

NORTH CAROLINA GENERAL ASSEMBLY
1961 SESSION

CHAPTER 1053
HOUSE BILL 15

1 AN ACT TO AMEND ARTICLE 15 OF CHAPTER 53 OF THE GENERAL STATUTES, SO
2 AS TO REPEAL THE NORTH CAROLINA SMALL LOANS ACT, AND TO ADOPT A
3 NORTH CAROLINA CONSUMER FINANCE ACT.
4

5 The General Assembly of North Carolina do enact:
6

7 **Section 1.** Article 15 of Chapter 53 of the General Statutes is hereby rewritten to
8 read as follows:
9

10 "Article 15.

"North Carolina Consumer Finance Act.

11 **"Sec. 53-164. Title.** This Article shall be known and may be cited as the North Carolina
12 Consumer Finance Act.

13 **"Sec. 53-165. Definitions.** (1) 'Person' shall include any person, firm, partnership, association
14 or corporation.

15 "(2) 'Commissioner' shall mean the Commissioner of Banks.

16 "(3) 'Deputy Commissioner' shall mean the Deputy Commissioner of Banks.

17 "(4) 'Commission' shall mean the State Banking Commission.

18 "(5) 'Borrower' shall mean any person who borrows money from any licensee or
19 who pays or obligates himself to pay any money or otherwise furnishes any
20 valuable consideration to any licensee for any act of the licensee as a
21 licensee.

22 "(6) 'License' shall mean the certificate issued by the Commissioner under the
23 authority of this Act to conduct a consumer finance business.

24 "(7) 'Licensee' shall mean a person to whom one or more licenses have been
25 issued.

26 "(8) 'Cash Advance' shall mean the amount of cash or its equivalent that the
27 borrower actually receives or is paid out at his direction or on his behalf.

28 "(9) 'Amount of the Loan' shall mean the aggregate of the cash advance and the
29 charges authorized by Section 53-173.

30 "(10) 'Loanable Assets' shall mean cash or bank deposits or installment loans made
31 as a licensee pursuant to this Article or installment loans made as a licensee
32 pursuant to the Article which this Article supersedes or such other loans
33 payable on an installment basis as the Commissioner of Banks may approve,
34 or any combination of two or more thereof.

35 **"Sec. 53-166. Scope of Article and penalties.**

36 (a) Scope. No person shall engage in the business of lending in amounts of six hundred
37 dollars (\$600.00) or less and contract for, exact, or receive, directly or indirectly, on or in
38 connection with any such loan, any charges whether for interest, compensation, consideration,
39 or expense, or any other purpose whatsoever, which in the aggregate are greater than six per
40 cent (6%) per annum, except as provided in and authorized by this Article, and without first
41 having obtained a license from the Commissioner. The word 'lending' as used in this Section,
42 shall include, but shall not be limited to, endorsing or otherwise securing loans or contracts for
43 the repayment of loans.

1 "(b) Evasions. The provisions of subsection (a) of this Section shall apply to any person
2 who seeks to avoid its application by any device, subterfuge or pretense whatsoever.

3 "(c) Penalties; Commissioner to provide and testify as to facts in his possession. Any
4 person not exempt from this Article, or any officer, agent, employee or representative thereof,
5 who fails to comply with or who otherwise violates any of the provisions of this Article, or any
6 regulation of the Banking Commission adopted pursuant to this Article, shall be guilty of a
7 misdemeanor and upon conviction shall be fined not less than five hundred dollars (\$500.00)
8 nor more than twenty five hundred dollars (\$2500.00) or imprisoned not less than four (4)
9 months nor more than two (2) years, or both, in the discretion of the court. Each such violation
10 shall be considered a separate offense. It shall be the duty of the Commissioner of Banks to
11 provide the solicitor of the court having jurisdiction of any such offense with all facts and
12 evidence in his actual or constructive possession, and to testify as to such facts upon the trial of
13 any person for any such offense.

14 "(d) Additional penalties. Any contract of loan, the making or collecting of which
15 violates any provision of this Article, or regulation thereunder, except as a result of accidental
16 or bona fide error of computation shall be void and the licensee shall have no right to collect,
17 receive or retain any principal or charges whatsoever with respect to such loan.

