

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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HOUSE BILL 277

Senate Judiciary I Committee Substitute Adopted 6/9/92

Short Title: Clarify Reg. of Other Bus. Under C.F.A.

(Public)

Sponsors:

Referred to:

March 21, 1991

A BILL TO BE ENTITLED

AN ACT TO CLARIFY AND FURTHER REGULATE OTHER BUSINESS AUTHORITY UNDER THE NORTH CAROLINA CONSUMER FINANCE ACT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 53-172 reads as rewritten:

"§ 53-172. Conduct of other business in same office.

(a) No licensee shall conduct the business of making loans under this Article within any office, suite, room, or place of business in which any other business is solicited or engaged in unless, in the opinion of the Commissioner, such other business would not be contrary to the best interests of the borrowing public and is authorized by the Commissioner in writing. ~~transacted.~~

~~If the conduct of any other business authorized by the Commissioner should, in the opinion of the Commissioner, prove contrary to the best interests of the borrowing public, the authority granted to conduct such business shall be withdrawn in writing by the Commissioner.~~

Installment paper dealers as defined in G.S. 105-83, and the collection by a licensee of loans legally made in North Carolina, or another state by another government regulated lender or lending agency, shall not be considered as being any other business within the meaning of this section.

(b) Notwithstanding subsection (a) of this section, the Commissioner may authorize in writing the solicitation and transaction of other business in any office, suite, room, or place of business in which a licensee is conducting the business of making

1 loans if the Commissioner determines that the other business would not be contrary to
2 the best interests of the borrowing public.

3 (c) The Commissioner may require, consistent with the provisions of 12 C.F.R.
4 Part 226 (Regulation Z) of the federal Truth-In-Lending Act, the other business
5 authorized under subsection (b) of this section to:

- 6 (1) Disclose the cost of consumer credit of goods and services sold; and
7 (2) Provide the purchaser with a reasonable cancellation period for goods
8 and services purchased.

9 (d) No licensee shall:

- 10 (1) Make the purchase of goods and services sold under the authorization
11 of subsection (b) of this section a condition of making a loan; or
12 (2) Consider the borrower's decision to purchase, or not purchase, goods
13 and services sold under the authorization of subsection (b) of this
14 section a factor in its approval or denial of credit, or in its
15 determination of the amount of or terms of credit for the borrower.

16 (e) The licensee shall notify the borrower in writing that the purchase of the
17 goods and services offered under the authorization under subsection (b) of this section is
18 voluntary and that the borrower's decision whether or not to purchase the goods and
19 services will not affect the licensee's decision to grant credit or the amount of or terms
20 of the credit granted.

21 (f) If, at any time, the Commissioner has reason to believe that the conduct of
22 any other business authorized under this section is contrary to the best interests of the
23 borrowing public, the Commissioner shall hold a hearing pursuant to Chapter 150B of
24 the General Statutes to determine whether or not to revoke the authority to conduct that
25 business. The Commissioner shall revoke the authority to conduct any other business if
26 he or she finds that the conduct of any other business authorized under this section is
27 contrary to the best interests of the borrowing public.

28 (g) This section shall not be construed as authorizing the collection of any loans
29 or charges in violation of the prohibitions contained in G.S. 53-190.

30 (h) The books, records, and accounts relating to loans shall be kept in such
31 manner as the Commissioner of Banks prescribes as to delineate clearly the loan
32 business from any other business authorized by the Commissioner."

33 Sec. 2. G.S. 53-178 reads as rewritten:

34 **"§ 53-178. No further charges; no splitting contracts; certain contracts void.**

35 No further or other charges or insurance commissions shall be directly or indirectly
36 contracted for or received by any licensee except those specifically authorized by this
37 Article or by the Commissioner under G.S. 53-172. No licensee shall divide into
38 separate parts any contract made for the purpose of or with the effect of obtaining
39 charges in excess of those authorized by this Article. All balances due to a licensee from
40 any person as a borrower or as an endorser, guarantor or surety for any borrower or
41 otherwise, or due from any husband or wife, jointly or severally, shall be considered a
42 part of any loan being made by a licensee to such person for the purpose of computing
43 interest or charges."

44 Sec. 3. This act is effective upon ratification.