTIVE DUTY/FUNDS. Filed 5/25/10. Senate committee substitute makes the following change to 1st edition.

Removes the section that appropriated \$50,000 for 2010-11 from the General Fund to the Commissioner of Banks for funding informational advertising promoting the act's protections.

July 8, 2010

S 1400. NO FORECLOSURE/SOLDIERS ON ACTIVE DUTY/FUNDS. Filed 5/25/10. Senate amendments make the following changes to 2nd edition.

Amendment #1 amends proposed GS 45-21.12A(a) to prohibit a mortgagee, trustee, *or other creditor* from exercising a power of sale contained in a mortgage or deed of trust, or provided by statute, during, *or within nine months after*, the mortgagor's, trustor's, *or debtor's* period of military service. Prohibits the clerk of court from conducting a hearing without filed certification from the applicable mortgagee, trustee, *or other creditor* that the hearing will not take place *during, or within nine months after*, a time of military service for the mortgagor, trustor, *or debtor*. Makes other technical change.

Amendment #2 adds new subsection (b) to proposed GS 45-21.12A, providing that the statute will not apply if the mortgagor, trustor, or debtor waives his or her rights under the section pursuant to a written agreement executed during or after the mortgagor's, trustor's, or debtor's period of military service, on an instrument separate from the obligation or liability to which the waiver applies. Requires that any written waiver, created pursuant to the section, must be in at least 12-point type and must specify the legal instrument creating the obligation or liability to which the waiver applies. Renumbers the subsequent subsections accordingly.

July 9, 2010

S 1400. NO FORECLOSURE/SOLDIERS ON ACTIVE DUTY/FUNDS. Filed 5/25/10. House Committee amendments make the following changes to 3rd edition.

Changes the act's effective date to January 1, 2011 (was, effective when the act becomes law), and applicable to foreclosures initiated on or after that date.

Amends proposed GS 45-21.12A(a) to prohibit a mortgagee, trustee, or other creditor from exercising a power of sale contained in a mortgage or deed of trust, or provided by statute, during, or within 90 days (was, nine months) after, the mortgagor's, trustor's, or debtor's period of military service. Prohibits the clerk of court from conducting a hearing without filed certification from the applicable mortgagee, trustee, or other creditor that the hearing will not take place during, or within 90 days (was, nine months) after a time of military service for the mortgagor, trustor, or debtor.

August 12, 2010

SL 2010-190 (S 1400). NO FORECLOSURE/SOLDIERS ON ACTIVE DUTY. AN ACT TO PROHIBIT FORECLOSURES WHILE MORTGAGORS OR TRUSTORS ARE ON ACTIVE MILITARY DUTY. Summarized in *Daily Bulletin* 5/25/10, 7/7/10, 7/8/10, and 7/9/10. Enacted August 4, 2010. Effective January 1, 2011.