

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

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HOUSE DRH10257-LK-198 (04/13)

Short Title: Register of Deeds-Certifications.

(Public)

Sponsors: Representatives Stam and Ross (Primary Sponsors).

Referred to:

A BILL TO BE ENTITLED

AN ACT AFFECTING CERTIFICATIONS BY REGISTERS OF DEEDS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 47-14 reads as rewritten:

"§ 47-14. Register of deeds to ~~pass on certificate~~ verify the presence of proof or acknowledgment and register instruments; order by judge; instruments to which register of deeds is a party.

(a) ~~When the proof or acknowledgment of the execution of any instrument, required or permitted by law to be registered, is had before any other official than the register of deeds of the county in which the instrument is offered for registration, the register of deeds shall examine the certificate or certificates of proof or acknowledgment appearing upon the instrument, and if it appears on the face of the instrument that the execution thereof by one or more of the signers has been duly proved or acknowledged and the certificate or certificates to that effect are in due form, he shall so certify, and shall register the instrument, together with the certificates. No certification is required when the proof or acknowledgment is before the register of deeds of the county in which the instrument is offered for registration.~~

The register of deeds shall not accept for recording any instrument that requires proof or acknowledgment unless the execution by one or more of the signers has been proved or acknowledged as required before an officer authorized to take proofs or acknowledgments, and that the proof or acknowledgment includes the officer's signature, commission expiration date, and official seal, if required. The register of deeds shall file the instruments that do not require proof or acknowledgment that meet all other statutory requirements pursuant to G.S. 161-14. Any document previously recorded or a certified copy of any document previously recorded may be rerecorded without further certification if it is not being recorded pursuant to G.S. 47-36.1.

1 (b) If a register of deeds denies registration pursuant to subsection (a), the person
2 offering the instrument for registration may present the instrument to a judge, as
3 provided in subsection (c), and he shall ~~examine the certificate or certificates of proof or~~
4 ~~acknowledgment appearing upon the instrument, and if it appears on the face of the~~
5 ~~instrument that the execution thereof by one or more of the signers has been duly~~
6 ~~proved or acknowledged and the certificates to that effect are in due form, determine~~
7 that if the instrument requires proof or acknowledgment and if the signature of one or
8 more signers has been proved or acknowledged before an officer authorized to take
9 proofs and acknowledgments, and if the proof or acknowledgment includes the officer's
10 signature, commission expiration date, and official seal, if required, he shall so adjudge,
11 and shall order the instrument to be registered, ~~together with the certificates, and the~~
12 register of deeds shall register ~~them~~ accordingly.

13 (c) When a district court has been established in the district including the county
14 in which the instrument is to be registered, application for an order for registration
15 pursuant to subsection (b) shall be made to any judge of the district court in the district
16 including the county in which the instrument is to be registered. Until a district court
17 has been established, application for an order for registration pursuant to subsection (b)
18 may be made to a resident judge of superior court residing in the district including the
19 county in which the instrument is to be registered, a judge regularly holding the superior
20 courts of the district including the county in which the instrument is to be registered,
21 any judge holding a session of superior court, either civil or criminal, in the district
22 including the county in which the instrument is to be registered, or a special judge of
23 superior court residing in the district including the county in which the instrument is to
24 be registered.

25 (d) Registration of an instrument pursuant to this section is not effective with
26 regard to parties who have not executed the instrument or whose execution thereof has
27 not been duly proved or acknowledged.

28 (e) Any instrument required or permitted by law to be registered in which the
29 register of deeds of the county of registration is a party may be proved or acknowledged
30 before any magistrate or any notary public. Any such instrument presented for
31 registration shall be examined by the clerk of superior court of the county of registration
32 and if it appears that the execution and acknowledgment are in due form he shall so
33 certify and the instrument shall then be recorded in the office of the register of deeds."

34 **SECTION 2.** G.S. 47-37 is repealed.

