

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

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HOUSE BILL 203  
PROPOSED SENATE COMMITTEE SUBSTITUTE H203-PCS11368-RV-46

Short Title: Mortgage Satisfaction Forms/No False Liens.

(Public)

Sponsors:

Referred to:

March 2, 2011

A BILL TO BE ENTITLED

AN ACT TO PROVIDE AN ALTERNATIVE MORTGAGE SATISFACTION FORM THAT  
ALLOWS A SECURED CREDITOR TO INDICATE THAT THE UNDERLYING  
OBLIGATION HAS BEEN EXTINGUISHED; TO MAKE IT A CLASS I FELONY TO  
SIMULATE COURT PROCESS IN CONNECTION WITH THE COLLECTION OF A  
CLAIM, DEMAND, OR ACCOUNT, TO KNOWINGLY FILE A FALSE LIEN OR  
ENCUMBRANCE AGAINST THE REAL OR PERSONAL PROPERTY OF A PUBLIC  
OFFICER OR PUBLIC EMPLOYEE, OR TO FILE A FALSE SECURITY  
INSTRUMENT; AND TO PROVIDE THAT IT IS A VIOLATION OF THE  
RESIDENTIAL MORTGAGE FRAUD ACT FOR A PERSON TO KNOWINGLY FILE  
A DOCUMENT FALSELY CLAIMING THAT A MORTGAGE LOAN HAS BEEN  
SATISFIED OR DISCHARGED.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 45-36.11 reads as rewritten:

**"§ 45-36.11. Satisfaction: form.**

(a) Standard Form. – No particular phrasing is required for a satisfaction of a security instrument. The following form, when properly completed, is sufficient to satisfy the requirements of G.S. 45-36.10(a):

'SATISFACTION OF SECURITY INSTRUMENT

(G.S. 45-36.10; G.S. 45-37(a)(7))

The undersigned is now the secured creditor in the security instrument identified as follows:

Type of Security Instrument: (identify type of security instrument, such as deed of trust or mortgage)

Original Grantor(s): (Identify original grantor(s), trustor(s), or mortgagor(s))

Original Secured Party(ies): (Identify the original beneficiary(ies), mortgagee(s), or secured party(ies) in the security instrument)

Recording Data: The security instrument is recorded in Book \_\_\_\_ at Page \_\_\_\_ or as document number \_\_\_\_\_ in the office of the Register of Deeds for \_\_\_\_\_ County, North Carolina.

This satisfaction terminates the effectiveness of the security instrument.

Date: \_\_\_\_\_

\_\_\_\_\_  
(Signature of secured creditor)



\* H 2 0 3 - P C S 1 1 3 6 8 - R V - 4 6 \*

[Acknowledgment before officer authorized to take acknowledgments]'
(b) Alternate Form. – A secured creditor who would like to indicate that the underlying obligation secured by the instrument has been extinguished may use the following form, which, when properly completed, is also sufficient to satisfy the requirements of G.S. 45-36.10(a):

'SATISFACTION OF SECURITY INSTRUMENT
(G.S. 45-36.10; G.S. 45-37(a)(7))

The undersigned is now the secured creditor in the security instrument identified as follows:

Type of Security Instrument: (identify type of security instrument, such as deed of trust or mortgage)

Original Grantor(s): (Identify original grantor(s), trustor(s), or mortgagor(s))

Original Secured Party(ies): (Identify the original beneficiary(ies), mortgagee(s), or secured party(ies) in the security instrument)

Recording Data: The security instrument is recorded in Book at Page or as document number in the office of the Register of Deeds for County, North Carolina.

This satisfaction terminates the effectiveness of the security instrument and extinguishes the underlying obligation secured by the instrument.

Date: (Signature of secured creditor)

[Acknowledgment before officer authorized to take acknowledgments]''.

SECTION 2. G.S. 45-36.21 reads as rewritten:

''§ 45-36.21. Trustee's satisfaction of deed of trust: form.

(a) Standard Form. – No particular phrasing is required for a trustee's satisfaction of a deed of trust. The following form, when properly completed, is sufficient to satisfy the requirements of G.S. 45-36.20:

'TRUSTEE'S SATISFACTION OF DEED OF TRUST
(G.S. 45-36.20; G.S. 45-37(a)(7))

The undersigned is now serving as the trustee or substitute trustee under the terms of the deed of trust identified as follows:

Original Grantor(s): (Identify original grantor(s) or trustor(s))

Original Secured Party(ies): (Identify the original beneficiary(ies) or secured party(ies) in the deed of trust)

Recording Data: The deed of trust is recorded in Book at Page or as document number in the office of the Register of Deeds for County, North Carolina.

This satisfaction terminates the effectiveness of the deed of trust.

Date: (Signature of trustee or substitute trustee)

[Acknowledgment before officer authorized to take acknowledgments]'

(b) Alternate Form. – A trustee and secured creditor who would like to indicate that the underlying obligation secured by the deed of trust has been extinguished may use the following form, which, when properly completed, is also sufficient to satisfy the requirements of G.S. 45-36.20:

'TRUSTEE'S SATISFACTION OF DEED OF TRUST  
AND  
CREDITOR'S RELEASE  
(G.S. 45-36.20; G.S. 45-37(a)(7))

The undersigned is now serving as the trustee or substitute trustee under the terms of the deed of trust identified as follows:

Original Grantor(s): (Identify original grantor(s) or trustor(s))

Original Secured Party(ies): (Identify the original beneficiary(ies) or secured party(ies) in the deed of trust)

Recording Data: The deed of trust is recorded in Book \_\_\_\_\_ at Page \_\_\_\_\_ or as document number \_\_\_\_\_ in the office of the Register of Deeds for \_\_\_\_\_ County, North Carolina.

