GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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HOUSE BILL 449

Short Title: Interest Refund.

(Public)

Sponsors: Representatives Lemmond; Black, Burton, Church, DeVane, Dickson, Gardner, Hill, Joye, Justus, Kuczmarski, Luebke, McCombs, Morgan, Richardson, Russell, Smith, and Spears.

Referred to: Financial Institutions.

| 1 | | A BILL TO BE ENTITLED | |
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| 2 | AN ACT TO I | NCLUDE INTEREST AND PENALTIES IN REFUNDS OF MONIES | |
| 3 | OVERCOLI | LECTED FROM CONSUMERS ON THE OVERCOLLECTED | |
| 4 | AMOUNT. | | |
| 5 | The General Assembly of North Carolina enacts: | | |
| 6 | Section 1. Article 1 of Chapter 24 of the General Statutes is amended by | | |
| 7 | adding the following new section to read: | | |
| 8 | "§ 24-10.2. Repayments to consumers to include interest and other penalties. | | |
| 9 | (a) In tra | nsactions by lenders subject to this Article whereby the lender refunds to | |
| 10 | <u>a party to a loa</u> | in or extension of credit agreement an amount overcollected from the | |
| 11 | party due to the | e lender's error, the refund shall include interest and other penalties, as | |
| 12 | <u>follows:</u> | | |
| 13 | <u>(1)</u> | If the amount overcollected includes interest or a late payment penalty | |
| 14 | | lawfully charged and collected by the lender, then the lender shall | |
| 15 | | include in the refund the full amount of the interest and late payment | |
| 16 | | penalty that was part of the overcollected amount; and | |
| 17 | <u>(2)</u> | If the lender charges late payment penalties under the loan or extension | |
| 18 | | of credit agreement, then the lender shall include in the refund interest | |
| 19 | | on the overcollected amount at the same rate or amount that the lender | |
| 20 | | charges as late payment penalties under the loan or extension of credit | |
| 21 | | agreement." | |
| 22 | Sec. 2 | 2. G.S. 24-9.1. reads as rewritten: | |

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| 1 | | ain repayments to consumers by public utilities not subject to claim | | | |
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| 2 | or defense of usury: usury; repayments not ordered by Commission to | | | | |
| 3 | include interest and other penalties. | | | | |
| 4 | | ithstanding any other provision of this Chapter or any other provision of $\frac{1}{2}$ | | | |
| 5 | | utility, as defined by G.S. 62-3, shall pay to its customers such rate of | | | |
| 6 | | be required by order of the North Carolina Utilities Commission in | | | |
| 7 | transactions wherein the utility is refunding to its customers funds advanced by or | | | | |
| 8 9 | overcollected from the customers. As to such transactions, the claim or defense of usury by such public utility and its successors or anyone else in its behalf is prohibited. | | | | |
| 10 | (b) In transactions where the utility refunds to its customer funds collected in | | | | |
| 11 | error from the customer, and the refund has not been reviewed or ordered by the North | | | | |
| 12 | Carolina Utilities Commission, the refund shall include the full amount of interest and | | | | |
| 13 | other penalties paid by the customer as part of or incident to the overcollected amount, | | | | |
| 14 | and the utility shall include in the refund interest on the overcollected amount at the | | | | |
| 15 | same rate or amount that the utility charges its customers for late payments of amounts | | | | |
| 16 | <u>due.</u> " | | | | |
| 17 | Sec. 3 | B. G.S. 24-11.1(b) reads as rewritten: | | | |
| 18 | | osures The following disclosures shall be clearly and conspicuously | | | |
| 19 | made in or with all documents described in subsection (a) of this section: | | | | |
| 20 | (1) | The annual percentage rate or, if the rate may vary, a statement that it | | | |
| 21 | | may vary, the circumstances under which the rate may increase, any | | | |
| 22 | | limitations on the increase, and the effects of the increase on the other | | | |
| 23 | | terms of the agreement. | | | |
| 24 | (2) | The date or occasion upon which the finance charge begins to accrue | | | |
| 25 | | on a transaction and the duration of any grace period. | | | |
| 26 | (3) | Whether an annual fee is charged and the amount of the fee. | | | |
| 27 | (4) | Any delinquency charge, late charge, or collection charge which may | | | |
| 28 | | be assessed for the late payment of any installment, including the | | | |
| 29 | | terms and conditions for the imposition of such charge. | | | |
| 30 | <u>(5)</u> | Notice to the consumer that refunds of amounts overcollected from the | | | |
| 31 | | consumer due to the lender's error shall include delinquency charges, | | | |
| 32 | | late charges, or collection charges that are part of the amount | | | |
| 33 | | overcollected, and the refund shall include interest on the | | | |
| 34 | | overcollected amount at the same rate or amount as the lender charges | | | |
| 35 | ~ | for delinquent or late payments under the installment agreement." | | | |
| 36 | | G.S. 24-11.2(b) reads as rewritten: | | | |
| 37 | "(b) Disclosures. – The following disclosures shall be clearly and conspicuously | | | | |
| 38 | | all documents described in subsection (a) of this section: | | | |
| 39 | (1) | The annual fee and other charges, if any, applicable to the issuance or | | | |
| 40 | · · | use of the charge card. | | | |
| 41 | (2) | That charges incurred by the use of the charge card are due and | | | |
| 42 | | payable upon receipt of a periodic statement of charges. | | | |

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| 1 2 | (3) | Any delinquency charge, late charge, or collection charge which may be assessed for late payment, including the terms and conditions for |
| 3 | (A) | the imposition of such charge. |
| 4 5 | <u>(4)</u> | Notice to the consumer that refunds of amounts overcollected from the consumer due to the lender's error shall include delinquency charges, |
| 6 | | late charges, or collection charges that are part of the amount |
| 7 | | overcollected, and the refund shall include interest on the |
| 8 | | overcollected amount at the same rate or amount as the lender charges |
| 9 | | for delinquent or late payments under the installment agreement." |
| 10 | Sec. | 5. Chapter 25A of the General Statutes is amended by adding the |
| 11 | • | section to read: |
| 12 | " <u>§ 25A-44.1.</u> H | <u>Repayment to consumers to include interest and penalties,</u> |
| 13 | <u>(a)</u> <u>In co</u> | onsumer credit sales transactions subject to this Chapter whereby the |
| 14 | | to a consumer an amount overcollected from the consumer due to the |
| 15 | seller's error, th | e refund shall include interest and other penalties, as follows: |
| 16 | <u>(1)</u> | If the amount overcollected includes interest or late payment penalties |
| 17 | | lawfully charged and collected by the seller, then the seller shall |
| 18 | | include in the refund the full amount of interest and other penalties that |
| 19 | | were part of the overcollected amount; and |
| 20 | <u>(2)</u> | If the seller charges late payment penalties pursuant to the consumer |
| 21 | | credit sale, then the seller shall include in the refund interest on the |
| 22 | | overcollected amount at the same rate or amount that the seller charges |
| 23 | <i></i> | as late payment penalties pursuant to the consumer credit sale." |
| 24 | | 6. This act is effective upon ratification and applies to refund |
| 25 | transactions con | nducted on or after that date. |