



CHAPTER 45
ARTICLE 5 - MISCELLANEOUS PROVISIONS

N.C.G.S. § 45-45.3.

Trustee in a deed of trust.

SOURCE General Statutes of North Carolina, as published by the General Assembly	LAST AMENDMENT IN THIS TEXT No amendment history on record	RETRIEVED 21 September 2026, 03:30 UTC	SOURCE FINGERPRINT 60c1e2741e8d4edef0daa587 - 6a46419d6cdc463fcae6f1e7 - 22ea9c43e939c5ae
--	---	---	--

- § 45-45.3(a)

The following definitions apply in this section:

 - (1) Secured creditor. - The holder, owner, or assignee of the obligation secured by a deed of trust.
 - (2) Trustee. - The trustee or substitute trustee then serving as such under the terms of a deed of trust.
- § 45-45.3(b)

Unless the deed of trust provides otherwise, all of the following may be done without the knowledge, consent, or joinder of the trustee:

 - (1) Pursuant to G.S. 45-36.23, an obligation may be declared by the owner and holder of the obligation to be no longer secured by the deed of trust.
 - (2) Property may be released from the lien of a deed of trust by the secured creditor.
 - (3) The lien of a deed of trust may be released or subordinated by the secured creditor.
 - (4) The terms of a deed of trust may be modified by the secured creditor and the then record owner of the property encumbered by the lien of the deed of trust.
 - (5) The deed of trust may be satisfied of record by the secured creditor.
- § 45-45.3(c)

Except in matters relating to the foreclosure of the deed of trust or the exercise of a power of sale under the terms of the deed of trust, the trustee is neither a necessary nor a proper party to any civil action or proceeding involving (i) title to the real property encumbered by the lien of the deed of trust or (ii) the priority of the lien of the deed

of trust. Examples of civil actions or proceedings in which the trustee is neither a necessary nor a proper party include, but are not limited to, civil actions or proceedings relating to:

- (1) Condemnation.
- (2) Bankruptcy.
- (3) The establishment or correction of title to real property, including, but not limited to, actions to quiet title, reform land records, or resolve boundary line disputes.
- (4) Fraudulent conveyances.
- (5) The creation or enforcement of an attachment or judgment lien.
- (6) The foreclosure of a lien other than the lien of the deed of trust, regardless of whether the lien is superior or subordinate to the lien of the deed of trust, including, but not limited to, the foreclosure of mortgages, other deeds of trust, tax liens, and assessment liens.
- (7) The establishment, perfection, or enforcement of a mechanic's or materialman's lien.
- (8) The creation or enforcement of a constructive trust, resulting trust, or equitable lien relating to the property.
- (9) The partition of real property.
- (10) The interpretation or enforceability of a will, trust, or estate.
- (11) A subrogation claim or other equitable claim or defense involving the priority or enforceability of a deed of trust.
- (12) Determination or enforcement of rights and obligations involving easements or restrictive covenants.

§ 45-45.3(d)

If a trustee is improperly joined as a party to an action or proceeding when this section provides that the trustee is neither a necessary nor a proper party to that action or proceeding, then:

- (1) Upon motion duly made by any party to the action or proceeding, the trustee shall be dismissed from the action or proceeding;

- (2) Regardless of whether the trustee makes an appearance in the action or proceeding, no entry of a default or default judgment shall be entered against the trustee; and
- (3) If the trustee makes an appearance in the action or proceeding, each person who improperly joined the trustee as a party to the action or proceeding shall be jointly and severally liable to the trustee for all the expenses and costs incurred by the trustee in the defense of the action or proceeding or in obtaining the trustee's dismissal from the action or proceeding, including the reasonable attorneys' fees actually incurred by the trustee.

§ 45-45.3(e)

Except as expressly provided in this section, this section is not in derogation of case law and statutory provisions that vest legal title to property conveyed by a deed of trust in the trustee named therein. (2011-312, s. 15.)

END OF SECTION TEXT

APPARATUS FOLLOWS — DERIVED, NOT ENACTED

APPARATUS II

1 AUTHORITY

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. 45-36.23	(b)(1)	"Pursuant to"

APPARATUS III

Citation

FULL SECTION

N.C. Gen. Stat. § 45-45.3 (2026).

PINPOINT

N.C. Gen. Stat. § 45-45.3(a) (2026).

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

This document reproduces the text of one section of the General Statutes of North Carolina from a source file whose SHA-256 digest is printed on every page. The digest fixes the bytes this export was made from; if the State's file changes, the digest will not match.

The text of the section is unaltered. Subsection designators have been moved from the run of text into the margin. The amendment history and the table of authorities are derived from the section by mechanical extraction — they add no characterization of the law.

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

SET IN SPECTRAL AND ARCHIVO
NORTH CAROLINA LAW — STATUTE EXPORT, FORMAT V1

