

§ 53-166. Scope of Article; evasions; penalties; loans in violation of Article void.

(a) Scope. – No person shall engage in the business of lending or servicing a loan in an amount of twenty-five thousand dollars (\$25,000) or less and contract for, exact, or receive, directly or indirectly, on or in connection with the loan, any charges whether for interest, compensation, consideration, or expense, or any other purpose whatsoever, that in the aggregate are greater than permitted by Chapter 24 of the General Statutes, except as provided in and authorized by this Article, and without first having obtained a license from the Commissioner. The word "lending" as used in this section, includes, but is not limited to, endorsing or otherwise securing loans or contracts for the repayment of loans.

(b) Evasions. – Subsection (a) of this section applies to any person that seeks to avoid its application by any device, subterfuge, or pretense whatsoever. Devices, subterfuges, and pretenses include any transaction in which a cash rebate or other advance of funds is offered and all of the following apply:

- (1) The cash rebate or other advance of funds is made contemporaneously with the transaction or soon thereafter.
- (2) The amount of the cash rebate or other advance of funds is required to be repaid at a later date.
- (3) The selling or providing of any item, service, or commodity with the transaction is incidental to, or a pretext for, the advance of funds.

(c) Penalties; Commissioner to Provide Facts and Testify. – Any person not exempt from this Article, or any officer, agent, employee, or representative thereof, that fails to comply with or that otherwise violates any of the provisions of this Article is guilty of a Class 1 misdemeanor. Each violation is a separate offense. The Commissioner shall provide the district attorney of the court having jurisdiction of any offense under this subsection with all facts and evidence in the Commissioner's actual or constructive possession and shall testify as to these facts upon the trial of any person for the offense.

(d) Additional Penalties. – Any contract of loan, the making, servicing, or collecting of which violates any provision of this Article, or rule adopted under it, except as a result of accidental or bona fide error of computation is void, and the licensee or any other party in violation shall not collect, receive, or retain any principal or charges whatsoever with respect to the loan. If an affiliate operating in the same office or subsidiary operating in the same office of a licensee makes a loan in violation of G.S. 53-180(i), the affiliate or subsidiary may recover only its principal on the loan. (1955, c. 1279; 1957, c. 1429, s. 8; 1961, c. 1053, s. 1; 1969, c. 1303, ss. 13, 14; 1973, c. 47, s. 2; c. 1042, s. 1; 1979, c. 33, s. 1; 1985, c. 154, ss. 6, 13; 1987, c. 444, s. 3; 1989, c. 17, ss. 1, 13; 1989 (Reg. Sess., 1990), c. 881, s. 1; 1993, c. 539, s. 425; 1994, Ex. Sess., c. 24, s. 14(c); 2006-243, s. 2; 2013-162, s. 1; 2021-84, s. 1; 2023-61, s. 1.)