

1991 Session

SENATE BANKS & THRIFT INSTITUTIONS COMMITTEE

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- SJR 118, Confirmation of Banking Commissioner
Favorable Report, February 21, 1991
- SB 35 Bad Checks/No Checking Account
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- SB 36 Bad Check Tax For Schools
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- SB 41 Savings and Loan Technical Changes
Favorable Report for Committee Substitute, March 7, 1991
- SB 42 Banking Technical Amendments
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- SJR 153 Commemorate Sixtieth Anniversary of NC Banking Commission
Favorable Report, March 7, 1991
- SB 198 Increase Bad Check Fee
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- SB 34 Rule of 78s/Mobile Homes
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- SB 69 Money Transmitters Act
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- SB 196 Int. Rates Revol. Credit
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- HB 68 Comm. Foundation Endowment Funds
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- SB 91 Savings Bank Act
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- SB 70 Foreign Bank Regulation
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- SB 709 Interest on Escrow Accounts
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- SB 645 Security Interests, Rents/Profits
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- SB 711 Fees/Commercial Loans
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- SB 757 Property Exempt From Execution
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SENATE BANKS & THRIFT INSTITUTIONS COMMITTEE

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- HB 52 Foreign Credit Union Act
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- HB 54 Credit Union Technical Amendments
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- HB 22 Regulate Reverse Mortgages
Favorable Report, June 27, 1991

NORTH CAROLINA GENERAL ASSEMBLY
PENDING SENATE COMMITTEE ON
BANKS & THRIFT INSTITUTIONS

Date: 7/ 4/91
Time: 10:59 a.m.
Page: 1
Leg. day:H- 98/S- 91

1991-92 Biennium

Bill	SHORT TITLE		DATE	LATEST ACTION
S 174	BAD CHECKS/NO CHECKING ACCOUNT	S	2- 7-91	REF TO COM ON BANKS&
S 176	BAD CHECK TAX FOR SCHOOLS	S	2- 7-91	REF TO COM ON BANKS&
S 174-	CREDIT CARD DEREGULATION	S	2-21-91	REF TO COM ON BANKS&
S 196-	REVOLVING CHARGE INTEREST	S	2-27-91	REF TO COM ON BANKS&
S 709	INTEREST ON ESCROW ACCOUNTS	S	4-18-91	REF TO COM ON BANKS&
S 711-	COMMERCIAL LOANS FEES	S	4-18-91	REF TO COM ON BANKS&
S 757-	PROPERTY EXEMPT FROM EXECUTION	S	4-24-91	REF TO COM ON BANKS&

Bolded line indicates bill is an appropriation bill.

* indicates that text of original bill was changed by some action.

- sign indicates that the original bill is identical to another bill.

BANKS & THRIFT INSTITUTIONS

May 9, 1991

AGENDA

Senate Bill 645	SECURITY INTERESTS, RENTS/PROFITS	Block
Senate Bill 196	INT. RATES REV. CREDIT	Staton
Senate Bill 709	INTEREST ON ESCROW ACCOUNTS	Pollard
Senate Bill 711	FEES/COMMERCIAL LOANS	Staton
Senate Bill 757	PROPERTY EXEMPT FROM EXECUTION	Johnson

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 1991

H

2

HOUSE BILL 869
Committee Substitute Favorable 5/10/91

Short Title: Loans/Fees.

(Public)

Sponsors:

Referred to:

April 18, 1991

1 A BILL TO BE ENTITLED
2 AN ACT TO INCREASE EXEMPT PROPERTY VALUES AND CLARIFY THE
3 EFFECT OF EXEMPTIONS, TO AUTHORIZE CERTAIN LOAN AND
4 APPRAISAL FEES, TO AMEND THE USURY LAWS APPLICABLE TO
5 COMMERCIAL LOANS, TO AUTHORIZE THE IMPOSITION OF AN
6 ANNUAL FEE OR MONTHLY SERVICE CHARGE ON CREDIT PLANS,
7 AND TO AMEND THE LAW REGARDING ASSUMPTION FEES IN
8 CONNECTION WITH CERTAIN REAL ESTATE LOANS.

9 The General Assembly of North Carolina enacts:

10 Section 1. G.S. 1C-1601 reads as rewritten:

11 "§ 1C-1601. What property exempt; waiver; exceptions.

