

Article 4.

Satisfaction.

**§ 45-36.2. Obligation of good faith.**

Every action or duty within this Article imposes an obligation of good faith in its performance or enforcement. (1953, c. 848; 2005-123, s. 1.)

**§ 45-36.3. Notification by mortgagee of satisfaction of provisions of deed of trust or mortgage, or other instrument; civil penalty.**

(a) After the satisfaction of the provisions of any deed of trust or mortgage, or other instrument intended to secure with real property the payment of money or the performance of any other obligation and registered as required by law, the holder of the evidence of the indebtedness, if it is a single instrument, or a duly authorized agent or attorney of such holder shall within 60 days:

- (1) Discharge and release of record such documents and forward the cancelled documents to the grantor, trustor or mortgagor; or,
- (2) Alternatively, the holder of the evidence of the indebtedness or a duly authorized agent or attorney of such holder, at the request of the grantor, trustor or mortgagor, shall forward said instrument and the deed of trust or mortgage instrument, with payment and satisfaction acknowledged in accordance with the requirements of G.S. 45-37, to the grantor, trustor or mortgagor.

(b) Any person, institution or agent who fails to comply with this section may be required to pay a civil penalty of not more than one thousand dollars (\$1,000) in addition to reasonable attorneys' fees and any other damages awarded by the court to the grantor, trustor or mortgagor, or to a subsequent purchaser of the property from the grantor, trustor or mortgagor. A five hundred dollar (\$500.00) civil penalty may be recovered by the grantor, trustor or mortgagor, and a five hundred dollar (\$500.00) penalty may be recovered by the purchaser of the property from the grantor, trustor or mortgagor. If that purchaser of the property consists of more than a single grantee, then the civil penalty will be divided equally among all of the grantees. A petitioner may recover damages under this section only if he has given the mortgagee, obligee, beneficiary or other responsible party written notice of his intention to bring an action pursuant to this section. Upon receipt of this notice, the mortgagee, obligee, beneficiary or other responsible party shall have 30 days, in addition to the initial 60-day period, to fulfill the requirements of this section.

(c) Should any person, institution or agent who is not the present holder of the evidence of indebtedness be required to pay a civil penalty, attorneys' fees, or other damages under this section, they will have an action against the holder of the evidence of indebtedness for all sums they were required to pay.

(d) This section applies only if the provisions of the deed of trust, mortgage, or other instrument are satisfied before October 1, 2005. (1979, c. 681, s. 1; 1987, c. 662, ss. 1-3; 2005-123, s. 1.)

**§ 45-36.4. Definitions.**

As used in this Article, the following terms mean:

- (1) Address for giving a notification. – For the purpose of a particular type of notification, the most recent address provided in a document by the intended recipient of the notification to the person giving the notification,

unless the person giving the notification knows of a more accurate address, in which case the term means that address.

- (1a) Borrower. – A person primarily liable for payment or performance of the obligation secured by the real property described in a security instrument.
- (1b) Credit suspension directive. – A notification given to a secured creditor pursuant to G.S. 45-36.7A directing the secured creditor to suspend temporarily a borrower's right and ability to obtain additional credit advances in anticipation of the imminent sale of, or the imminent making of a new loan to be secured by, real property then encumbered by an existing security instrument when the anticipated transaction will involve either the satisfaction of the existing security instrument or the release of the real property from the lien of the existing security instrument.
- (2) Day. – Calendar day.
- (3) Document. – Information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.
- (4) Electronic. – Relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.
- (5) Entitled person. – A person who:
  - a. Is a borrower;
  - b. Is a landowner;
  - c. Has contracted to purchase real property encumbered by an existing security instrument;
  - d. Has made or has committed to make a loan that is secured or is to be secured by real property encumbered by an existing security instrument;
  - e. Is a title insurance company authorized pursuant to Article 26 of Chapter 58 of the General Statutes to issue title insurance policies in the State of North Carolina that has insured or has committed to insure title to real property encumbered by an existing security instrument;
  - f. Is the foreclosing trustee or the high bidder in a foreclosure sale involving real property encumbered by an existing security instrument;
  - g. Is a qualified lien holder; or
  - h. Is an attorney licensed to practice law in the State of North Carolina or a bank, savings and loan association, savings bank, or credit union, but only when:
    - 1. The attorney, bank, savings and loan association, savings bank, or credit union is or will be responsible for the disbursement of funds in connection with the sale of, or a new loan secured by, property then encumbered by an existing security instrument; and
    - 2. A requirement of the sale or new loan transaction is or will be that the property be conveyed or encumbered free and clear of the lien of the existing security instrument.
- (6) Good faith. – Honesty in fact and the observance of reasonable commercial standards of fair dealing.

- (7) Landowner. – A person that, before foreclosure, has the right of redemption in the real property described in a security instrument. The term does not include a person that holds only a lien on the real property or the trustee under a deed of trust.
- (8) Notification. – A document containing information required under this Article and signed by the person required to provide the information.
- (9) Original parties. – With respect to a security instrument, each person named as a party to the security instrument on the face thereof as originally recorded. In identifying the original parties to a deed of trust for purposes of this Article, it is not necessary to include the original trustee or trustees named therein.
- (10) Payoff amount. – The sum necessary to satisfy a secured obligation.
- (11) Payoff statement. – A document containing the information specified in G.S. 45-36.7(e).
- (12) Person. – An individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government, or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.
- (12a) Qualified lien holder. – A person who holds or is the beneficiary of a security interest in or lien on real property encumbered by an existing security instrument, but only if that person's security interest in or lien on the real property arises from a mortgage or deed of trust that is subordinate in priority to the lien of the existing security instrument. The term does not include a trustee under a deed of trust.
- (13) Recording data. – The book and page number or document number that indicates where a document is recorded in the office of the register of deeds.
- (14) Register of deeds. – Includes the register of deeds, assistant register of deeds, or deputy register of deeds.
- (15) Satisfy. – With respect to a security instrument, to terminate the effectiveness of the security instrument.
- (16) Secured creditor. – A person that holds or is the beneficiary of a security interest or that is authorized both to receive payments on behalf of a person that holds a security interest and to record a satisfaction of the security instrument upon receiving full performance of the secured obligation. The term does not include a trustee under a security instrument.
- (17) Secured obligation. – An obligation the payment or performance of which is secured by a security interest.
- (18) Security instrument. – An agreement, however denominated, that creates or provides for an interest in real property to secure payment or performance of an obligation, whether or not it also creates or provides

for a lien on personal property. The term includes a deed of trust and a mortgage.

- (19) Security interest. – An interest in real property created by a security instrument.
- (19a) Short-pay amount. – The sum necessary to obtain the release of all or a specific portion of the real property from the lien of a security instrument without satisfying the secured obligation in full.
- (19b) Short-pay statement. – A document containing the information specified in G.S. 45-36.7(e1).
- (20) Sign. – With present intent to authenticate or adopt a document:
  - a. To execute or adopt a tangible symbol; or
  - b. To attach to or logically associate with the document an electronic sound, symbol, or process.
- (21) State. – A state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.
- (22) Submit for recording. – To deliver, with required fees and taxes, a document sufficient to be recorded under this Article to the register of deeds in the county in which the real property described in the related security instrument is located.
- (23) Trustee. – The trustee or substitute then serving as such under the terms of a deed of trust. (2005-123, s. 1; 2011-312, s. 3.)

**§ 45-36.5. Notification: manner of giving and effective date.**

- (a) A person gives a notification by any of the following:
  - (1) Depositing it with the United States Postal Service with first-class postage paid or with a commercially reasonable delivery service with cost of delivery provided, properly addressed to the recipient's address for giving a notification.
  - (2) Sending it by facsimile transmission, electronic mail, or other electronic transmission to the recipient's address for giving a notification, but only if the recipient agreed to receive notification in that manner.
  - (3) Causing it to be received at the address for giving a notification within the time that it would have been received if given pursuant to subdivision (1) of this subsection.
- (b) A notification is effective on any of the following:
  - (1) The day after it is deposited with a commercially reasonable delivery service for overnight delivery.
  - (2) Three days after it is deposited with the United States Postal Service, first-class mail with postage prepaid, or with a commercially reasonable delivery service for delivery other than by overnight delivery.
  - (3) The day it is given, if given pursuant to subdivision (a)(2) of this section.
  - (4) The day it is received, if given by a method other than as provided in subdivision (a)(1) or (a)(2) of this section.
- (c) If this Article or a notification given pursuant to this Article requires performance on or by a certain day and that day is a Saturday, Sunday, or legal holiday under the laws of this State

or the United States, the performance is sufficient if performed on the next day that is not a Saturday, Sunday, or legal holiday. (2005-123, s. 1.)

**§ 45-36.6. Document of rescission: effect; liability for wrongful recording.**

(a) Definitions. – The following definitions apply in this section:

- (1) Document of rescission. – A document that rescinds either (i) a release that was recorded in error or (ii) the erroneous satisfaction of a security instrument.
- (2) Release. – A document that either (i) releases property from the lien of a security instrument or (ii) indicates that an obligation is no longer secured by a security instrument.

(b) If a release is recorded in error or a security instrument is erroneously satisfied of record, then the secured creditor or the person who caused the release to be recorded in error or the security instrument to be erroneously satisfied of record may execute and record a document of rescission. The document of rescission must be duly acknowledged before an officer authorized to make acknowledgments. Upon recording, the document of rescission either (i) rescinds a release that was recorded in error and deprives the release of any effect or (ii) rescinds the erroneous satisfaction of record of the security instrument and reinstates the security instrument.

(c) A recorded document of rescission has no effect on the rights of a person that:

- (1) Records an interest in the real property described in a security instrument after the recording of a release that was recorded in error or the erroneous satisfaction of record of the security instrument and before the recording of the document of rescission; and
- (2) Would otherwise have priority over or take free of the lien created by the security instrument as reinstated under Chapter 47 of the General Statutes.

(d) A person that erroneously or wrongfully records a document of rescission is liable to any person injured thereby for the actual loss caused by the recording and reasonable attorneys' fees and costs.

