



CHAPTER 45
ARTICLE 2A - SALES UNDER POWER OF SALE

N.C.G.S. § 45-21.31.

Disposition of proceeds of sale; payment of surplus to clerk.

SOURCE	LAST AMENDMENT IN THIS TEXT	RETRIEVED	SOURCE FINGERPRINT
General Statutes of North Carolina, as published by the General Assembly	S.L. 2024-33, s. 23 — sixth act in the lineage	21 September 2026, 03:38 UTC	eb9f213a59f21a412ee7873d - f3e4cbb515e7a1c16749a904 - d021a42375d568b8

- § 45-21.31(a)

The proceeds of any sale shall be applied by the person making the sale, in the following order, to the payment of -

(1)

Costs and expenses of the sale, including the trustee's commission, if any, and a reasonable auctioneer's fee if such expense has been incurred, and reasonable counsel fees for an attorney serving as a trustee if allowed pursuant to subsection (a1) of this section;

(2)

Taxes due and unpaid on the property sold, as provided by G.S. 105-385, unless the notice of sale provided that the property be sold subject to taxes thereon and the property was so sold;

(3)

Special assessments, or any installments thereof, against the property sold, which are due and unpaid, as provided by G.S. 105-385, unless the notice of sale provided that the property be sold subject to special assessments thereon and the property was so sold;

(4)

The obligation secured by the mortgage, deed of trust or conditional sale contract.

- § 45-21.31(a1)

The clerk of the superior court of the county where the sale was had may exercise discretion to allow reasonable counsel fees to an attorney serving as a trustee (in addition to the compensation allowed to the attorney as a trustee) where the attorney, on behalf of the trustee, renders professional services as an attorney that are different from the services normally performed by a trustee and of a type which would

reasonably justify the retention of legal counsel by a trustee who is not licensed to practice law. Counsel fees are presumed reasonable if in compliance with G.S. 6-21.2(1) and (2). Nothing in this section, however, shall preclude the clerk of superior court from deeming a higher fee reasonable.

§ 45-21.31(b)

Any surplus remaining after the application of the proceeds of the sale as set out in subsection (a) shall be paid to the person or persons entitled thereto, if the person who made the sale knows who is entitled thereto. Otherwise, the surplus shall be paid to the clerk of the superior court of the county where the sale was had -

- (1) In all cases when the owner of the property sold is dead and there is no qualified and acting personal representative of his estate, and
- (2) In all cases when he is unable to locate the persons entitled thereto, and
- (3) In all cases when the mortgagee, trustee or vendor is, for any cause, in doubt as to who is entitled to such surplus money, and
- (4) In all cases when adverse claims thereto are asserted.

§ 45-21.31(c)

Such payment to the clerk discharges the mortgagee, trustee or vendor from liability to the extent of the amount so paid.

§ 45-21.31(d)

The clerk shall receive such money from the mortgagee, trustee or vendor and shall execute a receipt therefor.

§ 45-21.31(e)

Repealed by Session Laws 2024-33, s. 23, effective July 8, 2024.

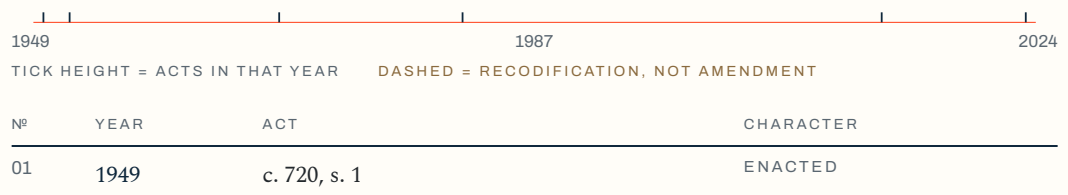
END OF SECTION TEXT

APPARATUS FOLLOWS — DERIVED, NOT ENACTED

APPARATUS I
6 ACTS

Amendment lineage

The State prints this history as a single parenthetical at the foot of the section. It is reproduced verbatim in the colophon and unpacked below in order of enactment.



02	1951	c. 252, s. 1	AMENDED
03	1967	c. 562, s. 2	AMENDED
04	1981	c. 682, s. 10	AMENDED
05	2013	S.L. 2013-104, s. 1	AMENDED
06	2024	S.L. 2024-33, s. 23	AMENDED

APPARATUS II
2 AUTHORITIES

Authorities referenced

Every G.S. cross-reference appearing in the text of this section, in order of first appearance. Nothing is characterized; the operative language is quoted from the section itself.

REFERENCE	APPEARS IN	OPERATIVE LANGUAGE IN THIS SECTION
G.S. 105-385	(a)(2)	"the property sold, as provided by"
G.S. 6-21.2(1) and (2)	(a1)	"presumed reasonable if in compliance with"

APPARATUS III

Citation

FULL SECTION

N.C. Gen. Stat. § 45-21.31 (2024).

PINPOINT

N.C. Gen. Stat. § 45-21.31(a) (2024).

Pinpoint keys are set in the left margin of the text rather than line numbers: subsection designators are stable across editions and paper sizes, line numbers are not.

COLOPHON

Provenance

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This is not the official text. The official text is published by the General Assembly of North Carolina.

HISTORY PARENTHETICAL, AS PRINTED BY THE STATE

(1949, c. 720, s. 1; 1951, c. 252, s. 1; 1967, c. 562, s. 2; 1981, c. 682, s. 10; 2013-104, s. 1; 2024-33, s. 23.)

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