

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

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HOUSE BILL 718

Short Title: Fed. Insured Depository Inst./Interest Rates. (Public)

Sponsors: Representatives Howard, Bell, Carney, and Lucas (Primary Sponsors).
For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Banking, if favorable, Rules, Calendar, and Operations of the House

April 15, 2019

1 A BILL TO BE ENTITLED
2 AN ACT TO AMEND STATUTES ON INTEREST RATES TO USE THE TERM
3 "FEDERALLY INSURED DEPOSITORY INSTITUTION" AND TO ESTABLISH
4 EXPRESS AUTHORITY TO ENFORCE THOSE STATUTES.

5 The General Assembly of North Carolina enacts:

6 **SECTION 1.** Article 1 of Chapter 24 of the General Statutes is amended by adding
7 new sections to read:

8 **"§ 24-1.05. "Federally insured depository institution" defined.**

9 In this Chapter, "federally insured depository institution" means an insured depository
10 institution, as defined in 12 U.S.C. § 1813, or an insured credit union, as defined in 12 U.S.C. §
11 1752. This term, however, does not include a subsidiary or affiliate of a federally insured
12 depository institution that is not itself a federally insured depository institution.

13 **"§ 24-1.010. Enforcement authority.**

14 The Attorney General, the Commissioner of Banks, and the Administrator of Credit Unions
15 may enforce the provisions of this Chapter."

16 **SECTION 2.** G.S. 24-1.1 reads as rewritten:

17 **"§ 24-1.1. Contract rates and fees.**

18 (a) Except as otherwise provided in this Chapter or other applicable law, the parties to a
19 loan, purchase money loan, advance, commitment for a loan or forbearance other than a credit
20 card, open-end, or similar loan may contract in writing for the payment of interest not in excess
21 of:

- 22 (1) Where the principal amount is twenty-five thousand dollars (\$25,000) or less,
23 the rate set under subsection (c) of this section; or
24 (2) Any rate agreed upon by the parties where the principal amount is more than
25 twenty-five thousand dollars (\$25,000).

26 ...

27 (d) ~~Any bank or savings institution~~ federally insured depository institution organized
28 under the law of North Carolina or of the United States may charge a party to a loan or extension
29 of credit governed by this section a fee for the modification, renewal, extension, or amendment
30 of any terms of the loan or extension of credit, such fee not to exceed the greater of one-quarter
31 of one percent (1/4 of 1%) of the balance outstanding at the time of the modification, renewal,
32 extension, or amendment of terms, or fifty dollars (\$50.00).

33 (e) ~~Any bank or savings institution~~ federally insured depository institution organized
34 under the law of North Carolina or of the United States may charge a party to a loan or extension
35 of credit not secured by real property governed by this section an origination fee not to exceed



1 the greater of one-quarter of one percent (1/4 of 1%) of the outstanding balance or fifty dollars
2 (\$50.00).

3"

4 **SECTION 3.** G.S. 24-2.2 reads as rewritten:

5 "**§ 24-2.2. Interest on extensions of credit by ~~banks and savings and loan associations;~~**
6 **federally insured depository institutions; exceptions.**

7 Notwithstanding any other provision of law, ~~banks and savings and loan associations~~
8 ~~federally insured depository institutions chartered in North Carolina by the State of North~~
9 ~~Carolina this State by this State or by the federal government shall each be are each~~ entitled to
10 charge on extensions of credit those interest rates allowed any lender under ~~North Carolina State~~
11 law. ~~Provided, that any extension of credit pursuant to this authority shall be governed by those~~
12 ~~restrictions or limitations contained in the authorizing statute. Provided further, the authority~~
13 ~~granted under this~~ This section shall does not apply to rates provided in Article 15 of Chapter 53,
14 the Consumer Finance Act, nor in Subchapter III of Chapter 54, concerning credit unions. Article
15 15 of Chapter 53 of the General Statutes or Subchapter III of Chapter 54 of the General Statutes."

16 **SECTION 4.** G.S. 24-11 reads as rewritten:

17 "**§ 24-11. Certain revolving credit charges.**

18 (a) On the extension of credit under an open-end credit or similar plan (including
19 revolving credit card ~~plans, plans~~ and revolving charge accounts, but excluding any loan made
20 directly by a lender under a check loan, check ~~credit-credit,~~ or other such plan) under which no
21 service charge shall be imposed upon the consumer or debtor if the account is paid in full within
22 25 days from the billing date, but upon which there may be imposed an annual charge not to
23 exceed twenty-four dollars (\$24.00), there may be charged and collected interest, finance ~~charges~~
24 ~~charges,~~ or other fees at a rate in the aggregate not to exceed one and one-half percent (11/2%)
25 per month computed on the unpaid portion of the balance of the previous month less payments
26 or credit within the billing cycle or the average daily balance outstanding during the current
27 billing period.

