

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2009

H

1

HOUSE BILL 1498

Short Title: Receivership/Priority, Sale of Collateral. (Public)

Sponsors: Representative Blust.

Referred to: Judiciary I, if favorable, Commerce, Small Business, and Entrepreneurship.

April 13, 2009

A BILL TO BE ENTITLED

AN ACT TO AMEND RECEIVERSHIP AND ASSIGNMENT FOR THE BENEFIT OF CREDITORS' LAW.

The General Assembly of North Carolina enacts:

**SECTION 1.** Part 1 of Article 38 of Chapter 1 of the General Statutes is amended by adding a new section to read:

**"§ 1-506.1. Priority of payments by the receiver.**

The receiver, after paying the necessary costs of the administration of the receivership, shall pay as speedily as possible:

- (1) All debts which are a lien upon any of the trust property in his hands, to the extent of the net proceeds of the property upon which such debt is a lien;
- (2) Wages due to workmen, clerks, traveling or city salesmen, or servants, which have been earned within three months before registration of said deed of trust or deed of assignment; and
- (3) All other debts equally ratable."

**SECTION 2.** G.S. 23-8 reads as rewritten:

**"§ 23-8. Only perishable propertyProperty that may be sold within ten days of registration.**

It is unlawful for any trustee, whether named in such deed of trust or appointed by a clerk of the superior court, to sell any part of the property described in such deed of trust within ten days from the registration thereof, unless such property or some part thereof (i) be perishable, in which case he may sell such property as is perishable, according to the powers conferred upon him in said deed of ~~trust~~ trust or (ii) be sold for a price that satisfies all liens on the property, as provided in G.S. 23-8.1."

**SECTION 3.** Article 1 of Chapter 23 of the General Statutes is amended by adding a new section to read:

**"§ 23-8.1. Sale of property subject to claims permissible; lien attaches to proceeds.**

A trustee, whether named in a deed of trust or appointed by a clerk of the superior court, may sell at anytime a part or whole of trust property subject to one or more liens provided that the sales price is sufficient to satisfy the liens in full. The lien or liens shall attach to the proceeds of the sale, and the liens on the property sold shall be extinguished. The liens on the proceeds shall enjoy the same dates of attachment and perfection as the original property."

**SECTION 4.** This act becomes effective October 1, 2009.

