

**§ 53-166. Scope of Article; evasions; penalties; loans in violation of Article void.**

(a) **Scope.** – No person shall engage in the business of lending in amounts of fifteen thousand dollars (\$15,000) or less and contract for, exact, or receive, directly or indirectly, on or in connection with any such loan, any charges whether for interest, compensation, consideration, or expense, or any other purpose whatsoever, which in the aggregate are greater than permitted by Chapter 24 of the General Statutes, except as provided in and authorized by this Article, and without first having obtained a license from the Commissioner. The word "lending" as used in this section, shall include, but shall not be limited to, endorsing or otherwise securing loans or contracts for the repayment of loans.

(b) **Evasions.** – The provisions of subsection (a) of this section apply to any person who seeks to avoid its application by any device, subterfuge, or pretense whatsoever. Devices, subterfuges, and pretenses include any transaction in which a cash rebate or other advance of funds is offered and all of the following apply:

- (1) The cash advance is made contemporaneously with the transaction or soon thereafter.
- (2) The amount of the cash advance is required to be repaid at a later date.
- (3) The selling or providing of any item, service, or commodity with the transaction is incidental to, or a pretext for, the advance of funds.

(c) **Penalties; Commissioner to Provide and Testify as to Facts in His Possession.** – Any person not exempt from this Article, or any officer, agent, employee, or representative thereof, who fails to comply with or who otherwise violates any of the provisions of this Article, or any regulation of the Banking Commission adopted pursuant to this Article, shall be guilty of a Class 1 misdemeanor. Each violation shall be considered a separate offense. It is the duty of the Commissioner of Banks to provide the district attorney of the court having jurisdiction of any offense under this subsection with all facts and evidence in the Commissioner's actual or constructive possession, and to testify as to these facts upon the trial of any person for the offense.

(d) **Additional Penalties.** – Any contract of loan, the making or collecting of which violates any provision of this Article, or regulation thereunder, except as a result of accidental or bona fide error of computation is void, and the licensee or any other party in violation shall not collect, receive, or retain any principal or charges whatsoever with respect to the loan. If an affiliate operating in the same office or subsidiary operating in the same office of a licensee makes a loan in violation of G.S. 53-180(i), the affiliate or subsidiary may recover only its principal on the loan. (1955, c. 1279; 1957, c. 1429, s. 8; 1961, c. 1053, s. 1; 1969, c. 1303, ss. 13, 14; 1973, c. 47, s. 2; c. 1042, s. 1; 1979, c. 33, s. 1; 1985, c. 154, ss. 6, 13; 1987, c. 444, s. 3; 1989, c. 17, ss. 1, 13; 1989 (Reg. Sess., 1990), c. 881, s. 1; 1993, c. 539, s. 425; 1994, Ex. Sess., c. 24, s. 14(c); 2006-243, s. 2; 2013-162, s. 1.)