

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2009

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HOUSE BILL 1057\*  
Committee Substitute Favorable 4/30/09

Short Title: Abolish Certain Deficiency Judgments.

(Public)

Sponsors:

Referred to:

April 6, 2009

1 A BILL TO BE ENTITLED  
2 AN ACT TO ABOLISH DEFICIENCY JUDGMENTS IN CERTAIN CASES WHERE THE  
3 MORTGAGE IS 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, if the  
13 defaulted mortgage loan was a rate spread loan as defined in G.S. 24-1.1F, or a nontraditional  
14 loan that features a negative amortization payment option. This provision shall not apply to  
15 Home Equity Lines of Credit, construction loans, or to bridge loans."

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

18 "**§ 45-21.38B. Deficiency judgments abolished where mortgage secured by primary**  
19 **residence and made on or after January 1, 2010.**

20 In all sales of real property secured by a primary residence, the mortgagee or trustee or  
21 holder of the notes secured by such mortgage or deed of trust shall not be entitled to a  
22 deficiency judgment on account of such mortgage, deed of trust, or obligation secured by the  
23 same, if the defaulted mortgage loan was a rate spread loan as defined in G.S. 24-1.1F, or a  
24 nontraditional loan that features a negative amortization payment option. This provision shall  
25 not apply to Home Equity Lines of Credit, construction loans, or to bridge loans. This section  
26 applies regardless of whether the real property is sold under a power of sale or as a result of  
27 court action. This section applies to mortgages made on or after January 1, 2010."

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

30 "**§ 45-21.38C. Severability.**

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

34 **SECTION 4.** This act is effective when it becomes law.



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