

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

S

1

SENATE BILL 819

Short Title: Abolish Certain Deficiency Judgments.

(Public)

Sponsors: Senator Hartsell.

Referred to: Judiciary II.

March 25, 2009

A BILL TO BE ENTITLED

AN ACT TO ABOLISH DEFICIENCY JUDGMENTS WHERE THE MORTGAGE IS
SECURED BY PRIMARY RESIDENCE.

The General Assembly of North Carolina enacts:

SECTION 1. Article 2B of Chapter 45 of the General Statutes is amended by
adding a new section to read:

**"§ 45-21.38A. Deficiency judgments abolished where mortgage secured by primary
residence and foreclosed under power of sale.**

In all sales of real property secured by a primary residence by mortgagees or trustees under
powers of sale contained in any mortgage or deed of trust, the mortgagee or trustee or holder of
the notes secured by such mortgage or deed of trust shall not be entitled to a deficiency
judgment on account of such mortgage, deed of trust, or obligation secured by the same."

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

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

In all sales of real property secured by a primary residence, the mortgagee or trustee or
holder of the notes secured by such mortgage or deed of trust shall not be entitled to a
deficiency judgment on account of such mortgage, deed of trust, or obligation secured by the
same. This section applies regardless of whether the real property is sold under a power of sale
or as a result of court action. This section applies to mortgages made on or after January 1,
2010."

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

"§ 45-21.38C. Severability.

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

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

