

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003**

**HOUSE BILL 917
RATIFIED BILL**

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

On the fifteenth day of each month, the Commissioner of Banks shall announce and publish the maximum rate of interest permitted by this subdivision. Such rate shall be the latest published noncompetitive rate for U.S. Treasury bills with a six-month maturity as of the fifteenth day of the month plus six percent (6%), rounded upward or downward, as the case may be, to the nearest one-half of one percent (1/2 of 1%) or fifteen percent (15%), 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%). The rate so announced shall be the maximum rate permitted for the term of loans made under this section during the following calendar month

when the parties to such loans have agreed that the rate of interest to be charged by the lender and paid by the borrower shall not vary or be adjusted during the term of the loan. The parties to a loan made under this section may agree to a rate of interest which shall vary or be adjusted during the term of the loan in which case the maximum rate of interest permitted on such loans during a month during the term of the loan shall be the rate announced by the Commissioner in the preceding calendar month.

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

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

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

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

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

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

In preparing its recommendations, the Commission shall actively solicit and consider information received from representatives of banks, savings and loan associations, savings banks, the consumer finance industry, the mortgage lending

industry, the State Banking Commission, the Commissioner of Banks, other interested parties, and the general public.

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

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

In the General Assembly read three times and ratified this the 20th day of July, 2003.

Beverly E. Perdue
President of the Senate

Richard T. Morgan
Speaker of the House of Representatives

Michael F. Easley
Governor

Approved _____ .m. this _____ day of _____, 2003