

GENERAL ASSEMBLY OF NORTH CAROLINA
1987 SESSION

CHAPTER 447
HOUSE BILL 699

AN ACT TO AMEND G.S. 24-10.1 DEALING WITH LATE FEES.

The General Assembly of North Carolina enacts:

Section 1. Subsection (b) of G.S. 24-10.1 reads as rewritten:

"(b) No lender may charge a late payment charge:

- (1) In excess of four percent (4%) of the amount of the payment past due; or
- (2) In excess of the amount disclosed with particularity to the borrower pursuant to the provisions of the Federal Consumer Credit Protection Act if the transaction is one to which the provisions of that act apply, which in no event shall exceed four percent (4%); or
- (3) For any payment unless past due for 15 days or more; provided, however, if the loan is one on which interest on each installment is paid in advance, no late payment charge may be charged until the payment is 30 days past due or more; or
- (4) More than once with respect to a single late payment. If a late payment charge is deducted from a payment made on the contract and such deduction results in a subsequent default on a subsequent payment, no late payment charge may be imposed for such default. If a late payment charge has been once imposed with respect to a particular late payment, no such charge shall be imposed with respect to any future payment which would have been timely and sufficient but for the previous default. ~~A late payment charge for any particular late payment shall be deemed to have been waived by the lender unless, within 45 days following the date on which the payment was due, the lender either collects the late payment charge or sends written notice of the charge to the borrower; or default; provided that when a borrower fails to make an installment payment, and the terms of the loan agreement provide that subsequent payments shall first be applied to the past due balance, and the borrower resumes making installment payments but has not paid all past due installments, then the lender may enforce the contract according to its terms, imposing a separate late payment charge for each installment that becomes due until the default is cured; or~~

- (5) On any loan which by its terms calls for repayment of the entire balance in a single payment and not for installments of interest or principal and ~~interest.~~ interest; or
- (6) Unless the lender notifies the borrower within 45 days following the date the payment was due that a late payment charge has been imposed for a particular late payment which late payment must be paid unless the borrower can show that the installment was paid in full and on time. No late payment charge may be collected from any borrower if the borrower informs the lender that non-payment of an installment is in dispute and presents proof of payment within 45 days of receipt of the lender's notice of the late charge."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified this the 22nd day of June, 1987.