

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003**

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HOUSE BILL 1005

Short Title: Authorize and Regulate Deferred Deposit Loans. (Public)

Sponsors: Representatives Barnhart, Howard, Miller, and Glazier (Primary Sponsors).

Referred to: Rules, Calendar, and Operations of the House.

April 10, 2003

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE AND REGULATE DEFERRED DEPOSIT LOANS BY PROVIDING CONSUMER PROTECTIONS AND DISCLOSURES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 53-275 reads as rewritten:

"§ 53-275. Definitions.

As used in this Article, unless the context clearly requires otherwise, the term:

(1) "Cashing" means providing currency for payment instruments, but does not include the bona fide sale or exchange of travelers checks and foreign denomination payment instruments.

(1a) "Cash advance" means the amount of cash or its equivalent, whether paid by direct payment or by electronic credit or deposit, provided to a customer in a deferred deposit loan.

(2) "Check-cashing service" means any person or entity engaged in the business of cashing checks, drafts, or money orders for a fee, service charge, or other consideration. Check-cashing service also means any person or entity engaged in the business of making, originating, processing, arranging, or accepting or transmitting applications for deferred deposit loans, whether the loans are done directly for its own account or in conjunction with, or as agent for, another person or entity.

(3) "Commission" means the North Carolina State Banking Commission.

(4) "Commissioner" means the North Carolina Commissioner of Banks.

(4a) "Deferred deposit loan" means a check-cashing or similar loan in which a person pays a cash advance to a customer in return for a payment device and agrees, for consideration, to hold the payment device for a period of days prior to deposit, presentment, or withdrawal.

1 (4b) "Deferred deposit payment device" means a payment device offered by
2 a customer as part of a deferred deposit loan.

3 (5) "Licensee" means a person or entity licensed to engage in a
4 check-cashing business under this Article.

5 (5a) "Payment device" means an electronic or written check, draft, money
6 order, authorization for electronic debit or withdrawal, or other
7 electronic or written instrument or order for the transmission or
8 payment of money or monetary value, whether or not the instrument is
9 negotiable.

10 (6) "Person" means an individual, partnership, association, or corporation.

11 (7) "Attorney General" means the North Carolina Attorney General."

12 **SECTION 2.** G.S. 53-276 reads as rewritten:

13 **"§ 53-276. License required.**

14 No person or other entity may ~~engage in the business of cashing checks, drafts, or~~
15 ~~money orders for consideration~~ operate a check-cashing service without first obtaining a
16 license under this Article. No person or other entity providing a check-cashing service
17 may avoid the requirements of this Article by providing a ~~check-check, electronic credit~~
18 ~~or deposit,~~ or other currency equivalent instead of currency when cashing payment
19 ~~instruments-devices."~~

20 **SECTION 3.** G.S. 53-277(a) reads as rewritten:

21 "(a) This Article shall not apply to:

22 (1) A bank, savings institution, credit union, or farm credit system
23 organized under the laws of the United States or any state; ~~and except~~
24 that the following shall apply to deferred deposit loans under G.S.
25 53-281.1 entered into directly between the entity and a North Carolina
26 resident to the extent these provisions apply to licensees:

27 a. G.S. 53-281.1(a), (b), (e), (f), (g), (h), (i), (j), (k), (l), and (m).

28 b. G.S. 53-283(a)(3), (5), (7), (8), (9), (10), (11), and (12).

29 c. G.S. 53-283(b).

30 (2) Any person or entity principally engaged in the bona fide retail sale of
31 goods or services, who either as an incident to or independently of a
32 retail sale or service and not holding itself out to be a check-cashing
33 service, from time to time cashes checks, drafts, or money orders for a
34 fee or other consideration, where not more than two dollars (\$2.00) is
35 charged for the service."

36 **SECTION 4.** G.S. 53-278 reads as rewritten:

37 **"§ 53-278. Application for license; investigation; application fee.**

38 (a) An application for licensure under this Article shall be in writing, under oath,
39 and on a form prescribed by the Commissioner. The application shall set forth all of the
40 following:

41 (1) The name and address of the applicant.

