LEGISLATIVE

RESEARCH COMMISSION

CREDIT CARD DEREGULATION, CREDIT CARD BANKS, AND LINKED DEPOSIT PROGRAMS

REPORT TO THE
1991 GENERAL ASSEMBLY
OF NORTH CAROLINA
1991 SESSION

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TABLE OF CONTENTS

Letter of Transmittal i

Legislative Research Commission Membership ii

PREFACE 1

COMMITTEE PROCEEDINGS 3

FINDINGS 11

RECOMMENDATIONS 13

APPENDICES

Relevant portions of Chapter 802 of the 1989 Session Laws authorizing the study and Senate Bill 377 and House Bill 1910 of the 1989 Session ..... A

Membership of the LRC Committee on Credit Deregulation, Credit Card Banks, and Linked Deposit Programs ..... B

List of those mailed notices of the Committee's meetings C

Need for an incentive system for public deposits in North Carolina ..... D

Linked deposit program testimony of Abdul Rasheed ..... E

Letter, dated January 25, 1990, to Mr. Terrence D. Sullivan, Committee Counsel, from Mr. C. Douglas Chappell, Deputy Treasurer on State Treasurer's Six-Month Certificate of Deposit and Savings Certificates Program ..... F

Linked Deposit Program testimony of Mr. Thomas A. Bennett, President-elect of North Carolina Bankers Association ..... G

Linked Deposit Program statement of Mr. James B. Blackburn, III, General Counsel, N.C. Association of County Commissioners ..... H

Linked Deposit Program testimony of Mr. Ellis Hankins, General Counsel, League of Municipalities I

Linked Deposit Program statement of Ms. Margot Saunders, N.C. Legal Services Resource Center ..... J

Credit card deregulation testimony of Mr. James H. Culberson, Jr., President of the North Carolina Bankers Association ..... K

Table showing bank credit card rates and fee in the various states presented by Mr. Ed Aycock of the North Carolina Banker's Association L

Credit card deregulation testimony of the Honorable William T. Graham, Commissioner of Banks ..... M

Report on retail revolving credit presented by Mr. William C. Rustin, President of the North Carolina Retail Merchants Association ..... N

Retail revolving credit specification by state presented by Mr. William C. Rustin, President of the North Carolina Retail Merchants Association ..... O

Letter dated, January 2, 1990 to Mr. Terrence D. Sullivan, Committee Counsel, from Mr. Phillip A. Lehman, Attorney General's Office, on deregulation of revolving credit ..... P

Statement of Ms. Margot Saunders, N. C. Legal Services Resource Center, on deregulation of revolving credit ..... Q

Analysis of Ms. Margot Saunders, N. C. Legal Services Resource Center, on costs of deregulation, revolving credit ..... R

Memo, dated March 8, 1990, to Committee from Mr. H. Warren Plonk, Fiscal Research Division, analyzing fiscal impact to North Carolina consumers of deregulating credit ..... S

Memorandum, dated January 2, 1990, from the Honorable Jim Long, Commissioner of Insurance, to the Committee regarding the proposed repeal of the statute prohibiting the solicitation, negotiation and payment of insurance contracts through credit card facilities ..... T

Table illustrating states' statutes, rules and Attorney General's opinion regarding the solicitation, negotiation and payment of insurance contracts through credit card facilities presented by Mr. William Hale, Insurance Department ..... U

Statement of Ms. Margot Saunders, N.C. Legal Services Resource Center, *in opposition to proposals of the NCBA and* NCRMA V

Memorandum, dated January 31, 1990, from Mr. Phillip A. Lehman of the Attorney General's office to the Committee on the results of a survey of credit card and revolving credit rates in the Southeast ..... W

Letter, dated November 9, 1990, from Mr. Phillip A. Lehman of the Attorney General's Office commenting on credit deregulation..... X

LEGISLATIVE PROPOSAL I - A bill to be entitled AN ACT TO MODIFY FINANCE CHARGE RATES FOR REVOLVING CHARGE ACCOUNT CONTRACTS ..... Y

Memorandum from Terrence D. Sullivan, Committee Counsel, to Committee analyzing Legislative Proposal I..... Z

LEGISLATIVE PROPOSAL II - A bill to be entitled AN ACT TO AUTHORIZE CREDIT CARD BANKS TO AMEND THE RATE OF INTEREST AND FEES APPLICABLE TO CREDIT CARD ACCOUNTS, OPEN-END CREDIT AND REVOLVING CHARGE ACCOUNTS.....AA

Memorandum from Terrence D. Sullivan, Committee Counsel, to Committee analyzing Legislative Proposal II .....BB

DRAFT FOR REVIEW ONLY

STATE OF NORTH CAROLINA

LEGISLATIVE RESEARCH COMMISSION

STATE LEGISLATIVE BUILDING

RALEIGH 27611

December 14, 1990

TO THE MEMBERS OF THE 1991 GENERAL ASSEMBLY:

The Legislative Research Commission herewith submits to you for your consideration its interim report on credit card deregulation, authorization of credit card banks, and linked deposit programs. The report was prepared by the Legislative Research Commission's Committee on Credit Card Deregulation, Credit Card Banks, and Linked Deposit Programs pursuant to Section 2.1(5) of Chapter 802 of the 1989 Session Laws.

Respectfully submitted,

Josephus L. Mavretic
Speaker

Henson P. Barnes
President Pro Tempore

Cochairmen
Legislative Research Commission

1989-1990

LEGISLATIVE RESEARCH COMMISSION

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PREFACE

The Legislative Research Commission, established by Article 6B of Chapter 120 of the General Statutes, is a general purpose study group. The Commission is co-chaired by the Speaker of the House and the President Pro Tempore of the Senate and has five additional members appointed from each house of the General Assembly. Among the Commission's duties is that of making or causing to be made, upon the direction of the General Assembly,

> such studies of and investigations into governmental agencies and institutions and matters of public policy as will aid the General Assembly in performing its duties in the most efficient and effective manner [G.S. 120-30.17(1)].

At the direction of the 1989 General Assembly, the Legislative Research Commission has undertaken studies of numerous subjects. These studies were grouped into broad categories and each member of the Commission was given responsibility for one category of study. The Co-chairs of the Legislative Research Commission, under the authority of G.S. 120-30.10(b) and (c), appointed committees consisting of members of the General Assembly and the public to conduct the studies. Co-chairs, one from each house of the General Assembly, were designated for each committee.

The study of credit card deregulation, authorization of credit card banks, and linked deposit programs was authorized by Section 2.1 (5) of Chapter 802 of the 1989 Session Laws (1989 Session). That act states that the Commission may consider Senate Bill 377 and House Bill 1910 in determining the nature, scope and aspects of the study. Section 1 of Bill 377 (2nd edition), if enacted, would have directed a study, among other matters, of:

> all aspects of deregulation of revolving credit and authorization of credit card banks, with a view toward determining whether these actions would be in the best interest of North Carolina.

Section 2 of House Bill 1910 proposed, in part, a study of:

> Linked Deposit Programs in other states and localities as to their impact and feasibility . . . [and] the feasibility of such Programs in North Carolina, at both the State and local levels . . .

The relevant portions of Chapter 802, Senate Bill 377 and House Bill 1910 are included in Appendix A.

The Legislative Research Commission grouped this study in its Credit and Consumer Protection area under the direction of Representative Harold J. Brubaker. The Committee was chaired by Senator James C. Johnson and Representative Joe H. Hege. The full membership of the Committee is listed in Appendix B of this report. A committee notebook containing the committee minutes and all information presented to the committee is filed in the Legislative Library.

COMMITTEE PROCEEDINGS

The Legislative Research Commission's Committee on Credit Card Deregulation, Credit Card Banks, and Linked Deposit Programs held six meetings in all -- January 11, February 1, March 8, September 24, November 13, and November 30, 1990. The following individuals and representatives of the following groups have testified before the Committee thus far during its deliberations: the North Carolina Attorney General's Office's Consumer Protection Section, the North Carolina Bankers Association (NCBA), the State Banking Commissioner, the North Carolina Association of Community Development Corporations, the North Carolina Association of County Commissioners the North Carolina Department of Insurance, Legal Services of the Cape Fear, the North Carolina Legal Services Resource Center, Inc. (NCLSRC), the North Carolina Life Underwriters, the North Carolina League of Municipalities, the North Carolina Retail Merchants Association (NCRMA), the North Carolina League of Savings Institutions, and the State Treasurer. A list of those mailed notice of the meetings is attached as Appendix C.

Linked Deposit Programs

Representatives of the North Carolina Legal Services Research Center and others brought information to the Committee on linked deposit programs in other states and their localities which encourage private financial institutions receiving public deposits to invest within the particular city or state. The NCLSRC presented information on the various types of linked deposit programs and recommended that the Committee consider these programs as a method to further public purposes by leveraging private funds without collecting additional revenues (Appendix D).

Mr. Abdul Rasheed, the Executive Director of the North Carolina Association of Community Development Corporation, in a statement urged serious consideration of linked deposit programs in North Carolina. He said that information regarding reinvestments of funds in local communities by financial institutions would be available

beginning on July 1, 1990 pursuant to the federal Community Reinvestment Act (CRA), 12 U.S. § 2901 **et seq.** He suggested that this information be analyzed and disseminated by the Department of Economic and Community Development (Appendix E).

The State Treasurer, Mr. Harlan Boyles, stated his opposition to linking of deposits of State and local governments in financial institutions on any bases other than the safety of principal and rate of return. The Treasurer said that his office is now in charge of an investment portfolio of $18 to $20 billion, soon to grow to $50 billion in public funds. He explained his Six Month Certificate of Deposit and Savings Certificate Program in which banks and savings and loans' pay interest rates for State funds not less than yields available on U.S. Government instruments with comparable maturities. A letter explaining further the Six Month Certificate of Deposit and Savings Certificate Program is found at Appendix F. He said that the banks and s&ls are not now availing themselves of the total amount of State funds available under this -- a no strings -- investment program. He said that he believed that a linked deposit program without a subsidy "will not fly".

Mr. Thomas A. Bennett, President-Elect of the NCBA, repeated the concerns expressed by the State Treasurer and said that linked deposit programs are "government intervention in the system of allocating financial resources." He stated that his industry was "totally opposed to credit allocation whether it is overt or disguised." He emphasized his belief that in this State the credit needs of credit worthy borrowers are being met in a responsible way by the banking system. His full statement is contained in Appendix G.

Mr. Paul Stock, representing the North Carolina League of Savings Institutions, indicated that his board of directors had not yet taken a position with respect to linked deposit programs, and asked that he might be allowed to present his board's position at a later time. He suggested to the Committee that the savings industry's plate was "full" at the present with s&l's trying to digest the changes wrought by the federal Savings and Loan Bailout Bill and by market conditions.

Mr. James B. Blackburn, General Counsel of the North Carolina Association of County Commissioners, commented that, with regard to the concept of linked deposit programs, that it was inappropriate to tamper with the present investment policy that

has served the counties well, to factor in "social policy" considerations in investment decisions, and to risk reduced return on dollars when there are so many pressing demands on counties. His outline of his statement is found at Appendix H.

Mr. Ellis Hankins, General Counsel of the North Carolina League of Municipalities, said that his organization has not taken a firm position on the issue of linked deposits. He told the Committee that he wished it would not recommend mandating that investment decisions be made solely or primarily on the basis of local investment by the institutions. He added, however, that municipal officials would be very interested in seeing understandable, periodic information on the lending practices of local financial institutions and their performance in the locality. He said that the information would be most helpful to local officials in making responsible decisions on where to invest public funds. His statement is in Appendix I.

Ms. Margot Saunders of the NCLSRC, at the February 1 meeting, proposed that an appropriation be made to hire one person in State government to track the investments in the State, by purpose and locale, made by depository institutions and to distribute that information to local governments in the State so that they may use that information in determining where to deposit their funds. Her statement is contained in Appendix J.

Mr. Bruce Baker, a graduate student at Duke University, prepared a paper evaluating components of a successful linked deposit program in North Carolina. This report entitled "How Should North Carolina Evaluate a Linked Deposit Proposal?" was presented to the Committee on November 13. A copy of his report is catalogued in the Legislative Library. The Committee Counsel also presented for the Committee's information the Federal Financial Institution Examination Council's (FFIEC) Uniform Interagency Community Reinvestment Act Final Guidelines, dated June 4, 1990. These guidelines and supporting materials are in the September 24 minutes of the Committee in the Legislative Library.

The Committee at the September 24th meeting decided to take no action on the issue of linked deposits.

Deregulation of Revolving Credit and Credit Card Banks

At the first Committee meeting held on January 11 the President of the NCBA, Mr. James M. Culberson, Jr., presented the following information: over 2/3's of the 3.9 million bank cards held by North Carolina customers are issued from out-of-state; three of the major North Carolina banks have at least partially moved their credit card operations to other states and others are considering the move; bank card earnings averaged 1.9 percent of balances as opposed to 2.3% on real estate mortgages, 2.4% on consumer installment debt, and 2.8 percent on commercial and other loans. He urged the Committee to recommend deregulation of credit cards and authorizing credit card banks to allow greater flexibility in product packaging so as to differentiate between the many cards now on the market. Mr. Culberson's statement is attached as Appendix K.

Upon the Committee's request, the NCBA later supplied a table showing the statutory authority for bank credit card rates and fees nationwide as of December of 1989. This table is found at Appendix L.

Mr. William T. Graham, the Commissioner of Banks, argued that the present 18% cap on revolving credit does not work. He said that in a free enterprise system caps and other restrictions are inappropriate in most instances. He cited two exceptions to this general rule: the need for full and clear disclosure of the terms, and the protections of a particular class of borrower -- the small loan customers. He was particularly sensitive to the latter as he is the State official who is responsible for regulating consumer finance companies. Mr. Graham suggested a possible answer to the problem of protecting the small borrower or purchaser would be to put an interest rate cap for the first $500 of credit. This would result in a blended rate for the credit card user. His full statement is found at Appendix M.

At that same meeting, President of the NCRMA, Mr. William C. Rustin, Jr., urged the Committee to propose the deregulation of revolving credit as it pertains to those stores offering revolving charge accounts, their own store proprietary charge card, or contracting with an outside party for revolving account operations. His statement is contained in Appendix N. He said that Kentucky, South Carolina, and Virginia have

deregulated this type of credit, while Georgia and Tennessee have increased their cap to 21%, leaving North Carolina alone as the single 18% interest rate among this group. Mr. Rustin later provided the Committee with a table showing the retail revolving credit regulatory provisions of each state. This table is contained at Appendix O.

Mr. Philip A. Lehman, Assistant Attorney General with the North Carolina Department of Justice, said that the Attorney General is opposed to any significant deregulation of consumer credit because he believes that it would effectively dismantle the entire body of interest rate controls, for example, consumer finance companies could escape regulation by using open-end credit plans. The letter setting forth the position of the Attorney General's Office in this regard is Appendix P.

Mr. Mal Maynard, an attorney with Legal Services of the Cape Fear, presented the testimony of Ms. Margot Saunders, Consumer Attorney with NCLSRC. Her statement is attached as Appendix Q. Mr. Maynard expressed his and Ms. Saunders' opposition to the proposed deregulation of open end credit. Among the reasons that he gave for the opposition was that deregulation of retail revolving credit would effectively repeal many of the consumer protection laws in the State, specifically, allowing finance companies to charge higher rates of interest, permitting banks to do away with the grace period on bank credit cards, allowing credit card issuers to charge higher rates of interest. He questioned whether deregulation would bring many new jobs to the State in view of the experiences of Louisiana and Georgia. He said that no credit card banks came to Louisiana and only one to Georgia (employing 50 people) when those states passed enabling legislation. He expressed concern that the costs to the consumers of this State of bringing a few jobs to the State by deregulation credit and establishing credit card banks would be inordinate.

Ms. Saunders, Consumer Attorney of the NCLSRC, at a later Committee meeting, presented a handout containing her estimates of various costs to consumers associated with the proposed deregulation. She estimated the cost of eliminating the grace period for 20% of the bank credit cards would be over $21 million dollars a year. She said that if 20% of the credit card accounts lost their grace period and interest rates went up 3% to 21% for 20% of the credit card accounts and 40% of the revolving charge accounts, the cost would be in excess of $37 million. She said further that if 1000 new jobs were created as a result of credit card operations moving into or enlarging in the

State, the cost to consumers would be, therefore, more than $37,000 a job. She opined that such an increase would be unlikely in view of other states' experiences in this regard. Ms. Saunders' handout is attached at Appendix R.

Mr. Warren Plonk of the Fiscal Research Division, upon the request of the leadership of the committee, presented his estimates of the costs to this State's consumers of various scenarios of credit deregulation. He estimated that for every percentage increase in the interest rate for card credit issued by this State's commercial banks, s&l's and credit unions, the interest costs would increase $7.777 million a year. For a one percent increase in the interest rate charged for revolving credit, the corresponding increase in costs would be $7.12 million a year. If the retail revolving credit interest charged were to increase by three percentage points to 21%, he estimated that the costs would increase by $21.84 million. Mr. Plonk said that his calculations suggested that the annual benefit to this State's consumers of the 25 day grace period for open-end credit is $60.01 million, that is, if the period were eliminated their costs would increase by a corresponding sum. Finally, he estimated that the cost, in excess of that permitted under North Carolina law, attributable to the current use by the State's consumers of bank cards from out-of-state issuers not subject to this State's interest rate ceiling ranges from $78.23 to $136.74 million. Mr. Plonk's analysis contained in Appendix S.

As introduced, Senate Bill 377 (Appendix A) would have repealed the prohibition against solicitation, negotiation and payment of insurance premiums through credit card facilities contained in G.S. 58-3-145 (previously codified as G.S. 58-62.1). The Committee asked Mr. Jim Long, the Commissioner of Insurance, his position with regard to the proposed repeal. Mr. Bill Hale, the Chief Legislative Counsel and Deputy Commissioner, expressed the opposition of the Commissioner to the proposed repeal. He opined that if credit card facilities having a large customer base were allowed to solicit insurance in this State, it would result in reduced competition by the insurance agents and higher cost and less service to the State's consumers. Commissioner Long's letter to the Committee is contained at Appendix T. At a later meeting of the Committee, Mr. Hale said that 33 states had statutes, administrative rules, or attorney general's opinions which in some way restrict these functions. He presented a table illustrating these states regulations (Appendix U). Mr. Ed Aycock,

General Counsel of the NCBA indicated at the February 1 Committee meeting that his association would not request the repeal of G.S. 58-3-145.

Mr. Ed Aycock and other representatives of the NCBA, at the February 1, 1990 committee meeting, recommended the complete deregulation of open-end revolving credit for domestic lenders, while retaining the 1 1/2% per month maximum (the so-called 18% per year) credit card rate for open end revolving credit for all others, and the establishment of credit card banks. At that same meeting, the representative of the NCRMA recommended for retail revolving credit, retaining the present grace period in which to repay loans without interest; raising of the interest chargeable from 1 1/2 to 1 3/4 % per month (the so-called 21% per year) with a minimum $0.50 charge on the unpaid balance; imposing a late payment fee of 5% of the payment due or $10, whichever is less, with a minimum payment of $1; and granting the authority to contract for credit life, accident, health or loss of income insurance in any consumer credit sale. The elimination of the interest rate maximum, the grace period and the limitation of a $20 maximum annual fee in the NCBA's proposal, and the raising in the interest maximum and minimum fee, the late charge, the authorization of solicitation and payment of certain insurance on consumer credit sales as proposed by the NCRMA were opposed by the Attorney General's Office, the Department of Insurance, and legal services representatives. The statement of Ms. Saunders in opposition to the proposed bills of NCBA and NCRMA is contained in Appendix V.

Mr. Philip Lehman, Assistant Attorney General, was requested to poll his counterparts in the other Southeastern states to determine those states' actual prevailing bank card and retail revolving credit rates. He said that the information he obtained on prevailing market rates is anecdotal and informal. He observed that retail credit rates were typically in the 21% range, while bank cards varied from 18 to 21% generally, with most being closer to 18%. He said that deregulation brought on a variety of fees: annual, transaction, late, over-the-limit. These fees can be more costly than interest but are much more difficult for the consumer to compute than a simple Annual Percentage Rate (APR) comparison. He added that despite credit card bank authorization, Virginia and Alabama reported having no credit card banks. Virginia had attracted one such operation which subsequently moved to Ohio. Only one credit

card bank has located in Georgia. Mr. Lehman's memorandum is found at Appendix W.

At the March 8 meeting, the representative of the NCRMA asked the Committee to recommend to the 1990 Session only the first one of his earlier recommendations, i.e. the raising of the interest rate in retail revolving credit from 18 to 21% with the minimum $0.50 charge on the unpaid balance. The Committee instructed its staff to prepare a draft report incorporating this proposal as a recommendation to review at it next meeting.

The Committee's meetings on September 24 and November 13th were devoted primarily to reviewing the Committee's work to date. At the later meeting, Mr. Bill Rustin with the NCRMA renewed his request made at the March 8 meeting. Mr. Phillip Lehman of the Attorney General's Office presented a letter to the Committee expressing that Office's position on credit deregulation (Appendix X). The bill which he proposed was approved by the Committee. Mr. Aycock of the NCBA reiterated, with some modifications, his earlier request for legislation for the deregulation of open-end credit by domestic lenders and the establishment of credit card banks. The Committee discussed the NCBA proposal at length.

Several amendments to the proposal were offered and accepted. The Committee instructed its staff to present to the Committee at its next meeting a draft report with both bills in correct form.

At the November 30 meeting, the Committee reviewed the draft report with attached legislation and after making various amendments approved this Report.

FINDINGS

The Legislative Research Commission's Committee on Credit Card Deregulation, Credit Card Banks, and Linked Deposit Programs finds that:

1. Access to credit by use of credit cards and open end accounts is a useful and convenient service offered to consumers by financial institutions, retail merchants and other lenders.
2. The use of credit cards by consumers for financial transactions has increased dramatically in recent years.
3. The credit card business is highly competitive and is demonstrably less profitable than many other forms of consumer and commercial lending.
4. State statutes and regulations which unduly restrict the rates of interest and fees applicable to credit card programs can limit the availability of such credit to consumers.
5. Two-thirds of the states -- some 34 in all -- including all southeastern states, except Louisiana and Florida, have either deregulated revolving credit rates or have an interest rate ceiling above the 18% allowed by North Carolina law. Half of these have deregulated revolving credit rates.
6. Approximately two-thirds of the 3.9 million bank credit cards held by residents of North Carolina are issued from states other than North Carolina.
7. In order to offer credit card products and services which meet the needs of their customers and which are competitive in the national credit card market, certain North Carolina banks have moved or are considering moving their credit card operations out of North Carolina.
8. To date, three of North Carolina's largest banks have wholly or partially moved their credit card operations out of North Carolina to states, including Georgia and Delaware, whose credit card laws

permit credit card issuers to offer the choices of credit card products and services demanded by credit card customers.

9. The movement of credit card operations by North Carolina's financial institutions to other states has resulted in the loss of jobs to North Carolina's citizens and the loss of significant revenue to our State.

10. The movement of credit card operations by North Carolina financial institutions to states which have less restrictive credit card laws has not resulted in an increase in interest rates on credit cards issued from those states to North Carolina residents.

11. According to the testimony of the then-President of the North Carolina Bankers Association, two states Georgia and Delaware, which enacted progressive credit card laws earlier than most states, have benefitted immensely from such action. Since deregulating credit card rates and fees, Delaware has attracted the credit card operations of 34 out-of-state financial institutions, including that of one of North Carolina's largest banks, and has thereby created 8,000 new jobs in Delaware.

12. The statutory authority to establish limited purpose, credit card banks in North Carolina may encourage out-of-state financial institutions to locate their credit card operations in this state, thereby enhancing the employment opportunities available to our citizens.

13. The extension of retail revolving credit costs by a merchant costs more that the extension of that credit by a bank under a credit card because of four factors:

    a. the merchant obtains the money to extend credit to its customers by borrowing it from banks;

    b. when consumers make purchases with bank credit cards, the bank takes a discount off the purchase price in settling with the merchant, paying the merchant between 94 and 98.7% of the actual charge;

c. banks are allowed an annual fee of $20 on their cards whereas retail merchants are not;

d. the average balance for bank cards is 3 to 4 times higher than retail cards. Nationally, banks have an average balance of over $1,100 a card while the average retail card balance is $230. Therefore, the banks produce significantly higher revenues per account than retailers with the same servicing expenses.

14. The retail revolving credit structure in North Carolina should be consistent with the national trend allowing the retailer the opportunity to cover credit costs through credit revenues, allowing the maximum number of consumers the opportunity to purchase on revolving credit, while insuring that those who buy on credit will pay the true costs of credit and its processing.

15. If deregulation leads to high interest rates for credit cards and open end accounts, it is estimated by the Fiscal Research Division of the General Assembly that the cost to North Carolina consumers will exceed $16 million per year for each one percent increase in annual interest rates charged, or in excess of $49 million per year for an increase of interest rates by three percent, from 18 percent per year to 21 percent.

16. Deregulation of credit card and open end accounts will allow lenders to assess fees and charges which are not currently allowed under North Carolina law after disclosure of the fees and charges to the card holder. For example, late fees, over the limit charges, transaction charges, and higher annual fees, would be allowed.

RECOMMENDATIONS

The Committee on Credit Card Deregulation, Credit Card Banks, and Linked Deposits Programs recommends that the 1991 General Assembly enact the following legislation:

1. A BILL TO BE ENTITLED AN ACT TO MODIFY FINANCE CHARGE RATES FOR REVOLVING CHARGE ACCOUNT CONTRACTS, attached as APPENDIX Y. A section-by-section analysis of the bill is found at APPENDIX Z.
2. A BILL TO BE ENTITLED AN ACT TO AUTHORIZE CREDIT CARD BANKS, TO AMEND THE RATE OF INTEREST AND FEES APPLICABLE TO CREDIT CARD ACCOUNTS, OPEN-END CREDIT, AND REVOLVING CHARGE ACCOUNTS, attached as APPENDIX AA. A section-by-section analysis of the bill is found at APPENDIX BB.

APPENDIX A

GENERAL ASSEMBLY OF NORTH CAROLINA
1989 SESSION
RATIFIED BILL

CHAPTER 802
SENATE BILL 231

AN ACT TO AUTHORIZE STUDIES BY THE LEGISLATIVE RESEARCH COMMISSION, TO CREATE AND CONTINUE VARIOUS COMMITTEES AND COMMISSIONS, TO MAKE APPROPRIATIONS THEREFOR, AND TO DIRECT VARIOUS STATE AGENCIES TO STUDY SPECIFIED ISSUES.

The General Assembly of North Carolina enacts:

PART I. TITLE

Section 1. This act shall be known as "The Studies Act of 1989."

. . .

PART II.-----LEGISLATIVE RESEARCH COMMISSION

Sec. 2.1. The Legislative Research Commission may study the topics listed below. Listed with each topic is the 1989 bill or resolution that originally proposed the issue or study and the name of the sponsor. The Commission may consider the original bill or resolution in determining the nature, scope and aspects of the study. The topics are:

. . .

(5) Deregulation of Revolving Credit and Authorization of Credit Card Banks (S.B. 377 - Staton) and Linked Deposits (H.B.1910 - Locks),

. . .

Sec. 2.4. Committee Membership. For each Legislative Research Commission Committee created during the 1989-1991 biennium, the Cochairmen of the Commission each shall appoint a minimum of seven members.

Sec. 2.5. Reporting Dates. For each of the topics the Legislative Research Commission decides to study under this act or pursuant to G.S. 120-30.17(1), the Commission may report its findings, together with any recommended legislation, to the 1990 Session of the 1989 General Assembly or the 1991 General Assembly, or both.

Sec. 2.6. Bills and Resolution References. The listing of the original bill or resolution in this Part is for reference purposes only and shall not be deemed to have incorporated by reference any of the substantive provisions contained in the original bill or resolution.

Sec. 2.7. Funding. From the funds available to the General Assembly, the Legislative Services Commission may allocate additional monies to fund the work of the Legislative Research Commission.

. . .

PART XXV.-----EFFECTIVE DATE

Sec. 25.1. This act shall become effective July 1, 1989.

In the General Assembly read three times and ratified this the 12th day of August, 1989.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

S 2

SENATE BILL 377
Banks and Thrift Committee Substitute Adopted 5/4/89

Short Title: Credit Card Changes. (Public)

Sponsors:

Referred to:

March 9, 1989

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE LEGISLATIVE RESEARCH COMMISSION TO STUDY DEREGULATION OF REVOLVING CREDIT AND AUTHORIZATION OF CREDIT CARD BANKS IN NORTH CAROLINA.

The General Assembly of North Carolina enacts:

Whereas, legislation introduced during the 1989 Session of the General Assembly, proposing deregulation of revolving credit and authorization of credit card banks in North Carolina, raised important economic issues for the State; and

Whereas, the North Carolina Commission on Jobs and Economic Growth, after examining identical issues, recommended in its 1988 interim report to the General Assembly that the General Assembly deregulate revolving credit and authorize credit card banks in North Carolina; and

Whereas, North Carolina is one of the leading states in the southeast in the banking business with the credit card business alone having an annual payroll in excess of thirty million dollars ($30,000,000); and

Whereas, restrictive laws in North Carolina have apparently led some banks to move their credit card operations out of the State, with more likely to do the same, resulting in revenue loss for the State; and

Whereas, deregulation is a complex issue that requires deliberate study in order to determine whether it would result in either increased rates for consumers or economic growth for the State, or both; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. The Legislative Research Commission is authorized to study all aspects of deregulation of revolving credit and authorization of credit card banks, with a view toward determining whether these actions would be in the best interest of North Carolina. The Commission may consider the potential impact of these actions on North Carolina's consumers, revolving credit industry, job market, and economic growth, as well as other related issues. The Commission's study may include examination of the experiences of states that have already deregulated revolving credit and states that have already authorized credit card banks.

Sec. 2. The Commission shall make a final report of its findings and recommendations to the 1989 General Assembly, Regular Session 1990.

Sec. 3. This act is effective upon ratification.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

H 1

HOUSE BILL 1910

Short Title: Linked Deposit Study Funds. (Public)

Sponsors: Representative Locks.

Referred to: Appropriations.

May 10, 1989

A BILL TO BE ENTITLED

AN ACT TO CREATE THE LINKED DEPOSIT STUDY COMMISSION.

Whereas, the physical and economic health of all communities in North Carolina is vital to the well-being of the State as a whole; and

Whereas, community development loans and programs play an essential role in revitalizing depressed communities; and

Whereas, as federal programs to support community development disappear, State and local governments are becoming increasingly interested in leveraging their remaining financial resources; and

Whereas, financial institutions play a major role in providing capital for housing and business development in the State's communities and thus in leveraging scarce public resources; and

Whereas, the Committee on Interstate Banking, in its report to the 1989 General Assembly, found that "a significant number of diverse organizations and individuals around the State believe that there is a serious lack of affordable credit and

deposit services available to small businesses, rural communities, minorities, and low- and moderate-income people and communities in North Carolina"; and

Whereas, this same Committee on Interstate Banking found, "That there is a serious lack of information on which to base an objective conclusion about the extent of access, cost and quality problems associated with banking services in North Carolina"; and

Whereas, all financial institutions have a continuing and affirmative obligation consistent with their safe and sound operation to help meet the credit needs of their entire communities, including low- and moderate-income communities; and

Whereas, to encourage financial institutions to devote more resources to community development lending, local and state governments in the nation have enacted Linked Deposit laws; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. The North Carolina Linked Deposit Study Commission is hereby created.

Sec. 2. Duties of the Commission. The Commission shall:

(a) Investigate Linked Deposit Programs in other states and localities as to their impact and feasibility;

(b) Determine the feasibility of such Programs in North Carolina, at both the State and local levels; and

(c) If Linked Deposit Programs for North Carolina are deemed to be feasible, determine:

(1) The criteria to be used for assessing the community reinvestment performance of financial institutions seeking to serve as depositories of public funds including: lending for low- and moderate-income housing, loans to community development corporations, loans to women and minority-owned businesses, loans within lower income communities for other commercial purposes, and operating loans for family farms;

(2) The data to be collected from financial institutions to establish Linked Deposit Systems;

(3) Appropriate systems for collecting, analyzing and disseminating such data, at both the State and local levels;

(4) The advisability of voluntary vs. mandatory reporting and rating systems;

(5) Appropriate ways for State and local governments to link community reinvestment performance with selection of public depositories so as to maximize the leveraging of private dollars; and

(6) How public access to such information can best be assured, while protecting any necessary confidentiality of such information.

