

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2019

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HOUSE BILL 718  
Committee Substitute Favorable 4/30/19

Short Title: Fed. Insured Depository Inst./Interest Rates.

(Public)

Sponsors:

Referred to:

April 15, 2019

A BILL TO BE ENTITLED

AN ACT TO AMEND STATUTES ON INTEREST RATES TO USE THE TERM  
"FEDERALLY INSURED DEPOSITORY INSTITUTION" AND TO ESTABLISH  
EXPRESS AUTHORITY TO ENFORCE THOSE STATUTES.

The General Assembly of North Carolina enacts:

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

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

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

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

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

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

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

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

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

...

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

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



- 1 (1) For a loan or extension of credit with a principal amount of one hundred
- 2 thousand dollars (\$100,000) or greater, the maximum origination fee is one
- 3 quarter of one percent (1/4 of 1%) of the principal amount.
- 4 (2) For a loan or extension of credit with a principal amount less than one hundred
- 5 thousand dollars (\$100,000), the origination fee shall not exceed the amounts
- 6 in the following table:

Principal Amount	Maximum Origination Fee
\$0 to \$1,499.99	\$100.00
\$1,500 to \$19,999.99	\$150.00
\$20,000 to \$29,999.99	\$175.00
\$30,000 to \$49,999.99	\$200.00
\$50,000 to \$99,999.99	\$250.00

- 13 (3) If (i) the loan or extension of credit has a principal amount less than five
- 14 thousand dollars (\$5,000), (ii) the borrower is a natural person, and (iii) the
- 15 debt is incurred primarily for personal, family, or household purposes, the loan
- 16 or extension of credit shall not have an annual percentage rate that exceeds
- 17 thirty-six percent (36%), inclusive of the origination fees permitted by this
- 18 subsection and the interest permitted by subsection (c) of this section. For
- 19 purposes of this subsection, "annual percentage rate" shall be calculated in
- 20 accordance with the federal Consumer Credit Protection Act, Chapter 41 of
- 21 Title 15 of the United States Code, (Truth in Lending Act) and the regulations
- 22 adopted under it.

23 ...."

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

25 "**§ 24-2.2. Interest on extensions of credit by ~~banks and savings and loan associations;~~**  
 26 **federally insured depository institutions; exceptions.**

27 Notwithstanding any other provision of law, ~~banks and savings and loan associations~~  
 28 ~~federally insured depository institutions chartered in North Carolina by the State of North~~  
 29 ~~Carolina this State by this State or by the federal government shall each be are each~~ entitled to  
 30 charge on extensions of credit those interest rates allowed any lender under ~~North Carolina State~~  
 31 law. ~~Provided, that any extension of credit pursuant to this authority shall be governed by those~~  
 32 ~~restrictions or limitations contained in the authorizing statute. Provided further, the authority~~  
 33 ~~granted under this~~ This section shall ~~does~~ not apply to rates provided in ~~Article 15 of Chapter 53,~~  
 34 ~~the Consumer Finance Act, nor in Subchapter III of Chapter 54, concerning credit unions.~~ Article  
 35 15 of Chapter 53 of the General Statutes or Subchapter III of Chapter 54 of the General Statutes."

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

37 "**§ 24-11. Certain revolving credit charges.**

38 (a) On the extension of credit under an open-end credit or similar plan (including  
 39 revolving credit card ~~plans, plans~~ and revolving charge accounts, but excluding any loan made  
 40 directly by a lender under a check loan, check ~~credit-credit,~~ or other such plan) under which no  
 41 service charge shall be imposed upon the consumer or debtor if the account is paid in full within  
 42 25 days from the billing date, but upon which there may be imposed an annual charge not to  
 43 exceed twenty-four dollars (\$24.00), there may be charged and collected interest, finance ~~charges~~  
 44 charges, or other fees at a rate in the aggregate not to exceed one and one-half percent (11/2%)  
 45 per month computed on the unpaid portion of the balance of the previous month less payments  
 46 or credit within the billing cycle or the average daily balance outstanding during the current  
 47 billing period.

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

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

4 (b) On revolving credit loans (including check loans, check ~~credit~~ credit, or other  
5 revolving credit plans whereby a ~~bank, banking institution~~ federally insured depository  
6 institution or other lending agency makes direct loans to a borrower), if agreed to in writing by  
7 the borrower, ~~such~~ the lender may collect interest and service charges by application of a monthly  
8 periodic rate computed on the average daily balance outstanding during the billing period, ~~such~~  
9 ~~rate~~ not to exceed one and one-half percent (1 1/2%).

10 (c) Any extension of credit under an open-end or similar plan under which there is  
11 charged a monthly periodic rate greater than one and one-quarter percent (1 1/4%) ~~may~~ shall not  
12 be secured by real or personal property or any other ~~thing of value, provided, that this asset~~. This  
13 subsection ~~shall~~ does not apply to consumer credit sales regulated by ~~Chapter 25A, the Retail~~  
14 ~~Installment Sales Act; provided further, that in Chapter 25A of the General Statutes. In~~ any action  
15 initiated for the possession of property in which a security interest has been taken, a judgment  
16 for the possession ~~thereof of the property~~ shall be restricted to commercial ~~units (as defined in~~  
17 ~~G.S. 25-2-105(6))~~ units, as defined in G.S. 25-2-105(6), for which the cash price was one hundred  
18 dollars (\$100.00) or more.

19 (d) ~~The~~ In this section, the term "billing date" ~~shall mean~~ means any date selected by the  
20 creditor and the bill for the balance of the account must be mailed to the customer at least 14  
21 days prior to the date specified in the statement as being the date by which payment of the new  
22 balance must be made in order to avoid the imposition of any finance charge.

23 (d1) A lender may charge a party to a loan or extension of credit governed by this section  
24 a late payment charge not to exceed five dollars (\$5.00) on accounts having an outstanding  
25 balance of less than one hundred dollars (\$100.00) and ten dollars (\$10.00) on accounts having  
26 an outstanding balance of one hundred dollars (\$100.00) or more, for any payment past due for  
27 30 days or ~~more; provided, in~~ more. In no case shall the late charge exceed the outstanding  
28 principal balance. If a late payment charge has been once imposed with respect to a late payment,  
29 no late charge shall be imposed with respect to any future payment ~~which~~ that would have been  
30 timely and sufficient but for the previous default.

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

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