18 **"Sec. 53-167. Expenses of supervision.** Each licensee, for the purpose of defraying necessary
19 expenses of the Commissioner of Banks and his agents in supervising them, shall pay to the
20 Commissioner of Banks the fees prescribed in G.S. 53-122 at the times therein specified.

21 **"Sec. 53-168. License: Showing of convenience and advantage and financial
22 responsibility.**

23 (a) No person shall engage in or offer to engage in the business regulated by this Article
24 unless and until a license has been issued by the Commissioner of Banks, and the
25 Commissioner shall not issue any such license unless and until he finds:

26 "(1) That authorizing the applicant to engage in such business will promote the
27 convenience and advantage of the community in which the applicant
28 proposes to engage in business; and

29 "(2) That the financial responsibility, experience, character and general fitness of
30 the applicant are such as to command the confidence of the public and to
31 warrant the belief that the business will be operated lawfully and fairly,
32 within the purposes of this Article; and

33 "(3) That the applicant has available for the operation of such business at the
34 specified location loanable assets of at least twenty-five thousand dollars
35 (\$25,000.00).

36 "(b) Upon the receipt of an application, the Commissioner shall investigate the facts. If
37 the Commissioner determines from such preliminary investigation that the applicant does not
38 satisfy the conditions set forth in subsection (a), he shall so notify the applicant who shall then
39 be entitled to a hearing thereon provided he so requests in writing within 30 days after the
40 Commissioner has caused the above-referred to notification to be mailed to the applicant. In the
41 event of a hearing, to be held in the offices of the Commissioner of Banks in Raleigh, the
42 Commissioner shall reconsider the application and, after the hearing, issue a written order
43 granting or denying such application. At the time of making such application, the applicant
44 shall pay the Banking Department the sum of one hundred dollars (\$100.00) as a fee for
45 investigating the application, which shall be retained irrespective of whether or not a license is
46 granted the applicant.

47 "(c) Notwithstanding the provisions of this Section, any person engaged in the business
48 of making direct cash loans pursuant to the North Carolina Small Loans Act, Article 15 of
49 Chapter 53 as in effect prior to the effective date of this Article, on the effective date of this
50 Article, if the person shall meet the requirements of clause (3) of subsection (a) of this Section,
51 shall receive a license on filing the required application within not more than six months after

1 the effective date of this Article and during such six months period shall be deemed a licensee
2 under this Article.

3 "(d) Each licensee shall continue at all times to have available for the operation of the
4 business at the specified location loanable assets of at least twenty-five thousand dollars
5 (\$25,000.00). The requirements and standards of this subsection and subsection (a)(2) of this
6 Section shall be maintained throughout the period of the license and failure to maintain such
7 requirements or standards shall be grounds for the revocation of a license under the provisions
8 of Section 53-171 of this Article.

9 "(e) License, posting, continuing. Each license shall state the address at which the
10 business is to be conducted and shall state fully the name of the licensee, and if the licensee is a
11 copartnership, or association, the names of the members thereof, and if a corporation, the date
12 and place of its incorporation. Transfer or assignment of a license by one person to another by
13 sale or otherwise is prohibited without the prior approval of the Commissioner. Each license
14 shall be kept posted in the licensed place of business. Each license shall remain in full force and
15 effect until surrendered, revoked, or suspended as hereinafter provided.

16 "**Sec. 53-169. Application for license.** The application for license shall be made on a form
17 prepared and furnished by the Commissioner of Banks and shall state:

- 18 "(1) The fact that the applicant desires to engage in business under this Article;
19 and
- 20 "(2) Whether the applicant is an individual, partnership, association or
21 corporation; and
- 22 "(3) The name and address of the person who will manage and be in immediate
23 control of the business; and
- 24 "(4) The name and address of the owners and their percentage of equity in the
25 company, except when the Commissioner does not deem it feasible to
26 furnish such information because of the number of stockholders involved;
27 and
- 28 "(5) When the applicant proposes to commence doing business; and
- 29 "(6) Such other information as the Commissioner of Banks deems necessary.

