

NORTH CAROLINA GENERAL ASSEMBLY
1981 SESSION

CHAPTER 970
SENATE BILL 658

AN ACT TO AUTHORIZE THE USE OF VARIABLE OR ADJUSTABLE RATE LOANS
FOR FINANCING MOBILE OR MANUFACTURED HOMES.

The General Assembly of North Carolina enacts:

Section 1. Article 1 of G.S. Chapter 24 is hereby amended by adding a new section, to be designated G.S. 24-1.1B, to read as follows:

"§ 24-1.1B. Manufactured home loans; variable interest rate loans authorized. — (a) For the purposes of this section, the terms listed herein shall have the following meanings:

- (1) 'Lender' means a person regularly engaged in the business of selling or financing manufactured homes (A) who is an arranger of credit, or (B) who regularly extends consumer credit that is subject to a finance charge or is payable by written agreement in more than four installments (not including a down payment) and to whom the obligation is initially payable, either on the face of the note or contract, or by agreement when there is no note or contract.
- (2) 'Interest' means finance charge expressed as an annual percentage rate. The finance charge is the cost of consumer credit as a dollar amount. It includes any charge payable directly or indirectly by the lender as an incident to or a condition of the extension of credit.
- (3) 'Manufactured home' shall mean a mobile home, as defined in G.S. 143-145(7), which is used as a residence, whether or not the home is affixed to real property.
- (4) 'Manufactured home loan' shall include both the credit sale of a manufactured home and a direct loan used to finance the purchase of a manufactured home, in which the seller or lender is secured by:
 - a. a security interest which is the first lien on a manufactured home and any personal property sold therewith as part of the home,
 - b. a first or second mortgage or deed of trust on real estate, or
 - c. a combination of these financing methods.

(b) A manufactured home loan may provide for a fixed rate of interest payable in substantially equal successive installments over a fixed term, or a manufactured home loan may provide that the rate of interest may be adjusted at certain regular intervals. In this latter event, the manufactured home loan shall be subject to the following provisions:

- (1) Adjustments in the interest rate charged must be based on changes in a specific index, as set forth in the loan agreement, with the index base being fixed by the value of the index on the first day of the month in which the loan agreement is dated. The index may be only:
 - a. the monthly average yield on United States Treasury securities adjusted to a constant maturity of five years; or
 - b. an index expressly approved by the Federal Home Loan Bank Board or by the Office of the Comptroller of the Currency, Department of

the Treasury, for adjustable or variable interest rates on residential mortgage loans.

(2) Adjustments to the interest rate may not exceed one-half of one percent (1/2 of 1%) a year for any six-month period. If the stated regular interval for rate adjustments is a twelve-month period, or longer, rate adjustments may not exceed one percent (1%) a year.

(3) The rate of interest shall not increase or decrease during the six-month period beginning with the date of execution of the loan agreement, and at least six months shall elapse between changes.

(4) Adjustments (either up or down) to the rate of interest on each adjustment date shall, for the initial adjustment, be equal to the difference between the index value for the third calendar month preceding the adjustment date and the index value on the date of execution of the manufactured home loan. For adjustments after the initial adjustment, adjustments shall be equal to the difference between the index value for the third month preceding the adjustment date and the index value for the third month preceding the date of the immediately preceding rate adjustment.

(5) Any increase in the rate of interest permitted by this section is optional with the lender. Decreases in the rate of interest are mandatory whenever the total decrease in the index value equals or exceeds one fourth of one percentage point.

(6) By agreement of the parties, adjustments to the rate of interest may result in changes in the amount of regular installment payments due under the loan agreement, or in changes in the term of the loan agreement, or in a combination of such changes in amount and term.

(7) A lender shall allow a borrower to prepay in whole or in part at any time without a prepayment penalty.

(8) A lender may not charge any fees to, or assess any costs against, a borrower in connection with the processing of any rate adjustment, term adjustment or combination of rate and term adjustment.

(9) Before execution of a manufactured home loan agreement, the lender shall comply with all applicable requirements and disclosures pursuant to Part I of the Consumer Protection Act (Truth-In-Lending Act) 15 USC § 1601, et seq., as amended, and as implemented by Regulation Z promulgated by the Board of Governors of the Federal Reserve System. The required disclosures shall be made on the basis of the rate of interest in effect at the time the disclosure is made, assuming that each scheduled payment is made on the date it is due and in the scheduled amount. Such disclosures shall include the following information:

a. the circumstances under which the rate may increase;

b. any limitations on the increase;

c. the effect of an increase; and

d. an example of the payment terms that would result from an increase.

(10) The lender shall send written notification of any rate adjustment, by first class mail, postage prepaid, at least one month before the date that the new rate of interest will take effect. The notification shall comply with all applicable requirements of Part I of the Consumer Protection Act (Truth-In-Lending Act) 15 USC § 1601, et seq., as amended, and as implemented by Regulation Z promulgated by the Board of Governors of the Federal Reserve System. Such notification shall include:

a. the current and new rates of interest;

- b. the index value for the month during which the manufactured home loan agreement was executed or, for adjustments after the initial adjustment, the index value used for the immediately preceding rate adjustment, and the index value used to calculate the new change in the rate of interest; and
- c. the amounts of new installment payments, if any, and the remaining maturity.

(c) The provisions of G.S. Chapter 25A, the Retail Installment Sales Act shall apply to the consumer credit sale of a manufactured home, provided that:

- (1) A manufactured home loan shall be subject to G.S. Chapter 25A except for G.S. 25A-33(4);
- (2) The provisions of this section shall control, where inconsistent with the provisions of G.S. Chapter 25A (G.S. 25A-34 shall not be construed to limit variation in regular monthly payment amounts on loans under this section.); and
- (3) Interest charges on manufactured home loans shall be computed and paid periodically as a percentage of the unpaid principal balance. This percentage shall be computed as the number of days actually elapsed, times the effective annual percentage rate, divided by 365. Scheduled monthly payments may assume a 30-day month. Payments may be applied first to accrued interest, then to principal. No default charge shall be assessed on loans under this section.
- (4) Nothing in this section shall be construed to alter the federal preemption allowing unlimited interest rate ceilings as they apply to first mortgage loans."

Sec. 2. G.S. 25A-2(a)(5) is hereby rewritten to read as follows:

- "(5) The amount financed does not exceed twenty-five thousand dollars (\$25,000) or, in the case of a mobile home as defined in G.S. 143-145(7), regardless of the amount financed."

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of July, 1981.