

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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HOUSE BILL 238

Short Title: Variable Rate Notes/Negot.

(Public)

Sponsors: Representative Rhyne.

Referred to: Commerce.

February 15, 1989

A BILL TO BE ENTITLED

AN ACT TO MAKE VARIABLE-RATE NOTES NEGOTIABLE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 25-3-106(1) reads as rewritten:

"§ 25-3-106. Sum certain.

(1) The sum payable is a sum certain even though it is to be paid

(a) With stated interest or by stated installments; or

(b) With stated different rates of interest before and after default or a specified date; or

(c) With a stated discount or addition if paid before or after the date fixed for payment; or

(d) With exchange or less exchange, whether at a fixed rate or at the current rate; or

(e) With costs of collection or an attorney's fee or both upon ~~default~~ default; or

(f) With a renegotiable or variable rate of interest; or

(g) With renegotiable, variable, graduated, annuity or price-level adjusted payment."

Sec. 2. G.S. 25-3-305 reads as rewritten:

"§ 25-3-305. Rights of a holder in due course.

To the extent that a holder is a holder in due course he takes the instrument free from

(1) All claims to it on the part of any person; and

(2) All defenses of any party to the instrument with whom the holder has not dealt except

- 1 (a) Infancy, to the extent that it is a defense to a simple contract; and
2 (b) Such other incapacity, or duress, or illegality of the transaction, as
3 renders the obligation of the party a nullity; and
4 (c) Such misrepresentation as has induced the party to sign the instrument
5 with neither knowledge nor reasonable opportunity to obtain
6 knowledge of its character or its essential terms; and
7 (d) Discharge in insolvency proceedings; and any other discharge of
8 which the holder has notice when he takes the ~~instrument~~-instrument;
9 and
10 (e) In consumer credit transactions, prior payment is a defense to a
11 foreclosure proceeding based on default."
12 Sec. 3. This act is effective upon ratification.