

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2025

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HOUSE PRINCIPAL CLERK

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HOUSE BILL DRH40710-NNf-68

Short Title: Home Equity Investment Loan Act.

(Public)

Sponsors: Representative Longest.

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO REGULATE HOME EQUITY INVESTMENT LOANS AS RESIDENTIAL
3 MORTGAGE LOANS, TO IMPOSE CERTAIN CONSUMER PROTECTIONS ON
4 THOSE LOANS, TO PROHIBIT CERTAIN MANDATORY ARBITRATION TERMS IN
5 COVERED MORTGAGE TRANSACTIONS, TO MAKE VIOLATIONS UNFAIR OR
6 DECEPTIVE ACTS OR PRACTICES, AND TO AUTHORIZE FEES TO IMPLEMENT
7 THIS ACT.

8 The General Assembly of North Carolina enacts:

9 SECTION 1. Chapter 53 of the General Statutes is amended by adding a new Article
10 to read:

11 "Article 21A.

12 "Home Equity Investment Loans.

13 "§ 53-274.1. Title.

14 This Article shall be known and may be cited as the "Home Equity Investment Loan Act."

15 "§ 53-274.2. Definitions.

16 The following definitions apply in this Article:

17 (1) Commissioner. – The Commissioner of Banks of this State.

18 (2) Company. – Any person that makes, brokers, purchases, or services a home
19 equity investment loan.

20 (3) Dwelling. – As defined in G.S. 53-244.030(9).

21 (4) Home equity investment loan or loan. – A transaction or arrangement,
22 including an option contract, futures contract, derivative, shared appreciation
23 agreement, shared value agreement, home equity sharing agreement, home
24 equity investment, equity investment option, or similar agreement, however
25 denominated, under which funds are advanced to or on behalf of a homeowner
26 and a person obtains a right to receive from or on behalf of the homeowner,
27 or from the proceeds of the dwelling or residential real estate, an amount
28 determined in whole or in part by reference to the value, equity, appreciation,
29 sale proceeds, or future value of a dwelling or of residential real estate upon
30 which a dwelling is constructed or intended to be constructed. The term
31 includes any transaction or arrangement described in this subdivision that is
32 secured by a mortgage, deed of trust, or other equivalent consensual security
33 interest in a dwelling located in this State or in residential real estate upon
34 which there is constructed or intended to be constructed a dwelling, and any
35 transaction or arrangement structured to evade the application of this Article.
36 The term does not include a transaction or arrangement made, insured,



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1 guaranteed, or administered by a federal, State, or local government agency,
2 a government-sponsored enterprise, or an agency or enterprise of a political
3 subdivision of this State.

4 (5) Homeowner. – A natural person who receives funds under a home equity
5 investment loan and who, at the time of application or closing, owns and
6 occupies, or intends to occupy, the dwelling securing the loan as the person's
7 principal dwelling.

8 (6) Residential real estate. – As defined in G.S. 53-244.030(31).

9 **"§ 53-274.3. Applicability; construction.**

10 (a) A home equity investment loan is a residential mortgage loan for purposes of this
11 Chapter and Chapters 24 and 45 of the General Statutes and is subject to all otherwise applicable
12 State residential mortgage laws, including licensing, collection, foreclosure, and usury laws.

13 (b) A home equity investment loan shall not be treated as a reverse mortgage transaction
14 for purposes of any exclusion, exception, or limitation under Chapter 24 or Chapter 45 of the
15 General Statutes unless the transaction independently satisfies Article 21 of this Chapter.

16 (c) Regardless of how a transaction is denominated, labeled, or structured, including as
17 an investment, option, sale of future appreciation, sale of an interest in equity, shared appreciation
18 agreement, shared value agreement, or similar arrangement, any transaction that in substance
19 meets the definition of a home equity investment loan under G.S. 53-274.2 is governed by this
20 Article.

