

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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HOUSE BILL 1075  
Senate Commerce Committee Substitute Adopted 8/7/97

Short Title: Appreciation of Reverse Mortgages.

(Public)

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Sponsors:

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Referred to:

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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.
- 18 (6) Closing a reverse mortgage loan without receiving certification from a  
19 counselor person who is certified as a reverse mortgage counselor by the

1           State that the borrower has received counseling on the advisability of a  
2           reverse mortgage loan and the ~~appropriate~~ ~~various types of reverse~~  
3           mortgage loan for the borrower, ~~loans~~ and the availability of other  
4           financial options and resources for the borrower, as well as potential tax  
5           consequences.

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

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

9           "**§ 53-270.1. Contracts for shared appreciation or shared value.**

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

13           (1) Shared appreciation if it is in an amount not exceeding ten percent  
14 (10%) of the increase in the value of the property from the date of  
15 origination of the reverse mortgage loan to the date of loan repayment;

16           or

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

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

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

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

32           (4) The borrower receives additional economic benefit in exchange for  
33 paying the shared appreciation or shared value, including, but not  
34 limited to, larger monthly payments or a larger line of credit.

35          (b) In determining the value of the property at the time of origination of the  
36 reverse mortgage loan and at the time of repayment, if repayment is not in conjunction  
37 with the sale of the property, under subdivisions (a)(1) and (2) of this section, the lender  
38 and the borrower shall have the right to obtain an appraisal from an appraiser licensed or  
39 certified in accordance with G.S. 93E-1-6. If the appraisals differ, and the parties cannot  
40 agree on a value, an average of the appraisals shall determine the value. If the borrower  
41 does not desire an appraisal, the lender may obtain an appraisal, which shall be  
42 controlling. Notwithstanding the foregoing, the parties may agree in writing to waive  
43 these requirements and agree upon the value of the property.

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

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

5           "(7) Shared appreciation. – An agreement by the lender and the borrower  
6 that, in addition to the principal and any interest accruing on the  
7 outstanding balance of a reverse mortgage loan, the lender may collect  
8 an additional amount equal to a percentage of any net appreciated value of  
9 the property during the term of the reverse mortgage loan. the increase in the  
10 value of the property from the date of origination of the loan to the date  
11 of loan repayment.

12           (7a) Shared value. – An agreement by the lender and the borrower that, in  
13 addition to the principal and any interest accruing on the outstanding  
14 balance of a reverse mortgage loan, the lender may collect an additional  
15 amount equal to a percentage of the value of the property at the time of  
16 loan repayment."

17           Section 4. This act becomes effective October 1, 1997, and applies to contracts  
18 for loans entered into on or after that date.