

NORTH CAROLINA GENERAL ASSEMBLY
1969 SESSION

CHAPTER 1303
HOUSE BILL 285

1 AN ACT TO AMEND THE GENERAL STATUTES RELATING TO INTEREST AND
2 CHARGES ON BORROWED MONEY.

3
4 The General Assembly of North Carolina do enact:

5
6 **Section 1.** Chapter 24 of the General Statutes of North Carolina as the same
7 appears in 1965 Replacement Volume 1D is hereby amended by adding a new Section
8 immediately following G.S. 24-1 to be designated G.S. 24-1.1 to read as follows:

9 **"G.S. 24-1.1. Contract rates.** Except as otherwise provided in this Chapter or other applicable
10 law, the parties to a loan, purchase money loan, advance or forbearance may contract in writing
11 for the payment of interest not in excess of:

12 (a) Eight per cent (8%) per annum where the principal amount is fifty thousand dollars
13 (\$50,000.00) or less and is secured by a first mortgage or first deed of trust on real property; or

14 (b) Ten per cent (10%) per annum where the principal amount is more than fifty
15 thousand dollars (\$50,000.00) but not more than one hundred thousand dollars (\$100,000.00)
16 and is a business property loan; or

17 (c) Nine per cent (9%) per annum where the principal amount is one hundred thousand
18 dollars (\$100,000.00) or less and is not a transaction set forth in (a) or (b) above; provided, a
19 minimum charge of ten dollars (\$10.00) or one dollar (\$1.00) per payment may be agreed to
20 and charged in lieu of interest; or

21 (d) Twelve per cent (12%) per annum where the principal amount is more than one
22 hundred thousand dollars (\$100,000.00) but not more than three hundred thousand dollars
23 (\$300,000.00); or

24 (e) Any rate agreed upon by the parties where the principal amount is more than three
25 hundred thousand dollars (\$300,000.00).

26 As used in this Section, a 'business property loan' is a loan, purchase money loan, advance or
27 forbearance secured by real property of the borrower which is held or acquired for sale, lease or
28 use in connection with the borrower's trade, business or profession other than farming and
29 livestock operations, and the proceeds of which are to be used for the purpose of either
30 acquiring, refinancing or improving such real property or in connection with such trade,
31 business or profession of the borrower. A written statement of the borrower's intention to use
32 the loan proceeds for such purpose, signed by the borrower and accepted in good faith by the
33 lender, shall be conclusive evidence of the purpose for which the loan is made. As used in this
34 Section, interest shall not be deemed in excess of the rates provided where interest is computed
35 monthly on the outstanding principal balance and is collected not more than thirty-one (31)
36 days in advance of its due date.

37 **Sec. 2.** Chapter 24 of the General Statutes of North Carolina as the same appears in
38 1965 Replacement Volume 1D is hereby amended by adding a new section immediately
39 following G.S. 24-1.1 to read as follows:

40 **"G.S. 24-1.2. Installment Rates.**

41 (a) On installment loans which shall not be for periods of less than six (6) months nor
42 for more than one hundred twenty (120) months and which are repayable in substantially equal
43 consecutive monthly payments, the parties to a loan may contract in writing for payment of

1 rates of interest which shall not be collected in advance and which shall be computed monthly
2 on the outstanding principal balance, on loans having an original principal amount of five
3 thousand dollars (\$5,000.00) or less and which shall not be secured in any manner or to any
4 degree by real property, an interest rate of fifteen per cent (15%) per annum; provided, a
5 minimum charge of ten dollars (\$10.00) or one dollar (\$1.00) per payment may be agreed to
6 and charged in lieu of interest. The borrower may prepay all or any part of the loan without
7 penalty. The due date of the first monthly payment shall not be more than forty-five (45) days
8 following the disbursement of funds under any such installment loan.

9 (b) On installment loans not exceeding three hundred thousand dollars (\$300,000.00)
10 not secured by a first security instrument on real property, payable at least quarterly in
11 substantially equal payments of principal and interest, or substantially equal payments of
12 principal, upon a written agreement signed by the parties, the rate of interest shall not exceed
13 twelve per cent (12%) per annum computed on the outstanding balance, provided a minimum
14 charge of ten dollars (\$10.00) or one dollar (\$1.00) per payment may be agreed to and charged
15 in lieu of interest. The borrower may prepay all or any part of the loan without penalty. No
16 lender or lending agent which holds or makes a loan secured by a first security instrument on
17 real property shall make within the first year from the date of the making of the loan secured by
18 the first security instrument a loan secured by a subordinate security instrument on the same
19 property which shall exceed twenty per cent (20%) of the original amount of the loan secured
20 by the first security instrument on such real property. Under the provisions of this Section, a
21 first security instrument is a first mortgage or first deed of trust on real property securing a loan
22 payable in equal installments of principal and interest or equal installments of principal over a
23 period of at least ten (10) years, such installments to have been paid at least annually. The
24 maturity date of loans made under this Section shall not be less than one (1) year from the date
25 of the advance."

