

March 29, 2001

S 723. UNSOLICITED CHECKS TO SECURE LOANS. TO REQUIRE CERTAIN DISCLOSURE AND WARNING STATEMENTS ON UNSOLICITED CHECKS THAT, WHEN CASHED BY THE RECIPIENTS, OBLIGATE THE RECIPIENTS TO REPAY THE AMOUNT OF THE CHECKS PLUS INTEREST AND FEES. Enacts new GS 75-20 prohibiting a person, firm, or corporation engaged in lending money from delivering to a person an unsolicited check made out to the recipient that, when cashed, obligates the recipient to repay the amount of the check plus interest and fees, without making the disclosure specified in the act and providing notice of a three-day right to cancel the loan without penalty (other than returning the moneys received from cashing the check). Violation of section is an unfair trade practice under GS 75-1.1. Effective Oct. 1, 2001.
Intro. by Bingham.

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| Ref. to Commerce | GS 75 |
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April 25, 2001

S 723. UNSOLICITED CHECKS TO SECURE LOANS. Intro. 3/29/01. Senate amendment makes the following changes to 1st edition. Adds provision that the new statute does not apply to a transaction in which a consumer has submitted an application or requested an extension of credit before receiving the check or in which the check is used as an access device for an existing account.

August 1, 2001

S 723. UNSOLICITED CHECKS TO SECURE LOANS. Intro. 3/29/01. House committee substitute makes the following changes to 1st edition: (1) Retains substance of original bill's provisions regarding the required warnings and notifications that lenders must give to recipients of unsolicited negotiable checks the signing of which constitutes a loan agreement, but adds additional provisions requiring specific notification to the recipients that endorsing the check constitutes entering the loan agreement. (2) Deletes the original bill's provision requiring lenders to provide with the check a Notice of Cancellation form for the recipient to use to cancel a loan. (3) Adds provisions specifying the conduct required of a lender with respect to a recipient of an unsolicited check in the event the check is stolen or otherwise obtained by someone other than the intended payee and the check is fraudulently cashed. In such a case, the lender is to provide an affidavit for the intended payee to use, is not to attempt any collection activities against the payee until the lender has investigated the circumstances, is to investigate and make a determination, is to presume that the payee's affidavit is accurate absent evidence to the contrary, and, if the determination is that the check was cashed fraudulently, is to take immediate action to remove the intended payee from all liability on the account and is to request all credit reporting agencies to remove references to the transaction, if any, from the intended payee's credit reports. (4) Adds a provision specifying that the bill's provisions do not apply to a transaction in which a consumer has submitted an application or requested an extension of credit from the lender before receiving the check, or where the lender has an existing account relationship with the consumer.