(d) Recommend how an advisory body at the State level for public investments should best be structured.

. . .

Sec. 5. Reports by the Commission. The Commission shall submit a final report of its findings and recommendations to the General Assembly on or before the first day of the 1990 Session of the General Assembly by filing the report with the President Pro Tempore of the Senate and the Speaker of the House of Representatives. Upon filing its final report, the Commission shall terminate. The report of the Commission shall summarize the information obtained in the course of its inquiry, set forth any findings and conclusions, and recommend such administrative actions or legislative actions that may be necessary. If legislation is recommended, the Commission shall prepare and submit with its report appropriate bills.

. . . .

APPENDIX B

MEMBERSHIP OF LRC COMMITTEE ON CREDIT CARD DEREGULATION, CREDIT CARD BANKS, AND LINKED DEPOSIT PROGRAMS

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APPENDIX C

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THE NEED FOR AN INCENTIVE SYSTEM FOR PUBLIC DEPOSITS IN NC

Background

Each year, state and local governments in North Carolina collect millions of dollars in taxes and fees. These funds are invested and deposited until they are needed to pay for appropriated expenses. Traditionally, two criteria have guided the investment or deposit of the public funds: safety and rate of return. More than 11 states (including Alabama, Iowa, Louisiana, Missouri and West Virginia) and some cities have established laws and programs that recognize a third criteria -- reinvestment. Several of these programs have operated for more than 20 years.

By using reinvestment as a criterion, state and local governments seek to encourage private financial institutions receiving public deposits to invest capital within the city and state. This often means loans for small business, affordable housing and agriculture. States and cities are recognizing that public deposits can effectively leverage additional private dollars. **Public funds can be used to advance public goals without actually spending them.**

Public deposit programs have been used to pursue a number of public policy goals:

* To draw the attention of financial institutions to the credit and financial service needs of their communities;

* To keep capital at home to build local economies, whether in cities, in the rural areas, or in the state;

* To encourage and/or capitalize particular loans or loan programs targetted to meet local development needs;

*To establish greater public accountability in the depository process.

Types of Linked Deposit Programs

There are three basic types of reinvestment-oriented public deposit programs: screening programs, reward programs, and targetted lending programs.

<u>Screening programs</u> establish performance standards for determining the eligibility of financial institutions to receive public deposits. Public deposits are used as both a carrot and a stick. Poor reinvestment performance results in the withholding of public deposits, while acceptable reinvestment performance results in the granting of public deposits.

A screening program requires sufficient data to evaluate the reinvestment performance of financial institutions. Data requirements generally include reporting by census tract (or zip code or county if not tracted) the number and dollar amount of all consumer, commercial and residential loans and savings and checking accounts. Much of this data is currently collected by financial institutions to meet the requirements of the Home Mortgage Disclosure Act and the regulatory agencies.

A screening program must also include mandatory analysis of the data to be collected. Quality of data and enforcement of analysis have been shown to be more critical to a successful program than the sheer volume of data.

Reward programs go a step beyond screening programs by actually distributing public deposits based upon the reinvestment performance of financial institutions, rather than merely screening out those institutions that do not meet minimum standards. Reward programs require financial institutions to compete for public deposits which are allocated on the basis of a scoring system. In 1976, Colorado made reinvestment considerations part of the state's criteria for placing public deposits. Deposits for over a year were made on the basis of both interest rate and reinvestment considerations. A scoring system was devised in which banks were given credit for their lending in a number of areas including SBA loans, agricultural loans, loans for low cost housing, students loans and overall loan to deposit ratio.

Targetted Lending programs allow for discretionary funds to be deposited in such a way as to support programs of particular public benefit. These programs are often characterized by flexible terms, below-market rates and careful targetting to specific credit needs. These programs are usually a small subset of total public deposits. In some states, the total annual discretionary deposit amounts available are a predetermined dollar amount; in other case they make up a percentage of total deposits. In Louisiana, the State Treasurer may invest up to $19 million in targetted lending programs; in Missouri $330 million may be used as deposits linked to agricultural and small business loans. In both Iowa and Ohio, the State Treasurer may invest up to 10 percent of the state's deposits in such programs.

The effectiveness of these programs is tied to the ability of the State Treasurer to make deposits at below market rates and for longer terms.

There are clear benefits that accrue from such programs. For the communities served by these deposit-leveraged lending initiatives, the housing and jobs that result are tangible benefits. For the banks, the availability of a stable deposit over several years, along with a concession in the interest rate,

served as an incentive to conduct the loan or loan program. Such programs may result not only in lending initiatives that would not otherwise take place, but may open financial institutions to an entirely new outlook on lending as well as to new relationships with communities and community development organizations.

There are clear benefits for state government. The most obvious benefit is the ability to advance economic development goals without actually spending tax revenues. There are, of course, lost opportunity costs involved in linked deposit programs in which a state agrees to accept below-market interest rates, and State Treasurers are often reluctant to forego maximum interest earnings on state deposits. While the efficient use of taxpayer funds is a legitimate concern, interest earnings should be weighed against new business income and real estate taxes that may be generated from the lending programs leveraged by the public deposits.

Learnings From Other States

Following are the key elements necessary for an effective linked deposit program.

* **Establish Reinvestment Goals.** In screening and reward programs, goals will be expressed in the type of factors considered for selecting and distributing deposits. In targeted deposit programs, goals will be expressed in the kinds of lending programs that qualify for special awards. Such goals could include: increased lending in rural areas, in minority communities, to small farmers, and for small businesses. Other possible goals include affordable deposit and financial services, and goals related to the state's or city's own financial services needs such as the purchase of bonds and the handling of securities.

* **Set Evaluative Standards.** Once goals are established, standards must be developed to enable administrators to assess an institution's eligibility and to award deposits.

* **Institute Appropriate Data Collection and Analysis Requirements.** Since few state or city agencies have the capacity to undertake massive research projects each year in order to make depository selections, the data component should be of a scale that is both manageable and meaningful. Disclosure requirements must be clearly and precisely defined. Among the terms to be defined are timeframes (annual, calendar year), reporting unit (census tract or county), various types of loans and deposits, and instructions on how to deal with ambiguities such as where to book a commercial loan (central office or site of end use?) and how to report a loan participation.

* **Provide Clear and Sufficient Legislative Direction.** Public officials should clearly spell out the full requirements of the program and designate responsibility for carrying out necessary tasks, even though state treasurers or city financial officers may be able to establish new public deposit programs without new legislation.

* **Institute Community Access.** Public accessibility to data collected by screening and reward systems allows community groups to determine the effects of depository decisions upon their own localities.

* **Establish Regular Program Evaluation.** There needs to be a formal process for reviewing the program. Other cities and states have had the experience of collecting large amounts of data but of only using the data in a very limited way to affect deposit decisions.

* **Make Deposits Attractive to Financial Institutions.** Public deposits that are short in duration, call for a maximum interest rate, and require more than 100% collateralization by government securities will not attract private depository institutions and therefore will not serve as an incentive for leveraging the lending or financing sought by the government. Public deposits can be made attractive to financial institutions without undue risk to public funds. Foregone interest earnings should be weighed against the public benefits they induce as well as the costs that would have been incurred by producing such benefits through alternative programmatic efforts.

In sum, an effective linked deposit program works by encouraging private financial institutions to live up to their community reinvestment responsibilities, to seek out unfamiliar under-invested markets, to form new partnerships with community development organizations, and more generally, to attend to the needs of their communities. While many community problems cannot be solved by affordable credit and investment, public deposit programs carry great potential for addressing those which can.

Recommendations for the Linked Deposit Study Commission

We urge members of this Study Commission to seriously consider linked deposits programs as a way to further public purposes by leveraging private funds without additional public expenditures. At a time of budget deficits and cutbacks in expenditures, public deposits provide state and municipal governments with a means for pursuing public goals without collecting additional revenues.

More specifically:

1. **Voluntary programs.** Any programs developed should be voluntary ones. Thus, disclosure of a bank's reinvestment activities is not mandatory. It is the carrot necessary to pursue public deposits.

2. **Data base necessary.** In order for an effective program to be developed, the state must collect data to assess a financial institution's reinvestment performance. This data should be made available to local governments, as well as to the public. The data should provide information about the full range of lending and deposit activities -- location, terms and amounts. We need to know how our public deposits are working for us. We know that they are safe and sound, but we do not know if they are leveraging maximum private resources for economic and community development.

3. **Rating system based on performance.** The state should establish a community reinvestment rating system that joins rate of return and security as necessary conditions for securing public deposits. This rating system should incorporate the data collected annually from the financial institutions. The experience of other states with such rating systems should be closely studied.

4. **Research need for enabling legislation.** We also suggest that the Commission examine whether local enabling legislation will be necessary for cities and counties to develop linked deposit programs at the local level.

Debby Warren, N.C. Legal Services Resource Center, Post Office Box 27343, Raleigh, NC 27611. (919) 821-0042.

January, 1990

Summary of State Laws - Linked Deposits

Alabama -- Linked Deposit Act

Bill #: HB 709 (enacted 5/89); Act 89-882

This bill creates a linked deposit program to make low-interest loans to qualified borrowers. It also removes certain percentage restrictions on available investment portfolio funds used for these loans.

Illinois -- Deposit of State Monies

Ill. Ann. Stat. ch. 130, para.20.1 et seq.

For the Community Services Program, deposits are awarded according to past performance in 13 loan categories. Under the Specific Opportunity Program, deposits are awarded to institutions that will make loans for such projects as low income housing and disaster reconstruction. The State Treasurer may make below-market rate deposits in an institution that documents the use of deposit funds for community development projects.

Iowa -- Linked Deposit Act

Iowa Code Ann. sec. 12.31 et seq.

The State Treasurer may invest up to 10% of the state pooled money fund in lending institutions at not more than 3% below the current market rates. Loans are for farming and small business purposes.

Louisiana -- Linked Deposit Program

La. Rev. Stat. Ann. sec. 49:327.1

This program encourages banks to grant low-interest loans for agricultural production and small business purposes. The deposits are linked with a specific loan application -- both at up to 3% below market.

Massachusetts -- Link Deposits

Mass Gen. Laws Ann. ch. 29, sec. 34; ch 167, sec. 15; Mass Treas. Dept., Link Deposit Program Guide.

This progam, established in 1978, links the privilege of receiving deposits of state funds to reinvestment performance. Financial institutions seeking state deposits are ranked according to a formula which takes into account interest rate, in-state deposits, in-state loans, and loans to small businesses, students, tax-exempt organizations, community development organizations, and residential loans in lower income census tracts. Financial institutions are separated into large commercial banks, smaller commercial banks and thrifts.

Michigan -- Investment of Surplus Funds

Mich. Comp. Laws Ann. sec. 21.142(a)

The state may make total linked deposits of $200 million/year for agricultural loans to owner-operator farmers. Below market rate loans are permitted.

Missouri -- Linked Deposits

Mo. Ann. Stat. sec. 30.750 et seq.

The State Treasurer may invest up to $330 million ($160 million for farming, $55 million for small business, and $110 million for job enhancement businesses). The state responds to linked deposit requests from financial institutions for small businesses. The state may place deposits at 3% below market rate interest with a deposit agreement that links the period of deposit and below market rate for the term and interest rate of the particular loan.

Montana -- Preference to In-State Investment Firms

Mont. Ann. Code. sec. 17-6-211.

Only investment firms or financial institutions located in the state are eligible for state deposits. The Board of Investments must give due consideration to investments which will benefit the smaller communities in the state.

Ohio -- Linked Deposit Program

Ohio Rev. Code Ann. sec. 135.61 et seq.

The State Treasurer may invest up to 10% of the state's total investment portfolio in linked deposits, not to exceed $100 million. The state responds to requests from financial institutions for small businesses, creating or preserving jobs. The state may place deposits at up to 3% below market rate interest with a deposit agreement requiring the linked loans at 3% below market rates.

West Virginia -- Linked Deposit Act

Bill #: SB 621 (enacted 4/89)

The Director of Banking must approve all linked deposit loan packages. The State Treasurer and Office of Community and Industrial Development are also involved in the process.

Wyoming -- Link Deposits and Investments

Wyo. Stat. sec. 9-4-382; 1986 Wyo. Sess. Laws, ch. 5.

The State Treasurer may deposit or invest up to $100 million of state funds in linked deposits, responding to requests from

financial institutions for commercial or agricultural loans that create/preserve jobs in the state. Maximum linked loans is $750,000; maximum (but renewable) term is 5 years. The state linked deposit must earn the same below-market rate of interest that the financial institution charges the bororower, up to 3% below the market rate.

Cities with Municipal Depository Ordinances

Chicago, ILL -- Municipal Depositories

In addition to deposit insurance, capital stock and surplus levels, banks are required to disclose detailed information and pledge to uphold community reinvestment standards, to be eligible for municipal deposits. Disclosure includes residential, consumer and commercial loans.

Hartford, CT -- Depository Ordinance

This ordinance regulates the process for determining the eligibility of financial institutions to receive deposits of municipal funds. It requires financial institutions to disclose information on both their residential and commercial lending, and calls for the city manager to analyze the data and to certify those institutions which are qualified to receive deposits. The ordinance allows both for financial institutions to appeal adverse rulings and citizens to file grievances against city depositories.

Note: This information was prepared by the NC Legal Services Resource Center with assistance from the Woodstock Institute and the National Center for Policy Alternatives. For more information, contact Margot Roten or Deborah Warren, (919) 821-0042.

APPENDIX E

TESTIMONY

by

ABDUL RASHEED
EXECUTIVE DIRECTOR
NORTH CAROLINA ASSOCIATION OF COMMUNITY DEVELOPMENT CORPORATIONS
RALEIGH, NORTH CAROLINA

Before the
NORTH CAROLINA GENERAL ASSEMBLY
STUDY COMMISSION ON CREDIT CARD DEREGULATION AND LINKED DEPOSITS

January 11, 1990

I. Introduction

Senator Johnson, Representative Hege, Representative Brubaker, members of the Credit Card Deregulation and Linked Deposits Study Commission, my name is Abdul Rasheed. I am speaking to you in my capacity as Executive Director of the NC Association of Community Development Corporations, Chairperson of the Center for Community Self-Help (parent of the Self Help Credit Union) and long time board member of the NC Coalition of Rural and Farm Families.

I represent constituencies concerned about the economic development of our State, about the flow of credit to rural, minority and low-income communities. I would like to mention the recent decision by the Federal Reserve System concerning First Union Corporation's application to acquire Florida National. I quote from the the Federal Reserve's Order:

> Based upon its examination of these banks, the OCC (Office of Comptroller of the Currency) concluded that a number of First Union subsidiary banks had an overall CRA rating that was less than satisfactory... In reviewing the CRA factor in this case, the Board believes that the results of the OCC's examination findings regarding the past CRA performance of First Union's subsidiary banks, if considered alone, would require a negative finding under the convenience and needs factor...The Board will carefully examine future applications by First Union to determine its progress in fulfilling its CRA obligations and commitments, and believes that First Union should not consider further bank expansionary proposals until it has demonstrated actual and sustained progress in improving its CRA performance.

II. Introduction to Linked Deposits

A. What are Linked Deposits?

1. We want the biggest bang for our public buck. The first way the State Treasurer does this is by seeking the most competitive rate of return on public deposits. (Total public deposits as of June 30, 1988 in NC were $2.4 billion - that's almost 4% of all bank deposits in NC.) The second way is through Linked Deposits. It is simply continuing the effort to maximize the state's returns on its public deposits.

2. Take this situation. Bank A and Bank B both want a piece of the state's deposits. They are offering identical security and rate of return. Bank A, however, has an excellent record of reinvesting its deposits back in the various communities of the state. Bank B has a mediocre record. Well, it makes sense to award the public deposits to Bank A. The state gets a greater multiplier by putting its funds in Bank A. Bank A, if its past record is any guide, will use those deposits to make loans for affordable housing, small businesses, farms and other ventures that create income and employment for people in North Carolina. Bank B, if its past record is any guide, will place

some of those deposits in out-of-state entities or even international markets. Bank A is enabling the State to use its public funds to generate income and jobs for its poorer and rural communities, without an appropriation.

3. More than 11 states (including Alabama, Texas, Iowa, Louisiana, Missouri and West Virginia) have established laws and programs that recognize the possible reinvestment multipliers that public deposits can have. They have set up some form of linked deposit program. We believe that North Carolina should do the same. Linked Deposits means simply that the decision to select a financial institution for public deposits is, in some way, based on the reinvestment performance of that bank.

III Setting up a Linked Deposit Program

A. Three ingredients: 1) the banks need to care about getting public deposits; 2) there needs to be a way of measuring the bank's reinvestment performance; and 3) there needs to be a system for analyzing and disseminating the information.

B. **Banks need incentives.** 1. We did some preliminary analysis. The data is several years old but I don't think the numbers have changed. What percentage of a bank's NC deposits come from the public sector, both state and local? For year-end 1986, 5% of Wachovia's, 2.6% of FUNB's, and 1.4% of NCNB's domestic deposits come from public sources.

For the second tier of banks, the percentages range from 4% for Peoples and Planters to 7.8% for UCB. For the little banks, public deposits are often very important. The Bank of Granite -- 13.2%; The Bank of Currituck - 17.5%; Columbus National Bank - 21%; Lumbee National Bank - 33%.

In sum, public deposits matter to many of our banks.

2. Linked Deposits are also a way of increasing the awareness of the public and financial institutions about reinvestment activities. It enables depositors to make a choice of where to put their money. It's like the Good Housekeeping Seal for financial institutions.

C. **The State needs information on the bank's performance.**

1. We're in luck here. The federal government, through the recent S & L bailout legislation, now requires the regulators to make their evaluations of financial institutions' reinvestment performance public information. This will be available beginning July 1, 1990. We now have a public source of information, required by the feds. This gives NC an opportunity to make use of this important information.

We may want to supplement that information. I will talk about that later.

D. Analyzing and disseminating the information.

1. It's important to keep this simple. The State Treasurer and the Banking Commissioner have enough to do already. If the system is too complex, its costs will outweigh the benefits to the state. Perhaps we should place whatever administrative responsibilities there are on the state agency most interested in the results of this information, the Department of Economic & Community Development, for example. If the benefits of a Linked Deposit program are increasing the economic well-being of the state, particularly those parts traditionally neglected, then our former Commerce Department may make the most sense.

Experiences in other states have shown simplicity to be the key to an effective Linked Deposit program. But there must be a state agency charged with the responsibility to analyze and disseminate this data to the entities most interested, including the public and local governments.

IV. Types of Linked Deposit Programs

A. 3 basic types: screening, reward, and targeted lending program.

B. **Screening:** In this type of program, we simply exclude those financial institutions with unacceptable performance ratings in reinvestment. The federal ratings could be used. These institutions could not bid for public deposits.

C. **Reward:** These programs take it a step further. They seek to maximize the fiscal return to the state -- the multiplier for public deposits -- by rewarding financial institutions whose reinvestment patterns will mean more investment, income and jobs in communities in North Carolina.

D. **Targeted Lending:** These target specific portions of the state''s portfolio for specific purposes. In Missouri, for example, the State Treasurer may invest up to $330 million in banks making specific loans for agricultural and small business purposes. In Iowa and Ohio, the State Treasurer may invest up to 10 percent of the state's deposits in such programs.

V. Cost - Benefit Analysis

A. In some states, the Linked Deposit program is used to make below market money available for specific types of "developmental loans". Your first reaction probably is 'no'. We are responsible for getting the highest rate of return. Let me change your position by laying out a specific example.

1. Let's take a $1 million deposit. Let's take the extreme
positions of financial institutions in their loan to deposit ratios statewide. One has a 70% ratio; the other 30%. I will not go through the calculation now, but when we look at typical

multiplier effects of money and state tax revenues, we find that the bank with the much higher loan to deposit ratio generates $14,000 more in tax revenues (through multipliers) than the other bank. Taking that a step further, we will argue that the state could receive up to 1.4% less on its $1 million investment from this bank, passing that lower rate of return on to particular consumers, and still come out even.

2. In sum, a Linked Deposit program increases the rate of return to the State of its public monies.

3. A rewards type program, therefore, will maximize the fiscal return to the State.

VI. Local Government

A. Local governments have also set up Linked Deposit programs. This study commission needs to find out whether enabling legislation would be required. Regardless, the state should play a role in making the necessary data and performance ratings available to the localities.

VII. Summary

I urge members of this Study Commission to seriously consider Linked Deposit Programs as a way to further public purposes by leveraging private funds without additional public expenditures. At a time of budget deficits and cutbacks in expenditures, public deposits provide state and municipal governments with a means for pursuing public goals without collecting additional revenues.

An effective Linked Deposit program works by encouraging private financial institutions:

1) To live up to their community reinvestment responsibilities;
2) To form new partnerships with local development organizations;
3) to seek out unfamiliar, underinvested markets; and
4) to generally attend to the needs of their communities.

State of North Carolina
Department of State Treasurer
Investment and Banking Division

HARLAN E. BOYLES
TREASURER

C. DOUGLAS CHAPPELL
DEPUTY TREASURER

January 25, 1990

RECEIVED
JAN 26 1990
GENERAL RESEARCH DIVISION

Mr. Terrence D. Sullivan
Director
Research Division
North Carolina General Assembly
Legislative Services Office
2129 State Legislative Building
Raleigh, North Carolina 27611-9184

Dear Mr. Sullivan:

This is in response to your inquiry about the State Treasurer's Six Month Certificate of Deposit and Savings Certificates Program at the last meeting of the Legislative Research Commissions Committee on Deregulation of Credit, Credit Card Banks and Linked Deposit Programs. Outlined below are the guidelines under which investments in certificates of deposit and savings certificates may be made by the State Treasurer in North Carolina banks and savings and loans.

1. Funds may be invested in certificates of deposit issued by banks organized under North Carolina law or banks having their principal office in this state, in amounts compatible with the applicant institution's capital adequacy. However, in no case shall the amount exceed fifty percent of the "Total Equity Capital," as reported on the bank's most recent quarterly report of condition submitted to the FDIC.

2. Funds may be invested in saving certificates issued by savings and loan associations organized under North Carolina law or by federal associations having their principal office in this state, in amounts compatible with the applicant institution's capital adequacy. However, in no case shall the amount exceed fifty percent of the institution's "Net Worth," as calculated on a GAAP basis.

3. All amounts above the insurance coverage shall be fully collateralized in accordance with the collateralization rules codified in the North Carolina Administrative Code-Title 20, Chapter 7. The State Treasurer warrants to the financial institution that the funds represented by the certificate(s) are public deposits subject to the Collateralization Rules.

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4. Interest rates are determined by the State Treasurer as provided by law and are revised as necessary, so as not to be less than yields available on U. S. Treasury and/or Agency securities of comparable maturity. Interest due on maturing certificates is calculated on the actual number of days from issue date to maturity date (using a 360 day basis with no compounding), and is remitted on maturity date through the Automated Clearing House. The financial institution establishes an account against which the State Treasurer may submit an ACH debit.

5. Certificates are issued with a fixed maturity date, which is the first Thursday following the 179th day after issue date, unless such day is a holiday, in which case the maturity date is determined by the State Treasurer.

6. Certificates are issued to **"Treasurer Of The State Of North Carolina."**

7. The financial institution, upon issuing the certificate, agrees to reimburse and hold harmless the State Treasurer from and against any loss, arising from any actions or omission of actions of the institution, in regards to the timely and proper remittance of interest and/or principal at maturity date.

8. Certificates (or advices evidencing a book entry) are held in custody by the State Treasurer and are returned to the issuer properly endorsed on or before the maturity date, together with a notice stating the amount of interest due and the terms at which the certificates may be reissued. For certificates not being reissued, the principal amount is remitted by wire transfer to a Raleigh bank designated by the State Treasurer. The institution advises the Treasurer's office by telephone of any intent not to re-issue the certificate. The option to reissue the certificate at maturity may or may not be offered by the Treasurer.

If you have further questions, please feel free to contact our office.

Sincerely,

C. Douglas Chappell
Director

CDC/bf

Statement of
THOMAS A. BENNETT
Vice Chairman and Chief Operating Officer
Wachovia Bank and Trust Company, N.A., and
President-Elect, North Carolina Bankers Association

Presented to the Credit Card Deregulation and
Linked Deposits Study Committee on
January 11, 1990

GOOD AFTERNOON.

SENATOR JOHNSON . . . REPRESENTATIVE HEGE . . . MEMBERS OF THE CREDIT CARD DEREGULATION AND LINKED DEPOSITS STUDY COMMITTEE, MY NAME IS THOMAS A. BENNETT, AND I AM VICE CHAIRMAN AND CHIEF OPERATING OFFICER OF WACHOVIA BANK AND TRUST COMPANY, IN WINSTON-SALEM. I AM APPEARING BEFORE YOU TODAY IN MY CAPACITY AS OF PRESIDENT-ELECT OF THE NORTH CAROLINA BANKERS ASSOCIATION.

I WANT TO THANK YOU FOR THE OPPORTUNITY TO TALK WITH YOU FOR JUST A VERY FEW MINUTES ON THE SUBJECT OF LINKED DEPOSITS. AS I UNDERSTAND IT, THE IDEA BEHIND LINKED DEPOSITS IS TO ASSIST IN MAKING MORE FUNDS AVAILABLE TO LOW INCOME BORROWERS AT A LOWER RATE OF INTEREST.

CERTAINLY, THE THOUGHT OF LOWER INTEREST RATES IS ATTRACTIVE, AND THE MOTIVATION TO PROVIDE SPECIAL ASSISTANCE TO THOSE

WHO ARE LESS FORTUNATE IS LAUDABLE. BUT OUR FINANCIAL SYSTEM WORKS IN A DELICATE BALANCE, AND ANY SOCIALLY ORIENTED PROGRAMS MUST BE CONSIDERED WITH THE ECONOMIC WELL-BEING OF ALL OF OUR CITIZENS IN MIND.

IN OUR ECONOMIC SYSTEM, THE MARKETPLACE IS THE VEHICLE THROUGH WHICH INTEREST RATES AND THE AVAILABILITY OF FUNDS IS DETERMINED. I BELIEVE THAT IN THE STATE OF NORTH CAROLINA, THE MARKETPLACE HAS BEEN EFFICIENT IN ALLOCATING FUNDS. I ALSO BELIEVE THAT THERE ARE NOT MANY INSTANCES IN WHICH A CREDIT WORTHY BORROWER HAS BEEN UNABLE TO SECURE FUNDS.

BUT THE QUESTION BEFORE THIS COMMITTEE IS "SHOULD FUNDS ENTRUSTED TO THE STATE OF NORTH CAROLINA BE USED TO SUBSIDIZE LOW INCOME BORROWING . . . AND POSSIBLY, SHOULD THESE FUNDS BE USED AS LEVERAGE TO FORCE FINANCIAL INSTITUTIONS TO MAKE ADDITIONAL LOANS TO LOW INCOME GROUPS?"

NOW THERE HAVE BEEN SOME PRETTY GOOD ARGUMENTS PRESENTED HERE TODAY AS TO WHY IT IS NOT SUCH A GOOD IDEA TO EMPLOY STATE FUNDS IN THIS WAY. I CANNOT IMPROVE ON THE STATEMENTS OF OUR TREASURER AND OTHERS WHO HAVE REMINDED US THAT THOSE FUNDS CARRY OTHER IMPORTANT OBLIGATIONS WHICH SHOULD NOT BE OVERLOOKED IN OUR ENTHUSIASM TO INCREASE THE FUNDS AVAILABLE

FOR LOW INCOME BORROWING. OF COURSE, THERE ARE ALSO INHERENT COSTS TO THE GENERAL PUBLIC INVOLVED IN A LINKED DEPOSIT PROGRAM.

FROM THE STANDPOINT OF THE BANKING COMMUNITY, THE CONCERN IS THAT WHAT WE ARE TALKING ABOUT IS GOVERNMENT INTERVENTION IN THE SYSTEM FOR ALLOCATING FINANCIAL RESOURCES. AS AN INDUSTRY, WE ARE TOTALLY OPPOSED TO CREDIT ALLOCATION WHETHER IT IS OVERT OR DISGUISED. IT IS CONTRARY TO THE PRINCIPLES OF OUR FINANCIAL SYSTEM, AND IT IS NOT IN THE BEST INTERESTS OF THE CITIZENS OF NORTH CAROLINA.

THE FINANCIAL STABILITY OF OUR STATE AND LOCAL GOVERNMENTS IS A PRODUCT OF SOUND INVESTMENT PROCEDURES, THE CAPABLE LEADERSHIP OF OUR STATE TREASURER, MR. BOYLES, AND OF THE FISCAL RESPONSIBILITY OF OUR GENERAL ASSEMBLY.

THE IMPLEMENTATION OF A LINKED DEPOSIT PROGRAM WOULD DRAMATICALLY ALTER THE INVESTMENT POLICIES AND PROCEDURES FOR THE INVESTMENT OF PUBLIC FUNDS. HOUSE BILL 1910 CLEARLY CONTEMPLATES A LINKED DEPOSIT SYSTEM WHICH WOULD REQUIRE THE TREASURER'S OFFICE TO CONDUCT AN EXTENSIVE EXAMINATION OF THE COMMUNITY REINVESTMENT PERFORMANCE OF ALL FINANCIAL INSTITUTIONS SEEKING TO SERVE AS DEPOSITORIES OF PUBLIC FUNDS.

INVESTMENT POLICIES WOULD NOT BE BASED SOLELY UPON OBJECTIVE STANDARDS RELATING TO THE SOUNDNESS OF THE DEPOSITORY INSTITUTION AND UPON THE QUALITY OF THE OBLIGATIONS SECURING THE DEPOSITS, BUT WOULD INCLUDE SUBJECTIVE CRITERIA COMPLETELY UNRELATED TO THE PROTECTION OF PUBLIC FUNDS.

IN THE PREAMBLE TO HOUSE BILL 1910, IT IS NOTED THAT "ALL FINANCIAL INSTITUTIONS HAVE A CONTINUING AND AFFIRMATIVE OBLIGATION CONSISTENT WITH THEIR SAFE AND SOUND OPERATION TO HELP MEET THE CREDIT NEEDS OF THEIR ENTIRE COMMUNITIES . . ." INDEED, FINANCIAL INSTITUTIONS DO HAVE AN IMPORTANT RESPONSIBILITY TO MEET THE CREDIT NEEDS OF THE COMMUNITIES THEY SERVE. LET ME EMPHASIZE MY FIRM BELIEF THAT IN NORTH CAROLINA THE CREDIT NEEDS OF CREDIT WORTHY BORROWERS ARE BEING MET IN A RESPONSIBLE WAY BY THE BANKING SYSTEM.

CERTAINLY, IT IS IMPORTANT TO NOTE THAT A BANK'S RESPONSIBILITY TO OPERATE IN A SAFE AND SOUND MANNER IS ALSO VITAL. I SUBMIT THAT ANY PROCEDURE WHICH ENCOURAGES OR COERCES A FINANCIAL INSTITUTION TO LESSEN ITS CRITERIA FOR MAKING CREDIT AVAILABLE CONTRIBUTES TO UNSOUND BANKING PRACTICES AND IS NOT SERVING THE PUBLIC WELL.

LET ME CLOSE BY URGING YOU TO GIVE CAREFUL CONSIDERATION TO THE COMPLEXITIES OF THE MATTER BEFORE YOU. CARE SHOULD BE TAKEN NOT TO DISTURB THE BALANCE OF OUR STATE'S FINANCIAL SYSTEM . . . A SYSTEM WHICH HAS BEEN WORKING WELL FOR MANY YEARS. IT HAS RESULTED IN A VERY STRONG, HIGHLY COMPETITIVE BANKING SYSTEM WHICH IS PROVIDING AN EXCELLENT LEVEL OF SERVICE TO THE PEOPLE OF THIS STATE.

APPENDIX H

TESTIMONY BEFORE LEGISLATIVE RESEARCH COMMISSION COMMITTEE ON DEREGULATION OF CREDIT, CREDIT CARD BANKS AND LINKED DEPOSIT PROGRAMS

James B. Blackburn, III
General Counsel
NC Association of County Commissioners

Thursday, January 11, 1990

I. INTRODUCTION

A. Identification

B. Reasons for Testimony - from letter from Committee Counsel Terry Sullivan, dated December 13, 1989, asking for comments on:

"1. the position of your organization on the need for the establishment of linked deposit program(s) in this State;
2. any information you may have of the experience of other jurisdictions in this regard;
3. if the programs are needed, your opinion as to the feasibility of establishing linked deposit programs in this State and your ideas as to how such program(s) might be structured; for example, at what governmental levels should the program(s) be established and which deposited funds should be subject to the program; and
4. any other information that you feel would help the Committee in an analysis of this topic."