26 **Sec. 3.** G.S. 24-2 is amended by striking from the first and second lines the words
27 "six per centum per annum" and inserting in lieu thereof, "permitted by this Chapter or other
28 applicable law." G.S. 24-2 is further amended by deleting the semicolon (;) following the word
29 "thereof" in line 21 and substituting in its place a period (.). The remainder of said paragraph is
30 deleted.

31 **Sec. 4.** G.S. 24-4 is amended by striking from the seventh line the word "legal" and
32 inserting in lieu thereof the word "lawful".

33 **Sec. 5.** G.S. 24-8 is hereby deleted in its entirety, and in lieu thereof the following
34 section is substituted:

35 "No lender shall charge or receive from any borrower or require in connection with a loan
36 any borrower, directly or indirectly, to pay, deliver, transfer or convey or otherwise confer upon
37 or for the benefit of the lender or any other person, firm or corporation any sum of money,
38 thing of value or other consideration other than that which is pledged as security or collateral to
39 secure the repayment of the full principal of the loan, together with fees and interest provided
40 for in Chapter 24 or Chapter 53 of the North Carolina General Statutes, where the principal
41 amount of a loan is not in excess of three hundred thousand dollars (\$300,000.00); provided,
42 this Section shall not prevent a borrower from selling, transferring, or conveying property other
43 than security or collateral to any person, firm or corporation for a fair consideration so long as
44 such transaction is not made a condition or requirement for any loan; provided that this shall
45 not prevent the lender from collecting from the borrower for remittance to others, money in
46 payment of taxes, assessments, cost of upkeep, recording fees, surveys, attorneys fees, fire,
47 title, life and mortgage insurance premiums and other such fees and costs, nor from receiving
48 the proceeds from any insurance policies where a loss occurs under the terms of such policies.
49 This Section shall not be applicable to any corporation licensed as a 'Small Business Investment
50 Company' under the provisions of the United States Code Annotated, Title 15, Section 661, et
51 seq. nor shall it be applicable to the sale or purchase of convertible debentures, nor to the sale

1 or purchase of any debt security with accompanying warrants, nor to the sale or purchase of
2 other securities through an organized securities exchange."

3 **Sec. 6.** G.S. 24-10 is hereby deleted in its entirety and in lieu thereof the following
4 section is substituted:

5 **"G.S. 24-10. Maximum fees on loans secured by real property.**

6 (a) No lender on loans made under G.S. 24-1.1. shall charge or receive from any
7 borrower or any agent for a borrower, or from any agent, seller or broker, which inures to the
8 benefit of the lender, any fees or discounts, in addition to the provisions of G.S. 24-10(b) or in
9 addition to lawful interest in connection with any loan where the principal amount is less than
10 three hundred thousand dollars (\$300,000.00) and is secured by real property, which fees or
11 discounts in the aggregate shall exceed two per cent (2%) if a construction loan on other than a
12 one or two family dwelling, one per cent (1%) if a construction loan on a one or two family
13 dwelling, and one per cent (1%) if other than a construction loan; provided where a single
14 lender makes the construction loan and the permanent loan utilizing one note, the lender may
15 collect the fees herein provided for construction loans and the fees for other than construction
16 loans.

17 (b) Any loan made under G.S. 24-1.1 in an original principal amount of one hundred
18 thousand dollars (\$100,000.00) or less may be prepaid in part or in full after thirty (30) days
19 notice to the lender, with a maximum prepayment fee of two per cent (2%) of the outstanding
20 balance at any time within three (3) years after the first payment of principal and thereafter
21 there shall be no prepayment fee, provided that there shall be no prepayment fee charged or
22 received in connection with any repayment of a construction loan; and except as herein
23 provided, any lender and any borrower may agree on any terms as to prepayment of a loan.