30 The statements made in such application shall be sworn to by the applicant or persons
31 making application on the applicant's behalf.

32 "**Sec. 53-170. Locations.** (a) Business Location. A licensee may conduct and carry on his
33 business only at such location or locations as may be approved by the Commissioner of Banks,
34 and no changes shall be made from one location to another without the approval of the
35 Commissioner.

36 "(b) Additional places of business. Not more than one place of business shall be
37 maintained under the same license, but the Commissioner may issue more than one license to
38 the same licensee upon compliance with all the provisions of this Article governing issuance of
39 a single license.

40 "(c) Change of location, ownership or management. If any change occurs in the name
41 and address of the licensee or of the president, secretary or agent of a corporation, or in the
42 membership of any partnership under said Sections, a true and full statement of such change,
43 sworn to in the manner required by this Article in the case of the original application, shall
44 forthwith be filed with the Commission.

45 "**Sec. 53-171. Revocation or suspension of license to do business.** (a) If the Commissioner
46 shall find, after due notice and hearing, or opportunity for hearing, that any such licensee, or an
47 officer, agent, employee, or representative thereof has violated any of the provisions of this
48 Article, or has failed to comply with the rules, regulations, instructions or orders promulgated
49 by the Commission pursuant to the powers and duties prescribed therein, or has failed or
50 refused to make its reports to the Commissioner, or has failed to pay the fees for its
51 examination and supervision, or has furnished false information to the Commissioner or the

1 Commission, the Commissioner may issue an order revoking or suspending the right of such
2 licensee and such officer, agent, employee or representative to do business in North Carolina as
3 a licensee, and upon receipt of such an order from the Commissioner, the licensee shall
4 immediately surrender his license to the Commissioner. Within five (5) days after the entry of
5 such an order the Commissioner shall place on file his findings of fact and mail or otherwise
6 deliver a copy to the licensee. Any licensee who fails to make any loans during any period of
7 ninety (90) consecutive days after being licensed shall surrender his license to the
8 Commissioner.

9 "(b) Any licensee may surrender any license by delivering it to the Commissioner with
10 written notice of its surrender, but such surrender shall not affect his civil or criminal liability
11 for acts committed prior thereto.

12 "(c) No revocation, suspension or surrender of any license shall impair or affect the
13 obligation of any pre-existing lawful contract between the licensee and any obligor.

14 "(d) The Commissioner, in his discretion, may reinstate suspended licenses or issue new
15 licenses to a person whose license or licenses have been revoked, or surrendered if and when he
16 determines no fact or condition exists which clearly would have justified the Commissioner in
17 refusing originally to issue such license under this Article.

18 "**Sec. 53-172. Conduct of other business in same office.** No licensee subject to the provisions
19 of this Article shall conduct its business as a licensee in an office, or annex to an office, or any
20 other business, but shall maintain an office in which only its business as a licensee shall be
21 conducted. Installment paper dealers as defined in G.S. 105-83 shall not be considered as being
22 any other business within the meaning of this Section. The books, records and accounts relating
23 to loans shall be kept in such manner as the Commissioner prescribes so as to delineate clearly
24 the loan business from any installment dealer paper transactions.

25 "**Sec. 53-173. Maximum rate of charge.** Every licensee hereunder may contract for and
26 receive charges on any loan of money not exceeding six hundred dollars (\$600.00) in amount
27 as follows:

28 "(a) The charge for payment according to schedule may be computed on the amount of
29 cash advance for the full term of the contract without regard to the requirement for installment
30 payments at rates not exceeding the equivalent of twenty dollars (\$20.00) per one hundred
31 dollars (\$100.00) per annum for that part of the amount of the cash advance not exceeding one
32 hundred dollars (\$100.00), eighteen dollars (\$18.00) per one hundred dollars (\$100.00) per
33 annum for that part of the amount of cash advance exceeding one hundred dollars (\$100.00) but
34 not exceeding two hundred dollars (\$200.00), fifteen dollars (\$15.00) per one hundred dollars
35 (\$100.00) per annum for that part of the amount of cash advance exceeding two hundred dollars
36 (\$200.00) but not exceeding three hundred dollars (\$300.00), and six dollars (\$6.00) per one
37 hundred dollars (\$100.00) per annum for that part of the amount of cash advance exceeding
38 three hundred dollars (\$300.00) but not exceeding six hundred dollars (\$600.00).

