

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2009

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SENATE BILL 764  
PROPOSED COMMITTEE SUBSTITUTE S764-PCS85220-ST-23

Short Title: Real Estate/Settlement Agent Embezzlement.

(Public)

Sponsors:

Referred to:

March 24, 2009

A BILL TO BE ENTITLED

AN ACT AMENDING THE GOOD FUNDS SETTLEMENT ACT TO CLARIFY THAT A SETTLEMENT AGENT IS GUILTY OF EMBEZZLEMENT IN INSTANCES WHERE IT CANNOT BE SHOWN THAT THE FUNDS WERE EMBEZZLED FROM A PARTICULAR PERSON OR ENTITY.

The General Assembly of North Carolina enacts:

**SECTION 1.** Chapter 45A of the General Statutes is amended by adding a new section to read as follows:

**"§ 45A-8. Embezzlement of closing funds by settlement agent.**

All closing funds received by a settlement agent are trust or escrow funds received by the settlement agent in a fiduciary capacity. A settlement agent in the disbursement of settlement proceeds shall account for and pay the closing funds to the parties or entities identified for payment of the closing funds pursuant to the settlement agreement approved by the parties to the transaction. Any settlement agent who shall embezzle or fraudulently or knowingly and willfully misapply or convert to his or her own use, or shall take, make away with, or secrete, with intent to embezzle or fraudulently or knowingly and willfully misapply or convert to his or her own use the closing funds or any portion of the closing funds, except those closing funds representing the settlement agent's fees and expenses, shall be guilty of embezzlement under G.S. 14-90 regardless of whether the embezzled, misapplied, or converted closing funds have been proved to belong to a specific party."

**SECTION 2.** This act becomes effective December 1, 2009, and applies to offenses committed on or after that date.



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