24 (c) 'Construction loan' means a loan which is obtained for the purpose of financing
25 fully, or in part, the cost of constructing buildings or other improvements upon real property
26 and the proceeds of which, under the terms of a written contract between a lender and a
27 borrower, are to be disbursed periodically as such construction work progresses; and such loan
28 shall be payable in full not later than eighteen (18) months in case of a loan made under the
29 provisions of G.S. 24-1.1(a) or thirty-six (36) months in case of any other construction loan
30 made after the execution of the note by the borrower. A construction loan may include
31 advances for the purchase price of the property upon which such improvements are to be
32 constructed.

33 **Sec. 7. G.S. 24-11. Certain revolving credit charges.**

34 (a) On the extension of credit under an open-end credit or similar plan (including
35 revolving credit card plans, and revolving charge accounts, but excluding any loan made
36 directly by a lender under a check loan, check credit or other such plan) under which no service
37 charge shall be imposed upon the consumer or creditor if the account is paid within twenty-five
38 (25) days from the billing date, there may be charged and collected interest, finance charges or
39 other fees at a rate in the aggregate not to exceed one and one-half per cent (1 1/2%) per month
40 on the unpaid balance of the previous month. Such extension of credit may not be secured by
41 real or personal property or any other thing of value. No person, firm or corporation may
42 charge a discount or fee in excess of four per cent (4%) of the principal amount of the accounts
43 acquired from or through any vendor or others providing services who participate in such plan.

44 (b) On revolving credit loans (including check loans, check credit or other revolving
45 credit plans whereby a bank, banking institution or other lending agency makes direct loans to a
46 borrower), if agreed to in writing by the borrower, such lender may collect interest and service
47 charges which shall not exceed one and one-fourth per cent (1 1/4%) per month computed on
48 the average balance outstanding of the previous month. Such loans, exclusive of interest, may
49 not at any time exceed five thousand dollars (\$5,000.00), and may not be secured by real or
50 personal property or any other thing of value.

1 **Sec. 8.** Subdivision (1) of G.S. 53-43 is amended by deleting the last sentence and
2 in lieu thereof the following sentence is substituted:

3 "Such corporation at the time of making loans may not take and receive interest or
4 discounts in advance where the effective rates of interest or discounts collected shall exceed the
5 maximum rates of interest provided under this Section, G.S. 24-1.1 and G.S. 24-1.2 if such
6 interest or discount had not been collected in advance."

7 **Sec. 9.** Subdivision (6) of G.S. 53-43 is deleted in its entirety and the remaining
8 subdivisions are renumbered accordingly.

9 **Sec. 10.** Subdivision (1) of G.S. 53-141 is rewritten as follows:

10 "(1) To discount and negotiate promissory notes, drafts, bills of exchange and
11 other evidences of indebtedness, and to loan money on real or personal
12 security, and to purchase notes, bills of exchange, acceptances or other
13 choses in action, and to take and receive interest or discounts subject to G.S.
14 53-43(1)."

15 **Sec. 11.** Subdivision (12) of G.S. 53-141 is deleted and the remaining subdivisions
16 renumbered accordingly.

17 **Sec. 12.** Subdivision (3) of G.S. 53-141 is rewritten as follows:

18 "(3) To make loans and charge and receive interest at rates not exceeding the
19 rates of interest provided in G.S. 24-1.1 and 24-1.2."

20 **Sec. 12.1.** G.S. 53-176 is amended by striking lines 4, 5 ,6, 7 and that portion of
21 line 8 through the period and substituting therefor the following: 'in installments not exceeding
22 five thousand dollars (\$5,000.00) and which shall not be repayable in less than six (6) months
23 or more than sixty (60) months and which shall not be secured by first deeds of trust or first
24 mortgages on real estate and which are repayable in substantially equal consecutive monthly
25 payments and to charge and collect interest in connection therewith which shall not exceed an
26 effective rate of fifteen per cent (15%) per annum upon the outstanding balance: provided,
27 however, a minimum charge of ten dollars (\$10.00) or one dollar (\$1.00) per payment may be
28 agreed to and charged in lieu of interest. The due date of the first monthly payment shall not be
29 more than forty-five (45) days following the disbursement of funds under any such installment
30 loan. A borrower under this Section may prepay all or any part of a loan made under this
31 Section without penalty.'

32 **Sec. 13.** G.S. 53-166(a), G.S. 53-173, G.S. 53-176, G.S. 53-179, and G.S. 53-190 as
33 the same appear in the 1965 Replacement Volume 2B, are amended by deleting therefrom the
34 words and figures "six hundred dollars (\$600.00)" wherever they appear and inserting in lieu
35 thereof the words and figures "nine hundred dollars (\$900.00)".

