**§ 24-10. Maximum fees on loans secured by real property.**

(a) No lender on loans made under G.S. 24-1.1 shall charge or receive from any borrower or any agent for a borrower, any fees or discounts unless otherwise allowed where the principal amount is less than three hundred thousand dollars ($300,000) and is secured by real property, which fees or discounts in the aggregate shall exceed two percent (2%) if a construction loan on other than a one or two family dwelling, and one percent (1%) on any other type of loan; provided, however, if a single lender makes both the construction loan and a permanent loan utilizing one note, the lender may collect the fees as if they were two separate loans. Except as provided herein or otherwise allowed, no party shall pay for the benefit of the lender any other fees or discounts.

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

(c) "Construction loan" means a loan which is obtained for the purpose of financing fully, or in part, the cost of constructing buildings or other improvements upon real property and the proceeds of which, under the terms of a written contract between a lender and a borrower, are to be disbursed periodically as the construction work progresses. A construction loan shall be payable in full not later than 18 months in case of a loan made under the provisions of G.S. 24-1.1(a)(1) or 36 months in case of any other construction loan made after the execution of the note by the borrower. A construction loan may include advances for the purchase price of the property upon which the improvements are to be constructed.

(d)(1) Any lender may charge to any person, firm or corporation that assumes a loan, secured by real property, the following fee:

a. Where the mortgage or deed of trust contains a due on sale clause, a fee not to exceed four hundred dollars ($400.00); provided, however, that if the original obligor is not released from liability on the obligation, the fee shall not exceed one hundred twenty-five dollars ($125.00).

b. Where the mortgage or deed of trust does not contain a due on sale clause, a fee not to exceed one hundred twenty-five dollars ($125.00).

The fees authorized by this subsection may be paid in whole or in part by any party but the total shall not exceed the maximum fees set forth herein.

(2) For purposes of this subsection, the term "due on sale clause" means a contract provision that authorizes a lender to declare immediately due and payable all sums secured by the lender's security instrument if all or any part of the secured property, or an interest therein, is sold or transferred without the lender's prior written consent or contrary to the requirements of the mortgage or the deed of trust. For purposes of this subsection, no lender shall exercise its rights under the due on sale clause if prohibited by federal law as of the date of execution of the contract containing the clause.

(e), (f) Repealed by Session Laws 1985, c. 755, s. 2.

(g) Second or Junior Lien Fees. –

(1) Notwithstanding the limitations contained in subsection (a) of this section, a lender described in G.S. 24-1.1A(a)(2) may charge or receive from any borrower, or any agent for a borrower, fees or discounts which in the aggregate do not exceed two percent (2%) on loans made under G.S. 24-1.1 when the loans are secured by a second or junior lien on real property. The fees or

discounts are fully earned when the loan is made and are not a prepayment penalty under this Chapter or any other law of this State.

(2) Notwithstanding the limitations contained in subsection (a) of this section, the limitation in subdivision (1) of this subsection shall not apply to a loan secured by a second or junior lien on real property made under G.S. 24-1.1 by a lender described in G.S. 24-1.1A(a)(2), provided the total points and fees charged to the borrower by all lenders in connection with the loan do not exceed the lesser of (i) the amounts specified in 12 C.F.R. § 1026.43(e)(3) or (ii) three percent (3%) of the total loan amount as defined in G.S. 24-1.1E(a)(7).

(h) A bank, savings and loan association, savings bank, or credit union, or any subsidiary or affiliate thereof organized under the laws of this State or the United States, may charge a party to a loan secured by real property a reasonable fee as may be agreed upon by the parties for an appraisal performed by an employee of the bank, savings and loan association, savings bank, or credit union, or any subsidiary or affiliate thereof. Upon the request of the borrower, the lender shall provide at no additional charge to the borrower a copy of any appraisal for which the lender has collected a fee under this subsection. Provision of the copy of an appraisal shall not be construed to create or imply any warranty which does not otherwise exist by the lender as to the accuracy of the appraisal. (1967, c. 852, s. 1; 1969, c. 40; c. 1303, s. 6; 1971, c. 1168; 1979, c. 684; c. 849, s. 1; c. 969; 1981, c. 933; 1983, c. 541, s. 1; 1985, c. 154, s. 2; c. 755, s. 2; 1991, c. 506, s. 5; 2018-142, s. 6(a), (b); 2025-43, s. 2.)