

GENERAL ASSEMBLY OF NORTH CAROLINA
1983 SESSION

CHAPTER 126
HOUSE BILL 336

AN ACT TO REGAIN THE STATE'S AUTHORITY OVER INTEREST LAWS, AND
TO MAKE APPROPRIATE CHANGES IN THE STATE'S INTEREST LAWS.

The General Assembly of North Carolina enacts:

Section 1. The provisions of § 501, and the amendments made by § 521-524 of United States Public Law 96-221, as well as any modifications made to date, shall not apply to loans, mortgages, credit sales and advances made in this State.

Sec. 2. G.S. 25A-15 is amended to add a new subsection (f) to read as follows:

"(f) Notwithstanding the provisions of subsections (b) or (d), the parties to a consumer credit installment sale contract for the sale of a residential manufactured home which is secured by a first lien on that home or on the land on which such home is located may contract in writing for the payment of a finance charge as agreed upon by the parties. Provided, this subsection shall only apply if the parties would have been entitled to so contract by the provisions of § 501 of United States Public Law 96-221, and have complied with the regulations promulgated thereto.

For the purposes of this subsection (f), a 'residential manufactured home' means a mobile home as defined in G.S. 143-145 (7) which is used as a dwelling."

Sec. 3. G.S. 24-1.2 is amended by adding a new paragraph (3) to read as follows:

"(3) Notwithstanding the foregoing provisions of this section, on an installment loan not exceeding twenty-five thousand dollars (\$25,000) which is secured by a first lien on a residential manufactured home, the parties may contract in writing for the payment of interest as agreed upon by the parties; provided, however, that this paragraph shall only apply if the parties would have been entitled to so contract by the provisions of Section 501 of United States Public Law 96-221 and have complied with the regulations promulgated thereunder. The borrower may prepay all or any part of the loan without penalty.

For the purpose of this paragraph (3), a 'residential manufactured home' means a mobile home as defined in G.S. 143- 145(7) which is used as a dwelling."

Sec. 4. G.S. 24-1.1 A(c) is amended by adding a new sentence at the end thereof, as follows:

"Provided, if the loan is one described in subsection (a)(1) or subsection (a)(2) above, the parties may agree to the payment of discount points, commitment fees, finance charges, or other similar charges agreed upon by the parties notwithstanding the provisions of any state law limiting the amount of discount points, commitment fees,

finance charges or other similar charges which may be charged, taken, received or reserved with respect to a home loan."

Sec. 5. G.S. 24-11(a) is amended in line 6 thereof, between the words "date," and "there" by inserting the following:

"but upon which there may be imposed an annual charge not to exceed twenty dollars (\$20.00),".

Sec. 6. G.S. 24-1.4 is amended by designating the existing language as subsection (b) and by rewriting the catch line and adding a new subsection (a) as follows:

"§ 24-1.4. Interest rates for savings and loan associations. – (a) Notwithstanding any other provision of law, a savings and loan association domiciled in North Carolina may charge interest or collect fees with respect to any loan to the same extent as if the provisions of Section 501 of Public Laws 96-221, as interpreted by the Federal Home Loan Bank Board prior to the effective date of this section, were still in effect in North Carolina."

Sec. 7. G.S. 25A-14(a) is amended by adding a new sentence as follows:

"The annual fee provided in G.S. 24-11(a) may not be imposed."

Sec. 8. Chapter 24 is amended to add a new Section 2.2:

"G.S. 24-2.2. Notwithstanding any other provision of law, banks and savings and loan associations chartered in North Carolina by the State of North Carolina or the federal government shall each be entitled to charge on extensions of credit those interest rates allowed any lender under North Carolina law. Provided, that any extension of credit pursuant to this authority shall be governed by those restrictions or limitations contained in the authorizing statute. Provided further, the authority granted under this section shall not apply to rates provided in Article 15 of Chapter 53, the Consumer Finance Act, nor in Subchapter III of Chapter 54, concerning credit unions."

Sec. 9. G.S. 24-16.1 is amended by adding a new sentence thereto, as follows:

"Provided, any lender approved as a mortgagee by the Federal Housing Administration shall be entitled to make loans under this Article."

