

1 (a) Scope. – No person shall engage in the business of lending in amounts of ten
2 thousand dollars (\$10,000) or less and contract for, exact, or receive, directly or
3 indirectly, on or in connection with any such loan, any charges whether for interest,
4 compensation, consideration, or expense, or any other purpose whatsoever, which in the
5 aggregate are greater than permitted by Chapter ~~24~~,24 of the General Statutes, except as
6 provided in and authorized by this Article, and without first having obtained a license
7 from the Commissioner. The word "lending" as used in this section, shall include, but
8 shall not be limited to, endorsing or otherwise securing loans or contracts for the
9 repayment of loans.

10 (b) Evasions. – The provisions of subsection (a) of this section ~~shall apply~~ apply
11 to any person who seeks to avoid its application by any device, ~~subterfuge~~ subterfuge,
12 or pretense whatsoever. Devices, subterfuges, and pretenses include any transaction in
13 which a cash rebate or other advance of funds is offered and all of the following apply:

14 (1) The cash advance is made contemporaneously with the transaction or
15 soon thereafter.

16 (2) The amount of the cash advance is required to be repaid at a later date.

17 (3) The selling or providing of any item, service, or commodity with the
18 transaction is incidental to, or a pretext for, the advance of funds.

19 (c) Penalties; Commissioner to Provide and Testify as to Facts in His Possession.
20 – Any person not exempt from this Article, or any officer, agent, ~~employee~~ employee,
21 or representative thereof, who fails to comply with or who otherwise violates any of the
22 provisions of this Article, or any regulation of the Banking Commission adopted
23 pursuant to this Article, shall be guilty of a Class 1 misdemeanor. Each ~~such~~ violation
24 shall be considered a separate offense. It ~~shall be~~ is the duty of the Commissioner of
25 Banks to provide the district attorney of the court having jurisdiction of any ~~such~~
26 offense under this subsection with all facts and evidence in ~~his~~ the Commissioner's
27 actual or constructive possession, and to testify as to ~~such~~ these facts upon the trial of
28 any person for ~~any such~~ the offense.

29 (d) Additional Penalties. – Any contract of loan, the making or collecting of
30 which violates any provision of this Article, or regulation thereunder, except as a result
31 of accidental or bona fide error of computation ~~shall be void~~ is void, and the licensee or
32 any other party in violation shall ~~have no right to not~~ collect, ~~receive~~ receive, or retain
33 any principal or charges whatsoever with respect to ~~such~~ the loan. If an affiliate
34 operating in the same office or subsidiary operating in the same office of a licensee
35 makes a loan in violation of ~~G.S. 53-180(i)~~ such G.S. 53-180(i), the affiliate or
36 subsidiary may recover only its principal on ~~such~~ the loan."

37 **SECTION 3.** This act becomes effective October 1, 2006, and applies to
38 transactions that are investigated on or after that date under the North Carolina
39 Consumer Finance Act, Article 15 of Chapter 53 of the General Statutes, as amended by
40 this act, and applies to transactions that are subject to enforcement actions under the
41 North Carolina Consumer Finance Act that are filed on or after that date.