II. COUNTY PRIORITIES AND NEEDS

A. Additional Revenue Sources - Priority Legislative Goal

B. Additional Financing Mechanisms - Priority Legislative Goal

C. Study Committees Meeting January 11 discussing issues involving substantial county expenditures:

1. Social Services Study Commission,
2. Special Committee on Prisons (Satellite Jails, Medical Care of prisoners in jails),
3. Groundwater Study Committee,
4. Solid Waste Study Committee,
5. Infrastructure and Local Government Needs.

D. Success of Current System

1. Part 3 of Article 3 (Local Government Budget and Fiscal Control Act) of Chapter 159 of the General Statutes (Local Government Finance) specifying appropriate investments.

2. Leadership of State Treasurer and Local Government Commission - Need to balance highest rate of return on the public dollar with safety of investment. Currently, according to the Secretary of the Local Government Commission, 20% of the governmental entities with Triple A bond ratings in the nation are in North Carolina.

III. COMMENTS ON "LINKED DEPOSIT" PROPOSAL

A. Inappropriate to tamper with investment policy that has served us well.

B. Inappropriate to factor in "social policy" considerations to investment decisions.

C. Inappropriate to risk reduced return on our dollar when there are so many pressing demands on counties.

D. There are more appropriate ways to realize social goals.

   1. e.g. Solid Waste Funding mechanism of Senate Bill 115 (1989 Session)

E. We are satisfied with the current relationship we enjoy with our lending institutions.

Testimony/jb4

Credit Cards/Linked Deposits Study Committee

Comments of Ellis Hankins
General Counsel, North Carolina League of Municipalities
January 11, 1990

Thank you Mr. Chairman, for the opportunity to speak to the committee on behalf of the North Carolina League of Municipalities. I am happy to tell you first that the League does not own a dog in the discussion about credit cards. Municipal officials are very interested, however, in the second half of your charge, linked deposits, whatever we take that term to mean.

"Capital Investments in Our Hometowns" has been one of a series of themes for municipal elected officials in the last several years. That's really what we are talking about here. Our Board of Directors directed the staff in 1988 to do in-depth research on several issues and put the results in a series of concise, readable publications. One of those issues was public capital facilities, and the result was this discussion paper called "Capital Investments in Our Hometown." Another was called "Decent Housing For All NC Citizens.

Municipal officials are very interested in these issues which are crucial to the future of our state. They asked us to draft and seek enactment of three very significant pieces of legislation in 1987, and we were successful. The General Assembly that year increased the authority of municipalities to take part in economic development and downtown development projects, and housing programs for low and moderate income persons. Cities are using that new authority, although the available public dollars are limited, as they always will be.

In the housing area, for example, cities may make appropriations to lower the interest rates for home ownership loans to low income people, and take part in low income housing projects in other ways. Whether you could leap from there to contracting with a financial institution to accept public funds for deposit at some interest rate and to make home ownership loans at a below market rate, I don't know. I would be a little concerned about that, and tend to agree with Mr. Boyles that the straightforward way to do this is an appropriation.

My point in mentioning all of this is that it doesn't do much good if local financial institutions are not also investing funds from local depositors in private sector capital facilities, so to speak. This is especially true if the institution has public funds on

deposit. For them to take those funds, in particular, and export them to other areas for other purposes may be a breach of faith with their local clientele, although we realize those institutions are in the business of making profits for their stockholders.

It is disturbing to read articles like the series last year in the Raleigh News and Observer which showed, if true, that some financial institutions are not living up to their responsibilities. Some apparently are failing to invest in local neighborhoods, and perhaps in designated or redlined areas. It is distressing if true. We certainly hope that every financial institution is complying with the Community Reinvestment Act.

The League has no firm policy position on the issue of linked deposits, but the appropriate one of our policy committees will be discussing the issue. Municipal officials do have some discretion under the statutes to use deposits and investments of public funds as carrots to entice investment by local financial institutions in local housing stock, and in general community and economic development, if they choose to do that. This does not have to be at below-market rates or with a lesser rate of return to the governmental unit.

There certainly are limits, however. The statutes are G.S. 159-30, concerning investments, and 159-31, concerning depository institutions, part of the Local Government Budget and Fiscal Control Act. We do not how many local government units might do some of that, formally or informally. Obviously if a city or county were to get too far out in uncharted territory, some legislation would be necessary. The point is that there is some room for the exercise of the power of persuasion. The statutes do not say how the local governments will decide where to put the funds, only that they must be secured.

I asked a couple of municipal finance officers whether their cities did any of this, and they said only informally. They said that their elected officials occasionally discuss the local investment issue with bank officials and usually are satisfied with the apparent performance of their depository bank in this area. We have never asked the question in a survey, but can do so if that would be helpful to you.

We hope you will not recommend mandating that depository or investment decisions be made solely or primarily on this basis. Certainly there are other crucial considerations, such as the overall rate of return and the quality of security that institutions can offer for the deposits or investments. Elected officials have a responsibility to the taxpayers to ensure that public funds are deposited and invested wisely and securely. It does seem to me that municipal officials would be very

interested in seeing understandable, periodic information on the lending practices of local financial institutions and their performance in the area we are talking about here. I believe that would be most helpful to them in making responsible decisions on where to invest public funds.

There is some precedent for the General Assembly authorizing municipalities explicitly to make investment decisions based on social policy considerations. G.S. 160A-197 authorizes depository and investment decisions based on whether the institution has business ties with the Republic of South Africa. My opinion is that municipalities would be free to do this in the absence of that statute, because of their wide range of discretion in making these decisions based on whatever criteria and considerations they deem appropriate.

We certainly will work with you to gather information, and will look forward to helping to educate local elected officials about the practices of financial institutions and the opportunities and tools that they have to get more bang for their public bucks on deposit.

Thank you and I will be happy to try to answer any questions you might have.

MAXIMIZING RETURN ON PUBLIC DEPOSITS OF LOCAL GOVERNMENT

Proposal: To give State Government the responsibility to provide city and county governments with the information necessary to assess the reinvestment performance of local financial institutions. A position would be created within State Government to do this job.

Background: Local governments invest millions of dollars each year in taxes and fees. These funds are invested and deposited until they are needed to pay for appropriated expenses. Traditionally, two criteria have guided the investment or deposit of public funds: rate of return and safety. A local government's rate of return from its deposits can be magnified by looking at a third criterion -- reinvestment performance -- which can serve to maximize the overall return to local government.

What is reinvestment performance? A bank with an exemplary reinvestment record puts its deposits back in the local community for housing, business and farm loans. A new house means new property taxes for the local government; a business with ample capital to develop and grow means more income and sales taxes for local government. Each dollar that a bank makes as a loan can circulate in that community several times -- or it can quickly leave that community.

One study showed that a $1 million public deposit made in a bank with a high local loan to deposit ratio generated $14,000 more in tax revenues than did a deposit made in a bank with a low loan to deposit ratio.

How can a local government assess reinvestment performance? Because of recent changes in the law, the federal regulators are developing a new rating system to evaluate the reinvestment performance of financial institutions with federal insurance. This four-level rating system includes a descriptive evaluation of performance. Beginning July 1, 1990, these ratings, findings and conclusions will be available to the public.

Local governments, however, do not generally have the capacity to collect and digest this information. It could be used to rank banks and savings institutions competing for public deposits. Cities and counties could also use other information such as local loan to deposit ratios in making depository decisions.

What is the State's role? The State should collect this information and provide it in a useable form to local governments who would like to use reinvestment performance as a criterion for selecting depositories for their funds. A small appropriation at the state level would result in far greater leveraging of public deposits at the local level.

For more information contact Margot Saunders or Debby Warren, NC Legal Services Resource Center, (919) 821-0041.

(Note: Deposits of local governments in NC as of December, 1986 totalled more than $1 billion.)

IN SUPPORT OF CREDIT CARD DEREGULATION IN NORTH CAROLINA

Presented to the Credit Card Deregulation
Study Committee on January 11, 1990
by the
North Carolina Bankers Association

Good morning.

My name is James M. Culberson, Jr., and I am Chairman, President and Chief Executive Officer of The First National Bank of Randolph County, in Asheboro. It is my privilege this year to be serving as President of the North Carolina Bankers Association, and it is in my capacity as President of the Association that I am appearing before you this morning to discuss the merits of credit card deregulation.

Now, I am sure that most of you, and the majority of the members of the General Assembly of North Carolina would rather that this issue did not have to be addressed. Clearly, credit card deregulation has not been popular in North Carolina. Still, if we can take emotion out of the issue and act based on the realities of the situation, there are some very logical arguments in favor of deregulation.

If simply rejecting the concept of credit card deregulation would serve to hold down rates, there might be some merit in such a position. But with every passing day, fewer and fewer bank credit cards are being issued from

within North Carolina. At the present time, over two-thirds of the 3.9 million bank credit cards held by North Carolina customers are issued from out of state. North Carolina has no control over the rates and terms of these cards.

To date, three of our major banks have at least partially moved their credit card operations to other states. Others are certainly considering this option. For instance, I am advised that the Central Carolina Bank, in Durham, is currently looking into the possibility of moving its credit card operation out of North Carolina in favor of Georgia. If something is not done, this erosion of jobs and revenues is certain to continue and there will be little hope of retrieving the jobs we have already lost.

Perhaps the primary source of the emotional response to the suggestion that credit cards should be deregulated lies in the notion that credit card operations are extremely profitable. This is, in fact, not the case at all. The Federal Reserve, in a 1987 study on annual net earnings of bank card plans before taxes, found that from 1972 through 1985, bank card earnings averaged 1.9 percent of balances.

Over the same period, average net returns on other major types of commercial bank lending were significantly higher: 2.3 percent on real estate mortgages, 2.4 percent on consumer installment debt, and 2.8 percent on commercial and other loans.

The point is that while credit cards are a tremendously useful and convenient service, they are also quite expensive. They are expensive for the bank to offer, and they are expensive to those who use them. Still, it is hard to imagine our society without credit cards. The public would not accept that and has demonstrated a willingness to pay for this service. So it is important to note that margins determine profitability, and in the credit card business, the margins are generally small due to the high cost associated with providing the service.

The counterproductive influence of price controls has been demonstrated many times over the years. This holds true in the financial services industry as well. In times when interest rates push against artificial ceilings, the availability of funds shifts to other less regulated forms of lending or to other less regulated geographical areas. In the past, North Carolina has always been on the leading edge of progressive banking legislation. This has been largely responsible for the fact that funds have been available to the borrowing public in our state when credit has dried up in other states. This has been a key to North Carolina's sustained record of economic growth and development. Let me emphasize that our economic success is no accident. It has been to a large extent dependent on the availability of funds, and the availability of funds has been dependent upon progressive banking laws.

Credit cards have become an important financial tool for most Americans. North Carolinians are no exception. The people of this state will continue to make full use of this service. The only real question is who will provide the cards. As I stated earlier, two-thirds of the cardholders in North Carolina use out-of-state bank credit cards. If North Carolina continues to be unwilling to update its credit card laws, this trend will continue until virtually all bank cards are provided by out-of-state financial intermediaries.

This would be most unfortunate since we would be willfully accepting the erosion of hundreds of jobs and millions of dollars in annual payroll. Incredibly, we seem to be determined to give away this industry . . . an industry with vast growth potential . . . an industry which can bring jobs and revenues to our state.

In effect, what we are saying to those North Carolina banks issuing credit cards is "If you want to compete on level footing with out-of-state cards, then take your credit card operations out-of-state." To a large extent, that is what has happened. So with each passing day the control the state has over credit cards is slipping away, and with each passing day deregulated out-of-state banks are taking advantage of our competitive weakness and gaining stronger footholds among credit card users in North Carolina.

Another source of frustration for our North Carolina banks relates to affinity cards. These cards are becoming very popular and are offered through groups such as university alumni. Since deregulated out-of-state credit cards can offer the most attractive packages, North Carolina banks are unable to compete effectively for a share of this market.

I cannot help but ask if the decisions which are being made with regard to credit cards are based on the realities of the situation or simply a response to frustrations. In any case, failure to modernize our credit card laws is not helping the consumer in any respect, and it is certainly not helping the state of North Carolina.

What we are really talking about here is flexibility in product packaging. This is so important in marketing credit card products because it is the only way to differentiate between the multitude of cards currently on the market. In an era which holds substantial rewards for those who are innovative, we are telling our North Carolina banks that we will continue to impose severe limitations on their ability to be creative, while recognizing that out-of-state competitors operate with no such restrictions.

An excellent case study of the benefits of a deregulated credit card environment exists in Georgia. The Georgia Legislature deregulated credit cards in 1987, so there has been ample time to observe the impact on rates, fees and other credit card terms. Currently, annual fees on credit cards in

Georgia range from $12 to $24, with interest rates holding between 14.88 percent and 18 percent. In most cases, higher annual fees are associated with lower interest rates and visa versa. This provides a good example to illustrate the value of flexibility in offering credit card packages which are designed to address customer preferences.

The recently enacted Georgia credit card low provides for the establishment of credit card banks, limited purpose institutions which are used for processing and issuing credit cards. Under Georgia law, these credit card companies must be capitalized and require a minimum number of employees. The Georgia Credit Card Bank provision is designed to draw credit card business into the state, bringing with it substantial amounts of capital and numerous jobs.

When Wachovia Bank finally began issuing its credit cards out of Delaware, it was able to structure a card package which was much more attractive than any it could offer in North Carolina. Wachovia offered its customers a choice of cards featuring either a $15 annual fee with a 17.88 percent interest rate, or a $25 annual fee with a 14.88 percent annual interest rate. It is ironic that a bank domiciled in this state must take its operation to another state in order to be allowed to provide this type of attractive credit card package to its customers.

In 1984 the North Carolina General Assembly enacted a regional reciprocal interstate banking act. This was progressive legislation . . . it was responsive to market forces, and it enabled our banks to assert themselves as the dominant financial institutions in the region. Clearly, we emerged from the whirlwind of acquisitions in a superior position . . . an enviable position with respect to other states in the southeast. The North Carolina General Assembly deserves much credit for taking a position on this controversial legislation . . . for recognizing the importance of staying abreast of changing market conditions.

The wisdom of our State Legislature in enacting the regional interstate banking law has been clearly demonstrated by subsequent events. Our banks proved to be both aggressive and skillful in putting together acquisitions which more than doubled the assets of these North Carolina based companies.

But the battle was far from over. The 1987 Georgia credit card legislation, which passed with little controversy, was very progressive. Without question, this was an effort by the State of Georgia to recapture some of the financial status which had been lost during the period of interstate acquisitions. It was effective. The new credit card law brought significant new credit card business to Georgia. Unfortunately, some of the new jobs and revenues came from North Carolina.

It is also important to note that the deregulation of credit card operations in Georgia did not give rise to an increase in card rates. Rather, as has been the case in other deregulated states, the packaging became more innovative, and thus more attractive as a product to be exported to restricted states.

The state of Delaware moved much earlier than Georgia to modernize its credit card laws. The results were dramatic. Thirty-four out-of-state financial institutions have been drawn to that state, and 8,000 new jobs have been created. Again, I regret to say that one of those out-of-state institutions was Wachovia.

For obvious reasons, this is a most disturbing trend. The Commission on Jobs and Economic Growth appointed by former Lieutenant Governor Robert Jordan recommended in its Interim Report of March 29, 1988:

> "The Commission recommends the General Assembly enact remedial legislation that will promote the retention and creation of jobs affiliated with credit card processing operations in North Carolina. Such legislation is essential in today's increasingly competitive interstate banking environment."

Similarly, Governor James Martin has endorsed the concept of such legislation.

There are currently more than 15,000 financial institutions issuing credit cards, as well as many merchants. The competition is relentless. Certainly, there is no monopoly in the credit card business, and therefore no justification for continuing out-dated price controls.

Current North Carolina law provides for a maximum interest rate on credit cards of 18 percent, an annual fee of up to $20, and a 25 day free period. With the exception of the $20 annual fee, there have been few significant changes in the provisions of our credit card law since it was established in 1969. That's twenty years. I ask you to consider the dramatic changes which have taken place in the market since 1969 . . . the spiraling cost of doing business . . . the increases in the cost of money to banks . . . the new competitive forces brought on by regional operations and the entry of other financial intermediaries into the traditional business of banking. I submit that it is unfair for any business to be bound by pricing or marketing decisions made so long ago.

North Carolina's credit card laws are restrictive when compared with both South Carolina and Virginia. In South Carolina, rates and fees are deregulated and there is no requirement for a free period. Under South Carolina law, bankers must file a maximum rate with the South Carolina

Department of Consumer Affairs. This maximum fixed rate should not be confused with the actual rate being charged by South Carolina banks. Virginia places no cap on rates or fees on credit cards. A free period is still required under Virginia law.

Much controversy surrounds the proposal to eliminate the mandatory free period. Like any other term of a credit card package, the free period should be determined by market conditions. This has been the case in states where deregulation has occurred. Certainly, the free period is still offered by many deregulated cards. Many seem to feel that this is a price the banks must pay to issue credit cards in the state of North Carolina. Indeed, it is a substantial price since 40 percent of credit card customers pay their accounts off within the free period and consequently pay no interest for the use of the money. An archaic law is causing some customers to pay 18 percent for the use of their credit cards while others pay virtually nothing. This creates an inequitable situation for bank customers and results in an average annual yield on credit cards which is considerably below 18 percent.

It should be understood just who benefits from the 25 day free period. Since most opponents of deregulation are concerned about the impact on less affluent customers, let me state for the record that the free period rarely benefits the low income customer at all. Low income customers tend to

stretch out their payments while the more affluent customers are able to take advantage of the free period.

I sincerely hope that this Study Commission will carefully weigh the positive implications of credit card deregulation against assertions that it would be detrimental to the consumer.

This is a complicated issue you are studying. I urge you to seek the facts and thoroughly understand the realities of this important business. If maintaining restrictive credit card laws in North Carolina is going to help customers, it is important to learn how this is going to happen given that soon there will be no credit card operations subject to North Carolina law. And if this is true, why is it desirable to push the banks out, thereby forfeiting an important economic resource.

The North Carolina Bankers Association favors deregulation of the credit card environment in this State. We are convinced that it is ultimately in the best interest of North Carolina and the consuming public. As has been the case in other states, there will be no frenzied race to increase credit card rates. In any case, the inherent cost of a sterile environment for credit card operations would pose a far greater economic burden on North Carolina.

We would urge this Committee to strongly recommend to the General Assembly that legislation be adopted which substantially deregulates revolving

credit and provides for the establishment of credit card banks. This would be an important step toward returning us to a position of equality with our neighboring states.

I thank you for the time you have given me this morning. To be sure, you will have many questions as you go on with this study. I want to assure you that we will try to provide the data you need. It is important that your recommendations be based on full and accurate information, not innuendo, myths and half truths. Allegations and assertions designed to evoke an emotional response will not help us to reach our goal . . . an attractive environment for business and a flourishing economy for North Carolina.

FROM:AMERICAN BANKERS ASSOC-7 TO: 919 782 5701 DEC 28, 1989 11:35AM P.02

APPENDIX L

STATE STATUTORY AUTHORITY FOR BANK CREDIT CARD RATES AND FEES

STATE	Finance charge	Annual fee	Mandatory Grace period	Delinquency fee	Cash advance fee	Over limit fee	Trans-action fee	Returned payment fee	Stop payment fee	ATM access fee	Others
AL	N/L 1/ §5-14A-4 all others, 18% §5-19-3	N/L §5-20-5		5% up to $100 §5-19-4	N/L 1/ §5-14A-4	N/L 1/ §5-14A-4					
AK	17% §06.05. 209(b)	N/L §06.05. 209(c)		reasonable fee §45.10.080	lesser of 3% or $12 §06.05.209						
AZ	N/L §44-1205	N/L §44-1205		N/L §44-1205		Yes; N/L §44-1205	Yes; N/L §44-1205	Yes; N/L §44-1205	Yes; N/L §44-1205	Yes; N/L §44-1205	Application fee; min. interest charge; documentary evidence charge
AR	5% over Fed discount rate Art. 19, §13 of Const; Amdmt. 60 (1982)										
CA	N/L Art. XX, §22 of Const.	N/L	N/L	N/L	N/L	N/L	N/L	N/L	N/L	N/L	N/L
CO	UCCC loans, 21% or scaled rate §5-3-508	N/L §5-3-202 (1)(c)		5% or $10 §5-3-203							

1/ No limit for credit card banks

FROM:AMERICAN BANKERS ASSOC-/ IU: 915 782 6701 DEC 26. 1989 11:35AM P.03

APPENDIX L

STATE	Finance charge	Annual fee	Mandatory Grace period	Delinquency fee	Cash advance fee	Over limit fee	Trans-action fee	Returned payment fee	Stop payment fee	ATM access fee	Others
CT	15% §42-133C			5% or $10 §42-91							
DE	N/L Tit. 5, §943	N/L T 5, §945(1)		5% or $5 T.5, §950		Yes; N/L T.5,§945	Yes: N/L T. 5, §945	Yes: N/L T. 5, §945	Yes: N/L T. 5, §945	Yes: N/L T. 5. §945	Periodic charges
DC	24% §28-3702			5% or $5 §28-3310							
FL	18% $658.50			5% $520.37							
GA	N/L §7-5-4	N/L §7-5-4		N/L §7-5-4	Yes: N/L §7-5-4	Yes; N/L §7-5-4					
HI	24% §476-28	§478-11 2/		5% or $50 §476-9							
ID	N/L §28-42-201	N/L §§28-33-202, 28-42-201		5% §28-42-301			Yes, if disclosed				
IL	N/L Ch. 17, ¶6402	N/L Ch. 17, ¶6407		Yes; N/L Ch. 17, ¶6407		Yes; N/L Ch. 17, §6407	Yes: N/L Ch. 17, §6407	Yes: N/L Ch. 17, §6407			Fees for services rendered
IN	UCCC Loans, 21% or scaled rate §24-4.5-3-508	N/L §24-4.5-3-202 (1)(c)		5% or $13.50 §24-4.5-2-203							

2/ Recognizes annual fees but does not specifically authorize them.

APPENDIX L

STATE	Finance charge	Annual fee	Mandatory Grace period	Delinquency fee	Cash advance fee	Over limit fee	Trans-action fee	Returned payment fee	Stop payment fee	ATM access fee	Others
IA	N/L $537. 2202. 537. 2402	N/L $537. 2501		$10 $537.2502(4)		$10 $537.2501		$10 $537.2501			
KS	21%/ $1000/ 14.4% or 18% (UCCC) $16a-2- 401	N/L $16a-2- 501		5% or $25 $16a-2-502	Yes: N/L $16a- 2-501	Yes: N/L $16a-2-501		Yes: N/L $16a-2-501			
KY	21% $287. 740	$20 $287. 750	From date of charge to state- ment date for next billing cycle $287. 730(2)	5% or $5 $37.270							
LA	18%:N/L for fin- ancial service center bank $$9:3524, $$9:3516. 6:546 6:541- 6:546	$12:N/L for fin- ancial service center bank	25 days $9:3524	5% or $15 $9:3526	4% $9:3527	N/L $9:3527		5% or $15 $9:3527			

APPENDIX L

STATE	Finance charge	Annual fee	Mandatory Grace period	Delinquency fee	Cash advance fee	Over limit fee	Trans-action fee	Returned payment fee	Stop payment fee	ATM access fee	Others
ME	UCCC loans, 18% or scaled rate T.9-A §§2-401, 2-402	$12 T 9-A, §2-501.1	25 days T.9-A §2-402(4)	5% or $10 T.9-A, §2-502							
MD	18%/ $700/ 12% or 24% §12-506 Comm. Law	N/L §12-905	25 days §12-506	5% or $10 §§12-623, 12-910				$10 §12-623			
MA	18% or variable rate Ch. 140, §114B	N/L Ch. 140, §114C; Ch. 255, §12H	From date of charge to end of next billing cycle Ch. 140D, §20	5% or $5 Ch. 255D, §20							
MI	18% §23.710 (191)	N/L §23.1125 (110)		5% or $5 §19.416(109)							
MN	18% §48.185	$50 §48.185, subd. 4(a)	From date of charge to due date for that billing cycle §48.185. subd. 5	5% or $5 only by fin. inst. that does not charge an annual fee §48.185(3)		$15 §48.185(3)		$15 §48.185(3)			

APPENDIX L

STATE	Finance charge	Annual fee	Mandatory Grace period	Delinquency fee	Cash advance fee	Over limit fee	Trans-action fee	Returned payment fee	Stop payment fee	ATM access fee	Others
MS	21% w/no annual fee; 18% w/$12 max annual fee §§75-17-1(5)		From date of charge to one month after state-ment date for that billing cycle §75-17-2	4% or $5 §75-17-6							
MO	22%/ $1000/ 10% §408. 200(3)			5% or $5 §408.330							
MT	N/L §31-1-112		From date of charge to due date for follow-ing billing cycle §31-1-241(2)	5% or $5 §31-1-235							
NE	N/L §8-820	N/L §8-820	From date of charge to beginn-ing of next bill-ing cycle §45-207	5% or $25 §45-341				$15 §45-341			
NV	N/L §99.050	$97.155 2/		8% up to $15 §97.195							any other fees agreed to by the parties.

2/ Recognizes annual fees but does not specifically authorize them.

APPENDIX L

STATE	Finance charge	Annual fee	Mandatory Grace period	Delinquency fee	Cash advance fee	Over limit fee	Trans-action fee	Returned payment fee	Stop payment fee	ATM access fee	Others
NH	N/L, but disclosure required Ch. 399-B:2										
NJ	N/L $17:16c -46.1	$15 or $50 w/ credit limit of $5000 or more $17:9A-59.6(c)		5% or $5 $17:16c-42							
NM	N/L $58-7-4			5% or $10 $58-7-3.2							
NY	N/L until 6/30/96 $108(5) Bkg Law	N/L $108 (5)(e) Bkg Law	From date of charge to pay-ment due date $413(3)(c) Pers. Prop. Law	Provided in contract $402 Pers. Prop. Law	yes $413 Pers. Prop. Law. $108(5) Bkg Law						
NC	18% $24-11	$20 $24-11(e)	25 days $24-11(e)	5% or $6 $25A-29							
MD	18% $51-14-03			10% or $10 $51-13-02							

FROM:AMERICAN BANKERS ASSOC-7 TO: 919 782 6701 DEC 28, 1989 11:39AM P.08

APPENDIX L

STATE	Finance charge	Annual fee	Mandatory Grace period	Delinquency fee	Cash advance fee	Over limit fee	Trans-action fee	Returned payment fee	Stop payment fee	ATM access fee	Others
OH	18% $$1107.27, 1101.261			5% up to $3 $1317.03							
OK	UCCC loans, 21% or scaled rate §14A-3-508A	N/L §14A--3-202(1)		5% §14A-2-203							
OR	N/L §708.480	$646.892 2/		5% or $5 §708.480							
PA	18% T. 69, §1904	$15 T. 7, §321		5% or $5 T. 69, §1306							
RI	greater of 18% or 9% over wkly T-bill index §6-26-2	§6-27-10 (a)(1) (c) 2/									
SC	N/L if creditor posts rates §37-2-305	N/L §37-3-202(1) (c)		5% or $9.50 §37-2-203							

2/ Recognizes annual fees but does not specifically authorize them.

APPENDIX L

STATE	Finance charge	Annual fee	Mandatory Grace period	Delinquency fee	Cash advance fee	Over limit fee	Trans-action fee	Returned payment fee	Stop payment fee	ATM access fee	Others
SD	N/L §§54-3-13, 54-3-14	N/L §51-24-12	1	5% or $5 §54-3A-12		yes: N/L §§51-24-12, 51-24-12.1	yes: N/L §§51-24-12, 51-24-12.1	yes: N/L §§51-24-12, 51-24-12.1	yes: N/L §§51-24-12, 51-24-12.1		
TN	24% §47-14-102										
TX	14.22% or alt. rate Art. 5069-1502			5% or $5							
UT	N/L §70C-2-101	N/L §70C-2 101		5% or $15 §70C-2-102							
VT	N/L T. 9, §41a (b)(3)	N/L T. 8, §1304	25 days T. 8, §1304, T. 9, §41a								
VA	N/L §6.1-303.20	§6.1-330.63 (D)(1)(b) 2/		5% §6.1-330.80							
WA	greater of 26-week T-bill plus 4% or 12% §19.52.020			reasonable fee if provided for in contract §63.14.090							

2/ Recognizes annual fees but does not specifically authorize them.

STATE	Finance charge	Annual fee	Mandatory Grace period	Delinquency fee	Cash advance fee	Over limit fee	Trans-action fee	Returned payment fee	Stop payment fee	ATM access fee	Others
WV	18% §§46A-3-106, 46A-4-107	N/L §46A-3-109 (1)(c)	From date of charge to due date for next bil-ling cycle §46A-3-103	5% or $5 §46A-3-113							
WI	UCCC loans, 18% or scaled rate §§422.201, 422.201 (bn), 422.201 (10n)	§422.308 (1)(c) 2/		3% or $3 §422.203	$2 §422.202			$10 §422.202			charge for less than minimum payment
WY	UCCC loans, 21% §40-14-348	N/L §40-14-311(a) (iii)		5% or $5 §40-12-203							

2/ Recognizes annual fees but does not specifically authorize them.

FROM:AMERICAN BANKERS ASSOC-7 10: 919 762 6701 DEC 28. 1989 11:46AM P.12

LEGISLATIVE RESEARCH COMMISSION

DEREGULATION OF REVOLVING CREDIT AND AUTHORIZATION OF CREDIT CARD BANKS AND LINKED DEPOSITS

January 11, 1990

WILLIAM T. GRAHAM
Commissioner of Banks

I have been asked to present the position of the Commissioner of Banks on the deregulation of revolving credit and the authorization of credit card banks in North Carolina; my opinion as to the impact of such actions on North Carolina consumers, the revolving credit industry, the job market, and economic growth, to relate to you any knowledge that I may have of the experience of other jurisdictions that have deregulated revolving credit or authorized credit card banks, or both, and to provide you with any other information that I feel would help this committee in its analysis of these topics. I am happy to do so.

Historically, interest rate regulation is generally enacted as a legislative attempt to protect the borrower. Over the years, many states, North Carolina among them, have enacted, and kept on the statute books, a real hodgepodge of varying interest rates. The setting of interest rate caps is always well intentioned at the time. What happens is that the economic conditions change, the relative strengths between the lender and the borrower which are sought to be protected change, and the market interest rate goes up and down. Yet the statutorily imposed rates remain the same though they may have little relationship to what is occurring daily in the market place.

As you would expect, our office, being in the mortgage, consumer finance, and banking businesses, or at least in the regulation

thereof, gets a good number of inquiries as to what the "interest rate" in North Carolina is. Rather than further complicate this complex subject by going into detail by saying it depends on whose borrowing how much from whom for what purpose and referring the caller to the numerous statutory references to interest rates we prepared the attached summary of interest rates in North Carolina. Usually, we can plug the inquiry into the summary and give the correct answer. We mail out the summary and generally never get a follow up call. We do not delude ourselves that our summary is so clear that the problem is solved, but rather believe that the rates are so contorted that the inquirer simply gives up. In any event, no one, to date, has shown us where the summary is in error. We do not pretend that it is complete. It deals only with the lending of money and the selling of goods and does not deal with such things as interest on judgments, or loan fees and charges, e.g.

The present 18% cap on revolving credit is a good example of an interest rate restriction that was legislated with good intentions but does not work. In a free enterprise system where competition drives the market, caps, and other restrictions on interest rates are inappropriate in most instances. Competition will force lenders to compete for business. Where the product is equal, and the consumer knows what he is buying, the cost is the major, if not the sole, decision criteria. In the case of credit the cost is the interest rate. Putting a cap on rates tends to lessen rate competition whereas free competition without governmental interference will cause rates to seek their own level. The system simply works better without artificial restrictions.

There are exceptions. First is absolute full and clear disclosure. It might be well for example, to require certain items to be disclosed on the credit card itself, such as, but not limited to, the rate, the grace period, and the annual fee. Disclosure in an understandable form is a must. When the customer knows what he is buying he will buy the better product, and here the better product is the cheaper product.

The second exception is protection of a particular class of borrower, small loan customers. As a free market enthusiast, a believer in the less governmental regulation the better, but one who is charged with the regulation of the consumer finance industry, I obviously have trouble buying into this exception. Traditionally this type of consumer has had interest rate protection, 36% though it may be, because they need the money when they need it and there is not that many loans available to them because of the high risk. Increasingly, the small consumer loan market has become larger because of the high service cost to banks on these small loans.