21 **"§ 53-274.4. Licensing; home equity investment loan authorization and fees; purchasers**
22 **and assignees.**

23 (a) No person shall make, broker, or service a home equity investment loan with respect
24 to a dwelling located in this State unless the person is authorized to engage in the mortgage
25 business under Article 19B of this Chapter.

26 (b) A person authorized to engage in the mortgage business under Article 19B of this
27 Chapter shall not make a home equity investment loan on or after October 1, 2026, unless the
28 person is authorized by the Commissioner to make home equity investment loans under this
29 subsection. The Commissioner may accept applications and fees under this subsection before
30 October 1, 2026. An application for authorization shall be in writing, in the form prescribed by
31 the Commissioner, and accompanied by a nonrefundable fee of five hundred dollars (\$500.00).
32 Authorization under this subsection expires annually and may be renewed in the form prescribed
33 by the Commissioner upon payment of a renewal fee of two hundred fifty dollars (\$250.00).

34 (c) A purchaser or assignee of a home equity investment loan is subject to this Article to
35 the extent the purchaser or assignee owns, holds, services, collects, or enforces the loan. This
36 section does not require licensure under Article 19B of this Chapter or authorization under
37 subsection (b) of this section solely because a person purchases or acquires a home equity
38 investment loan, but a purchaser or assignee that services the loan or otherwise engages in the
39 mortgage business is subject to Article 19B of this Chapter.

40 (d) Notwithstanding any agreement to the contrary, a purchaser or assignee of a home
41 equity investment loan is subject to all affirmative claims, counterclaims, defenses, rights of
42 setoff, and rights of recoupment with respect to the loan that the homeowner may assert against
43 the company or any prior holder, servicer, or assignee of the loan.

44 **"§ 53-274.5. Required disclosures.**

45 (a) Within 10 business days after application, and in any event not less than 20 business
46 days before closing, a company shall provide to the homeowner all of the following and any
47 additional disclosures required by the Commissioner by rule:

48 (1) A statement that the transaction is a residential mortgage loan secured by the
49 homeowner's dwelling and that failure to pay may result in foreclosure or
50 forced sale of the dwelling.

51 (2) The amount of funds to be advanced to the homeowner.

- 1 (3) The maximum dollar amount, if any, that the homeowner may be required to
2 pay, and if there is no maximum dollar amount, a clear and conspicuous
3 statement that the amount due is not subject to a dollar cap.
4 (4) The term of the loan and each event that may trigger payment or acceleration.
5 (5) The method that will be used to determine the value of the dwelling at
6 origination and at payment.
7 (6) The specific value-based payment formula elected in the contract, the
8 contractual payment cap required by G.S. 53-274.9, and a statement that a
9 contract that exceeds, omits, or provides for value-based payment in a manner
10 not authorized by that section is void and unenforceable against the
11 homeowner.
12 (7) A statement that the company shall pay all closing costs, the actual and
13 reasonable fees and expenses of the attorney required by G.S. 53-274.6, and
14 the actual and reasonable fees and expenses of the housing counseling
15 required by G.S. 53-274.7.
16 (8) A description of the market-rate refinance option required by G.S. 53-274.11.
17 (9) Illustrative examples of the total amount due at payment assuming no
18 appreciation, moderate appreciation, and high appreciation of the dwelling, as
19 specified by the Commissioner by rule.
20 (10) The name, address, telephone number, and electronic mail address, if any, of
21 the company employee or agent designated to respond to inquiries concerning
22 the loan.

23 (b) The disclosures required by this section shall be clear and conspicuous and may not
24 be waived by the homeowner. The disclosures shall be provided in English and in each other
25 language in which the company, or a person acting on its behalf, advertises, solicits, negotiates,
26 or explains the transaction to the homeowner.

27 (c) The Commissioner may prescribe by rule forms for disclosures required by this
28 section. Until a form becomes effective, a company complies with this section by providing the
29 disclosures in a clear written document containing the information required by this section.

