

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

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SENATE BILL 685

Short Title: Conform Mortgage Lending Laws.

(Public)

Sponsors: Senators Weinstein; Berger, Hoyle, Kerr, Lucas, and Rucho.

Referred to: Commerce.

April 2, 2003

1 A BILL TO BE ENTITLED
2 AN ACT TO CONFORM THE LAWS RELATED TO PERMISSIBLE INTEREST
3 RATES FOR HOME LOANS SECURED BY SECOND AND SUBSEQUENT
4 MORTGAGES TO THE LAWS GOVERNING PERMISSIBLE INTEREST
5 RATES FOR HOME LOANS SECURED BY FIRST MORTGAGES.

6 The General Assembly of North Carolina enacts:

7 SECTION 1. The catch line for G.S. 24-1.1A reads as rewritten:

8 "§ 24-1.1A. Contract rates on home loans secured by ~~first mortgages or first deeds~~
9 of trust."

10 SECTION 2. G.S. 24-1.1A(a) reads as rewritten:

11 "(a) Notwithstanding any other provision of this Chapter, but subject to the
12 provisions of G.S. 24-1.1E, parties to a home loan may contract in writing as follows:

13 (1) Where the principal amount is ten thousand dollars (\$10,000) or more
14 the parties may contract for the payment of interest as agreed upon by
15 the ~~parties;~~parties.

16 (2) Where the principal amount is less than ten thousand dollars (\$10,000)
17 the parties may contract for the payment of interest as agreed upon by
18 the parties, if the lender is ~~either one of the following:~~

19 (i)~~a.~~ ~~approved~~ Approved as a mortgagee by the Secretary of Housing
20 and Urban Development, the Federal Housing Administration,
21 the Department of Veterans Affairs, a national mortgage
22 association or any federal ~~agency;~~ agency.

23 (ii)~~b.~~ ~~a~~ A local or foreign bank, savings and loan association or
24 service corporation wholly owned by one or more savings and
25 loan associations and permitted by law to make home loans,
26 credit union or insurance ~~company;~~ company.

27 (iii)~~c.~~ ~~a~~ A State or federal ~~agency;~~ agency.

28 d. A mortgage banker who is a licensee or an exempt person as
29 those terms are defined in G.S. 53-243.01.

1 (3) Where the principal amount is less than ten thousand dollars (\$10,000)
2 and the lender is not a lender described in the preceding subdivision
3 (2) the parties may contract for the payment of interest not in excess of
4 sixteen percent (16%) per annum.

5 (4) ~~Notwithstanding any other provision of law, where the lender is an~~
6 ~~affiliate operating in the same office or subsidiary operating in the~~
7 ~~same office of a licensee under the North Carolina Consumer Finance~~
8 ~~Act, the lender may charge interest to be computed only on the~~
9 ~~following basis: monthly on the outstanding principal balance at a rate~~
10 ~~not to exceed the rate provided in this subdivision.~~

11 On the fifteenth day of each month, the Commissioner of Banks
12 shall announce and publish the maximum rate of interest permitted by
13 this subdivision. Such rate shall be the latest published noncompetitive
14 rate for U.S. Treasury bills with a six month maturity as of the
15 fifteenth day of the month plus six percent (6%), rounded upward or
16 downward, as the case may be, to the nearest one half of one percent
17 (1/2 of 1%) or fifteen percent (15%), whichever is greater. If there is
18 no nearest one half of one percent (1/2 of 1%), the Commissioner shall
19 round downward to the lower one half of one percent (1/2 of 1%). The
20 rate so announced shall be the maximum rate permitted for the term of
21 loans made under this section during the following calendar month
22 when the parties to such loans have agreed that the rate of interest to
23 be charged by the lender and paid by the borrower shall not vary or be
24 adjusted during the term of the loan. The parties to a loan made under
25 this section may agree to a rate of interest which shall vary or be
26 adjusted during the term of the loan in which case the maximum rate
27 of interest permitted on such loans during a month during the term of
28 the loan shall be the rate announced by the Commissioner in the
29 preceding calendar month.

30 An affiliate operating in the same office or subsidiary operating in
31 the same office of a licensee under the North Carolina Consumer
32 Finance Act may not make a home loan for a term in excess of six (6)
33 months which provides for a balloon payment. For purposes of this
34 subdivision, a balloon payment means any scheduled payment that is
35 more than twice as large as the average of earlier scheduled payments.
36 This subsection does not apply to equity lines of credit as defined in
37 G.S. 45-81."

38 **SECTION 3.** G.S. 24-1.1A(c2) is repealed.

39 **SECTION 4.** G.S. 24-1.1A(e) reads as rewritten:

40 "(e) The term "home loan" shall mean a loan, other than an open-end credit plan,
41 where the principal amount is less than three hundred thousand dollars (\$300,000)
42 secured by a first mortgage or first deed of trust on real estate upon which there is
43 located or there is to be located one or more single-family dwellings or dwelling units."

44 **SECTION 5.** G.S. 24-1.1A(g)(1) reads as rewritten:

1 "(1) A home loan will be subject to the deferral fee limitations set forth in
2 subdivision (2) of this subsection if:

3 a. The borrower is a natural person;

4 b. The debt is incurred by the borrower primarily for personal,
5 family, or household purposes; and

6 c. The loan is secured by a ~~first~~-mortgage or ~~first~~-deed of trust on
7 real estate upon which there is located or there is to be located a
8 structure or structures designed principally for occupancy of
9 from one to four families which is or will be occupied by the
10 borrower as the borrower's principal dwelling."

11 **SECTION 6.** G.S. 24-1.4 is repealed.

12 **SECTION 7.** This act becomes effective July 1, 2003, and applies to loans
13 entered into on or after that date.