



CHAPTER 93A
ARTICLE 2 - REAL ESTATE RECOVERY FUND

N.C.G.S. § 93A-19.

Response and defense by Commission and judgment debtor; proof of conversion.

SOURCE	LAST AMENDMENT IN THIS TEXT	RETRIEVED	SOURCE FINGERPRINT
General Statutes of North Carolina, as published by the General Assembly	S.L. 2001-487, s. 23(e) — fifth act in the lineage	21 September 2026, 07:03 UTC	23d1a46912a4e93bee4b17fa - f7bbce14e3b7a49df111161c - ca6e8b676a01cf06

§ 93A-19(a)

Whenever the Commission proceeds upon an application as set forth in this Article, counsel for the Commission may defend such action on behalf of the fund and shall have recourse to all appropriate means of defense, including the examination of witnesses. The judgment debtor may defend such action on his or her own behalf and shall have recourse to all appropriate means of defense, including the examination of witnesses. Counsel for the Commission and the judgment debtor may file responses to the application, setting forth answers and defenses. Responses shall be filed with the Commission and copies shall be served upon every party by the filing party. If at any time it appears there are no triable issues of fact and the application for payment from the fund is without merit, the Commission shall dismiss the application. A motion to dismiss may be supported by affidavit of any person or persons having knowledge of the facts and may be made on the basis that the application or the judgment referred to therein do not form a basis for meritorious recovery within the purview of G.S. 93A-17, that the applicant has not complied with the provisions of this Article, or that the liability of the fund with regard to the particular licensee or transaction has been exhausted; provided, however, notice of the motion shall be given at least 10 days prior to the time fixed for hearing. If the applicant or judgment debtor fails to appear at the hearing after receiving notice of the hearing, the applicant or judgment debtor waives the person's rights unless the absence is excused by the Commission.

§ 93A-19(b)

REBUTTABLE
PRESUMPTION

Whenever the judgment obtained by an applicant is by default, stipulation, or consent, or whenever the action against the licensee was defended by a trustee in bankruptcy, the applicant, for purposes of this Article, shall have the burden of proving the cause of

action for conversion of trust funds. Otherwise, the judgment shall create a rebuttable presumption of the conversion of trust funds. This presumption is a presumption affecting the burden of producing evidence.

END OF SECTION TEXT

APPARATUS FOLLOWS — DERIVED, NOT ENACTED

APPARATUS I
5 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.

1979		1990		2001
TICK HEIGHT = ACTS IN THAT YEAR		DASHED = RECODIFICATION, NOT AMENDMENT		
Nº	YEAR	ACT	CHARACTER	
01	1979	c. 614, s. 1	ENACTED	
02	1983	c. 81, s. 2	AMENDED	
03	1987	c. 516, s. 8	AMENDED	
04	1999	S.L. 1999-229, s. 9	AMENDED	
05	2001	S.L. 2001-487, s. 23(e)	AMENDED	

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. 93A-17	(a)	"meritorious recovery within the purview of"

APPARATUS III

Citation

FULL SECTION

N.C. Gen. Stat. § 93A-19 (2001).

PINPOINT

N.C. Gen. Stat. § 93A-19(a) (2001).

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

(1979, c. 614, s. 1; 1983, c. 81, s. 2; 1987, c. 516, s. 8; 1999-229, s. 9; 2001-487, s. 23(e).)

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