



NORTH CAROLINA GENERAL ASSEMBLY
CONFERENCE REPORT

House Bill 203

H203-CRRU-28 [v.3]

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[NO] Title Change

[YES] For Committee Substitute

To: The President of the Senate
The Speaker of the House of Representatives

The conferees appointed to resolve the differences between the Senate and the House of Representatives on House Bill 203, 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, Senate Rules and Operations of the Senate Committee Substitute Adopted 6/7/12 Third Edition Engrossed 6/27/12, submit the following report:

The House and Senate agree to the following amendments to the Senate Rules and Operations of the Senate Committee Substitute Adopted 6/7/12 Third Edition Engrossed 6/27/12, and the House concurs in the Senate Rules and Operations of the Senate Committee Substitute as amended:

On page 3, line 49 through page 4, line 39, by rewriting the lines to read:

"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.

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

(b) In the case of a lien or encumbrance presented to the register of deeds for filing, if the register of deeds has a reasonable suspicion that the lien or encumbrance is false, the register of deeds may refuse to file the lien or encumbrance. Neither the register of deeds nor any other entity shall be liable for filing or refusing to file a lien or encumbrance under this



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section. If the filing of the lien or encumbrance is denied, the register of deeds shall allow the filing of a Notice of Denied Lien or Encumbrance Filing on a form adopted by the Secretary of State. The Notice of Denied Lien or Encumbrance Filing shall not itself constitute a lien or encumbrance. If the filing of the lien or encumbrance is denied, any interested person may file a special proceeding in the county where the filing was denied within ten (10) business days of the filing of the Notice of Denied Lien or Encumbrance Filing asking the court to find that the proposed filing has a statutory or contractual basis and to order that the document be filed. If, after hearing, upon a minimum of five (5) days' notice and opportunity to be heard to all interested persons and all persons claiming an ownership interest in the property, the court finds that there is a statutory or contractual basis for the proposed filing, the court shall order the document filed. A lien or encumbrance filed upon order of the court under this subsection shall have a priority interest as of the time of the filing of the Notice of Denied Lien or Encumbrance Filing. If the court finds that there is no statutory or contractual basis for the proposed filing, the court shall order that the proposed filing is null and void and that it shall not be filed, indexed, or recorded and a copy of that order shall be filed by the register of deeds that originally denied the filing. The review by the judge under this subsection shall not be deemed a finding as to any underlying claim of the parties involved. If a special proceeding is not filed under this subsection within ten (10) business days of the filing of the Notice of Denied Lien or Encumbrance Filing, the lien or encumbrance is deemed null and void.

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

(d) In addition to any criminal penalties provided for in this section, a violation of this section shall constitute a violation of G.S. 75-1.1.

(e) Subsections (b) and (c) of this section shall not apply to filings under Article 9 of Chapter 25 of the General Statutes or under Chapter 44A of the General Statutes.""; and

on page 5, lines 17 and 18, by inserting the following new bill section between the lines to read:

"SECTION 6.1. G.S. 44A-12.1(c) reads as rewritten:

"(c) Any person who causes or attempts to cause a claim of lien on real property or other document to be filed, knowing that the filing is not authorized by statute, or with the intent that the filing is made for an improper purpose such as to hinder, harass, or otherwise wrongfully interfere with any person, shall be guilty of a ~~Class 1 misdemeanor.~~ Class I felony."

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The conferees recommend that the Senate and the House of Representatives adopt this report.

Date Conferees approved report: July 2, 2012.

Conferees for the Senate

Conferees for the House of Representatives

Tommy Tucker
Tommy Tucker, Chair

James W. Crawford, Jr.
James W. Crawford, Jr., Chair

Tom Apodaca
Tom Apodaca

Shirley B. Randleman
Shirley B. Randleman

E. S. (Buck) Newton
E. S. (Buck) Newton

Paul Stam
Paul Stam

Floyd B. McKissick, Jr.
Floyd B. McKissick, Jr.

Pat McElraft
Pat McElraft

House Submitted 7/2/12 *w/o objection today's calendar*
House ADOPTED 7/2/12 (117-1E1) Message Received _____
 ADOPTED _____ (/) Ordered Enrolled _____

*Senate notified
Special Message
Denise White*

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KCB*