

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

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HOUSE BILL 810  
PROPOSED COMMITTEE SUBSTITUTE H810-PCS30344-RO-16

Short Title: Consumer Finance Act Amendments.

(Public)

Sponsors:

Referred to:

April 7, 2011

A BILL TO BE ENTITLED

AN ACT TO MAKE VARIOUS AMENDMENTS TO THE NORTH CAROLINA  
CONSUMER FINANCE ACT TO INCREASE CONSUMER ACCESS AND CREDIT  
MARKET PARITY.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 53-166(a) reads as rewritten:

"(a) Scope. – No person shall engage in the business of lending in amounts of ~~ten~~ fifteen thousand dollars ~~(\$10,000)~~ (\$15,000) or less and contract for, exact, or receive, directly or indirectly, on or in connection with any such loan, any charges whether for interest, compensation, consideration, or expense, or any other purpose whatsoever, which in the aggregate are greater than permitted by Chapter 24 of the General Statutes, except as provided in and authorized by this Article, and without first having obtained a license from the Commissioner. The word "lending" as used in this section, shall include, but shall not be limited to, endorsing or otherwise securing loans or contracts for the repayment of loans."

**SECTION 2.** G.S. 53-172(a) reads as rewritten:

"(a) No licensee shall conduct the business of making loans under this Article within any office, suite, room, or place of business in which any other business is solicited or transacted.

Installment paper dealers as defined in G.S. 105-83, ~~and~~ the collection by a licensee of loans legally made in North Carolina, or another state by another government regulated lender or lending ~~agency~~, agency, and the collection by a licensee of claims of, or payments to, an insurance company licensed in North Carolina and arising in any way from an insurance policy approved by the Commissioner of Insurance shall not be considered as being any other business within the meaning of this section."

**SECTION 3.** G.S. 53-173 reads as rewritten:

**"§ 53-173. Maximum rate of interest and fee; computation of interest; limitation on interest after judgment; limitation on interest after maturity of the loan.**

(a) Maximum Rate of Interest. – Every licensee under this section may make loans in installments not exceeding three thousand dollars (\$3,000) in amount, at interest rates not exceeding thirty-six percent (36%) per annum on the outstanding principal balance of any loan not in excess of ~~six~~ one thousand five hundred dollars ~~(\$600.00)~~ (\$1,500) and fifteen percent (15%) per annum on any remainder of such unpaid principal balance. Interest shall be contracted for and collected at the single simple interest rate applied to the outstanding balance that would earn the same amount of interest as the above rates for payment according to schedule.



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- 1 ...  
 2 (g) Limitations on Loans to Individual Borrowers. –  
 3 (1) No loan shall be made to a borrower before the 91st day after the origination  
 4 of an existing loan made under this section, nor with less than fifty percent  
 5 (50%) of the indebtedness of the existing loan reduced in the current  
 6 balance, unless the borrower receives the greater of one hundred dollars  
 7 (\$100.00) or twenty percent (20%) in cash in excess of the principal amount  
 8 of the original loan.  
 9 (2) No licensee shall make a loan under this section to repay an existing loan  
 10 under this section with the licensee without providing a notice, approved by  
 11 the Commissioner, explaining the benefits of disciplined consistent  
 12 repayment of installment credit and the potential of increasing costs when  
 13 obtaining a new loan before final payment.  
 14 (3) A licensee under this section must accept and credit semimonthly and  
 15 weekly payments from borrowers made before regularly scheduled payments  
 16 are due and also provide, at the time the loan is made, an example of the  
 17 potential savings that could occur as a result of more frequent payments.  
 18 (4) No licensee or an affiliate of such licensee shall make a loan to a borrower  
 19 under this section if there exists an outstanding loan made under this section  
 20 or G.S. 53-176 between the licensee and that borrower, unless the existing  
 21 loan is paid in full from the proceeds of the new loan."