(e) A document is a document of rescission if it does all of the following:

- (1) Identifies the related security instrument, including the type of security instrument, the original parties to the security instrument, the recording data for the security instrument, and the office in which the security instrument is recorded.
- (2) If the document of rescission is intended to rescind a release that was recorded in error, (i) identifies the release that was recorded in error by its recording data and the office in which it is recorded, (ii) states that the release was recorded in error, and (iii) states that the release is rescinded.
- (3) If the document of rescission is intended to rescind the erroneous satisfaction of record of a security instrument, (i) identifies the satisfaction document that was recorded in error by its recording data and the office in which it is recorded, (ii) states that the security instrument

was erroneously satisfied of record, and (iii) states that the satisfaction of the security instrument is rescinded and the security instrument reinstated.

- (4) States that the person signing the document of rescission is either (i) the secured creditor or (ii) the person who caused the release to be recorded in error or the security instrument to be erroneously satisfied of record.
- (5) Is signed and acknowledged as required by law for a conveyance of an interest in real property.

(f) The register of deeds shall accept a document of rescission for recording unless one of the following applies:

- (1) The document is submitted by a method or in a medium not authorized for registration by the register of deeds under applicable law.
- (2) The required recording fee is not paid.
- (3) The document is not signed and acknowledged as required by law for a conveyance of an interest in real property by either the secured creditor or the person who caused the release to be recorded in error or the security instrument to be erroneously satisfied of record. The register of deeds shall not be required to verify or make inquiry concerning (i) the truth of the matters stated in any document of rescission or (ii) the authority of the person executing any document of rescission to do so.

(g) No particular phrasing is required for a document of rescission that rescinds a release that was recorded in error. The following form, when properly completed, is sufficient to satisfy the requirements of subsection (e) of this section:

**"DOCUMENT OF RESCISSION**

(G.S. 45-36.6(e))

The security instrument to which this Document of Rescission relates is identified as follows:

Type of Security Instrument: (identify type of security instrument, such as deed of trust or mortgage)

Original Grantor(s): (identify original grantor(s), trustor(s), or mortgagor(s))

Original Secured Party(ies): (identify the original beneficiary(ies), mortgagee(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 Document of Rescission rescinds the release recorded in Book \_\_\_\_\_ at Page \_\_\_\_\_ or as document number \_\_\_\_\_ in the office of the Register of Deeds for \_\_\_\_\_ County, North Carolina. The release was recorded in error, is hereby rescinded, and is declared to be of no effect. The undersigned is: (check applicable box)

\_\_\_\_\_ The secured creditor in the security instrument identified above.

\_\_\_\_\_ The person who caused the release to be recorded in error.

Date: \_\_\_\_\_

\_\_\_\_\_  
Signature of secured creditor or person who  
caused the release to be recorded in error

[Acknowledgment before officer authorized to take acknowledgments]"

(h) No particular phrasing is required for a document of rescission that rescinds the erroneous satisfaction of a security instrument. The following form, when properly completed, is sufficient to satisfy the requirements of G.S. 45-36.6(e):

**"DOCUMENT OF RESCISSION**

(G.S. 45-36.6(e))

The security instrument to which this Document of Rescission relates is identified as follows:

Type of Security Instrument: (identify type of security instrument, such as deed of trust or mortgage)

Original Grantor(s): (identify original grantor(s), trustor(s), or mortgagor(s))

Original Secured Party(ies): (identify the original beneficiary(ies), mortgagee(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.

The security instrument was erroneously satisfied of record by that satisfaction document recorded in Book \_\_\_\_\_ at Page \_\_\_\_\_ or as document number \_\_\_\_\_ in the office of the Register of Deeds for \_\_\_\_\_ County, North Carolina. The satisfaction of the security instrument is hereby rescinded, the security instrument is reinstated, and the security instrument is declared to be in full force and effect.

The undersigned is: (check applicable box)

\_\_\_\_\_ The secured creditor in the security instrument identified above.

\_\_\_\_\_ The person who caused the security instrument to be satisfied of record erroneously.

Date: \_\_\_\_\_

\_\_\_\_\_  
Signature of secured creditor or person who  
caused the security instrument to be satisfied  
of record erroneously

[Acknowledgment before officer authorized to take acknowledgments]".

(2005-123, s. 1; 2006-259, s. 52(b); 2006-264, s. 40(a); 2011-312, s. 4.)

**§ 45-36.7. Payoff and short-pay statements; request and content.**

(a) An entitled person, or an agent authorized by an entitled person to request a payoff or a short-pay statement, may give to the secured creditor a notification requesting a payoff statement or a short-pay statement. The notification must contain all of the following:

- (1) The entitled person's name.
- (2) If given by a person other than an entitled person, the name of the person giving the notification and a statement that the person is an authorized agent of the entitled person.
- (3) A direction whether the statement is to be sent to the entitled person or that person's authorized agent.
- (4) The address to which the creditor must send the statement.
- (5) Sufficient information to enable the creditor to identify the secured obligation and the real property encumbered by the security interest.
- (6) Whether the request is for a payoff statement or a short-pay statement.

- (7) If the request is for a payoff statement, the specified payoff date, which may not be more than 30 days after the notification is given.
- (8) If the request is for a short-pay statement, (i) the specified short-pay date, which may not be more than 30 days after the notification is given, (ii) a clear statement as to whether the request is for the short-pay amount required to release all of the real property described in the security instrument or only a portion of that property, and (iii) if the request is for the short-pay amount required to release only a portion of the real property described in the security instrument, a description of the specific real property to be released upon payment of the short-pay amount.

(b) If a notification under subsection (a) of this section directs the secured creditor to send the payoff statement or a short-pay statement to a person identified as an authorized agent of the entitled person, the secured creditor must send the statement to the agent, unless the secured creditor knows that the entitled person has not authorized the request.

(c) A person who gives to a secured creditor a notification requesting a payoff statement or a short-pay statement thereby represents that the person is an entitled person or the authorized agent of an entitled person. A secured creditor may rely on that representation in providing a payoff statement or a short-pay statement unless the secured creditor knows that the requesting person is neither an entitled person nor the authorized agent of an entitled person. A secured creditor has no duty to make inquiry as to whether, or to verify that, the person requesting a payoff statement or a short-pay statement is an entitled person or the authorized agent of an entitled person.

(d) Within 10 days after the effective date of a notification that complies with subsection (a) of this section, the secured creditor shall issue a payoff statement or a short-pay statement and send it as directed pursuant to subdivision (a)(3) of this section in the manner prescribed in G.S. 45-36.5 for giving a notification. A secured creditor that sends a payoff statement or a short-pay statement to the entitled person or the authorized agent may not claim that the notification did not satisfy subsection (a) of this section. If the person to whom the notification is given once held an interest in the secured obligation but has since assigned that interest, the person need not send a payoff statement or a short-pay statement but shall give (i) a notification of the assignment to the person to whom the payoff statement or a short-pay statement otherwise would have been sent, providing the name and address of the assignee, or (ii) a notification to the person to whom the payoff statement or a short-pay statement otherwise would have been sent, stating that the recipient claims no interest in the security instrument or the secured obligation, that the secured obligation was assigned, but that the identity and address of the assignee is not known.

(e) A payoff statement must contain:

- (1) The date on which it was prepared and the payoff amount as of that date, including the amount by type of each fee, charge, or other sum included within the payoff amount;
- (2) The information reasonably necessary to calculate the payoff amount as of the requested payoff date, including the per diem interest amount; and



- (3) The payment cutoff time, if any, the address or place where payment must be made, and any limitation as to the authorized method of payment.
- (e1) A short-pay statement must contain:
  - (1) The information reasonably necessary to calculate the short-pay amount as of the requested short-pay date, including the per diem interest amount, if any;
  - (2) The payment cutoff time, if any, the address or place where payment of the short-pay amount must be made, and any limitation as to the authorized method of payment;
  - (3) Any conditions precedent that must be satisfied to obtain the release of the property identified in the request for the short-pay statement from the lien of the security instrument; and
  - (4) Confirmation of the specific real property to be released from the lien of the security instrument upon receipt of the timely payment of the short-pay amount and satisfaction of the other conditions precedent to the release of that property.

Unless the short-pay statement expressly provides otherwise, all persons liable for payment or performance of the obligations secured by the security instrument will remain liable for the secured obligations to the extent the short-pay amount is not sufficient to satisfy the secured obligations in full.

(f) A payoff statement or a short-pay statement may contain the amount of any fees authorized under this section not included in the payoff amount. A secured creditor may require the payment in full of any fees authorized under this section before issuing a payoff statement or a short-pay statement.

(g) A secured creditor may not qualify a payoff amount or state that it is subject to change before the payoff date unless the payoff statement provides information sufficient to permit the entitled person or the person's authorized agent to request an updated payoff amount at no charge and to obtain that updated payoff amount during the secured creditor's normal business hours on the payoff date or the immediately preceding business day. A secured creditor may not qualify a short-pay amount or state that it is subject to change before the short-pay date unless the short-pay statement provides information sufficient to permit the entitled person or the person's authorized agent to request an updated short-pay amount at no charge and to obtain that updated short-pay amount during the secured creditor's normal business hours on the short-pay date or the immediately preceding business day.

(h) A secured creditor must provide upon request one payoff statement or one short-pay statement without charge during any six-month period. A secured creditor may charge a fee of twenty-five dollars (\$25.00) for each additional payoff statement and one hundred dollars (\$100.00) for each additional short-pay statement requested during that six-month period. However, a secured creditor may not charge a fee for providing an updated payoff amount or short-pay amount under subsection (g) of this section or a corrected payoff statement or short-pay statement under G.S. 45-36.8(a).

(i) Unless the security instrument provides otherwise, a secured creditor is not required to send a payoff statement or a short-pay statement by means other than first-class mail. If the creditor agrees to send a statement by another means, it may charge a reasonable fee for complying with the requested manner of delivery.

(j) Except as otherwise provided in G.S. 45-36.12, if a secured creditor to which a notification has been given pursuant to subsection (a) of this section does not send a timely payoff statement that substantially complies with subsection (e) of this section or a short-pay statement that substantially complies with subsection (e1) of this section, the creditor is liable to the entitled person for any actual damages caused by the failure, but not punitive damages. A creditor that does not pay the damages provided in this subsection within 30 days after receipt of a notification demanding payment shall also be liable for reasonable attorneys' fees and costs.

(k) This section does not apply unless (i) the notification requesting a payoff statement is given on or after October 1, 2005, and (ii) the notification requesting a short-pay statement is given on or after October 1, 2011. (2005-123, s. 1; 2011-312, s. 5.)