12 (a) Exempt property. -- Each individual, resident of this State, who is a debtor is
13 entitled to retain free of the enforcement of the claims of his creditors:

14 (1) The debtor's aggregate interest, not to exceed ~~seven thousand five~~
15 ~~hundred dollars (\$7,500)~~ ten thousand dollars (\$10,000) in value,
16 in real property or personal property that the debtor or a
17 dependent of the debtor uses as a residence, in a cooperative that
18 owns property that the debtor or a dependent of the debtor uses as
19 a residence, or in a burial plot for the debtor or a dependent of the
20 debtor.

21 (2) The debtor's aggregate interest in any property, not to exceed ~~two~~
22 ~~thousand five hundred dollars (\$2,500)~~ three thousand five

- 1 hundred dollars (\$3,500) in value less any amount of the
2 exemption used under subdivision (1).
- 3 (3) The debtor's interest, not to exceed one thousand five hundred
4 dollars ~~(\$1,000)~~ (\$1,500) in value, in one motor vehicle.
- 5 (4) The debtor's aggregate interest, not to exceed ~~two thousand five~~
6 ~~hundred dollars (\$2,500)~~ three thousand five hundred dollars
7 (\$3,500) in value for the debtor plus ~~five hundred dollars (\$500)~~
8 seven hundred fifty dollars (\$750.00) for each dependent of the
9 debtor, not to exceed ~~two~~ three thousand dollars ~~(\$2,000)~~ (\$3,000)
10 total for dependents, in household furnishings, household goods,
11 wearing apparel, appliances, books, animals, crops, or musical
12 instruments, that are held primarily for the personal, family, or
13 household use of the debtor or a dependent of the debtor.
- 14 (5) The debtor's aggregate interest, not to exceed ~~five hundred dollars~~
15 ~~(\$500)~~ seven hundred fifty dollars (\$750.00) in value, in any
16 implements, professional books, or tools of the trade of the debtor
17 or the trade of a dependent of the debtor.
- 18 (6) Life insurance as provided in Article X, Section 5 of the
19 Constitution of North Carolina.
- 20 (7) Professionally prescribed health aids for the debtor or a dependent
21 of the debtor.
- 22 (8) Compensation for personal injury or compensation for the death of
23 a person upon whom the debtor was dependent for support, but
24 such compensation is not exempt from claims for funeral, legal,
25 medical, dental, hospital, and health care charges related to the
26 accident or injury giving rise to the compensation.
- 27 (b) Definition. -- 'Value' as used in this Article means fair market value of an
28 individual's interest in property, less valid liens superior to the judgment lien sought
29 to be enforced.
- 30 (c) Waiver. -- The exemptions provided in this Article and in Sections 1 and 2 of
31 Article X of the North Carolina Constitution, cannot be waived except by:
- 32 (1) Transfer of property allocated as exempt (and in that event only as
33 to the specific property transferred), or
- 34 (2) Written waiver, after judgment, approved by the clerk or district
35 court judge. The clerk or district court judge must find that the
36 waiver is made freely, voluntarily, and with full knowledge of the
37 debtor's rights to exemptions and that he is not required to waive
38 them;
- 39 (3) Failure to assert the exemption after notice to do so pursuant to
40 G.S. 1C-1603. The clerk or district court judge may relieve such a
41 waiver made by reason of mistake, surprise or excusable neglect, to
42 the extent that the rights of innocent third parties are not affected.
- 43 (d) Recent purchases. -- The exemptions provided in subdivisions (2), (3), (4) and
44 (5) of subsection (a) of this section are inapplicable with respect to tangible personal

1 property purchased by the debtor less than 90 days preceding the initiation of
2 judgment collection proceedings or the filing of a petition for bankruptcy.

3 (e) Exceptions. -- The exemptions provided in this Article are inapplicable to
4 claims

- 5 (1) Of the United States or its agencies as provided by federal law;
- 6 (2) Of the State or its subdivisions for taxes, appearance bonds or
7 fiduciary bonds;
- 8 (3) Of lien by a laborer for work done and performed for the person
9 claiming the exemption, but only as to the specific property
10 affected;
- 11 (4) Of lien by a mechanic for work done on the premises, but only as
12 to the specific property affected;
- 13 (5) For payment of obligations contracted for the purchase of the
14 specific real property affected;
- 15 (6) Repealed by Session Laws 1981 (Reg. Sess., 1982), c. 1224, s. 6,
16 effective September 1, 1982;
- 17 (7) For contractual security interests in the specific property affected;
18 provided, that the exemptions shall apply to the debtor's
19 household goods notwithstanding any contract for a nonpossessory,
20 nonpurchase money security interest in any such goods;
- 21 (8) For statutory liens, on the specific property affected, other than
22 judicial liens;
- 23 (9) For child support, alimony or distributive award order pursuant to
24 Chapter 50 of the General Statutes.

