



State of North Carolina

Office of the Commissioner of Banks

Pat McCrory
Governor

Ray Grace
Commissioner of Banks

Memorandum

To: All Consumer Finance Licensees

From: Molly Sheehan, N.C. Deputy Commissioner of Banks *Molly Sheehan*

Date: June 9, 2014

Subject: Deferral Charges under the Consumer Finance Act, N.C.G.S. § 53-177(c)

In an effort to respond to numerous inquiries that the Office of the Commissioner of Banks (NCCOB) has received concerning the manner in which deferral charges may be assessed under the North Carolina Consumer Finance Act (CFA), we are issuing this memo to all licensees to provide clarification.

Senate Bill 489, enacted as Session Law 2013-162, effective July 1, 2013, amended the CFA to authorize the assessment of deferral charges under certain circumstances. In particular, N.C.G.S. § 53-177(c) as adopted states: “A licensee may, by agreement with the borrower, collect a deferral charge, and defer the due date of all or part of one or more installments under an existing loan contract as permitted in the provisions of G.S. 25A-30.”

NCCOB specifically studied whether G.S. § 25A-30, as incorporated by G.S. § 53-177(c), authorizes licensees to assess a deferral charge of one and one-half percent (1 1/2%) for each month of the remaining loan term on the basis of the deferral of a single installment to the maturity date of the loan.

NCCOB has concluded that there is no express limitation in either Chapter 25A, the North Carolina Retail Installment Sales Act, or the CFA that would prohibit this practice for loans made on or after July 1, 2013.

Notwithstanding the permissibility of the underlying charge, NCCOB recommends that as a best practice, licensees that defer an installment by more than one payment period put the deferral agreement in writing to ensure that both the licensee and the borrower have a clear understanding of the terms of the deferral arrangement.

If you have any questions or need assistance, please contact Sara Weed, Director and Counsel, Non-Depository Entities Division, at 919-733-1823 or sweed@nccob.gov. Thank you.