#### **§ 45-36.7A. Credit suspension directives.**

(a) A credit suspension directive may be given to a secured creditor by any of the following:

- (1) Any borrower.
  - (2) The legal representative of any borrower.
  - (3) The attorney for any borrower.
  - (4) An attorney licensed to practice law in the State of North Carolina or a bank, savings and loan association, savings bank, or credit union, but only when (i) the attorney, bank, savings and loan association, savings bank, or credit union is responsible for the disbursement of funds in connection with the sale of, or a new loan secured by, real property then encumbered by an existing security instrument; (ii) a requirement of the sale or new loan transaction is that the property be conveyed or encumbered free and clear of the lien of the existing security instrument; and (iii) the credit suspension directive is given to the secured creditor contemporaneously with a notification requesting a payoff statement or a short-pay statement in anticipation of and in preparation for the imminent settlement of the sale or new loan transaction.
- (b) A credit suspension directive must contain all of the following:
- (1) The name and authority of the person giving the directive.
  - (2) Sufficient information to enable the creditor to identify the secured obligation, the identity of the borrower, and the real property encumbered by the security interest.
  - (3) The specified payoff date, which may not be more than 30 days after the notification is given.
  - (4) A clear and unambiguous directive to the secured creditor to suspend through and including the payoff date the borrower's right and ability to

obtain any additional credit advances which, if made, would be secured by the security instrument.

(c) If the person who gives a credit suspension directive to a secured creditor is a person listed in subdivision (a)(4) of this section, that person shall also (i) give a copy of the credit suspension directive to the borrower and (ii) provide an additional notification to the borrower that provides substantially as follows:

#### "NOTICE TO BORROWER

You have a loan with (name of lender) secured by a mortgage or deed of trust on real property located at (address of property).

We will be responsible for disbursing funds in connection with a scheduled sale of the property or a new loan that will be secured by the property. A requirement of the sale or new loan transaction is that the property be conveyed or encumbered free and clear of the existing mortgage or deed of trust that secures your loan.

As permitted by North Carolina law, we are sending the (enclosed/attached/following/foregoing) notification to your lender directing that it temporarily suspend your right and ability to obtain credit advances in anticipation of the settlement of the sale or loan. The notification accompanies a request asking the amount that must be sent to your lender to pay your loan in full and cancel the mortgage or deed of trust that secures your loan (or, if your loan will not be paid in full, to release the property from the mortgage or deed of trust that secures your loan). The information your lender provides us may be inaccurate if you obtain additional credit advances before the scheduled settlement date of the sale or new loan transaction.

When your lender receives our directive, it will temporarily suspend your right and ability to obtain credit advances. The period of suspension will continue through and including (anticipated payoff date), the anticipated payoff date, regardless of whether the settlement of the sale or new loan transaction occurs as scheduled. The suspension will not affect your responsibility to continue making payments to your lender during the suspension period. You should not attempt to obtain additional credit advances from your lender during the suspension period.

You may instruct us at any time during the suspension period to withdraw the credit suspension directive we are sending your lender, and we are required by law to comply. However, if you do so, you may jeopardize the settlement of the sale or new loan transaction because the payoff or release information provided by your lender may become inaccurate.

When proceeds from a sale or new loan transaction are used to pay an existing loan in full, lenders typically close the loan account, thereby terminating their borrower's ability to obtain additional credit advances. You should contact your lender to determine whether you will be able to obtain additional credit advances after the settlement of the sale or new loan transaction.

If you have questions about this notice or our action, please contact (name of contact person or department) by calling us at (phone number) or writing to us at (mailing address).

(Name of attorney, bank, savings and loan association, savings bank, or credit union)"

(d) Upon receipt of a credit suspension directive, a secured creditor shall:

- (1) Subject to subsection (e) of this section, suspend the borrower's right and ability to obtain credit advances which, if made, would be secured by the security instrument. The period of suspension shall continue through and including the payoff date stated in the credit suspension directive.
- (2) Apply all sums subsequently paid during the period of suspension by or on behalf of the borrower in connection with the secured obligation, including sums paid to the secured creditor by a person responsible for the disbursement of funds in connection with the sale of, or a new loan secured by, real property then encumbered by a security instrument, to the satisfaction of the secured obligation, regardless of whether the amount or amounts paid are sufficient to pay the secured obligation and other sums secured by the security instrument in full. Sums paid to the secured creditor in excess of the amount required to pay the secured obligation and other sums secured by the security instrument in full shall be refunded by the secured creditor to or at the direction of the person who paid the excess amount.

(e) Notwithstanding a secured creditor's receipt of a credit suspension directive, a secured creditor may do any of the following, all of which shall be secured by the security instrument:

- (1) The secured creditor may advance sums and incur expenses (i) for insurance, taxes, and assessments, (ii) to protect the secured creditor's interest under the security instrument, (iii) to preserve and protect the value or condition of the real property encumbered by the security instrument, or (iv) to complete the construction of improvements on the real property encumbered by the security instrument.
- (2) The secured creditor may permit the borrower to obtain a credit advance, but only if the credit advance was initiated or approved before the secured creditor received the credit suspension directive.

(f) If the person giving a credit suspension directive is not a borrower, then the person giving a credit suspension directive shall be conclusively deemed the borrower's agent acting with full authority from the borrower to issue the credit suspension directive on the borrower's behalf.

(g) A credit suspension directive may be withdrawn at any time by the person who gave the directive. If the person who gives a credit suspension directive to a secured creditor is a person listed in subdivision (a)(4) of this section, that person shall promptly notify the secured creditor that the credit suspension directive is withdrawn (i) if instructed

by the borrower at any time to withdraw the directive or (ii) if the anticipated sale or new loan transaction is cancelled. Upon receipt of a notice from the person who originally gave the credit suspension directive that the credit suspension directive is withdrawn, the secured creditor may reinstate the borrower's right and ability to obtain credit advances. (2011-312, s. 6.)

**§ 45-36.8. Understated payoff statement or short-pay statement: correction; effect.**

(a) If a secured creditor determines that the payoff amount it provided in a payoff statement or the short-pay amount it provided in a short-pay statement was understated, the creditor may send a corrected payoff or short-pay statement. If the entitled person or the person's authorized agent receives and has a reasonable opportunity to act upon a corrected payoff statement or short-pay statement before making payment, the corrected statement supersedes an earlier statement.

(b) A secured creditor that sends a payoff statement containing an understated payoff amount or a short-pay statement containing an understated short-pay amount may not deny the accuracy of the payoff amount or short-pay amount as against any person that reasonably and detrimentally relies upon the understated payoff amount or short-pay amount.

(c) This Article does not:

- (1) Affect the right of a secured creditor to recover any sum that it did not include in a payoff amount or a short-pay amount from any person liable for payment of the secured obligation; or
- (2) Limit any claim or defense that a person liable for payment of a secured obligation may have under law other than this Article. (2005-123, s. 1; 2011-312, s. 7.)

**§ 45-36.9. Secured creditor to submit satisfaction or release for recording; liability for failure.**

(a) A secured creditor shall submit for recording a satisfaction of a security instrument within 30 days after the creditor receives full payment or performance of the secured obligation. If a security instrument secures a line of credit or future advances, the secured obligation is fully performed only if, in addition to full payment, the secured creditor has received (i) a notification requesting the creditor to terminate the line of credit, (ii) a credit suspension directive, or (iii) a notification containing a clear and unambiguous statement sufficient to terminate the effectiveness of the provision for future advances in the security instrument including, but not limited to, a request to terminate an equity line of credit given pursuant to G.S. 45-82.2 or a notice regarding future advances given pursuant to G.S. 45-82.3.

(a1) If the conditions stated in a short-pay statement are fully satisfied on or before the short-pay date stated in the short-pay statement, including the payment in full of the short-pay amount and the satisfaction of all other conditions precedent to the release set forth in the short-pay statement, then within 30 days after the short-pay date the secured creditor shall release the property which is the subject of the short-pay statement from the

lien of the security instrument. The release of the property may be accomplished by a deed of release, an instrument of full or partial reconveyance, a partial release recorded pursuant to G.S. 45-36.22, the satisfaction of record of the security instrument by any of the means authorized in G.S. 45-37(a), or by any other lawful means.

(b) Except as otherwise provided in G.S. 45-36.12, a secured creditor that is required to submit a satisfaction of a security instrument or a release for recording pursuant to this section and does not do so by the end of the period specified in subsection (a) or (a1) of this section is liable to the landowner for any actual damages caused by the failure, but not punitive damages.

(c) Except as otherwise provided in subsection (d) of this section and in G.S. 45-36.12, a secured creditor that is required to submit a satisfaction of a security instrument or a release for recording pursuant to this section and does not do so by the end of the period specified in subsection (a) or (a1) of this section is also liable to the landowner for one thousand dollars (\$1,000) and any reasonable attorneys' fees and court costs incurred if, after the expiration of the period specified in subsection (a) or (a1) of this section, all of the following occur:

- (1) The landowner gives the secured creditor a notification, by any method authorized by G.S. 45-36.5 that provides proof of receipt, demanding that the secured creditor submit a satisfaction or release for recording.
- (2) The secured creditor does not submit a satisfaction or release for recording within 30 days after the secured creditor's receipt of the notification.
- (3) The security instrument is not satisfied of record by any of the methods provided in G.S. 45-37(a) or the release is not filed within 30 days after the secured creditor's receipt of the notification.

The right to receive the additional one thousand dollars (\$1,000) is personal to the landowner who gives the secured creditor notification under this subsection and may not be assigned.

(d) Subsection (c) of this section does not apply if the secured creditor received full payment or performance of the secured obligation before October 1, 2005.

(e) Repealed by Session Laws 2011-246, s. 3, effective October 1, 2011. (2005-123, s. 1; 2011-246, s. 3; 2011-312, s. 8; 2013-204, s. 2.1.)

#### **§ 45-36.10. Content and effect of satisfaction.**

(a) A document is a satisfaction of a security instrument if it does all of the following:

- (1) Identifies the type of security instrument, the original parties to the security instrument, the recording data for the security instrument, and the office in which the security instrument is recorded.
- (2) States that the person signing the satisfaction is the secured creditor.
- (3) Reserved.
- (4) Contains language terminating the effectiveness of the security instrument.

