

GENERAL ASSEMBLY OF NORTH CAROLINA

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HOUSE BILL 1075
Senate Commerce Committee Substitute Adopted 8/7/97
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Short Title: Appreciation of Reverse Mortgages.

(Public)

Sponsors:

Referred to:

April 21, 1997

1 A BILL TO BE ENTITLED
2 AN ACT TO PERMIT LENDERS TO CONTRACT FOR AND RECEIVE SHARED
3 APPRECIATION OR SHARED VALUE IN CERTAIN CIRCUMSTANCES.

4 The General Assembly of North Carolina enacts:

5 Section 1. G.S. 53-270 reads as rewritten:

6 **"§ 53-270. Prohibited acts.**

7 Reverse mortgage lenders are prohibited from engaging in any of the following acts in
8 connection with the making, servicing, or collecting of a reverse mortgage loan:

- 9 (1) Misrepresenting material facts, making false promises, or engaging in a
10 course of misrepresentation through agents or otherwise.
- 11 (2) Failing to disburse funds in accordance with the terms of the reverse
12 mortgage loan contract or other written commitment.
- 13 (3) Improperly refusing to issue a satisfaction of a mortgage.
- 14 (4) Engaging in any action or practice that is unfair or deceptive, or that
15 operates a fraud on any person.
- 16 (5) Contracting for or receiving shared ~~appreciation~~ appreciation or shared
17 value, except as provided in G.S. 53-270.1.

1 (6) Closing a reverse mortgage loan without receiving certification from a
2 ~~counselor person who is certified as a reverse mortgage counselor by the~~
3 State that the borrower has received counseling on the advisability of a
4 reverse mortgage loan and the ~~appropriate~~ various types of reverse
5 mortgage loan for the borrower. ~~loans and the availability of other~~
6 financial options and resources for the borrower, as well as potential tax
7 consequences.

8 (7) Failing to comply with this Article."

9 Section 2. Article 21 of Chapter 53 of the General Statutes is amended by
10 adding a new section to read:

11 "**§ 53-270.1. Contracts for shared appreciation or shared value.**

12 (a) A lender and a borrower may agree, in writing, that in addition to the principal
13 and any interest accruing on the outstanding balance of a reverse mortgage loan, the
14 lender may receive:

15 (1) Shared appreciation if it is in an amount not exceeding ten percent
16 (10%) of the increase in the value of the property from the date of
17 origination of the reverse mortgage loan to the date of loan repayment;

18 or

19 (2) Shared value if it is in an amount not exceeding ten percent (10%) of the
20 value of the property at the time of repayment of the reverse mortgage
21 loan; and

22 (3) The shared appreciation or shared value is paid in conjunction with a
23 loan that:

24 a. Is outstanding for 24 months or longer; and

25 b. Either (i) is guaranteed or insured by an agency of the federal
26 government, or (ii) has been originated under a reverse mortgage
27 program approved by the Federal National Mortgage
28 Association, the Government National Mortgage Association, or
29 the Federal Home Loan Mortgage Corporation, provided the loan
30 is sold to one of those agencies or enterprises within 90 days of
31 loan closing, or (iii) has been originated under a reverse
32 mortgage program of a person, firm, or corporation approved as
33 an authorized lender by the Commissioner; and

34 c. Provides that the borrower receives additional economic benefit
35 in exchange for paying the shared appreciation or shared value,
36 including, but not limited to, larger monthly payments or a larger
37 line of credit. The specific nature of the economic benefit shall
38 be provided to the Commissioner with the other information
39 about the reverse mortgage program required under G.S. 53-264
40 for dissemination to the reverse mortgage counselors; and

41 d. At least 14 days prior to closing, the borrower receives a
42 disclosure that explains the additional costs and benefits of
43 shared appreciation or shared value and compares those costs and

1 benefits with a comparable loan without shared appreciation or
2 shared value. These costs and benefits shall also be included in
3 the information required under G.S. 53-264.

4 (b) Under subdivisions (a)(1) and (2) of this section, in determining the value of
5 the property at the time of origination of the reverse mortgage loan and at the time of
6 repayment, if repayment is not in conjunction with the sale of the property, the lender and
7 the borrower shall have the right to obtain an appraisal from an appraiser licensed or
8 certified in accordance with G.S. 93E-1-6. If the appraisals differ, and the parties cannot
9 agree on a value, an average of the appraisals shall determine the value. If the borrower
10 does not desire an appraisal, the lender may obtain an appraisal, which shall be
11 controlling. Notwithstanding the foregoing, the parties may agree in writing to waive
12 these requirements and agree upon the value of the property.

13 (c) If repayment is made in conjunction with the sale of the property, the actual
14 and reasonable costs of sale shall be deducted from the value of the property prior to the
15 calculation of the amount of shared appreciation or shared value."

16 Section 3. G.S. 53-257(7) reads as rewritten:

17 "(7) Shared appreciation. – An agreement by the lender and the borrower
18 that, in addition to the principal and any interest accruing on the
19 outstanding balance of a reverse mortgage loan, the lender may collect
20 an additional amount equal to a percentage of any net appreciated value of
21 the property during the term of the reverse mortgage loan. the increase in the
22 value of the property from the date of origination of the loan to the date
23 of loan repayment.

24 (7a) Shared value. – An agreement by the lender and the borrower that, in
25 addition to the principal and any interest accruing on the outstanding
26 balance of a reverse mortgage loan, the lender may collect an additional
27 amount equal to a percentage of the value of the property at the time of
28 loan repayment."

29 Section 4. G.S. 53-264(a) is amended by adding a new subdivision to read:

30 "(8) Information relating to contracts for shared appreciation or shared value,
31 as required by G.S. 53-270.1."

32 Section 5. This act becomes effective October 1, 1998, and applies to contracts
33 for loans entered into on or after that date.