In any event, protection of the small loan customer is probably going to continue, but is this the customer who is being protected by a credit card interest rate cap? Doubtful, at best in that most low income persons cannot obtain credit cards. Witness the advertisements that flood the airways for what are truly debit cards. You deposit a thousand dollars and they send you a credit card with a five hundred dollar limit, charge you the rate allowed in the home state of the issuing bank and pay you below market rates on your deposit of a thousand dollars. Putting a cap on interest rate cards in North Carolina is not going to help this person get a credit card.

A possible answer to the problem of protecting the small borrower, or the small purchaser, would be to put a cap on the rate for the first five hundred or a thousand dollars which would in effect mean a blended rate for the credit card user. This sounds good in principle but probably would mean that those with low limit credit cards would have an even more difficult time of obtaining them in North Carolina.

Extensive research would be required to prove what has really happened to interest rates in other jurisdictions that have deregulated credit card rates. You can play a lot of games with the numbers but what you are really faced with here is the philosophical question of should you have interest rate regulation. Rates will seek their own level. Witness the fact that everyone of us has at least one credit card in our pocket right now from an out-of-state bank which is legally exporting its rates under a U.S. Supreme Court decision, Marquette. This exporting of rates is not going to stop. If anything, it is going to get broader. Congress and the courts have allowed this to grow and the lenders located in states with no rate restrictions are going to get their message, or more aptly put, their rates, across to states, such as North Carolina, that have rate caps. Witness what is occurring in the tax refund anticipation loan area.

A word of caution. To us it appears that consumer finance companies could avoid the present statutory rates if the present revolving credit interest rate is removed by lending on a revolving basis rather than on a closed-end loan basis. This is something that will have to be carefully considered and worded if it is the desire to remove credit card rates but not remove the revolving credit cap in general.

In my opinion, legislation specifically aimed at the creation of credit card banks in North Carolina is illusionary. Any bank presently chartered, or applying for a charter, in North Carolina could become a credit card bank in the sense that its principal, or one of its main businesses, was, or is, the processing of credit cards. There is no magic about a bank performing this kind of service. For this reason from a regulatory standpoint it is preferable not to have legislation on the books to set up credit card banks when there is not any necessity for same in the real sense. In fact, the North Carolina banking entities that are in the credit card business are not about to change their structure, or their location, to any great extent by the passage of any credit card bank legislation. Finally, the economic benefit of a credit card bank is not great in that this is generally extremely automated and employment is quite low.

Under federal law a bank can be formed for the sole purpose of handling credit card transactions. The effect of this is that the bank handling only credit card transactions does not take deposits and thus there is no depositor money at risk and therefore cannot, and should not, be insured by the FDIC as there is nothing to insure. The present North Carolina law requiring FDIC insurance could be changed to say that banks engaging only in the business of processing credit cards do not require FDIC insurance provided their charter authority is limited to same. This is the only law change that would be needed. What I am saying in general is that from the regulatory standpoint we do not want legislation put on the books that has no real use.

In my opinion linked deposits is a subject that I believe merits a good deal of attention. It has worked well in other states and it is

something that I believe should be supported. It is an inexpensive method by which a bank can gain new customers, and, more importantly, there can be economic development done in a manner that is realistic and sensible. I have attached an article from the May 10, 1988, **American Banker** that explains how linked deposits work in Alabama. I commend it to you.

In conclusion, the Commissioner of Banks supports the removal of the interest rate cap on credit cards, opposes, credit card bank legislation and supports the concept of linked deposits.

Prepared Written Report

on

RETAIL REVOLVING CREDIT

Submitted to the Legislative Study Committee on
Credit Deregulation at their meeting of January 11, 1990.

Senator James C. Johnson,Co-Chairman
Senator Robert C. Carpenter
Senator A. D. Guy
Senator Ralph A. Hunt
Senator William W. Staton
Mr. John Jordan
Mr. Robert Gage

Representative Joe Hege, Co-Chairman
Representative Walter W. Dickson
Representative Lyons Gray
Representative Sidney A. Locks
Representative H. Clayton Loflin
Representative R. Eugene Rogers
Representative Edward N. Warren

Representative Harold J. Brubaker, LRC Liaison
Mr. Terry D. Sullivan, Committee Counsel

by the North Carolina Task Force on Retail Revolving Credit

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OVERVIEW

The North Carolina Task Force on Retail Revolving Credit, including the North Carolina Retail Merchants Association, strongly supports deregulation of revolving credit as it pertains to those stores which offer revolving charge accounts, their own store proprietary charge card, or contract with an outside party for revolving account operations. At present, our surrounding states of Kentucky, South Carolina, and Virginia have deregulated, while Georgia and Tennessee have increased their credit rate cap to 21%, leaving North Carolina as the single 18% state among this group. Additionally, 29 other states are deregulated or have credit rate caps above 18%, for a national total of 34 states.

We are also in favor of the authorization of credit card banks in North Carolina, as they stimulate the economy by increasing employment opportunities in the state. Within the past 60 days, two large Washington-based businesses announced they were moving some operations out of the state because of restrictive government policies. Nordstrom's Department Stores is moving its entire credit operation from Seattle to Colorado, while Security Pacific Bank will move to Arizona. Over 700 new jobs will be created in those states with these moves.

If deregulation were passed in North Carolina, it would allow the competition of free enterprise to set the rates retailers would charge. Just this past year California deregulated interest rates for retailers, and a recent study by Professor Ray McAlister of the University of North Texas found that the consumers of California have a wide variety of rates from which to choose. Professor McAlister's study included 39 retailers who operated a total of 1,156 stores and charged no less than 13 different finance charge rates to consumers. This allows the consumer to make an informed credit cost decision at time of purchase. In the 17 states that have deregulated credit, the market place is working, and none of these states has re-regulated to install rate caps.

Just as credit deregulation helps consumers by giving them choices, it helps retailers recoup the costs of offering credit from those who use it. As shown later in this presentation, credit costs nearly can be recovered when retailers are allowed to charge an annual percentage rate of 21%, market revolving credit insurance on the unpaid balance to those who want it, and charge late fees on delinquent payments. Each of these factors brings retail credit operations closer to break-even status and has the advantage of expanding the field of consumers to whom credit can be granted safely. With these criteria as a floor, retailers in a deregulated environment can adjust their credit rates according to their own efficiencies and competitive stances.

Retail credit cards permit consumers to make many small transactions without worrying about cash or checks, and allow consumers to get credit on an "as needed" basis. In addition to the option of getting credit when needed, credit card accounts provide their users with up to 54 days of "free" credit, which reduces the yield, as approximately 25% of retail credit consumers pay their accounts off without incurring a finance charge. Because of this, an 18% APR finance charge typically yields revenue equal to about 15%, while a 21% APR will yield revenue of about 18%.

This written presentation will provide you with background and information from the retail community to show:

1. The overview of retail revolving credit on a state-by-state basis.

2. The additional costs of providing retail revolving credit versus other financial institutions.

3. The documented costs of providing retail credit at retail.

4. The effect on the marginal credit customer and the cash-paying customer when the cost of credit exceeds the return and the need for a no-loss, non-subsidized level of credit rate for revolving accounts in North Carolina.

5. The need to provide revolving credit consumers an equal right to voluntarily choose to purchase credit life, property, accident and health insurance as they presently can on closed-end or installment type credit.

6. The necessity for applying a late fee to delinquent payments.

7. A summary that allows the cost of credit to be borne by those actually using those services, consistent with the user fee concept throughout North Carolina.

1. STATE-BY-STATE STATUS OF REVOLVING CREDIT RATES

As you can see by the listing below, and even more clearly on the attached colored map, the vast majority of states are now deregulated or have ceilings above the 18% allowed in North Carolina. In fact, seventeen are deregulated and another seventeen allow rates above 18%, for a total of 34, more than two-thirds of all the states.

The Deregulated States

Kentucky	New York	Illinois
Virginia	New Jersey	California
South Carolina	New Hampshire	Arizona
Delaware	New Mexico	Oregon
Idaho	South Dakota	Montana
Nevada		Utah

25% Limit	24% Limit	21% ↔ 18%
Ohio	Maryland	Texas

21% Limit

Georgia	Colorado	Oklahoma
Mississippi	Indiana	Wyoming
Tennessee	Kansas	Vermont

21% Limit on at least First $500

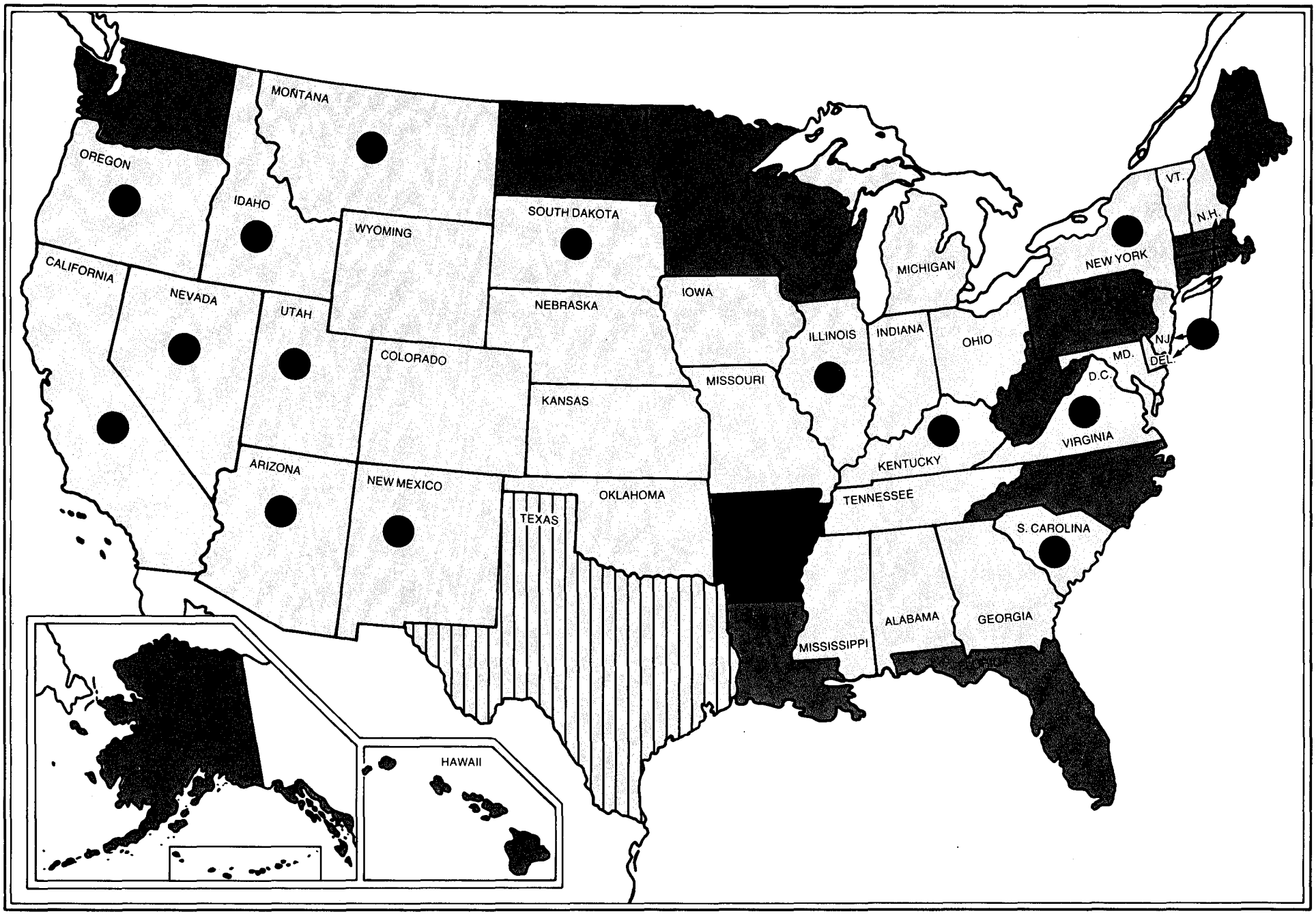
Alabama		Nebraska

20.4% Limit	20.04% Limit	19.8% Limit
Michigan	Missouri	Iowa

18% Limit

Alaska	Minnesota	Rhode Island
Florida	Massachusetts	Washington
Hawaii	North Dakota	Connecticut
Louisiana	Pennsylvania	West Virginia
Maine	**NORTH CAROLINA**	Wisconsin

Arkansas: Maximum of 17%.



October, 1989

● OPEN COMPETITIVE RETAIL CREDIT MARKET

ARKANSAS-VARIABLE RATE

5 Points Over Federal Reserve Discount
Maximum Rate 17%

2. WHY CREDIT RATES ARE HIGHER FOR RETAILERS

Some consumers think credit cards are just credit cards, and all have the same costs associated with them. This is definitely not the case! There are at least four factors that significantly increase the cost of credit card operations for retail stores as compared to bank costs.

COST OF FUNDS. The retail store's "buying price" for money is the bank's "selling price." Since retailers borrow from banks (for example, at rates of prime plus one percent), the banks have obtained their money at a much lesser rate cost; otherwise, they would not be willing to lend money at that rate. In the case of smaller merchants, this cost of funds is even higher. This makes the retailer's cost of money much higher than the bank's.

BANK SERVICE CHARGE FEES. When consumers make a purchase on a bank card, the bank takes a "discount" off the purchase in settling with the merchant, paying the merchant somewhere between 94% to 98.7% of the actual charge. The merchant actually loses this portion of the sales revenue to the bank, which, in turn, gets the extra revenue.

ANNUAL FEE/TRANSACTION FEE. The North Carolina banks are allowed to charge up to $20.00 for an annual fee on their cards, and they charge a transaction fee for cash advances and other services. This is not allowed on a retail card.

HIGHER ACCOUNT BALANCES. The average balance for bank cards is 3 to 4 times higher than retail cards. Nationally, banks have an average balance of over $1,100 per card vs. the average retail card at $230. Thus, the banks produce significantly higher revenues per account with the same servicing expenses.

It is appropriate, therefore, to consider the "credit seller" (a retailer) as a separate entity from the "credit lender" (a bank) and examine the inherent costs of credit to the retailer.

3. THE COST OF EXTENDING RETAIL REVOLVING CREDIT

To examine the actual cost, one must first turn his attention to the actual revenue received. An assumption that a $100 charge paid for over a one-year period at an Annual Percentage Rate (APR) of 18% would result in $18.00 of finance charge income is incorrect.

The chart at the right shows it to be less than one half that amount since the interest is applied to the decreasing remaining balance at the end of each month. Please note that the "grace period," or time in which a consumer can fully pay off an account without any interest (25 days from billing date), affects this return as well. In some cases a consumer could purchase the day after the billing date and not be billed for 29 more days plus the 25-day billing process, allowing the consumer 54 days interest free.

	Initial Purchase	Monthly Payment	1.5% Finance Charge On Average Daily Balance*	Customer's Balance After Payment
1	$100.00	$00.00	$0.00	$100.00
2		10.00	1.43	91.43
3		10.00	1.28	82.71
4		10.00	1.16	73.87
5		10.00	1.02	64.89
6		10.00	.89	55.78
7		10.00	.75	46.53
8		10.00	.62	37.15
9		10.00	.50	27.65
10		10.00	.50	18.15
11		10.00	.50	8.65
12		8.65	.00	.00

Total Finance Charge $8.65

*Assumes payment received by 15th day of billing period.

On the cost side, the expense of borrowing funds is certainly a major factor. Over the years this cost of funds has averaged between 40% to 50% of the cost of providing retail credit. Other costs include credit wages and salaries, postage, supplies, utilities, data processing, rent, credit bureau costs, and many other costs unrelated to the cost of funds, and these costs continue to go up year after year. Bad debt expenses for customers who never fully pay are also a part of the credit operation.

On the next page, you will see a factual company-by-company chart recently compiled by Louisiana merchants, showing significant losses in the credit operations of their stores, ranging from an annual loss of $67,000 to $1,257,377. These actual costs figures show that the extension of retail revolving credit at 18% does not cover those direct costs to the store. This same scenario is applicable to North Carolina stores today, and a similar chart is being prepared.

Suppose the 18% rate were to be increased to 21% for retailers. The total finance charge for the same $100 purchase above would now be $9.99 or an additional cost to the average consumer of only 11 cents per month.

LOUISIANA RETAIL CREDIT GRANTORS
1988 INCOME AND EXPENSES

	COMPANY A	COMPANY B	COMPANY C	COMPANY D	COMPANY E	COMPANY F	COMPANY G
Finance Charge Income	$274,000	$504,265	$2,032,000	$1,277,000	$162,856	$1,674,078	$45,000
Direct Operating Expenses	421,000	1,761,642	2,156,000	1,497,000	374,446	2,819,069	112,000
Income/(Loss)	($147,000)	($1,257,377)	($124,000)	($220,000)	($211,590)	($1,144,991)	($67,000)

Direct Operating Expenses	$	%	$	%	$	%	$	%	$	%	$	%	$	%
Processing Costs	$164,000	39.0%	$1,116,365	63.4%	$772,000	35.8%	$384,000	25.7%	$129,671	34.6%	$814,839	28.9%	$45,000	40.2%
Net Bad Debt	54,000	12.8%	331,098	18.8%	321,000	14.9%	462,000	30.9%	94,072	25.1%	760,301	27.0%	14,000	12.5%
Cost of Financing Accts. Rec.	203,000	48.2%	314,179	17.8%	1,063,000	49.3%	651,000	43.5%	150,703	40.2%	1,243,929	44.1%	53,000	47.3%
Total	$421,000	100.0%	$1,761,642	100.0%	$2,156,000	100.0%	$1,497,000	100.0%	$374,446	100.0%	$2,819,069	100.0%	$112,000	100.0%

	1988	1987	1988	1987	1988	1987	1988	1987	1988	1987	1988	1987	1988	1987
Average Accounts Receivable	$2,119,000	$2,462,000	$3,696,228	$3,955,216	$12,381,000	N/A	$7,700,000	$7,987,000	$1,245,744	N/A	$10,622,790	N/A	$425,000	N/A
Average Balance Per Account	$536	$718	$102	$108	$563	N/A	$226	$223	$279	N/A	$523	N/A	$205	$230
Effective Finance Rate Charge	13.5%	10.4%	13.6%	14.3%	16.4%	N/A	16.6%	17.2%	13.7%	N/A	16.5%	N/A	12.2%	8.5%
Annual Finance Charge per Acct.	$72.45	$74.40	$13.95	$15.38	$92.36	N/A	$37.44	$38.36	$38.25	N/A	$86.32	N/A	$25.00	$19.60
Interest Rate for Finance A/R	9.6%	7.7%	8.5%	8.0%	8.6%	N/A	9.0%	9.1%	11.0%	N/A	11.7%	N/A	N/A	N/A

4. REVOLVING CREDIT EFFECTS ON THE CONSUMER

In making decisions to grant credit, it is fairly easy to quickly approve those consumers with good credit records and, similarly, turn down credit requests from those individuals who have a history of not paying their debts. The really difficult part of extending credit is the marginal account request, deciding to extend to the consumer who may or may not fulfill the promise to repay as contracted. Additionally, one must consider the young employee and newlyweds, who have not yet established a credit history, as well as low-income families and to some extent the elderly on fixed incomes.

If credit expenses already exceed credit revenues, then company policies will say that these marginal customers cannot get credit as the company cannot take the chance to absorb more losses. Therefore, the marginal credit customers, instead of being able to improve their life style, are often entirely eliminated from the retail credit market.

A store whose credit costs exceed its credit income finds little choice but to increase the base price of its products or services to cover these losses. This, in fact, means that all customers, including those paying cash, must share this added cost of credit, and this is unfair. The only other choice is for the retail store to slowly but surely go out of the credit business or close entirely.

A CREDIT PROGRAM THAT PAYS FOR ITSELF

A credit program is most fair when the credit customers incur the direct added costs for their requests and extensions of credit, for the delinquent credit customers to also incur those additional costs of collecting the delinquencies, and for the cash-paying customer to pay only for the product or service.

For North Carolina to achieve such fairness and equity, the General Assembly needs to examine the problem and consider full deregulation or increasing the retail revolving credit rate to 21%. This would allow the credit operation of a store to stand on its own feet, without subsidy from the cash-paying customer, and to allow maximum extensions of credit to meet the need of the marginal customer.

5. THE CONSUMER'S CHOICE FOR CREDIT INSURANCE

When a consumer decides to buy on credit, he gains an asset -- the product or services purchased -- but he also incurs a liability: the debt of the credit extended. What happens to that consumer's family in the event of sickness, an accident, natural disaster, unemployment, or even death? Suppose, too, that the purchased product is stolen, and there is no homeowners or apartment dwellers insurance. In those circumstances, the debt burden remains a problem, while the resources to pay off that debt -- or repurchase the replacement for a lost item -- may not be available. For example, credit insurance covered substantial losses to North Carolina when Hugo swept through our state.

Currently, under GS 25A-17, North Carolina law explicitly permits the selling of credit life, property, and accident and health insurance on consumer accounts that are financed through closed-end (or installment type) accounts. The purchase of this credit insurance is strictly voluntary by the consumer, is regulated and overseen by our state's Insurance Commissioner, and is rate-controlled solely by the North Carolina General Assembly.

Present North Carolina law is unclear as to the availability of credit insurance on open-end or retail revolving credit. The desiring consumer should have an equal right to purchase credit insurance, regardless of the type of credit plan he chooses. By limiting the amount of credit insurance to the actual amount of the outstanding balance of any particular account, the consumer and the insurance industry should feel secure that this would not interfere or impinge on the normal, non-credit-related life and health insurance programs. This clarifying change is neither an attempt on the retailer's part to become insurance-intense or an attempt to charge insurance premiums on credit cards, such as Discover, VISA, and/or MasterCard. This change is simply one to mirror the already approved procedures under installment credit provisions for those who choose to purchase on revolving credit.

6. LATE FEES ON DELINQUENT PAYMENTS

On any type of credit transaction, the interest paid is in return for payment of the principal over a period of time. This is certainly true with retail revolving credit. It allows both the seller and the purchaser to know before the transaction the actual percentage interest rate over the period, assuming all payments are made on time, as promised.

What happens, however, when a payment is late, or is not made at all? The credit-seller now has to make extra effort through mail, telephone, or personal contact, to attempt to obtain the delinquent payment. One might argue that the next month's interest will cover that extra cost, but, in fact, that interest charge is due on the outstanding balance of money or merchandise the customer has received.

At present, the extra cost thus incurred by a payment not made becomes a part of the credit operation expense. This means that all credit customers are having to share that extra cost -- even the ones who make every payment right on time. Would it not be better to let the delinquent customer foot the bill for his own delinquency?

In several specific instances, North Carolina law allows the lender to assess a late fee for delinquent payments. In the case of retail revolving credit, a late fee is needed. A 5% fee or $10.00 (whichever is less) on the amount of the past due payment only (not the entire balance), with a minimum of $1.00 would be a fair way to offset this additional cost by those who do not pay in a timely manner. Remember, please, that the initial grace period ensures sufficient front-end time to prevent any abuse. This late fee should be on a one-time per payment basis, ensuring no compounding of late fees on late fees.

7. A FAIR CREDIT PLAN FOR ALL

In summary, the North Carolina Task Force on Retail Revolving Credit supports deregulation of retail revolving credit as it has occurred in seventeen other states. The Task Force further concurs with the previous actions of a total of 34 states, in allowing a credit system that more nearly places the cost of credit on the users themselves.

1. The cash purchaser will not have to pay the cost of someone else's credit;

2. The customer who chooses to buy on credit will pay the real cost of that credit processing; and

3. The delinquent customer will pay the additional expenses incurred by his own delinquencies.

The North Carolina Task Force on Retail Revolving Credit recommends a package of three specific changes to present North Carolina law to put into place the "fair's fair" concept for revolving credit for the 1990's:

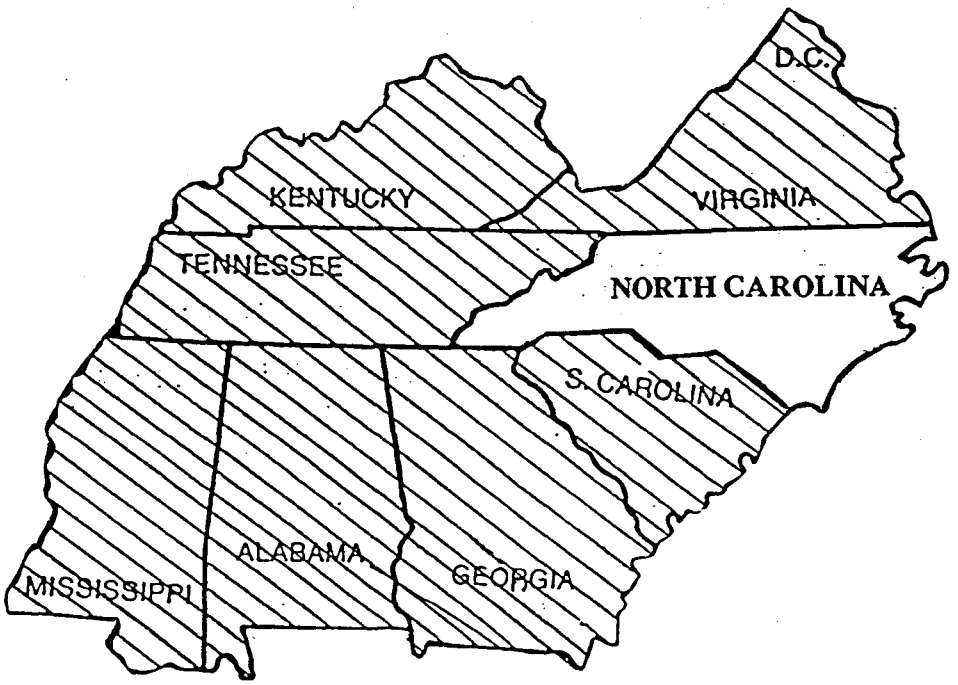
1. To allow an open, competitive retail credit market, or at least an annual interest rate of 21%, so that credit costs can be more nearly recovered from those who use it;

2. To allow those customers the right to request and obtain credit life, property, accident and health insurance up to the actual outstanding balance on their revolving accounts, as they do now on their installment accounts; and

3. To allow a late fee of 5% or $10.00 (whichever is less) on the actual delinquent payment, not the full balance, with regulations to ensure that this cannot be compounded.

This combination of legislative changes will provide a retail revolving credit program for consumers in North Carolina that is consistent with our regional and the national trend, allowing stores the opportunity to cover credit costs through credit revenues, allowing the maximum number of consumers the opportunity to purchase on revolving credit, and a standard of "user pay" with no crossover of subsidy by other consumers.

Thank you for your consideration in bringing North Carolina in line with our neighboring states.



Southeastern States that have deregulated or have limits above 18% for Retail Revolving Credit.

RETAIL REVOLVING CREDIT SPECIFICATIONS BY STATE

STATE	CREDIT RATE	50¢ MIN. FINANCE CHARGE	ANNUAL FEE	25 DAY GRACE PERIOD	LATE FEE	CREDIT INSURANCE
AL	21%<$500 18%>$500	Yes	Yes	No	No	Yes
AK	18%<$1000 5% Over Fed. Use Rate on Excess	Yes	No*	No	No	Yes
AZ	No limit	Yes	No*	No	Yes	Yes
AR	5 pts>Fed Disc Rate 17% max	No	No*	No	Yes	Yes
CA	No limit	Yes	Yes	No	Yes	Yes
CO	21%	Yes	No	No	No	Yes
CT	18%	No	No*	No	No	Yes
DE	No limit	Yes	No	No	No	Yes
FL	18%	Yes	No*	No	Yes	Yes
GA	21%	Yes	No*	No	No	Yes
HI	18%	Yes	No*	No	Yes	No
ID	No limit	Yes	Yes	No	Yes	Yes
IL	No limit	Yes	No*	No	No	Yes
IN	21%	Yes	No	No	No	Yes
IA	19.8%	Yes	No	No	No	Yes
KS	21%<$1000 14.4%>$1000	Yes	No	No	Yes	Yes
KY	No limit	Yes	No*	No	No	Yes
LA	18%	Yes	Yes	No	Yes	Yes
ME	18%	Yes	No	Yes	No	No
MD	24%	Yes	No	No	Yes	Yes
MA	18%	Yes	No*	Yes	No	No
MI	20.4%	Yes	No*	No	No	Yes
MN	18%	Yes	No*	Yes	No	Yes
MS	21%	Yes	No*	No	No	Yes
MO	20.04%	Yes	No*	No	No	Yes
MT	No limit	Yes	No*	No	No	Yes
NE	21%<$500 18%>$500	No	Yes	No	No	Yes
NV	No limit	No	Yes	Yes	Yes	Yes
NH	No limit	Yes	No*	No	No	Yes
NJ	No limit	Yes	No*	No	No	Yes
NM	No limit	Yes	No*	No	No	Yes
NY	25%	Yes	Yes	No	Yes	Yes
** NC **	18%	No	No	Yes	No	No
ND	18%	No	No*	No	No	Yes
OH	25%	Yes	No*	No	Yes	Yes
OK	21%	Yes	No	No	Yes	Yes
OR	No limit	Yes	No*	No	Yes	Yes
PA	18%	Yes	No	No	No	No
RI	18%	No	No*	No	Yes	Yes

North Carolina Retail Merchants Association
P.O. Box 176001, Raleigh, NC 27619 919-787-9520 (1-800-662-7211)
William C. Rustin, Jr. — Carol Hennigar — Fran Preston

STATE	CREDIT RATE	50¢ MIN. FINANCE CHARGE	ANNUAL FEE	25 DAY GRACE PERIOD	LATE FEE	CREDIT INSURANCE
SC	No limit	Yes	No	No	No	Yes
SD	No limit	Yes	No*	No	No	Yes
TN	21%	Yes	No*	No	No	Yes
TX	18%	Yes	No*	No	No	Yes
UT	No limit	Yes	Yes	No	Yes	Yes
VT	21%	Yes	No*	No	No	Yes
VA	No limit	Yes	No*	No	Yes	Yes
WA	18%	Yes	No*	No	Yes	Yes
WV	18%	Yes	No	No	No	Yes
WI	18%	Yes	No*	No	No	Yes
WY	21%	Yes	No	No	No	Yes

*No Provision Under State Law.

LACY H. THORNBURG
ATTORNEY GENERAL

State of North Carolina

Department of Justice
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RALEIGH
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733-7741

January 2, 1990

Mr. Terrence D. Sullivan
Committee Counsel
North Carolina General Assembly
Legislative Services Office
2129 State Legislative Building
Raleigh, North Carolina 27611-9184

Dear Mr. Sullivan:

Thank you for your letter of December 13 in which you invited the Attorney General's comments on the Legislative Research Commission's study of the deregulation of revolving credit. Attorney General Thornburg asked me to respond on his behalf.

As you know, Attorney General Thornburg expressed his opposition to S.B. 377 to the members of the Senate Banks and Thrift Committee last March. He remains strongly opposed to any significant deregulation of consumer credit. As the state official responsible for representing the interests of the consuming public, the Attorney General believes that the abolition of reasonable restrictions on the costs and terms of consumer credit would be harmful to North Carolina consumers.

This state has long had a public policy of protecting its citizens against usury and overreaching credit practices. There is an interrelated statutory scheme, expressed in Chapters 24, 25A and 53 of the General Statutes which has governed the costs of mortgage loans, installment loans, credit cards, retail credit and small loans. The regulatory statutes strike a balance between protecting the consumer from oppressive credit terms and allowing the creditor a reasonable rate of return. Current maximum rates include 16% for installment loans under $25,000, 18% for second mortgage loans, 18% for credit card charges, 16-24% for retail installment credit, and 36% for loans by consumer finance licensees. Some of the rates are flexible and may rise if market rates increase significantly.

The deregulation of one aspect of consumer credit - revolving credit - would effectively dismantle the entire statutory body of interest rate controls. Most retailers could

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presumably convert to revolving credit accounts and charge rates in excess of those now permitted by the Retail Installment Sales Act. Finance companies, which are now licensed and regulated by the Commissioner of Banks, could escape regulation by using open-end credit plans. With unregulated open-end credit available to most creditors, there would be little justification to maintain controls over closed-end loans or retail installment credit.

