

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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HOUSE BILL 542
Committee Substitute Favorable 5/3/95

Short Title: Amend Certain Loan Procedures.

(Public)

Sponsors:

Referred to:

March 23, 1995

A BILL TO BE ENTITLED

AN ACT TO ALLOW LENDERS TO COLLECT FEES, INTEREST, AND CHARGES FOR CERTAIN LOANS AND EXTENSIONS OF CREDIT IN AMOUNTS AGREED UPON BY THE PARTIES, WITH NO STATUTORY MAXIMUM LIMIT, AND TO AUTHORIZE COMPUTATION OF REBATES BY THE SIMPLE INTEREST METHOD ON CONTRACTS GOVERNED BY THE RETAIL INSTALLMENT SALES ACT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 24-1.1 is amended by adding a new subsection to read:

"(g) Notwithstanding subsections (d) and (e) of this section, a State or federally chartered bank, savings bank, and savings and loan association may charge a party to a loan or extension of credit governed by this section an origination fee and a fee for the modification, renewal, extension, or amendment of any terms of the loan or extension of credit as agreed upon by the parties."

Sec. 2. G.S. 24-1.2 is repealed.

Sec. 3. G.S. 24-1.2A reads as rewritten:

"§ 24-1.2A. Equity lines of credit.

(a) Notwithstanding Except as provided in subsection (c) of this section and notwithstanding any other provision of this Chapter, the parties to an equity line of credit,

1 as defined in G.S. 45-81, may contract in writing for interest at rates which shall not
2 exceed the maximum rates permitted under ~~G.S. 24-1.2(2a)~~; G.S. 24-1.1(c); provided,
3 however, that the parties may contract for interest rates which shall be adjustable or
4 variable, so long as for adjustable or variable rate contracts the rate in effect for a given
5 period does not exceed the maximum rate permitted under ~~G.S. 24-1.2(2a)~~ G.S. 24-1.1(c)
6 for the same period.

7 (b) ~~Fees~~ Except as provided in subsection (c) of this section, fees may be charged
8 on equity lines of credit which in the aggregate, over the life of the contract based on the
9 maximum limit of the line of credit, do not exceed those permitted under G.S. 24-10.
10 Any lender may charge a party to a loan or extension of credit governed by this section a
11 fee for the modification, renewal, extension, or amendment of any terms of the loan or
12 extension of credit, such fee not to exceed the greater of one-quarter of one percent (1/4
13 of 1%) of the balance outstanding at the time of the modification, renewal, extension, or
14 amendment of terms, or fifty dollars (\$50.00).

15 (c) State and federally chartered banks, savings banks, and savings and loan
16 associations may charge a party to an equity line of credit interest and fees as agreed
17 upon in writing by the parties. The parties may contract for interest rates which are fixed,
18 adjustable, or variable."

19 Sec. 4. G.S. 24-9 reads as rewritten:

20 "**§ 24-9. Loans to corporations organized for profit not subject to claim or defense**
21 **of usury.**

22 Notwithstanding any other provision of this Chapter or any other provision of law,
23 any foreign or domestic corporation substantially engaged in commercial, manufacturing
24 or industrial pursuits for pecuniary gain may agree to pay, and any lender may charge and
25 collect from such corporation, interest ~~at any rate and fees~~ which such corporation may
26 agree to pay in writing, and as to any such transaction the claim or defense of usury by
27 such corporation and its successors or anyone else in its behalf is prohibited."

28 Sec. 5. G.S. 24-11(b) reads as rewritten:

29 "(b) On revolving credit loans (including check loans, check credit or other
30 revolving credit plans whereby a ~~bank, banking institution or other~~ lending agency makes
31 direct loans to a borrower), if agreed to in writing by the borrower, such lender may
32 collect interest and service charges by application of a monthly periodic rate computed on
33 the average daily balance outstanding during the billing period, such rate not to exceed
34 one and one-half percent (1 1/2%)."

35 Sec. 6. G.S. 24-10.1(a) reads as rewritten:

36 "(a) Subject to the limitations contained in subsection (b) of this section, any lender
37 may charge a party to a loan or extension of credit governed by the provisions of G.S. 24-
38 1.1, ~~24-1.2~~, or G.S. 24-1.1A a late payment charge as agreed upon by the parties in the
39 loan contract."

40 Sec. 7. Article 1 of Chapter 24 is amended by adding a new section to read:

41 "**§ 24-11A. Open-end credit for certain lenders.**

42 (a) This section applies to open-end credit extended only by State or federally
43 chartered banks, savings banks, and savings and loan associations.

