

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2025

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HOUSE BILL 360

Short Title: Homeowner Protection Act. (Public)

Sponsors: Representatives Reives, Winslow, Schietzelt, and Rubin (Primary Sponsors).

For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Judiciary 2, if favorable, Rules, Calendar, and Operations of the House

March 12, 2025

A BILL TO BE ENTITLED
AN ACT TO CREATE ADDITIONAL CRIMINAL PENALTIES FOR CERTAIN
FRAUDULENT INSTRUMENTS; TO ESTABLISH A FORM OF EXPEDITED RELIEF
FOR VICTIMS OF A FRAUDULENT INSTRUMENT; AND TO MODIFY STATUTES
AFFECTING THE RECORDING OF DEEDS AND OTHER INSTRUMENTS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 14-122 reads as rewritten:

"§ 14-122. Forgery of deeds, wills and certain other instruments.

(a) General Fraud. – If any person, of ~~his~~ that person's own head and imagination, or by false conspiracy or fraud with others, shall wittingly and falsely forge and make, or shall cause or wittingly assent to the forging or making of, or shall show forth in evidence, knowing the same to be forged, any deed, lease or will, or any bond, writing obligatory, bill of exchange, promissory note, endorsement or assignment thereof; or any acquittance or receipt for money or goods; or any receipt or release for any bond, note, bill or any other security for the payment of money; or any order for the payment of money or delivery of goods, with intent, in any of said instances, to defraud any person or corporation, and thereof shall be duly convicted, the person so offending shall be punished as a Class ~~H-F~~ felon.

(b) Residential Property Fraud. – In an instance where a violation of this section involves the forgery of a deed, lease, will, lien, encumbrance, or other conveyance of an interest in real property relating to residential property, the person so offending shall be punished as a Class D felon. For the purposes of this subsection, the term "residential property" means real property where an individual has resided for, consecutively or nonconsecutively, at least six months of a period of 12 months immediately preceding the forgery."

SECTION 2. Article 4 of Chapter 47 of the General Statutes is amended by adding a new section to read:

"§ 47-108.29. Fraudulent instruments.

(a) As used in this section, the following definitions apply:

(1) Instrument. – Any of the following:

a. A transfer of title to real property by deed or other instrument transferring title to real property.

b. A deed of trust, mortgage, judgment, lien, encumbrance, financing statement, affidavit, notice, memorandum, or any other instrument that establishes a security interest in real property.



c. A contract, right of refusal, or any other instrument that purports to establish an interest, encumbrance, claim, or right relating to real property.

(2) Suspicious instrument. – An instrument purporting to affect title to real property described in an order to remove the cloud from the title to real property entered pursuant to this section if both of the following conditions are met:

a. The order to remove the cloud from the title to real property remains in effect.

b. The grantor in the instrument is not the property owner or owners identified in the order to remove the cloud from the title to real property.

(b) The actual owner of an interest in real property subject to a recorded false, fictitious, or fraudulent instrument may seek expedited relief under this section by filing an action in district court alleging the filing or recording of a false, fictitious, or fraudulent instrument in a public record or a private record generally available to the public. Upon receipt of a verified filing, the clerk of superior court shall record, or cause to be recorded and indexed, a memorandum of possible fraud in the records of the clerk of court or register of deeds where the alleged false, fictitious, or fraudulent instrument was recorded. The notice shall be served and proof of service shall be made in any manner provided by the Rules of Civil Procedure for service of summons, including service by registered mail or certified mail, return receipt requested to all persons claiming an ownership interest in the property, any lienholder of record, including any person to whom a security instrument directs notice to be sent and any person obligated to repay the indebtedness secured by the instrument. Once service has been made, the court shall convene a hearing. For purposes of the notice requirement in this subsection, the party seeking relief may serve the person listed as grantor in the recorded purportedly false, fictitious, or fraudulent instrument at the address listed in the instrument. If the court finds that there is no statutory, contractual, or other merited legal justification for the instrument, the court shall find that the recorded instrument is false and is void as a matter of law and shall enter an order to remove the cloud from the title to the real property. The submission of an original instrument demonstrating source of title, affidavit, or a lis pendens, notice of previous fraud, or other similar instrument recorded by the actual owner of an interest in the real property shall be considered evidence of fraudulent activity. The court may also include in the order any of the following types of relief:

(1) Grant to a prevailing party possession of the real property and order the ejectment of any party on the premises.

(2) Award attorneys' fees and other costs for the action to the prevailing party.

(3) Upon a finding by the court that an action filed under this section is frivolous or malicious, assess a civil penalty of not more than ten thousand dollars (\$10,000), of which the clear proceeds assessed under this subdivision shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

(4) Upon a finding by the court that a party has presented for filing or recording a false, fictitious, or fraudulent instrument as described in this section more than once, enter a pre-filing injunction against the party.

(5) Enjoin a party from listing the real property for sale, lease, or any other similar advertisement.

(c) Upon being presented with an order duly issued by a court of competent jurisdiction of this State declaring that an instrument already recorded is false and void as a matter of law, the register of deeds or clerk of superior court that received the recording shall record and cross-index the court's order finding the instrument to be false. The register of deeds or clerk of superior court may also conspicuously mark on the first page of the original record previously

recorded the following statement: "THE CLAIM ASSERTED IN THIS DOCUMENT IS FALSE AND IS NOT PROVIDED FOR BY THE GENERAL LAWS OF THIS STATE."

(d) The presentation of an instrument for recording with a register of deeds or a clerk of superior court that is determined to be materially false, fictitious, or fraudulent shall constitute a violation of G.S. 75-1.1.