35 **SECTION 3.** G.S. 45-37 reads as rewritten:

36 "**§ 45-37. Discharge of record of mortgages, deeds of trust, and other instruments.**

37 (a) Subject to the provisions of G.S. 45-73 relating to secured instruments which
38 secure future advances, any deed of trust or mortgage or other instrument intended to
39 secure the payment of money or the performance of any other obligation registered as
40 required by law may be discharged and released of record in the following manner:

41 (1) By acknowledgment of the satisfaction of the provisions of such deed
42 of trust, mortgage or other instrument in the presence of the register of
43 deeds by:

44 a. The trustee,

- 1 b. The mortgagee,
- 2 c. The legal representative of a trustee or mortgagee, or
- 3 d. A duly authorized agent or attorney of any of the above.

4 The register of deeds is not required to verify or make inquiry
5 concerning the authority of the person acknowledging the satisfaction
6 to do so. Upon acknowledgment of satisfaction, the register of deeds
7 shall record a record of satisfaction as described in G.S. 45-37.2, ~~and~~
8 ~~may forthwith make upon the margin of the record of such deed of~~
9 ~~trust, mortgage or other instrument an entry of such acknowledgment~~
10 ~~of satisfaction~~ which shall be signed by the trustee, mortgagee, legal
11 representative, agent or attorney and witnessed by the register of
12 deeds, who shall also affix his name thereto.

- 13 (2) By ~~exhibition~~ presentation of any original deed of trust, mortgage or
14 other instrument accompanied with the original bond, note, or other
15 instrument thereby secured to the register of deeds, with the
16 endorsement of payment and satisfaction appearing thereon and made
17 by:

- 18 a. The obligee,
- 19 b. The mortgagee,
- 20 c. The trustee,
- 21 d. An assignee of the obligee, mortgagee, or trustee, or
- 22 e. Any chartered banking institution, or savings and loan
23 association, national or state, or credit union, qualified to do
24 business in and having an office in the State of North Carolina,
25 when so endorsed in the name of the institution by an officer
26 thereof.

27 The register of deeds is not required to verify or make inquiry
28 concerning the authority of the person making the endorsement of
29 payment and satisfaction to do so. ~~Upon exhibition~~ Only upon
30 presentation of the ~~instruments,~~ original instruments with the
31 endorsement of payment and satisfaction appearing on them shall the
32 register of deeds shall cancel the mortgage, deed of trust or other
33 instrument by recording record a record of satisfaction as described in
34 G.S. 45-37.2, ~~and may make an entry of satisfaction on the margin of~~
35 ~~the record.~~ G.S. 45-37.2. The person so claiming satisfaction,
36 performance or discharge of the debt or other obligation may retain
37 possession of all of the instruments exhibited. The ~~exhibition~~
38 presentation of the mortgage, deed of trust or other instrument alone to
39 the register of deeds, with endorsement of payment, satisfaction,
40 performance or discharge, shall be sufficient if the mortgage, deed of
41 trust or other instrument itself sets forth the obligation secured or the
42 performance of any other obligation and does not call for or recite any
43 note, bond or other instrument secured by it.

- 44 (3) By ~~exhibiting~~ presentation to the register of deeds by:

- 1 a. The grantor,
- 2 b. The mortgagor, or
- 3 c. An agent, attorney or successor in title of the grantor or
- 4 mortgagor

5 of any mortgage, deed of trust or other instrument intended to secure
6 the payment of money or the performance of any other obligation,
7 together with the original bond, note or other instrument secured
8 thereby, or by ~~exhibition~~presentation of the original mortgage, deed of
9 trust or other instrument alone if such instrument itself sets forth the
10 obligation secured or other obligation to be performed and does not
11 call for or recite any note, bond or other instrument secured by it, if at
12 the time of exhibition, all such instruments are more than 10 years old
13 counting from the maturity date of the last obligation secured. If the
14 instrument or instruments so ~~exhibited~~presented have an endorsement
15 of partial payment, satisfaction, performance or discharge within the
16 said period of 10 years, the period of 10 years shall be counted from
17 the date of the most recent endorsement.