36 **Sec. 14.** G.S. 53-166(a) is amended by striking from the fifth and sixth lines thereof
37 the words "six per cent (6%) per annum" and inserting in lieu thereof the words "permitted by
38 G.S. 24-1.1.

39 **Section 14.1.** G.S. 53-174 is amended by deleting in lines 2 and 20 the word 'two'
40 and inserting in lieu thereof the word 'three'.

41 **Sec. 15.** Subsection (c) of G.S. 53-168 is rewritten to read as follows:

42 "(c) Existing business. Notwithstanding the provisions of this Section, any person, firm
43 or corporation not presently licensed under this Article, but holding a license on January 1,
44 1969, issued pursuant to the provisions of G.S. 105-88, shall upon application within not more
45 than sixty (60) days of the effective date of this subsection, receive a license under this Article
46 if the person shall meet the requirements of subdivisions (2) and (3) of subsection (a) of this
47 Section, and during such sixty-day period such person shall be deemed a licensee under this
48 Article.

49 **Sec. 16.** A new Section, designated as G.S. 53-176.1, shall be inserted immediately
50 following G.S. 53-176 as follows:

1 **"Motor Vehicle Lenders.** (a) Notwithstanding the provisions of G.S. 53-168, any person, firm
2 or corporation not presently licensed under this Article, but holding a license on January 1,
3 1969, issued pursuant to the provisions of G.S. 105-88, shall upon application within not more
4 than sixty (60) days of the effective date of this Section, receive a license under this Article as a
5 motor vehicle lender if the person shall meet the requirements of subdivisions (2) and (3) of
6 Subsection (a) of G.S. 53-168, and during such sixty (60) day period, such person shall be
7 deemed a licensee as a motor vehicle lender under this Article. Following such sixty (60) day
8 period, any person applying for a license as a motor vehicle lender shall meet all the
9 requirements of G.S. 53-168. A 'motor vehicle lender' shall mean any person, firm or
10 corporation licensed under this Article to make loans to borrowers, as authorized in this
11 Section, secured by a security interest in a motor vehicle, and whose license shall indicate on
12 the face thereof that such licensee is a motor vehicle lender. A motor vehicle lender is
13 permitted to make loans only under the provisions of this Section. No office holding a license
14 under the provisions of this Section and making loans secured by motor vehicles may make
15 loans under the provisions of G.S. 53-166, G.S. 53-173, G.S. 53-180, or G.S. 53-141, nor shall
16 such office allow or permit loans under the other provisions of this Article to be made on its
17 premises or any connecting premises. All other provisions of this Article not inconsistent with
18 this Section shall apply to a 'motor vehicle lender'.

19 "(b) A motor vehicle lender may make loans in any amount at rates not exceeding fifteen
20 dollars (\$15.00) per hundred dollars per annum on that part of the cash advance not exceeding
21 five hundred dollars (\$500.00); eleven dollars (\$11.00) per one hundred dollars per annum on
22 that part of the cash advance exceeding five hundred dollars (\$500.00) but not exceeding one
23 thousand dollars (\$1,000.00); and nine dollars (\$9.00) per one hundred dollars per annum on
24 that part of the cash advance exceeding one thousand dollars (\$1,000.00) but not exceeding
25 fifteen hundred dollars (\$1,500.00). Rates on any cash advance in excess of fifteen hundred
26 dollars (\$1,500.00) shall not exceed the equivalent of sixteen per cent (16%) simple interest per
27 annum on the entire amount of the cash advance provided, that loans made pursuant to this
28 Section shall not exceed the sum of five thousand dollars (\$5,000.00) and shall not exceed a
29 term of forty-eight (48) months, and shall be secured solely by motor vehicles."

30 **Sec. 17.** G.S. 53-173 is amended by inserting in line three thereof between the word
31 "amount" and the word "as" the words "repayable in substantially equal consecutive monthly
32 installments."

33 **Sec. 18.** Subsection (1) of G.S. 53-173 is rewritten as follows:

34 "(1) The charge for payment according to schedule may be computed on the
35 amount of the cash advance for the full term of the contract without regard to
36 the requirement for installment payments at rates not exceeding eighteen
37 dollars (\$18.00) per one hundred dollars (\$100.00) per annum on that part of
38 the amount of cash advance not exceeding three hundred dollars (\$300.00),
39 ten dollars (\$10.00) per one hundred dollars (\$100.00) per annum on that
40 part of the cash advance exceeding three hundred dollars (\$300.00) but not
41 exceeding six hundred dollars (\$600.00), eight dollars (\$8.00) per one
42 hundred dollars (\$100.00) per annum on that part of the cash advance
43 exceeding six hundred dollars (\$600.00) but not exceeding nine hundred
44 dollars (\$900.00)."

