## GENERAL ASSEMBLY OF NORTH CAROLINA SESSION 2001

S SENATE BILL 723

Short Title:	Unsolicited Checks to Secure Loans.	(Public)
Sponsors:	Senators Bingham; Albertson, Ballance, Cunningham, Garv Harris, Horton, Hoyle, Kinnaird, Metcalf, Rand, Reeves, Weinstein.	, ,
Referred to:	Commerce.	

## March 29, 2001

A BILL TO BE ENTITLED

AN ACT TO REQUIRE CERTAIN DISCLOSURE AND WARNING STATEMENTS
ON UNSOLICITED CHECKS THAT, WHEN CASHED BY THE RECIPIENTS,
OBLIGATE THE RECIPIENTS TO REPAY THE AMOUNT OF THE CHECKS
PLUS INTEREST AND FEES.

The General Assembly of North Carolina enacts:

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**SECTION 1.** Article 1 of Chapter 75 of the General Statutes is amended by adding a new section to read:

## "§ 75-20. Unsolicited checks to secure loans.

- (a) No person, firm, or corporation engaged in lending money shall deliver to a person an unsolicited check made out to the recipient that upon cashing, obligates the recipient to repay the amount of the check plus interest and fees, unless all of the following requirements are satisfied:
- 14 The check is attached to a disclosure statement that is easily detachable (1) 15 and that contains in at least 10-point boldface type a statement 16 conspicuously placed in substantially the following form: 17 'Warning: This is a loan solicitation. If you cash this check, you are 18 agreeing to borrow the sum of \$----- at the ---% rate of interest for a 19 period of --- years. Your monthly payments will be \$---- for ---- years. 20 If you are late with a payment, you will be charged the following fees 21 in addition to your monthly payment: (list fees). All other terms of 22 this loan are clearly identified as loan terms and appear on the back of 23 the check or on this attachment. Read these terms carefully before you cash this check. Cashing this check constitutes a loan transaction.' 24

1 2	(2) The disclosure statement under subdivision (1) of this subsection also contains on its face in at least 10-point boldface type a statement
3	conspicuously placed in substantially the following form:
4	'You may cancel this loan agreement at any time prior to midnight of
5	the third business day after the date that you cash this check. See the
6	attached Notice of Cancellation form for an explanation of this right.'
7	(b) The person, firm, or corporation engaged in lending money shall furnish the
8	recipient a completed form in duplicate, captioned "Notice of Cancellation," that shall
9	be attached to the disclosure statement under subsection (a) of this section and easily
10	detachable and that shall contain in 10 point boldface type the following information
11	and statements in the same language as that used in the loan agreement:
12	'NOTICE OF CANCELLATION
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14	You may cancel this loan, without any penalty or obligation, within
15	three business days from the date you cashed the attached check.
16	If you cancel, you must make available to the lender any moneys you
17	received upon cashing the check; or you may, if you wish, comply with
18	the instructions of the lender regarding the return of the moneys at the
19	lender's expense and risk.
20	If you fail to make the moneys available to the lender, or if you agree
21	to return the moneys to the lender and fail to do so, then you remain liable
22	for performance of all obligations under the contract.
23	To cancel this loan, mail or deliver a signed and dated copy of this
24	cancellation notice or any other written notice, or send a telegram to
25	(name of landay)
26	(name of lender)
27	at
28	
29	I hereby cancel this loan agreement.
30 31	(date)
32	<u>(date)</u>
33	(borrower's signature)'
34	(c) A violation of this section is an unfair trade practice under G.S. 75-1.1 and is
35	subject to all of the enforcement and penalty provisions of an unfair trade practice under
36	this Article."
37	<b>SECTION 2.</b> This act becomes effective October 1, 2001.