

N.C.P.I.—Crim—220.30  
RESIDENTIAL MORTGAGE FRAUD. FELONY.  
CRIMINAL VOLUME  
JUNE 2013  
N.C. Gen. Stat. § 14-118.12 (a)(1)-(2), (5).

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220.30 RESIDENTIAL MORTGAGE FRAUD. FELONY.

The defendant has been charged with residential mortgage fraud.

For you to find the defendant guilty of this offense, the State must prove four things beyond a reasonable doubt:

First, that the defendant knowingly

[(a) [made] [attempted to make] any material<sup>1</sup> [misstatement] [misrepresentation] within the mortgage lending process<sup>2</sup>].

[(b) omitted material information within the mortgage lending process].

[(c) [used] [facilitated the use of] [attempted to use] [attempted to facilitate the use of] any material [misstatement] [misrepresentation] [omission] within the mortgage lending process].

[(d) filed in a [public record] [private record] generally available to the public a document falsely claiming that a mortgage loan had been [satisfied] [discharged] [released] [revoked] [terminated] or was invalid].

Second, that the defendant acted with the intent<sup>3</sup> to [deceive]

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1 "A fact is material 'if the fact..., if it had been known to the party, would have influenced [its] judgment or decision in making the contract at all.'" *Godfrey v. Res-Care, Inc.*, 165 N.C.App. 68, 75, 598 S.E.2d 396, 402 (2004) (quoting *Machine Co. v. Bullock*, 161 N.C. 1, 7, 76 S.E. 634, 636 (1912)).

2 For a definition of "mortgage lending process" see G.S. fl 14-118.11(a)(2).

3 If a definition of intent is needed see N.C.P.I. 120.10.

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[defraud].<sup>4</sup>

Third, that the defendant intended a [mortgage lender] [mortgage broker] [borrower] [*person or entity involved in the mortgage lending process, (describe person or entity)*] to rely on the [misstatement] [misrepresentation] [omission].

And Fourth, that the defendant acted for financial gain.

If you find from the evidence beyond a reasonable doubt that on or about the alleged date the defendant acting for financial gain and with the intent to [deceive] [defraud] knowingly

[(a) [made] [attempted to make] any material [misstatement] [misrepresentation] within the mortgage lending process],

[(b) omitted material information within the mortgage lending process],

[(c) [used] [facilitated the use of] [attempted to use] [attempted to facilitate the use of] any material [misstatement] [misrepresentation] [omission] within the mortgage lending process],

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<sup>4</sup> G.S. 14-118.12(b) states "it shall be sufficient in any prosecution under this Article for residential mortgage fraud to show that the party accused did the act with the intent to deceive or defraud. It shall be unnecessary to show that any particular person or entity was harmed financially in the transaction or that the person or entity to whom the deliberate misstatement, misrepresentation, or omission was made relied upon the misstatement, misrepresentation or omission."

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[(d) filed in a [public record] [private record] generally available to the public a document falsely claiming that a mortgage loan had been [satisfied] [discharged] [released] [revoked] [terminated] or was invalid].

and that the defendant intended a [mortgage lender] [mortgage broker] [borrower] [*person or entity involved in the mortgage lending process, (describe person or entity)*] to rely on the [misstatement] [misrepresentation] [omission], it would be your duty to return a verdict of guilty. If you do not so find or have a reasonable doubt as to one or more of these things, it would be your duty to return a verdict of not guilty.