25 (f) Federal Bankruptcy Act. -- The exemptions provided in The Bankruptcy Act,
26 11 U.S.C. § 522(d), are not applicable to residents of this State. The exemptions
27 provided by this Article shall apply for purposes of The Bankruptcy Act, 11 U.S.C. §
28 522(b).

29 (g) Effect of exemptions. -- Notwithstanding any other provision of law, a creditor
30 shall not obtain possession of a debtor's household goods and furnishings in which
31 the creditor holds a nonpossessory, nonpurchase money security interest until the
32 creditor has fully complied with the procedures required by G.S. 1C-1603."

33 Sec. 2. G.S. 24-1.1 reads as rewritten:

34 "§ 24-1.1. Contract rates and fees.

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

- 39 (1) Where the principal amount is twenty-five thousand dollars
40 (\$25,000) or less, the rate set under ~~subdivision (3)~~ subsection (c)
41 of this section; or
- 42 (2) Any rate agreed upon by the parties where the principal amount is
43 more than twenty-five thousand dollars (\$25,000).

1 (b) As used in this section, interest shall not be deemed in excess of the rates
2 provided where interest is computed monthly on the outstanding principal balance
3 and is collected not more than 31 days in advance of its due date. Nothing in this
4 section shall be construed to authorize the charging of interest on committed funds
5 prior to the disbursement of said funds.

6 (3) (c) On the fifteenth day of each month, the Commissioner of Banks shall
7 announce and publish the maximum rate of interest permitted by subdivision (1) of
8 this section on that date. Such rate shall be the latest published ~~non-competitive~~
9 noncompetitive rate for U.S. Treasury bills with a six-month maturity as of the
10 fifteenth day of the month plus six percent (6%), rounded upward or downward, as
11 the case may be, to the nearest one-half of one percent (1/2 of 1%) or sixteen percent
12 (16%), whichever is greater. If there is no nearest one-half of one percent (1/2 of
13 1%), the Commissioner shall round downward to the lower one-half of one percent
14 (1/2 of 1%). The rate so announced shall be the maximum rate permitted for the
15 term of loans made under this section during the following calendar month when the
16 parties to such loans have agreed that the rate of interest to be charged by the lender
17 and paid by the borrower shall not vary or be adjusted during the term of the loan.
18 The parties to a loan made under this section may agree to a rate of interest which
19 shall vary or be adjusted during the term of the loan in which case the maximum rate
20 of interest permitted on such loans during a month during the term of the loan shall
21 be the rate announced by the Commissioner in the preceding calendar month.

22 (d) Any lender may charge a party to a loan or extension of credit governed by
23 this section a fee for the modification, renewal, extension, or amendment of any terms
24 of the loan or extension of credit, such fee not to exceed the greater of one-quarter of
25 one percent (1/4 of 1%) of the balance outstanding at the time of the modification,
26 renewal, extension, or amendment of terms, or fifty dollars (\$50.00).

27 (e) Any lender may charge a party to a loan or extension of credit not secured by
28 real property governed by this section an origination fee not to exceed the greater of
29 one-quarter of one percent (1/4 of 1%) of the outstanding balance or fifty dollars
30 (\$50.00)."

31 Sec. 3. G.S. 24-1.2 reads as rewritten:

32 "**§ 24-1.2. Installment rates and fees.**

33 Except as otherwise provided in this Chapter or other applicable law, the parties to
34 a loan, purchase money loan, advance, commitment for a loan, or forbearance, may
35 contract in writing for the payment of interest not in excess of:

- 36 (1) On installment loans not exceeding five thousand dollars (\$5,000),
37 which are not secured by a security interest in any degree on real
38 property, which are for periods of not less than six months nor
39 more than 120 months, which are repayable in substantially equal
40 consecutive monthly payments, which shall not be collected in
41 advance, and which shall be computed monthly on the outstanding
42 principal balance, the rate shall not exceed the rates set under
43 subdivision (2a) of this section; provided, a minimum charge of ten
44 dollars (\$10.00) or one dollar (\$1.00) per payment may be agreed