39 "(b) On loans of seventy-five dollars (\$75.00) or less, a licensee may charge, in lieu of
40 the charges specified in subsection (a) of this Section, at a rate not in excess of one dollar
41 (\$1.00) for each five dollars (\$5.00) of cash advance to the borrower up to the amount of
42 seventy-five dollars (\$75.00) and a period of at least fifteen (15) days must be allowed for
43 repayment of each five dollars (\$5.00) cash advance. Such charges shall not be assessed by any
44 subterfuge or device on any loan over seventy-five dollars (\$75.00) or on any balance of
45 seventy-five dollars (\$75.00) or less when the original loan was greater than seventy-five
46 dollars (\$75.00).

47 "(c) A licensee shall compute monthly charges for a period of time less than one year at
48 one-twelfth of the annual rate for each loan month and shall compute charges for a period of
49 less than one loan month at one-thirtieth of one-twelfth of the annual rate for each day. A loan
50 month is that period of time from one date in the month through the corresponding date in the
51 next month. If there is no corresponding date, then the last day of the next month will be used.

1 "(d) The licensee shall not fix a due date of the first installment of any loan contract
2 providing for monthly installments for a term exceeding forty-five (45) actual days from the
3 date of the loan. When the first payment of any such contract may be due on a date beyond a
4 loan month defined above, a licensee will be permitted to make an additional charge for the
5 number of days in excess of thirty (30) or the number of days in excess of one loan month from
6 the date of the loan, whichever is less.

7 "(e) Subject to the limitations contained in this Article as to maximum rates, the
8 Commission may from time to time, upon the basis of changed conditions or facts, redetermine
9 and refix any such maximum rates of charge, but, before determining or redetermining any
10 such maximum rates, the Commission shall give reasonable notice of its intention to consider
11 doing so to all licensees and a reasonable opportunity to be heard and introduce evidence with
12 respect thereto. The notice herein required may be given by mailing such notice to the offices
13 of the licensees as shown in the records of the Commissioner of Banks. Any such changed
14 maximum rates of charge shall not affect pre-existing loan contracts lawfully entered into
15 between any licensee and any borrower.

16 **"Sec. 53-174. Refund.** (a) When any loan contract is paid in full by cash, a new loan renewal
17 or otherwise, after two loan months have expired, the licensee shall refund or credit the
18 borrower with that portion of the total charges which shall be due the borrower as determined
19 by schedules prepared under the rule of 78's or sum of the digits principle as follows:

20 "The amount of the refund or credit shall be at least as great a proportion of the total charges
21 originally contracted for, excluding any adjustment made for a first period of more than one
22 month, as the sum of the consecutive monthly balances of the contract scheduled to follow the
23 date of prepayment bears to the sum of all the consecutive monthly balances of the contract,
24 those sums to be determined according to the payment schedule originally contracted for.'

25 If a loan is prepaid in full by cash, a new loan, renewal or otherwise, two loan months or
26 less from the date of the contract, the licensee shall make a pro rata refund of the charges to the
27 borrower or shall credit such amount to the borrower. In computing any required refund, any
28 prepayment made on or before the 15th day following an installment date shall be deemed to
29 have been made on the installment date preceding such prepayment and any prepayment made
30 after the 15th day following an installment date shall be deemed to have been made on the
31 installment date following such installment; provided, such computation shall not result in
32 refunds by the rule of 78's method on loans prepaid two loan months or less from the date of
33 the contract. When loans are prepaid fifteen (15) days or less from the date the loan is made,
34 licensees are authorized in computing refunds to divide the original add-on charge by that
35 figure which represents the number of loan months in the contract. The original add-on charges
36 less the resultant quotient shall constitute the amount of refund; provided, whenever the
37 resultant quotient is less than two dollars (\$2.00), the minimum charge shall be fixed at two
38 dollars (\$2.00) or the total original add-on charges, whichever is the lesser. The tender by the
39 borrower, or at his request, of an amount equal to the unpaid balance less the required refund
40 must be accepted by the licensee in full payment of the contract.

