

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001**

S

1

SENATE BILL 790

Short Title: Good Funds Settlement Act Revisions.

(Public)

Sponsors: Senator Hartsell.

Referred to: Judiciary I.

April 3, 2001

A BILL TO BE ENTITLED

1
2 AN ACT TO REVISE THE GOOD FUNDS SETTLEMENT ACT TO REPEAL THE
3 AUTHORITY OF A SETTLEMENT AGENT TO DISBURSE SETTLEMENT
4 PROCEEDS IN RELIANCE ON A DEPOSIT IN THE FORM OF A CHECK
5 DRAWN ON THE ACCOUNT OF OR ISSUED BY A LENDER WHICH IS
6 APPROVED BY THE UNITED STATES DEPARTMENT OF HOUSING AND
7 URBAN DEVELOPMENT AS EITHER A SUPERVISED OR NONSUPERVISED
8 MORTGAGEE.

9 The General Assembly of North Carolina enacts:

10 **SECTION 1.** G.S. 45A-4 reads as rewritten:

11 **"§ 45A-4. Duty of settlement agent.**

12 The settlement agent shall cause recordation of the deed, if any, the deed of trust or
13 mortgage, or other loan documents required to be recorded at settlement. The settlement
14 agent shall not disburse any of the closing funds prior to the recordation of any deeds or
15 loan documents required to be filed by the lender, if applicable, and verification that the
16 closing funds used to fund disbursement are deposited in the settlement agent's trust or
17 escrow account in one or more forms prescribed by this Chapter. Unless otherwise
18 provided in this Chapter, a settlement agent shall not cause a disbursement of settlement
19 proceeds unless those settlement proceeds are collected funds. Notwithstanding that a
20 deposit made by a settlement agent to its trust or escrow account does not constitute
21 collected funds, the settlement agent may cause a disbursement of settlement proceeds
22 from its trust or escrow account in reliance on that deposit if the deposit is in one or
23 more of the following forms:

24 (1) A certified check;

25 (2) A check issued by the State of North Carolina, the United States, or a
26 political subdivision of the State of North Carolina or the United
27 States;

- 1 (3) A cashier's check, teller's check, or official bank check drawn on or
2 issued by a financial institution insured by the Federal Deposit
3 Insurance Corporation or a comparable agency of the federal or state
4 government;
- 5 (4) A check drawn on the trust account of an attorney licensed to practice
6 in the State of North Carolina;
- 7 (5) A check or checks drawn on the trust or escrow account of a real estate
8 broker licensed under Chapter 93A of the General Statutes;
- 9 (6) A personal or commercial check or checks in an aggregate amount not
10 exceeding five thousand dollars (\$5,000) per closing if the settlement
11 agent making the deposit has reasonable and prudent grounds to
12 believe that the deposit will be irrevocably credited to the settlement
13 agent's trust or escrow account;
- 14 ~~(7) A check drawn on the account of or issued by a lender which is~~
15 ~~approved by the United States Department of Housing and Urban~~
16 ~~Development as either a supervised or nonsupervised mortgagee as~~
17 ~~defined in 24 C.F.R. section 202.2."~~

18 **SECTION 2.** G.S. 45A-5 reads as rewritten:

19 "**§ 45A-5. Duty of lender, purchaser, or seller.**

20 The lender, purchaser, or seller shall, at or before closing, deliver closing funds,
21 including the gross or net loan funds, if applicable, to the settlement agent either in the
22 form of collected funds or in the form of a negotiable instrument described in G.S.
23 45A-4(1) through ~~(7)~~, (6), provided that the lender, purchaser, or seller, as applicable,
24 shall cause that negotiable instrument to be honored upon presentment for payment to
25 the bank or other depository institution upon which the instrument is drawn. However,
26 in the case of a refinancing, or any other loan where a right of rescission applies, the
27 lender shall, no later than the business day after the expiration of the rescission period
28 required under the federal Truth-in-Lending Act, 15 U.S.C. § 1601, et seq., cause
29 disbursement of loan funds to the settlement agent in one or more of the forms
30 prescribed by provisions in this Chapter."

31 **SECTION 3.** This act becomes effective October 1, 2001.