(e) A suspicious instrument that has been recorded after the entry of an order to remove the cloud from the title of the real property is declared void and unenforceable as a matter of law with respect to real property described in the instrument in the order. When presented with a suspicious instrument, the register of deeds or the clerk of court may do any of the following:

(1) Refuse to record the instrument in accordance with G.S. 14-118.6.

(2) Require verification by an attorney licensed in this State that the instrument is legally authorized in substance and in form under a specified statute.

(3) Notwithstanding G.S. 161-22, refuse to index the instrument in the name of the non-signing owner of the property solely because the non-signing owner is referenced in the instrument.

(f) No fee shall be charged for the recording of a memorandum of possible fraud or an order declaring a recorded instrument to be false submitted in accordance with this section.

(g) The recordation of a memorandum of possible fraud under subsection (b) of this section shall automatically stay any proceedings involving the real property for a period of 60 days from the recording of the memorandum of possible fraud or the recordation of an order declaring the recorded instrument false and void as a matter of law, whichever occurs first.

(h) The Administrative Office of the Courts shall develop a form for the expedited relief filing and memorandum of possible fraud established by this section, and the clerk of superior court shall make the form available for a petitioner. In addition to the requirements set forth in this section, the form shall include clear language notifying the filing party that providing false information or statements is perjury pursuant to G.S. 14-209 and punishable as a Class F felony."

SECTION 3. Article 4 of Chapter 47 of the General Statutes is amended by adding a new section to read:

"§ 47-108.30. No presumption of priority for certain recorded instruments.

A deed or conveyance of an interest in real property shall not have a presumption of priority based upon the time of registration and shall not constitute color of title if any of the following criteria are met:

(1) The deed or conveyance does not comply with the provisions of G.S. 47-18, 47-20, 47-118, 47-119, 47-119.1, or 47-120, as applicable.

(2) The deed or conveyance does not contain a signature and acknowledgement of at least one record owner at the time the conveyance is made."

SECTION 4. G.S. 105-303 reads as rewritten:

"§ 105-303. Obtaining information on real property transfers; permanent listing.

(a) To facilitate the accurate listing of real property for taxation, the board of county commissioners may require the register of deeds to comply with the provisions of subdivision (a)(1), below, or it may require him to comply with the provisions of subdivision (a)(2), below:

(1) When any conveyance of real property (other than a deed of trust or mortgage) is recorded, the board of county commissioners may require the register of deeds to certify to the assessor:

a. The ~~name~~ name, residence address, and, if applicable, current mailing address of the person conveying the property.

b. The ~~name and~~ name, residence address, and, if applicable, current mailing address of the person to whom the property is being conveyed.

c. A description of the property sufficient to locate and identify it.

d. A statement as to whether the parcel is conveyed in whole or in part.

- (2) When any conveyance of real property (other than a deed of trust or mortgage) is submitted for recordation, the board of county commissioners may require the register of deeds to refuse to record it unless it has been presented to the assessor and the assessor has noted thereon that he has obtained the information he desires from the conveyance and from the person recording it.
- (b) The board of commissioners of each county must install a permanent listing system. Each county must obtain the approval of the Department of Revenue for its permanent listing system. Under such a system the provisions of subdivisions (b)(1) through (b)(4) of this subsection apply.
- (1) The assessor is responsible for listing all real property on the abstracts and tax records each year in the name of the owner of record as of the day as of which property is to be listed under G.S. 105-285.
- (2) Persons whose duty it is to list real property under the provisions of G.S. 105-302 are relieved of that duty, but annually, during the listing period established by G.S. 105-307, these persons must furnish the assessor with the information concerning improvements on and separate rights in real property required by G.S. 105-309(c)(3) through (c)(5).
- (3) The penalties imposed by G.S. 105-308 and 105-312 do not apply to failure to list real property for taxation, but they apply to failure to comply with the provisions of subdivision (b)(2) of this subsection with respect to reporting the construction or acquisition of improvements on and separate rights in real property. In such a case, the penalty prescribed by G.S. 105-312 shall be computed on the basis of the tax imposed on the improvements and separate rights.
- (4) The Department of Revenue may authorize the board of county commissioners to make additional modifications of the listing requirements of this Subchapter, as long as the modifications do not conflict with subdivisions (b)(1) through (b)(3) of this subsection."

SECTION 5. Article 2 of Chapter 161 of the General Statutes is amended by adding a new section to read:

"§ 161-32. Title certification.

(a) Title Certification. – The board of commissioners of a county may, by resolution, require the register of deeds not to accept for registration one or more types of conveyances of real property unless the county tax assessor has certified that the grantors on the instrument are consistent with the listing for the real property in the county tax records or, in the event of an inconsistency, legal verification satisfactory to the county tax assessor has been provided for the source of title, including, but not limited to, deed, will or other inheritance through an estate, or a court order. The county commissioners may describe the form the certification must take in its resolution.

(b) Exception to Title Certification. – If a board of county commissioners adopts a resolution pursuant to subsection (a) of this section, notwithstanding the resolution, the register of deeds shall accept without certification a conveyance submitted for registration under the supervision of a closing attorney and containing this statement on the deed: "This instrument prepared by: _____, a licensed North Carolina attorney, based upon satisfactory verification of vesting of record title to the property herein through the source of title referenced herein."

(c) As used in this section, the term "conveyance" means a transfer of title to real property by deed, devise, or other similar instrument."

SECTION 6. Sections 1 and 2 of this act become effective December 1, 2025, and apply to offenses committed on or after that date. Sections 3 and 4 of this act become effective July 1, 2025, and apply to instruments and documents presented for registration on or after that date. The remainder of this act is effective when it becomes law.