- 1 to and charged in lieu of interest. The borrower may prepay all or
2 any part of this loan without penalty. The due date of the first
3 monthly payment shall not be more than 45 days following
4 disbursement of funds under any such installment loan.
- 5 (2) On installment loans not exceeding twenty-five thousand dollars
6 (\$25,000), which are not secured by a first security instrument on
7 real property, and which are payable at least quarterly in
8 substantially equal payments of principal and interest, or in
9 substantially equal payments of principal, the rate of interest,
10 computed on the outstanding balance, shall not exceed the rate set
11 under subdivision (2a) of this section: provided a minimum charge
12 of ten dollars (\$10.00) or one dollar (\$1.00) per payment may be
13 agreed to and charged in lieu of interest. The borrower may
14 prepay all or any part of the loan without penalty.
- 15 (2a) On the fifteenth day of each month, the Commissioner of Banks
16 shall announce and publish the maximum rate of interest permitted
17 by subdivisions (1) and (2) of this section. Such rate shall be the
18 latest published noncompetitive rate for U.S. Treasury bills with a
19 six-month maturity as of the fifteenth day of the month plus six
20 percent (6%), rounded upward or downward, as the case may be,
21 to the nearest one-half of one percent (1/2 of 1%) or sixteen
22 percent (16%), whichever is greater. If there is no nearest one-half
23 of one percent (1/2 of 1%), the Commissioner shall round
24 downward to the lower one-half of one percent (1/2 of 1%). The
25 rate so announced shall be the maximum rate permitted for the
26 term of loans made under this section during the following
27 calendar month when the parties to such loans have agreed that
28 the rate of interest to be charged by the lender and paid by the
29 borrower shall not vary or be adjusted during the term of the loan.
30 The parties to a loan made under this section may agree to a rate
31 of interest which shall vary or be adjusted during the term of the
32 loan in which case the maximum rate of interest permitted on such
33 loans during a month during the term of the loan shall be the rate
34 announced by the Commissioner in the preceding calendar month.
- 35 (3),(4) Repealed by Session Laws 1979, c. 138, s. 3.
- 36 (5) Nothing in this section shall be construed to authorize the charging
37 of interest on committed funds prior to the disbursement of said
38 funds.
- 39 (6) Notwithstanding the foregoing provisions of this section, on an
40 installment loan not exceeding twenty-five thousand dollars
41 (\$25,000) which is secured by a first lien on a residential
42 manufactured home, the parties may contract in writing for the
43 payment of interest as agreed upon by the parties; Provided,
44 however, that this paragraph shall only apply if the parties would

1 have been entitled to so contract by the provisions of section 501
2 of United States Public Law 96-221 and have complied with the
3 regulations promulgated thereunder. The borrower may prepay all
4 or any part of the loan without penalty.

5 For the purpose of this paragraph (6), a 'residential
6 manufactured home' means a mobile home as defined in G.S.
7 143-145(7) which is used as a dwelling.

8 (7) Any lender may charge a party to a loan or extension of credit
9 governed by this section a fee for the modification, renewal,
10 extension, or amendment of any terms of the loan or extension of
11 credit, such fee not to exceed the greater of one-quarter of one
12 percent (1/4 of 1%) of the balance outstanding at the time of the
13 modification, renewal, extension, or amendment of terms, or fifty
14 dollars (\$50.00).

15 (8) Any lender may charge a party to a loan or extension of credit not
16 secured by real property governed by this section an origination
17 fee not to exceed the greater of one-quarter of one percent (1/4 of
18 1%) of the outstanding balance or fifty dollars (\$50.00)."

19 Sec. 4. C.S. 24-1.2A reads as rewritten:

20 "§ 24-1.2A. Equity lines of credit.

21 (a) Notwithstanding any other provision of this Chapter, the parties to an equity
22 line of credit, as defined in G.S. 45-81, may contract in writing for interest at rates
23 which shall not exceed the maximum rates permitted under G.S. 24-1.2(2a); provided,
24 however, that the parties may contract for interest rates which shall be adjustable or
25 variable, so long as for adjustable or variable rate contracts the rate in effect for a
26 given period does not exceed the maximum rate permitted under G.S. 24-1.2(2a) for
27 the same period.