- (5) Is signed by the secured creditor and acknowledged as required by law for a conveyance of an interest in real property.
- (b) The register of deeds shall accept for recording a satisfaction of a security instrument, unless one of the following applies:
- (1) The document is submitted by a method or in a medium not authorized for registration by the register of deeds under applicable law.
  - (2) The document is not signed by the secured creditor and acknowledged as required by law for a conveyance of an interest in real property. The register of deeds shall not be required to verify or make inquiry concerning (i) the truth of the matters stated in any satisfaction document, or (ii) the authority of the person executing any satisfaction document to do so.
- (c) Unless the satisfaction expressly states that the underlying obligation secured by the security instrument has been extinguished and the underlying note or other instrument evidencing the obligation has been cancelled, the recording of a satisfaction of a security instrument does not by itself extinguish any liability of a person for payment or performance of the secured obligation. (2005-123, s. 1; 2015-56, s. 1.)

**§ 45-36.11. Satisfaction: form.**

(a) Standard Form. – No particular phrasing is required for a satisfaction of a security instrument. The following form, when properly completed, is sufficient to satisfy the requirements of G.S. 45-36.10(a):

"SATISFACTION OF SECURITY INSTRUMENT  
(G.S. 45-36.10; G.S. 45-37(a)(7))

The undersigned is now the secured creditor in the security instrument identified as follows:

Type of Security Instrument: (identify type of security instrument, such as deed of trust or mortgage)

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

Original Secured Party(ies): (Identify the original beneficiary(ies), mortgagee(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 satisfaction terminates the effectiveness of the security instrument.

Date: \_\_\_\_\_

\_\_\_\_\_  
(Signature of secured creditor)

[Acknowledgment before officer authorized to take acknowledgments]"

(b) Alternate Form. – A secured creditor who would like to indicate that the underlying obligation secured by the instrument has been extinguished may use the following form, which, when properly completed, is also sufficient to satisfy the requirements of G.S. 45-36.10(a):

"SATISFACTION OF SECURITY INSTRUMENT  
(G.S. 45-36.10; G.S. 45-37(a)(7))

The undersigned is now the secured creditor in the security instrument identified as follows:

Type of Security Instrument: (identify type of security instrument, such as deed of trust or mortgage)

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

Original Secured Party(ies): (Identify the original beneficiary(ies), mortgagee(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 satisfaction terminates the effectiveness of the security instrument and extinguishes the underlying obligation secured by the instrument.

Date: \_\_\_\_\_

\_\_\_\_\_  
(Signature of secured creditor)

[Acknowledgment before officer authorized to take acknowledgments]".

(2005-123, s. 1; 2012-150, s. 1.)

#### **§ 45-36.12. Limitation of secured creditor's liability.**

A secured creditor is not liable under this Article if it:

- (1) Established a reasonable procedure to achieve compliance with its obligations under this Article;
- (2) Complied with that procedure in good faith; and
- (3) Was unable to comply with its obligations because of circumstances beyond its control. (2005-123, s. 1.)

#### **§ 45-36.13. Eligibility to serve as satisfaction agent.**

No person other than an attorney licensed to practice law in the State of North Carolina may serve as a satisfaction agent under this Article. (2005-123, s. 1.)

#### **§ 45-36.14. Affidavit of satisfaction: notification to secured creditor.**

(a) If a secured creditor has not submitted for recording a satisfaction of a security instrument and the security instrument has not been satisfied of record by any of the methods provided by G.S. 45-37(a) within the period specified in G.S. 45-36.9(a), a satisfaction agent acting for and with authority from the landowner may give the secured creditor a notification that the satisfaction agent intends to submit for recording an affidavit of satisfaction of the security instrument. The notification must include all of the following:

- (1) The identity and mailing address of the satisfaction agent.
- (2) Identification of the security instrument for which a recorded satisfaction is sought, including the names of the original parties to, and the recording data for, the security instrument.
- (3) A statement that the satisfaction agent has reasonable grounds to believe that:
  - a. The person to whom the notification is being given is the secured creditor; and
  - b. The secured creditor has received full payment or performance of the secured obligation.



- (4) A statement that the security instrument has not been satisfied of record.
- (5) A statement that the satisfaction agent, acting with the authorization of the owner of the real property described in the security instrument, intends to sign and submit for recording an affidavit of satisfaction of the security instrument unless, within 30 days after the effective date of the notification:
  - a. The secured creditor submits a satisfaction of the security instrument for recording;
  - b. The satisfaction agent receives from the secured creditor a notification stating that the secured obligation remains unsatisfied;
  - c. The satisfaction agent receives from the secured creditor a notification stating that the secured creditor has assigned the security instrument and identifying the name and address of the assignee; or
  - d. The security instrument is satisfied of record by any of the methods provided in G.S. 45-37(a).

(b) A notification under subsection (a) of this section must be sent by a method authorized by G.S. 45-36.5 that provides proof of receipt to the secured creditor's address for giving a notification for the purpose of requesting a payoff statement or, if the satisfaction agent cannot ascertain that address, to the secured creditor's address for notification for any other purpose.

(c) This Article does not require a person to agree to serve as a satisfaction agent.

(d) A satisfaction agent does not have to give the notification described in this section if (i) the secured creditor has authorized the satisfaction agent to sign and submit an affidavit of satisfaction; (ii) the satisfaction agent has in his or her possession the instruments described in G.S. 45-36.15(a)(3), (a)(4), or (a)(5); or (iii) after diligent inquiry, the satisfaction agent has been unable to determine the identity of the secured creditor because, for example, the last known secured creditor no longer exists and the satisfaction agent has been unable to identify any successor-in-interest to the last known secured creditor. (2005-123, s. 1; 2013-204, s. 2.2.)

#### **§ 45-36.15. Affidavit of satisfaction: authorization to submit for recording.**

(a) Subject to subsections (b) and (c) of this section, a satisfaction agent may sign and submit for recording an affidavit of satisfaction of a security instrument complying with G.S. 45-36.16 if the satisfaction agent has reasonable grounds to believe that the secured creditor has received full payment or performance of the secured obligation and one or more of the following apply:

- (1) The secured creditor has not, to the knowledge of the satisfaction agent, submitted for recording a satisfaction of a security instrument or otherwise caused the security instrument to be satisfied of record pursuant to any of the methods provided in G.S. 45-37(a) within 30 days after the effective date of a notification complying with G.S. 45-36.14(a).
- (2) The secured creditor has authorized the satisfaction agent to sign and submit for recording an affidavit of satisfaction.

- (3) The satisfaction agent has in his or her possession the original security instrument and the original bond, note, or other instrument secured thereby, with an endorsement of payment and satisfaction appearing thereon made by one or more of the following: (i) the secured creditor; (ii) the trustee or substitute trustee, if the security instrument is a deed of trust; (iii) an assignee of the secured creditor; or (iv) any bank, savings and loan association, savings bank, or credit union chartered under the laws of North Carolina or any other state or the United States having an office or branch in North Carolina, when so endorsed in the name of the institution by an officer thereof.
- (4) The satisfaction agent has in his or her possession the original security instrument intended to secure the payment of money or the performance of any other obligation, together with the original bond, note, or other instrument secured, or the original security instrument alone if the security instrument itself sets forth the obligation secured or other obligation to be performed and does not call for or recite any note, bond, or other instrument secured by it if, at the time the affidavit of satisfaction is to be signed and submitted, all such instruments are more than 10 years old counting from the maturity date of the last obligation secured. If the instrument or instruments secured by the security instrument have an endorsement of partial payment, satisfaction, performance, or discharge within the period of 10 years, the period of 10 years shall be counted from the date of the most recent endorsement.
- (5) The satisfaction agent has in his or her possession the original security instrument given to secure the bearer or holder of any negotiable instruments transferable solely by delivery, together with all the evidences of indebtedness secured thereby, marked paid and satisfied in full and signed by the bearer or holder thereof.
- (6) After diligent inquiry, the satisfaction agent has been unable to determine the identity of the secured creditor because, for example, the last known secured creditor no longer exists and the satisfaction agent has been unable to identify any successor-in-interest to the last known secured creditor.

(b) A satisfaction agent may not sign and submit for recording an affidavit of satisfaction of a security instrument if it has received a notification under G.S. 45-36.14(a)(5)b. stating that the secured obligation remains unsatisfied.

(c) Unless the satisfaction agent has in his or her possession the instruments described in subdivision (a)(3), (a)(4), or (a)(5) of this section or the satisfaction agent is unable to determine the identity of the secured creditor because, for example, the last known assignee of the security instrument no longer exists and the satisfaction agent has been unable to identify any successor-in-interest to the last known assignee, a satisfaction agent who receives a notification under G.S. 45-36.14(a)(5)c. stating that the security

instrument has been assigned may not submit for recording an affidavit of satisfaction of the security instrument without first:

- (1) Giving a notification of intent to submit for recording an affidavit of satisfaction to the identified assignee at the identified address; and
- (2) Complying with G.S. 45-36.14 with respect to the identified assignee. (2005-123, s. 1; 2013-204, s. 2.3.)

**§ 45-36.16. Affidavit of satisfaction: content.**

An affidavit of satisfaction of a security instrument must comply with all of the following:

- (1) Identify the type of security instrument, the original parties to the security instrument, the secured creditor, the recording data for the security instrument, and the office in which the security instrument is recorded.
- (2) State the basis upon which the person signing the affidavit is a satisfaction agent.
- (3) Reserved.
- (4) State that the person signing the affidavit has reasonable grounds to believe that the secured creditor has received full payment or performance of the secured obligation.
- (4a) Reserved.
- (4b) Reserved.
- (5) State one or more of the following, as applicable:
  - a. The person signing the affidavit, acting with the authority of the owner of the real property described in the security instrument, gave notification to the secured creditor in the manner prescribed by G.S. 45-36.14 of his or her intention to sign and submit for recording an affidavit of satisfaction. More than 30 days have elapsed since the effective date of that notification, and the person signing the affidavit (i) has no knowledge that the secured creditor has submitted a satisfaction for recording and (ii) has not received a notification that the secured obligation remains unsatisfied.
  - b. The secured creditor authorized the person signing the affidavit to sign and record an affidavit of satisfaction.
  - c. The person signing the affidavit has in his or her possession the original security instrument and the original bond, note, or other instrument secured thereby, with an endorsement of payment and satisfaction appearing thereon made by one or more of the following: (i) the secured creditor; (ii) the trustee or substitute trustee, if the security instrument is a deed of trust; (iii) an assignee of the secured creditor; or (iv) a bank, savings and loan association, savings bank, or credit union chartered under the laws of North Carolina or any other state or the United States having an office or branch in North Carolina, endorsed in the name of the institution by an officer thereof.
  - d. The person signing the affidavit has in his or her possession the original security instrument intended to secure the payment of money or the

performance of any other obligation together with the original bond, note, or other instrument secured thereby, or the original security instrument alone if the security instrument itself sets forth the obligation secured or other obligation to be performed and does not call for or recite any note, bond, or other instrument secured by it. All such instruments are more than 10 years old counting from the maturity date of the last obligation secured. If the instrument or instruments secured by the security instrument have an endorsement of partial payment, satisfaction, performance, or discharge within the period of 10 years, the period of 10 years has been counted from the date of the most recent endorsement.

