

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2003

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HOUSE BILL 917

Short Title: Conform Mortgage Lending Laws. (Public)

Sponsors: Representatives Brubaker, Church, Hall (Primary Sponsors); Adams, Culp, Earle, Farmer-Butterfield, Fox, Gibson, Howard, LaRoque, Lewis, McAllister, McHenry, Miner, Stiller, Wainwright, Warner, and Wright.

Referred to: Financial Institutions.

April 8, 2003

A BILL TO BE ENTITLED

AN ACT TO CONFORM THE LAWS RELATED TO PERMISSIBLE INTEREST RATES FOR HOME LOANS SECURED BY SECOND AND SUBSEQUENT MORTGAGES TO THE LAWS GOVERNING PERMISSIBLE INTEREST RATES FOR HOME LOANS SECURED BY FIRST MORTGAGES.

The General Assembly of North Carolina enacts:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

42           "(e)   The term "home loan" shall mean a loan, other than an open-end credit plan,  
43                 where the principal amount is less than three hundred thousand dollars (\$300,000)

1 secured by a ~~first~~-mortgage or ~~first~~-deed of trust on real estate upon which there is  
2 located or there is to be located one or more single-family dwellings or dwelling units."

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

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

6 a. The borrower is a natural person;

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

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

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

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