28 (a1) If the lender chooses not to impose an annual charge under this section, the lender
29 may impose a service charge not to exceed two dollars (\$2.00) per month on the balance of any
30 account ~~which that~~ is not paid in full within 25 days from the billing date.

31 (a2) No person, ~~firm-firm,~~ or corporation may charge a discount or fee in excess of six
32 percent (6%) of the principal amount of the accounts acquired from or through any vendors or
33 others providing services who participate in ~~such the~~ plan.

34 (b) On revolving credit loans (including check loans, check ~~credit-credit,~~ or other
35 revolving credit plans whereby a ~~bank, banking institution-federally insured depository~~
36 ~~institution~~ or other lending agency makes direct loans to a borrower), if agreed to in writing by
37 the borrower, ~~such the~~ lender may collect interest and service charges by application of a monthly
38 periodic rate computed on the average daily balance outstanding during the billing period, ~~such~~
39 ~~rate-not~~ to exceed one and one-half percent (11/2%).

40 (c) Any extension of credit under an open-end or similar plan under which there is
41 charged a monthly periodic rate greater than one and one-quarter percent (11/4%) ~~may-shall not~~
42 be secured by real or personal property or any other ~~thing of value, provided, that this asset.~~ This
43 subsection shall does not apply to consumer credit sales regulated by Chapter 25A, the Retail
44 Installment Sales Act; provided further, that in Chapter 25A of the General Statutes. In any action
45 initiated for the possession of property in which a security interest has been taken, a judgment
46 for the possession ~~thereof of the property~~ shall be restricted to commercial ~~units (as defined in~~
47 ~~G.S. 25-2-105(6))~~ units, as defined in G.S. 25-2-105(6), for which the cash price was one hundred
48 dollars (\$100.00) or more.

49 (d) ~~The In this section, the~~ term "billing date" ~~shall-mean-means~~ any date selected by the
50 creditor and the bill for the balance of the account must be mailed to the customer at least 14

1 days prior to the date specified in the statement as being the date by which payment of the new
2 balance must be made in order to avoid the imposition of any finance charge.

3 (d1) A lender may charge a party to a loan or extension of credit governed by this section
4 a late payment charge not to exceed five dollars (\$5.00) on accounts having an outstanding
5 balance of less than one hundred dollars (\$100.00) and ten dollars (\$10.00) on accounts having
6 an outstanding balance of one hundred dollars (\$100.00) or more, for any payment past due for
7 30 days or ~~more; provided, in more.~~ In no case shall the late charge exceed the outstanding
8 principal balance. If a late payment charge has been once imposed with respect to a late payment,
9 no late charge shall be imposed with respect to any future payment ~~which that~~ would have been
10 timely and sufficient but for the previous default.

11 (e) An annual or service charge pursuant to this section upon an existing credit card
12 account upon which the charge has not previously been imposed ~~may shall~~ not be imposed unless
13 the lender has given the cardholder at least 30 days notice of the proposed ~~charge, charge~~ and has
14 advised the cardholder of ~~his the cardholder's~~ right not to accept the new charge. This notice shall
15 be bold and ~~conspicuous, conspicuous~~ and shall be on the face of the periodic billing statement
16 or on a separate statement ~~which that~~ is clearly noted on the face of the periodic billing statement
17 provided to the cardholder. If the cardholder does not accept the new charge upon an existing
18 credit card account, the lender may require that the cardholder make no further use of the account
19 beyond the 30-day period in order to avoid paying the annual charge, but the cardholder shall be
20 entitled to pay off any remaining balance according to the terms of the credit agreement. Nothing
21 in this subsection ~~shall limit~~ limits the lender from decreasing any rates or fees to the ~~cardholder~~
22 ~~forthwith, cardholder.~~ Should any cardholder within 12 months of the initial imposition of an
23 annual charge rescind ~~his the cardholder's~~ credit card contract and surrender all cards issued under
24 the contract to the lender, ~~he the cardholder~~ shall be entitled to a prorated refund of the annual
25 fee previously charged, credited to the cardholder's credit card account."

26 **SECTION 5.** This act becomes effective October 1, 2019, and applies to contracts
27 entered into, renewed, or modified on or after that date.