- e. The person signing the affidavit has in his or her possession the original security instrument given to secure the bearer or holder of any negotiable instruments transferable solely by delivery, together with all the evidences of indebtedness secured thereby, marked paid and satisfied in full and signed by the bearer or holder thereof.
  - f. After diligent inquiry, the person signing the affidavit has been unable to determine the identity of the secured creditor.
- (6), (7) Repealed by Session Laws 2013-204, s. 2.4, effective June 26, 2013.
  - (8) Be signed and (i) acknowledged as required by law for a conveyance of an interest in real property or (ii) sworn to or affirmed before an officer authorized to administer oaths and affirmations.
  - (9) Copies of all or any part or parts of the instruments described in subdivision (5) of this section may be attached to and recorded with the affidavit of satisfaction. (2005-123, s. 1; 2013-204, s. 2.4.)

#### **§ 45-36.17. Affidavit of satisfaction: form.**

No particular phrasing of an affidavit of satisfaction is required. The following form of affidavit, when properly completed, is sufficient to satisfy the requirements of G.S. 45-36.16:

#### **"AFFIDAVIT OF SATISFACTION** (G.S. 45-36.16, 45-36.17, 45-36.18)

\_\_\_\_\_  
(Date of Affidavit)

The undersigned hereby states as follows:

- 1. I am an attorney licensed to practice law in the State of North Carolina.
- 2. I am signing this Affidavit of Satisfaction to evidence full payment or performance of the obligations secured by real property covered by the following security instrument (the "security instrument"), which I believe is currently or was most recently held by \_\_\_\_\_ (the "secured creditor"):  
Type of security instrument: \_\_\_\_\_  
Original Grantor(s): \_\_\_\_\_  
Original Secured Party(ies): \_\_\_\_\_  
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.

3. I have reasonable grounds to believe that the secured creditor has received full payment or performance of the balance of the obligations secured by the security instrument.

4. [Check appropriate box]

- ☐ Acting with authorization from the owner of the real property described in the security instrument, I gave notification to the secured creditor in the manner prescribed by G.S. 45-36.14 of my intention to sign and record an affidavit of satisfaction of the security instrument if, within 30 days after the effective date of the notification, the secured creditor did not submit a satisfaction of the security interest for recording or give notification that the secured obligation remains unsatisfied. The 30-day period has elapsed. I have no knowledge that the secured creditor has submitted a satisfaction for recording, and I have not received notification that the secured obligation remains unsatisfied.
- ☐ I have been authorized by the secured creditor to execute and record this Affidavit of Satisfaction.
- ☐ I have in my possession the original security instrument and the original bond, note, or other instrument secured thereby, with an endorsement of payment and satisfaction appearing thereon made by one or more of the following: (i) the secured creditor; (ii) the trustee or substitute trustee, if the security instrument is a deed of trust; (iii) an assignee of the secured creditor; or (iv) a bank, savings and loan association, savings bank, or credit union chartered under the laws of North Carolina or any other state or the United States having an office or branch in North Carolina, endorsed in the name of the institution by an officer thereof.
- ☐ I have in my possession the original security instrument together with the original bond, note, or other instrument secured thereby, or the original security instrument alone if the security instrument itself sets forth the obligation secured or other obligation to be performed and does not call for or recite any note, bond, or other instrument secured by it. All such instruments are more than 10 years old counting from the maturity date of the last obligation secured. If the instrument or instruments secured by the security instrument have an endorsement of partial payment, satisfaction, or performance or discharge within the period of 10 years, the period of 10 years has been counted from the date of the most recent endorsement.
- ☐ I have in my possession the original security instrument given to secure the bearer or holder of any negotiable instruments transferable solely by delivery, together with all the evidences of indebtedness secured thereby, marked paid and satisfied in full and signed by the bearer or holder thereof.

[ ] After diligent inquiry, I have been unable to determine the identity of the secured creditor.

5. (If applicable) Attached to and filed with this Affidavit of Satisfaction are copies of all or part(s) of the following instruments: (Describe attached copies)

This Affidavit of Satisfaction constitutes a satisfaction of the security instrument pursuant to G.S. 45-36.18.

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(Signature of Satisfaction Agent)

[Acknowledgment, oath, or affirmation before officer authorized to take acknowledgments and administer oaths and affirmations]"

(2005-123, s. 1; 2013-204, s. 2.5.)

**§ 45-36.18. Affidavit of satisfaction: effect.**

(a) Upon recording, an affidavit substantially complying with the requirements of G.S. 45-36.16 constitutes a satisfaction of the security instrument described in the affidavit.

(b) The recording of an affidavit of satisfaction of a security instrument does not by itself extinguish any liability of a person for payment or performance of the secured obligation.

(c) The register of deeds may not refuse to accept for recording an affidavit of satisfaction of a security instrument unless:

- (1) The affidavit is submitted by a method or in a medium not authorized for registration by the register of deeds under applicable law; or
- (2) The affidavit is not signed by the satisfaction agent and either (i) acknowledged as required by law for a conveyance of an interest in real property or (ii) sworn to or affirmed before an officer authorized to administer oaths and affirmations. The register of deeds shall not be required to verify or make inquiry concerning (i) the truth of the matters stated in any affidavit of satisfaction, or (ii) the authority of the person executing any affidavit of satisfaction to do so. (2005-123, s. 1; 2013-204, s. 2.6.)

**§ 45-36.19. Liability of satisfaction agent.**

(a) Except as otherwise provided in subsection (b) of this section, a satisfaction agent or any person purporting to be a satisfaction agent that records or submits for recording an affidavit of satisfaction of a security instrument erroneously or with knowledge that the statements contained in the affidavit are false is liable to the secured creditor for any actual damages caused by the recording and reasonable attorneys' fees and costs.

(b) A satisfaction agent that records or submits for recording an affidavit of satisfaction of a security instrument erroneously is not liable if the agent properly complied with this Article, gave notification to the secured creditor in the manner prescribed by G.S. 45-36.14, and the secured creditor did not respond in a timely manner to the notification pursuant to G.S. 45-36.14(a)(5).

(c) If a satisfaction agent or any person purporting to be a satisfaction agent records or submits for recording an affidavit of satisfaction of a security instrument with knowledge that the statements contained in the affidavit are false, this section does not preclude any of the following:

- (1) A court from awarding punitive damages on account of the conduct.
- (2) The secured creditor from proceeding against the satisfaction agent or person purporting to be a satisfaction agent under law of this State other than this Article.
- (3) The enforcement of any criminal statute prohibiting the conduct. (2005-123, s. 1; 2013-204, s. 2.7.)

**§ 45-36.20. Trustee's satisfaction of deed of trust: content and effect.**

(a) Upon recording, a trustee's satisfaction substantially complying with the requirements of this section constitutes a satisfaction of the deed of trust described in the trustee's satisfaction.

(b) The recording of a trustee's satisfaction does not by itself extinguish any liability of a person for payment or performance of the secured obligation.

(c) This section applies only if the security instrument is a deed of trust. This section is not exclusive. Deeds of trust may also be satisfied of record by methods other than the filing of a trustee's satisfaction.

(d) Document is a trustee's satisfaction of a deed of trust if it complies with all of the following:

- (1) Identifies the original parties to the deed of trust, the recording data for the deed of trust, and the office in which the deed of trust is recorded.
- (2) States that the person signing the trustee's satisfaction is then serving as trustee or substitute trustee under the terms of the deed of trust.
- (3) Contains language terminating the effectiveness of the deed of trust.
- (4) Is signed by the trustee or substitute trustee then serving under the terms of the deed of trust and acknowledged as required by law for a conveyance of an interest in real property.

(e) The register of deeds shall accept for recording a trustee's satisfaction of a deed of trust, unless:

- (1) The trustee's satisfaction is submitted by a method or in a medium not authorized for registration by the register of deeds under applicable law; or
- (2) The trustee's satisfaction is not signed by the trustee or substitute trustee and acknowledged as required by law for a conveyance of an interest in real property. The register of deeds shall not be required to verify or make inquiry concerning (i) the truth of the matters stated in any trustee's satisfaction, or (ii) the authority of the person executing any trustee's satisfaction to do so. (2005-123, s. 1.)

**§ 45-36.21. Trustee's satisfaction of deed of trust: form.**

(a) Standard Form. – No particular phrasing is required for a trustee's satisfaction of a deed of trust. The following form, when properly completed, is sufficient to satisfy the requirements of G.S. 45-36.20:

"TRUSTEE'S SATISFACTION OF DEED OF TRUST

(G.S. 45-36.20; G.S. 45-37(a)(7))

The undersigned is now serving as the trustee or substitute trustee under the terms of the deed of trust identified as follows:

Original Grantor(s): (Identify original grantor(s) or trustor(s))

Original Secured Party(ies): (Identify the original beneficiary(ies) or secured party(ies) in the deed of trust)

Recording Data: The deed of trust is recorded in Book \_\_\_\_ at Page \_\_\_\_ or as document number \_\_\_\_ in the office of the Register of Deeds for \_\_\_\_ County, North Carolina.

This satisfaction terminates the effectiveness of the deed of trust.

Date: \_\_\_\_\_

\_\_\_\_\_  
(Signature of trustee or substitute trustee)

[Acknowledgment before officer authorized to take acknowledgments]"

(b) Alternate Form. – A trustee and secured creditor who would like to indicate that the underlying obligation secured by the deed of trust has been extinguished may use the following form, which, when properly completed, is also sufficient to satisfy the requirements of G.S. 45-36.20:

"TRUSTEE'S SATISFACTION OF DEED OF TRUST  
AND

CREDITOR'S RELEASE

(G.S. 45-36.20; G.S. 45-37(a)(7))

The undersigned is now serving as the trustee or substitute trustee under the terms of the deed of trust identified as follows:

Original Grantor(s): (Identify original grantor(s) or trustor(s))

Original Secured Party(ies): (Identify the original beneficiary(ies) or secured party(ies) in the deed of trust)

Recording Data: The deed of trust is recorded in Book \_\_\_\_ at Page \_\_\_\_ or as document number \_\_\_\_ in the office of the Register of Deeds for \_\_\_\_ County, North Carolina.