G.S. §53-166 makes it a crime for an unlicensed lender to lend money at rates greater than permitted by Chapter 24. If rates were deregulated, this provision would be neutralized. Our office has had to deal with lenders charging as much as 240% interest illegally. Deregulation would enable such loansharking to operate legally, and would largely abolish the well established prohibitions on usury.

Consumer protection measures other than rates would be affected by deregulation. Under current law, creditors charging the maximum 18% interest on credit cards are prohibited from imposing additional fees, such as transaction fees, late charges and over-limit charges. There are also restrictions on security interests, a limitation on the annual fee and a requirement of a 25 day interest-free "grace period" for credit card purchases. All these protections would be eliminated by deregulation, at least as proposed in S.B. 377. While it is a simple matter for the average consumer to compare credit card interest rates, cost comparison becomes much more difficult when a range of other variables, such as transaction fees and absence of a grace period are included.

Deregulation of credit would be costly to the consuming public. Credit card rates would almost certainly rise. That has been the experience in South Carolina and other deregulated states. Credit card rates are much less responsive to market interest rates than other forms of credit, such as home mortgages or automobile loans, and have risen since 1981 while most other rates have declined. There is no guarantee that deregulation will preserve or add to banking employment in this state, but even if it could, the benefits would be offset by additional costs and debt to consumers.

If there are any problems with our credit regulatory statutes, they should be identified and addressed individually. The General Assembly has responded in the past to particular needs of the credit industry. In response to the high interest climate of 1980-81, most consumer credit rates were either raised or indexed to a market rate. Bank card loan rates were increased

from 15% to 18% in 1981, and a $20 annual credit card fee was authorized in 1983. Currently, credit appears to be readily available to creditworthy consumers in North Carolina.

There is no pressing need for a major overhaul of consumer credit statutes. Whatever the needs of the credit industry, deregulation is a proposal that is too radical and far-reaching. It would increase the costs of credit to consumers, remove many important consumer protection measures and subject many consumers to oppressive lending practices.

Thank you for the opportunity to comment on this important study.

Sincerely,

LACY H. THORNBURG
Attorney General

Philip A. Lehman
Assistant Attorney General
CONSUMER PROTECTION SECTION

PAL:ac

APPENDIX Q

NORTH CAROLINA SHOULD NOT DEREGULATE OPEN END CREDIT

Credit is a valuable commodity in today's society. Credit allows many of us to buy homes we probably would not be able to afford until we are past middle age; it affords us the capability of purchasing cars and paying for them as we use them; it allows us the convenience of paying for items for which we might not have the cash at the moment. Credit is an important and integral part of American life.

The use of credit is complicated and rarely understood. The proper use of credit requires an understanding of one's real financial capabilities, as well as the meaning of the terms and costs of credit. Many people in this country do not understand the meaning of "annual percentage rate," "finance charges," or "total of payments." Most of us neither know, nor would we understand, all of the costs and terms of our many credit contracts.

Regardless of these complications, credit is seductive. Too many people enter into credit contracts without understanding the actual costs to them of those contracts. And, unfortunately there are many merchants and lenders who cater to those of us who are less educated and less sophisticated, and charge the highest rates now permitted by law. An example in this state is the unregulated rent to own industry which does a thriving business in low income neighborhoods by charging consumers equivalent interest rates of over 100% a year.

According to the U.S. Census Department, as many as 24% of North Carolina adults are functionally illiterate. It is unlikely that a person who cannot read could understand the concept of an annual percentage rate, or know how to shop for credit.

Credit can be dangerous. The ever expanding use of credit has wreaked havoc on many American families. The number of personal bankruptcies filed each year rises by the thousands. In 1982 there were 315,000 personal bankruptcies; that number rose to almost 500,000 in 1987.

The banks and the merchants in North Carolina propose that the General Assembly deregulate interest rates for credit cards and retail sales. This would not be good for the people of North Carolina. Deregulating rates will inevitably lead to higher interest costs for many consumers, with no corresponding benefit to the people of this state. The most devastating impact however, would fall on low income people. Finance companies and retailers who cater to low income customers would be permitted to charge exorbitant rates. Experience in other states which have deregulated rates has shown that in some cases creditors routinely charge between 45% and 55% a year. Attached to these remarks are examples of these high rate contracts entered into by low income consumers in states which have deregulated interest rates. The interest rates are too high, and are not justified.

Below are some of the reasons why deregulating revolving credit and credit card rates would be so bad for the people of this state:

1. Deregulating retail revolving credit would effectively repeal many of the consumer protection laws in North Carolina. If the General Assembly deregulates merchants' revolving charge rates, the natural result will be that most merchants will adopt revolving charge accounts as their primary way of extending credit to cover retail purchases. The installment loan rates and protections which follow them in the Retail Installment Sales Act (G.S. 25A-1, et seq.) would then be inapplicable to most outstanding consumer credit. The result will be not only a deregulation of interest rates but also the complete eradication of almost all consumer protection statutes applying to retail sales in this state. The Retail Installment Sales Act would be virtually useless.

2. Competition does not work in the retail lending arena. Almost all revolving charge accounts offered by merchants in this state currently charge the highest maximum rate - 18% per year. There is nothing now stopping these merchants from lowering their rates in an attempt to attract more customers, yet none do because competition in this arena is apparently of little interest to retail customers - they are usually more interested in the original cost of the product. The clear result of deregulation of merchants' revolving charge rates would therefore be the unjustified increase in interest rates charged to buyers. Most often the buyers of retail goods who finance their purchases have the lowest income. Thus the people who can least afford to pay these increased rates would be forced to bear the greatest expense.

3. Deregulation of revolving charge rates would allow finance companies to charge higher interest rates. If all revolving charge rates are deregulated there would be nothing to prevent finance companies from simply circumventing their current regulatory statute - which allows rates as high as 36% a year - and providing revolving charge accounts to their current customers - at unlimited rates.

4. Deregulation would allow banks to do away with the grace period on credit cards. Currently, North Carolina law (G.S. 24-11) requires banks to allow credit card customers a 25 day grace period. If the cardholder pays off the entire amount due within the grace period, no interest will be charged on the debt. If deregulation passes, banks could immediately begin charging interest from the day of purchase on most, if not all, of the credit card accounts outstanding. Assuming that half of the credit card holders who currently pay off their accounts were subjected to the loss of the grace period, the additional interest, which they are not now paying, would cost these North Carolinians millions of dollars a year. If interest rates stay at the current 18% per year, the additional cost to those North Carolina consumers who would lose the grace period could be almost $22 million a year.

5. Deregulation would also increase credit card interest rates. Currently the maximum amount that North Carolina banks can charge for credit cards and other revolving credit is 18% per year. A few cardholders with very large lines of credit are able to get revolving credit at lower interest rates, but the huge majority of NC revolving account holders in the state must pay the maximum rate of

18%. If interest rates on revolving credit were to rise only 1% as a result of deregulation, the cost to consumers (assuming the grace period is retained) would be over $9 million annually. As the attached chart shows, the most expensive credit cards are provided by banks in deregulated states. If interest rates rise to the norm in many of these deregulated states, they would be around 21%. Assuming the grace period is retained, if revolving charge rates in North Carolina go up to 21%, the cost to consumers would be over $29 million annually.

6. The cost to credit card customers from deregulation would be too high. If just half of the current credit card holders in North Carolina who regularly pay their credit card accounts in full each month lose the grace period, and interest rates go up to 21% a year, the cost to the consumers of this state would be in excess of $54 million a year.

7. Deregulation for purposes of economic development logically means higher credit card rates. The banks argue that deregulation of revolving charge rates will bring jobs to the state. This is doubtful for the reasons set out in Paragraph 9, below. But even if true, the effect must be an increase in the interest rates for credit cards and other revolving charges. Eighteen states have rates analogous or lower than North Carolina's. Thirteen other states require capped rates, but allow higher interest charges than is allowed here. For a bank to move its credit card operations to North Carolina, the only justification it could have for undertaking this expense would be if it could charge rates higher than it could from its home state. Therefore, deregulation would necessarily mean higher credit card and revolving charge rates.

8. Cost of bringing new jobs to the state. It is unknown just how many jobs deregulation of revolving credit would bring to the state, or save for the state. The three largest credit card issuers in the state - Wachovia, NCNB and First Union - have already moved most of their credit card operations out of the state. They make no promises to return if deregulation passes. However, even if these credit card operations were to return, representatives of the banking industry estimate that around 1100 jobs would either be saved or created by this legislation. From the experience of other states, as explained below, this number seems unrealistically high. However, assuming this number is correct, each job created or saved by deregulation would cost North Carolina consumers over $49 thousand a year.

9. It is very unlikely that deregulation would bring many jobs to North Carolina. Credit card operations work on economies of scale and they are highly computerized. Adding 10,000 new credit card accounts would doubtfully add a single new job to a credit card center. Both Georgia and Louisiana recently passed laws deregulating credit cards rates with the purpose of bringing jobs to those states from the new credit card operation centers. Apparently not a single new credit card bank has moved to Louisiana as a result of the new law in that state. According to the Georgia State Banking and Finance

Department, only one credit card operation has moved to that state in the two and a half years since their law went into effect. This single new credit card bank in Georgia has created only 50 new jobs for that state.

10. Deregulation promotes higher credit card rates. Attached is a list of the least expensive and the most expensive credit card offerings in the nation. All but two of the most expensive credit cards are offered by banks residing in states with deregulated rates. The large majority of cards with the lowest rates are provided by banks from states with capped rates. (New York State is the anomaly, there credit card rates are capped at 25%.)

The analysis in this presentation is my own. I obtained primary information from the Federal Reserve Bank in Richmond and the Consumer Credit Card Rating Service in California. The Federal Reserve Bank provided me with the amount of outstanding revolving credit debt owed to North Carolina banks as of June 30, 1989. To arrive at the figures set out above it was necessary to make certain assumptions based on information provided by representatives of the NC Bankers Association, as well as the Federal Reserve Board: 1) one half of the revolving charge accounts are credit card accounts; 2) the average monthly balance for revolving charge accounts is $500; and 3) 40% of all account holders pay off their balances in full each month. I believe that these assumptions are reasonable because they are industry norms; yet to the extent they err, it is on the conservative side. A Worksheet detailing these calculations is available upon request.

It is important to note that the projected costs of deregulation do NOT include the cost of deregulating open end credit for retail merchants. I know of no way to come by the basic information necessary to make these calculations. Because deregulation would allow much higher rates than is now being charged, and it is clear that competition does not work for interest rates in the retail market place, there should be little doubt that the cost to North Carolina consumers of deregulating credit for merchants will equal, or exceed, that of deregulating the revolving credit of banks.

Thank you for your interest in the effects of this proposed legislation on my clients, low income people. Please contact me if you have any questions.

Margot Saunders, N.C. Legal Services Resource Center, Post Office Box 27343, Raleigh, N. C. 27611. (919) 821-0042.

January, 1990

THE TEN CHEAPEST CREDIT CARD BANKS IN THE UNITED STATES

The following is a list of the ten least expensive credit cards offered in the United States. Each bank allows a grace period of at least 25 days and has an annual fee of less than $23.

All but three of the banks offering these cards are in states where credit card interest rates are capped. The three banks which originate from deregulated states are denoted by an asterisk *.

1. 10.50% - Simmons First National, Arkansas
2. 11.50% - People's Bank, Connecticut
3. 14.00% - Republic Bank, Florida
4. 14.90% - Security Savings Bank, Michigan
5. 16.50% - Indian Head National, Delaware *
6. 16.70% - Fleet National Bank, Rhode Island
7. 16.80% - Crossland Savings Bank, New York
8. 16.80% - Dollar Dry Savings, New York
9. 16.98% - Bank of New York, Delaware *
10. 17.00% - PNC National Bank, Delaware *

THE TEN MOST EXPENSIVE CREDIT CARDS IN THE UNITED STATES

Every one (except two - from Iowa and New York) of the credit cards which currently charge the highest amount of interest is offered by a bank from a state which has deregulated credit card rates.

Eight of these ten banks are among the top twenty credit card issuers in the nation. These top ten banks control 34% of the credit card market.

1. 21.00% - First Interstate Bancard, California
2. 21.00% - Beneficial National, Delaware (note: 21% is the floor, rates can rise with an increase in the prime rate)
3. 20.00% - Wells Fargo Bank, California
4. 19.80% - Norwest Bank, Iowa
5. 19.80% - First Interstate Bancard, California
6. 19.80% - Bank of America, California
7. 19.80% - MBank, Delaware
8. 19.80% - First Chicago, Illinois
9. 19.80% - Citibank, South Dakota
10. 19.80% - Chemical Bank, New York

Data gathered from information provided by Consumer Credit-Card Rating Service, Inc. Analysis by Margot Saunders, N.C. Legal Services Resource Center, Raleigh, N.C. (919) 821-0042.

FINAL

RETAIL INSTALLMENT CONTRACT

Address ____
Address **********
Address **********
Good Furniture Co. #3 Inc. Address 2719 West Cermak Rd. Chgo , Ill

Hereby sells and Buyer or Buyers, jointly and severally, hereby purchase the following goods and/or services for the deferred payment price and on the terms in this contract. Buyer acknowledges delivery and acceptance of the goods and/or services described in good condition.
AGREES THAT THE PROVISIONS ON THE REVERSE SIDE HEREOF SHALL CONSTITUTE A PART OF THIS RETAIL INSTALLMENT CONTRACT AND ARE INCORPORATED HEREIN.

QTY	MODEL NO.	SERIAL NO.	DESCRIPTION AND IDENTIFICATION OF MERCHANDISE AND/OR SERVICES. SHOW WHERE APPLICABLE, BRAND NAME, ITEM NO., SIZE AND/OR COLOR	CASH PRICE INCL. TAXES
	S/O	BEAUTY QUEEN MATTS		******
	S/O	BEAUTY QUEEN FOUNDATIONS		******
	S/O	BERSHIRE BRASS FINISH HB		******
	S/O	FRAMES : 1-TELEPHONE		$1,020.86
**	********	**********	**********	**********

DISCLOSURE STATEMENT made on behalf of Seller and Assignee MIDLAND FINANCE CO. whose office address is 7541 N. Western Avenue, Chicago Illinois 60645 (Creditors).

FEDERAL TRUTH-IN-LENDING DISCLOSURE STATEMENT

ANNUAL PERCENTAGE Rate The cost of credit as a yearly rate	FINANCE CHARGE The dollar amount the credit will cost you.	AMOUNT FINANCED The amount of credit provided to you or on your behalf.	TOTAL OF PAYMENTS The amount you will have paid after you have made all payments as scheduled.	TOTAL SALE PRICE the total cost of your purchase on credit, including your downpayment of $ 70.86
17 %	$ 442.60	$ 963.90	$ 1,426.50	$ 1,497.36

Payment Schedule Will Be:

No. of Payments	Amount of Payments	When Payments Are Due 15 DAY OF MONTH
	$ 79.25	monthly beginning 4/15/83
	$	

Security: You are giving a security interest in the goods being purchased and wage assignments. ☐ Other property (Describe) ____
Late Charge: If any payment is 10 days late, you will be charged $5.00 or 5% of the payment, whichever is less.
Prepayment: If you pay off early, you will be entitled to a refund of part of the Finance Charge.
See your contract terms below and on the reverse side for any additional information about nonpayment, default, any required repayment in full before the scheduled date, prepayment refunds and penalties and further information about security interests.

ITEMIZATION OF AMOUNT FINANCED

1. Cash Price		$ 1,020.86
2. Less: Cash Down Payment	$ 70.86	
Trade-in	$ ---0---	
3. Total Down Payment		$ 70.86
4. Unpaid Balance of Cash Price		$ 950.00
5. Amount Paid on Buyer's Previous Contract (if any) [Account No. ____]		$ 0.00
6. Total of Items 4 and 5 (4 + 5)		$ 950.00
7. Other Charges (Amount paid others on your behalf)		
A. Fees to Public Officials		
(1) Filing Financing Statement	$ *******	
(2) Filing Termination Statement	$ *******	
(3) Title Fees	$ *******	
B. Property Insurance	$ 0.00	
C. Credit Life Insurance	$ 13.91	
D. Credit Disability Insurance	$ 0.00	$ 13.91
8. Unpaid Balance—Amount Financed (6 + 7)		$ 963.90

Buyer promises to pay the TOTAL OF PAYMENTS shown herein to Assignee at its office in 17 installments of $ 79.25 each and a final installment of $ 79.25, beginning on 4/15 19 83 and continuing on the same day of each successive month thereafter until paid in full. Guarantor, if any, guarantees the collection of the above-described Total of Payments and any other indebtedness due hereon upon failure of the Seller to collect the said amount from the Buyer named herein. Finance Charge begins to accrue: On delivery, if different from date of transaction.
ACCELERATION PROVISION: If Buyer shall default in the payment of any installment of the Total of Payments when due, or in the event of bankruptcy of Buyer, or the theft, substantial damage to, sale, encumbrance, removal, attachment, forfeiture or levy upon the goods, which event of default shall continue for at least 30 days, or if Buyer shall abandon or destroy the goods, or if holder has reasonable cause to believe that Buyer is about to leave the State, holder may declare all installments of the Total of Payments immediately due and payable, without notice or demand. In the event of acceleration, Buyer shall be credited with the same rebate of unearned Finance Charge as for voluntary prepayment.
DELINQUENT CHARGES: Buyer agrees to pay a delinquency charge on any installment in default for a period of not less than 10 days in an amount of the lesser of 5% of the installment or $5. In addition, Buyer agrees to pay reasonable attorneys' fees incurred by Seller in the collection or enforcement of this contract.
REBATE FOR PREPAYMENT: In the event of prepayment of the contract in full at any time before maturity of the final installment, Buyer shall receive a statutory rebate of unearned Finance Charge equal to that proportion of the original Finance Charge, less an acquisition cost of $12, as the sum of the periodical time balances beginning with the next payment period bears to the sum of all of the periodical time balances under the schedule of installment payments in this contract. This statutory computation employs the "sum of the digits" method, also known as the "Rule of 78ths". No rebate of less than $1 will be made. Prepayment in full will also reduce the insurance charge, (if any).
SECURITY INTERESTS: (1) Seller retains and shall have a purchase-money security interest in the property described above and all accessions under the Illinois Uniform Commercial Code until the Total of Payments and all other amounts hereafter to become due from Buyer hereunder are paid in full. (2) Wage Assignment(s). (3) Additional security taken, if any. ☐ Auto ☐ Other (Describe) ____

INSURANCE AGREEMENT

No insurance included unless a charge therefor is shown hereon. Property insurance may be required by Seller. Buyer may choose the person through whom the insurance is to be obtained. If such insurance is to be obtained through Seller, the cost for the term commencing thirty days prior to the original scheduled date of the first installment and expiring on the original scheduled maturity date of this contract will be $ 0.00. Credit insurance is not required by Seller nor is it a factor in approval of the extension of credit. Credit life and credit accident and health insurance coverage provided by Seller or holder may be cancelled within 15 days of the date of this contract by written request signed by all Buyers and Guarantors. In the event of such cancellation, the entire premium or premiums included in the Amount Financed together with the portion of the Finance Charge applicable thereto shall be credited to the Total of Payments and the insurance

ORIGINAL

RETAIL INSTALLMENT CONTRACT

SELLER & CREDITOR: ALABAW Floor Covering
BUSINESS ADDRESS: 1352 MILWAUKEE
CITY AND STATE: Chicago ILLINOIS

BUYER'S NAME:
RESIDENCE ADDRESS: N KEDZIE
CITY AND STATE: CHICAGO, ILLINOIS

Seller hereby sells and Buyer or Buyers, jointly and severally, hereby purchase the following goods and/or services for the deferred payment price and on the terms set forth in this contract. Buyer acknowledges delivery and acceptance of the goods and/or services described in good condition. BUYER AGREES THAT THE PROVISIONS ON THE REVERSE SIDE HEREOF SHALL CONSTITUTE A PART OF THIS RETAIL INSTALLMENT CONTRACT AND ARE INCORPORATED HEREIN.

QUAN	MODEL NO.	SERIAL NO.	DESCRIPTION AND IDENTIFICATION OF MERCHANDISE AND/OR SERVICES. SHOW WHERE APPLICABLE BRAND NAME ITEM NO. SIZE AND/OR COLOR	CASH PRICE INCL. TAXES
2	Congoleum	9047A	LINOLEUMS (12x17) (12x15)	427.85

DISCLOSURE STATEMENT made in behalf of Seller and Assignee STA-RITE FINANCE [Creditor]
whose office address is IN Chicago ILLINOIS

FEDERAL TRUTH-IN-LENDING DISCLOSURE STATEMENT

ANNUAL PERCENTAGE RATE The cost of credit as a yearly rate	FINANCE CHARGE The dollar amount the credit will cost you.	AMOUNT FINANCED The amount of credit provided to you or on your behalf.	TOTAL OF PAYMENTS The amount you will have paid after you have made all payments as scheduled.	TOTAL SALE PRICE The total cost of your purchase on credit including your downpayment of $ 27.85
22.84%	$274.37	$428.83	$703.20	$731.05

Payment Schedule Will Be:

No. of Payments	Amount of Payments	When Payments Are Due
24	$ 29.30	monthly beginning Dec. 11, 1982
	$	

Security: You are giving a security interest in the goods being purchased and wage assignments. ☐ Other property (Describe) _____

Late Charge: If any payment is 10 days late, you will be charged $5.00 or 5% of the payment, whichever is less.

Prepayment: If you pay off early, you will be entitled to a refund of part of the Finance Charge.

See the contract terms below and on the reverse side for any additional information about nonpayment, default, any required repayment in full before the scheduled date, prepayment refunds and penalties and further information about security interests.

ITEMIZATION OF AMOUNT FINANCED

1. Cash Price		$ 427.85
2. Less Cash Down Payment	$ 27.85	
Trade-in	$ 0	
3. Total Down Payment		$ 27.85
4. Unpaid Balance of Cash Price		$ 400.00
5. Amount Paid on Buyer's Previous Contract (if any)		0
(Account No. _____)		
6. Total of Items 4 and 5 (4 + 5)		$ 400.00
7. Other Charges (Amount paid others on your behalf)		
A. Fees to Public Officials		
(1) Filing Financing Statement	$ 0	
(2) Filing Termination Statement	$ 0	
(3) Title Fees	$ 0	
B. Property Insurance	$ 0	
C. Credit Life Insurance	$ 9.16	
D. Credit Disability Insurance	$ 19.69	$ 28.85
8. Unpaid Balance—Amount Financed (6 + 7)		$ 428.85

Buyer promises to pay the TOTAL OF PAYMENTS shown herein to Assignee at its office designated above in 23 installments of $ 29.30 each and a final installment of $ 29.30 beginning on Dec 11, 19 82 and continuing on the same day of each successive month thereafter until paid in full. Guarantor, if any, guarantees the collection of the above-described Total of Payments and any other indebtedness due hereon upon failure of the Buyer to pay. Finance Charge begins to accrue _____, if different from date of transaction.

DEFAULT AND ACCELERATION: If Buyer shall default in the payment of any installment of the Total of Payments when due, or in the event of bankruptcy of Buyer, or the death of Buyer, or substantial damage to, sale, encumbrance, removal, attachment, forfeiture or levy upon the goods, which event of default shall continue for at least 30 days, or if Buyer shall abandon or destroy the goods, or if holder has reasonable cause to believe that Buyer is about to leave the State, holder may declare all installments of the Total of Payments immediately due and payable, without notice or demand. In the event of acceleration, Buyer shall be credited with the same rebate of unearned Finance Charge as for voluntary prepayment. Guarantor, if any, hereby consents to any and all renewals, refinancing, or extensions of the time of payment of the Total Payments without notice to Guarantor.

DELINQUENT CHARGES: Buyer agrees to pay a delinquency charge on any installment in default for a period of not less than 10 days in an amount of the lesser of 5% of the installment or $5. In addition, Buyer agrees to pay reasonable attorneys' fees incurred by Seller in the collection or enforcement of this contract.

REBATE FOR PREPAYMENT: In the event of prepayment of the contract in full at any time before maturity of the final installment, Buyer shall receive a statutory rebate of unearned Finance Charge equal to that proportion of the original Finance Charge, less an acquisition cost of $12, as the sum of the periodical time balances beginning with the next payment period bears to the sum of all of the periodical time balances under the schedule of installment payments in this contract. This statutory computation employs the "sum of the digits" method, also known as the "Rule of 78ths". No rebate of less than $1 will be made. Prepayment in full will also reduce the insurance charges (if any).

SECURITY INTEREST: (1) Seller retains and shall have a purchase-money security interest in the property described above and all accessions under the Illinois Uniform

APPENDIX Q

PROMISSORY NOTE AND DISCLOSURE STATEMENT

LENDER

MIDLAND FINANCE LOAN CO.

7541 N. WESTERN AVENUE
CHICAGO, ILLINOIS 60645

LICENSED UNDER THE ILLINOIS CONSUMER FINANCE ACT

DATE OF THIS NOTE June 14, 1984

NAMES AND ADDRESSES — SOCIAL SECURITY NUMBER

(1) Chicago, Ill. 60651

(2) Chicago, Ill. 60623

FEDERAL TRUTH IN LENDING DISCLOSURE STATEMENT

ANNUAL PERCENTAGE RATE	FINANCE CHARGE	AMOUNT FINANCED	TOTAL OF PAYMENTS
44.00%	317.25	$582.75	$ 900.00

Your payment schedule will be

No. of Payments	Amount of Payments	When Payments are Due
25	$ 36.00	7-14-84

SECURITY

LATE CHARGE

PREPAYMENT

Itemization of Amount Financed

1 $ — paid to Midland Finance Loan Co. on Account No.

2 $ — paid to Midland Finance Co. on Account No.

Amount paid to others on your behalf

3 $ — to

4 $ — to

5 $ — to

6 $ — to

7 $ — paid directly to you and forwarded at your direction to

$ 522.00 [illegible] directly

$ 582.75 Amount Financed (sum of 1 through 13)

ACCELERATION PROVISION. Default ... or loss theft destruction attachment levy upon seizure or forfeiture ... proceeding by or against Borrowers under a bankruptcy or insolvency statute or reasonable insecurity of Lender shall at the option of Lender ... the entire sum remaining unpaid at once due and payable. If two or more full installments ... the rebate of precomputed interest which would be required for prepayment in full on the date of the election and thereafter collect interest at the agreed rate on the actual unpaid balances ... contract has reduced by the rebate for the time that such balances are actually outstanding until the loan contract is fully paid, applying every payment first to interest at the agreed rate and then to the unpaid principal balance. In the event of acceleration Borrowers shall be credited with the same rebate of precomputed interest for voluntary prepayment.

DEFAULT AND DEFERMENT CHARGES. If default of more than 5 days occurs in the payment in full of any scheduled installment Borrowers agree that Lender may charge and collect a default charge equal to the rebate that would be required for prepayment in full one full month prior to the final due date.

If payment of all unpaid installments is deferred one or more full months Borrowers agree that Lender may charge and collect additional interest equal to the difference between the rebate that would be required for prepayment in full as of the scheduled due date of the first deferred installment and the rebate which would be required for prepayment in full as of one month prior to that date, multiplied by the number of full months in which no scheduled payment is made or required by reason of the deferment. If a rebate of precomputed interest is required during a period of deferment a pro-rata rebate of the deferment charge must also be made. The default or deferment charge may be collected when the default or deferment occurs or at any time thereafter. Only one default charge may be made on any one installment ... for any one default. No deferment charge may be ... unless the default charge ...

REBATE ON PREPAYMENT

INSURANCE AGREEMENT

No credit insurance ... unless the Borrower(s) sign the appropriate authorization below.

Credit Life Insurance $ 20.25

Credit Disability Insurance $ 40.50

I do NOT want Credit Life or Disability Insurance — (Signature) (Signature)

I, We desire Credit Life Insurance — (Signature) (Signature)

I desire Credit Life and Disability Insurance — (Signature)

The undersigned ... waive demand for payment and notice of dishonor of this note and consent to ... extension of the time of payment ... validity and effect hereof shall be governed by the laws of Illinois ... acknowledge receipt of a duplicate of this instrument before consummation of the loan and agree that the above disclosure statement ... incorporated by reference ... Section 13 ... of the Illinois Consumer Finance Act on the reverse side hereof.

WITNESSES — (Borrower) (Borrower)

NOTICE See other side for important information

PRESENTATION TO THE LEGISLATIVE RESEARCH COMMISSION STUDY ON DEREGULATION OF CREDIT, CREDIT CARD BANKS AND LINKED DEPOSITS

February 1, 1990

by:

Margot Saunders
N. C. Legal Services Resource Center
P. O. Box 27343
Raleigh, N. C. 27611

(919) 821-0042

APPENDIX R

PRESENTATION TO THE
LEGISLATIVE RESEARCH COMMISSION
STUDY ON
DEREGULATION OF CREDIT, CREDIT CARD BANKS AND
LINKED DEPOSITS

February 1, 1990

1. Comparison of interest rates in North Carolina with those in deregulated states.

2. South Carolina contract for purchase of a used car with Annual Percentage Rate of 52%.

3. South Carolina small loan contract with Annual Percentage Rate of 66.75%.

4. Arizona second mortgage loan contract with Annual Percentage Rate of 38.38%.

5. Illinois contract for purchase of a used car with Annual Percentage Rate of 59.06%.

6. Delaware newspaper article detailing used car dealer's charging of 60% interest. [(not copied in report,) in Minutes of Meeting]

7. Table of repayment practices of credit car users, showing that about one half of low income people pay off their credit cards in full each month.

8. Annual cost of deregulating credit cards and revolving credit to North Carolina consumers.

9. Effects of deregulation on loan delinquencies.

10. Wall Street Journal Article regarding banks lending practices and their effects on the increase in personal bankruptcy filings. [(not copied in report,) in Minutes of Meeting]

11. Personal bankruptcy filings as compared to total number of households in N.C. and some deregulated states.

12. Durham Morning Herald article regarding the effects on jobs of CCB's potential move of its credit card operations out of state. [(not copied in report,) in Minutes of Meeting]

13. News & Observer table showing profitability of N.C. banks in 1989. [(not copied in report,) in Minutes of Meeting]

Information provided by: Margot Saunders, N. C. Legal Services Resource Center, P. O. Box 27343, Raleigh, N. C. 27611 (919) 821-0042.

COMPARISON OF INTEREST RATES IN NORTH CAROLINA WITH THOSE IN DEREGULATED STATES

State	Bank Credit Cards*		Retail Credit Cards		Small Loans**		Used Car Loans		2nd Mortgage Loans	
	Typical Range	Highs	Typical Range	Highs	Typical Range	Highs	Typical Range	Highs	Typical Range	Highs
N.C.	18%	18%	18%	18%	26-36%	36%	24-29%	29%	14-18%	18%
S.C.	18-22.5%	23%	18-20%	22%	30-40%	77%	36-55%	200%	22-26%	26%
Georgia	18-21%	23%	21%	21%	27-200%	200%	29-30%	30%	20-25%	27.
Delaware	18-21%	23%	----	----	30-40%	60%	25-45%	60%	21%	21%
Illinois	18-21%	23%	18-21%	21%	47-60%	60%	45-60%	60%	----	---

* The credit card rates do not include the effects of extra charges which are currently prohibited in N.C., such as late charges, transaction fees, over the limit fees, etc.

** Small loans are considered those between $150 and $2000, for a term of up to 24 months.

With the exception of the information relating to the interest rates in South Carolina, all of the information illustrated here was provided on an anecdotal basis by legal services attorneys in each state The information from South Carolina was provided by Roy Harms, Deputy Administrator of the S.C. Department of Consumer Affairs.

RETAIL INSTALLMENT CONTRACT

Buyer

Home Address

City State Zip

Soc. Sec. No.

Co-Buyer

Soc. Sec. No.

Seller Kassup Autosales

Street Address 4001 W. Beltline

City Cola State SC Zip 29204

Acct. No. a

Dealer No.

State Code

Address (if different from Buyer)

State Zip

Address

State Zip

AGREEMENT: Buyer hereby agrees to buy and Seller agrees to sell the goods described below for the Total Sale Price after having been quoted a Total Sale Price and a Lesser Cash Price subject to all the terms and conditions contained in this contract. Buyer agrees that Seller may, at Seller's sole option and prior to the delivery of the goods described below, cancel this sale and all of Seller's obligations hereunder upon written notice to Buyer in the event that Seller does not approve the credit and financial condition of Buyer.

Item	Quantity	New/Used	Make	Model	Serial or Identification Number	Price
	1	Used	Chevrolet 1977	Caprice	1Q6947 5209814	2695.00
			124.75 TAX			
			22.00 TAGS			
			146.75 Total	Must Be Paid within 10 Days of Sale		
						D.P.