18 ~~The Only upon presentation of the original instruments shall the~~
19 ~~register of deeds shall cancel the mortgage, deed of trust, or other~~
20 ~~instrument by recording record a record of satisfaction as described in~~
21 ~~G.S. 45-37.2, and may make proper entry of cancellation and~~
22 ~~satisfaction of said instrument on the margin of the record where the~~
23 ~~same is recorded, whether there be any such entries on the original~~
24 ~~papers or not.~~G.S. 45-37.2(b)(2).

- 25 (4) By ~~exhibition~~presentation to the register of deeds of any deed of trust
26 given to secure the bearer or holder of any negotiable instruments
27 transferable by delivery, together with all the evidences of
28 indebtedness secured thereby, marked paid and satisfied in full and
29 signed by the bearer or holder thereof.

30 Upon ~~exhibition~~presentation of the original deed of trust, and the
31 originals of evidences of indebtedness properly marked, the register of
32 deeds shall ~~cancel such deed of trust by recording record~~ a record of
33 satisfaction as described in ~~G.S. 45-37.2, and may make an entry of~~
34 ~~satisfaction upon the margin of the record, which record, or entry if~~
35 ~~made, G.S. 45-37.2(b)(2),~~ shall be valid and binding upon all persons,
36 if no person rightfully entitled to the deed of trust or evidences of
37 indebtedness has previously notified the register of deeds in writing of
38 the loss or theft of the instrument or evidences of indebtedness and has
39 caused the register of deeds to record the notice or loss or theft in a
40 separate document, as required by G.S. 161-14.1.

41 Upon receipt of ~~written notice~~an affidavit of loss or theft of the
42 deed of trust or evidences of indebtedness which identifies the deed of
43 trust with names of the original parties to the document and recording
44 data for the deed of trust, the register of deeds shall record a record of

1 satisfaction, as described in ~~G.S. 45-37.2, which in this case shall~~
2 ~~consist of a rerecording of the record of the deed of trust containing the~~
3 ~~marginal entry and may make on the record of the deed of trust~~
4 ~~concerned a marginal entry in writing thereof, with the date of receipt~~
5 ~~of the notice. G.S. 45-37.2(b)(2).~~ The deed of trust shall not be
6 ~~anceled~~ presented for satisfaction after such recording of a record of
7 satisfaction ~~or marginal entry~~ until the ownership of said instrument
8 shall have been lawfully determined. Nothing in this subdivision (4)
9 shall be construed to impair the negotiability of any instrument
10 otherwise properly negotiable, nor to impair the rights of any innocent
11 purchaser for value thereof.

12 Every entry of acknowledgment of satisfaction or of satisfaction
13 made or witnessed by the register of deeds as provided in subdivision
14 (a)(1) shall operate and have the same effect to release and discharge
15 all the interest of such trustee, mortgagee or representative in such
16 deed or mortgage as if a deed of release or reconveyance thereof had
17 been duly executed and recorded.

- 18 (5) By ~~exhibition~~ presentation to the register of deeds of a notice of
19 satisfaction of a deed of trust, mortgage, or other instrument which has
20 been acknowledged by the trustee or the mortgagee before an officer
21 authorized to take acknowledgments. The notice of satisfaction shall
22 be substantially in the form set out in G.S. 47-46.1. The notice of
23 satisfaction shall recite the names of all parties to the original
24 instrument, the amount of the obligation secured, the date of
25 satisfaction of the obligation, and a reference ~~by book and page~~
26 ~~number to the record~~ to the recording data of the instrument satisfied.
27 ~~The notice of satisfaction shall be accompanied by the deed of trust,~~
28 ~~mortgage, or other instrument, or a copy of the instrument, for~~
29 ~~verification and indexing purposes, which shall not be recorded with~~
30 ~~the notice.~~

31 Upon ~~exhibition~~ presentation of the notice of satisfaction, the
32 register of deeds shall record the notice of satisfaction ~~and cancel the~~
33 ~~deed of trust, mortgage, or other instrument as required by~~
34 ~~G.S. 45-37.2. satisfaction.~~ No fee shall be charged for recording any
35 documents or certifying any acknowledgments pursuant to this
36 subdivision. The register of deeds shall not be required to verify or
37 make inquiry concerning the authority of the person executing the
38 notice of satisfaction to do so.

