GENERAL ASSEMBLY OF NORTH CAROLINA SESSION 2019

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HOUSE BILL 223

Short Title:	Loan Origination/Late Payment Charge Changes.	(Public)		
Sponsors:	ponsors: Representatives Conrad, Jones, Grange, and B. Turner (Primary Sponsors). For a complete list of sponsors, refer to the North Carolina General Assembly web site.			
Referred to:	eferred to: Banking, if favorable, Finance, if favorable, Rules, Calendar, and Operations the House			
February 28, 2019				

1 A BILL TO BE ENTITLED 2 AN ACT TO MODERNIZE THE LOAN ORIGINATION FEE FOR NORTH CAROLINA 3 BANKS AND TO ADJUST THE LATE PAYMENT CHARGE FOR CERTAIN LOANS. 4 The General Assembly of North Carolina enacts: 5 **SECTION 1.** G.S. 24-1.1 reads as rewritten: 6 "§ 24-1.1. Contract rates and fees. 7 Except as otherwise provided in this Chapter or other applicable law, the parties to a (a) 8 loan, purchase money loan, advance, commitment for a loan-loan, or forbearance-forbearance, 9 other than a credit card, open-end, or similar loan loan, may contract in writing for the payment 10 of interest not in excess of: of the following: Where the principal amount is twenty-five thousand dollars (\$25,000) or less, 11 (1)12 the rate set under subsection (c) of this section; or section. 13 Any rate agreed upon by the parties where the principal amount is more than (2)14 twenty-five thousand dollars (\$25,000). As used in this section, interest shall not be deemed in excess of the rates provided 15 (b) where interest is computed monthly on the outstanding principal balance and is collected not 16 more than 31 days in advance of its due date. Nothing in this section shall be construed to 17 18 authorize authorizes the charging of interest on committed funds prior to the disbursement of said 19 the funds. 20 (c) On the fifteenth day of each month, the Commissioner of Banks shall announce and 21 publish the maximum rate of interest permitted by subdivision (1) of subsection (a) of this section on that date. Such-The rate shall be the latest published noncompetitive rate for U.S. Treasury 22 23 bills with a six-month maturity as of the fifteenth day of the month plus six percent (6%), rounded 24 upward or downward, as the case may be, to the nearest one-half of one percent (1/2 of 1%) or 25 sixteen percent (16%), whichever is greater. If there is no nearest one-half of one percent (1/2 of 1%), the Commissioner shall round downward to the lower one-half of one percent (1/2 of 1%). 26 27 The rate so announced shall be the maximum rate permitted for the term of loans made under 28 this section during the following calendar month when the parties to such the loans have agreed 29 that the rate of interest to be charged by the lender and paid by the borrower shall not vary or be 30 adjusted during the term of the loan. The parties to a loan made under this section may agree to 31 a rate of interest which that shall vary or be adjusted during the term of the loan in which case 32 the maximum rate of interest permitted on such the loans during a month during the term of the 33 loan shall be the greater of the rate announced by the Commissioner in (i) the preceding calendar 34 month or (ii) the calendar month preceding that in which the rate is varied or adjusted.



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1	(d) Any bank or savings institution organized under the law of Nor	th Carolina or of the				
2	United States may charge a party to a loan or extension of credit governed	United States may charge a party to a loan or extension of credit governed by this section a fee				
3	for the modification, renewal, extension, or amendment of any terms of the					
4	eredit, such fee not to credit. The fee shall not exceed the greater of one-q					
5	(1/4 of 1%) of the balance outstanding at the time of the modification, re	-				
6	amendment of terms, or fifty dollars (\$50.00).	, , ,				
7	(e) Any bank or savings institution organized under the law of Nor	th Carolina or of the				
8	United States may charge a party to a loan or extension of credit not secu					
9	governed by this section an origination fee not to exceed the greater of one-c					
10	(1/4 of 1%) of the outstanding balance or fifty dollars (\$50.00).as follows:	I I I I I I I I I I I I I I I I I I I				
11	(1) For a loan or extension of credit with a principal amo	ount of one hundred				
12	thousand dollars (\$100,000) or greater, the maximum of					
13	quarter of one percent $(1/4 \text{ of } 1\%)$ of the principal amount	-				
14	(2) For a loan or extension of credit with a principal amount l					
15	thousand dollars (\$100,000), the origination fee shall no					
16	in the following table:					
17	Principal Amount Maximum Ori	igination Fee				
18	\$0 to \$1,499.99 \$100					
19	\$1,500 to \$19,999.99 \$150					
20	\$20,000 to \$29,999.99 \$175					
21	\$30,000 to \$49,999.99 \$200					
22	\$50,000 to \$99,999.99 \$250					
23	(3) If (i) the loan or extension of credit has a principal and					
24	thousand dollars (\$5,000), (ii) the borrower is a natural					
25	debt is incurred primarily for personal, family, or househo	-				
26	or extension of credit shall not have an annual percenta					
27	thirty-six percent (36%), inclusive of the origination fe					
28	subsection and the interest permitted by subsection (c)					
29	purposes of this subsection, "annual percentage rate" s					
30	accordance with the federal Consumer Credit Protection					
31	Title 15 of the United States Code, (Truth in Lending Ac	-				
32	adopted under it.	t) and the regulations				
33	(f) This section shall not be construed to does not limit fees on lo	oans or extensions of				
34	credit in excess of three hundred thousand dollars (\$300,000)."					
35	SECTION 2. G.S. 24-10.1 reads as rewritten:					
36	"§ 24-10.1. Late fees.					
37	(a) Subject to the limitations contained in subsection (b) of this sec	tion. any lender may				
38	charge a party to a loan or extension of credit governed by the provisio					
39	G.S. 24-1.1A a late payment charge as agreed upon by the parties in the loa					
40	(b) No lender may charge a late payment charge: <u>All of the following</u>					
41	<u>a late payment charge:</u>					
42	(1) In excess of four percent (4%) of the amount of the pa	vment past due: orA				
43	late payment charge shall not exceed any of the followin	• • —				
44	<u>a.</u> <u>The amount disclosed with particularity to the h</u>					
45	the federal Consumer Credit Protection Act, Cha	•				
46	the United States Code, (Truth in Lending Act)	•				
47	adopted under it, if that act applies to the transact					
48	<u>b.</u> For a loan or extension of credit that meets					
49	<u>conditions, the greater of thirty-five dollars (\$3</u>					
50	(4%) of the amount of the payment past due:	the percent				
	(170) of the uncount of the pujitent pust due.					

