

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021

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HOUSE BILL 685

Short Title: Electronic Transaction Fees/Official Fees. (Public)

Sponsors: Representatives Strickland, K. Hall, Szoka, and D. Hall (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 27, 2021

1 A BILL TO BE ENTITLED
2 AN ACT TO AMEND THE CONSUMER FINANCE ACT TO ALLOW THE RECOVERY OF
3 ELECTRONIC TRANSACTION FEES IMPOSED BY THIRD PARTIES AND TO
4 AMEND THE RETAIL INSTALLMENT SALES ACT TO CLARIFY THE DEFINITION
5 OF OFFICIAL FEES.

6 The General Assembly of North Carolina enacts:

7 **SECTION 1.(a)** Article 15 of Chapter 53 of the General Statutes is amended by
8 adding a new section to read:

9 "**§ 53-177.1. Electronic transaction fees.**

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

11 (1) Affiliate. – In relation to a licensee, an entity that directly or indirectly
12 controls, is controlled by, or is under joint control with the licensee.

13 (2) Control. – Any of the following:

14 a. Own, directly or indirectly, at least fifty percent (50%) of the capital
15 of an entity.

16 b. Have the power to direct or cause the direction of the management of
17 and set the policies of an entity.

18 (b) In addition to the recovery of other costs allowed under this Article, a licensee may
19 collect from a borrower an amount not to exceed the actual cost of any fees charged by a
20 non-affiliate third party for the following transactions:

21 (1) Online debit card payments to the borrower's account.

22 (2) In-person debit card payments to the borrower's account.

23 (3) Automated clearinghouse transaction payments to the borrower's account.

24 (4) Disbursement of loan proceeds via automated clearinghouse transactions.

25 (5) Disbursement of loan proceeds via prepaid debit cards or stored value cards.

26 (6) Disbursement of loan proceeds via electronic payments to the borrower's
27 account at a financial institution or financial services company.

28 (c) A licensee shall make available to borrowers at least one type of transaction for an
29 account payment and at least one type of transaction for a disbursement of loan proceeds in which
30 it will not seek to recover the cost of third-party fees associated with the transaction.

31 (d) A licensee shall publish on its website and publicly display at all its retail locations a
32 disclosure on whether a borrower will be charged for any third-party fees with regard to each
33 available type of transaction for account payments and disbursements of loan proceeds. A
34 licensee shall also provide this information as a separate disclosure to a borrower when the
35 borrower establishes a loan account with the licensee.



1 (e) Nothing in this section prohibits a borrower from directly paying transaction-based
2 fees to a non-affiliate third party for account payments and disbursements of loan proceeds."

3 **SECTION 1.(b)** The disclosure requirement in G.S. 53-177.1(d), as enacted by this
4 section, becomes effective January 1, 2022. The remainder of this section becomes effective
5 October 1, 2021, and applies to transactions occurring on or after that date.

6 **SECTION 2.(a)** G.S. 25A-10 reads as rewritten:

7 "**§ 25A-10. "Official fees" defined.**

8 "Official fees" ~~means:~~means any of the following:

- 9 (1) Fees and charges prescribed by law ~~which that~~ actually are or will be paid to
10 ~~public officials by the seller~~ for determining the existence of or for perfecting,
11 releasing, or satisfying a security interest related to a consumer credit sale;
12 ~~or sale.~~
- 13 (2) Premiums payable for insurance in lieu of perfecting a security interest
14 otherwise required by the seller in connection with a consumer credit sale if
15 the premium does not exceed the fees or charges described in subdivision (1)
16 of this section ~~which that~~ would otherwise be payable."

17 **SECTION 2.(b)** G.S. 25A-15 reads as rewritten:

18 "**§ 25A-15. Finance charge rates for consumer credit installment sale contracts.**

19 (a) With respect to a consumer credit installment sale contract, a seller may contract for
20 and receive a finance charge not exceeding that permitted by this section. For the purposes of
21 this section, the finance charge rates are the rates that are required to be disclosed by the
22 Consumer Credit Protection Act.Act, except that official fees under G.S. 25A-10 shall be (i)
23 included in the amount financed to the extent payment is deferred by the seller and (ii) excluded
24 from the finance charge.

25 (b) Except as ~~hereinafter provided,~~ provided in this section, the finance charge rate
26 imposed for a consumer credit installment sales sale contract may shall not exceed:exceed the
27 following rate except that a minimum finance charge of five dollars (\$5.00) may be imposed:

- 28 (1) Twenty-four percent (24%) per annum where the amount financed is less than
29 one thousand five hundred dollars ~~(\$1,500);~~(\$1,500).
- 30 (2) Twenty-two percent (22%) per annum where the amount financed is one
31 thousand five hundred dollars (\$1,500) or greater, but less than two thousand
32 dollars ~~(\$2,000);~~(\$2,000).
- 33 (3) Twenty percent (20%) where the amount financed is two thousand (\$2,000)
34 or greater, but less than three thousand dollars ~~(\$3,000);~~(\$3,000).
- 35 (4) Eighteen percent (18%) per annum where the amount financed is three
36 thousand dollars (\$3,000) or ~~greater;~~greater.
- 37 ~~except that a minimum finance charge of five dollars (\$5.00) may be imposed.~~

38 (c) A finance charge rate not to exceed the higher of the rate established in subsection (b)
39 of this section or the rate set forth below may be imposed in a consumer credit installment sale
40 contract repayable in not less than six installments for a self-propelled motor vehicle:

- 41 (1) Eighteen percent (18%) per annum for vehicles one and two model years
42 ~~old;~~old.
- 43 (2) Twenty percent (20%) per annum for vehicles three model years ~~old;~~old.
- 44 (3) Twenty-two percent (22%) per annum for vehicles four model years ~~old;~~
45 ~~and~~old.
- 46 (4) Twenty-nine percent (29%) per annum for vehicles five model years old and
47 older.

48 A motor vehicle is one model year old on January 1 of the year following the designated year
49 model of the vehicle.

50 (d) Notwithstanding ~~the provisions of~~ subsections (b) and ~~(c), above,~~ (c) of this section,
51 in the event that the amount financed in a consumer credit sale contract is secured in whole or in

1 part by a security interest in real property, the finance charge rate ~~may~~shall not exceed sixteen
2 percent (16%) per annum.

3 (e) A seller ~~may~~shall not divide a single credit sale transaction into two or more sales to
4 avoid the limitations as to maximum finance charges imposed by this section.

5 (f) Notwithstanding ~~the provisions of subsections (b) or (d), and (d) of this section,~~ the
6 parties to a consumer credit installment sale contract for the sale of a residential manufactured
7 home ~~which~~that is secured by a first lien on that home or on the land on which ~~such~~the home is
8 located may contract in writing for the payment of a finance charge as agreed upon by the parties.
9 ~~Provided, this subsection shall only apply.~~This subsection only applies if the parties ~~would have~~
10 ~~been~~are entitled to so contract by ~~the provisions of section~~Section 501 of United States Public
11 Law 96-221, and have complied with the regulations ~~promulgated thereto.~~adopted under it.

12 For the purposes of this ~~subsection (f), subsection,~~ a "residential manufactured home" means
13 a ~~mobile manufactured~~ home as defined in ~~G.S. 143-145(7) which~~G.S. 143-145 that is used as
14 a dwelling."

15 **SECTION 2.(c)** This section becomes effective October 1, 2021, and applies to
16 contracts entered into, renewed, or modified on or after that date.

17 **SECTION 3.** Except as otherwise provided, this act is effective when it becomes
18 law.