41 **"Sec. 53-175. Default charge.** (a) If the contract so provides, an additional charge for any
42 installment past due ten (10) days or more according to the original terms of the contract by
43 reason of default may be made in an amount not to exceed five per cent (5%) of the amount of
44 the installment past due and said amount may be charged once and no more on the same
45 default; provided, that if such charge is deducted from a payment made on the loan and such
46 deduction results in a default of a subsequent installment, no charge shall be made for such
47 subsequent default; provided, further, that once a borrower has incurred a default charge
48 pursuant to this Section, no default charge shall be incurred with respect to any future payments
49 which would not have been in default except for the previous default.

1 "(b) If there is an unpaid balance on a loan at the maturity date of the original contract,
2 an additional charge at a rate not to exceed six per cent (6%) per annum may be charged on the
3 outstanding balance until the loan is paid in full by cash, a new loan, renewal or otherwise.

4 **"Sec. 53-176. Optional rates, maturities and amounts.** In lieu of making loans in the
5 amount, for the term and at the charges stated respectively in Sections 53-166, 53-173 and
6 53-180, a licensee may at any time elect to make loans in any amount including loans in excess
7 of six hundred dollars (\$600.00), for any term including more than 24 months, subject to all the
8 other provisions of this Act, provided that the charges for the entire amount for each such loan
9 made by such electing licensee during the period that such election is in effect shall not exceed
10 the same fees and interest set forth in G.S. 53-141. Such election shall be made by the filing of
11 a written statement to that effect by the licensee with the Commissioner and can be terminated
12 by cancellation notice filed by the licensee in writing with the Commissioner.

13 "No individual, partnership, or corporate licensee and no corporation which is the parent,
14 subsidiary or affiliate of a corporate licensee which is making loans under this Act otherwise
15 than as authorized specially in this Section, shall be permitted to make loans under the
16 provisions of this Section. Any corporate licensee or individual or partnership licensee making
17 an election to make loans in accordance with the provisions of this Section shall respectively be
18 bound by such election with respect to all of its offices and locations in this State and all offices
19 and locations in this State of its parent, subsidiary or affiliated corporate licensee, or with
20 respect to all of his or their offices and locations in this State.

21 **"Sec. 53-177. Recording fees.** The licensee may collect from the borrower the actual fees paid
22 a public official or agency of a county or the State, for filing, recording, or releasing any
23 instrument securing the loan. A licensee shall not collect or permit to be collected any notary
24 fee in connection with any loan made under this Article. In lieu of recording any instrument
25 and in lieu of collecting any recording fee herein authorized, a lender may take out
26 non-recording or non-filing insurance on the instrument securing the loan and charge to the
27 borrower the amount of the premium as fixed by the Commissioner of Insurance, but the
28 amount so charged to the borrower shall not in any event exceed sixty cents (60¢) with respect
29 to any one loan.

30 **"Sec. 53-178. No further charges, no splitting contracts, certain contracts void.** No further
31 or other charges or insurance commissions shall be directly or indirectly contracted for or
32 received by any licensee except those specifically authorized by this Article. No licensee shall
33 divide into separate parts any contract made for the purpose of or with the effect of obtaining
34 charges in excess of those authorized by this Article. All balances due to a licensee from any
35 person as a borrower or as an endorser, guarantor or surety for any borrower or otherwise, or
36 due from any husband or wife, jointly or severally, shall be considered a part of any loan being
37 made by a licensee to such person for the purpose of computing interest or charges.

38 **"Sec. 53-179. Multiple office loan limitations.** A licensee shall not grant a loan in one office
39 to any borrower who already has a loan in another office operated by the same entity or by an
40 affiliate, parent, subsidiary or under the same ownership, management or control, whether
41 partial or complete. This Section shall apply to intrastate and interstate operations. A licensee
42 shall take every reasonable precaution to prevent granting loans in violation of this Section.
43 Such loans granted inadvertently resulting in a total liability of six hundred dollars (\$600.00) or
44 less, shall be adjusted to the rates applicable under this Article to a single loan of equivalent
45 amount, and when the total liability on such loans is in excess of six hundred dollars (\$600.00),
46 interest shall be adjusted to simple interest at six per cent (6%) per year on the entire obligation.