42 (2) If the applicant is a firm or partnership, the name and address of each
43 member of the firm or partnership.

1 (3) If the applicant is a corporation, the name and address of each officer,
2 director, registered agent, and principal.

3 (4) The addresses of the locations of the business to be licensed.

4 (5) Other information concerning the financial responsibility, background
5 experience, and activities of the applicant and its members, officers,
6 directors, and principals as the Commissioner requires.

7 (b) The Commissioner may make such investigations as the Commissioner
8 deems necessary to determine if the applicant has complied with all applicable
9 provisions of this Article and State and federal law.

10 (c) The application shall be accompanied by payment of a two hundred fifty
11 dollar (\$250.00) application fee and a five hundred dollar (\$500.00) investigation fee. If
12 the applicant intends to offer deferred deposit loans under G.S. 53-281.1, the application
13 shall be accompanied by a five-hundred-dollar (\$500.00) application fee and a
14 one-thousand-dollar (\$1,000) investigation fee. These fees are not refundable or
15 abatable, but, if the license is granted, payment of the application fee shall satisfy the
16 fee requirement for the first license year or remaining part thereof.

17 (d) Licenses shall expire annually and may be renewed upon payment of a
18 license fee of two hundred fifty dollars (\$250.00) plus a fifty dollar (\$50.00) fee for
19 each branch location certificate issued under a license. For any licensee who offers
20 deferred deposit loans under G.S. 53-281.1, the renewal fee shall be five hundred
21 dollars (\$500.00), plus a two-hundred-fifty-dollar (\$250.00) fee for every branch
22 location certificate.

23 (e) The Commissioner may allocate up to one-half of the sums collected from
24 application and licensing fees under this Article for consumer education and research, to
25 be conducted by the Commissioner or another State agency, related to deferred deposit
26 loan services under G.S. 53-281.1."

27 **SECTION 5.** G.S. 53-280 reads as rewritten:

28 "**§ 53-280. Maximum fees for service; fees posted; endorsement of checks cashed.**

29 (a) Notwithstanding any other provision of law, no check-cashing business
30 licensed under this Article shall directly or indirectly charge or collect fees or other
31 consideration for check-cashing ~~services~~ services, not including deferred deposit loans,
32 in excess of the following:

33 (1) Three percent (3%) of the face amount of the check or five dollars
34 (\$5.00), whichever is greater, for checks issued by the federal
35 government, State government, or any agency of the State or federal
36 government, or any county or municipality of this State.

37 (2) Ten percent (10%) of the face amount of the check or draft or five
38 dollars (\$5.00), whichever is greater, for personal ~~checks~~ checks or
39 drafts.

40 (3) Five percent (5%) of the face amount of the check or five dollars
41 (\$5.00), whichever is greater, for all other checks, or for money orders.

42 (b) A licensee ~~may~~ shall not advance monies on the security of any check or draft
43 unless the account from which the check or draft being presented is legitimate,
44 open, and active. Except as provided by ~~G.S. 53-281(a)~~, G.S. 53-281.1, any licensee

1 who cashes a check or draft for a fee shall deposit the check not later than three business
2 days from the date the check or draft is cashed.

3 (c) A licensee shall ensure that in every location conducting business under a
4 license issued under this Article, there is conspicuously posted and at all times displayed
5 a notice stating the fees charged for cashing checks, drafts, and money orders. A
6 licensee shall further ensure that notice of the fees currently charged at every location
7 shall be filed with the Commissioner.

8 (d) A licensee shall endorse every check, draft, or money order presented by the
9 licensee for payment in the name of the licensee."

10 **SECTION 6.** Article 22 of Chapter 53 of the General Statutes is amended by
11 adding a new section to read:

12 "**§ 53-281.1. Deferred deposit loans.**

13 (a) A deferred deposit loan shall have a minimum term of 90 days from the first
14 day of the loan.

15 (b) The face amount of any deferred deposit payment device cashed pursuant to
16 this section shall not exceed three hundred dollars (\$300.00).