30 **"§ 53-274.6. Independent legal counsel.**

31 (a) A company shall not close a home equity investment loan unless the homeowner has
32 been represented in the transaction by an attorney licensed to practice law in this State who is
33 selected by the homeowner and who certifies in writing that the attorney has explained the
34 material terms and legal consequences of the transaction to the homeowner.

35 (b) The company shall pay the actual and reasonable fees and expenses of the attorney
36 required by this section and shall not directly or indirectly seek reimbursement from the
37 homeowner.

38 (c) A waiver of the requirements of this section is void.

39 **"§ 53-274.7. Housing counseling.**

40 (a) A company shall not close a home equity investment loan unless the homeowner has
41 received counseling from a housing counselor approved or designated by the Commissioner and
42 selected by the homeowner, and the company has received written certification from the
43 counselor that the homeowner has received counseling on the advisability of the home equity
44 investment loan, the material terms and payment triggers of the loan, the risk of foreclosure or
45 forced sale, the availability of other financial options and resources, and potential tax
46 consequences.

47 (b) The Commissioner may adopt rules establishing standards for housing counselor
48 approval, training, certification, and disclosures under this section. Until rules become effective,
49 the Commissioner may designate as approved counselors counselors whose names are
50 maintained on the Commissioner's list of approved reverse mortgage counselors under Article 21

1 of this Chapter or counselors employed by housing counseling agencies approved by the United
2 States Department of Housing and Urban Development.

3 (c) The company shall pay the actual and reasonable fees and expenses of counseling
4 required by this section and shall not directly or indirectly seek reimbursement from the
5 homeowner.

6 (d) A waiver of the requirements of this section is void.

7 **"§ 53-274.8. Closing costs.**

8 (a) The company shall pay all closing costs associated with a home equity investment
9 loan.

10 (b) No company shall directly or indirectly charge, collect, finance, capitalize, or include
11 in the amount due under a home equity investment loan any application fee, authorization fee or
12 renewal fee required by G.S. 53-274.4(b), origination fee, broker fee, appraisal fee, title fee,
13 settlement fee, recording fee, document preparation fee, underwriting fee, processing fee, notary
14 fee, courier fee, or similar cost.

15 (c) A contract term in violation of this section is void.

16 **"§ 53-274.9. Permitted value-based payment; contractual payment cap; valuation; void**
17 **terms.**

18 (a) A home equity investment loan may require payment determined in whole or in part
19 by reference to the value, equity, appreciation, sale proceeds, or future value of the dwelling or
20 residential real estate only as expressly authorized by this section.

21 (b) The total amount that may be required to be paid by or on behalf of a homeowner to
22 satisfy a home equity investment loan may not exceed the sum of all of the following:

23 (1) The total amount of funds actually advanced to or for the benefit of the
24 homeowner, excluding any amount the company is required to pay under this
25 Article.

26 (2) The total amount of property taxes, insurance premiums, assessments, and
27 other similar charges actually and reasonably advanced by the company to
28 protect the collateral and not reimbursed by the homeowner within 60 days
29 after the date of payment.

30 (3) Only one of the following amounts, if expressly elected in the contract:

31 a. Shared appreciation. – An amount not exceeding ten percent (10%) of
32 the increase in the value of the property from the date of origination of
33 the loan to the date of payment.

34 b. Shared value. – An amount not exceeding ten percent (10%) of the
35 value of the property at the time of payment.

36 (c) No amount described in subdivision (3) of subsection (b) of this section is due,
37 collectible, or enforceable unless the home equity investment loan has been outstanding for at
38 least 24 months. This subsection does not prohibit a homeowner from satisfying the loan before
39 that period by paying the amounts described in subdivisions (1) and (2) of subsection (b) of this
40 section.

41 (d) A contract term that calculates or requires payment by reference to the value, equity,
42 appreciation, sale proceeds, or future value of the dwelling or residential real estate in any manner
43 not expressly authorized by this section is void and unenforceable.