- 39 (6) By ~~exhibition~~ presentation to the register of deeds of a certificate of
40 satisfaction of a deed of trust, mortgage, or other instrument that has
41 been acknowledged before an officer authorized to take
42 acknowledgments by the owner of the note, bond, or other evidence of
43 indebtedness secured by the deed of trust or mortgage. The certificate
44 of satisfaction shall be accompanied by the note, bond, or other

1 evidence of indebtedness, if available, with an endorsement of
2 payment and satisfaction by the owner of the note, bond, or other
3 evidence of indebtedness. If such evidence of indebtedness cannot be
4 produced, an affidavit, hereafter referred to as an "affidavit of lost
5 note", signed by the owner of the note, bond, or other evidence of
6 indebtedness, shall be delivered to the register of deeds in lieu of the
7 evidence of indebtedness certifying that the debt has been satisfied and
8 stating: (i) the date of satisfaction; (ii) that the note, bond, or other
9 evidence of indebtedness cannot be ~~found; produced;~~ and (iii) that the
10 person signing the affidavit is the current owner of the note, bond, or
11 other evidence of indebtedness. The certificate of satisfaction shall be
12 substantially in the form set out in G.S. 47-46.2 and shall recite the
13 names of all parties to the original instrument, the amount of the
14 obligation secured, the date of satisfaction of the obligation, and a
15 reference ~~by book and page number to~~ to the recording data for the
16 record of the instrument satisfied. The affidavit of ~~lost~~ note, if
17 necessary, shall be substantially in the form set out in G.S. 47-46.3.
18 ~~The certificate of satisfaction shall be accompanied by the deed of~~
19 ~~trust, mortgage, or other instrument, or a copy of the instrument, for~~
20 ~~verification and indexing purposes, which shall not be recorded with~~
21 ~~the certificate.~~

22 Upon ~~exhibition~~ presentation of the certificate of satisfaction and
23 accompanying evidence of indebtedness endorsed paid and satisfied,
24 or upon ~~exhibition~~ presentation of an affidavit of ~~lost~~ note, the register
25 of deeds shall record the certificate of satisfaction and either the
26 accompanying evidence of indebtedness or the affidavit of ~~lost~~ note,
27 ~~and shall cancel the deed of trust, mortgage, or other instrument as~~
28 ~~required by G.S. 45-37.2. note.~~ No fee shall be charged for recording
29 any documents or certifying any acknowledgments pursuant to this
30 subdivision. The register of deeds shall not be required to verify or
31 make inquiry concerning the authority of the person executing the
32 certificate of satisfaction to do so.

33 (b) It shall be conclusively presumed that the conditions of any deed of trust,
34 mortgage or other instrument securing the payment of money or securing the
35 performance of any other obligation or obligations have been complied with or the debts
36 secured thereby paid or obligations performed, as against creditors or purchasers for
37 valuable consideration from the mortgagor or grantor, from and after the expiration of
38 15 years from whichever of the following occurs last:

- 39 (1) The date when the conditions of such instrument were required by its
40 terms to have been performed, or
- 41 (2) The date of maturity of the last installment of debt or interest secured
42 thereby;

1 provided that the holder of the indebtedness secured by such instrument or party secured
2 by any provision thereof may file an affidavit with the register of deeds which affidavit
3 shall specifically state:

4 (1) The amount of debt unpaid, which is secured by said instrument; or

5 (2) In what respect any other condition thereof shall not have been
6 complied with; or

7 may record a separate instrument signed by the holder or party secured and witnessed
8 by the register of deeds stating:

9 (1) Any payments that have been made on the indebtedness or other
10 obligation secured by such instrument including the date and amount
11 of payments and

12 (2) The amount still due or obligations not performed under the
13 instrument.