17 (c) Each deferred deposit loan shall be documented by a written agreement that
18 has been signed by the customer and the licensee. The licensee shall provide the
19 customer with a copy of the agreement at the time it is executed. The written agreement
20 shall contain a statement of the cash advance and the total amount of any fees charged,
21 expressed both as a dollar amount and as an effective annual percentage rate (APR)
22 consistent with the requirements of the federal Truth in Lending Act. The written
23 agreement shall contain the following specific disclosures:

24 (1) The address and telephone number of the Office of the Commissioner
25 of Banks with a statement that the licensee is licensed by the
26 Commissioner of Banks and that the customer may file a complaint
27 with the Commissioner if the customer believes the licensee has acted
28 improperly or unlawfully either in the loan or in the collection process.

29 (2) That the customer shall not be prosecuted in any criminal action or
30 sued in any civil action for a worthless check violation if the deferred
31 deposit payment device is returned for insufficient funds but that the
32 customer may be liable to the licensee for a worthless check fee not to
33 exceed the lesser of fifteen dollars (\$15.00) or the fee imposed upon
34 the licensee by the financial institution.

35 (3) That the customer has the right to rescind the delayed deposit loan at
36 no cost to the customer on or before the close of the following business
37 day.

38 (d) Notwithstanding any other provision of law, no licensee licensed under this
39 Article shall directly or indirectly charge or collect fees or other consideration for
40 cashing a postdated or deferred deposit payment device in excess of fifteen percent
41 (15%) of the face amount of the loan. A licensee shall not charge a customer any fees or
42 other consideration related to a deferred deposit loan unless specifically authorized by
43 this Article.

1 (e) No deferred deposit loan shall be repaid by the proceeds of another deferred
2 deposit loan. A licensee shall not, for any additional consideration, renew or otherwise
3 extend any deferred deposit loan. A licensee may agree with its customer at any time to
4 defer deposit or collection of a payment device without additional consideration.

5 (f) The customer shall have the right to rescind the delayed deposit loan at no
6 cost to the customer by giving written notice and returning the cash advanced on or
7 before the close of the business day following the date of the deferred deposit loan.

8 (g) Upon the establishment by the Commissioner of the database described in
9 G.S. 53-291, no licensee shall enter into a deferred deposit loan with any customer who
10 has had four deferred deposit loans with any licensee or licensees within the past 12
11 months. The licensee shall utilize the Commissioner's database to establish compliance
12 with this subsection. No licensee shall use or rely on a customer's certification or
13 warranty as a means of compliance with this subsection.

14 (h) Upon the establishment by the Commissioner of the database described in
15 G.S. 53-291, no licensee shall enter into a deferred deposit loan with any customer who
16 has a then-existing deferred deposit loan outstanding with any licensee or licensees. The
17 licensee shall utilize the Commissioner's database to establish compliance with this
18 subsection. No licensee shall use or rely on a customer's certification or warranty as a
19 means of compliance with this subsection.

20 (i) A licensee may collect a fee for a returned payment device pursuant to G.S.
21 25-3-506, but the fee shall not exceed the lesser of fifteen dollars (\$15.00) or the fee
22 imposed upon the licensee by the financial institution. Only one fee may be collected or
23 imposed per payment device.

24 (j) Any deferred deposit loan made under the terms of this section shall be
25 payable in installments with the following provisions:

26 (1) Six equal installments due on each of the borrower's next six paydays,
27 with at least 14 days between the installments. In the event that the
28 customer is paid monthly, the loan agreement shall provide for three
29 equal installments due on each of the borrower's next three paydays,
30 with at least 28 days between installments. No more than one deferred
31 deposit payment device shall be used in a deferred deposit loan with
32 the exception that, following the making of the first installment
33 payment or subsequent installment payments, a customer may
34 exchange a previous deferred deposit payment device for a new
35 deferred deposit payment device made in the amount then owed on the
36 loan. Upon repayment of a deferred deposit loan, licensees shall stamp
37 on the face of the customer's payment device
38 "VOID-NONNEGOTIABLE" in bold, capital letters and shall return
39 the payment device to the customer.