47 **"Sec. 53-180. Time and payment limitation.** No licensee shall enter into any contract of loan
48 under this Article extending more than twenty-five loan months from the date of making the
49 contract. Every loan contract shall require payment of cash advance and charges, as aggregated,
50 in installments which shall be payable at approximately equal periodic intervals. No installment
51 contracted for shall be substantially larger than any preceding installment.

1 **"Sec. 53-181. Written statement of rates in force.** (a) At the time a loan is made, the licensee
2 shall deliver to the borrower, or if there be two or more borrowers, to one of them a copy of the
3 loan contract, or a written statement, showing in clear and distinct terms:

4 "(1) The name and address of the licensee and one of the primary obligors on the
5 loan;

6 "(2) The date of the loan contract;

7 "(3) Schedule of installments or descriptions thereof;

8 "(4) The cash advance;

9 "(5) The face amount of the note evidencing the loan;

10 "(6) The amount collected or paid for insurance, if any;

11 "(7) The amount collected or paid for filing or other fees allowed by this Article;

12 "(8) The collateral or security for the loan.

13 "(b) Each licensee doing business in North Carolina shall make readily available to the
14 borrower at each place of business such full and accurate schedule of charges and insurance
15 premiums, including refunds and rebates, on all classes of loans currently being made by such
16 licensee, as the Commissioner shall prescribe, and a copy thereof shall be filed in the office of
17 the Commissioner of Banks.

18 "(c) Power of attorney, confession of judgment. No licensee shall take any confession of
19 judgment or permit any borrower to execute a power of attorney in favor of any licensee or in
20 favor of any third person to confess judgment or to appear for the borrower in any judicial
21 proceeding and any such confession of judgment or power of attorney to confess judgment
22 shall be absolutely void.

23 **"Sec. 53-182. Payment of loans; receipts.** (a) After each payment made on account of any
24 loan, the licensee shall give to the person making such payment a signed, dated receipt showing
25 the amount paid and the balance due on the loan. No receipt shall be required in the case of
26 payments made by the borrower's check or money order, where the entire proceeds of the check
27 or money order are applied to the loan. The use of a coupon book system shall be deemed in
28 compliance with this Section.

29 "(b) Upon payment of any loan in full, a licensee shall cancel and return to the borrower,
30 within a reasonable length of time, any note, assignment, mortgage, deed of trust, or other
31 instrument securing such loan, which no longer secures any indebtedness of the borrower to the
32 licensee.

33 **"Sec. 53-183. Advertising, broadcasting, etc., false or misleading statements.** (a) No
34 licensee subject to this Article shall advertise, display, dis tribute, telecast, or broadcast or
35 cause or permit to be advertised, displayed, distributed telecasted, or broadcasted, in any
36 manner whatsoever, any false, misleading, or deceptive statement or representation with regard
37 to the rates, terms, or conditions of loans. The Commissioner may require that charges or rates
38 of charge, if stated by a licensee, be stated fully and clearly in such manner as he may deem
39 necessary to prevent misunderstanding thereof by prospective borrowers. The Commissioner
40 may permit or require licensees to refer in their advertising to the fact that their business is
41 under State supervision, subject to conditions imposed by him to prevent an erroneous
42 impression as to the scope or degree of protection provided by this Article.

43 **"Sec. 53-184. Securing of information; records and reports; allocations of expense.** (a)
44 Each licensee shall maintain in his local office all records required by the Commissioner of
45 Banks to be kept, and the Commissioner, his deputy, or duly authorized examiner or agent or
46 employee is authorized and empowered to examine such records at any reasonable time.

47 "(b) Each licensee shall file annually with the Commissioner of Banks on or before the
48 31st day of March for the twelve months' period ending the preceding December 31, reports on
49 forms prescribed by the Commissioner. Such reports shall disclose in detail and under
50 appropriate headings the resources, assets and liabilities of such licensee at the beginning and at
51 the end of the period, the income, expense, gain, loss, and a reconciliation of surplus or net

1 worth with the balance sheets, the ratios of the profits to the assets reported, the monthly
2 average number and amount of loans outstanding and a classification of loans made, by size
3 and by security, and such other information as the Commissioner may require. Such reports
4 shall be verified by the oath or affirmation of the owner, manager, president, vice-president,
5 cashier, secretary or treasurer of such licensee.