44 (e) No company shall contract for, receive, collect, or attempt to collect from or on behalf
45 of the homeowner any amount, however denominated, except as expressly authorized by this
46 section.

47 (f) For purposes of this section, the value of the property at origination shall be the fair
48 market value of the property, as determined by an appraisal performed by an appraiser licensed
49 or certified under Chapter 93E of the General Statutes. The company shall not apply any discount,
50 risk adjustment, or other reduction to the appraised fair market value. The company shall provide
51 a copy of the appraisal to the homeowner not less than 20 business days before closing. If

1 payment is not made in conjunction with a bona fide arm's-length sale of the property, the value
2 of the property at the time of payment shall be the fair market value of the property, as determined
3 by an appraisal performed by an appraiser licensed or certified under Chapter 93E of the General
4 Statutes. If the parties are unable to agree on a single appraiser within 30 days after written
5 demand for payment, each party may obtain an appraisal, and the value of the property shall be
6 the average of the appraisals. If the homeowner does not obtain an appraisal within 30 days after
7 the company provides the homeowner a copy of the company's appraisal, the company may rely
8 on its appraisal.

9 (g) If payment is made in conjunction with a bona fide arm's-length sale of the property,
10 the value of the property at the time of payment is the sale price, less the actual and reasonable
11 costs of sale.

12 (h) Nothing in this section shall be construed to limit the application of Chapter 24 of the
13 General Statutes to a home equity investment loan or to prevent any amount required to be paid
14 by or on behalf of a homeowner under a home equity investment loan from being treated as
15 interest, charges, or consideration for the use or forbearance of money. Any amount required to
16 be paid by or on behalf of a homeowner under a home equity investment loan in excess of the
17 amounts authorized by this section shall be treated as interest, charges, or consideration for the
18 use or forbearance of money for purposes of Chapter 24 of the General Statutes.

19 (i) A home equity investment loan contract that exceeds the payment cap required by
20 this section, omits the applicable cap, or provides for value-based payment in a manner not
21 expressly authorized by this section is void and unenforceable against the homeowner.

22 **"§ 53-274.10. Homeowner protections.**

23 (a) Prepayment of a home equity investment loan, in whole or in part, shall be permitted
24 without penalty at any time during the term of the loan.

25 (b) The company's sole remedy after the loan becomes due is to enforce the debt through
26 the property securing the loan, and the company shall not obtain a deficiency judgment against
27 the homeowner.

28 (c) A home equity investment loan contract may not waive or disclaim any protection
29 provided to the homeowner by this Article.

30 **"§ 53-274.11. Payment; refinance option; foreclosure.**

31 (a) A home equity investment loan contract may provide that the loan becomes due only
32 upon one or more of the following:

33 (1) The scheduled maturity date of the loan.

34 (2) The homeowner sells or otherwise voluntarily conveys title to the dwelling.

35 (3) The homeowner fails to pay property taxes, insurance premiums, or
36 assessments affecting the dwelling and does not cure the failure within 90 days
37 after written notice from the company.

38 (4) The homeowner commits waste that materially impairs the security for the
39 loan and fails to cure the impairment within 90 days after written notice from
40 the company.

41 (5) The homeowner dies and the dwelling is no longer occupied as a principal
42 dwelling by any person who is a surviving joint owner, surviving spouse, heir,
43 devisee, or other successor in interest and who holds or succeeds to an
44 ownership interest in the dwelling and remains bound by the security
45 instrument.

