

April 9, 2009

**H 1341. MODERNIZE THE NC CONSUMER FINANCE ACT.** Filed 4/8/09. *TO MODERNIZE THE NORTH CAROLINA CONSUMER FINANCE ACT.*

Amends GS 53-166(a), modifying the scope of the North Carolina Consumer Finance Act (CFA) to apply to a person or entity engaging in the business of lending in amounts of \$20,000 or less (was, \$10,000 or less). Amends GS 53-168(b) to increase the application fee to be submitted for a license under the CFA to \$1,000 (was, \$250). Amends GS 53-171(a) to require a licensee under the CFA who fails to attempt to make any loans (was, fails to make any loans) during any period of 90 consecutive days to surrender the licensee's license to the Commissioner of Banking (Commissioner).

Current law prohibits a licensee from conducting the licensee's loan business within any office, suite, room, or place of business in which *any other business* is solicited or transacted. Amends GS 53-172(a) to specify that other loans or services authorized by GS Chapter 53 do not constitute *any other business* within the meaning of this section.

Amends GS 53-175 to permit a licensee to collect fees, in addition to returned check fees, for any other charges incurred by the licensee from other financial institutions for each returned check or other negotiable instrument returned or dishonored for any reason.

Amends GS 53-176 to provide that in addition (was, in lieu of) making loans in the amount and at the interest stated in GS 53-173 and in GS 53-180, a licensee may make (was, at any time elect to make) loans in installments not exceeding \$20,000 (was, \$10,000) that are not repayable in less than six months or more than 96 months (was, 84 months). Also makes adjustments to the actuarial rates. Provides that if a loan is not more than \$15,000 (was, \$7,500), actuarial rates are 30% per annum on the part of the unpaid principal that does not exceed \$5,000 (was, \$1,000); and 24% on that part that exceeds \$5,000, but does not exceed \$10,000. Provides that if a loan is more than \$15,000 (was, \$7,500), then the actuarial rate is 18% per annum on the outstanding principal balance.

Also provides for increases in the processing fees that a licensee may assess at closing with a processing fee range from \$35 to a maximum of \$100, depending on the loan amount (range was, \$25 to \$40). Deletes provisions of GS 53-173(d) (limitation of interest after maturity of loan) as applying to loans made under this section. Also deletes provision allowing a licensee to elect to make loans in accordance with the CFA by filing a written statement with the Commissioner of the licensee's intent.

Amends GS 53-177 to delete provision allowing a licensee to self-insure against the loss of a security interest by retaining recording fees paid by the borrower to the licensee. Adds authorization for the licensee to charge and collect a late payment charge as agreed upon by the parties in the loan contract for payments that are received 10 days or more after the due date. Sets out guidelines and limitations on the charging of late fees. Also provides guidelines for the collection of third-party payment fees. Provides that a licensee may, by agreement with the borrower, defer payment of all or part of one or more installment payments under an existing loan contract. Provides criteria for deferring charges.

Amends GS 53-179 to provide that multiple-office loan limitations apply to operations in this state (was intrastate and interstate operations). Also provides that in circumstances where a licensee inadvertently makes multiple loans to a borrower, then all the loans are to be adjusted to the rates that apply under this Article to a single loan of an equivalent amount.

Amends GS 53-180 to provide that a loan made pursuant to GS 53-176 may provide for the collection of reasonable attorneys' fees. Also provides that a final judgment awarding monetary damages may be enforced by garnishing the wages of the judgment debtor.

Amends GS 53-181 to require the licensee to deliver a copy of the loan contract free of charge, once per calendar year, to the borrower upon the borrower's written request. Permits a licensee to charge a \$25 fee for each additional request. Provides that the licensee should act in good faith to provide the borrower with notice of delinquency or default, and attempt to negotiate with the borrower to work out the delinquency. Provides that no licensee is to take any confession of judgment except as authorized in GS 53-181(c). Provides criteria regarding a confession of judgment. Makes conforming changes to GS 53-190 (regarding loans made outside of this state).

**Intro. by Holliman.**

GS 53

August 4, 2009

**H 1341. STUDY CONSUMER FINANCE ACT (NEW).** Filed 4/8/09. House committee substitute deletes all provisions of the 1st edition and replaces it with *AN ACT TO ESTABLISH THE JOINT LEGISLATIVE STUDY COMMISSION ON THE MODERNIZATION OF NORTH CAROLINA BANKING LAWS AND THE CONSUMER FINANCE ACT*. Creates Joint Legislative Study Commission on the Modernization of North Carolina Banking Laws and the Consumer Finance Act (Commission) to study whether and to what extent the North Carolina banking laws and the Consumer Finance Act, GS Chapter 53, Article 15, need updating. Mandates that the 16-member commission study the increase in costs of operations for the consumer finance industry, the maximum dollar amount that can be lent to individuals, the appropriate rate of interest and fees for consumer transactions, and strategies for increasing consumer protection and disclosure. The commission is to report its recommendations to the 2010 Regular Session of the 2009 General Assembly and terminates on the earlier of May 1, 2010 or upon the filing of its final report. Requires the Commissioner of Banks to use up to \$25,000 of the funds available to the State Banking Commission for 2009-10 to fund the study.