

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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HOUSE BILL 1057*
PROPOSED COMMITTEE SUBSTITUTE H1057-PCS30326-RO-23

Short Title: Abolish Certain Deficiency Judgments.

(Public)

Sponsors:

Referred to:

April 6, 2009

A BILL TO BE ENTITLED

AN ACT TO ABOLISH DEFICIENCY JUDGMENTS IN CERTAIN CASES WHERE THE
MORTGAGE IS SECURED BY PRIMARY RESIDENCE.

The General Assembly of North Carolina enacts:

SECTION 1. Article 2B of Chapter 45 of the General Statutes is amended by
adding a new section to read:

**"§ 45-21.38A. Deficiency judgments abolished where mortgage secured by primary
residence and foreclosed under power of sale.**

In all sales of real property secured by a primary residence by mortgagees or trustees under
powers of sale contained in any mortgage or deed of trust, the mortgagee or trustee or holder of
the notes secured by such mortgage or deed of trust shall not be entitled to a deficiency
judgment on account of such mortgage, deed of trust, or obligation secured by the same, if the
defaulted mortgage loan was a rate spread loan as defined in G.S. 24-1.1F, or a nontraditional
loan that features a negative amortization payment option. This provision shall not apply to
Home Equity Lines of Credit, construction loans, or to bridge loans."

SECTION 2. Article 2B of Chapter 45 of the General Statutes is amended by
adding a new section to read:

**"§ 45-21.38B. Deficiency judgments abolished where mortgage secured by primary
residence and made on or after January 1, 2010.**

In all sales of real property secured by a primary residence, the mortgagee or trustee or
holder of the notes secured by such mortgage or deed of trust shall not be entitled to a
deficiency judgment on account of such mortgage, deed of trust, or obligation secured by the
same, if the defaulted mortgage loan was a rate spread loan as defined in G.S. 24-1.1F, or a
nontraditional loan that features a negative amortization payment option. This provision shall
not apply to Home Equity Lines of Credit, construction loans, or to bridge loans. This section
applies regardless of whether the real property is sold under a power of sale or as a result of
court action. This section applies to mortgages made on or after January 1, 2010."

SECTION 3. Article 2B of Chapter 45 of the General Statutes is amended by
adding a new section to read:

"§ 45-21.38C. Severability.

The provisions of this Article shall be severable, and if any phrase, clause, sentence, or
provision is declared to be unconstitutional or otherwise invalid or is preempted by federal law
or regulation, the validity of the remainder of this section shall not be affected thereby."

SECTION 4. This act is effective when it becomes law.



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