

GENERAL ASSEMBLY OF NORTH CAROLINA
1991 SESSION

CHAPTER 602
SENATE BILL 34

AN ACT TO ABOLISH THE USE OF THE RULE OF 78S AS IT PERTAINS TO
INSTALLMENT LOANS SECURED BY REAL PROPERTY OR MOBILE
HOMES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 25A-2(a) reads as rewritten:

"(a) Except as provided in subsection (c) of this section, a 'consumer credit sale' is a sale of goods or services in which

- (1) The seller is one who in the ordinary course of business regularly extends or arranges for the extension of consumer credit, or offers to extend or arrange for the extension of such credit,
- (2) The buyer is a natural person,
- (3) The goods or services are purchased primarily for a personal, family, household or agricultural purpose,
- (4) Either the debt representing the price of the goods or services is payable in installments or a finance charge is imposed, and
- (5) The amount financed does not exceed twenty-five thousand dollars (\$25,000) or, in the case of a debt secured by real property or a manufactured home as defined in G.S. 143-145(7), regardless of the amount financed."

Sec. 2. Chapter 25A of the General Statutes is amended by adding the following new section to read:

"§ 25A-32.1. Unearned finance charge credits on prepayment of loans secured by real property and mobile home loans.

(a) Notwithstanding any statutory or contractual provision to the contrary, in a consumer credit installment sale contract with an amount financed of five thousand dollars (\$5000.00) or more secured by real estate or by a residential manufactured home as defined in G.S. 143-145(7), any buyer may satisfy the debt in full at any time before maturity, and in so satisfying the debt, shall be credited with all unearned finance charges as computed on the simple interest or actuarial method.

(b) If a seller obtains a judgment on a debt arising out of a consumer credit installment sale described in subsection (a) of this section, or if the seller forecloses or repossesses the collateral securing the debt, the seller shall credit the buyer with all unearned finance charges as computed on the simple interest or actuarial method as if the payment in full had been made on the date the judgment was obtained or 15 days after the foreclosure or repossession occurred, whichever is earlier. If the seller obtains

a judgment and repossesses the collateral, the seller shall credit the buyer with all unearned finance charges as if payment in full had been made on the date of the judgment or 15 days after the repossession, whichever occurs earlier."

Sec. 3. This act becomes effective July 1, 1991, and applies to contracts made on or after that date.

In the General Assembly read three times and ratified this the 9th day of July, 1991.

James C. Gardner
President of the Senate

Daniel Blue, Jr.
Speaker of the House of Representatives