14 ~~Whenever practical, the register of deeds may also enter the information contained in~~
15 ~~the separate instrument on the margin of the record of the instrument.~~ The effect of the
16 filing of the affidavit or of the instrument recorded made as herein provided shall be to
17 postpone the effective date of the conclusive presumption of satisfaction to a date 15
18 years from the filing of the affidavit or from the recording of the ~~instrument or the~~
19 ~~making of the notation.~~ instrument. There shall be only one postponement of the
20 effective date of the conclusive presumption provided for herein. The register of deeds
21 shall record the affidavit provided for herein and shall record a separate instrument, as
22 required by G.S. 161-14.1, ~~making reference to the filing of such affidavit and to the~~
23 ~~book and page where the affidavit is recorded.~~ ~~Whenever practical, the register of deeds~~
24 ~~may also make such a reference on the margin of the record of the deed of trust,~~
25 ~~mortgage, or other instrument referred to, and index the affidavit or separate instrument~~
26 according to G.S. 161.14.1. This subsection shall not apply to any deed, mortgage, deed
27 of trust or other instrument made or given by any railroad company, or to any agreement
28 of conditional sale, equipment trust agreement, lease, chattel mortgage or other
29 instrument relating to the sale, purchase or lease of railroad equipment or rolling stock,
30 or of other personal property.

31 (c) Repealed by Session Laws 1991, c. 114, s. 4.

32 (d) For the purposes of this section "register of deeds" means the register of
33 deeds, his deputies or assistants of the county in which the mortgage, deed of trust, or
34 other instrument intended to secure the payment of money or performance of other
35 obligation is registered.

36 (e) For the purposes of this Article, "recording data" means the book and page or
37 instrument number or any unique data that indicate where a document is recorded in the
38 office of the register of deeds.

39 ~~(e)(f)~~ Any transaction subject to the provisions of the Uniform Commercial Code,
40 Chapter 25 of the General Statutes, is controlled by the provisions of that act and not by
41 this section.

42 ~~(f)(g)~~ Whenever this section requires a signature or endorsement, that signature or
43 endorsement shall be followed by the name of the person signing or endorsing the
44 document printed, stamped, or typed so as to be clearly legible. ~~The register of deeds~~

1 may refuse to accept any document when the provisions of this subsection have not
2 been met."

3 **SECTION 4.** G.S. 45-37.2 reads as rewritten:

4 "**§ 45-37.2. Recording satisfactions of deeds of trust and mortgages.**

5 (a) When a notice of satisfaction is recorded pursuant to G.S. 45-37(a)(5) or a
6 certificate of satisfaction is recorded pursuant to G.S. 45-37(a)(6), the register of deeds
7 shall ~~make an entry of satisfaction on the notice or certificate and record and index the~~
8 instrument instrument in the same manner as the deed of trust, mortgage, or other
9 security instrument in the names of the parties stated in the notice of satisfaction or the
10 certificate of satisfaction and reference the recording data of the original security
11 instrument as stated in the satisfaction document to each name indexed.