46 (b) If a home equity investment loan becomes due and the homeowner notifies the
47 company then entitled to collect or enforce the loan that the homeowner cannot pay without
48 selling the dwelling, the company shall, directly or through a person authorized to engage in the
49 mortgage business under Article 19B of this Chapter and before initiating foreclosure or
50 otherwise enforcing the security instrument, offer the homeowner a market-rate refinance under
51 all of the following:

- 1 (1) Converts the amount due into a closed-end residential mortgage loan.
- 2 (2) Provides a fixed interest rate not exceeding the average prime offer rate for a
3 comparable transaction, as published by the Consumer Financial Protection
4 Bureau or its successor, on the date of the offer.
- 5 (3) Requires substantially equal monthly payments of principal and interest over
6 a term of not less than 120 months.
- 7 (4) Does not require points, origination fees, or a prepayment penalty.

8 (c) When a homeowner's obligation to pay a home equity investment loan is triggered
9 under subsection (a) of this section, in addition to any other notice required by Chapter 45 of the
10 General Statutes, the company shall give the homeowner not less than 90 days' written notice
11 and an opportunity to cure before commencing foreclosure or otherwise enforcing the debt.

12 **"§ 53-274.12. Annual statement and account history.**

13 Within 60 days after the end of each calendar year and when the loan becomes due, the
14 company shall issue to the homeowner a written statement regarding the activity of the loan for
15 the preceding calendar year, or for the period since the last statement was provided. The statement
16 shall include all of the following:

- 17 (1) The amount advanced to the homeowner during the statement period and
18 cumulatively.
- 19 (2) Any taxes, insurance premiums, assessments, or similar protective advances
20 paid by the company during the statement period and cumulatively.
- 21 (3) Any amounts paid by or on behalf of the homeowner during the statement
22 period and cumulatively.
- 23 (4) The current amount that would be due if the loan were paid on the date of the
24 statement without a sale, calculated in accordance with G.S. 53-274.9.
- 25 (5) The method most recently used to determine the value of the dwelling for
26 purposes of the loan.
- 27 (6) The name, address, telephone number, and electronic mail address, if any, of
28 the company employee or agent designated to respond to inquiries concerning
29 the loan.

30 **"§ 53-274.13. Company default.**

31 (a) A company's failure to advance funds to or on behalf of the homeowner, pay an
32 amount the company is required to pay to or for the benefit of the homeowner under this Article,
33 or otherwise perform a material funding obligation under a home equity investment loan contract
34 or written commitment is a default by the company.

35 (b) Upon default by the company, the company forfeits any right to collect an amount
36 described in G.S. 53-274.9(b)(3), interest, fees, charges, or any other amount in excess of the
37 funds actually advanced to or for the benefit of the homeowner, excluding any amount the
38 company is required to pay under this Article, and any protective advances described in
39 G.S. 53-274.9(b)(2). The company's right to recover when the loan becomes due is limited to
40 those amounts, less all amounts paid by or on behalf of the homeowner.

41 (c) Subsection (b) of this section does not apply if the company cures the default within
42 the time stated in the home equity investment loan contract or written commitment or within 30
43 days after receiving written notice from the homeowner that the advance, payment, or other
44 performance was not made, whichever is later.

45 (d) The remedies in this section are in addition to any other remedy available under this
46 Article or other law.

47 **"§ 53-274.14. Prohibited acts.**

48 (a) A company shall not engage in any of the following acts in connection with the
49 making, brokering, purchasing, servicing, collecting, or enforcing of a home equity investment
50 loan:

- 1 (1) Misrepresenting material facts, making false promises, or engaging in a course
 2 of misrepresentation through agents or otherwise.
 3 (2) Failing to provide disclosures in accordance with this Article.
 4 (3) Closing a loan without receiving each certification required by G.S. 53-274.6
 5 and G.S. 53-274.7.
 6 (4) Improperly refusing to issue a satisfaction of the security instrument.
 7 (5) Failing, within 10 business days after written request from the homeowner or
 8 the holder or servicer of an existing loan secured by a first lien on the dwelling,
 9 to execute and deliver in recordable form, without charge to the homeowner,
 10 a subordination agreement subordinating the home equity investment loan and
 11 any security instrument or other recorded instrument securing, evidencing, or
 12 making enforceable the home equity investment loan to any refinancing or
 13 modification of that existing first lien loan.
 14 (6) Contracting for or enforcing a provision that prohibits, limits, or penalizes a
 15 homeowner's disclosure to any person of the existence, terms, cost, risks, or
 16 performance of a home equity investment loan.
 17 (7) Contracting for, receiving, collecting, or attempting to collect any amount
 18 prohibited by G.S. 53-274.8 or G.S. 53-274.9.
 19 (8) Failing to offer the market-rate refinance option required by G.S. 53-274.11.
 20 (9) Defaulting under G.S. 53-274.13 and failing to cure the default within the time
 21 allowed by that section.
 22 (10) Failing to comply with this Article.

23 (b) A provision described in subdivision (6) of subsection (a) of this section is void and
 24 unenforceable against the homeowner.

25 **"§ 53-274.15. Rules.**

26 The Commissioner may adopt rules necessary to implement and enforce this Article.

27 **"§ 53-274.16. Enforcement and civil remedies.**

28 (a) In addition to any authority under Article 19B of this Chapter, the Commissioner
 29 may, after notice and opportunity for hearing, order a company to cease and desist from
 30 violating this Article or any rule adopted under this Article and may impose a civil penalty of
 31 not more than five thousand dollars (\$5,000) for each violation. For purposes of this subsection,
 32 each loan transaction and each failure to provide a disclosure, notice, certification, cure
 33 opportunity, or satisfaction required by this Article constitutes a separate violation.

34 (b) Upon a finding that a company has violated this Article, the Commissioner may
 35 suspend or revoke any license held by the company under Article 19B of this Chapter to the
 36 extent permitted by law.

37 (c) A violation of this Article is an unfair or deceptive act or practice in or affecting
 38 commerce under G.S. 75-1.1."

39 **SECTION 2.** G.S. 53-244.030(30) reads as rewritten:

40 "(30) Residential mortgage loan. – Any loan or obligation made or represented to
 41 be made to one or more individuals primarily for personal, family, or
 42 household use that is secured by a mortgage, deed of trust, or other equivalent
 43 consensual security interest on a dwelling located within this State or
 44 residential real estate upon which is constructed or intended to be constructed
 45 a dwelling. This term includes reverse mortgage loans under Article 21 of this
 46 ~~Chapter~~ Chapter, home equity investment loans under Article 21A of this
 47 Chapter, and contracts for deed under Chapter 47H of the General Statutes."

48 **SECTION 3.** G.S. 53-244.118(a) reads as rewritten:

49 "(a) The Commissioner may adopt any rules that the Commissioner deems necessary to
 50 carry out the provisions of this Article, to provide for the protection of the borrowing public, to
 51 prohibit unfair or deceptive practices, to instruct licensees or registrants in interpreting this

1 Article, and to implement and interpret the provisions of G.S. 24-1.1E, 24-1.1F, ~~and 24-10.2~~
2 ~~24-10.2, and 24-10.3~~ as they apply to licensees and registrants under this Article. "

3 **SECTION 4.(a)** G.S. 24-9(c) reads as rewritten:

4 "(c) The provisions of G.S. 24-1.2A, 24-11, and 24-11.1 shall not apply to equity lines of
5 credit offered by banks. Except as provided in this subsection and notwithstanding any other
6 provision of this Chapter or any other provision of State law, any bank may charge and collect
7 from any borrower interest at any rate and fees and other charges in any amount that the borrower
8 agrees to pay in connection with an equity line of credit. However, an equity line of credit made
9 by a bank shall be subject to the following, to the extent otherwise applicable:

10 (1) The provisions of G.S. 24-1.1E (relating to restrictions and limitations on
11 high-cost home loans).

12 (2) The provisions of G.S. 24-10.2 (relating to consumer protections in certain
13 home loans).

