

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

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HOUSE BILL 960
Second Edition Engrossed 6/6/12
Third Edition Engrossed 6/5/12

Short Title: Protect Homeowners With Underwater Mortgages. (Public)

Sponsors: Representatives Moffitt, Brawley, and R. Moore (Primary Sponsors).
For a complete list of Sponsors, see Bill Information on the NCGA Web Site.

Referred to: Banking.

May 17, 2012

A BILL TO BE ENTITLED

AN ACT TO ENSURE PAYMENT OF JUST COMPENSATION TO PROPERTY OWNERS WITH MORTGAGE DEBT EXCEEDING THE FAIR MARKET VALUE OF THE PROPERTY BY AUTHORIZING THE CONSIDERATION OF OUTSTANDING MORTGAGE DEBT WHEN DETERMINING DAMAGES IN A CONDEMNATION ACTION, AS RECOMMENDED BY THE HOUSE SELECT COMMITTEE ON STATE-OWNED ASSETS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 136-112 reads as rewritten:

"§ 136-112. **Measure of damages.**

(a) Generally. – The following shall be the measure of damages to be followed by the commissioners, jury or judge who determines the issue of damages:

(1) Where only a part of a tract is taken, the measure of damages for said taking shall be the difference between the fair market value of the entire tract immediately prior to said taking and the fair market value of the remainder immediately after said taking, with consideration being given to any special or general benefits resulting from the utilization of the part taken for highway purposes.

(2) Where the entire tract is taken the measure of damages for said taking shall be the fair market value of the property at the time of taking.

(b) When Condemned Property Has Mortgage Debt Exceeding Fair Market Value. – Notwithstanding any other provision of law, the commissioners, jury, or judge who determines the issue of damages may add to the amount determined pursuant to subsection (a) of this section an amount equal to the difference between the outstanding balance of any eligible mortgage and the amount determined pursuant to subsection (a) of this section, but only if the property owner proves by a preponderance of the evidence that the fair market value of the property has declined since the property was purchased solely due to a decline in the market for real property. This subsection applies to the condemnation of the principal residence of an owner.

(c) Eligible Mortgage Defined. – For purposes of this section, the term "eligible mortgage" includes only a debt secured by a mortgage or deed of trust executed prior to July 1, 2008, that identifies the property being condemned as collateral."

SECTION 2. This act is effective when it becomes law and shall expire on July 1, 2014.

