

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

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HOUSE BILL 917
Committee Substitute Favorable 4/23/03
Senate Rules and Operations of the Senate Committee Substitute Adopted 7/20/03

Short Title: Conform Mortgage Lending Laws.

(Public)

Sponsors:

Referred to:

April 8, 2003

A BILL TO BE ENTITLED
AN ACT TO CONFORM THE LAWS RELATED TO PERMISSIBLE INTEREST
RATES FOR HOME LOANS SECURED BY FIRST MORTGAGES, AND TO
AUTHORIZE THE LEGISLATIVE RESEARCH COMMISSION TO STUDY
ISSUES RELATED TO BANKING AND LENDING LAWS.

The General Assembly of North Carolina enacts:

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

"(a) Notwithstanding any other provision of this Chapter, but subject to the provisions of G.S. 24-1.1E, parties to a home loan may contract in writing as follows:

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

(2) Where the principal amount is less than ten thousand dollars (\$10,000) the parties may contract for the payment of interest as agreed upon by the parties, if the lender is ~~either one of the following:~~

(i)~~a.~~ ~~approved~~ Approved as a mortgagee by the Secretary of Housing and Urban Development, the Federal Housing Administration, the Department of Veterans Affairs, a national mortgage association or any federal ~~agency;~~ agency.

(ii)~~b.~~ ~~a~~ A local or foreign bank, savings and loan association or service corporation wholly owned by one or more savings and loan associations and permitted by law to make home loans, credit union or insurance ~~company;~~ company.

(iii)~~c.~~ ~~a~~ A State or federal ~~agency;~~ agency.

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

1 (4) Notwithstanding any other provision of law, where the lender is an
2 affiliate operating in the same office or subsidiary operating in the
3 same office of a licensee under the North Carolina Consumer Finance
4 Act, the lender may charge interest to be computed only on the
5 following basis: monthly on the outstanding principal balance at a rate
6 not to exceed the rate provided in this subdivision.

7 On the fifteenth day of each month, the Commissioner of Banks
8 shall announce and publish the maximum rate of interest permitted by
9 this subdivision. Such rate shall be the latest published noncompetitive
10 rate for U.S. Treasury bills with a six-month maturity as of the
11 fifteenth day of the month plus six percent (6%), rounded upward or
12 downward, as the case may be, to the nearest one-half of one percent
13 (1/2 of 1%) or fifteen percent (15%), whichever is greater. If there is
14 no nearest one-half of one percent (1/2 of 1%), the Commissioner shall
15 round downward to the lower one-half of one percent (1/2 of 1%). The
16 rate so announced shall be the maximum rate permitted for the term of
17 loans made under this section during the following calendar month
18 when the parties to such loans have agreed that the rate of interest to
19 be charged by the lender and paid by the borrower shall not vary or be
20 adjusted during the term of the loan. The parties to a loan made under
21 this section may agree to a rate of interest which shall vary or be
22 adjusted during the term of the loan in which case the maximum rate
23 of interest permitted on such loans during a month during the term of
24 the loan shall be the rate announced by the Commissioner in the
25 preceding calendar month.

26 An affiliate operating in the same office or subsidiary operating in
27 the same office of a licensee under the North Carolina Consumer
28 Finance Act may not make a home loan for a term in excess of six (6)
29 months which provides for a balloon payment. For purposes of this
30 subdivision, a balloon payment means any scheduled payment that is
31 more than twice as large as the average of earlier scheduled payments.
32 This subsection does not apply to equity lines of credit as defined in
33 G.S. 45-81."

34 **SECTION 2.** G.S. 24-1.1A(c2) reads as rewritten:

35 "(c2) No lender on home loans under subdivision (a)(4) of this section may charge
36 or receive any interest, fees, charges, or discount points other than: (i) ~~the fees described~~
37 ~~in G.S. 24-10; (ii) to the extent permitted by G.S. 24-8(d), sums for the payment of bona~~
38 ~~fide loan related goods, products, and services provided or to be provided by third~~
39 ~~parties and sums for the payment of taxes, filing fees, recording fees, and other charges~~
40 ~~and fees, paid or to be paid to public officials; (iii) interest as permitted in subdivision~~
41 ~~(a)(4) of this section; and (iv) late payment charges to the extent permitted by G.S.~~
42 ~~24-10.1.~~

43 (1) Interest as permitted in subdivision (a)(4) of this section.

- 1 (2) Points and fees, as defined in G.S. 24-1.1E(a)(5), that in the aggregate
2 do not exceed three percent (3%) of the total loan amount as defined in
3 G.S. 24-1.1E(a)(7) less the principal amount of any existing loan by
4 the lender that is refinanced into the new loan, provided that no
5 prepayment penalties shall be imposed in connection with the loan.
6 (3) Modification fees, as defined in sub-subsection (c)(2)e. of this section,
7 provided that such fees may be charged only one time during any
8 one-year period.
9 (4) Deferral fees, as provided in subsection (g) of this section, provided
10 that such fees may not exceed one hundred fifty dollars (\$150.00) in
11 any one-year period.
12 (5) Late payment fees subject to the provisions of G.S. 24-10.1(a) and
13 (b)."

14 **SECTION 3.** G.S. 24-1.4 is repealed.

15 **SECTION 4.** The Legislative Research Commission shall undertake a
16 comprehensive study of those laws, including Chapters 53, 54B, 54C, and 24 of the
17 General Statutes, which affect the establishment and operation of banks in North
18 Carolina and shall make recommendations to the 2003 General Assembly, prior to the
19 convening of the 2004 Regular Session as to which laws are (i) obsolete, unnecessary,
20 or duplicative, (ii) unnecessarily inconsistent in the treatment of banks, savings and loan
21 associations, and savings banks, and (iii) unnecessarily restrict, impede, or prohibit
22 activities of banks, savings and loan associations, and savings banks or the ability of the
23 Commissioner of Banks to regulate banks and savings institutions in an effective,
24 efficient, and equitable manner. The Commission shall study issues related to parity
25 among mortgage lenders and all laws affecting mortgage lenders.

26 In preparing its recommendations, the Commission shall actively solicit and
27 consider information received from representatives of banks, savings and loan
28 associations, savings banks, the consumer finance industry, the mortgage lending
29 industry, the State Banking Commission, the Commissioner of Banks, other interested
30 parties, and the general public.

31 **SECTION 5.** The Commissioner of Banks shall report to the 2005 General
32 Assembly not later than April 1, 2006, on the effects of this act and shall make any
33 recommendations the Commissioner deems appropriate.

34 **SECTION 6.** This act becomes effective January 1, 2004, and applies to
35 loans entered into on or after that date. This act shall expire on October 1, 2006.