This satisfaction terminates the effectiveness of the deed of trust.

Date: \_\_\_\_\_

\_\_\_\_\_  
(Signature of trustee or substitute trustee)

[Acknowledgment before officer authorized to take acknowledgments]

The obligation secured by the deed of trust has been extinguished.

Date: \_\_\_\_\_

\_\_\_\_\_  
(Signature of secured creditor)

[Acknowledgment before officer authorized to take acknowledgments]".

(2005-123, s. 1; 2012-150, s. 2.)

**§ 45-36.22. Partial release: content and effect; form.**

(a) A document is a partial release if it does all of the following:

- (1) Identifies the type of security instrument, the original parties to the security instrument, the recording data for the security instrument, and the office in which the security instrument is recorded.



- (2) States that the person signing the partial release is the secured creditor or, if the security instrument is a deed of trust, that the person or persons signing the partial release is or are the secured creditor, the trustee, or both the secured creditor and the trustee.
  - (3) Contains language releasing property or an interest in property from the lien of the security instrument.
  - (4) Is signed and acknowledged as required by law for a conveyance of an interest in real property by the secured creditor or, if the security instrument is a deed of trust, by the secured creditor, the trustee, or both the secured creditor and the trustee.
- (b) The register of deeds shall accept a partial release for recording unless one of the following applies:
- (1) The document is submitted by a method or in a medium not authorized for registration by the register of deeds under applicable law.
  - (2) The required recording fee is not paid.
  - (3) The document is not signed and acknowledged as required by law for a conveyance of an interest in real property by the secured creditor or, if the security instrument is a deed of trust, by the secured creditor, the trustee, or both the secured creditor and the trustee. The register of deeds shall not be required to verify or make inquiry concerning the truth of the matters stated in any partial release or the authority of the person executing any partial release to do so.
- (c) Upon recording, a partial release shall release from the lien of the security instrument the property or interest in property as is expressly described and released. With respect only to the specific property or interest in property identified and released by a partial release, the partial release shall (i) operate and have the same effect as a duly executed and recorded deed of release or reconveyance of the property or interest in the property; (ii) release and discharge all of the secured creditor's interest in the property or property interest arising from the security instrument; and (iii) if the security instrument is a deed of trust, release and discharge all the interest of the trustee in the property or property interest arising from the deed of trust. The security instrument shall otherwise remain in full force and effect, and the remainder of the property and interests in property described in and encumbered by the security instrument shall remain subject to the lien of the security instrument.
- (d) The recording of a partial release does not by itself extinguish any liability of a person for payment or performance of the secured obligation.
- (e) The provisions of this section are not exclusive. Property and interests in property may be released from the lien of a security instrument by methods other than the filing of a partial release.
- (f) Unless the deed of trust provides otherwise, the trustee in a deed of trust is not a necessary party to a partial release.
- (g) No particular phrasing is required for a partial release. The following form, when properly completed, is sufficient to satisfy the requirements of G.S. 45-36.22(a):

"PARTIAL RELEASE  
(G.S. 45-36.22)

The security instrument that is the subject of this Partial Release is identified as follows:

Type of Security Instrument: (identify type of security instrument, such as deed of trust or mortgage)

Original Grantor(s): (identify original grantor(s), trustor(s), or mortgagor(s))

Original Secured Party(ies): (identify the original beneficiary(ies), mortgagee(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.

The person or persons signing this Partial Release is/are: (check appropriate box)

☐ The secured creditor.

☐ The trustee or substitute trustee.

☐ The secured creditor and the trustee or substitute trustee.

The following described property or interest in property (and no other) is released from the lien of the security instrument: (identify legal description of property or interest in property to be released)

Date: \_\_\_\_\_

\_\_\_\_\_  
Signature(s) of secured creditor  
and/or trustee

[Acknowledgment before officer authorized to take acknowledgments]". (2011-312, s. 9.)

**§ 45-36.23. Obligation release: content and effect.**

(a) A document is an obligation release if it does all of the following:

- (1) Identifies the type of security instrument, the original parties to the security instrument, the recording data for the security instrument, and the office in which the security instrument is recorded.
- (2) States that the person signing the obligation release is the owner and holder of the obligation or obligations to be released.
- (3) Identifies one or more of the specific obligations that are secured by the security instrument and contains language confirming that, with respect to each such secured obligation, the obligation is no longer secured by the security instrument.
- (4) Is signed and acknowledged as required by law for a conveyance of an interest in real property by the owner and holder of the specific obligation or obligations to be released.

(b) The register of deeds shall accept an obligation release for recording unless one of the following applies:

- (1) The document is submitted by a method or in a medium not authorized for registration by the register of deeds under applicable law.
- (2) The required recording fee is not paid.
- (3) The document is not signed and acknowledged as required by law for a conveyance of an interest in real property by the owner and holder of the obligation or obligations to be released. The register of deeds shall not be

required to verify or make inquiry concerning (i) the truth of the matters stated in any obligation release or (ii) the authority of the person executing any obligation release to do so.

(c) From and after the date an obligation release is recorded, the obligation or obligations specifically identified and released in the obligation release (and only such obligation or obligations) shall no longer be secured by the security instrument, without regard to whether the obligation has been paid in full and satisfied. Unless the obligation release states that the secured obligation has been paid in full and satisfied, the recording of an obligation release does not by itself extinguish any liability of a person for payment or performance of the obligation or obligations released.

(d) Secured obligations that are not specifically identified and released in an obligation release remain secured by the security instrument, and the recording of an obligation release does not extinguish any liability of a person for payment or performance of the remaining secured obligation or obligations. The recording of an obligation release has no effect on the lien of the security instrument on the real property described in the security instrument.

(e) Unless the deed of trust provides otherwise, the trustee in a deed of trust is not a necessary party to an obligation release.

(f) No particular phrasing is required for an obligation release. The following form, when properly completed, is sufficient to satisfy the requirements of G.S. 45-36.23(a):

"OBLIGATION RELEASE

(G.S. 45-36.23)

The undersigned is now the owner and holder of the obligation(s) to be released by this instrument. As used in this release, the term "Security Instrument" refers to the security instrument identified as follows:

Type of Security Instrument: (identify type of security instrument, such as deed of trust or mortgage)

Original Grantor(s): (identify original grantor(s), trustor(s), or mortgagor(s))

Original Secured Party(ies): (identify the original beneficiary(ies), mortgagee(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.

Secured obligations that are no longer secured. Each of the following obligations is no longer secured by the Security Instrument, without regard to whether the obligation has been paid in full and satisfied: (identify with particularity each secured obligation that will no longer be secured by the Security Instrument)

(Optional provision which may be used in addition to or in lieu of the paragraph above:)

Secured obligations that have been paid in full and satisfied. Each of the following obligations has been paid in full and satisfied and is consequently no longer secured by the Security Instrument: (identify with particularity each secured obligation that has been paid in full and satisfied and is consequently no longer secured by the Security Instrument)

Date: \_\_\_\_\_

\_\_\_\_\_  
Signature of owner and holder of the  
obligation(s) to be released

[Acknowledgment before officer authorized to take acknowledgments]". (2011-312, s. 10.)

**§ 45-36.24. Expiration of lien of security instrument.**

(a) Maturity Date. – For purposes of this section:

(1) If a secured obligation is for the payment of money:

- a. If all remaining sums owing on the secured obligation are due and payable in full on a date specified in the secured obligation, the maturity date of the secured obligation is the date so specified. If no such date is specified in the secured obligation, the maturity date of the secured obligation is the last date a payment on the secured obligation is due and payable under the terms of the secured obligation.
- b. If all remaining sums owing on the secured obligation are due and payable in full on demand or on a date specified in the secured obligation, whichever first occurs, the maturity date of the secured obligation is the date so specified. If all sums owing on the secured obligation are due and payable in full on demand and no alternative date is specified in the secured obligation for payment in full, the maturity date of the secured obligation is the date of the secured obligation.
- c. The maturity date of the secured obligation is "stated" in a security instrument if (i) the maturity date of the secured obligation is specified as a date certain in the security instrument, (ii) the last date a payment on the secured obligation is due and payable under the terms of the secured obligation is specified in the security instrument, or (iii) the maturity date of the secured obligation or the last date a payment on the secured obligation is due and payable under the terms of the secured obligation can be ascertained or determined from information contained in the security instrument, such as, for example, from a payment schedule contained in the security instrument.

(2) If the secured obligation is for the performance of some obligation other than the payment of money:

- a. If the secured obligation is required to be performed by a date specified in the secured obligation, the maturity date of the secured obligation is the date so specified.
- b. If the obligation is to be performed on demand or before a date specified in the secured obligation, whichever first occurs, the maturity date of the secured obligation is the date so specified. If the obligation is to be performed on demand and no alternative date for performance is specified in the secured obligation, the maturity date of the secured obligation is the date of the secured obligation.
- c. The maturity date of the secured obligation is "stated" in a security instrument if (i) the maturity date of the secured obligation is specified as a date certain in the security instrument or (ii) the maturity date of the secured obligation can be ascertained or determined from information contained in the security instrument.

(b) Automatic Lien Expiration. – Except as provided in subsection (g) of this section, unless the lien of a security instrument has been extended in the manner prescribed

in subsection (c), (d), or (e) of this section, the security instrument has been foreclosed, or the security instrument has been satisfied of record pursuant to G.S. 45-37, the lien of a security instrument automatically expires, and the security instrument is conclusively deemed satisfied of record pursuant to G.S. 45-37, at the earliest of the following times:

- (1) If the security instrument was first recorded before October 1, 2011:
  - a. If the maturity date of the secured obligation is stated in the security instrument, 15 years after the maturity date.
  - b. If the maturity date of the secured obligation is not stated in the security instrument, 35 years after the date the security instrument was recorded in the office of the register of deeds.
  - c. Without regard to whether the maturity date of the secured obligation is stated in the security instrument, 15 years from whichever of the following occurs last:
    1. The date when the conditions of the security instrument were required by its terms to have been performed.
    2. The date of maturity of the last installment of debt or interest secured thereby.
    3. The date an affidavit or separate instrument was recorded pursuant to the provisions of G.S. 45-37(b), if any such affidavit or separate instrument was recorded before October 1, 2011, and before the lien of the security instrument expired.
- (2) If the security instrument was first recorded on or after October 1, 2011:
  - a. If the maturity date of the secured obligation is stated in the security instrument, 15 years after the maturity date.
  - b. If the maturity date of the secured obligation is not stated in the security instrument, 35 years after the date the security instrument was recorded in the office of the register of deeds.