INSURANCE DISCLOSURES

CREDIT LIFE INSURANCE AND CREDIT ACCIDENT AND HEALTH INSURANCE ARE NOT REQUIRED TO OBTAIN CREDIT AND WILL NOT BE PROVIDED UNLESS BUYER SIGNS AND AGREES TO PAY THE ADDITIONAL COST. If requested by Buyer, Seller will obtain such insurance for the original term of this agreement at the cost to Buyer as stated below.

☐ Credit Life Insurance $ _____

☐ Credit Accident & Health Insurance $ _____

Buyer hereby requests the types of insurance checked above and acknowledges receipt of a notice of proposed insurance or certificate of insurance evidencing the insurance coverages.

Insured Buyer _____

BUYER MAY OBTAIN PROPERTY INSURANCE FROM A COMPANY OF BUYER'S CHOICE. IF BUYER OBTAINS PROPERTY INSURANCE FROM SELLER THE COST WILL BE:

$ _____

☐ If checked, Buyer hereby requests Seller to obtain property insurance for the original term of this agreement at the cost to Buyer as stated above.

CONTRACT TERMS

PROMISE TO PAY: Buyer promises to pay to Seller the Total of Payments in _____ payments in the amounts and dates stated in the Payment Schedule at Seller's address or other address given to Buyer.

SECURITY: Buyer grants Seller a purchase money security interest in the goods described above until this contract is fully performed by Buyer. Buyer also grants Seller a security interest in the proceeds of the goods and of any insurance obtained by Seller.

LATE CHARGE: If an installment is not paid in full within ten (10) days after the date it is due, Buyer agrees to pay a late charge of five percent (5%) of the unpaid amount of the installment or five dollars ($5.00), whichever is less.

PREPAYMENT: Buyer may prepay the amount owed under this contract in full at any time and receive credit for a rebate of unearned finance charge calculated according to the Rule of 78 method. Buyer will not receive credit for a rebate of less than one dollar ($1.00).

ENTIRE AGREEMENT: The terms and conditions set forth in this contract, including additional terms on the *reverse* side, contain the complete and entire agreement between Seller and Buyer and no agreement, guaranty, promise, representation or waiver shall be binding unless in writing and signed by Seller and Buyer. **Notice: See other side for important information.**

Executed by Buyer and Seller this _____ day of _____, 19 ____

BUYER'S RIGHT TO CANCEL: If this agreement was solicited at Buyer's residence and you do not want the goods YOU, THE BUYER, MAY CANCEL THIS TRANSACTION AT ANY TIME PRIOR TO MIDNIGHT OF THE THIRD BUSINESS DAY AFTER THE DATE OF THIS TRANSACTION. SEE THE ATTACHED NOTICE OF CANCELLATION FORM FOR AN EXPLANATION OF THIS RIGHT.

ITEMIZATION OF AMOUNT FINANCED

SALE PRICE		$ 2695.00
SALES TAX (if any)	$ 124.75	
CASH PRICE (includes Sales Tax)		$ 2819.75
CASH DOWN PAYMENT	$ 300.00	
TRADE-IN (Describe below)	$ 200.00	
1975 Ford (OX91T285827)		
TOTAL DOWN PAYMENT		$ 500.00
UNPAID BALANCE OF CASH PRICE		$ 2195.00
OTHER CHARGES PAID ON YOUR BEHALF:		
TO INSURANCE COMPANIES:	$ 0	
PROPERTY INS...	$ 0	
CREDIT LIFE INS.	$ 0	
ACC.& HLTH INS.	$ 0	
TO PUBLIC OFFICIALS:	$ 0	
TOTAL OTHER CHARGES Title...+ TAGS		$ 22.00
AMOUNT FINANCED		$ 2195.00

DISCLOSURES REQUIRED BY FEDERAL LAW

AMOUNT FINANCED (The amount of credit provided to you or on your behalf) $ 2195.00

FINANCE CHARGE (The dollar amount the credit will cost you) $ 1275.06

TOTAL OF PAYMENTS (The amount you will have paid after you have made all payments as scheduled) $ 3470.06

TOTAL SALE PRICE (The total cost of your purchase on credit, including your down payment of $ 500.00) $ 3970.06

ANNUAL PERCENTAGE RATE (The cost of your credit as a yearly rate) 52 %

Your payment schedule will be:

No. of Pmts	Amount of Pmts	Payments Are Due
99	$ 35.00	Weekly
1	$ 5.06	Starting 3 MAR 87

Security: You are giving a security interest in the goods or property being purchased.

Late Charge: If a payment is late, you will be charged 5% of the amount

3

YOUR ACCOUNT IS PAYABLE IN THE OFFIC : LENDER/SECURED PARTY INDICATED B

WORLD FINANCE OF WEST CMLA
620 12TH STREET
WEST CMLA, SC, 29169

ACCOUNT NUMBER TYPE
48447421 I

BORROWER(S) (NAMES AND ADDRESS)

PELION SC 291239501

DATE OF LOAN	FIRST DUE DATE	OTHERS DUE SAME DAY EACH MONTH	FINAL DUE DATE	FIRST PAYMENT $	OTHER PAYMENTS $	#	TOTAL PAYABLE IN MONTHLY INSTALLMENTS
10/08/85	11/08/85		07/08/86	23.00	23.00		29.26

IDENTIFICATION OF AMOUNT FINANCED

1.a	29.26	AMOUNT PAID TO YOU OR ON YOUR BEHALF	TO: YOU $ 29.26
2.a	129.16	AMOUNT PAID ON YOUR PRIOR ACCOUNT	TO: $
3.a	154.42	NET PROCEEDS (SUM OF LINES 1 AND 2)	TO: $
4.a	1.00	AMOUNTS PAID TO OTHERS ON YOUR BEHALF TO PROPERTY INSURANCE COMPANY	TO: $
5.a	NONE	TO AUTOMOBILE INSURANCE COMPANY	TO: $
6.a	4.00	FOR NON-RECORDING INSURANCE	TO: $
7.a	NONE	TO PUBLIC OFFICIALS FOR OFFICIAL FEES	TOTAL PAID (TO LINE 1) $ 29.26
8.a	.64	TO STATE FOR DOCUMENTARY STAMPS	
9.a	159.46	AMOUNT FINANCED (SUM OF LINES 3 THRU 8)	
10.a	47.54	FINANCE CHARGE (LINES 13 THRU 17)	INITIAL AMT REDUCING 207.00
	66.75 %	ANNUAL PERCENTAGE RATE	TERM 23.00
	37.00	TOTAL OF PAYMENTS	AAH MO BENEFIT

13. MAINT. FEE	$ 9.00
14. LIFE PREMIUM	$ 1.[illegible]
16. AAH PREMIUM	$ 2.07
18 INITIAL CHARGE	$ 11.41
17. INTEREST	$ 23.51

INSURANCE

Insurance Coverages
(Afforded Only When Identifiable Charges Are Shown in Schedule)

LIFE
☒ SINGLE DECREASING LIFE ON FIRST NAMED DEBTOR ONLY

☒ ACCIDENT and HEALTH ON FIRST NAMED DEBTOR ONLY

4th BENEFITS COMMENCE WITH THE DAY OF CONTINUOUS DISABILITY RETROACTIVE TO FIRST DAY

Credit Life and Credit Accident and Health insurance is required by the Lender in order for the Borrower to obtain a loan. The Borrower(s) has the right to choose the person or company through which Credit Life, and Credit Accident and Health insurance is to be obtained, and has the option of providing the required insurance under an existing policy. If obtained through the Lender, the cost of Credit Life, and Credit Accident and Health insurance, is as set forth herein and is for the term of the loan

Personal Property Insurance and Automobile Insurance covering the collateral securing this loan may be required by the Lender in order for the Borrower to obtain a loan. The Borrower(s) has the right to choose the person or company through which Personal Property Insurance or Automobile Insurance is to be obtained, and has the option of providing any required insurance under an existing policy. If obtained through the Lender, the cost of Personal Property Insurance or Automobile Insurance is as set forth herein and is for the term of the loan

1 PERSONAL PROPERTY-TYPE	LIMITS OF LIABILITY
☐ (A) SINGLE INTEREST	Ø
☐ (B) DUAL INTEREST	Ø
2 VEHICLE	
☐ SINGLE INTEREST	Ø

DELINQUENCY CHARGES DEFAULT PREPAYMENT

DELINQUENCY CHARGES: Borrower will pay a delinquency charge of 5¢ per each full $1.00 of any installment in default 5 days or more. Only 1 delinquency charge will be assessed on any installment or portion thereof. Interest after maturity will accrue at 8% per annum.

DEFAULT: Default in any payment, or any other default, shall, after lawful notice when so required, render the entire balance, less credit for unearned charges, payable forthwith.

If this note is placed in the hands of an attorney for collection, Borrower agrees to pay reasonable attorneys' fees (up to a maximum of 15%) as determined by a court in which suit is filed and court costs, or the actual and reasonable expenses of repossession, storing and selling of any property placed as security.

PREPAYMENT: Prepayment may be made in full or in part at any time.

Upon prepayment in full, other than by renewal within 90 days of the date of the loan, Borrower will receive a refund of the unearned portion of the interest and unearned insurance premiums based on the Rule of 78's. The interest applicable to the period in which prepayment occurs is earned by Lender. The maintenance fee will be refunded pro rata with the unexpired term of the loan and any part of a month treated as a full month.

Upon prepayment in full by renewal within 90 days of the date of the loan, Borrower will receive a daily pro rata refund of the unearned portion of the interest, and a refund of the unearned portion of the insurance premiums based on the Rule of 78's.

NOTE

FOR VALUE RECEIVED, the undersigned (all, if more than one), herein referred to as "Borrower", jointly and severally promise to pay to the order of the above named Lender at its above address the Total of Payments above stated, in the manner above set forth.

Acceptance of any payments after maturity, or waiver or condonation of any breach or default, shall not constitute a waiver of any later or other breach or default. Each of the makers, endorsers and guarantors hereof agrees that no variation or extension of time hereunder shall affect his respective obligations. Protest is hereby waived.

SECURITY AGREEMENT

The undersigned (all, if more than one), hereafter called "Borrower", residing at the above address, hereby gives to the above named Lender, its successors and assigns, a security interest under the Uniform Commercial Code in the property, hereafter "collateral", checked and described below or on attached Schedule "A" to secure payment of a promissory note of even date of Borrower to Lender. Proceeds of collateral are also covered, however, such shall not be construed to mean that the Lender consents to any sale of such collateral.

☐ This loan is unsecured.

☐ The goods or property being purchased, which is _____
Personal Property

☒ Other

☒ The following described motor vehicle(s), complete with all attachments and equipment, presently located at your address:

UNION HOME LOANS 4627 North 16th Street, Suite No. 101, Phoenix, Arizona 85016

4

LOAN STATEMENT — MADE IN COMPLIANCE WITH FEDERAL LAW

Loan secured by Trust Deed on 2714 East [illegible]y Drive, Tucson, Arizona 85716

The name of the lender is not at this time known. Upon ascertaining same, it will be furnished to you.

Arranged by Union Home Loans Designated by Federal Law as creditor.

FINANCE CHARGE, accruing from date of deposit of Loan funds in escrow.

A. AMOUNT FINANCED:

1.	Appraisal fees		$ 40.00
2.	Credit investigation fees		$ 5.00
3.	Notary		$ -0-
4.	Recording fees		$ 6.00
6	Costs of guaranteeing or investigating Title		$ 78.00
6.	Tax service for period of loan		$ -0-
7.	Fire insurance premiums		$ -0-
8	Due on prior liens, including reconveyence,etc.		$ -0-
9	Due other creditors		$ -0-
10.	Assumption, transfers, forwarding and beneficiary statement fees		$
11.	Accident & Health and/or Credit Life Insurance ☐ A & H Payment Ins $ 1,440.00 No. Months 12 Premium $ 21.17		
	☐ Life Amount Ins $ 9,560.00 No. Months 13 Premium $ 89.01	Total	$ 110.18
12	Other payments on order of borrower		$ -0-
13.	MLS 902819		$ 6,350.00
14.	Estimated to borrower		$ 46.82
	AMOUNT FINANCED: (Items 1 — 14 incl.)		$ 6,636.00

B. FINANCE CHARGE:

14 The total of the bonuses, brokerage, or commissions contracted for or to be recieved by any person for negotiating, procuring or arranging or making such a loan. (Prepaid FINANCE CHARGE.) Earned in full for services rendered $ 1,280.00 (-0- Broker to absorb) $ 1,280.00

15.(a) Escrow

A.	Basic escrow fee		$ 64.00
B	Drawing payoffs		$ -0-
C.	Verifying prior encumbrances		$ -0-
D.	Handling demands and payoffs		$ -0-
E.	Drawing documents		$ 20.00
	TOTAL ESCROW FEE		$ 84.00

LOAN TOTAL (Items 1 — 15a)

This is principal of note $ 8,000.00 $ 1,560.00

16. Interest for period of Loan

Privilege is reserved, on any installment due date, to pay in full all of the above recited obligations by paying a prepayment consideration equal to 12 months' advance interest of said unpaid obligations, or the maximum permitted by law. EXCEPT if the security for said obligations is a single family, owner-occupied dwelling, privilege is reserved to prepay in whole or in part at any time provided an amount not exceeding 20% of the unpaid balance may be prepaid in any 12 month period and I promise to pay a prepayment charge on any amount prepaid in any 12 month period in excess of 20% of the unpaid balance of 6 months' advance interest in the amount prepaid on said excess. Interest accrues from date lenders' funds are deposited in escrow and the first payment on the note is generally due within thirty days after the close of escrow.

FINANCE CHARGE (Line 15 to Line 16) $ 2,924.00

C. ANNUAL PERCENTAGE RATE: $ 37.38%

D. LOAN TERMS:

Rate of interest 18 % per year on unpaid balance. Installments, Number 13 Amount: 9,560.00

12 @ $ 120.00 plus balloon payment of $ 8,120.00 Total of payments

Due date of each payment

I promise to pay Servicing Agent a late payment charge of 6% or 10% of installment due of principal and interest, whichever is greater, provided however on First Trust Deed loans of $20,000 or more, and for Junior Lien loans of $10,000 or more, the following clause governs: 6% or 6% of installment due of principal amount, no late payment charge will be made if the installment is paid or tendered in full within 10 days after its scheduled due date.

Upon any default of this obligation or obligations of said Deed of Trust, the balance of all said obligations, at the option of the holder, shall be immediately due and payable.

Borrower understands that third persons, such as but not limited to a Title Company may rely upon this representation and represents he has read all of the above. That the matters recited therein are true: That he received a copy thereof on May 13, 1980 and that the borrower does XXX reside or intends to reside in the premises described as security for this Loan

AS INDICATED IN ITEM #11 ABOVE I DESIRE ACCIDENT AND HEALTH AND OR CREDIT LIFE INSURANCE. THE TOTAL PREMIUM IS $ 110.18 . I UNDERSTAND SUCH COVERAGE IS NOT A REQUIREMENT OF THIS LOAN.

[signature] BORROWER

LOAN NO. TWO

Dated: MAY 13, 1980

x [signature]
BLADIE G.

x

x [signature]
OFELIA R.

(BORROWER)

Escrow Number

N

1760 CAR CITY CO

ESS ADDRESS 3401 W WESTERN

CITY AND STATE CHGO ILL

BUYER(S) (NAME)

RESIDENCE ADDRESS SHERIDAN 5

CITY AND STATE CHGO ILL 60612

Seller hereby sells and Buyer or Buyers, jointly and severally hereby purchase the following motor vehicle with accessories and equipment thereon for the dete
ment price and on the terms set forth in this contract. Buyer acknowledges delivery and acceptance of said motor vehicle in good condition.
I AGREES THAT THE PROVISIONS ON THE REVERSE SIDE HEREOF SHALL CONSTITUTE A PART OF THIS CONTRACT AND ARE INCORPORATED HEREIN.

ear	New or Used	Make of Motor Vehicle	No Cyl	Model No	Type of Body	Serial Number	Color of Top	Color of B
1976	U	DODGE	8	VAN		B12AEGX146241	GRN/WHITE	

☐ Radio ☐ Stereo ☐ AM ☐ FM ☐ Tape Deck ☐ Automatic Transmission ☐ Four Spd Trans ☐ Power Brakes ☐ Power Steering ☐ Power Windows ☐ Power Seat ☐ Air Conditioning ☐ Vinyl Top ☐ Mag Wheels ☐ Other

DISCLOSURE STATEMENT made in behalf of Seller and Assignee
whose office address is

FEDERAL TRUTH-IN LENDING DISCLOSURE STATEMENT

ANNUAL PERCENTAGE RATE The cost of your credit as a yearly rate	FINANCE CHARGE The dollar amount the credit will cost you	AMOUNT FINANCED The amount of credit provided to you or on your behalf	TOTAL OF PAYMENTS The amount you will have paid after you have made all payments as scheduled	TOTAL SALE PRICE The total cost of your purchase on credit including your downpayment of $
59.06 %	$ 900.00	$ 2100.00	$ 3000.00	$ 3600.00

Your Payment Schedule Will Be

No. of Payments	Amount of Payments	When Payments Are Due
30	$ 100.00	monthly beginning DEC 26 EV
	$	

Security: You are giving a security interest in the motor vehicle being purchased and wage assignments
Late Charge: If any payment is 10 days late, you will be charged $5.00 or 5% of the pa[illegible], whichever is less
P[illegible]nt: If you pay off early you will be entitled to a refund of part of the Finance Ch[illegible]
See your contract terms below and on the reverse side for any additional information about nonpayment default, any required repayment in full before the scheduled date prepayment refunds and penalties and further information about security interests

ITEMIZATION OF AMOUNT FINANCED

1. Cash Price ..... $ 2700.00
2. Down Payment Trade-In ..... $
Year Make Body Serial No
Less Amount Owing ..... $
Net Equity ..... $
Cash Down Payment ..... $
Total Down Payment ..... $ 600.00
Unpaid Balance of Cash Price ..... $ 2100.00
Other Charges.
Official Fees—Title Charges ..... $
Taxes (not included in cash price) ..... $
Physical Damage Insurance for term of ____ months
Comprehensive ..... $
Fire and Theft ..... $
$ ____ Deductible Collision ..... $
Towing and Labor ..... $
Combined Additional Coverage ..... $
Other ..... $
Credi[illegible]surance ..... $
Credi[illegible]lity (Acc & Health Ins.) ..... $ ____ $

Creditor

Buyer promises to pay the TOTAL OF PAYMENTS shown here[illegible] holder[illegible] at the office designated above in 30 S[illegible]installments of $ 100.00 each and a final installme[illegible] $ ____ beginning on DEC 26 19 82 and continuing on the same day of each successive m[illegible] thereafter until paid in full. Guarantor, if any, guarantees collection of the above-described Total of Payments and any o[illegible] indebtedness due hereon upon failure of the Seller to collect the s[illegible] amount from the Buyer named herein. Finance Charge begir[illegible] accrue ____, if different from dat[illegible] transaction.

ACCELERATION PROVISION: Buyer agrees that if any installment of Total of Payments is not paid in full when due, or if any warrant[illegible] Buyer herein shall be false, or if the motor vehicle shall be lost, ste[illegible] substantially damaged, destroyed, sold, encumbered, conceal[illegible] removed, levied upon, seized or forfeited for violation of any la[illegible] ordinance, or if Buyer shall die or be adjudged incompetent, or[illegible] petition in bankruptcy or for an arrangement shall be filed by[illegible] against Buyer or a judgment entered against Buyer, or if holder sha[illegible] for reasonable cause, deem itself insecure, or if Buyer shall fail to ke[illegible] the motor vehicle fully insured for the entire term of this contract, t[illegible] holder may, at its election, declare all of the unpaid installments of t[illegible] Total of Payments and all other indebtedness secured here[illegible] immediately due and payable, without notice or demand. In the eve[illegible] of acceleration, Buyer shall be credited with the same rebate o[illegible] unearned Finance Charge as for voluntary prepayment. Guarantor, any, hereby consents to any and all renewals, refinancing o[illegible] extensions of the time of payment of the Total of Payments withou[illegible] notice to Guarantor.

DELINQUENT CHARGES: Buyer agrees to pay a delinquency charge o[illegible] each installment in default for a period of not less than 10 days in a[illegible] amount of 5% of the installment or $5, whichever is less. In addition Buyer agrees to pay reasonable attorneys' fees incurred by Seller i[illegible] the collection or enforcement of the debt.

REBATE FOR PREPAYMENT: In the event of prepayment of the contract in[illegible] full at any time before maturity of the final installment, Buyer shall[illegible] receive a statutory rebate of unearned Finance Charge equal to that[illegible] proportion of the original Finance Charge, less an acquisition cost of $25, as the sum of the periodical time balances beginning with the next[illegible] payment period bears to the sum of all of the periodical time balances[illegible] under the schedule of installment payments in this contract. This[illegible] statutory computation employs the "sum of the digits" method, also[illegible] known as the "Rule of 78ths". No rebate of less than $1 will be made[illegible] Prepayment will in full also reduce the insurance charges (if any).

SECURITY INTERESTS: (1) Seller retains and shall have a purchase-[illegible] money security interest in the motor vehicle described above and all[illegible] accessions under the Illinois Uniform Commercial Code until the Total[illegible] of Payments and all future indebtedness for taxes, liens, repairs and in-[illegible] insurance premiums advanced by holder hereunder are paid in full. (2)

Table from "The Effects of Proposed Credit Card Interest Rate Ceilings On Consumers and Creditors." By the Staff of the Federal Reserve Board, April, 1986.

Table 3.4

PERCENT DISTRIBUTION OF REPAYMENT PRACTICES FOR FAMILIES THAT USE BANK OR STORE CREDIT CARDS, 1977 AND 1983, BY SELECTED FAMILY CHARACTERISTICS

Family characteristic	Nearly always pay in full		Sometimes pay in full		Hardly ever pay in full	
	1977	1983	1977	1983	1977	1983
All bank or store card users	49	47	28	26	23	27
Family income[2] (dollars)						
Less than 5,000	54	43	28	19	18	38
5,000 - 7,499	52	49	18	25	30	27
7,500 - 9,999	45	51	29	27	27	22
10,000 - 14,999	44	48	31	23	26	28
15,000 - 19,999	41	43	31	27	28	31
20,000 - 24,999	42	41	31	28	27	31
25,000 - 29,999	55	45	27	23	18	32
30,000 - 39,999	56	46	26	29	18	25
40,000 - 49,999	61	43	25	31	13	26
50,000 and more	78	60	16	24	6	16
Age of family head (years)						
Under 25	38	39	33	28	29	33
25 - 34	43	37	33	29	25	34
35 - 44	41	35	31	33	27	32
45 - 54	47	46	29	27	24	27
55 - 64	60	54	24	24	16	21
65 - 74	77	76	13	12	10	12
75 and over	85	76	15	12	*	12
Education of family head						
0 - 8 grades	57	49	19	18	24	32
9 - 11 grades	46	47	27	25	27	27
High school diploma	46	46	28	26	26	28
Some college	47	41	31	29	21	29
College degree	58	52	29	26	13	21
Occupation of family head						
Professional, technical	57	50	30	27	13	23
Managers	53	50	32	28	15	21
Self-employed managers	65	60	16	24	19	16
Clerical or sales	48	44	30	26	21	30
Craftsmen or foremen	46	44	28	29	26	28
Operatives, laborers, or service workers	40	40	28	25	32	35
Farmers or farm managers	68	74	24	12	8	14
Miscellaneous	45	56	23	22	32	23

THE ANNUAL COST OF DEREGULATING REVOLVING CREDIT AND CREDIT CARDS FOR BANKS

Assuming that only 20% of all **credit card accounts** were effected, the cost of **LOSING THE GRACE PERIOD** would be:	$21,760,218
Assuming that only 20% of all **credit card accounts** were effected, the cost of a **1% INCREASE IN INTEREST RATES** would be:	$1,208,853
Assuming that only 40% of all **revolving charge accounts** were effected, the cost of a **1% INCREASE IN INTEREST RATES** would be:	$3,868,329
Assuming that only 20% of all **credit card accounts** were effected, the cost of a **3% INCREASE IN INTEREST RATES** would be:	$3,626,559
Assuming that only 40% of all **revolving charge accounts** were effected, the cost of a **3% INCREASE IN INTEREST RATES** would be:	$11,604,987
Assuming that 20% of the **credit card accounts lost their grace period,** and **interest rates went up by 3%** for 20% of the credit card accounts, and 40% of the revolving charge accounts, the cost would be:	$37,354,467
If deregulation of revolving credit meant that **1,000 people had jobs** in the state that they would not otherwise have, the **COST per JOB** would be:	$37,355

This analysis is based on information provided by the Federal Reserve Bank in Richmond on the amount of "loans to individuals for credit cards and related banks" held by North Carolina banks, as of June 30, 1989, who are members of the Federal Reserve System (about 80% of all NC banks).

THE EFFECTS OF DEREGULATION ON LOAN DELINQUENCIES

The following is a comparison of the delinquency rates of open end bank loans past due 30 days or more. All states except North Carolina have deregulated interest rates for credit cards and revolving credit. The percentages are shown as a percentage of the total number of loans outstanding. The information is provided by the Federal Reserve Board, and is as of September 30, 1989.

State	Revolving Credit Loans	Amount Higher Than NC	Bank Card Loans	Amount Higher Than NC
North Carolina	1.05%	--	1.98%	--
Delaware	2.85%	2.71 x NC	2.70%	1.36 x NC
Georgia	2.31%	2.20 x NC	2.62%	1.32 x NC
Illinois	.87%	.83 of NC	2.57%	1.30 x NC
South Carolina	2.49%	2.37 x NC	2.25%	1.14 x NC
Virginia	1.31%	1.25 x NC	2.19%	1.11 x NC
All States	2.71%	2.58 x NC	2.32%	1.17 x NC

For further information, contact: Margot Saunders, N. C. Legal Services Resource Center, P. O. Box 27343, Raleigh, N. C. 27611, (919) 821-0042.

PERSONAL BANKRUPTCY FILINGS
AS COMPARED TO TOTAL NUMBER OF HOUSEHOLDS IN
SELECTED DEREGULATED STATES

State	Total # of Filings	# of Households For each Filing
North Carolina	8,225	291
Virginia	14,482	149
Georgia	29,709	76
Illinois	30,719	139
Arizona	13,288	93
South Carolina	4,228	283
Nationwide	594,511	151

Information provided by the U.S. Administrative Office of the Courts, Washington D.C. for bankruptcy filings for the year ending September 30, 1989.

NORTH CAROLINA GENERAL ASSEMBLY
LEGISLATIVE SERVICES OFFICE
2129 STATE LEGISLATIVE BUILDING
RALEIGH 27611

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March 8, 1990

MEMORANDUM

TO: Committee on Deregulation of Revolving Credit, Credit Card Banks and Linked Deposit Program

FROM: H. Warren Plonk, Fiscal Analyst
Fiscal Research Division

SUBJECT: Fiscal analysis of credit card/revolving credit proposals

Per requests of Representative Hege, Representative Brubaker, Senator Jim Johnson, and Terry Sullivan the following questions have been addressed. It must be noted that the following estimates were made using national data, revolving debt outstanding for June 1989, and that some basic assumptions were made. The interest expense in all cases was compounded monthly for one year.

Assumptions

- Sixty-seven percent of the debt held by North Carolina consumers is serviced by out-of-state financial institutions, and 67% of the outstanding balance is held by out-of-state financial institutions.
- Thirty-five percent of North Carolina credit card users pay their purchase balance off in full every month.
- Consumers will not change the amount of debt they choose to hold because of an increase in the rate of interest, increase in the amount of fees, and/or the elimination of the free period.

Research Sources: Federal Reserve Bulletin; February 1990
Statistical Abstract of the US.; 1989

1. The cost for each percent increase in the interest rate to North Carolina consumers on bank credit cards and on revolving credit accounts.

Total revolving includes debt issued by commercial banks, retailers, oil companies, savings institutions, credit unions, and pools of securitized assets, (PSA).

(millions)

Total revolving
Total revolving debt, all N.C. institutions ----- $ 1,354.1
Total revolving debt, less PSA ---------- $ 1,224.1

Interest expense @ 18% ---------- $ 264.9
Interest expense, less PSA -------- $ 239.5
This is a current cost.

Interest expense @ 18.42% --------- $ 271.8
Interest expense, less PSA -------- $ 245.7
The increase in consumer interest cost
due to a .42% increase in the rate of interest -- $ 6.9
Increase in interest cost, less PSA ---------- $ 6.2

Interest expense @ 19% ---------- $ 280.8
Interest expense, less PSA -------- $ 253.5
The increase in consumer interest cost
due to a 1% increase in the rate of interest ---- $ 15.9
Increase in interest cost, less PSA ---------- $ 14.0

Interest expense @ 21% ---------- $ 313.4
Interest expense, less PSA -------- $ 283.0
The increase in consumer interest cost
due to a 2% increase in the rate of interest ----- $ 32.6
Increase in interest cost, less PSA ---------- $ 29.5

Interest cost due to a 3% increase ---------- $ 48.5
Interest cost, less PSA ---------- $ 43.5

2. The likely costs in aggregate for this State's consumers of implementing the NCBA's proposal on deregulating unsecured open-end credit for domestic lenders viewing the results of this sort of credit deregulation in other states and national trends.

   Other states and national trends, question 4; page 6 and Table 1.

(millions)

Total Commercial

Total revolving debt, N.C. Commercial Banks ---- $ 570.0

Interest expense @ 18% ---------- $ 111.5
This is a current cost.

Interest expense @ 18.42% --------- $ 114.4
The increase in consumer interest cost
due to a .42% increase in the rate of interest -- $ 2.9

Interest expense @ 19% ---------- $ 118.2
The increase in consumer interest cost
due to a 1% increase in the rate of interest ---- $ 6.7

Interest expense @ 21% ---------- $ 131.9
The increase in consumer interest cost
due to a 2% increase in the rate of interest ---- $ 13.7

Free Period

Assumptions

- Thirty-five percent of North Carolina credit card users pay their purchase balance off in full every month, i.e. "Convenience Users."
- Consumers will not change the amount of debt they choose to hold due to an increase in the rate of interest, increase in the amount of fees, and/or the elimination of the free period.

At the end of June 1989 the benefit to North Carolina credit card convenience users, from a free period of 25 days, is estimated to be $5 million for that month. If June 1989 represents the annual average with regards to pay patterns of the convenience users and to the amount of purchase balance held from month to month, then the annual benefit is estimated to be $60.01 million a year.

(interest = 1.5% a month)

Savings Institutions **(millions)**

Total revolving debt, N.C. Institutions ---------- $ 30.85

Interest expense @ **18%** ---------- $ 6.04
This is a current cost.

Interest expense @ **18.42%** --------- $ 6.19
The increase in consumer interest cost
due to a .42% increase in the rate of interest ---- $ .150

Interest expense @ **19%** ---------- $ 6.39
The increase in consumer interest cost
due to a 1% increase in the rate of interest ------ $ .350

Interest expense @ **21%** ---------- $ 7.14
The increase in consumer interest cost
due to a 2% increase in the rate of interest ------ $ .750

Credit Unions **(millions)**

Total revolving debt, all N.C. Institutions ---- $ 13.5

Interest expense @ **18%** ---------- $ 2.64
This is a current cost.

Interest expense @ **18.43** ---------- $ 2.71
The increase in consumer interest cost
due to a .42% increase in the rate of interest -- $ .070

Interest expense @ **19%** ---------- $ 2.8
The increase in consumer interest cost
due to a 1% increase in the rate of interest ---- $ .160

Interest expense @ **21%** ---------- $ 3.12
The increase in consumer interest cost
due to a 2% increase in the rate of interest ---- $ .320

3. The likely cost in the aggregate of raising to 21% the rate chargeable for retail revolving credit as proposed by the NCRMA.

(millions)

Retail Revolving

Total revolving debt, N.C. Retail Firms ---------- $ 550.0

Interest expense @ 18% ---------- $ 107.6
This is a current cost.

Interest expense @ 21% ---------- $ 127.29
The increase in consumer cost
due to a 3% increase in the rate of interest ------ $ 19.69

A 1% increase in the rate of interest leads to a $6.5 increase in interest expense.

(millions)

Oil Companies Revolving

Total revolving debt, oil firms ---------- $ 59.2

Interest expense @ 18% ---------- $ 11.69
This is a current cost.

