

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2009

S

D

SENATE DRS55286-MD-93 (3/12)

Short Title: Abolish Certain Deficiency Judgments.

(Public)

Sponsors: Senator Hartsell.

Referred to:

1 A BILL TO BE ENTITLED  
2 AN ACT TO ABOLISH DEFICIENCY JUDGMENTS WHERE THE MORTGAGE IS  
3 SECURED BY PRIMARY RESIDENCE.

4 The General Assembly of North Carolina enacts:

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

7 "§ 45-21.38A. Deficiency judgments abolished where mortgage secured by primary  
8 residence and foreclosed under power of sale.

9 In all sales of real property secured by a primary residence by mortgagees or trustees under  
10 powers of sale contained in any mortgage or deed of trust, the mortgagee or trustee or holder of  
11 the notes secured by such mortgage or deed of trust shall not be entitled to a deficiency  
12 judgment on account of such mortgage, deed of trust, or obligation secured by the same."

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

15 "§ 45-21.38B. Deficiency judgments abolished where mortgage secured by primary  
16 residence and made on or after January 1, 2010.

17 In all sales of real property secured by a primary residence, the mortgagee or trustee or  
18 holder of the notes secured by such mortgage or deed of trust shall not be entitled to a  
19 deficiency judgment on account of such mortgage, deed of trust, or obligation secured by the  
20 same. This section applies regardless of whether the real property is sold under a power of sale  
21 or as a result of court action. This section applies to mortgages made on or after January 1,  
22 2010."

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

25 "§ 45-21.38C. Severability.

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

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

