GENERAL ASSEMBLY OF NORTH CAROLINA SESSION 2013

Н

HOUSE BILL 203 PROPOSED COMMITTEE SUBSTITUTE H203-PCS90093-RN-10

Short Title: Revisions/Homeowner/Homebuyer Protection Act.

(Public)

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Sponsors:

Referred to:

	March 5, 2013				
1 2 3	A BILL TO BE ENTITLED AN ACT AMENDING THE HOMEOWNER AND HOMEBUYER PROTECTION ACT.				
	The General Assembly of North Carolina enacts:				
4 5	SECTION 1. G.S. 47G-1 reads as rewritten:				
5 6	"§ 47G-1. Definitions.				
0 7	The following definitions apply in this Chapter:				
8		(4) Option contract or contract. – An option contract for the purchase of			
9		property that includes or is combined with, or is executed in conjunction			
10		with, a covered lease agreement. The term does not include a contract which			
11		obligates the buyer to purchase the property even though the obligation may			
12		be subject to one or more contingencies or unilateral rights to terminate the			
13		contract.			
14					
15	SECTION 2. G.S. 47G-7 reads as rewritten:				
16	"§ 47G-7. Remedies.				
17	A violation of any provision of this Chapter constitutes an unfair trade practice under				
18 19	G.S. 75-1.1. An option purchaser may bring an action for the recovery of damages, to void a transaction executed in violation of this Chapter, as well as for declaratory or equitable relief				
20 21	for a violation of this Chapter. The rights and remedies provided herein are cumulative to, and				
21	not a limitation of, any other rights and remedies provided by law or equity. Nothing in this Chapter shall be construed to subject an individual homeowner selling his or her primary				
23	residence directly to an option purchaser to liability under G.S. 75-1.1."				
24	SECTION 3. G.S. 47H-2 reads as rewritten:				
25	"§ 47H-2.	Minimum contents for contracts for deed; recordation.			
26	••••	~			
27	(b)	Contents. – A contract for deed contract shall contain at least all of the following:			
28					
29		(14) A description of conditions of the property that includes whether the			
30 31		property, including any structures thereon, has water, sewer, septic, and electricity service, whether the property is in a floodplain, whether anyone			
32		else has a legal interest in the property and whether restrictive covenants			
32 33		prevent building or installing a dwelling. If restrictive covenants are in place			
33 34		that affect the property, a copy of the restrictive covenants shall be made			
35		available to the purchaser at or before the execution of the contract.			
		a manufer to the parentaser at or service the encounter of the contract.			



	General Assemb	ly Of North Carolina	Session 2013		
1	(14a)	A completed residential property disclosure stater	nent that complies with		
2	<u> </u>	Chapter 47E of the General Statutes, provided that t	-		
3		the option of making "No Representation" as t			
4		condition of the property.			
5		<u> </u>			
6	(16)	If the property being sold is encumbered by a dee	ed of trust, mortgage, or		
7		other encumbrance evidencing or securing a mo			
8		constitutes a lien on the property, and the seller i			
9		contractor within the meaning of Chapter 87 of th			
10		licensed manufactured home dealer within the me			
11		Chapter 143 of the General Statutes, a statement of			
12		and the amount and due date, if any, of any periodic			
13	"	, , , , , , ,	1 2		
14	SECTION 4. G.S. 47H-8 reads as rewritten:				
15	"§ 47H-8. Remedies.				
16		of any provision of this Chapter constitutes an unf	fair trade practice under		
17	G.S. 75-1.1. A purchaser may bring an action for the recovery of damages, to rescind a				
18	transaction, as well as for declaratory or equitable relief, for a violation of this Chapter. The				
19	rights and remedies provided herein are cumulative to, and not a limitation of, any other rights				
20	and remedies provided by law or equity. Nothing in this Chapter shall be construed to subject				
21	an individual homeowner selling his or her primary residence directly to a buyer to liability				
22	under G.S. 75-1.1		5 5 5		
23	SECTION 5. G.S. 75-120 reads as rewritten:				
24	"§ 75-120. Defin	itions.			
25	The following definitions shall apply in this Article:				
26	(1)	Default. – Whenever a property owner is more that	n 60 days delinquent on		
27		any loan or debt that is secured by the property, incl			
28		Equalson account transaction A transfer of a			
29 30	(3)	Foreclosure rescue transaction. – A transfer of r			
30 31		including a manufactured home that is permanent	-		
32		property, which includes all of the following feature			
		a. The real property is the principal residence o			
33		b. The transferor is in default or legal proceeding for a legal on the transferor legal proceeding for a legal of the transferor legal proceeding the transfer	igs have been initiated to		
34 35		foreclose on the transferor's property.	, others esting in concert		
33 36		c. The transferee, an agent of the transferee, or	-		
30 37		with the transferee make representations			
38		residential property will enable the transferor	1 1 1		
		reverse the effect of foreclosure and to remain The transformer stains on interest in the group			
39 40		d. The transferor retains an interest in the prop			
		a tenancy interest, an interest under a le			
41		anlease with option to purchase agreement,			
42		the property, or any other legal, equitable,	or possessory interest in		
43	"	the property conveyed.property.			
44 45					
45		ION 6. G.S. 75-121 reads as rewritten:	• • •		
46 17	"§ 75-121. Foreclosure rescue transactions prohibited; exceptions; violation.				
47 49	(a) It is unlawful for a person or entity other than the transferor to engage in, promise to				
48	engage in, arrange, offer, promote, solicit, assist with, or carry out a foreclosure rescue				
49 50		transaction for financial gain or with the expectation of financial gain, unless prior to or at the time of transferrer the transferrer at least fifty percent (50%) of the foir market			
50		time of transfer, the transferee pays the transferor at least fifty percent (50%) of the fair market value of the property as determined by a licensed appraiser. An appraisal to determine the fair			
51	value of the prop	erty as determined by a licensed appraiser. An appra	isal to determine the fair		

General Assembly Of North Carolina

market value of the property must be performed no more than <u>90120</u> days prior to the transfer. The appraisal shall be delivered to the transferor no more than three days after the appraisal is performed and no less than seven days prior to the <u>time the transferor becomes obligated to</u> perform the agreement.transfer of the property. This section does not apply to exempt transactions.

7 **SECTION 7.** This act becomes effective October 1, 2013, and applies to 8 transactions entered into on or after that date.