

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

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SENATE BILL 518  
PROPOSED COMMITTEE SUBSTITUTE S518-PCS35275-TG-33

Short Title: Buyer Choice/Title Insurer & Closing Atty.

(Public)

Sponsors:

Referred to:

April 6, 2011

1 A BILL TO BE ENTITLED  
2 AN ACT TO PROTECT CONSUMERS BY REQUIRING NOTICE OF BUYER'S RIGHT  
3 TO CHOOSE TITLE INSURER AND CLOSING ATTORNEY.

4 The General Assembly of North Carolina enacts:

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

7 **"§ 45-45.3. Buyer's choice of title insurer and closing attorney.**

8 (a) The following definitions apply in this section:

9 (1) Acquiring party. – Any person or entity who acquires residential property  
10 through a judicial foreclosure or foreclosure under power of sale of a deed of  
11 trust or mortgage held by such person or entity, or held by another person or  
12 entity who assigned the successful bid at the foreclosure sale to such person  
13 or entity that acquired the residential property, and who seeks to sell the  
14 residential property to a buyer.

15 (2) Conspicuous. – In reference to a document, language that is so written,  
16 displayed, or presented that a reasonable person who reads the notice ought  
17 to have noticed it. Whether a term is "conspicuous" or not is a decision for  
18 the court. Conspicuous terms include the following:

19 a. A heading in capitals equal to or greater in size than the surrounding  
20 text, or in contrasting type, font, or color to the surrounding text of  
21 the same or lesser size; and

22 b. Language in the body of a record or display in larger type than the  
23 surrounding text, or in contrasting type, font, or color to the  
24 surrounding text of the same size, or set off from surrounding text of  
25 the same size by symbols or other marks that call attention to the  
26 language.

27 (3) Residential property. – Real property improved by four or fewer dwelling  
28 units acquired by an acquiring party through a judicial foreclosure or  
29 foreclosure under power of sale.

30 (b) A buyer of residential property shall have the right to select the title insurer and  
31 closing attorney of the buyer's choice.

32 (c) This section shall not prohibit a buyer from agreeing to accept the services of a title  
33 insurer and/or a closing attorney selected or designated by the acquiring party to be used in the



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1 transaction if written notice of the right to make an independent selection of those services is  
2 first provided to the buyer by the acquiring party. The notice may either be separate from or  
3 included in the sales contract and, in either event, shall:

4 (1) Contain the following conspicuous statement: "The Buyer shall have the  
5 right to make an independent selection of title insurance and closing attorney  
6 services. The buyer's use of title insurance and closing attorney services  
7 selected or designated by the Seller is not a condition of this sale."; and

8 (2) Provide, in conspicuous language, that a buyer who agrees to accept the  
9 services of a title insurer or a closing attorney selected or designated by the  
10 acquiring party to be used in the transaction may rescind the buyer's  
11 acceptance of such services at any time not later than 10 days after the  
12 written notice is received by the buyer.

13 The notice may also contain the following statement: "If the buyer selects the title insurer and  
14 closing attorney, the buyer's closing costs may be different from the closing costs charged by  
15 the title insurer and closing attorney selected by the seller."

16 (d) A transaction subject to this section shall not be invalidated because of the failure of  
17 any person to comply with any provision of this section."

18 **SECTION 2.** This act is effective when it becomes law and applies to all sales  
19 placed under a sales contract on or after that date.