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1		<u>1.</u> <u>The loan or extension of cre</u>	edit is made by a bank or savings
2			he law of North Carolina or of the
3		United States.	
4		2. <u>The loan or extension of cree</u>	dit is not secured by real property.
5		2.The loan or extension of creation3.The loan or extension of creation4.The loan or extension of	dit is governed by G.S. 24-1.1.
6			credit has an original principal
7			al to one thousand five hundred
8		<u>dollars (\$1,500).</u>	
9		c. For any other type of loan or e	
10		<u>G.S. 24-1.1 or G.S. 24-1.1A, four p</u>	percent (4%) of the amount of the
11		payment past due.	
12	(2)	In excess of the amount disclosed with part	•
13		to the provisions of the Federal Consun	
14		transaction is one to which the provisions o	f that act apply, which in no event
15		shall exceed four percent (4%); or	
16	(3)	For any payment unless past due for 15 day	
17		the loan is one on which interest on each i	1
18		late payment charge may be charged until t	1 2 2 1
19		more; or <u>A late payment charge shall no</u>	t be charged unless one of the
20		following is true:	
21		a. The payment is 30 days past due or	•
22		on each installment is paid in advan	
23		b. The payment is 15 days past due or	-
24	(4)	More A late payment charge shall not be cha	
25		to a single late payment. If a late payment c	• •
26		made on the contract and such the deduction	-
27		on a subsequent payment, no late payment	
28		such-the default. If a late payment charge ha	1 1
29		to a particular late payment, no such late	
30		with respect to any future payment which	
31		sufficient but for the previous default; prov	
32		a borrower fails to make an installment pa	-
33		agreement provide that subsequent paymen	
34		due balance, and the borrower resumes mal	•
35		not paid all past due installments, then the	•
36		according to its terms, imposing a separa	
37	(5)	installment that becomes due until the defau	
38	(5)	On <u>A late payment charge shall not be char</u>	
39 40		terms calls for repayment of the entire balan	
40		installments of interest or principal and inte	· · · · · · · · · · · · · · · · · · ·
41	(6)	Unless A late payment charge shall not be	-
42		the borrower within 45 days following the	
43		late payment charge has been imposed for a	
44		payment must be paid unless the borrower	
45		paid in full and on time. No late payment cl	• •
46 47		any borrower if the borrower informs the	1
47 48		installment is in dispute and presents proc	
48		receipt of the lender's notice of the late char	-
49 50		rovisions of this subsection apply only to hom $a_{2}(2)$. Notwithstanding that the note on other	
50	III U.S. 24-1.1A(a)(2). Notwithstanding that the note or othe	a ioan document sets forth a late

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1	payment charge in excess of that permitted in this section, the loan shall not be deemed to be is				
2	not unlawful if: if all of the following are true:				
3	(1) No lat	e fee in excess of those permitted in this section has been assessed or			
4	collect	ed by the lender; and<u>lender.</u>			
5	(2) <u>One of</u>	the following is true:			
6	a.	If the loan is executed on or after July 14, 1993, the lender provides			
7		written notice to the borrower within 90 days of the date of execution			
8		of the loan documents that the late payment charge with respect to the			
9		loan shall be four percent (4%) or less; orless.			
10	b.	If the loan was executed prior to July 14, 1993, the lender provides			
11		written notice to the borrower within six months of that date that the			
12		late payment charge with respect to the loan shall be four percent (4%)			
13		or less."			
14	SECTION 3.	This act is effective when it becomes law and applies to contracts			
15	entered into, renewed, or	modified on or after that date.			