28 (b) Fees may be charged on equity lines of credit which in the aggregate, over the
29 life of the contract based on the maximum limit of the line of credit, do not exceed
30 those permitted under G.S. 24-10. Any lender may charge a party to a loan or
31 extension of credit governed by this section a fee for the modification, renewal,
32 extension, or amendment of any terms of the loan or extension of credit, such fee not
33 to exceed the greater of one-quarter of one percent (1/4 of 1%) of the balance
34 outstanding at the time of the modification, renewal, extension, or amendment of
35 terms, or fifty dollars (\$50.00)."

36 Sec. 5 G.S. 24-10 reads as rewritten:

37 "§ 24-10. Maximum fees on loans secured by real property.

38 (a) No lender on loans made under G.S. 24-1.1 shall charge or receive from any
39 borrower or any agent for a borrower, any fees or discounts unless otherwise allowed
40 where the principal amount is less than three hundred thousand dollars (\$300,000)
41 and is secured by real property, which fees or discounts in the aggregate shall exceed
42 two percent (2%) if a construction loan on other than a one or two family dwelling,
43 and one percent (1%) on any other type of loan; provided, however, if a single lender
44 makes both the construction loan and a permanent loan utilizing one note, the lender

1 may collect the fees as if they were two separate loans. Except as provided herein or
2 otherwise allowed, no party shall pay for the benefit of the lender any other fees or
3 discounts.

4 (b) Any loan made under G.S. 24-1.1 in an original principal amount of one
5 hundred thousand dollars (\$100,000.00) or less may be prepaid in part or in full, after
6 30 days notice to the lender, with a maximum prepayment fee of two percent (2%) of
7 the outstanding balance at any time within three years after the first payment of
8 principal and thereafter there shall be no prepayment fee, provided that there shall
9 be no prepayment fee charged or received in connection with any repayment of a
10 construction loan; and except as herein provided, any lender and any borrower may
11 agree on any terms as to prepayment of a loan.

12 (c) 'Construction loan' means a loan which is obtained for the purpose of
13 financing fully, or in part, the cost of constructing buildings or other improvements
14 upon real property and the proceeds of which, under the terms of a written contract
15 between a lender and a borrower, are to be disbursed periodically as such
16 construction work progresses; and such loan shall be payable in full not later than 18
17 months in case of a loan made under the provisions of G.S. 24-1.1(1) or 36 months in
18 case of any other construction loan made after the execution of the note by the
19 borrower. A construction loan may include advances for the purchase price of the
20 property upon which such improvements are to be constructed.

21 (d) (1) Any lender may charge to any person, ~~persons~~, firm or corporation
22 that assumes a loan, ~~made under the provisions of G.S. 24-1.1 and~~
23 ~~secured by real property, a fee not to exceed one hundred~~
24 ~~seventy-five dollars (\$175.00); provided, however, that if the~~
25 ~~original obligor is not released from liability on the obligation, the~~
26 ~~fee shall not exceed one hundred dollars (\$100.00); property, the~~
27 ~~following fee:~~

28 a. Where the mortgage or deed of trust contains a due on sale
29 clause, a fee not to exceed four hundred dollars (\$400.00);
30 provided, however, that if the original obligor is not released
31 from liability on the obligation, the fee shall not exceed one
32 hundred twenty-five dollars (\$125.00).

33 b. Where the mortgage or deed of trust does not contain a due
34 on sale clause, a fee not to exceed one hundred twenty-five
35 dollars (\$125.00).

36 The fees authorized by this subsection may be paid in whole or in part by any
37 party but the total shall not exceed the maximum fees set forth herein.

38 (2) For purposes of this subsection, the term 'due on sale clause'
39 means a contract provision that authorizes a lender to declare
40 immediately due and payable all sums secured by the lender's
41 security instrument if all or any part of the secured property, or an
42 interest therein, is sold or transferred without the lender's prior
43 written consent or contrary to the requirements of the mortgage or
44 the deed of trust. For purposes of this subsection, no lender shall

1 exercise its rights under the due on sale clause if prohibited by
2 federal law as of the date of execution of the contract containing
3 the clause.

4 (e), (f) Repealed by Session Laws 1985, c. 755, s. 2, effective July 15, 1985.

