



2019-2020 General Assembly

# SENATE BILL 704: COVID-19 Recovery Act, Sec. 4.12: Disbursement of Funds Prior to Recordation of Deed in Certain Circumstances

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<b>Committee:</b>		<b>Date:</b>	October 22, 2020
<b>Introduced by:</b>		<b>Prepared by:</b>	Amy Darden Staff Attorney
<b>Analysis of:</b>	Sec. 4.12 of S.L. 2020-3		

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**OVERVIEW:** *Section 4.12 of S.L. 2020-3 allows disbursement of closing funds prior to the recordation of deeds, deeds of trust, and other loan documents if certain conditions are met.*

*Section 4.12 of S.L. 2020-3 became effective May 4, 2020, and expired August 1, 2020.*

*Section 4.12(b) of S.L. 2020-3, as enacted by S.L. 2020-80, Section 2.8, changes the expiration date from August 1, 2020 to March 1, 2021.*

**BILL ANALYSIS:** Section 4.12 of S.L. 2020-3 allows disbursement of closing funds, in real estate transactions involving a one-to-four-family residential dwelling or lot restricted to residential use, prior to recordation of the deeds, deeds of trust, and any other required loan documents if all of the following conditions are met:

- On the day of closing, the register of deeds where documents are required to be recorded meets all the following:
  - Located with the emergency area under G.S. 166A-19.20.
  - Is closed to the public as a result of the declaration of emergency.
  - Is unable to accept documents for recording by any method.
- The lender closing instructions authorize disbursement of funds prior to recording.
- All parties agree, in writing, to all the following:
  - Waive the requirement of G.S. 45A-4, allowing the settlement agent to disburse funds prior to recording required documents with the register of deeds.
  - Acknowledge the recordation date may not be known on the date of closing.
  - Acknowledge awareness of the risks and implications of disbursement ahead of recordation.
  - No party to the transaction will take any action to impair the quality of title.
  - Any other terms the parties or closing instructions require as a condition of disbursement prior to recordation.
- The settlement agent does all the following:
  - Complies with all requirements of the closing instructions.

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- Obtains a commitment of title insurance, that includes the coverage for the period between the date of disbursement and the date of recordation.
- Updates the title from the date of the preliminary title opinion to the time of disbursement.

In all transactions covered by Section 4.12, where closing funds are disbursed prior to recordation, the settlement agent shall hold all deeds, deeds of trust, and any other required loan documents that are to be recorded until the register of deeds reopens for business or until it accepts documents for electronic recording.

The authority to disburse proceeds prior to recordation terminates on the earlier of the date the office of the register of deeds reopens for transaction of public business or begins to accept documents for electronic recording. All documents held by the settlement agent under this section must be recorded within three business days of the reopening date and all parties shall immediately be notified.

**EFFECTIVE DATE:** Section 4.12 of S.L. 2020-3 became effective when it became law, and expired August 1, 2020.

Section 4.12(b) of S.L. 2020-3, as enacted by S.L. 2020-80, Section 2.8, changed the expiration date from August 1, 2020 to March 1, 2021.