

DEEDS OF TRUST-RESIDENTIAL MORTGAGE FRAUD ACT; HOUSE BILL 817

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This bill became law on July 4, 2007. It becomes effective December 1, 2007 and applies to offenses committed on or after that date.

Pursuant to G.S. 14-118.12(a), a person is guilty of residential mortgage fraud when, for financial gain and with the intent to defraud, that person does any of the following: (1) Knowingly makes or attempts to make any material misstatement, misrepresentation, or omission within the mortgage lending process with the intention that a mortgage lender, mortgage broker, borrower, or any other person or entity that is involved in the mortgage lending process relies on it. (2) Knowingly uses or facilitates or attempts to use or facilitate the use of any misstatement, misrepresentation, or omission within the mortgage lending process with the intention that a mortgage lender, borrower, or any other person or entity that is involved in the mortgage lending process relies on it. (3) Receives or attempts to receive proceeds or any other funds in connection with a residential mortgage closing that the person knew, or should have known, resulted from a violation of (1) or (2) above. (4) Conspires or solicits another to violate any of the provisions of (1),(2) or (3) above. Intent to deceive or defraud is required, but financial harm to any person or reliance upon the misstatement, misrepresentation or omission need not be shown. G.S. 14-118.12(b). G.S. 14-118.15 sets out the penalties for felonies committed.

G.S. 14-118.16(a) sets forth the rule that all real property of every kind used or intended for use in the course of, derived from, or realized through a violation of the rules shall be subject to forfeiture to the State as set forth in G.S. 14-2.3 and G.S. 14-7.20. However, the forfeiture shall be subordinate to any security interest in the property taken by a lender in good faith as collateral for the extension of credit and recorded as provided by law, and no real property shall be forfeited under G.S. 14-118.16 against an owner who made a bona fide purchase of the property without knowledge of a violation of the rules.