(c) **Methods To Extend a Lien.** – The lien of a recorded security instrument may be extended one or more times by recording (i) a lien maturity extension agreement or (ii) a notice of maturity date. If more than one lien maturity extension agreement or notice of maturity date is recorded, the most recently recorded lien maturity extension agreement or notice of maturity date controls in determining when the lien of a security instrument expires. A lien maturity extension agreement or notice of maturity date is ineffective unless recorded before the lien expires. The lien of the original security instrument may not be extended to a date more than 50 years after the date the security instrument was originally recorded in the office of the register of deeds without the written agreement of the then owner of the property encumbered by the lien of the security instrument.

(d) **Lien Maturity Extension Agreement.** –

- (1) The lien of a recorded security instrument may be extended to a date specified in a lien maturity extension agreement, provided the lien maturity extension agreement is recorded before the lien expires. When a lien maturity extension agreement has been duly recorded, the lien of the security instrument will expire on the date specified in the lien maturity extension agreement.

- (2) A document (including any document that modifies, amends, or restates a security instrument) is a lien maturity extension agreement if it does all of the following:
- Identifies the type of security instrument, the original parties to the security instrument, the recording data for the security instrument, and the office in which the security instrument is recorded.
  - States the date to which the lien of the security instrument is extended.
  - Is signed and acknowledged as required by law for a conveyance of an interest in real property by the secured creditor and the then owner of the property encumbered by the lien of the security instrument.
- (3) No particular phrasing is required for a lien maturity extension agreement. The following form, when properly completed, is sufficient to satisfy the requirements for a lien maturity extension agreement:

"LIEN MATURITY EXTENSION AGREEMENT

(G.S. 45-36.24(d))

\_\_\_\_\_ is now the secured creditor under the security instrument identified as follows:

Type of Security Instrument: (identify type of security instrument, such as deed of trust or mortgage)

Original Grantor(s): (identify original grantor(s), trustor(s), or mortgagor(s))

Original Secured Party(ies): (identify the original beneficiary(ies), mortgagee(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.

\_\_\_\_\_ is now the owner of the real property encumbered by the lien of the security instrument.

Pursuant to G.S. 45-36.24(d), the lien of the security instrument is extended to and including \_\_\_\_\_ (specify date).

Date: \_\_\_\_\_

\_\_\_\_\_  
Signature of Current Owner      Signature of Secured Creditor  
of Real Property

[Acknowledgments before officer authorized to take acknowledgments]"

(e) Notice of Maturity Date. –

- The lien of a recorded security instrument may be extended by a notice of maturity date, provided the notice of maturity date is recorded before the lien expires.
- When a notice of maturity date signed only by the secured creditor has been duly recorded, the lien of the security instrument will expire at the earliest of the following times: (i) 15 years after the maturity of the secured obligation as stated in the notice of maturity date or (ii) 50 years after the date the security instrument was originally recorded in the office of the register of deeds. A document signed only by the secured creditor is a notice of maturity date if it does all of the following:

- a. Identifies the type of security instrument, the original parties to the security instrument, the recording data for the security instrument, and the office in which the security instrument is recorded.
  - b. States that the person signing the notice of maturity date is the secured creditor.
  - c. States the maturity date of the secured obligation.
  - d. Is signed and acknowledged as required by law for a conveyance of an interest in real property by the secured creditor.
- (3) When a notice of maturity date signed by the secured creditor and by the then owner of the property encumbered by the lien of the security instrument has been duly recorded, the lien of the security instrument will expire 15 years after the maturity date of the secured obligation as stated in the notice of maturity. A document (including any document that modifies, amends, or restates a security instrument) signed by the secured creditor and by the then owner of the property encumbered by the lien of the security instrument is a notice of maturity date if it:
- a. Identifies the type of security instrument, the original parties to the security instrument, the recording data for the security instrument, and the office in which the security instrument is recorded.
  - b. States the maturity date of the secured obligation.
  - c. Is signed and acknowledged as required by law for a conveyance of an interest in real property by the secured creditor and the then owner of the property encumbered by the lien of the security instrument.
- (4) No particular phrasing is required for a notice of maturity date. The following form, when properly completed, is sufficient to satisfy the requirements for a notice of maturity date signed only by the secured creditor:

"NOTICE OF MATURITY DATE  
(G.S. 45-36.24(e))

The undersigned is now the secured creditor under the security instrument identified as follows:

Type of Security Instrument: (identify type of security instrument, such as deed of trust or mortgage)

Original Grantor(s): (identify original grantor(s), trustor(s), or mortgagor(s))

Original Secured Party(ies): (identify the original beneficiary(ies), mortgagee(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.

The maturity date of the secured obligation is \_\_\_\_\_ (specify date).

Date: \_\_\_\_\_

\_\_\_\_\_  
Signature(s) of secured creditor

[Acknowledgment before officer authorized to take acknowledgments]"

(f) Exception. – The register of deeds shall accept a lien maturity extension agreement or a notice of maturity date for recording and index the document as a

subsequent instrument in accordance with G.S. 161-14.1, unless one of the following applies:

- (1) The document is submitted by a method or in a medium not authorized for registration by the register of deeds under applicable law.
- (2) The required recording fee is not paid.
- (3) The document is not signed and acknowledged as required by law for a conveyance of an interest in real property. The register of deeds shall not be required to verify or make inquiry concerning (i) the truth of the matters stated in the document, (ii) whether the parties to the document are in fact the secured creditor and the then owner of the real property encumbered by the lien of the security instrument, or (iii) the authority of any person executing the document to do so.

(g) Foreclosure Proceedings. – No proceeding may be commenced to foreclose the lien of a security instrument unless the proceeding is commenced prior to the date on which the lien of the security instrument expires. However, if a proceeding to foreclose the lien of a security instrument is commenced before the lien of the security instrument expires, the lien created by the security instrument shall continue until final disposition of the proceeding. This provision shall not be construed as extending the lien or the right to bring or maintain any action for which a shorter period may be provided by law.

(h) No Shortening of Lien Without Secured Creditor's Consent. – Subject to the provisions of G.S. 45-37, the duration of the lien of a security instrument may not be shortened without the consent of the secured creditor.

(i) No Release or Satisfaction Necessary. – No release, satisfaction, or other instrument is necessary to discharge the lien of a security instrument that has expired; however, nothing in this section shall be construed as affecting or preventing the execution and recordation of any such release, satisfaction, or other document.

(j) Trustee in a Deed of Trust. – For purposes of this section, the trustee or substitute trustee in a deed of trust (i) shall not be considered the owner of the property encumbered by the lien of the deed of trust and (ii) shall not be a necessary party to a lien maturity extension agreement or notice of maturity date.

(k) Applicability. – This section applies to all security instruments, whether recorded before, on, or after October 1, 2011, except the following:

- (1) Any security instrument securing the payment of money or securing the performance of any other obligation or obligations conclusively presumed to have been fully paid and performed pursuant to the provisions of G.S. 45-37(b) prior to October 1, 2011.
- (2) Any security instrument made or given by any railroad company, or any agreement of conditional sale, equipment trust agreement, lease, chattel mortgage, or other instrument relating to the sale, purchase, or lease of railroad equipment or rolling stock, or of other personal property. (2011-312, s. 11; 2013-204, s. 2.8.)

#### **§ 45-37. Satisfaction of record of security instruments.**



(a) Subject to the provisions of G.S. 45-36.9(a) and G.S. 45-73 relating to security instruments which secure future advances, any security instrument intended to secure the payment of money or the performance of any other obligation registered as required by law may be satisfied of record and thereby discharged and released of record in the following manner:

- (1) Security instruments satisfied of record prior to October 1, 2005, pursuant to this subdivision as it was in effect prior to October 1, 2005, shall be deemed satisfied of record, discharged, and released.
- (2) Security instruments satisfied of record prior to October 1, 2011, pursuant to this subdivision as it was in effect prior to October 1, 2011, shall be deemed satisfied of record, discharged, and released.
- (3) Security instruments satisfied of record prior to October 1, 2011, pursuant to this subdivision as it was in effect prior to October 1, 2011, shall be deemed satisfied of record, discharged, and released.
- (4) Security instruments satisfied of record prior to October 1, 2011, pursuant to this subdivision as it was in effect prior to October 1, 2011, shall be deemed satisfied of record, discharged, and released.
- (5) Security instruments satisfied of record prior to October 1, 2005, pursuant to this subdivision as it was in effect prior to October 1, 2005, shall be deemed satisfied of record, discharged, and released.
- (6) Security instruments satisfied of record prior to October 1, 2005, pursuant to this subdivision as it was in effect prior to October 1, 2005, shall be deemed satisfied of record, discharged, and released.
- (7) By recording:
  - a. A satisfaction document that satisfies the requirements of G.S. 45-36.10,
  - b. An affidavit of satisfaction that satisfies the requirements of G.S. 45-36.16, or
  - c. A trustee's satisfaction that satisfies the requirements of G.S. 45-36.20, but only if the security instrument is a deed of trust.

The register of deeds shall not be required to verify or make inquiry concerning (i) the truth of the matters stated in any satisfaction document, affidavit of satisfaction, or trustee's satisfaction, or (ii) the authority of the person executing any satisfaction document, affidavit, or trustee's satisfaction to do so.

(b) It shall be conclusively presumed that the conditions of any security instrument recorded before October 1, 2011, securing the payment of money or securing the performance of any other obligation or obligations have been complied with or the debts secured thereby paid or obligations performed, as against creditors or purchasers for valuable consideration from the mortgagor or grantor, from and after the expiration of 15 years from whichever of the following occurs last:

- (1) The date when the conditions of the security instrument were required by its terms to have been performed, or

- (2) The date of maturity of the last installment of debt or interest secured thereby;

provided that on or before October 1, 2011, and before the lien has expired pursuant to this subsection, the holder of the indebtedness secured by the security instrument or party secured by any provision thereof may file an affidavit with the register of deeds which affidavit shall specifically state:

- (1) The amount of debt unpaid, which is secured by the security instrument;  
or
- (2) In what respect any other condition thereof shall not have been complied with; or

may record a separate instrument signed by the secured creditor and witnessed by the register of deeds stating:

- (1) Any payments that have been made on the indebtedness or other obligation secured by the security instrument including the date and amount of payments and
- (2) The amount still due or obligations not performed under the security instrument.