45 **Sec. 19.** Subsection (2) of G.S. 53-173 is amended by deleting the words and
46 figures "seventy-five dollars (\$75.00)" wherever they appear therein and inserting in lieu
47 thereof the words and figures "ninety-five dollars (\$95.00)."

48 **Sec. 20.** Subsection (3) of G.S. 53-173 is amended by inserting the following
49 sentence at the beginning of the subsection: "The charge for payment according to schedule
50 shall be computed at the time the loan is made and when computed shall be added to the cash
51 advance," and by adding the following sentence to the end of said subsection: "All payments

1 made on account, except those applied to default or deferment charges, shall be applied to the
2 unpaid installments in the order in which they are due."

3 **Sec. 21.** Subsection (4) of G.S. 53-173 is amended by adding the following
4 sentence to the end thereof: "The charge for the extra days may be added to the amount of the
5 first installment and shall be excluded in computing any rebate."

6 **Sec. 22.** G.S. 53-173 is amended by adding a new subdivision which will follow
7 subdivision (5) and will be designated subdivision (6) as follows:

8 "(6) If, as of an installment due date the payment dates of all unpaid installments
9 are deferred for one or more full months and the maturity of the contract is
10 extended for a corresponding period, the licensee may charge and collect a
11 deferment charge, which shall not exceed that portion of the charge for
12 payment according to schedule originally added to the cash advance
13 attributable under the rule of Seventy-eights (78's) or the sum of the digits
14 principle to the first of the deferred monthly installment periods multiplied
15 by the number of months in which no schedule payment has been made or in
16 which no payment is required by reason of the deferment. The Banking
17 Commission may promulgate any further rules and regulations which may
18 be necessary with regard to the provisions of this subsection."

19 **Sec. 23.** Subsection (b) of G.S. 53-175 is amended by deleting from the first and
20 second lines thereof the words "of the original contract" and inserting in lieu thereof the words
21 "as originally scheduled or as deferred".

22 **Sec. 24.** G.S. 53-180 is rewritten to read as follows:

23 **"G.S. 53-180. Time and payment limitation.** Except as otherwise provided in this Chapter,
24 no licensee shall enter into any contract of loan under this Article providing for any scheduled
25 repayment of principal more than twenty-five months from the date of making the contract if
26 the cash advance is six hundred dollars (\$600.00) or less, nor more than thirty (30) months
27 from the date of making the contract if the cash advance is in excess of six hundred dollars
28 (\$600.00). Every loan contract shall require payment of cash advance and charges, as
29 aggregated, in installments which shall be payable at approximately equal monthly intervals.
30 No installment contracted for shall be substantially larger than any preceding installment except
31 as authorized by this Article."

32 **Sec. 25.** Subsection (e) of G.S. 53-189 is deleted in its entirety, and the same is
33 rewritten to read as follows:

34 "(e) Credit Life and Property Loss Insurance No licensee shall, directly or indirectly,
35 receive any commission, premium or profit from the sale of credit insurance except when
36 issued in connection with a loan made pursuant to the provisions of this Article, nor shall any
37 licensee directly or indirectly receive any commission, premium or profit from the sale of any
38 property loss insurance except on property used as collateral to secure any such loan; provided,
39 where a licensee requires any such insurance, the borrower may, if he chooses, purchase such
40 insurance from a source other than the licensee; provided further, that property loss insurance
41 can be required only on a loan secured by a motor vehicle or improved real estate."

42 **Sec. 26.** G.S. 53-191 is amended by deleting from the second, third and fourth lines
43 thereof the following: "firm or corporation engaged solely in the business of making loans of
44 fifty dollars (\$50.00) or more secured by motor vehicles nor to any persons."

45 **Sec. 27.** This Act shall be in full force and effect upon ratification; provided, this
46 Act shall not affect pending litigation, nor shall the provisions of this Act apply to any loan
47 made prior to the effective date of this Act. Notwithstanding any other provisions of this Act,
48 Sections 13, 18, 19 and 24 of this Act shall become effective on August 1, 1969.

49 In the General Assembly read three times and ratified, this the 2nd day of July,
50 1969.