This satisfaction terminates the effectiveness of the deed of trust.

Date: \_\_\_\_\_

(Signature of trustee or substitute trustee)

[Acknowledgment before officer authorized to take acknowledgments]

The obligation secured by the deed of trust has been extinguished.

Date: \_\_\_\_\_

(Signature of secured creditor)

[Acknowledgment before officer authorized to take acknowledgments]".

**SECTION 3.** G.S. 14-118.1 reads as rewritten:

**"§ 14-118.1. Simulation of court process in connection with collection of claim, demand or account.**

It shall be unlawful for any person, firm, corporation, association, agent or employee in any manner to coerce, intimidate, or attempt to coerce or intimidate any person in connection with any claim, demand or account, by the issuance, utterance or delivery of any matter, printed, typed or written, which (i) simulates or resembles a summons, warrant, writ or other court process or pleading; or (ii) by its form, wording, use of the name of North Carolina or any officer, agency or subdivision thereof, use of seals or insignia, or general appearance has a tendency to create in the mind of the ordinary person the false impression that it has judicial or other official authorization, sanction or approval. Any violation of the provisions of this section shall be a ~~Class 2 misdemeanor.~~ Class I felony."

**SECTION 4.** Article 20 of Chapter 14 of the General Statutes is amended by adding a new section to read as follows:

**"§ 14-118.6. Filing false lien or encumbrance.**

1       (a) It shall be unlawful for any person to file in a public record or a private record  
2 generally available to the public a false lien or encumbrance against the real or personal  
3 property of a public officer or public employee on account of the performance of the public  
4 officer or public employee's official duties, knowing or having reason to know that the lien or  
5 encumbrance is false or contains a materially false, fictitious, or fraudulent statement or  
6 representation. Any person who violates this subsection shall be guilty of a Class I felony.

7       (b) In the case of a record presented for filing, if the entity receiving the filing has a  
8 reasonable suspicion that the lien or encumbrance is false, the entity shall not allow the lien or  
9 encumbrance to be filed. If the filing of the lien or encumbrance is denied, the person offering  
10 the lien or encumbrance for filing may apply to any judge of the district court in the district  
11 where the entity is located for an order permitting filing. The judge shall order the lien or  
12 encumbrance filed, and the entity shall file the lien or encumbrance as originally requested. The  
13 review by the judge under this subsection is a ministerial act only and shall not be deemed a  
14 finding as to any underlying claim of the parties involved.

15       (c) Upon being presented with an order duly issued by a court of this State declaring  
16 that a filed lien or encumbrance is false, and therefore null and void, the entity that received the  
17 filing, in addition to filing the order, shall conspicuously mark on the first page of the original  
18 record previously filed the following statement: "THE CLAIM ASSERTED IN THIS  
19 DOCUMENT IS FALSE AND IS NOT PROVIDED FOR BY THE GENERAL LAWS OF  
20 THIS STATE."

21       **SECTION 5.** G.S. 14-118.12 reads as rewritten:

22       "**§ 14-118.12. Residential mortgage fraud.**

23       (a) A person is guilty of residential mortgage fraud when, for financial gain and with  
24 the intent to defraud, that person does any of the following:

- 25       (1) Knowingly makes or attempts to make any material misstatement,  
26       misrepresentation, or omission within the mortgage lending process with the  
27       intention that a mortgage lender, mortgage broker, borrower, or any other  
28       person or entity that is involved in the mortgage lending process relies on it.
- 29       (2) Knowingly uses or facilitates or attempts to use or facilitate the use of any  
30       misstatement, misrepresentation, or omission within the mortgage lending  
31       process with the intention that a mortgage lender, borrower, or any other  
32       person or entity that is involved in the mortgage lending process relies on it.
- 33       (3) Receives or attempts to receive proceeds or any other funds in connection  
34       with a residential mortgage closing that the person knew, or should have  
35       known, resulted from a violation of subdivision (1) or (2) of this subsection.
- 36       (4) Conspires or solicits another to violate any of the provisions of subdivision  
37       (1), (2), or (3) of this subsection.
- 38       (5) Knowingly files in a public record or a private record generally available to  
39 the public a document falsely claiming that a mortgage loan has been  
40 satisfied, discharged, released, revoked, or terminated or is invalid.

41       ...."

42       **SECTION 6.** G.S. 14-401.19 reads as rewritten:

43       "**§ 14-401.19. Filing false security agreements.**

44       It shall be unlawful for any person, firm, corporation, or any other association of persons in  
45 this State, under whatever name styled, to present a record for filing under the provisions of  
46 Article 9 of Chapter 25 of the General Statutes with knowledge that the record is not related to  
47 a valid security agreement or with the intention that the record be filed for an improper  
48 purpose, such as to hinder, harass, or otherwise wrongfully interfere with any person. A  
49 violation of this section shall be a ~~Class 2 misdemeanor~~. Class I felony."

1           **SECTION 7.** Sections 1 and 2 of this act become effective October 1, 2012, and  
2 apply to satisfactions filed on or after that date. The remainder of this act becomes effective  
3 December 1, 2012, and applies to offenses committed on or after that date.