40 (2) The first installment shall be due no less than 14 days after the first
41 day of the deferred deposit loan.

42 (3) Customers shall have three business days following an installment's
43 due date in which to make an installment payment.

1 (4) In the event that an installment payment is not made within the
2 three-day period following the installment due date, the remaining
3 balance on the loan shall then be due immediately, and the licensee
4 may cash the customer's deferred deposit payment device.

5 (5) The customer, in the customer's sole discretion, may prepay the
6 obligation in whole or in part without additional charge or fee prior to
7 the end of the term.

8 (6) Upon any cashing of the customer's deferred deposit payment device,
9 proceeds of the deferred deposit payment device exceeding the
10 outstanding balance of the deferred deposit loan shall on the same
11 business day be deposited by the licensee into the customer's account
12 upon which the customer's deferred deposit payment device was
13 designated to be drafted.

14 (k) This Article shall apply to all deferred deposit loans made to customers in
15 North Carolina including those made using the Internet and other electronic means.
16 Each licensee shall maintain and transact business from a principal place of business in
17 this State. A principal place of business in this State shall consist of at least one
18 enclosed room or building of stationary construction in which negotiations of deferred
19 deposit loans may be conducted and carried on and in which all books, records, and files
20 pertaining to deferred deposit loans relating to borrowers in this State are maintained.
21 However, the Commissioner may, by rule, impose terms and conditions under which the
22 records and files may be maintained outside of this State.

23 (l) Notwithstanding any other provision of State law, a deferred deposit loan
24 agreement that includes any provision that waives any federal or State constitutional
25 right of customers or limits the remedies of customers available in law or equity,
26 whether acting individually or on behalf of others similarly situated, or their rights to
27 civil discovery or appeal is unconscionable and void. In addition, a deferred deposit
28 loan agreement that allows a party to require a borrower to assert any claim against the
29 party who prepared the agreement in a forum that is less convenient, more costly, or
30 more dilatory for the resolution of the dispute than a judicial forum established in this
31 State or limits in any way any claim or defense the borrower may have is
32 unconscionable and void.

33 (m) The Commissioner shall prescribe a consumer information sheet or pamphlet
34 to educate consumers about deferred deposit loans. The informational materials shall
35 include information on the responsible use of deferred deposit loans, the costs of
36 deferred deposit loans, the limitations on the number of loans, the dollar amount of
37 outstanding payment devices, the fact that the customer cannot be prosecuted or sued in
38 a civil action for a deferred deposit insufficient funds payment device, the availability of
39 consumer credit counseling services and debt repayment alternatives, the procedure for
40 filing consumer complaints with the Commissioner, and other matters that may be
41 helpful or beneficial to customers. The Commissioner's informational materials shall be
42 printed and reproduced by the licensee and made available by the licensee in a
43 conspicuous place at each location that offers deferred deposit loans and shall be
44 presented to each customer before the deferred deposit loan is executed."

1 **SECTION 7.** G.S. 53-282 reads as rewritten:

2 "**§ 53-282. Record keeping; receipt requirements.**

3 (a) Every person required to be licensed under this Article shall maintain in its
4 offices the following records:

5 (1) Delayed deposit payment devices currently held for deposit.

6 (2) A daily loan journal, or an equivalent record, of both traditional
7 check-cashing and deferred deposit loans.

8 (3) The written receipt required by subsection (b) of this section.

9 (4) The customer agreement required by G.S. 53-281.1.

10 (5) A history card, or its equivalent, for each customer that reflects the
11 time, date, and amount of each deferred deposit loan for that customer
12 during the most recent three-year period. The history card shall also
13 state whether each deferred deposit payment device was deposited or
14 redeemed for cash.

15 (6) Bank statements of the licensee. If the statements are not maintained
16 on the premises of the licensee, the statements shall be made available
17 immediately upon request of the Commissioner.