Sec. 10. G.S. 24-11 is amended by adding a new subsection (e) to read:

"(e) An annual charge pursuant to this section upon an existing credit card account upon which an annual charge has not previously been imposed may not be imposed unless the lender has given the cardholder at least 30 days notice of the proposed charge, and has advised the cardholder of his right not to accept the new charge. This notice shall be bold and conspicuous, and shall be on the face of the periodic billing statement or on a separate statement which is clearly noted on the face of the periodic billing statement provided to the cardholder. If the cardholder does not accept the new charge upon an existing credit card account, the lender may require that the cardholder make no further use of the account beyond the 30-day period in order to avoid paying the annual charge, but the cardholder shall be entitled to pay off any remaining balance according to the terms of the credit agreement. Nothing in this subsection shall limit the lender from decreasing any rates or fees to the cardholder forthwith. Should any cardholder within 12 months of the initial imposition of an annual charge rescind his

credit card contract and surrender all cards issued under the contract to the lender, he shall be entitled to a prorated refund of the annual fee previously charged, credited to the cardholder's credit card account."

Sec. 11. G.S. 24-2.1 is amended by adding new paragraphs as follows:

"Any oral or written offer, acceptance, solicitation or communication to lend or borrow, made in this State to, or received in this State from, a borrower who is not a resident of this State shall be subject to the provisions of this Chapter, applicable federal law, law of the situs of the contract, or law of the residence of any such borrower as the parties may elect.

The provisions of this section shall be severable and if any phrase, clause, sentence or provision is declared to be invalid, the validity of the remainder of this section shall not be affected thereby.

It is the paramount public policy of North Carolina to protect North Carolina resident borrowers through the application of North Carolina interest laws. Any provision of this section which acts to interfere in the attainment of that public policy shall be of no effect."

Sec. 12. G.S. 53-175 is amended by adding a new subsection (c) to read as follows:

"(c) A licensee may collect the fee for returned checks to the extent permitted by G.S. 25-3-512. This subsection shall apply to any loan made by any licensee under this Article."

Sec. 13. G.S. 53-173(e) is amended by adding the language "(a) and (b)" after "53-175."

Sec. 14. G.S. 53-176 is amended by deleting the words "five thousand dollars (\$5,000)" in the third line of the first paragraph and substituting in lieu thereof "ten thousand dollars (\$10,000)"; by deleting the figure "60" in the fourth line of the first paragraph and substituting in lieu thereof the figure "84"; by deleting the word "first" wherever it appears in the fifth line of the first paragraph; and by deleting the words "the rate in effect as announced and published by the Commissioner of Banks pursuant to G.S. 24-1.1(3) and G.S. 24-1.2(2a)" in the eighth and ninth lines of the first paragraph and substituting in lieu thereof the following:

"the following actuarial rates:

(a) With respect to a loan not exceeding seven thousand five hundred dollars (\$7,500), thirty percent (30%) per annum on that part of the unpaid principal balance not exceeding one thousand dollars (\$1,000) and eighteen percent (18%) per annum on the remainder of the 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.

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

The provisions of G.S. 53-173.1, G.S. 53-174 and G.S. 53-175(a) and (b) shall not apply to loans made pursuant to this section. The provisions of G.S. 53-173(b), (c) and (d) and G.S. 53-180(b), (c), (d), (e), (f), (g), and (h) shall apply to loans made pursuant to this section."

Sec. 15. G.S. 53-176 is amended by deleting the second paragraph and substituting in lieu thereof the following:

"Any licensee under this Article shall have the right to elect to make loans in accordance with this section by the filing of a written statement to that effect with the Commissioner and on date of such notification begin making loans regulated by this section for the following 12 months. Annually after such election a licensee may elect to make loans in accordance with this section unless the licensee notifies in writing the Commissioner of its intention to terminate such election."

Sec. 16. Sections 1 through 11 and 16 of this act shall be effective on ratification. Sections 12 and 13 of this act are effective upon ratification and apply only to loans made after its effective date. Sections 14 and 15 of this act shall become effective 60 days after ratification.

In the General Assembly read three times and ratified, this the 31st day of March, 1983.