The effect of the filing of the affidavit or the recording of a separate instrument made as herein provided shall be to postpone the effective date of the conclusive presumption of satisfaction to a date 15 years from the filing of the affidavit or from the recording of the separate instrument. There shall be only one postponement of the effective date of the conclusive presumption provided for herein. The register of deeds shall record and index the affidavit provided for herein or the separate instrument made as herein provided as a subsequent instrument in accordance with G.S. 161-14.1. This subsection shall not apply to any security instrument made or given by any railroad company, or to any agreement of conditional sale, equipment trust agreement, lease, chattel mortgage or other instrument relating to the sale, purchase or lease of railroad equipment or rolling stock, or of other personal property.

The lien of any security instrument that secured the payment of money or the performance of any other obligation or obligations and that was conclusively presumed to have been fully paid and performed prior to October 1, 2011, pursuant to the provisions of this subsection is conclusively deemed to have expired and shall be of no further force or effect. No release, satisfaction, or other instrument is necessary to discharge the lien of a security instrument that has expired; however, nothing in this section shall be construed as affecting or preventing the execution and recordation of any such release, satisfaction, or other document.

This subsection shall apply only to security instruments securing the payment of money or securing the performance of any other obligation or obligations that were conclusively presumed pursuant to this subsection to have been fully paid and performed prior to October 1, 2011. All other security instruments shall be subject to the provisions of G.S. 45-36.24.

- (c) Repealed by Session Laws 1991, c. 114, s. 4.
- (d) Repealed by Session Laws 2005-123, s. 1.

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

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

(g) The satisfaction of record of a security instrument pursuant to this section shall operate and have the same effect as a duly executed and recorded deed of release or reconveyance of the property described in the security instrument and shall release and discharge (i) all the interest of the secured creditor in the real property arising from the security instrument and, (ii) if the security instrument is a deed of trust, all the interest of the trustee or substitute trustee in the real property arising from the deed of trust. (1870-1, c. 217; Code, s. 1271; 1891, c. 180; 1893, c. 36; 1901, c. 46; Rev., s. 1046; 1917, c. 49, s. 1; c. 50, s. 1; C.S., s. 2594; 1923, c. 192, s. 1; c. 195; 1935, c. 47; 1945, c. 988; 1947, c. 880; 1951, c. 292, s. 1; 1967, c. 765, ss. 1-5; 1969, c. 746; 1975, c. 305; 1985, c. 219; 1987, c. 405, s. 1; c. 620, s. 1; 1989, c. 434, s. 1; 1991, c. 114, s. 4; 1995, c. 292, ss. 1, 2, 5; 1995 (Reg. Sess., 1996), c. 604, s. 1; 2005-123, s. 1; 2006-226, s. 12; 2006-259, s. 2; 2006-264, s. 40(b); 2011-246, s. 4; 2011-312, s. 12.)

**§ 45-37.1. Validation of certain entries of cancellation made by beneficiary or assignee instead of trustee.**

In all cases where, prior to January 1, 1930, it appears from the margin or face of the record in the office of the register of deeds of any county in this State that the original beneficiary named in any deed of trust, trust indenture, or other instrument intended to secure the payment of money and constituting a lien on real estate, or his assignee of record, shall have made an entry purporting to fully satisfy and discharge the lien of such instrument, and such entry has been signed by the original payee and beneficiary in said deed of trust, or other security instrument, or by his assignee of record, or by his or their properly constituted officer, agent, attorney, or legal representatives, and has been duly witnessed by the register of deeds or his deputy, all such entries of cancellation and satisfaction are hereby validated and made full, sufficient and complete to release, satisfy and discharge the lien of such instrument, and shall have the same effect as if such entry had been made and signed by the trustee named in said deed of trust, or other security instrument, or by his duly appointed successor or substitute. (1945, c. 986.)

**§ 45-37.2. Indexing satisfactions and other documents relating to security instruments.**

(a) The register of deeds shall record and index the following instruments in accordance with G.S. 161-14.1:

- (1) A substitution of trustee.
- (2) A document of rescission recorded pursuant to G.S. 45-36.6.
- (3) A deed of release or reconveyance.
- (4) A partial release recorded pursuant to G.S. 45-36.22.
- (5) An obligation release recorded pursuant to G.S. 45-36.23.

- (6) A satisfaction document, affidavit of satisfaction, or trustee's satisfaction recorded pursuant to G.S. 45-37(a)(7).
- (7) A lien maturity extension agreement or notice of maturity date recorded pursuant to G.S. 45-36.24.

No fee shall be charged by the register of deeds for recording a satisfaction document, affidavit of satisfaction, or a trustee's satisfaction.

(b) G.S. 161-14.1 (1963, c. 1021, s. 1; 1967, c. 765, s. 6; 1987, c. 620, s. 2; 1991, c. 114, s. 2; 1993, c. 425, s. 3; 1995, c. 292, s. 6; 2005-123, s. 1; 2011-246, s. 5; 2011-312, s. 13.)

#### **§ 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 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 foreclosure which property was sold.

A notice of foreclosure shall consist of a separate instrument, or that part of the original deed of trust or mortgage rerecorded, reciting the information required hereinabove, the names of the original parties to the original instrument foreclosed, and the recording data for the instrument foreclosed. A notice of foreclosure shall be indexed by the register of deeds in accordance with G.S. 161-14.1. (1923, c. 192, s. 2; C.S., s. 2594(a); 1949, c. 720, s. 2; 1963, c. 1021, s. 2; 1971, c. 985; 1991, c. 114, s. 3; 1993, c. 305, s. 24; 2005-123, s. 1; 2006-226, s. 13.)

#### **§ 45-39: Repealed by Session Laws 1949, c. 720, s. 5.**

**§ 45-40:** Repealed by Session Laws 2005-123, s. 1, effective October 1, 2005.

#### **§ 45-41. Recorded deed of release of mortgagee's representative.**

The personal representative of any mortgagee or trustee in any mortgage or deed of trust which has heretofore or which may hereafter be registered in the manner required by the laws of this State may satisfy of record, discharge and release the same and all property thereby conveyed by deed of quitclaim, release or conveyance executed, acknowledged and recorded as is now prescribed by law for the execution, acknowledgment and registration of deeds and mortgages in this State. (1909, c. 283, s. 1; C.S., s. 2596; 2005-123, s. 1.)

#### **§ 45-42. Satisfaction of corporate mortgages by corporate officers.**

All security instruments executed to a corporation may be satisfied and so marked of record as by law provided for the satisfaction of security instruments, by any officer of the corporation indicating the office held. For the purposes of recordation and satisfaction, such signature shall be deemed to be a certification by the signer that he is an officer and is authorized to execute the satisfaction on behalf of such corporation. Where security instruments were marked "satisfied" on the records before the twenty-third day of February, 1909, by any president, secretary, treasurer or cashier of any corporation by such officer writing his own name and affixing thereto the title of his office in such corporation, such satisfaction is validated, and is as effective to all intents and purposes as if a deed of release duly executed by such corporation had been made, acknowledged

and recorded. (1909, c. 283, ss. 2, 3; C.S., s. 2597; 1935, c. 271; 1963, c. 193; 1991, c. 647, s. 6; 2005-123, s. 1.)

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

Upon affidavit of the secretary and treasurer of a corporation showing that the records of such corporation show that such corporation has fully paid and satisfied all of the notes secured by a security instrument executed by such corporation and such payment and satisfaction was made more than 25 years ago, and that such security instrument was made to a corporation which ceased to exist more than 25 years ago, and such affidavit shall further state that the records of such corporation show that no payments have been made on such secured obligation by the corporation executing such security instrument for 25 years, the register of deeds of the county in which such security instrument is recorded is authorized to record the affidavit. The register of deeds shall index the affidavit according to G.S. 161-22 using the names of parties stated in the affidavit and shall make reference to the recording data of the original security instrument as stated in the affidavit opposite the name of each party so indexed. Upon recording such affidavit, the said security instrument shall be deemed to be cancelled and satisfied of record: Provided, that this section shall not apply to any mortgagor corporation except those in which the State of North Carolina owns more than a majority of the capital stock and shall not apply to any security instrument in which the principal amount secured thereby exceeds the sum of fifteen thousand dollars (\$15,000): Provided, such cancellation shall not bar any action to foreclose such security instrument instituted within 90 days after the same is cancelled. (1945, c. 1090; 1991, c. 114, s. 7; 2005-123, s. 1.)

**§ 45-42.2:** Reserved for future codification purposes.

**§ 45-42.3. Automatic release of real property from ancillary security instruments.**

(a) The following definitions shall apply in this section:

- (1) Ancillary security instrument. – An assignment of leases with respect to the real property, an assignment of rents from or arising out of the real property, a financing statement covering fixtures on the real property that is filed in the office of the register of deeds in the county in which the real property is located, and any other document or instrument that assigns, or creates a lien on, an interest in the real property.
- (2) Real property. – The real property described in and encumbered by the lien of a security instrument.

(b) Except as provided in subsection (c) of this section, (i) the expiration of the lien of a security instrument pursuant to G.S. 45-36.24 or the satisfaction of a security instrument of record pursuant to G.S. 45-37 shall be deemed automatically to release the real property from the operation of all ancillary security instruments that secure the same obligation or obligations secured by the security instrument and (ii) the recording of a partial release pursuant to G.S. 45-36.22 or the recording of a deed of release shall be deemed automatically to release the real property described in the partial release or deed of release from the operation of all ancillary security instruments that secure the same obligation or obligations secured by the security instrument.

(c) Subsection (b) of this section shall not apply to an ancillary security instrument if (i) the ancillary security instrument secures obligations other than, or in addition to, the obligation or obligations secured by the security instrument; (ii) the security instrument, the ancillary security instrument, or the document recorded in the office of the register of deeds to satisfy the security instrument of record expressly states that the satisfaction of the security instrument of record shall not release the real property from the operation of that particular ancillary security instrument or from ancillary security instruments in general; or (iii) the security instrument, the ancillary security instrument, the partial release, or the deed of release expressly states that the partial release or deed of release shall not release real property from the operation of that particular ancillary security instrument or ancillary security instruments in general. (2011-312, s. 14.)