

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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HOUSE BILL 1125

Short Title: Mortgage Lenders.

(Public)

Sponsors: Representatives Miner; Barbee, Church, Culpepper, Hardaway, Hardy, Justus, and Nichols.

Referred to: Commerce, if favorable, Finance.

April 21, 1997

A BILL TO BE ENTITLED

1 AN ACT TO REVISE THE CLASSIFICATION OF LENDERS WHO MAY
2 CONTRACT FOR THE PAYMENT OF CHARGES IN CERTAIN
3 CIRCUMSTANCES.
4

5 The General Assembly of North Carolina enacts:

6 Section 1. G.S. 24-1.1A(a) reads as rewritten:

7 "(a) Notwithstanding any other provision of this Chapter, parties to a home loan
8 may contract in writing as follows:

9 (1) Where the principal amount is ten thousand dollars (\$10,000) or more
10 the parties may contract for the payment of interest as agreed upon by
11 the parties;

12 (2) Where the principal amount is less than ten thousand dollars (\$10,000)
13 the parties may contract for the payment of interest as agreed upon by
14 the parties, if the lender is either (i) approved as a mortgagee by the
15 Secretary of Housing and Urban Development, the Federal Housing
16 Administration, the Veterans Administration, a national mortgage
17 association or any federal agency; or (ii) a local or foreign bank, savings
18 and loan association or service corporation wholly owned by one or
19 more savings and loan associations and permitted by law to make home

1 loans, credit union or insurance ~~company~~; company or a mortgage
2 banker registered pursuant to G.S. 53-233 who is under the common
3 control with a bank, savings and loan association, or insurance
4 company; or (iii) a State or federal agency;

5 (3) Where the principal amount is less than ten thousand dollars (\$10,000)
6 and the lender is not a lender described in the preceding subdivision (2)
7 the parties may contract for the payment of interest not in excess of
8 sixteen percent (16%) per annum.

9 (4) Notwithstanding any other provision of law, except as provided in
10 subdivision (2) of this subsection, where the lender is an affiliate
11 operating in the same office or subsidiary operating in the same office
12 of a licensee under the North Carolina Consumer Finance Act, the
13 lender may charge interest to be computed only on the following basis:
14 monthly on the outstanding principal balance at a rate not to exceed the
15 rate provided in this subdivision.

16 On the fifteenth day of each month, the Commissioner of Banks
17 shall announce and publish the maximum rate of interest
18 permitted by this subdivision. Such rate shall be the latest
19 published noncompetitive rate for U.S. Treasury bills with a six-
20 month maturity as of the fifteenth day of the month plus six
21 percent (6%), rounded upward or downward, as the case may be,
22 to the nearest one-half of one percent (1/2 of 1%) or fifteen
23 percent (15%), whichever is greater. If there is no nearest one-
24 half of one percent (1/2 of 1%), the Commissioner shall round
25 downward to the lower one-half of one percent (1/2 of 1%). The
26 rate so announced shall be the maximum rate permitted for the
27 term of loans made under this section during the following
28 calendar month when the parties to such loans have agreed that
29 the rate of interest to be charged by the lender and paid by the
30 borrower shall not vary or be adjusted during the term of the
31 loan. The parties to a loan made under this section may agree to a
32 rate of interest which shall vary or be adjusted during the term of
33 the loan in which case the maximum rate of interest permitted on
34 such loans during a month during the term of the loan shall be the
35 rate announced by the Commissioner in the preceding calendar
36 month.

37 An affiliate operating in the same office or subsidiary operating
38 in the same office of a licensee under the North Carolina
39 Consumer Finance Act may not make a home loan for a term in
40 excess of six (6) months which provides for a balloon payment.
41 For purposes of this subdivision, a balloon payment means any
42 scheduled payment that is more than twice as large as the average

1 of earlier scheduled payments. This subsection does not apply to
2 equity lines of credit as defined in G.S. 45-81."

3 Section 2. G.S. 24-10(h) reads as rewritten:

4 "(h) A ~~bank, savings and loan association, savings bank, or credit union,~~ lender
5 described in G.S. 24-1.1A(a)(2), or any subsidiary or affiliate thereof organized under the
6 laws of this State or the United States, may charge a party to a loan secured by real
7 property a reasonable fee as may be agreed upon by the parties for an appraisal
8 performed by an employee of the bank, savings and loan association, savings bank, or
9 credit union, or any subsidiary or affiliate thereof. Upon the request of the borrower, the
10 lender shall provide at no additional charge to the borrower a copy of any appraisal for
11 which the lender has collected a fee under this subsection. Provision of the copy of an
12 appraisal shall not be construed to create or imply any warranty which does not otherwise
13 exist by the lender as to the accuracy of the appraisal."

14 Section 3. This act becomes effective October 1, 1997, and applies to contracts
15 entered into on or after that date.