22 **SECTION 4.** G.S. 53-176 reads as rewritten:

23 **"§ 53-176. Optional rates, maturities and amounts.**

24 (a) In lieu of addition to making loans in the amount and at the interest stated in  
 25 G.S. 53-173 and for the terms stated in G.S. 53-180, a licensee may at any time elect to make  
 26 loans in installments not exceeding ~~ten-fifteen~~ thousand dollars ~~(\$10,000)~~ (\$15,000) and which  
 27 shall not be repayable in less than six months or more than ~~84-96~~ months and which shall not  
 28 be secured by deeds of trust or mortgages on real estate and which are repayable in  
 29 substantially equal consecutive monthly payments and to charge and collect interest in  
 30 connection therewith which shall not exceed the following actuarial rates:

- 31 (1) ~~With respect to a loan not exceeding seven thousand five hundred dollars~~  
 32 ~~(\$7,500), ~~thirty~~Thirty percent (30%) per annum on that part of the unpaid~~  
 33 ~~principal balance not exceeding ~~one-five~~ thousand dollars ~~(\$1,000)~~ (\$5,000).~~  
 34 (1a) Twenty-four percent (24%) per annum on the unpaid principal balance not  
 35 exceeding ten thousand dollars (\$10,000).~~and~~  
 36 (1b) ~~eighteen-Eighteen~~ percent (18%) per annum on the remainder of the unpaid  
 37 principal balance.

38 Interest shall be contracted for and collected at the single simple interest rate applied to the  
 39 outstanding balance that would earn the same amount of interest as the above rates for payment  
 40 according to schedule.

- 41 (2) ~~With respect to a loan exceeding seven thousand five hundred dollars~~  
 42 ~~(\$7,500), ~~eighteen~~ percent (18%) per annum on the outstanding principal~~  
 43 ~~balance.~~

44 (b) In addition to the interest permitted in this section, a licensee may assess at closing a  
 45 fee for processing the loan as agreed upon by the parties, not to exceed twenty-five dollars  
 46 (\$25.00) for loans up to two thousand five hundred dollars (\$2,500) and one percent (1%) of  
 47 the cash advance for loans above two thousand five hundred dollars (\$2,500), not to exceed a  
 48 total fee of forty dollars (\$40.00), provided that such charges may not be assessed more than  
 49 twice in any 12-month period.

50 (c) The provisions of G.S. 53-173(b), (c) and (d) and G.S. 53-180(b), (c), (d), (e), (f),  
 51 (g), (h) and (i) shall apply to loans made pursuant to this section.

1       ~~(d) Any licensee under this Article shall have the right to elect to make loans in~~  
2 ~~accordance with this section by the filing of a written statement to that effect with the~~  
3 ~~Commissioner and no sooner than 30 days from the date of such notification begin making~~  
4 ~~loans regulated by this section. After such election a licensee may continue to make loans in~~  
5 ~~accordance with this section unless the licensee notifies the Commissioner in writing of its~~  
6 ~~intention to terminate such election on a date not sooner than 30 days from the notification.~~

7       (e) The due date of the first monthly payment shall not be more than 45 days following  
8 the disbursement of funds under any such installment loan. A borrower under this section may  
9 prepay all or any part of a loan made under this section without penalty. Except as otherwise  
10 provided for pursuant to G.S. 75-20(a), no more than twice in a 12-month period, a borrower  
11 may cancel a loan with the same licensee within three business days after disbursement of the  
12 loan proceeds without incurring or paying interest so long as the amount financed, minus any  
13 fees or charges, is returned to and received by the licensee within that time.