14 (2a) The provisions of G.S. 24-10.3 (relating to certain mandatory arbitration
15 provisions prohibited in covered mortgage transactions).

16 (3) Notwithstanding the limitation against prepayment penalties contained in
17 G.S. 45-82.4, a bank may charge and collect prepayment fees or penalties
18 following the borrower's voluntary exercise of a right or option to repay all or
19 any portion of the outstanding balance of a variable interest rate equity line of
20 credit at a fixed interest rate over a specified period of time, subject to the
21 following limitations:

22 a. Prepayment fees or penalties may be charged only with respect to the
23 prepayment of that portion of the outstanding balance the borrower
24 voluntarily agrees to repay at a fixed interest rate over a specified time;

25 b. No prepayment fees or penalties may be charged for prepayments
26 made more than 30 months after the borrower voluntarily exercises the
27 right or option to repay that portion of the outstanding balance of the
28 equity line of credit at a fixed interest rate over a specified period of
29 time; and

30 c. The prepayment fees or penalties charged with respect to that portion
31 of the outstanding balance to be repaid at a fixed rate over a specified
32 period of time may not exceed, in the aggregate, more than two percent
33 (2%) of the amount prepaid.

34 Otherwise, no prepayment fees or penalties may be charged or collected by
35 the bank with respect to an equity line of credit."

36 **SECTION 4.(b)** G.S. 24-9 is amended by adding a new subsection to read:

37 "(e) This section does not apply to a home equity investment loan under Article 21A of
38 Chapter 53 of the General Statutes."

39 **SECTION 5.** G.S. 24-10.2(a) reads as rewritten:

40 "(a) For purposes of this section, the term "consumer home loan" means a loan, including
41 an open-end credit plan but excluding a reverse mortgage transaction, in which (i) the borrower
42 is a natural person, (ii) the debt is incurred by the borrower primarily for personal, family, or
43 household purposes, and (iii) the loan is secured by a mortgage or deed of trust upon real estate
44 upon which there is located or there is to be located a structure or structures designed principally
45 for occupancy of from one to four families which is or will be occupied by the borrower as the
46 borrower's principal dwelling. The term also includes a home equity investment loan under
47 Article 21A of Chapter 53 of the General Statutes."

48 **SECTION 6.** Chapter 24 of the General Statutes is amended by adding a new section
49 to read:

50 "§ 24-10.3. Certain mandatory arbitration provisions prohibited in covered mortgage
51 transactions.

1 (a) The following definitions apply in this section:

2 (1) Borrower. – A natural person obligated or applying to become obligated on a
3 covered mortgage transaction.

4 (2) Covered mortgage transaction. – Any of the following:

5 a. A residential mortgage loan, as defined in G.S. 53-244.030(30),
6 including a contract for deed under Chapter 47H of the General
7 Statutes.

8 b. An extension of credit under an open-end consumer credit plan
9 secured by the principal dwelling of the borrower.

10 (b) To the extent prohibited by 15 U.S.C. § 1639c(e), as amended, 12 C.F.R. §
11 1026.36(h), as amended, or any successor provision, no covered mortgage transaction and no
12 contract or other agreement relating to a covered mortgage transaction may include terms that
13 require arbitration or any other nonjudicial procedure as the method for resolving any controversy
14 or settling any claims arising out of the transaction.

15 (c) This section does not prohibit a borrower and a creditor, company, lender, holder,
16 assignee, or servicer from agreeing, after a dispute or claim arises, to arbitration or another
17 nonjudicial procedure to resolve that dispute or claim.

18 (d) To the extent prohibited by 15 U.S.C. § 1639c(e), as amended, 12 C.F.R. §
19 1026.36(h), as amended, or any successor provision, no covered mortgage transaction and no
20 contract or other agreement relating to a covered mortgage transaction may be applied or
21 interpreted so as to bar a borrower from bringing an action in any court of competent jurisdiction
22 pursuant to State or federal law for damages or other relief in connection with an alleged violation
23 of law.

