NORTH CAROLINA GENERAL ASSEMBLY
1971 SESSION

CHAPTER 1229
HOUSE BILL 1117

AN ACT TO REGULATE CHARGES MADE IN CONNECTION WITH LOANS SECURED BY SECONDARY OR JUNIOR MORTGAGES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 45-43.1 through G.S. 45-43.5 is hereby repealed.

Sec. 2. Chapter 24 of the General Statutes of North Carolina is amended by retitling G.S. 24-1 through G.S. 24-11 as Article 1 and by inserting thereafter the following Article:

"ARTICLE 2
"LOANS SECURED BY SECONDARY OR JUNIOR MORTGAGES

"**§ 24-12. Applicability of Article. —** This Article shall apply only to loans of money:

(1) Secured in whole or in part by a security instrument on real property, other than a first security instrument on real property; and
(2) The principal amount of the loan does not exceed seven thousand five hundred dollars ($7,500); and
(3) The loan is repayable in no less than six (6) nor more than seventy-two (72) successive monthly payments, which payments shall be substantially equal in amount.

"**§ 24-13. Principal amount defined. —** The aggregate of the amount or value actually received at the time of the loan, plus the hereinafter stated rate of charge, plus the sum of all existing indebtedness of the borrower paid on his behalf by the lender, shall be deemed the principal amount of the loan.

"**§ 24-14. Limitations on charges and interest. —** (a) No person, copartnership, association, trust, corporation or other legal entity making loans under this Article may charge, take or receive, directly or indirectly,

(1) Actuarial interest in excess of twelve percent (12%) per annum on the principal amount of the loan; and
(2) A rate of charge in excess often percent (10%) of the principal amount of the loan, or $300.00, whichever is less.

(b) The rate of charge as used in subdivision (2), subsection (a) above shall include any and every type of charge for compensation, consideration or expense, or for any other purpose whatsoever, including whatsoever name called, but not by way of limitation, application fees, title searches, title reports, title opinions, title guarantees, credit reports, investigation costs, preparation of instruments, placement or discount fees, brokerage fees, recordings, appraisals, other closing costs, and insurance of any nature except as provided in subsection (c) below, but shall not include actuarial interest at the rate of twelve percent (12%) per annum or less as authorized in the preceding subsection.

(c) Evidence of hazard insurance may be required by the lender of the borrower. Decreasing term life insurance, in an amount not exceeding the sum of the monthly installments payable under the loan and for a period not exceeding the term of the loan may also be required by the lender. The premium for any such insurance, if paid by the lender on behalf of the borrower, may not be included in the principal amount of the loan for the purpose of computing the rate of charge and the rate of interest applicable thereto, but shall not be

considered as a 'charge' for the purpose of the ten percent (10%) limitation on the allowable 'rate of charge.' The rates for the herein described insurance shall not exceed the standard rates approved by the Commissioner of Insurance for such insurance. Proof of all insurance issued in connection with loans subject to this Article shall be furnished to the borrower within ten days from the date of application therefor by said borrower.

(d) No application fee or other charge shall be allowed in the event the loan is not consummated.

(e) The borrower shall further have the right to anticipate payment of his debt in whole or in part at any time, without payment of interest penalty, or any other fee or charge for such prepayment.

"**§ 24-15. Rebates and late charges. —** (a) If a renewal or additional loan shall be made to the same borrower within thirty-six (36) months after the original loan, or after a previous renewal or additional loan, the borrower shall receive a pro-rata rebate from the previously charged rate of charge computed by multiplying the number of months remaining in the loan contract by that quotient obtained by dividing the rate of charge by the total number of months in the loan contract of the loan which has been liquidated or renewed. Appraisal or recording fees actually paid by the lender to others for appraisals and registration, and which did not inure to the benefit of the lender shall not be included in the computation of rebates.

(b) A delinquent or late charge of five percent (5%) of the monthly payment or $5.00, whichever is less, may be charged on any installment delinquent more than 15 days after the regularly scheduled due date, said charge to be made only once after the regularly scheduled due date.

"**§ 24-16. Itemized closing statements. —** Any person, copartnership, association, trust, corporation, or any other legal entity making on its own behalf, or as agent, broker or in other representative capacity on behalf of any other person, copartnership, association, trust, corporation or any other legal entity, a loan or real property financing transaction within the regulatory authority of this Article, at the time of the closing shall furnish the debtor or borrower or grantor in the mortgage, deed of trust or any other security instrument, in addition to the disclosures required by Federal law known as 'Truth in Lending', a complete and itemized closing statement which shall show all disbursements of the loan proceeds and which shall total the principal amount of the loan or security transaction, and the said closing statement shall be signed by the lending agency or a representative of the lending agency, or a responsible officer in its behalf and a completed and signed additional copy retained in the files of the lending agency involved and available at all reasonable times to the borrower, the borrower's successor in interest to the security real property, or the authorized agent of the borrower or the borrower's successor, until such time as the security instrument shall be satisfied in full. Such closing statement shall contain the following language printed in a conspicuous manner:

> 'This loan is one regulated by the provisions of Chapter 24, Article 2 of the General Statutes of North Carolina entitled "Loans Secured by Secondary or Junior Mortgages".'

"**§ 24-16.1. Loans exempt from Sections 24-12 to 24-17. —** Sections 24-12 to 24-17 shall not apply to loans made by banks, insurance companies, or their duly designated agents compensated directly by the lender, duly licensed credit unions, production credit associations authorized by the Farm Credit Act of 1933, or savings and loan associations authorized to do business in this State, or to loans made by any other lender licensed by, and under the supervision of, the Commissioner of Banks and the State Banking Commission, under the provisions of Chapter 53 of the General Statutes, or the Commissioner of Insurance, under the provisions of Chapter 58 of the General Statutes.

"**§ 24-17. Misdemeanors. —** A wilful or knowing violation of G.S. 24-12 through G.S. 24-16 is hereby made a misdemeanor punishable by fine or imprisonment, or both, in the discretion of the court."

Sec. 3. This act shall become effective July 1, 1971.

In the General Assembly read three times and ratified, this the 21st day of July, 1971.