1 (b) The term 'open-end credit' means credit extended by a creditor under a plan in
2 which the creditor reasonably contemplates repeated transactions, the creditor may
3 impose a finance charge from time to time on an outstanding unpaid balance, and the
4 amount of credit that may be extended to the debtor during the term of the plan, up to any
5 limit agreed upon by the parties, is generally made available to the extent that any
6 outstanding balance is repaid. The term 'open-end credit' includes revolving credit card
7 plans, revolving charge accounts, and revolving credit loans made directly by a lender
8 under a check loan, check credit, or other similar plan.

9 (c) On the extension of open-end credit, whether secured or unsecured, a bank,
10 savings bank, and savings and loan association may charge and collect finance charges,
11 interest, and fees as agreed upon by the parties. An extension of open-end credit may
12 provide for the terms and conditions agreed upon by the parties.

13 (d) No interest or finance charge may be imposed upon an extension of open-end
14 credit, other than a direct loan or cash advance to a debtor, if the account is paid in full
15 within 25 days from the billing date.

16 (e) Any person, firm, or corporation may charge discounts and fees agreed upon
17 by the parties on accounts acquired from or through vendors or others providing services
18 under a credit card plan.

19 (f) All fees and charges authorized by this section are deemed to be interest and
20 are material to the determination of the rate of interest for purposes of (i) 12 U.S.C. § 85,
21 the National Bank Act, (ii) 12 U.S.C. § 1831(d), the Federal Deposit Insurance Act, (iii)
22 12 U.S.C. § 1463(g), the Federal Savings and Loan Act, and (iv) 12 U.S.C. § 1785(g), the
23 Federal Credit Union Act, as may be amended."

24 Sec. 8. G.S. 25A-14(a) reads as rewritten:

25 (a) ~~The finance charge rate and either the annual charge or the monthly service~~
26 ~~charge for a consumer credit sale made under a revolving charge account contract may~~
27 ~~not exceed the rates and charge provided for revolving credit by G.S. 24-11. The finance~~
28 ~~charge rate for a consumer credit sale made under a revolving charge account contract~~
29 ~~may not exceed the rates set forth in G.S. 25A-15(b). The annual charge or monthly~~
30 ~~service charge for a consumer credit sale made under a revolving charge account contract~~
31 ~~may not exceed the charge set forth for revolving credit in G.S. 24-11."~~

32 Sec. 9. G.S. 25A-32 reads as rewritten:

33 **"§ 25A-32. Rebates on prepayment.**

34 Notwithstanding any provision in a consumer credit installment sale contract to the
35 contrary, any buyer may satisfy the debt in full at any time before maturity, and in so
36 satisfying such debt, shall receive a rebate, the amount of which shall be computed ~~under~~
37 ~~the 'rule of 78's,' as follows: by the simple interest method or under the 'rule of 78's'. A~~
38 rebate determined by the 'rule of 78's' shall be computed as follows:

39 The amount of such rebate shall represent as great a proportion of the finance charge
40 ~~(less a prepayment charge of ten percent (10%) of the unpaid balance, not to exceed twenty five~~
41 ~~dollars (\$25.00)) as the sum of the periodical time balances after the date of prepayment in~~
42 full bears to the sum of all the periodical time balances under the schedule of payments in

1 the original contract.' No rebate is required if the amount thereof is less than one dollar
2 (\$1.00).

3 A prepayment charge of ten percent (10%) of the unpaid balance, not to exceed
4 twenty-five dollars (\$25.00) may be imposed when the debt is satisfied before maturity
5 and a rebate is computed by the simple interest method or under the 'rule of 78's'.

6 If the prepayment is made otherwise than on the due date of an installment, it shall be
7 deemed to have been made on the installment due date nearest in time to the actual date
8 of payment.

9 If a seller obtains a judgment on a debt arising out of a consumer credit installment
10 sale or the seller repossesses the collateral securing the debt, the seller shall credit the
11 buyer with a rebate as if the payment in full had been made on the date the judgment was
12 obtained or 15 days after the repossession occurred. If the seller obtains a judgment and
13 repossesses the collateral, the seller shall credit the buyer with a rebate as if payment in
14 full had been made on the date of the judgment or 15 days after the repossession,
15 whichever occurs earlier."

16 Sec. 10. This act becomes effective July 1, 1995, applies to loans and
17 extensions of credit made, renewed, extended, or modified on or after that date, and shall
18 expire on July 1, 1999.