24 (e) A term included in violation of this section is void and unenforceable.

25 (f) This section shall be construed consistent with 15 U.S.C. § 1639c(e), 12 C.F.R. §
26 1026.36(h), and any successor provision.

27 (g) A violation of this section is an unfair or deceptive act or practice in or affecting
28 commerce under G.S. 75-1.1."

29 **SECTION 7.** G.S. 45-101(1b) reads as rewritten:

30 "(1b) Home loan. – Any of the following:

31 a. A loan that has all of the following characteristics:

32 a. 1. The loan is not (i) an equity line of credit as defined in
33 G.S. 24-9, (ii) a construction loan as defined in G.S. 24-10, (iii)
34 a reverse mortgage transaction, or (iv) a bridge loan with a term
35 of 12 months or less, such as a loan to purchase a new dwelling
36 where the borrower plans to sell a current dwelling within 12
37 months.

38 b. 2. The borrower is a natural person.

39 c. 3. The debt is incurred by the borrower primarily for personal,
40 family, or household purposes.

41 d. 4. The principal amount of the loan does not exceed the
42 conforming loan size limit for a single-family dwelling as
43 established from time to time by Fannie Mae.

44 e. 5. The loan is secured by (i) a security interest in a manufactured
45 home, as defined in G.S. 143-145, in the State which is or will
46 be occupied by the borrower as the borrower's principal
47 dwelling, (ii) a mortgage or deed of trust on real property in the
48 State upon which there is located an existing structure designed
49 principally for occupancy of from one to four families that is
50 or will be occupied by the borrower as the borrower's principal
51 dwelling, or (iii) a mortgage or deed of trust on real property

1 in the State upon which there is to be constructed using the loan
 2 proceeds a structure or structures designed principally for
 3 occupancy of from one to four families which, when
 4 completed, will be occupied by the borrower as the borrower's
 5 principal dwelling.

6 ~~§ 6.~~ A purpose of the loan is to (i) purchase the dwelling, (ii)
 7 construct, repair, rehabilitate, remodel, or improve the
 8 dwelling or the real property on which it is located, (iii) satisfy
 9 and replace an existing obligation secured by the same real
 10 property, or (iv) consolidate existing consumer debts into a
 11 new home loan.

12 b. A home equity investment loan under Article 21A of Chapter 53 of the
 13 General Statutes secured by the borrower's principal dwelling."

14 **SECTION 8.** Until rules adopted under G.S. 53-274.15 specifying the examples
 15 required by G.S. 53-274.5(a)(9), as enacted by Section 1 of this act, become effective, a company
 16 complies with G.S. 53-274.5(a)(9) by providing examples of the total amount due at payment
 17 assuming (i) no appreciation, (ii) annual appreciation of three percent (3%), and (iii) annual
 18 appreciation of six percent (6%).

19 **SECTION 9.(a)** G.S. 53-274.4(b) and G.S. 53-274.15, as enacted by Section 1 of this
 20 act, are effective when this act becomes law.

21 **SECTION 9.(b)** Section 2 of this act, Section 3 of this act, Section 4(a) of this act,
 22 and Section 6 of this act become effective October 1, 2026. Section 2 of this act applies to home
 23 equity investment loans and contracts for deed entered into on or after that date. Section 4(a) of
 24 this act applies to equity lines of credit entered into on or after that date. Section 6 of this act
 25 applies to covered mortgage transactions entered into, and to contracts or other agreements
 26 relating to covered mortgage transactions executed, on or after that date.

27 **SECTION 9.(c)** The remainder of Section 1 of this act, Section 4(b) of this act, and
 28 Sections 5, 7, and 8 of this act become effective October 1, 2026, and apply to home equity
 29 investment loan applications made on or after that date.

30 **SECTION 9.(d)** The remainder of this act is effective when it becomes law.