18 In addition to the records required by this subsection, each licensee shall maintain in
19 its offices such books, accounts, and records as the Commissioner may reasonably
20 require. The books, accounts, and records shall be maintained separate from any other
21 business in which the person is engaged, and shall be retained for a period prescribed by
22 the Commissioner.

23 (b) The licensee shall ensure that each customer cashing a ~~check-payment device~~
24 shall be provided a receipt showing the name or trade name of the licensee, the
25 ~~transaction~~ loan date, amount of the ~~check-payment device~~, and the fee charged.

26 (c) The Commissioner may examine the books, accounts, and records in order to
27 determine whether the person is complying with this Article and rules adopted pursuant
28 thereto. The cost of the examination shall be paid by the licensee and shall be
29 determined by applying the hourly rate for special examinations adopted by the State
30 Banking Commission by regulation.

31 (d) The Commissioner shall require licensees to submit an annual report to the
32 Commissioner on or before the last day of February for the preceding year disclosing:

33 (1) The resources, assets, and liabilities of the licensees at the beginning
34 and the end of the period.

35 (2) The income, expense, gain, loss, and a reconciliation of surplus or net
36 worth with the balance sheets, and the ratios of the profits to the assets
37 reported.

38 (3) The total dollar amount and number of returned checks, checks
39 recovered, and checks charged off during the calendar year ending as
40 of December 31 of the previous year.

41 (4) A statement verifying that the licensee has not used the criminal
42 process or caused the criminal process to be used in the collection of
43 any deferred deposit loan during the calendar year ending as of
44 December 31 of the previous year.

1 (5) Any additional data or information which is reasonably available to the
2 licensee and which the Commissioner deems necessary to the
3 performance of the Commissioner's oversight duties."

4 **SECTION 8.** G.S. 53-283 reads as rewritten:

5 "**§ 53-283. Prohibited practices.**

6 (a) No person required to be licensed under this Article shall do any of the
7 following:

8 (1) Charge fees in excess of those authorized under this ~~Article~~ Article or
9 originate, process, arrange, or accept or transmit applications for
10 deferred deposit loans for which the fees exceed those permitted in this
11 Article.

12 (2) Engage in the business of making loans of money, or extensions of
13 credit, or discounting notes, bills of exchange, items, or other
14 evidences of debt; or accepting deposits or bailments of money or
15 items, except as expressly provided by ~~G.S. 53-281~~ G.S. 53-281.1.

16 (3) Use or cause to be published or disseminated any advertising
17 communication which contains any false, misleading, or deceptive
18 statement or representation.

19 (4) Conduct business at premises or locations other than locations licensed
20 by the Commissioner.

21 (5) Engage in unfair, deceptive, or fraudulent practices.

22 (6) Cash a check, draft, or money order made payable to a payee other
23 than a natural person unless the licensee has previously obtained
24 appropriate documentation from the executive entity of the payee
25 clearly indicating the authority of the natural person or persons cashing
26 the check, draft, or money order on behalf of the payee.

27 (7) Use or threaten to use the criminal process to collect on a deferred
28 deposit payment device in a deferred deposit loan; or use or threaten to
29 use any civil action to assert a claim against a customer alleging that
30 the customer at the time of the making, drawing, uttering, issuing, or
31 delivery of any deferred deposit payment device knew the customer
32 had insufficient funds on deposit or insufficient credit with the bank or
33 depository with which to pay the check or draft upon presentation.

34 (8) Make more than one deferred deposit loan to a customer at the same
35 time or accept or hold more than one deferred deposit payment device
36 from a customer at the same time.

37 (9) In conjunction with another person or entity, offer, arrange, act as an
38 agent for, or assist in the creation of a deferred deposit loan that,
39 except for federal preemption of State law, would be unlawful under
40 this Article.

41 (10) Use any device or subterfuge to evade the requirements imposed on
42 deferred deposit loans by this Article.

43 (11) Obtain, or seek to obtain, from a customer a waiver of any of the rights
44 or protections imposed by this Article.