Interest Expense @ 21% ---------- $ 13.84
The increase in consumer cost
due to a 3% increase in the rate of interest ------ $ 2.15

A 1% increase in the rate of interest leads to a $ .716 increase in interest expense.

4. The cost, in excess of that permitted under this State's laws, attributable to the current use by North Carolina consumers of bank cards from out-of-state issuers not subject to this State's interest rate ceiling.

Assumptions

- o Sixty-seven percent of the debt held by North Carolina card holders is serviced by out-of-state financial institutions, and 67% of the outstanding balance is held by the out-of-state institutions.

- o Thirty-five percent of North Carolina credit card users pay their purchase balance off in full every month regardless of the state in which the issuer is domicile.

* The lowest interest rate offered by a bank or savings institution offering credit cards nationally is Arkansas Federal Savings. The annual rate is a variable rate (11.88% as of 2/5/90) and interest is charged from the date of purchase. There is no grace period.

* The greatest, most common interest rate offered by the ten largest U.S. issuers is Wells Fargo. The annual rate is 20%, and a special lower rate is available on some cards. There is a grace period of 25 days.

The estimated range of cost to North Carolina card holders imposed by out-of-state financial institutions is:

(11.88%) Lowest	(millions) Average	(20%) Highest
$78.23	$107.4	$136.74

Principle is the estimated total outstanding debt held by out-of-state institutions.

Interest is compounded monthly for one year.

5. The cost to this State's consumers of eliminating the prohibition on solicitation and payment of insurance on revolving credit purchases as envisioned by the N.C. Retail Merchants Association proposal.

Total cost is indeterminate at this time.

CONSUMER REVOLVING CREDIT
NATIONAL DATA
Table 1

Date: March 8, 1990

BILLION OF DOLLARS

HOLDER/TYPE OF CREDIT	1986	1987	1988	June 1989	July 1989	August 1989	September 1989
Total Outstanding Revolving	136.38	153.88	174.79	189.62	191.028	194.398	195.153
Percent Disposal Personal Income	4.5%	4.7%	5.1%	5.2%	NA	5.4%	5.4%
Commercial Banks	86.76	99.12	117.57	115.56	115.967	117.012	117.894
Retailers	34.32	36.39	38.69	36.814	36.963	37.134	37.355
Gasoline Companies	3.26	3.62	3.69	4.017	3.936	3.976	3.886
Savings Institutions	8.37	10.37	10.15	10.951	11.176	11.206	11.000
Credit Unions	3.67	4.39	4.69	5.187	NA	NA	5.287
Pools of Securitized Assets*	NA	NA	NA	17.117	17.795	19.827	19.731
					Sept. 1989		
Gross Personal Savings	125.40	124.90	101.80	144.70	191.10		
Percent Disposal Income	4.42%	4.14%	3.17%	4.24%	5.27%		

Sources: Federal Reserve Bulletin: February 1990
Statistical Abstract of the United States, 1989

* *Outstanding balances of pools upon which securities have been issued; these balances are no longer carried on the balance sheets of the loan originator.*

Note: The Federal Reserve data compiled in this table includes credit cards, open-ended revolving charge accounts, and bank overdraft protection. American Express, travel and entertainment cards, and some retailers that have in-house revolving accounts are not included.

Appendix

2.3%, N.C. percent of personal income for the U.S.

.4%, * N.C. credit unions percent of U.S Total

.43%,* N.C. savings institutions percent of U.S. Total

.33% Percent of N.C. share of National Debt held by North Carolina card holders and issued by North Carolina institutions

.35% Convenience users

.65% Borrower

P - Principle r - monthly rate of interest

n - number of periods I. Exp. - interest expense

PSA - Pools of securitizied Assets

Equations

$\{[(banks * .023)] * .33\} * .65 [P(1+r)^n]\} - P = I. Exp.$

$\{[(retail * .023)] * .65 [P(1+r)^n]\} - P = I. Exp.$
Same process for oil companies.

$\{[(savings * .0043)] * .65 [P(1+r)^n]\} - P = I. Exp.$

$\{[(credit * .004)] * .65 [P(1+r)^n]\} - P = I. Exp.$

$\{[(PSA * .023)] * .33\} * [P(1+r)^n]\} - P = I. Exp.$

DEPARTMENT OF INSURANCE

State of North Carolina

P. O. BOX 26387

RALEIGH, N. C. 27611

JIM LONG
COMMISSIONER OF INSURANCE

(919) 733-7343

MEMORANDUM

January 2, 1990

TO: Members of the Legislative Research Commission Study Committee on Deregulation of Credit, Credit Card Banks, and Linked Deposit Programs

FROM: Jim Long JL

SUBJECT: General Statute §58-61.2 ("Insurance Business through Credit Cards Prohibited")

This is in response to the inquiries directed to me through your Committee Counsel, Terrence D. Sullivan, about this statute, which would have been repealed by the original edition of Senate Bill 377 in the 1989 First Regular Session.

ITEM: "The position of your office on the proposed repeal of Article 4A of Chapter 58 of the General Statutes" (G.S. 58-61.2)

RESPONSE: To repeal this statute would increase the volume of unwanted, unsolicited, high-cost credit-related insurance to bank credit card holders in North Carolina. A large portion of this solicitation will involve out-of-state financial institutions or credit card facilities that provide millions of credit cards to citizens in this State. To allow this to happen will result in giving the financial services industry (credit card facilities) a blank check to collect additional profits from sources that result in low loss ratios.

ITEM: "Your opinion as to the impact of that proposed action on North Carolina consumers, the revolving credit industry, the job market, and economic growth"

RESPONSE: The major effect on the revolving credit industry, as far as economic growth is concerned, is the fact that if this statute is repealed, it will dramatically increase the market share of the credit insurance industry to its advantage. The credit card facility will already have a customer base to solicit and will greatly reduce any competition by insurance agents in this State. As with many products and services, reduced competition means higher cost and less service. The North Carolina consumer would be on the receiving end of less service and more cost at a time when

consumers can least afford such an economic effect. I can see no major effect on the North Carolina job market.

ITEM: "Any knowledge you have of the experience of other jurisdictions that permit those activities now prohibited by Article 4A of Chapter 58"

RESPONSE: I have no knowledge of any experience records of other jurisdictions that permit the sale of credit insurance on account balances of credit card facilities. Because of the dual regulatory supervision of the banking industry (federal and state), the insurance regulator would be hard pressed to gain access to financial records of any credit card facility.

ITEM: "Any other information that you feel would help the Committee in its analysis of the effect of revolving credit deregulation on the insurance laws and regulatory structure of this State"

RESPONSE: Insurance products and services, distributed by financial institutions, do not appear to be any more efficiently distributed or have a lower cost factor than insurance sold by the traditional insurance agency network. North Carolina law sets a maximum rate for credit insurance and most, if not all, credit insurance policies are sold at the maximum rate. The current maximum credit insurance rates are set forth in G.S. 58-349 for credit life insurance (seventy cents per $100 of indebtedness for decreasing coverage and $1.30 per $100 for level coverage) and in G.S. 58-350 for credit accident and health insurance (varied amounts depending on the length of the loan and the types of benefits). If credit card issuers were allowed to write credit life insurance on the monthly outstanding balances of their cards, the likely annual premium rate would be $1.07 per $1000, which is the actuarial equivalent of seventy cents per $100 for decreasing life coverage. Credit insurance loss ratios are at a level of approximately thirty to thirty-five percent. This means that for every premium dollar paid in, the insurer pays out thirty to thirty-five cents for claims. The typical commission rate for the sale of credit insurance is fifty to sixty percent.

Most banks, whether they are regional banks or major money centers, have numerous branch locations that they would like to make more efficient. They would like the ability to market more products and spread the cost of the existing branch distribution system over a much larger product base. This would lower their overhead cost per sale. However, the premium rates for the insurance product would still be marketed at the maximum rate, which would result in a higher profit margin for the bank. The availability of insurance has not been a major factor; and the financial institution would be no more efficient seller of insurance than the local insurance agent. It would be more of a convenience factor to the consumer.

There is already a demonstrated "reverse competition" in the sale of credit insurance by banks. The control by banks at the point of sale allows them to sell to consumers the policies that produce the highest commissions to the banks regardless of the availability of policies with lower premiums. The deregulation of revolving credit so as to allow insurance marketing would only enhance this "reverse competition".

It is well known that some financial institutions are under considerable financial pressure at this time. To expand into areas of insurance is a perceived means to ease this financial pressure. However, there is something disconcerting about authorizing new activities in institutions that are having substantial problems fulfilling present obligations. I would not like to see the assets and reserves of an insurance product being viewed by a financial institution as an additional form of quasi-FDIC for relieving financial pressures.

I am very concerned about the ideas of merging the business risks associated with the insurance industry with those associated with the banking field. The two industries work on entirely different theories. To merge the two creates a real potential for financial disaster for all regulators: Those of us who are charged with the regulation of the insurance industry and those state and federal officials charged with the regulation of the banking industry. It is when insurance coverage is treated as a commodity that consumers fall prey to the lure of creative advertising and so called "discount" prices. I have concluded that there are substantial risks to the public that could have substantial long range, adverse effects.

I have enclosed two very timely articles from the Raleigh News and Observer's December 30, 1989, edition. One describes the precarious financial positions of the nation's banks caused by bad real estate loans. The other reports that North Carolina banks are faring better than banks elsewhere, but still need to tread cautiously.

TATE	LAW, REGULATION OR ATTORNEY GENERAL OPINION	EFFECTIVE DATE	COMMENTS
LABAMA	Alabama Insurance Code §27-8-23 "Use of Vending Machines and Credit Facilities."	Acts 1971	§27-8-23(c) Prohibition against soliciting or negotiating contracts of insurance (except credit life and disability and accidental death benefit insurance) or seeking or accepting applications through the arrangement or facilities of a credit card facility or organization or through credit facilities of a retail merchandise establishment or department store. Exception: Authorized insurers or their agents can use facilities of credit card if solicitation directed to credit card holders or credit customers of retail merchandise establishment or department store which maintains at least one business establishment in Alabama and provided countersignature laws complied with.
LASKA	None, but see "Alaska All Lines Charter" Division of Insurance Newsletter Vol. 12, No. 1, Winter 1980		Effective November 1, 1979, credit cards may be used for payment of insurance premiums as long as: 1. Use of credit card does not increase total premium cost to policyholder. 2. No discount to policyholders electing not to use credit card for premium payment. 3. Insurance contract can not be used as chattel to the credit card used to extinguish premium payment.
RIZONA	None		
RKANSAS	None		
ALIFORNIA	Bulletin No. 79-6 "Acceptance by Insurers and Producers of Credit Cards to Pay Insurance Premiums"	August 6, 1979	Use of credit cards for payment of insurance premiums lawful. Insurer or producer must offer all existing and prospective insureds an equal opportunity to charge insurance premiums to their credit cards. The insurer may not, for rate making purposes, deem insureds who elect to utilize their credit cards for premium payments to be a different class of insureds from those who elect to pay by other methods. Insureds who elect not to utilize credit cards may not be given a discount. Insurers or producers may not impose a separate fee or service charge on insureds solely because they elect to use credit cards to pay premiums.
OLORADO	None		

STATE	LAW, REGULATION OR ATTORNEY GENERAL OPINION	EFFECTIVE DATE	COMMENTS
CONNECTICUT	Connecticut Insurance Laws §38-32a "Solicitation of Insurance Contracts from Credit Cardholders Prohibited, Exception"	1967 Amended 1969	No authorized insurer or representative of the insurer shall utilize the facilities of any person or firm engaged in the credit card business to solicit or negotiate contracts of insurance from credit cardholders residing in Connecticut unless the insurer is authorized to issue life or accident and health insurance and the insurer has a licensed insurance agent as agent of record in Connecticut. No credit card company can utilize its credit card facility to solicit or negotiate contracts of insurance. This prohibits the credit card company from transmitting applications, premium rate schedules or sales literature. Not prohibited are 1) financing premium through a credit card, 2) solicitation of coverage protecting against liability for lost credit cards, 3) insuring debt to the credit card company in the case of death, disability or unemployment, 4) insuring collateral for debts against casualty or other loss or damage, or 5) insuring the debtor-creditor relationship between the cardholder and the credit card organization.
	Attorney General Opinion, November 15, 1984 - "Prohibition Against Marketing Insurance Contracts Through Credit Card Solicitation"	November 15, 1984	Question addressed was whether an insurance company licensed in Connecticut to sell accident and health insurance and liability insurance is prohibited by §38-32a from soliciting personal excess liability insurance through the facilities of a corporation engaged in the credit card business. The AGO says §38-32a prohibits the type of marketing as only life and accident and health insurance are exempted by statutory construction.
ELAWARE	None		
ISTRICT OF OLUMBIA	Regulations - Title 33 Department of Insurance Chapter XI - Miscellaneous Part 1100 - "Premium Payments by use of Credit Cards and Solicitation by Mail"	November 6, 1970	Use of credit cards to pay premiums not prohibited as long as rebating, discrimination or other insurance laws not violated. All solicitations must be made by the insurance company or its agents. Solicitation by mail must state premium payment may be made in cash, by check, or by a charge to the authorized credit card. Soliciting letter may not display the emblem of the credit card company so as to give the impression of inducement or preferential treatment. Credit card can not play a role in the solicitation and should serve no other purpose than is served by preauthorized check.

STATE	LAW, REGULATION OR ATTORNEY GENERAL OPINION	EFFECTIVE DATE	COMMENTS
FLORIDA	Florida Insurance Code §626.9541 (q) (3) Division of Insurance Rating Informational Bulletin 83-244 dated June 17, 1983	October 1, 1982	§626.9541 (q) (3) provides that licensed agents and insurers can solicit or negotiate, accept applications, issue or deliver policies, receive, collect or transmit premiums to or for any insurer through the arrangement or facilities of a credit card organization for the purpose of insuring credit card holders or prospective credit card holders if: 1. the insurance must be noncancellable by any person other than the named insured, the policyholder or the insurer, 2. any refund of unearned premium is made directly to the credit cardholder, and, 3. the transaction is authorized by the signature of the credit cardholder or other authorized signature. The conditions enumerated in 1, 2 and 3 do not apply to health insurance or to credit life, credit disability or credit property insurance. All life, accident and health applications must be returned to a Florida licensed agent. No person may use or disclose information resulting from the use of a credit card for insurance purchases when such information is to the advantage of the credit card facility or agent, or is to the detriment of the insured or agent. Bank credit cardholders may be solicited but the credit card facility can not disclose information or make available specific lists of customers limited to persons using credit cards to purchase insurance. Banks can only be paid for actual administrative expenses or reasonable expenses involved. §626.9541 (o) (2) allows the licensed agent to charge and collect the exact amount of any discount or fee charged by the credit card facility in addition to the policy premium.

STATE	LAW, REGULATION OR ATTORNEY GENERAL OPINION	EFFECTIVE DATE	COMMENTS
Florida (con't)	Florida Statutes §817.646	October 1, 1984	This law makes it unlawful for any person, business, corporation, partnership or other agency to make available (by sale or otherwise) any listing of credit card subscribers to any third party without the express written permission of the credit card issuer and the credit card subscriber. Exceptions to this prohibition: 1. credit card issuer can make listing of its own cardholders available to third parties pursuant to a written contract if the contract requires all subcontractors to be bound by contract from divulging any part of the list except to fulfill service orders. 2. consumer reporting agencies (as defined by the Federal Fair Credit Reporting Act) may provide lists of cardholder names and card numbers to third parties under the provisions of the Act. 3. debt collectors (as defined in the Fair Debt Collection Practices Act) may transmit cardholder names and card numbers. 4. any corporation can make available, lend, donate or sell its list of credit card subscribers to any subsidiary or parent corporation or to any other subsidiary of a common parent corporation.
GEORGIA	Attorney General Opinion May 30, 1972 - "Proposal to Extend Group Life Insurance Coverage to Persons Using a Particular Automobile Credit Card Violates Ga. Code Ann. §56-713(1)" (recodified into Ga. Code Ann., Chapter 6.)		Prohibits "tie-in" sale arrangement using credit card. Refers to ineligibility of credit cardholders to qualify as a group for group life insurance.
	Bulletin #87-EX-1, "Credit Card Use for Insurance Premiums Translation."	September 1, 1987	1. The financial institution which issued the credit card shall not be allowed to cancel the policy if insured fails to pay the balance on the credit account which includes the premium. 2. Cancellation of coverage must be in accordance with §§33-24-44 through 33-24-47. 3. Any fee charged by the financial institution to the merchant/insurer must be paid by the merchant/insurer. The fee can not be part of the premium or other charges to

STATE	LAW, REGULATION OR ATTORNEY GENERAL OPINION	EFFECTIVE DATE	COMMENTS
GEORGIA, Con't			the insured. 4. If the insurance transaction on the credit card is not completed, and a refund is due, the refund can be made by credit card memorandum. If the transaction is complete, any subsequent refund can not be made through the medium of a credit card memorandum.
HAWAII	Attorney General Opinion No. 259:17a, April 30, 1963 - "Tidewater Oil Company - Credit Cards"		Opinion No. 259:17a addressed question of whether credit card company is soliciting insurance or collecting premium without a license by enclosing an insurance brochure (with application) in monthly invoices to credit customers. The Opinion holds that the credit card company is "soliciting" insurance and is a "collector of insurance premiums" and must be licensed.
	Attorney General Opinion No. 354:13c, September 7, 1964 - "American Home Assurance Company Mobil Oil Company"		Opinion No. 354:13c found credit card company would need to be licensed even if insurer mailed advertising with pre-addressed name of cardholder and credit card company was not compensated. Billing of premiums on the credit card would be "collection of premiums" requiring license.
	Attorney General Opinion No. KPHN:byt, March 2, 1977 - "Premium Payment by Credit Card Does not Constitute Unfair Method of Competition"		Opinion No. KPHN:byt indicates that affording an insured the opportunity to pay premiums by way of a credit card does not constitute favored treatment or discriminate against persons without credit cards. Premium charged must be the same for payment by credit card or by other payment method but discount for paying cash might be allowable.
IDAHO	Attorney General Opinion of March 30, 1972 - "The Legality of Using Bank Credit Cards to Finance Insurance Premiums in the State of Idaho"		The fact that an insurer collecting premiums through a bank credit card received less than the full premium paid due to the discount taken by the credit card issuing bank does not constitute an illegal inducement or rebate or sharing of commissions. The Idaho Insurance Code does not prohibit the use of bank credit cards to finance insurance premiums.
	Bulletin #80-3, January 10, 1980 - "Acceptance of Credit Cards for Payment of Insurance Premiums"		Insurers or agents would not be extending credit for the payment of premiums by accepting payment through a bank credit card. The credit obligation is directly between the credit card holder and the issuing bank, and not with the insurer.

STATE	LAW, REGULATION OR ATTORNEY GENERAL OPINION	EFFECTIVE DATE	COMMENTS
ILLINOIS	None		
INDIANA	None		
IOWA	None		
KANSAS	None		
KENTUCKY	None		
LOUISIANA	None		
MAINE	None		
MARYLAND	Attorney General Opinion of June 11, 1964 - "Illegality of Oil Co. Credit Card Insurance Plans" Maryland Insurance Code §167(c)		The Attorney General Opinion concludes that the oil companies involved in insurance programs in Maryland were acting in a manner so as to influence the procurement of insurance. Pursuant to Maryland Insurance Code §167(c), influencing the procurement of insurance is prohibited by an unlicensed person or entity if that person or entity receives any direct or indirect commission, fee, reward, rebate or other consideration. Even reimbursement of expenses is prohibited since it constitutes "consideration".
	House Bill 1590 - adds Subtitle 14, (§§14-1401 - 14-1405) "Credit Card Number Protection Act" to the Commercial Law Article	October 1, 1984	Restricts disclosure of credit card or other payment device number unless: a) by the holder of the card or device number; b) to the holder or issuer of the card or device number; c) use or disclosure is pursuant to federal or state law, at the direction of a governmental entity or in response to an order of a court of proper jurisdiction; d) in connection with an authorization, processing, billing, collection, chargeback, insurance collection, fraud prevention, card or device recovery, or debt or obligation arising from use of the card or device number; e) reasonably necessary in connection with sale or pledge of a business or its assets, internal management or operation of the company making disclosure or between a corporation and its subsidiaries or controlled affiliates or between subsidiaries and controlled affiliates provided that if disclosure for marketing purposes, cannot be made if holder has notified issuer in writing that use is not permitted. Issuer shall notify holders of nondisclosures option at least yearly.

TATE	LAW, REGULATION OR ATTORNEY GENERAL OPINION	EFFECTIVE DATE	COMMENTS
			For purposes of e) above, payment device number does not include encoded credit card number or encoded payment device number. Violation of the law constitutes a felony. The Maryland Attorney can also institute civil action for violations.
ARYLAND, on't	Maryland Register "Subject: Acceptance by Insurer, Agents and Brokers of Credit Card to Pay Insurance Premium"		Defines "credit cards" to include cards issued by or through banks (e.g. VISA, Bankamericard and Mastercharge) and by non-financial entities (e.g. Carte Blanche, American Express and Diner's Club). "Credit card company" refers to entities which enter into contractual arrangements with merchants (including providers of services) whereby the merchant agrees to accept a credit card issued by the entity for payment. Payment of service fee (merchant fee) based on a percentage of premium is not a rebate as it reflects the credit card company's assumption of the risk of loss in the event of the credit cardholder's default. The requirements that insurers, insurance agents and brokers must meet in order to accept credit cards for the payment of insurance premiums are as follows: 1. The insurer that enters into a contract with a credit card company to accept credit cards for the payment of premiums must make that service available to all existing and prospective insureds and may not limit the acceptance of credit cards to only certain persons. 2. The insurer may not, for rate making purposes, deem insureds who elect to utilize their credit cards for premium payments to be a different class of insureds from those who elect to pay premiums by other methods. 3. Insureds who elect not to utilize credit cards may not be given a discount (charged less than those who use credit cards). 4. No insurer or agent may impose a separate fee or service charge on insureds solely because they have elected to use their credit cards for the payment of premiums.

TATE	LAW, REGULATION OR ATTORNEY GENERAL OPINION	EFFECTIVE DATE	COMMENTS
			5. Insurers or producers who accept payment of premium by credit cards cannot take a collateral interest in unearned premiums as security unless they are properly registered as a premium finance company.
ASSACHUSETTS	None		
ICHIGAN	None		
INNESOTA	None		
ISSISSIPPI	None		
ISSOURI	None		
ONTANA	None*		*Montana has unpublished standards titled "Guidelines - Use of Credit Cards for Payment of Insurance". These guidelines provide: 1. the use of credit cards cannot in any manner increase the total cost to the policyholder 2. there cannot be any discount to any policyholder who does not use the credit card for paying premiums 3. the policyholder's insurance contract can not be used as chattel to the credit card used to extinguish premium payment.
EBRASKA	None		
EVADA	None		
EW HAMPSHIRE	New Hampshire Insurance Code Laws, 1981 §402:15-a - "Transactions Through Credit Card Facilities" - Amended effective August 2, 1986		With the exception of group or individual policies of accident insurance written by authorized insurers, no person may solicit or negotiate insurance, seek or accept applications, issue or deliver policies, to or for any insurer, or through the arrangement or facilities of a credit card facility for the purpose of insuring credit cardholders or prospective credit cardholders. Individual policies of accident insurance must be placed through licensed resident agents.

TATE	LAW, REGULATION OR ATTORNEY GENERAL OPINION	EFFECTIVE DATE	COMMENTS
EW HAMPSHIRE, on't	§402:15 - aI-a	August 2, 1986	Premiums returned as a result of cancellation of a policy paid for with a credit card or financed through a credit card facility must be paid directly to the credit cardholder.
	§402:39 - "Offering Rebates, etc."	August 2, 1986	An amount charged by a credit card facility to an insurance agent or broker for the benefit of use of the credit card are not considered rebates.
EW JERSEY	None		
EW MEXICO	None		
EW YORK	The Bulletin - New York State Insurance Department-May, 1987 - Counsel's Corner - "Credit Card Payments of Insurance Payments."		Section 2119(c)(1) of the New York Insurance Code permits brokers to charge to and collect from insureds compensation other than commissions on account of "other services in connection with . . . any contract of insurance . . . (if) such compensation is based on a written memorandum . . . ." A producer may therefore pass on credit card charges to the insured if the insured consents thereto in writing. Department of Insurance has also established certain informal criteria which must be followed when credit cards are employed. They are: 1. credit card company can not solicit insurance 2. applications must be processed by the insurer 3. unlicensed persons, firms or corporations can not receive or share commissions 4. policy forms must be filed and approved 5. insurance must be placed with a licensed company either directly or through a licensed agent or broker 6. same insurance must be available to the general public without use of a credit card 7. same insurance must be available through any agent licensed with the company or a broker at no additional cost 8. insurance purchased can be retained by the credit cardholder after he leaves the credit card company 9. Banking Law pertaining to premium finance agencies is complied with 10. monthly charge for billing and collection must be reasonably based on actual services rendered as well as on experience with installment billing

STATE	LAW, REGULATION OR ATTORNEY GENERAL OPINION	EFFECTIVE DATE	COMMENTS
NEW YORK, Con't			11. payment of billing charges must be made pursuant to a contract for services rather than as consideration contingent upon insurance production by an unlicensed entity, and 12. monthly premium and amount due for other credit card purchases must be separately and distinctly identified.
NORTH CAROLINA	North Carolina Insurance Laws §58-61.2	Laws 1967 amended May, 1979	Prohibits insurers and their representatives from employing or availing themselves of the use of person or firms engaged in the credit card business to solicit or negotiate any contract of insurance on a life or risk in N.C. or to accept payment of premiums through the use of any credit card facility. Prohibits credit card facilities from transmitting applications for insurance, premium rate schedules, circulars, letter or sales literature pertaining to insurance to credit card holders. Exceptions: 1. authorized insurers, their representatives and brokers can accept payment of an insurance premium through a credit card facility provided and operated by a banking corporation principally domiciled in N.C. as long as all records relating to premium payment through the credit card are maintained in N.C. 2. authorized insurers, their representatives and brokers can use the facilities of a credit card company to solicit or negotiate contracts of travel accident insurance upon a life or risk in N.C.
	North Carolina Insurance Regulations, Chapter 12, §.0308	February 1, 1976	This Regulation provides that insurers soliciting under §58-61.2 may not do so in a way as to imply that the bank credit card facility is actually doing the solicitation. Following guidelines apply: 1. Colors used by bank credit card facility may not be used in the solicitation material. 2. Solicitation material may refer to bank credit card facility if operated by a bank corporation with principal domicile in N.C. but only by making use of facility as one option to be used in paying premiums. 3. Bank credit card account number may not be shown on address label of person being solicited.

STATE	LAW, REGULATION OR ATTORNEY GENERAL OPINION	EFFECTIVE DATE	COMMENTS
NORTH DAKOTA	None		
OHIO	Bulletin No. 44, December 1 1964 - "Use of Credit Cards - Insurance"	December 1, 1964	1. Letter of solicitation must be written, issued and mailed by the insurer on the insurer's stationery. 2. Oil companies or other credit card companies who are not licensed insurers can not solicit insurance. Therefore, no oil company or credit card company can issue any letter soliciting insurance on its stationery. They can, under a separate mailing, issue a notice about the availability of the program but can not mention the insurer or use the insurer's emblem or symbol. 3. Insurers can not use any emblem or symbol of an oil company, motel chain, express company, or any other company not licensed in Ohio as an insurer.
OKLAHOMA	Oklahoma Insurance Code §1204, Paragraph 10(e)	Laws 1957 as amended	§1204, paragraph 10(e) defines as an unfair method of competition or unfair or deceptive practice the granting of any special favor, advantage or other benefit in the payment, method of payment or credit for payment of premium through the use of credit cards, credit card facilities, credit card lists or wholesale or retail credit accounts of another person. This paragraph is not applicable to individual policies covering accidental bodily injury or death.
OREGON	Bulletin No. 78-2	July 26, 1978	Allows use of credit cards to pay premiums as long as: 1. insured does not get discounted premium; 2. failure to pay credit charges cannot cause coverage to lapse; and 3. unpaid credit charges are not charged back to the agent or insurer.
PENNSYLVANIA	None*		*Department of Insurance has established certain informal criteria which must be followed when credit cards are employed. They are: 1. Application must have section giving applicant right to pay direct rather than through credit card.

STATE	LAW, REGULATION OR ATTORNEY GENERAL OPINION	EFFECTIVE DATE	COMMENTS
PENNSYLVANIA (con't)			2. Department position is that election of payment through credit card on application is the same as paying first premium in cash. Immediate coverage should be provided. If the company does not grant immediate coverage, effective date wording on application must be in bold, prominent print. 3. Department must be informed as to when coverage is considered effective and application must reflect the effective date of coverage. 4. Department must be informed by company as to when subsequent premiums are considered collected - when received by credit card company or insurer. 5. Department must be informed if interest will be charged by the credit card facility on premiums (interest can be charged on past due premiums added to account balance). 6. Department must be informed of what evidence is given the insured as to portion of previous monthly payment credited to insurance premium and for what month he has paid. 7. Department must be informed of Company position if insured's credit card canceled and what procedures exist if insured wants to cancel payment method or mode or policy. 8. A premium payment rider (available from the Department) must be attached to the policy.
PUERTO RICO	None		
RHODE ISLAND	None		
SOUTH CAROLINA	None		
SOUTH DAKOTA	None		
TENNESSEE	None		

STATE	LAW, REGULATION OR ATTORNEY GENERAL OPINION	EFFECTIVE DATE	COMMENTS
TEXAS	Board Order No. 37550, July 29, 1980 - "Rules in Respect of Certain Trade Practices, Including Insurance Advertising and Insurance Solicitation"	July 29, 1980	§059.50.04.006 provides that advertising dealing with the availability of credit card billing of premiums must disclose that such method is clearly optional to the purchaser.
	Internal Insurance Department Memorandum of March 6, 1974 - "The Use of Credit Cards As A Means of Providing for Monthly Payments of Policy Considerations On Insurance Contracts"		1. Use of the name of the credit card company must be limited to announcement of availability of its financing service only. 2. The application or a separate instrument must clearly establish a premium loan from the credit card company (applicant's signature below card number is acceptable). 3. Insurance contract must clearly deal with area of unearned premiums and credit card company's right thereto in event of default on premium note. 4. Right of assignment of unearned premium to credit card company must be provided for in the insurance contract. 5. Insurance contract should explain problem of cancellation of coverage in event of default on loan payment to credit card company. 6. If a premium note to be signed is attached, note should provide for periodic advance of premiums to pay premiums for at least 60 days. 7. Use of credit cards to pay premiums should be optional and company should offer to collect premiums directly or by bank draft (offer may appear in promotional material). 8. Advertising should not be attached to an application. Applications should not be approved which contain any advertising beyond a premium schedule.
UTAH	None		
VERMONT	None		

STATE	LAW, REGULATION OR ATTORNEY GENERAL OPINION	EFFECTIVE DATE	COMMENTS
VIRGINIA	None		
WASHINGTON	Bulletin #74-3 "(1) Extension of Credit and Brokers (2) Brokers, Only, May Charge Fees"	February 6, 1974	The Insurance Commissioner interprets the insurance code to permit agents and brokers to accept payments of premiums through credit card arrangements, whether or not a discount is required by the bank or financial institution.
WEST VIRGINIA	None		
WISCONSIN	None		
WYOMING	None		

This handout includes certain "unpublished" insurance department guidelines for credit card usage that are provided to insurers by some departments as part of the process of obtaining approval of policy forms. This handout does not cover premium finance laws, retail installment sales acts, the Uniform Commercial Credit Code, or similar laws which may be applicable depending on the manner in which the credit card is utilized for insurance purposes.

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PRESENTATION TO THE LEGISLATIVE RESEARCH COMMISSION STUDY ON DEREGULATION OF CREDIT, CREDIT CARD BANKS AND LINKED DEPOSITS

I. We Oppose the Proposal of the Retail Merchants.

A. There is no justification for raising the interest rates for retail revolving credit from 18% to 21%. The prime source of revenue and profit for retailers should be from the sale of goods and services. The extension of retail credit is simply a method of facilitating retail sales, it should not be a profit center. This is different from the situation of the banks, whose profit is derived solely from the extension of credit.

An 18% per year charge on revolving credit accounts is more than ample to cover a retailer's cost of providing revolving charge credit. Increasing this rate to 21% will simply cost North Carolina consumers more money without any corresponding improvement in benefits.