6 "(c) If a licensee conducts another business or is affiliated with other licensees under this
7 Article, or if any other situation exists under which allocations of expense are necessary, the
8 licensee or licensees shall make such allocation according to appropriate and reasonable
9 accounting principles.

10 "(d) If a licensee is affiliated with other licensees, all of the affiliated lenders shall file
11 composite annual reports in addition to the separate reports required in subsection (b) of this
12 Section, in such form as the Commissioner may require.

13 **"Sec. 53-185. Banking Commission to make rules and regulations.** The State Banking
14 Commission is hereby authorized, empowered and directed to make all rules and regulations
15 deemed by the Commission to be necessary in implementing this Article and in providing for
16 the protection of the borrowing public and the efficient management of such licensees and to
17 give all necessary instructions to such licensees for the purpose of interpreting this Article;
18 provided, the Commissioner is hereby authorized to make such rules and regulations and issue
19 such orders as he deems necessary and desirable in implementing and carrying out the
20 provisions of Section 53-184. And it shall be the duty of all such licensees, their officers,
21 agents and employees, to comply fully with all such rules, regulations, and instructions. When
22 promulgated, any rule or regulation shall be forwarded by mail to each licensee at its licensed
23 place of business at least twenty (20) days prior to its effective date.

24 **"Sec. 53-186. Commissioner to issue subpoenas, conduct hearings, give publicity to
25 investigations, etc.** The Commissioner of Banks shall have the power and duty to issue
26 subpoenas including subpoenas duces tecum, and compel attendance of witnesses, administer
27 oaths, conduct hearings and transcribe testimony in making the investigations and conducting
28 the hearings provided for herein or in the other discharge of his duties, and to give such
29 publicity to his investigations and findings as he may deem best for the public interest.

30 **"Sec. 53-187. Injunctive powers; receivers.** Whenever the Commissioner has reasonable
31 cause to believe that any person is violating or is threatening to violate any provision of this
32 Article, he may in addition to all actions provided for in this Article, and without prejudice
33 thereto, enter an order requiring such person to desist or to refrain from such violation; and an
34 action may be brought in the name of the Commissioner on the relation of the State of North
35 Carolina to enjoin such person from engaging in or continuing such violation or from doing any
36 act or acts in furtherance thereof. In any such action an order or judgment may be entered
37 awarding such preliminary or final injunction as may be deemed proper. In addition to all other
38 means provided by law for the enforcement of a restraining order or injunction, the court in
39 which such action is brought shall have power and jurisdiction to impound, and to appoint a
40 receiver for the property and business of the defendant, including books, papers, documents and
41 records pertaining thereto or so much thereof as the court may deem reasonably necessary to
42 prevent violations of this Article through or by means of the use of said property and business.
43 Such receiver, when appointed and qualified, shall have such powers and duties as to custody,
44 collection administration, winding up, and liquidation of such property and business as shall
45 from time to time be conferred upon him by the court.

46 **"Sec. 53-188. Review of regulations, order or act of Commission or Commissioner.** The
47 Commission shall have full authority to review any rule, regulation, order or act of the
48 Commissioner done pursuant to or with respect to the provisions of this Article and any person
49 aggrieved by any such rule, regulation, order or act may appeal to the Commission for review
50 upon giving notice in writing within twenty (20) days after such rule, regulation, order or act
51 complained of is adopted, issued or done. The validity of any rule, regulation, order or act of

1 the Commission shall be subject to judicial review as provided in Article 33, Chapter 143 of the
2 General Statutes of North Carolina.

3 "**Sec. 53-189. Insurance.** (a) Credit Life Insurance — The amount of credit life insurance shall
4 not exceed the original indebtedness, but this insurance may be carried on the loan to maturity
5 at level term.