1 (12) Fail to report, promptly, and in any event within 24 hours, deferred
2 deposit loan data to the database established by the Commissioner
3 pursuant to G.S. 53-291 when the database is operational.

4 (b) A violation of any of the provisions of this section or G.S. 53-281.1 shall
5 constitute an unfair method of competition and an unfair or deceptive trade practice
6 under G.S. 75-1.1."

7 **SECTION 9.** G.S. 53-284(a) reads as rewritten:

8 "(a) The Commissioner may suspend or revoke any license or licenses issued
9 pursuant to this Article if, after notice and opportunity for hearing, the Commissioner
10 issues written findings that the licensee has engaged in any of the following conduct:

- 11 (1) Violated this Article or applicable State or federal law or rules.
12 (2) Made a false statement on the application for a license under this
13 Article.
14 (3) Refused to permit investigation by the Commissioner authorized under
15 this Article.
16 (4) Failed to comply with an order of the Commissioner.
17 (5) Demonstrated incompetency or untrustworthiness to engage in the
18 business of check cashing.
19 (6) Been convicted of a felony or misdemeanor involving fraud,
20 misrepresentation, or deceit.
21 (7) Failed to comply with the Commissioner's request for assistance in
22 resolving a complaint.
23 (8) Failed to cooperate with any investigation conducted by the
24 Commissioner."

25 **SECTION 10.** G.S. 53-286 reads as rewritten:

26 "**§ 53-286. Civil penalties and restitution.**

27 (a) The Commissioner may order and impose civil penalties upon any person
28 required to be licensed under this Article for violations of this Article or rules adopted
29 ~~thereunder.~~ under this Article. Civil penalties shall not exceed ~~one thousand dollars~~
30 ~~(\$1,000)~~ ten thousand dollars (\$10,000) per violation. All civil money penalties
31 collected under this Article shall be paid to the county school fund. The Commissioner
32 may also order repayment of unlawful or excessive fees charged to customers.

33 (b) Any deferred deposit loan agreement, and the accompanying payment device,
34 the making or collecting of which violates any provision of this Article or rule adopted
35 under this Article shall be void, and the licensee or any other party acting by or through
36 a licensee shall have no right to collect, receive, or retain any principal or charges
37 whatsoever with respect to the loan. In a successful action to enforce this provision,
38 customers shall be entitled to recover their costs, reasonable attorneys' fees, and one
39 thousand dollars (\$1,000) per violation."

40 **SECTION 11.** G.S. 53-287 reads as rewritten:

41 "**§ 53-287. Criminal penalties.**

42 (a) A violation of G.S. 53-276 by a person required to obtain a license under this
43 Article is a Class I felony. Each transaction involving the unlawful cashing of a check,
44 draft, or money order constitutes a separate offense.

1 (b) The Attorney General may investigate and prosecute any person, including
2 persons licensed under this Article, for violating this Article.

3 (c) Any person who knowingly structures a transaction, sale, or service for the
4 purpose of avoiding this Article or uses any device or subterfuge to evade the
5 requirements imposed on deferred deposit loans by this Article shall be in violation of
6 this Article and may be investigated and prosecuted by the Attorney General for the
7 violation."

8 **SECTION 12.** Article 22 of Chapter 53 of the General Statutes is amended
9 by adding the following new sections to read:

10 **"§ 53-291. Database for reporting of deferred deposit loans.**

11 (a) On or before October 1, 2003, the Commissioner shall implement a common
12 database with real-time access through an Internet connection for all licensed providers
13 that offer deferred deposit loans, as provided in this section. The Commissioner may
14 contract with a private vendor. The database shall be accessible to the Commissioner
15 and licensees to verify whether any deferred deposit loans are outstanding for a
16 particular customer. Licensees shall submit the required data before entering into each
17 deferred deposit loan, before accepting an installment payment, and upon the repayment
18 of each deferred deposit loan in a format and with the identifying information required
19 by the Commissioner, including the drawer's name, address, drivers license number,
20 amount of the loan, date of the loan, the date and amount of all installment payments
21 made, the date that the loan is paid off, and any additional information required by the
22 Commissioner. All individual borrower information provided under this section shall be
23 maintained by the Commissioner as confidential to be used only for the purposes
24 specified in this Article, shall not be subject to public inspection, and shall not be a
25 public record under Chapter 132 of the General Statutes. Inquiries to the database by
26 licensees shall only reveal whether the customer is eligible or ineligible for a deferred
27 deposit loan together with a description of the reason for the determination. Only
28 information previously registered and recorded by the licensee on the database shall be
29 made available to the licensee. Only the customer seeking the deferred deposit loan may
30 make a direct inquiry to the Commissioner to request a more detailed explanation of a
31 particular loan that was the basis for the database's ineligibility determination. The
32 Commissioner may impose a fee not to exceed one dollar (\$1.00) per loan to access the
33 database. A licensee may rely on the information contained in the database as accurate
34 and is not subject to any administrative penalty or civil liability as a result of relying in
35 good faith on information contained in the database. The Commissioner may adopt
36 procedures to administer and enforce the provisions of this section and to assure that the
37 database is used by licensees in accordance with this section.

38 (b) The Commissioner of Banks shall compile an annual report by April 1 of
39 each year, beginning with April 1, 2005, containing data regarding all deferred deposit
40 loans made in the preceding year by lender and on an aggregate basis. Annual reports
41 shall be made available to interested parties and the general public. The report shall
42 include all information reported by licensees pursuant to G.S. 53-282(d). Consistent
43 with North Carolina law, the report shall include nonidentifying customer data from the
44 preceding year, which is available from the database, including:

- 1 (1) The total number and dollar amount of deferred deposit loans made in
2 the calendar year ending as of December 31 of the previous year.
- 3 (2) The total number and dollar amount of deferred deposit loans
4 outstanding as of December 31 of the previous year.
- 5 (3) The minimum, maximum, and average dollar amount of payment
6 devices whose deposits were deferred in the calendar year ending
7 December 31 of the previous year.
- 8 (4) The average annual percentage rate and the average number of days a
9 deposit of a payment device is deferred during the calendar year
10 ending as of December 31 of the previous year.
- 11 (5) The number of loans made in the amount of one hundred dollars
12 (\$100.00) or less, the number of loans made in the amount of one
13 hundred one dollars (\$101.00) to two hundred dollars (\$200.00), the
14 number of loans in the amount of two hundred one dollars (\$201.00) to
15 three hundred dollars (\$300.00), and the percentage of total loans
16 made in each of these ranges.
- 17 (6) The number of loans that, upon repayment or deposit of a customer's
18 deferred deposit payment device, ended in the first week of the loan
19 and the number of loans repaid or ending with the deposit of a
20 customer's deferred deposit payment device for successive weeks up to
21 14 weeks with the corresponding APR range for each week.
- 22 (7) The total dollar amount of fees collected for deferred deposit payment
23 devices cashed.
- 24 (8) The total number and dollar amount of returned deferred deposit
25 payment devices and fees charged for those returned deferred deposit
26 payment devices.
- 27 (9) The total number of loans and the total dollar amount of the net
28 charge-offs or write-offs and recoveries of the licensee.
- 29 (10) The number and percentage of customers that used one, two, three, and
30 four deferred deposit loans.

31 **"§ 53-292. Choice of laws.**

32 A choice of law provision in a deferred deposit loan contract which provides that the
33 contract is to be interpreted pursuant to the laws of another state is against the public
34 policy of this State and therefore void and unenforceable if the party against whom
35 enforcement of the choice of law provision is sought is a resident of this State at the
36 time the contract is entered into. This provision shall not be varied by agreement of the
37 parties.

38 **"§ 53-293. Severability.**

39 The provisions of this Article shall be severable, and if any phrase, clause, sentence,
40 or provision is declared to be invalid or is preempted by federal law or regulation, the
41 validity of the remainder of the Article shall not be affected thereby."

42 **SECTION 13.** This act becomes effective October 1, 2003, and applies to
43 transactions that occur on or after that date.