

§ 53-180. Limitations and prohibitions on practices and agreements.

(a) Time and Payment Limitation. – Every loan contract shall provide for repayment of the amount loaned in substantially equal installments, either of principal or of principal and charges in the aggregate, at approximately equal periodic intervals of time. Nothing in this section prevents a loan being considered a new loan because the proceeds of the loan are used to pay an existing contract.

(b) No Assignment of Earnings. – A licensee shall not take an assignment of earnings of the borrower for payment or as security for payment of a loan. An assignment of earnings in violation of this section is unenforceable. A sale of unpaid earnings made in consideration of the payment of money to or for the account of the seller of the earnings is deemed to be a loan to the seller by an assignment of earnings.

(c) Limitation on Default Provisions. – An agreement between a licensee and a borrower pursuant to a loan under this Article with respect to default by the borrower is enforceable only to the extent that (i) the borrower fails to make a payment as required by the agreement or fails to maintain contractually required insurance coverage or (ii) the prospect of payment, performance, or realization of collateral is significantly endangered or impaired, the burden of establishing the prospect of a significant endangerment or impairment being on the licensee.

(d) Prohibitions on Discrimination. – No licensee shall deny any extension of credit or discriminate in the fixing of the amount, duration, application procedures, or other terms or conditions of the extension of credit because of the race, color, religion, national origin, sex, or marital status of the applicant or any other person connected with the transaction.

(e) Limitation on Attorney Fees. – With respect to a loan made pursuant to G.S. 53-176, the agreement shall not provide for payment by the borrower of attorney fees.

(f) No Real Property as Security. – No licensee shall make any loan within this State that is secured by real property.

(g) Deceptive Acts or Practices. – No licensee shall engage in any unfair method of competition or unfair or deceptive trade practices in the conduct of making loans to borrowers pursuant to this Article or in collecting or attempting to collect any money alleged to be due and owing by a borrower.

(h) Limitations on Home Loans. – No affiliate operating in the same office or subsidiary operating in the same office of a licensee shall make any home loan as defined in G.S. 24-1.1A(e) in a principal amount of less than three thousand dollars (\$3,000).

(i) Limitation on Conditions to Making Loans. – A licensee or an affiliate operating in the same office or subsidiary operating in the same office of a licensee shall not make as a condition of any loan the refinancing of a borrower's home loan as defined in G.S. 24-1.1A(e) that is not currently in default.

(j) No Solicitation of Deposits. – No licensee shall directly or indirectly solicit from any borrower funds to be held on deposit in any bank; however, a borrower may at the borrower's option, by way of a military allotment or other similar program, designate a depository to receive and disburse funds for a designated purpose.

(k) Loans made pursuant to this Article solicited using a facsimile or negotiable check are subject to G.S. 75-20(a).

(l) Loan Modification or Restructuring. – A loan contract may be modified or restructured so long as the interest rate after the original maturity date does not exceed the eight percent (8%) per annum limitation set forth in G.S. 53-173(d). A modification or restructuring may provide for a reduction of interest rate, reduction of principal, reduction in the amount of accrued interest, suspension of or modification of payment amounts, extension of the term of the loan, or any combination of these terms. A modification of payment amounts for the term of a loan modification or restructuring is not subject to subsection (a) of this section but shall not provide for a balloon payment. A licensee shall document the terms of any agreement to modify

or restructure an existing loan contract by setting forth the terms of the modified or restructured loan in its loan records and shall provide to the borrower a written notice of the changes. A licensee shall not charge a borrower a fee to modify or restructure a loan unless authorized by G.S. 53-177(c). A licensee shall not require additional collateral as a condition for a loan modification or restructuring. (1961, c. 1053, s. 1; 1969, c. 1303, s. 24; 1973, c. 1042, s. 7; 1979, c. 33, s. 3; 1981, c. 464, s. 3; 1985, c. 154, ss. 10-12; 1987, c. 444, s. 3; 1989, c. 17, ss. 8, 13; 2001-519, s. 5; 2013-162, s. 6; 2023-61, s. 1; 2024-57, s. 2E.4(a).)