5 (g) Notwithstanding the limitations contained in subsection (a) of this section, a
6 lender described in G.S. 24-1.1A(a)(2) may charge or receive from any borrower or
7 any agent for a borrower, fees or discounts which in the aggregate do not exceed two
8 percent (2%) on loans made under G.S. 24-1.1 or G.S. 24-1.2(2) when such loans are
9 secured by a second or junior lien on real property. The fees or discounts are fully
10 earned when the loan is made and are not a prepayment penalty under this Chapter
11 or any other law of this State.

12 (h) A bank, savings and loan association, savings bank, or credit union, or any
13 subsidiary or affiliate thereof organized under the laws of this State or the United
14 States, may charge a party to a loan secured by real property a reasonable fee as may
15 be agreed upon by the parties for an appraisal performed by an employee of the
16 bank, savings and loan association, savings bank, or credit union, or any subsidiary or
17 affiliate thereof. Upon the request of the borrower, the lender shall provide at no
18 additional charge to the borrower a copy of any appraisal for which the lender has
19 collected a fee under this subsection. Provision of the copy of an appraisal shall not
20 be construed to create or imply any warranty which does not otherwise exist by the
21 lender as to the accuracy of the appraisal. A lender collecting a fee under this
22 subsection shall provide notice in writing to the borrower of the borrower's right to
23 select a qualified appraiser, acceptable to the lender, but not employed by or
24 affiliated with the lender."

25 Sec. 6. G.S. 24-11 reads as written:

26 **"§ 24-11. Certain revolving credit charges.**

27 (a) On the extension of credit under an open-end credit or similar plan (including
28 revolving credit card plans, and revolving charge accounts, but excluding any loan
29 made directly by a lender under a check loan, check credit or other such plan) under
30 which no service charge shall be imposed upon the consumer or debtor if the account
31 is paid in full within 25 days from the billing date, but upon which there may be
32 imposed an annual charge not to exceed ~~twenty~~ twenty-four dollars ~~(\$20.00)~~
33 (\$24.00), there may be charged and collected interest, finance charges or other fees at
34 a rate in the aggregate not to exceed one and one-half percent (1 1/2%) per month
35 computed on the unpaid portion of the balance of the previous month less payments
36 or credit within the billing cycle or the average daily balance outstanding during the
37 current billing period.

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

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

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

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

16 (d) The term 'billing date' shall mean any date selected by the creditor and the bill
17 for the balance of the account must be mailed to the customer at least 14 days prior
18 to the date specified in the statement as being the date by which payment of the new
19 balance must be made in order to avoid the imposition of any finance charge.

20 (d1) A lender may charge a party to a loan or extension of credit governed by this
21 section a late payment charge not to exceed five dollars (\$5.00) for any payment past
22 due for 30 days or more. If a late payment charge has been once imposed with
23 respect to a late payment, no late charge shall be imposed with respect to any future
24 payment which would have been timely and sufficient but for the previous default.

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

42 Sec. 7. G.S. 25A-14 reads as rewritten:
43 "§ 25A-14. Finance charge rates and service charge for revolving charge account
44 contracts.

- 1 (a) The finance-charge rate and either the annual charge or the monthly service
2 charge for a consumer credit sale made ~~pursuant to~~ under a revolving charge account
3 contract may not exceed the rates and charge provided for revolving credit by ~~G.S.~~
4 ~~24-11(a).~~ G.S. 24-11. ~~The annual fee provided in G.S. 24-11(a) may not be imposed.~~
5 (b) In the event the revolving charge account contract is secured in whole or in
6 part by a security interest in real property, then the finance-charge rate shall not
7 exceed the rate set out in G.S. 25A-15(d).
8 (c) No default or deferral charge shall be imposed by the seller in connection with
9 a revolving charge-account contract, except as specifically provided for in ~~G.S.~~
10 ~~24-11(a).~~ G.S. 24-11(d1)."
11 Sec. 8. This act becomes effective October 1, 1991.

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

H. B. No. 869

DATE May 23, 1991

S. B. No. _____

Amendment No. _____

(to be filled in by
Principal Clerk)

Rep.) _____
) _____
Sen.) _____

moves to amend the bill on page 4, line 31

by adding the following:

"(f) This section shall not be construed to limit fees on loans
or extensions of credit in excess of three hundred thousand dollars
(\$300,000)."

SIGNED *Johnson*

Comm.

Adopted by Com. on Banks 5/23/91

ADOPTED _____

FAILED _____

TABLED _____