

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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HOUSE BILL 237

Short Title: Extend Foreclosure Postponement.

(Public)

Sponsors: Representative Rhyne.

Referred to: Judiciary.

February 15, 1989

1 A BILL TO BE ENTITLED
2 AN ACT TO EXTEND THE PERIOD OF POSTPONEMENT OF FORECLOSURE
3 SALES UPON WRITTEN CONSENT OF DEBTOR.

4 The General Assembly of North Carolina enacts:

5 Section 1. G.S. 45-21.21 reads as rewritten:

6 "**§ 45-21.21. Postponement of sale.**

7 (a) Any person exercising a power of sale may postpone the sale to a day certain
8 not later than 20 days, exclusive of Sunday, after the original date for the sale –

9 (1) When there are no bidders, or

10 (2) When, in his judgment, the number of prospective bidders at the sale is
11 substantially decreased by inclement weather or by any casualty, or

12 (3) When there are so many other sales advertised to be held at the same
13 time and place as to make it inexpedient and impracticable, in his
14 judgment, to hold the sale on that day, or

15 (4) When he is unable to hold the sale because of illness or for other good
16 reason, or

17 (5) When other good cause exists.

18 In addition, upon written consent of the debtor under the mortgage or deed of trust,
19 filed with the clerk of superior court of the county in which the property is situated, any
20 person exercising a power of sale may postpone the sale to a day certain not later than
21 180 days after the original date of the sale.

22 (b) Upon postponement of a sale, the person exercising the power of sale shall
23 personally, or through his agent or attorney –

- 1 (1) At the time and place advertised for the sale, publicly announce the
2 postponement thereof; and
- 3 (2) On the same day, attach to or enter on the original notice of sale or a
4 copy thereof, posted at the courthouse door, as provided by G.S. 45-
5 21.17, a notice of the postponement;
- 6 (3) Give written or oral notice of postponement to each party entitled to
7 notice of sale under G.S. 45-21.17.
- 8 (c) The posted notice of postponement shall –
- 9 (1) State that the sale is postponed,
- 10 (2) State the hour and date to which the sale is postponed,
- 11 (3) State the reason for the postponement, and
- 12 (4) Be signed by the person authorized to hold the sale, or by his agent or
13 attorney. If the sale is to be held more than 20 days, exclusive of
14 Sunday, after the original date for the sale, the notice must also be
15 signed by the debtor under the mortgage or deed of trust.
- 16 (d) If a sale is not held at the time fixed therefor and is not postponed as provided
17 by this section, or if a postponed sale is not held at the time fixed therefor or within ~~20~~
18 ~~days of the date originally fixed for the sale,~~ the period allowed for postponement by
19 subsection (a), then prior to such sale's taking place the provisions of G.S. 45-21.16, 45-
20 21.16A, and 45-21.17 shall be again complied with except that if on appeal from
21 findings of the clerk pursuant to G.S. 45-21.16(d) and (e) the appellate court authorizes
22 the sale to be held, as to such sale so authorized the provisions of G.S. 45-21.16 need
23 not be complied with again but those of G.S. 45-21.16A and 45-21.17 shall be."
- 24 Sec. 2. This act is effective upon ratification and applies to foreclosure sales
25 held on or after the date of ratification.