



HOUSE BILL 685: Electronic Transaction Fees/Official Fees.

2021-2022 General Assembly

Committee:	House Banking. If favorable, re-refer to Rules, Calendar, and Operations of the House	Date:	May 5, 2021
Introduced by:	Reps. Strickland, K. Hall, Szoka, D. Hall	Prepared by:	Amy Darden
Analysis of:	First Edition		Committee Counsel

OVERVIEW: *House Bill 685 would do the following:*

- *Amend the Consumer Finance Act to allow the recovery of electronic transaction fees imposed by third parties.*
- *Amend the definition of "official fees" in the Retail Installment Sales Act.*
- *Make technical and conforming changes.*

CURRENT LAW:

The North Carolina Consumer Finance Act, Article 15 of Chapter 53 of the General Statutes, specifically authorizes nonbank lenders to make small unsecured loans. This Act authorizes the Commissioner of Banks to license and supervise loan companies that make direct consumer loans of \$15,000 or less. The Act sets out terms, interest rates, permissible fees and charges, provides limitations on agreements and practices, and provides for additional requirements and restrictions for lenders making loans to military service members. Lenders that do not charge interest rates higher than those permitted by Chapter 24 of the General Statutes are exempt from this Act. Also exempted are banks, trust companies, savings and loan associations, cooperative credit unions, agricultural credit corporations, production credit associations, pawnbrokers, and installment paper dealers.

The Retail Installment Sales Act (RISA), Chapter 25A of the General Statutes, governs consumer credit sales, including limits on finance charge rates and terms of payment. A consumer credit sale is a sale of personal, family, household, or agricultural goods or services by a seller that regularly arranges for an extension of consumer credit, either payable in installments or with a finance charge, where the amount financed doesn't exceed \$75,000, unless it is a debt secured by real property or a manufactured home. The Act currently includes fees and charges paid to public officials for determining the existence of or for perfecting, releasing, or satisfying a security interest related to a consumer credit sale in the definition of "official fees".

BILL ANALYSIS:

Section 1: House Bill 685 would create a new section in the Consumer Finance Act governing electronic transaction fees. Licensees would be allowed to recover from the borrower an amount not greater than the actual cost of any fees charged by a non-affiliate third party for a specific transaction for certain debit card, clearinghouse transactions, and electronic payments. However, the licensee must offer at least one type of transaction for account payment and loan disbursement where they will not seek to recover these

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electronic transaction fees. The bill also requires the licensee to publicly disclose any third-party fees a borrower will be charged.

Section 2:

House Bill 685 would amend the definition of "official fees" to include any fees and charges prescribed by law paid by the seller for determining the existence of or for perfecting, releasing, or satisfying a security interest related to a consumer credit sale. The bill would also incorporate this amended definition of "official fees" into the calculation of the maximum finance charge rate under the Retail Installment Sales Act (RISA) in certain cases.

EFFECTIVE DATE:

Section 1: The disclosure requirement, as enacted by this section, would become effective January 1, 2022. The remainder of this section would become effective October 1, 2021, and apply to transactions occurring on or after that date.

Section 2: This section would become effective October 1, 2021, and apply to contracts entered into, renewed, or modified on or after that date.

Except as otherwise provided, this act would become effective when it becomes law.