14       ~~(f) No individual, partnership, or corporate licensee and no corporation which is the~~  
15 ~~parent, subsidiary or affiliate of a corporate licensee that is making loans under this Article~~  
16 ~~except as authorized in this section, shall be permitted to make loans under the provisions of~~  
17 ~~this section. Any corporate licensee or individual or partnership licensee that elects to make~~  
18 ~~loans in accordance with the provisions of this section shall be bound by that election with~~  
19 ~~respect to all of its offices and locations in this State and all offices and locations in this State~~  
20 ~~of its parent, subsidiary or affiliated corporate licensee, or with respect to all of his or their~~  
21 ~~offices and locations in this State."~~

22       **SECTION 5.** G.S. 53-177 reads as rewritten:

23       "**§ 53-177. Recording fees.**~~Fees.~~

24       (a) Recording Fees. – The licensee may collect from the borrower the amount of any  
25 fees necessary to file or record its security interest with any public official or agency of a  
26 county or the State as may be required pursuant to Article 9 of Chapter 25 of the General  
27 Statutes or G.S. 20-58 et seq. Upon full disclosure to the borrower on how the fees will be  
28 applied, such fees may either (i) be paid by the licensee to such public official or agency of the  
29 county or State, or (ii) in lieu of recording or filing, applied by the licensee to purchase  
30 nonfiling or nonrecording insurance on the instrument securing the loan, ~~or (iii) be retained by~~  
31 ~~a licensee that elects to self insure against the loss of a security interest by reason of not filing~~  
32 ~~or recording its security instrument: Provided, provided, however, the amount collected by the~~  
33 ~~licensee from the borrower for the purchase of a nonfiling or nonrecording insurance policy, or~~  
34 ~~for self insurance, policy shall be the premium amount for such insurance as fixed by the~~  
35 ~~Commissioner of Insurance. Such premium shall be at least one dollar (\$1.00) less than the cost~~  
36 ~~of recording or filing a security interest. Provided further, a licensee shall not collect or permit~~  
37 ~~to be collected any notary fee in connection with any loan made under this Article, nor may a~~  
38 ~~licensee collect any fee from the borrower for the cost of releasing a security interest except~~  
39 ~~such fee as actually paid to any public official or agency of the county or State for such~~  
40 ~~purpose.~~

41       (b) Late Fees. –

42       (1) A licensee may charge a late payment charge for any payment which  
43 remains past due for 10 days or more after the due date.

44       (2) No licensee may charge a late payment charge:

45       a. For loans made pursuant to G.S. 53-173, greater than ten dollars  
46 (\$10.00).

47       b. For loans made pursuant to G.S. 53-176, greater than fifteen dollars  
48 (\$15.00).

49       c. More than once with respect to a single late payment.

1       (c) Third-Party Payment Fees. – The licensee may collect any actual charges paid by  
2 the licensee related to payments submitted by the borrower or at the borrower's request through  
3 electronic or other means not affiliated with the licensee.

4       (d) Deferral Charges. – A licensee may, by agreement with the borrower, collect a  
5 deferral charge and defer the due date of all or any part of one or more installments under an  
6 existing loan contract as permitted in the provisions of G.S. 25A-30."

7               **SECTION 6.** G.S. 53-179 reads as rewritten:

8 "**§ 53-179. Multiple-office loan limitations.**

9       A licensee shall not grant a loan in one office to any borrower who already has a loan in  
10 another office operated by the same entity or by an affiliate, parent, subsidiary or under the  
11 same ownership, management or control, whether partial or complete. This section shall apply  
12 to intrastate and interstate operations. A licensee shall take every reasonable precaution to  
13 prevent granting loans in violation of this section. ~~Such~~ Subject to the limitation contained in  
14 G.S. 53-173(g)(4), loans granted inadvertently resulting in a total liability of three thousand  
15 dollars (\$3,000) or less, shall be adjusted to the rates applicable under the Article to a single  
16 loan of equivalent amount, and when the total liability on such loans is in excess of three  
17 thousand dollars (\$3,000), interest shall be adjusted to simple interest at eight percent (8%) per  
18 annum on the entire obligation."

19               **SECTION 7.** This act becomes effective October 1, 2011.