

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

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HOUSE BILL 203
Committee Substitute Favorable 4/11/13

Short Title: Revisions/Homeowner/Homebuyer Protection Act.

(Public)

Sponsors:

Referred to:

March 5, 2013

1 A BILL TO BE ENTITLED
2 AN ACT AMENDING THE HOMEOWNER AND HOMEBUYER PROTECTION ACT.
3 The General Assembly of North Carolina enacts:

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

5 "§ 47G-1. Definitions.

6 The following definitions apply in this Chapter:

7 ...

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 ~~G.S. 75-1.1.~~ An option purchaser may bring an action for the recovery of damages, to void a
19 transaction executed in violation of this Chapter, as well as for declaratory or equitable relief
20 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
22 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 ~~property, including any structures thereon, has water, sewer, septic, and~~
31 ~~electricity service, whether the property is in a floodplain, whether anyone~~
32 ~~else has a legal interest in the property, and whether restrictive covenants~~
33 ~~prevent building or installing a dwelling. If restrictive covenants are in place~~
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.~~



1 (14a) A completed residential property disclosure statement that complies with
 2 Chapter 47E of the General Statutes, provided that the seller does not choose
 3 the option of making "No Representation" as to any characteristic or
 4 condition of the property.

5 ...

6 (16) ~~If the property being sold is encumbered by a deed of trust, mortgage, or~~
 7 ~~other encumbrance evidencing or securing a monetary obligation which~~
 8 ~~constitutes a lien on the property, and the seller is not a licensed general~~
 9 ~~contractor within the meaning of Chapter 87 of the General Statutes, or a~~
 10 ~~licensed manufactured home dealer within the meaning of Article 9A of~~
 11 ~~Chapter 143 of the General Statutes, a statement of the amount of the lien,~~
 12 ~~and the amount and due date, if any, of any periodic payments.~~

13 "

14 **SECTION 4.** G.S. 47H-8 reads as rewritten:

15 "**§ 47H-8. Remedies.**

16 ~~A violation of any provision of this Chapter constitutes an unfair 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."~~

23 **SECTION 5.** G.S. 75-120 reads as rewritten:

24 "**§ 75-120. Definitions.**

25 The following definitions shall apply in this Article:

26 (1) ~~Default.—Whenever a property owner is more than 60 days delinquent on~~
 27 ~~any loan or debt that is secured by the property, including real estate taxes.~~

28 ...

29 (3) Foreclosure rescue transaction. – A transfer of residential real property,
 30 including a manufactured home that is permanently attached to the real
 31 property, which includes all of the following features:

- 32 a. The real property is the principal residence of the transferor.
 33 b. ~~The transferor is in default or legal proceedings have been initiated to~~
 34 ~~foreclose on the transferor's property.~~
 35 c. The transferee, an agent of the transferee, or others acting in concert
 36 with the transferee make representations that the transfer of the
 37 residential property will enable the transferor to prevent, postpone, or
 38 reverse the effect of foreclosure and to remain in the residence.
 39 d. The transferor retains ~~an interest in the property conveyed, including~~
 40 ~~a tenancy interest, an interest under a lease purchase agreement,~~
 41 ~~an lease with option to purchase agreement, or an option to reacquire~~
 42 ~~the property, or any other legal, equitable, or possessory interest in~~
 43 ~~the property conveyed.~~

44 "

45 **SECTION 6.** G.S. 75-121 reads as rewritten:

46 "**§ 75-121. Foreclosure rescue transactions prohibited; exceptions; violation.**

47 (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 transaction for financial gain or with the expectation of financial gain, unless prior to or at the
 50 time of transfer, the transferee pays the transferor at least fifty percent (50%) of the fair market
 51 value of the property as determined by a licensed appraiser. An appraisal to determine the fair

1 market value of the property must be performed no more than ~~90~~120 days prior to the transfer.
2 The appraisal shall be delivered to the transferor ~~no more than three days after the appraisal is~~
3 ~~performed and~~ no less than seven days prior to the time the transferor becomes obligated to
4 perform the agreement.~~transfer of the property. This section does not apply to exempt~~
5 ~~transactions.~~

6"

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