

NORTH CAROLINA GENERAL ASSEMBLY
1967 SESSION

CHAPTER 979
HOUSE BILL 43

1 AN ACT TO AMEND ARTICLE 29A OF CHAPTER 1 OF THE GENERAL STATUTES
2 RELATING TO JUDICIAL SALES, ARTICLE 29B OF CHAPTER 1 OF THE
3 GENERAL STATUTES RELATING TO EXECUTION SALES, AND ARTICLE 2A OF
4 CHAPTER 45 OF THE GENERAL STATUTES RELATING TO SALES UNDER A
5 POWER OF SALE.

6
7 The General Assembly of North Carolina do enact:

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9 **Section 1.** Article 29A, of Chapter 1 of the General Statutes, relating to Judicial
10 Sales, is hereby amended as follows:

11 (a) G.S. 1-339.17(b)(2) is hereby amended to read as follows: "(2) The date of
12 the last publication shall be not more than 10 days preceding the date of the sale."

13 (b) G.S. 1-339.25 (a), as the same appears in the 1965 Cumulative Supplement
14 to Volume 1A of the General Statutes, is amended by:

15 (1) Inserting in the first sentence thereof, immediately following the word
16 "cash", a comma and the following words, "or by certified check or cashier's
17 check satisfactory to the said clerk,".

18 **Sec. 2.** Article 29B, of Chapter 1 of the General Statutes, relating to Execution
19 Sales, is hereby amended as follows:

20 (a) G.S. 1-339.52 is amended by:

21 (1) Amending subsection (a)(2)b thereof to read, "b. If no such newspaper is
22 published in the county, then notice shall be published once a week for at
23 least four successive weeks in a newspaper having general circulation in the
24 county."

25 (2) Amending subsection (b)(2) thereof to read, "(2) The date of the last
26 publication shall be not more than 10 days preceding the date of the sale."

27 (b) G.S. 1-339.64(a) is amended by:

28 (1) Inserting in the first sentence thereof, immediately following the word
29 "cash", a comma and the following words, "or by certified check or cashier's
30 check satisfactory to the said clerk,".

31 (2) Substituting a semicolon for the period at the end of the first sentence
32 thereof and adding thereto the words, "such deposit to be made with the
33 Clerk of Superior Court before the expiration of the tenth day, and if the
34 tenth day shall fall upon a Sunday or holiday, or upon a day in which the
35 office of the clerk is not open for the regular dispatch of its business, the
36 deposit may be made on the day following when said office is open for the
37 regular dispatch of its business."

38 (c) G.S. 1-339.67 is hereby amended by changing the statute citation in the
39 second sentence thereof to read "G.S. 1-339.64".

40 (d) G.S. 1-339.68 is hereby amended by adding thereto a subsection (c) as
41 follows: "(c) Orders for possession of real property sold pursuant to this Article, in favor of the
42 purchaser and against any party or parties in possession at the time of the sale who remain in

1 possession at the time of application therefor, may be issued by the Clerk of the Superior Court
2 of the county in which such property is sold, when:

- 3 1. The purchaser is entitled to possession, and
- 4 2. The purchase price has been paid, and
- 5 3. The sale or resale has been confirmed, and
- 6 4. Ten days' notice has been given to the party or parties in possession at the
7 time of the sale or resale who remain in possession at the time application is
8 made, and
- 9 5. Application is made to such clerk by the purchaser of the property."

10 **Sec. 3.** Article 2A of Chapter 45 of the General Statutes, relating to Sales Under a
11 Power of Sale, is hereby amended as follows:

12 (a) G.S. 45-21.17(c)(2) is hereby amended to read as follows: "(2) The date of
13 the last publication shall be not more than 10 days preceding the date of the sale."

14 (b) G.S. 45-21.27 is hereby amended by:

- 15 (1) Substituting a semicolon for the period at the end of the first sentence of
16 subsection (a) thereof, as the same appears in the 1965 Cumulative
17 Supplement to Volume 2A of the General Statutes, and adding thereto the
18 words, "such deposit to be made with the Clerk of Superior Court before the
19 expiration of the tenth day, and if the tenth day shall fall upon a Sunday or
20 holiday, or upon a day in which the office of the clerk is not open for the
21 regular dispatch of its business, the deposit may be made on the day
22 following when said office is open for the regular dispatch of its business."

23 (2) Striking the word "sale" from the first sentence of subsection (c) and
24 substituting therefor the word "resale".

25 (a) G.S. 45-21.29 is hereby amended by:

- 26 (1) Rewriting subsection "(k)" thereof to read, "(k) Orders for possession of
27 real property sold pursuant to this Article, in favor of the purchaser and
28 against any party or parties in possession at the time of the sale who remain
29 in possession at the time of application therefor, may be issued by the Clerk
30 of the Superior Court of the county in which such property is sold, when:

- 31 1. Such property has been sold in the exercise of the power of sale
32 contained in any mortgage or deed of trust or granted by this Article,
33 and
- 34 2. The purchaser is entitled to possession, and
- 35 3. The purchase price has been paid, and
- 36 4. The sale has been consummated, or if a resale is held, such resale has
37 been confirmed, and
- 38 5. Ten days' notice has been given to the party or parties in possession
39 at the time of the sale or resale who remain in possession at the time
40 application is made, and 6. Application is made to such clerk by the
41 mortgagee, the trustee named in such deed of trust, any substitute
42 trustee, or the purchaser of the property."

43 (e) A Section is added, immediately following G.S. 45-21.29, to read as follows:

44 "§ 45-21.29A. No confirmation of sales of real property made pursuant to this Article shall be
45 required except as provided in G.S. 45-21.29(h) for resales. If in case of an original sale under
46 this Article no upset bid has been filed at the expiration of the ten-day period, as provided in
47 G.S. 45-21.27, the rights of the parties to the sale become fixed."

48 **Sec. 4.** This Act does not amend the Uniform Commercial Code as enacted in this
49 State. The application of statutes herein included or amended insofar as they relate to
50 transactions subject to the Uniform Commercial Code as enacted in this State shall be in
51 accordance with Article 10 of Chapter 25, of the General Statutes.

1 **Sec. 5.** All laws and clauses of laws in conflict with this Act are hereby repealed.

2 **Sec. 6.** This Act shall become effective October 1, 1967.

3 In the General Assembly read three times and ratified, this the 28th day of June,

4 1967.