

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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HOUSE BILL 53

Short Title: Assumption Fee Changes.

(Public)

Sponsors: Representatives Brubaker; Dickson, Hasty, Holmes, and Rogers.

Referred to: Commerce.

February 11, 1991

A BILL TO BE ENTITLED
AN ACT TO AMEND THE LAW REGARDING ASSUMPTION FEES IN
CONNECTION WITH CERTAIN REAL ESTATE LOANS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 24-10(d) reads as rewritten:

"(d) Assumption Fee.

(1) Any lender may charge ~~to any person, persons, firm or corporation that assumes a loan, made under the provisions of G.S. 24-1.1 and secured by real property, a fee not to exceed one hundred seventy five dollars (\$175.00); provided, however, that if the original obligor is not released from liability on the obligation, the fee shall not exceed one hundred dollars (\$100.00). The fees authorized by this subsection may be paid in whole or in part by any party but the total shall not exceed the maximum fees set forth herein.~~ loan secured by a first mortgage or first deed of trust on real estate upon which there is located, or there is to be located, one to four residential dwellings or dwelling units the following fee:

a. Where the mortgage or deed of trust contains a due-on-sale clause, one of the following fees, as applicable: (i) that permitted by the Secretary of Housing and Urban Development for Federal Housing Administration insured loans; (ii) that permitted by the Veterans Administration for Veterans Administration guaranteed loans; or (iii) for other loans, the greater of the fee permitted by the Federal National Mortgage

1 Association or the fee permitted by the Federal Home Loan
2 Mortgage Corporation.

3 b. Where the mortgage or deed of trust does not contain a due-on-
4 sale clause, a fee not to exceed one hundred twenty-five dollars
5 (\$125.00).

6 The fee authorized by this subdivision may be paid in whole or in part
7 by any party, but the total shall not exceed the maximum fee set forth.

8 (2) Any lender may charge any person, firm or corporation that assumes a
9 loan of one hundred thousand dollars (\$100,000) or greater which is
10 secured by an interest in real estate other than as described in
11 subdivision (d)(1) above, the following fee:

12 a. Where the mortgage or deed of trust contains a due-on-sale
13 clause, such fee as may be agreed upon by the parties as a result
14 of the assumption.

15 b. Where the mortgage or deed of trust does not contain a due-on-
16 sale clause, a fee not to exceed five hundred dollars (\$500.00),
17 unless otherwise provided in the loan documentation.

18 (3) For purposes of this subsection, the term 'due-on-sale clause' means a
19 contract provision that authorizes a lender to declare immediately due
20 and payable all sums secured by the lender's security instrument if all
21 or any part of the property, or an interest therein, secured is sold or
22 transferred without the lender's prior written consent or contrary to the
23 requirements of the mortgage or the deed of trust. For purposes of this
24 subsection, no lender shall exercise its rights under the due-on-sale
25 clause if such exercise is prohibited by federal law as of the date of
26 execution of the contract containing said clause."

27 Sec. 2. This act is effective upon ratification.