12 (b) When a deed of trust, mortgage, or other instrument is satisfied by a method
13 other than by means of a notice of satisfaction or certificate of satisfaction, the register
14 of deeds shall record a record of satisfaction consisting of either a separate instrument or
15 all or a portion of the original deed of trust or mortgage ~~rerecorded, and shall make the~~
16 appropriate entry of satisfaction as provided in G.S. 45-37 on each record of
17 satisfaction. rerecorded. A separate instrument or original deed of trust or mortgage
18 rerecorded pursuant to this subsection shall contain (i) names of all parties to the
19 original instrument, (ii) the amount of the obligation secured, (iii) the date of
20 satisfaction of the obligation, (iv) a reference ~~by book and page number to the record to~~
21 the recording data of the instrument satisfied, and (v) the date of recording the notice of
22 satisfaction. satisfaction, and when rerecording an original deed of trust or mortgage, the
23 record of satisfaction shall also contain (vi) an endorsement of payment and satisfaction,
24 and (vii) signatures of parties to the original security instrument. The register of deeds
25 shall index the record of satisfaction in the same manner as the deed of trust, mortgage,
26 or other instrument in the names of the parties on the satisfaction document and
27 reference the recording data of the original security instrument as stated in the
28 satisfaction document to each name indexed.

29 (b1) The following form, when properly completed, is sufficient to satisfy the
30 requirements of this section:

31 "RECORD OF SATISFACTION

32 (G.S. 45-37.2)

33 This Record of Satisfaction applies to the following deed of trust,
34 mortgage, or other security instrument.

35
36 Type of Security Instrument: (Identify type of security instrument,
37 such as deed of trust or mortgage)

38
39 Original Grantor(s): (Identify original grantor(s), trustor(s), or
40 mortgagor(s))

41
42 Original Trustee(s): (Identify trustee on original deed of trust)
43

Original Secured Party(ies): (Identify the original beneficiary(ies), mortgage(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 Record of Satisfaction is recorded pursuant to the following statutory authority: (check applicable box)

[] G.S. 45-37(a)(2), the original security instrument and secured obligations having been presented to me with appropriate endorsement of payment and satisfaction appearing thereon as required by law.

[] G.S. 45-37(a)(3), the original security instrument and secured obligations having been presented to me, each such instrument being more than 10 years old as provided by law.

[] G.S. 45-37(a)(4), the original security instrument and all negotiable instruments transferable by delivery secured thereby having been presented to me, each having been marked paid and satisfied in full by the bearer or holder thereof.

[] Other: (specify)

Date: _____

(Signature of Register of Deeds)

(c) ~~Whenever it is practical to do so, the register of deeds may make a marginal notation of satisfaction in addition to making the recordation required by this section.~~"

SECTION 5. G.S. 45-38 reads as rewritten:

"§ 45-38. Recording of foreclosure.

In case of foreclosure of any deed of trust, or mortgage, the trustee, mortgagee, or the trustee's or mortgagee's attorney shall record a notice of foreclosure and, ~~whenever it is practical to do so, may also enter upon the margin of the record of the deed of trust or mortgage of the fact that such foreclosure and that includes~~ the date when, and the person to whom, a conveyance was made by reason of the foreclosure. In the event the entire obligation secured by a mortgage or deed of trust is satisfied by a sale of only a part of the property embraced within the terms of the mortgage or deed of trust, the trustee, mortgagee, or the trustee's or mortgagee's attorney shall indicate in the notice of

1 foreclosure which property was sold and which was not sold, and may make an
2 additional notation indicating the same, whenever practical sold.

3 A notice of foreclosure shall consist of a separate instrument, or that part of the
4 original deed of trust or mortgage rerecorded, reciting the information required
5 hereinabove, the names of all parties to the original instrument, the amount of the
6 obligation secured, a reference by book and page number to the record-recording data of
7 the instrument foreclosed, and the date of recording the notice of foreclosure."

8 **SECTION 6.** G.S. 45-40 is repealed.

