

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2019

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HOUSE BILL 718

Short Title: Fed. Insured Depository Inst./Interest Rates. (Public)

Sponsors: Representatives Howard, Bell, Carney, and Lucas (Primary Sponsors).  
*For a complete list of sponsors, refer to the North Carolina General Assembly web site.*

Referred to: Banking, if favorable, Rules, Calendar, and Operations of the House

April 15, 2019

1 A BILL TO BE ENTITLED  
2 AN ACT TO AMEND STATUTES ON INTEREST RATES TO USE THE TERM  
3 "FEDERALLY INSURED DEPOSITORY INSTITUTION" AND TO ESTABLISH  
4 EXPRESS AUTHORITY TO ENFORCE THOSE STATUTES.

5 The General Assembly of North Carolina enacts:

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

8 **"§ 24-1.05. "Federally insured depository institution" defined.**

9 In this Chapter, "federally insured depository institution" means an insured depository  
10 institution, as defined in 12 U.S.C. § 1813, or an insured credit union, as defined in 12 U.S.C. §  
11 1752. This term, however, does not include a subsidiary or affiliate of a federally insured  
12 depository institution that is not itself a federally insured depository institution.

13 **"§ 24-1.010. Enforcement authority.**

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

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

17 **"§ 24-1.1. Contract rates and fees.**

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

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

26 ...

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

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



1 the greater of one-quarter of one percent (1/4 of 1%) of the outstanding balance or fifty dollars  
2 (\$50.00).

3 ...."

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

5 "**§ 24-2.2. Interest on extensions of credit by ~~banks and savings and loan associations;~~**  
6 **federally insured depository institutions; exceptions.**

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

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

17 "**§ 24-11. Certain revolving credit charges.**

18 (a) On the extension of credit under an open-end credit or similar plan (including  
19 revolving credit card ~~plans, plans~~ and revolving charge accounts, but excluding any loan made  
20 directly by a lender under a check loan, check ~~credit-credit,~~ or other such plan) under which no  
21 service charge shall be imposed upon the consumer or debtor if the account is paid in full within  
22 25 days from the billing date, but upon which there may be imposed an annual charge not to  
23 exceed twenty-four dollars (\$24.00), there may be charged and collected interest, finance ~~charges~~  
24 ~~charges,~~ or other fees at a rate in the aggregate not to exceed one and one-half percent (11/2%)  
25 per month computed on the unpaid portion of the balance of the previous month less payments  
26 or credit within the billing cycle or the average daily balance outstanding during the current  
27 billing period.

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

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

34 (b) On revolving credit loans (including check loans, check ~~credit-credit,~~ or other  
35 revolving credit plans whereby a ~~bank, banking institution-federally insured depository~~  
36 ~~institution~~ or other lending agency makes direct loans to a borrower), if agreed to in writing by  
37 the borrower, ~~such the~~ lender may collect interest and service charges by application of a monthly  
38 periodic rate computed on the average daily balance outstanding during the billing period, ~~such~~  
39 ~~rate-not to exceed one and one-half percent (11/2%).~~

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

49 (d) ~~The In this section, the~~ term "billing date" ~~shall mean means~~ any date selected by the  
50 creditor and the bill for the balance of the account must be mailed to the customer at least 14

1 days prior to the date specified in the statement as being the date by which payment of the new  
2 balance must be made in order to avoid the imposition of any finance charge.

3 (d1) A lender may charge a party to a loan or extension of credit governed by this section  
4 a late payment charge not to exceed five dollars (\$5.00) on accounts having an outstanding  
5 balance of less than one hundred dollars (\$100.00) and ten dollars (\$10.00) on accounts having  
6 an outstanding balance of one hundred dollars (\$100.00) or more, for any payment past due for  
7 30 days or ~~more; provided, in more.~~ In no case shall the late charge exceed the outstanding  
8 principal balance. If a late payment charge has been once imposed with respect to a late payment,  
9 no late charge shall be imposed with respect to any future payment ~~which that~~ would have been  
10 timely and sufficient but for the previous default.

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

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