6 "(b) Credit accident and health insurance. The amount of periodic indemnity payable
7 with respect to any one installment payment period by credit accident and health insurance in
8 the event of disability, as defined in the policy, shall not exceed the original amount of the loan
9 divided by the number of periodic installment payment periods, and such insurance shall not
10 extend over any longer period of time than the loan contract.

11 "(c) Notwithstanding any other provision of this Article, a licensee may sell such
12 insurance or provide the same under a group contract, subject to the applicable laws of the State
13 relating to insurance. Any gain or advantage in the form of commission or otherwise, to the
14 licensee or to any employee, affiliate, or associate of the licensee from such above described
15 insurance or its sale shall not be deemed to be an additional or further charge in connection
16 with the contract of loan. No insurance authorized by subsections (a) and (b) of this Section
17 shall be required with respect to more than one obligor or any one loan contract.

18 "(d) Notwithstanding any other provisions of this Article, no licensee shall require any
19 borrower to obtain credit accident and health insurance when a loan is secured by collateral
20 consisting of personal property with respect to which property loss insurance has been required
21 to be obtained.

22 "(e) No licensee shall directly or indirectly receive any commission, premium or profit
23 from the sale of any property loss insurance on any property used as collateral to secure any
24 loan made pursuant to the provisions of this Article.

25 "(f) Notwithstanding any other provisions of this Section or Article, nothing herein
26 contained shall be construed to authorize the sale of insurance in violation of any of the
27 provisions of Chapter 58 of the General Statutes or the rules and regulations promulgated
28 pursuant thereto.

29 "**Sec. 53-190. Loans made elsewhere.** No loan contract made outside this State in the amount
30 or of the value of six hundred dollars (\$600.00) or less for which a greater consideration, or
31 charges than is authorized by Section 53-173 of this Article has been charged, contracted for, or
32 received shall be enforced in this State and every person in anywise participating therein in this
33 State shall be subject to the provisions of this Article; provided, that the foregoing shall not
34 apply to loans legally made in another state.

35 "**Sec. 53-191. Businesses exempted.** Nothing in this Article shall be construed to apply to any
36 person, firm or corporation engaged solely in the business of making loans of fifty dollars
37 (\$50.00) or more secured by motor vehicles, nor to any person, firm or corporation doing
38 business under the authority of any law of this State or of the United States relating to banks,
39 trust companies, savings and loan associations, cooperative credit unions, agricultural credit
40 corporations or associations organized under the laws of North Carolina, production credit
41 associations organized under the Act of Congress known as the Farm Credit Act of 1933,
42 pawnbrokers lending or advancing money on specific articles of personal property, industrial
43 banks, the business of negotiating loans on real estate as defined in G.S. 105-41, nor to
44 installment paper dealers as defined in G.S. 105-83 other than persons, firms and corporations
45 engaged in the business of accepting fees for endorsing or otherwise securing loans or contracts
46 for repayment of loans."

47 **Sec. 2.** Partial invalidity. If any provision of this Act or the application thereof to
48 any person or circumstances is held invalid, such invalidity shall not affect other provisions or
49 applications of the Act which can be given effect without the invalid provision or application,
50 and to this end the provisions of this Act are declared to be severable.

1 **Sec. 3.** All laws and clauses of laws in conflict with this Act are hereby repealed;
2 provided, however, G.S. 105-88 is not hereby repealed; provided G.S. 14-391 shall not be
3 applicable to persons licensed under this Article; and, provided, further, all other laws and
4 provisions of laws repealed by this Act shall, notwithstanding continue in force and effect with
5 respect to all acts prohibited or required to be performed pursuant thereto prior to the effective
6 date of this Act.

7 **Sec. 4.** No person, as defined in Section 1 of this Act, who does not have a permit
8 or license to engage in the business regulated by Article 15 of Chapter 53 of the General
9 Statutes on the date of the ratification of this Act, shall be issued any such permit or license
10 within sixty (60) days after such ratification.

11 **Sec. 5.** Section 4 of this Article shall become effective upon ratification and the
12 remainder of the Act shall become effective sixty (60) days after its ratification.

13 In the General Assembly read three times and ratified, this the 19th day of June,
14 1961.