9 **SECTION 7.** G.S. 45-42.1 reads as rewritten:

10 **"§ 45-42.1. Corporate cancellation of lost mortgages by register of deeds.**

11 Upon affidavit of the secretary and treasurer of a corporation showing that the
12 records of such corporation show that such corporation has fully paid and satisfied all of
13 the notes secured by a mortgage or deed of trust executed by such corporation and such
14 payment and satisfaction was made more than 25 years ago, and that such mortgage or
15 deed of trust was made to a corporation which ceased to exist more than 25 years ago,
16 and such affidavit shall further state that the records of such corporation show that no
17 payments have been made on such mortgage by the corporation executing such
18 mortgage or deed of trust for 25 years, the register of deeds of the county in which such
19 mortgage or deed of trust is recorded is authorized and empowered to file such affidavit
20 and record the same in his office and to record a separate instrument making reference
21 to the filing of such affidavit and to the book and page where the affidavit is
22 recorded, may record the affidavit. The register of deeds shall index the affidavit
23 according to G.S. 161-22 using the names of parties stated in the affidavit and shall may
24 also make reference to the recording data of the original security instrument as stated in
25 the affidavit opposite each party indexed. thereto on the margin of the record in which
26 the said mortgage or deed of trust is recorded, and, upon Upon recording such
27 instrument an affidavit, or making such entry, the said mortgage or deed of trust shall be
28 deemed to be cancelled and satisfied and the said register of deeds is hereby authorized
29 to cancel the same of record: Provided, that this satisfied. This section shall not apply to
30 any mortgagor corporation except those in which the State of North Carolina owns more
31 than a majority of the capital stock and shall not apply to any mortgage or deed of trust
32 in which the principal amount secured thereby exceeds the sum of fifteen thousand
33 dollars (\$15,000): Provided, such cancellation shall not bar any action to foreclose such
34 mortgage or deed of trust instituted within 90 days after the same is cancelled."

35 **SECTION 8.** G.S. 161-14.1 reads as rewritten:

36 **"§ 161-14.1. Recording subsequent entries as separate instruments.**

37 In all cases in which the register of deeds is authorized or directed by law to make a
38 subsequent entry upon the margin of the record of a deed of trust, mortgage, or other
39 instrument, the register of deeds shall, except as provided in G.S. 45-37.2 and 45-38,
40 record all subsequent entries as separate instruments. The register of deeds shall index
41 the parties to the original instruments as stated on the subsequent instrument and
42 reference the recording data of the original security instrument as stated in the
43 subsequent document to each name indexed. Such instruments shall contain the
44 information and notations required by law for the appropriate marginal entry, law, a

reference by book and page number to the record recording data of the instrument modified, and the date of recording the subsequent modifying instrument. There shall also be entered in the alphabetical indexes kept by the register of deeds, opposite the name of each indexed party to the original instrument, a reference by book and page to the record of the subsequent modifying instrument. In the recording of satisfactions or foreclosures of deeds of trust and mortgages, the register of deeds shall comply with the provisions of G.S. 45-37.2 and 45-38. Whenever it is practical to do so, the register of deeds may continue making marginal notations in addition to making the recordation required by this section."

SECTION 9. G.S. 47-46 is repealed.

SECTION 10. G.S. 47-46.3 reads as rewritten:

"§ 47-46.3. Affidavit of lost note.

The form of an affidavit of lost note, if required pursuant to G.S. 45-37(a)(6), shall be substantially as follows:

AFFIDAVIT OF LOST NOTE

[Name of affiant] personally appeared before me in _____ County, State of _____, and having been duly sworn (or affirmed) made the following affidavit:

- 1. The affiant is the owner of the note or other indebtedness secured by the deed of trust, mortgage, or other instrument executed by _____ (grantor, mortgagor), _____ (trustee), and _____ (beneficiary, mortgagee), and recorded in _____ County at _____ (book and page); and
2. The note or other indebtedness has been lost and after the exercise of due diligence cannot be located.produced.
3. The affiant certifies that all indebtedness secured by the deed of trust, mortgage, or other instrument was satisfied on _____, _____ (date of satisfaction), and the affiant is responsible for cancellation of the same.

(Signature of affiant)

Sworn to (or affirmed) and subscribed before me this _____ day of _____, _____.

[Signature and seal of notary public or other official authorized to administer oaths]."

SECTION 11. This act becomes effective October 1, 2005.