B. Late Charges are Unnecessary in Relation to Revolving Credit. By definition, a revolving charge account bears interest on the outstanding amount for all of the actual time the credit is owed. Therefore, when a borrower makes a payment late, the creditor earns more interest. This added amount of interest is sufficient to compensate the creditor for the additional time before the payment is made.

The retailers seek to be allowed to charge a fee of 5% of the payment, or $10.00 whichever is less whenever a payment is ten days late. This results in an absurdly high additional income to the creditor for the extension of a few days extra credit, when they are already being compensated with extra interest charges.

The retailers say that they should be able to impose late charges to cover their additional collection costs due to late payments. However, there are no extra collection costs associated with an account being 10 days late. Indeed, no creditors even send a reminder letter to the debtor until the account is at least 60 days past due.

C. Allowing the sale of credit life insurance on retail revolving credit is unnecessary. In North Carolina, credit life insurance is a bad deal to the consumer. Credit insurance is almost always sold at the highest allowed rate, and North Carolina's rates are among the highest in the nation. The loss ratios for credit life insurance are generally between 28% and 34%. A loss ratio of 28% means that for every dollar a NC consumer spends on credit life insurance premiums, only 28 cents are paid in claims. This compares very poorly with the average loss ratios for other states in the U.S. of over 50%, and worse with the N.A.I.C's recommended loss ratio of 60%.

If the retailers were proposing to sell credit life and credit accident and health insurance at reasonable rates, we would not oppose this request. However, because consumers must spend so much to get so little benefit from credit insurance of any kind, we feel that any extension of the credit insurance business, with the current rate structure, is unjustified.

II. We Oppose the Proposal of the Bankers Association.

A. Deregulation of revolving credit and credit cards will not bring enough new jobs to the state to justify the cost. Since Georgia deregulated their credit card rates 2 and 1/2 years ago, they have had exactly one credit card bank move into the state, which supplies only 50 jobs. Over the past few years a number of states have deregulated their credit card rates with the intention of luring out of state credit card processors to bring jobs to the state. Most of the credit card offerors which were interested in moving their operations have already done so. Even the North Carolina banks which have already moved won't promise to return if this bill is passed. Further, it is not at all clear that the reason these banks moved their operations had anything to do with the interest rate ceilings on revolving credit in North Carolina.

There is nothing now stopping North Carolina banks from competing with other in-state banks, or with out of state banks, by offering lower interest rates. Yet few do. Clearly, the effect of deregulation will be an increase in interest rates. Thus the banks will make more money from deregulation, which will come out of the pockets of North Carolina consumers. Yet, there will be little, if any, added benefit to the people of this state.

B. Unlike credit cards, revolving charge accounts are not subject to competition from out of state banks. In their proposed bill, the banks seek to deregulate not only all credit cards, but also, all other revolving charges accounts offered by banks, savings and loan associations and credit unions. As their primary justification for this, the banks have stated that two-thirds of all credit cards held by North Carolinians are

provided by out of state institutions. Even if that is sufficient reason to deregulate rates for credit cards, it has nothing to do with other revolving charges.

The revolving charge accounts offered by financial institutions which are not credit cards are generally only offered to their regular customers. Overdraft accounts and NOW accounts are simply one of many services that customers use along with their checking and savings accounts. No banks from out of state are offering straight revolving accounts to North Carolina consumers. Revolving charge accounts are **not** subject to competition, and there is no justification for deregulating them.

C. The proposed bill will not only allow NC financial institutions to charge whatever they want, it would remove all restrictions on what out of state banks can charge NC consumers. Under the National Banking Act, and the 1978 Supreme Court decision commonly known as **Marquette,** it is clear that a national bank in one state can export its **interest** rates into another state, regardless of the usury laws in that state. There is still substantial question, however, about which reasonable minds disagree, over whether a national bank can export its **fees and terms** into another state.

For example, if a bank in Delaware - a state with completely deregulated rates - provided a credit card to a NC citizen, the interest rates for that credit card account would clearly be governed by Delaware law. Thus there is no doubt that despite our current 18% ceiling, a 21% interest rate on that Delaware credit card would be perfectly legal. However, if the Delaware bank began imposing late fees upon the customer, it is not at all clear that this would be legal, as NC law does not allow the imposition of late fees on credit card accounts.

The proposed bill would take away any opportunity a NC consumer might have to stop the imposition of fees and terms from **out of state institutions.** This is a major departure from current law. The North Carolina legislature has traditionally maintained close control over the rates and terms charged to NC consumers by out of state institutions.

D. Not only would interest rates be deregulated by this bill, so would fees. The proposed bill sets a long, and open ended list, of fees and charges, in addition to interest, which "domestic lenders" could charge NC consumers. In addition to interest and finance charges these banks could charge:

* transaction fees
* overlimit charges
* late payment fees or delinquency charges
* charges for return of bad checks
* membership fees
* any other fees and charges.

Consumers might try to comparison shop for the best credit cards by looking at the interest rates, and the annual fees charged. However, it is unlikely that consumers could determine the true effective costs of a card with all of these different charges to consider. Rather than making credit cards more competitive, the addition of all these other fees actually makes them less so.

E. Specific Problems with the the Bankers' Proposed Bill. Should the General Assembly decide that it would be best to deregulate credit cards and revolving charge accounts, there are a number of real problems with the proposed bill. These are set out below in the order in which they in the bill:

1. The bill should require that there be a writing for an open end account. On page 2, in proposed sections 24-11(b), (c) and (d), there is no requirement that there be a writing to indicate the existence of the open end credit agreement. Although a written contract is required by the Truth In Lending, it should also be required by state law.

2. The way interest is calculated on open end credit accounts which are secured needs to be spelled out. In proposed section 24-11(c), (page 2) the bill states how interest is to be to be calculated for "other lenders" un-secured credit accounts. There is no such explanation for open end credit which is secured, in section 24-11(d). The same problem exists in the Credit Card and Credit Card Bank Act section in proposed section 53-248, on page 9.

3. No annual fees should be allowed to be charged by "other lenders." Under current law, it does not appear that any creditor offering open end credit accounts can charge an annual fee of $20, unless they are offering credit card accounts which do not involve direct loans to debtors. This means that only financial institutions offering credit cards, such as Master Card and Visa, are allowed to charge these fees. The proposed bill would change the law on this point and allow "other lenders" to charge annual fees. See section 24-11(e), page 3, and section 53-248, page 9.

4. Changes in an open end account should not apply to old balances, and notices should be given to all debtors. In proposed section 24-11(f), on page 3, the bill would allow creditors to notify debtors of a new interest rate and then begin imposing it on the entire balance if debtors didn't cancel their accounts and pay off in full within 30 days. At the least debtors should be able to cancel the account

so as not to incur additional credit, yet have the terms on the account be the same as when they initially agreed to its terms. Requiring debtors to pay off the accounts in full within 30 days is an unfair burden to place on debtors who want to avoid higher charges than were imposed when they first incurred the debt.

Also, the bill only requires that this notice be given to consumers, when the account is subject to the federal Truth In Lending Act. The Truth In Lending Act only applies to personal, household and family debt. It does not apply to agricultural or small business loans. There is no reason that all debtors should not be entitled to a notice of a proposed change in the terms of their revolving credit.

5. <u>All of the definitions should be in the bill, not simply referred to in a federal law.</u> In proposed section 53-244, on page 4, the definitions for "control" and "credit card" are simply referenced to other laws. Also, the definition for "credit card" which is referred to in Truth In Lending only defines a credit card as "any card, plate, coupon book, or other single credit device that may be used from time to time to obtain credit."

Respectfully submitted: March 8, 1990

by: Margot Saunders
N.C. Legal Services Resource Center

State of North Carolina

LACY H. THORNBURG
ATTORNEY GENERAL

Department of Justice
P.O. BOX 629
RALEIGH
27602-0629

733-7741

--MEMORANDUM--

TO: Committee on Deregulation of Revolving Credit, Credit Card Banks, and Linked Deposit Programing

FROM: Philip A. Lehman, Assistant Attorney General

DATE: January 31, 1990

RE: Comparative Credit Card/Revolving Credit Rates

In response to requests from Senator Staton and Terry Sullivan, I contacted representatives of Attorney General's offices, Banking Departments or Consumer Affairs Offices in the following states: Alabama, Georgia, South Carolina, Tennessee, Kentucky and Virginia, for information on bank card rates and revolving retail credit rates. While information on statutory rate limits was readily available, information on rates actually being charged was not. Most of the information on prevailing market rates is anecdotal and informal.

From these various contacts, I would make the following general observations:

1. Of these southeastern states, only Virginia and South Carolina can be considered deregulated for open-end credit, both retail and bank card. Virginia and South Carolina retain some limited control over fees.

2. Retail credit rates were typically in the 21% range while bank cards were in the 18 to 21% range, with most closer to 18%.

3. Deregulation can bring on a variety of fees (annual fees, transaction fees, late fees, over-the-limit fees) which can be more costly than interest but are much more difficult for the consumer to compute than a simple APR comparison. To a lesser extent, abolition of the grace period can result after deregulation.

4. Despite credit card bank authorization, Virginia and Alabama reported having no credit card banks. Virginia had attracted one credit card operation from out-of-state but that operation has since moved to Ohio. Only one credit card bank has been established in Georgia.

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The following is some specific information on those states:

Alabama: Maximum statutory rates for bank and retail credit cards - 21% (for balance under $750); 18% (for balance $750 and over).

Annual fee - $15 maximum. No late charges. Other fees and grace period not addressed.

Most banks and retailers charge maximum rate.

Credit card banks are deregulated but there are none.

Tennessee: Maximum rate - 21% for retail and bank credit cards. No regulation of fees and grace period.

Bank rates typically around 18%; retail, 21%.

Kentucky: Maximum rate for bank cards - 21%. Retail credit has never been regulated.

Fee limitations: $20 maximum annual fee and $5 maximum late charge.

Prevailing bank card rates around 18%; retail, 21%.

Virginia: No regulation of bank or retail credit cards, except late charge limited to 5% of payment. Grace period required for retail cards, but not bank cards.

Most bank rates at 18%; retail, 18 - 21%.

South Carolina: No regulation of bank or retail credit card rates. Rates must be posted and registered with S. C. Dept. of Consumer Affairs.

Transaction fees and late fees not allowed. No regulation or grace period or annual fee.

Registered rates typically 19 - 22% for bank cards; 21 - 24% for retail.

Georgia: No regulation of bank card rates or fees. Retail credit - 21%

Most bank cards charging 18%; retail, 18 - 21%.

Both South Carolina and Georgia reported some deregulation problems with other forms of consumer credit. Some finance

company rates in South Carolina were in the 40% range and a used car dealer was charging 50% interest. In Georgia, the Department of Consumer Affairs receives complaints about "usurious" loans in the 35 to 40% range which are now legal. Another example was an advertised mortgage loan of 8% which carried 40 points.

The Georgia Industrial Loan Administrator said deregulation had created a "million problems" particularly for unsophisticated people and particularly in the mortgage lending area. A number of marginal lenders moved into Georgia to take advantage of the deregulated climate. Because the Industrial Loan Act still regulates closed end consumer loans under $3,000, there is a major incentive for lenders to push borrowers into loans above that limit. "Packing" loans with extras like credit insurance, accidental death and dismemberment policies, auto club and thrift club memberships is a particular problem. Formerly, regulated small loans had the highest rates but those rates are not exceeded by deregulated non-bank consumer loans over $3,000.

Other Deregulated States

The bank card industry is becoming more concentrated. While there are approximately 5,000 bank card issues, the top 25 cover about 75% of the market. Most of the top credit card banks are located in a few deregulated states, notably Delaware and South Dakota. It is in these states, which have an average bank card rate of 19.5%, that the effects of deregulation are most apparent.

The following attachments contain some examples of major deregulated credit card terms. Not only are the rates higher than in this state but the additional terms, such as transaction fees, late fees, absence of a grace period - none of which are allowed in North Carolina[1] - make the cost to the average consumer higher still.

Attachments

A. Terms from recent out-of-state bank card solicitations
B. Rates for major bank card issues in deregulated states
C. Sample billing statement for deregulated card
D. Comparative rates for retail credit card plan
E. Consumer complaint regarding $12.50 late fee

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[1]It has been established by the Supreme Court that banks can "export" the rates allowed by their home states to out-of-state customers. However, it is still unclear as to whether banks can export non-interest terms, such as late fees, to states which disallow them. The issue is currently being litigated in Iowa and Massachusetts.

SAMPLE DEREGULATED BANKCARD RATES & TERMS (From Unsolicited Mail Offers)

Bank & State of Issuance	APR	Annual Fee	Transaction Fee	Late Fee	Grace Period	Other Fees
Chase Manhattan (Visa) Delaware	19.8%	$20	2% (cash advance)	$5-$15	Yes	$5 Dupl. Statement or Sales Slip Copy $.50 Min. Fin. Chg.
Bank One Ohio	19.8%	$15		$10	Yes	$10 Over Limit
First Deposit N.B. New Hampshire	21.9% (cash adv.) 20.49% (purchases) (var. w/6mo. intro. rate of 16.8%)	$ 0		$10	No	$10 Over Limit
Chase Manhattan (MasterCard) Delaware	16.5%	$50	2% (cash advance)	$5-$15	Yes	$.50 Min. Fin. Chg.
Bank of America California	19.8%	$18	2% (cash advance) 1.5% (service transaction) ($2 minimum)	$5	Yes	

RATES CHARGED BY MAJOR BANKCARD ISSUERS IN DEREGULATED STATES

BANK	STATE	MAX. RATE	FEE
Bank of New York	Delaware	19.8%	$18
Chase Manhattan	Delaware	19.8%	20
Chemical Bank	Delaware	19.5%	20
Core States Banks	Delaware	19.95%	0
First Atlanta	Delaware	18.0%	15
First Chicago	Delaware	20.4% (var.)	20
Marine Midland	Delaware	19.8%	20
Associates National	California	23.9%	20
Bank of America	California	19.8%	18
Household Bank	California	21.0%	0
Wells Fargo	California	10.0%	18
Bank One, Columbus	Ohio	20.8%	15
Citibank	So. Dakota	19.8%	50
First National of Omaha	Nebraska	21.8% (var.)	0
Signet Bank	Virginia	19.8%	18

The above card issuers represent the largest issuers in the U.S. Each has over 1 million cardholders. Rates cited represent the highest Visa or Mastercard rate marketed by the bank.

Source: Consumer Credit Card Rating Service

CHASE MANHATTAN VISA

The Chase Manhattan Bank (USA), N.A.

Make check or money order payable to CHASE VISA. Payment must be made in U.S. dollars.

99

Please indicate any change of name and address here

J
J [redacted]
517 BRINN DR
SANFORD NC 27330-3419

STATEMENT CLOSING DATE	ACCOUNT NUMBER	TOTAL NEW BALANCE	MINIMUM DUE THIS BILLING	AMOUNT ENCLOSED
01/13/90	[redacted]	2000	1000	

Return this portion of statement with payment. Our address on back must show in window of enclosed envelope.

FOR QUESTIONS CONCERNING THIS STATEMENT SEE "INQUIRIES" ON REVERSE. DIRECT TELEPHONE INQUIRIES TO ▼ 800-441-7681

TRANSACTION OR *POSTING DATE	CREDIT LINE TOTAL	CREDIT LINE AVAILABLE	CHASE VISA ACCOUNT NUMBER	PURCHASES ADVANCES AND DEBITS, PAYMENTS AND CREDITS (-)	REFERENCE NUMBER
	2100	2080	4226 542 004 921		
	STATEMENT OF FINANCE CHARGES FOR YEAR 1989				
	AMOUNT BILLED $42.99 AMOUNT PAID			$42.99	
01/13	ANNUAL FEE FOR PERIOD 02/90 THRU 01/91			2000	
	FOR ONLY $20 CHASE PROVIDES MORE MEANINGFUL BENEFITS FOR YOUR INDIVIDUAL NEEDS. PLEASE SEE ENCLOSED INSERT ABOUT A CHANGE OF TERMS TO YOUR ACCOUNT.				
	SAVE $10 ON A DOZEN ROSES WITH YOUR CHASE CREDIT CARD! CALL 1-800-FLOWERS FOR DETAILS AND TO ORDER, NOW THRU 3/31/90!				
	BONUS $ 70 + ADDED THIS MONTH 0 - USED 0 = BONUS $ AVAILABLE 70				
	FOR CUSTOMER SERVICE INQUIRIES CALL 1-800-441-7681. TO REPORT A LOST/STOLEN CREDIT CARD CALL 1-800-632-3300.				

Lost/Stolen Cards: If you know or think your Visa card is lost or stolen, call us immediately at 1-800-632-3300.

HOW WE ARRIVE AT YOUR FINANCE CHARGE	MONTHLY PERIODIC RATE (%)	NOMINAL ANNUAL PERCENTAGE RATE	MINIMUM PER TRANSACTION FEE	BALANCE TO WHICH PERIODIC RATE WAS APPLIED	FINANCE CHARGE AT PERIODIC RATE	FINANCE CHARGE MINIMUM TRANSACTION FEE TOTAL	ANNUAL PERCENTAGE RATE
PURCHASES	1650	1980	50				
CASH ADVANCES	1650	1980	2%				

ACCOUNT SUMMARY	PREVIOUS BALANCE	PAYMENTS AND CREDITS	PURCHASES ADVANCES AND DEBITS	FINANCE CHARGE	NEW BALANCE	PERIODIC PAYMENT
ANNUAL FEE			2000		2000	
TOTAL			2000		2000	

• See reverse side for balance computation method and other important information	STATEMENT CLOSING DATE	NO. BILLING CYCLE DAYS	PAYMENT DUE DATE	PAST DUE – PAY IMMEDIATELY ▶	
	01/13/90	31	2/07/90	MINIMUM DUE THIS BILLING ▶	1000

COMPARATIVE INTEREST RATES CHARGED BY
NATIONAL RETAIL CREDIT CARD SERVICE
(utilized by local merchants to offer
open-end credit to consumers)

The chart shows that consumers in deregulated states uniformly pay 3% higher APR than North Carolina consumers.

CREDIT CARD DISCLOSURE CHART

ANNUAL PERCENTAGE RATE			
		Daily Periodic Rate	Range of Balances Subject to FINANCE CHARGE
Arkansas	10%	.02739%	Full Balance
Alabama	21%	.05753%	$0-$750
	18%	.04931%	Over $750
California	19.9%	.05452%	Full Balance
Connecticut (accounts opened on or before 9/30/89)	15%	.04109%	Full Balance
(accounts opened on or after 10/1/89)	18%	.04931%	Full Balance
Iowa	19.8%	.05424%	Full Balance
Kansas	21%	.05753%	$0-$1000
	14.4%	.03945%	Over $1000
›higan	20.4%	.05589%	Full Balance
Missouri	20%	.05479%	Full Balance
Nebraska	21%	.05753%	Under $500
	18%	.04931%	$500 and Over
Florida, Hawaii, Idaho, Louisiana, Maine, Massachusetts, Minnesota, North Carolina, North Dakota, Pennsylvania, Rhode Island, Texas, Utah, Washington, West Virginia, Wisconsin	18%	.04931%	Full Balance
All Other States	21%	.05753%	Full Balance

Grace Period For Repayment Of Balances For New Purchases
Colorado, Maine, Massachusetts, Minnesota, Mississippi, Montana and North Carolina - You have until the start of the next billing period after new purchases are posted to your account before being charged a FINANCE CHARGE. All Other States - If the new balance at the beginning of the billing period is $0 or is paid in full by the due date shown on the statement covering the prior billing period (which is 25 days after the statement date) no FINANCE CHARGE is assessed in the current billing period.

Method Of Computing The Balance	
Colorado, Maine, Massachusetts, Minnesota Mississippi, Montana, North Carolina	Average Daily Balance (excluding new purchases)
All Other States	Average Daily Balance (including new purchases)

Minimum FINANCE CHARGE	
Arkansas, Connecticut, District of Columbia, Hawaii, Maryland ›braska, North Carolina, North Dakota, Pennsylvania, Rhode Island	None
)ther States	$.50

›ıe information about the costs of the Credit Card described in this Application is accurate as of August, 1989. This information may have changed after that date. To find out what may have changed, write to us at Bencharge Credit Service, 200 Beneficial Center, Peapack, N.J. 07977.

If the Agreement is governed by **California** law: Applicant, if married, may apply for a separate Account.

If the Agreement is governed by **Delaware** law: Finance charges not in excess of those permitted will be charged on the outstanding balances from month to month on the Account.

If the Agreement is governed by **Illinois** law: Residents of Illinois may contact the Illinois Commissioner of Banks and Trusts Companies for comparative information on interest rates, charges, fees, and grace periods. State of Illinois - C.I.P. P.O. Box 10181, Springfield, IL 62791 Tel. 1-800-634-5452.

If the Agreement is governed by **Maryland** law: Finance charges will be made in amounts or at rates not in excess of those permitted by law.

If the Agreement is governed by **Ohio** law: The Ohio law against discrimination requires that all creditors make credit equally available to all credit worthy customers, and that credit reporting agencies maintain separate credit histories on each individual upon request. The Ohio Civil Rights Commission administers compliance with this law.

If the Agreement is governed by **Texas** law: This contract is subject in whole or in part to Texas law which is enforced by The Consumer Credit Commissioner, 2601 North Lamar Boulevard, Austin, Texas 78705-4207, Phone (512) 479-1285, (214) 263-2016, (713) 461-4074.

If the Agreement is governed by **Virginia** law: To avoid additional finance charges being applied to your current purchases on the next month's statement, pay the new balance on the statement in full by the due date.

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Ed. 8/89

First Bankcard Center
PO Box 2938
Winston-Salem, NC 27102-2938

437 Robert E. Lee
Wilmington, NC
28412

Dear Sirs:

This inquiry is in reference to the following account:

[redacted]
ACCT# [redacted]
AMT $12.50 late charges on statement closing 12-19-89

This late charge is apparently attached to a purchase made in October. My October statement for $42.53 was either overlooked or misplaced and the charge was not noticed until the November statement arrived with $0.63 interest added to the statement. The bill of $43.16 was promptly paid on Dec. 1, 1989 with check #6086.

On December 27, 1989 I received a closing statement dated December 19, 1989 showing a payment of $43.16 and a late charge of $12.50. I called the customer service telephone number to determine the reason for the charge. I was informed that the $12.50 late charge was assessed on the $42.53 charge in October. I was told that since June you have been charging a flat $12.50 fee on any overdue balance.

I can find no written evidence on your statement that this is your late charge policy. Further, since I do not use my card every month, I do not get a monthly statement. Therefore, I do not believe that I have ever seen a notice about this change of policy.

Whether you call this a "late charge" or a "finance charge", it represents a 352.7% interest rate in addition to the normal interest rate that I have already paid. I cannot believe that the state of North Carolina would allow such a usurous interest rate.

Regardless of your official policy, this correspondence is to notify you that **I will not pay this $12.50. I refuse to pay such an exorbitant rate of interest on such a small purchase.** I would prefer keeping your credit card to use when necessary, but if we cannot come to an agreement of terms, I will return your card to you and use other forms of credit when needed. **However, I will restate for emphasis that I will not pay this $12.50 "late charge" under any circumstance.**

I await your return correspondence.

CC: Better Business Bureau and
Attorney General State of NC

Cordially,
Barbara T. Hamrick

CLOSING DATE	CARD NUMBER(S)	NEW BALANCE	MINIMUM PAYMENT	PAYMENT DATE
121989	[redacted]	1250	*NONE*	011590

YOU MAY AVOID ADDITIONAL FINANCE CHARGES BY PAYING THE NEW BALANCE BY PAYMENT DATE.

H 6 14898

PLEASE INDICATE AMOUNT PAID → $ _____

FILL IN ADDRESS CHANGE BELOW.

BARBARA T HAMRICK
437 ROBERT E LEE DR
WILMINGTON NC 28403

STREET _____

CITY STATE ZIP

MAKE CHECK PAYABLE TO THE FIRST BANKCARD CENTER.
RETURN THIS PORTION OF STATEMENT WITH PAYMENT.

43250420172451527 0800012500000000026

DETACH HERE - RETAIN FOR YOUR RECORDS

CLOSING DATE	CARD NUMBER(S)	CREDIT LIMIT	DIRECT TELEPHONE INQUIRIES TO	PAYMENT DATE
121989	[redacted]	2000	SEE REVERSE	011590

REFERENCE NUMBER	POSTING DATE	TRANSACTION DATE	DESCRIPTION	AMOUNT
PAYMENTS, ADJUSTMENTS AND OTHERS				
07432700934112134117804812	0712	07	PAYMENT RECEIVED, THANK YOU	43 16CR

USE YOUR MASTERCARD OR VISA TO PURCHASE THOSE SPECIAL GIFTS FOR FAMILY AND FRIENDS.
HAVE A SAFE AND HAPPY HOLIDAY SEASON!

Called
12-27-89

AVERAGE DAILY BALANCE	ITEMIZED FINANCE CHARGES: CASH ADVANCE CHARGE	+ PERIODIC RATE CHARGE	= FINANCE CHARGE	+ PREVIOUS BALANCE	+ CASH ADVANCES	+ PURCHASES AND OTHER CHARGES	AMOUNT PAST DUE
3578			00	4316			

NUMBER OF DAYS IN BILLING CYCLE	CASH ADVANCE RATE	MONTHLY PERIODIC RATE	CORRESPONDING ANNUAL PERCENTAGE RATE	ANNUAL PERCENTAGE RATE	LATE + CHARGES	− PAYMENTS	− CREDITS	= NEW BALANCE	MINIMUM PAYMENT
32	2.0	1.490	17.88	000	1250	4316		1250	*NONE*

First BankCard Center

LACY H. THORNBURG
ATTORNEY GENERAL

State of North Carolina
Department of Justice
P.O. BOX 629
RALEIGH
27602-0629

919-733-7741

November 9, 1990

Committee on Deregulation of Revolving Credit,
Credit Card Banks and Linked Deposits
c/o Mr. Terry Sullivan, Committee Counsel
Legislative Services Office
2129 State Legislative Building
Raleigh, North Carolina 27611-9184

Dear Committee Members:

At the committee meeting on September 24, Chairman Hege requested interested parties to comment on proposed legislation before the committee, particularly on the draft amendment to G.S. §25A-14 regarding finance charges on revolving retail credit accounts. On behalf of the Attorney General, I would like to offer some brief comments.

Attorney General Thornburg has consistently opposed the deregulation of consumer credit. It is his position that maximum credit rates should be set to allow the creditor a reasonable rate of return while protecting the consumer from usurious practices. As originally proposed in SB 377, not only would all open credit have been deregulated for all classes of lenders but a number of other important consumer protection measures would have been eliminated, such as grace period requirements, prohibitions on hidden fees and security interest restrictions. Such a wholesale dismantling of our state's consumer credit protection laws is unacceptable.

This is not to suggest that there should not be any statutory changes, as long as those changes are made with precision and in response to a demonstrated need. The draft committee amendment to G.S. §25A-14 deserves serious consideration. It would change the maximum rate permitted for revolving charge accounts and would not affect any of the other consumer protection provisions in the Retail Installment Sales Act. The authorization for late fees and credit insurance has been dropped from the original proposal. The grace period would be maintained and there is no authorization for annual membership fees.

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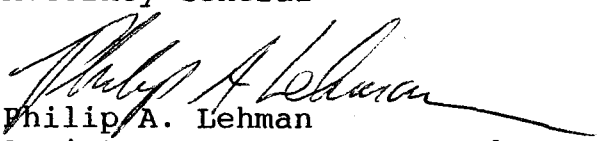
Currently, G.S. §25A-14 allows for finance charge rates ranging from 18% to 24% for closed end credit accounts. If the rate limit for open end accounts is to be raised to 21%, we would recommend limiting it to accounts with principal balances of less than $2,000. If the principal balance is $2,000 or greater, the maximum rate should remain at 18% to maintain consistency with the closed end credit limits.

We would oppose any more substantial revisions to our consumer credit statutes, especially the deregulation of credit card rates and fees. Bank card credit appears to be widely available to creditworthy consumers and outstanding consumer debt remains at all-time high levels. We are facing rapidly escalating energy prices and a possible recession. This is not a good time to consider removing the limited controls we have on consumer credit costs.

Thank you for considering our views on this matter.

Sincerely

LACY H. THORNBURG
Attorney General



Philip A. Lehman
Assistant Attorney General
CONSUMER PROTECTION SECTION

PAL:ac

GENERAL ASSEMBLY OF NORTH CAROLINA SESSION 1991

APPENDIX Y

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

H D

HOUSE Revolvingcreditbill11/13/90

Short Title: Int. rates revol. credit (Public)

Sponsors:

Referred to:

A BILL TO BE ENTITLED

AN ACT TO MODIFY FINANCE CHARGE RATES FOR REVOLVING CHARGE ACCOUNT CONTRACTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 25A-14 reads as rewritten:

"**§25A-14. Finance charge rates for revolving charge account contracts.**

~~(a) The finance charge rate for a consumer credit sale made pursuant to a revolving charge account contract may not exceed the rates provided for revolving credit by G.S. 24-11(a). The annual fee provided in G.S. 24-11(a) may not be imposed.~~

(a) Notwithstanding any other provision of law, on the extension of consumer credit made pursuant to a revolving charge account contract under which no finance charge shall be imposed upon the consumer or debtor if the account is paid in full within 25 days from the billing date, there may be charged a finance charge at a rate not to exceed one and three quarters percent (1 3/4%) per month computed on the unpaid portion of the balance of the previous month less payments or credit within the billing cycle or the average daily balance outstanding during the current billing period;

provided, however, that a minimum charge not in excess of fifty cents (50¢) may be charged and collected upon the unpaid balance of such contract, and provided, further, that an annual fee may not be imposed upon such contract.

(b) In the event the revolving charge account contract is secured in whole or in part by a security interest in real property, then the finance-charge rate shall not exceed the rate set out in G.S. 25A- 15(d).

(c) No default or deferral charge shall be imposed by the seller in connection with a revolving charge-account ~~contract, except as specifically provided for in G.S. 24-11(a)~~ contract."

Sec. 2. This act is effective October 1, 1991, and applicable to purchases made on revolving charge accounts made on or after the effective date.

APPENDIX Z

NORTH CAROLINA GENERAL ASSEMBLY
LEGISLATIVE SERVICES OFFICE
2129 STATE LEGISLATIVE BUILDING
RALEIGH 27611

GEORGE R. HALL, JR.
LEGISLATIVE ADMINISTRATIVE OFFICER
TELEPHONE: (919) 733-7044

GERRY F. COHEN, DIRECTOR
LEGISLATIVE DRAFTING DIVISION
TELEPHONE: (919) 733-6660

THOMAS L. COVINGTON, DIRECTOR
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November 13, 1990

MEMORANDUM

TO: Committee on Deregulation of Credit, Credit Card Banks, and Linked Deposit Programs
Legislative Research Commission

FROM: Terrence D. Sullivan
Committee Counsel

RE: Analysis of REVOLVINGCREDITBILL11/13/90 -- A BILL TO BE ENTITLED AN ACT TO MODIFY FINANCE CHARGE RATES FOR REVOLVING CHARGE ACCOUNT CONTRACTS.

Section 1 would amend **G.S. 25A-14, Finance charge rates for revolving charge account contracts**, to remove the references to revolving credit extensions to Chapter 24, Interest, and establish in the Retail Installment Sales Act (Chapter 25 of the General Statutes) new operative regulations.

Subsection (a) presently incorporates the maximum charges and fees chargeable for open-end and revolving credit in G.S. 24-11, i.e. 1 1/2% per month on the unpaid balance and specifically prohibits the imposition of the annual fee (a maximum of $20) allowed in open-credit transactions. The proposed new language of subsection (a) would establish for extensions of consumer credit under a revolving charge account contract a maximum finance charge of 1 3/4% per month on the unpaid balance (with a $0.50 minimum charge), would transfer to here the 25-day grace period contained in G.S. 24-11, would continue the prohibition against imposing an annual charge, and would eliminate surplus language in G.S. 25A-14(c).

Section 2 would make this bill **effective on October 1, 1991** with regard to purchases made on revolving charge accounts made on or after that date.

GENERAL ASSEMBLY OF NORTH CAROLINA SESSION 1991

APPENDIX AA

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

D

HOUSE CREDITCARDBILL11/13/90

Short Title: Credit Card Deregulation & Banks (Public)

Sponsors:

Referred to:

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE CREDIT CARD BANKS, TO AMEND THE RATE OF INTEREST AND FEES APPLICABLE TO CREDIT CARD ACCOUNTS, OPEN-END CREDIT, AND REVOLVING CHARGE ACCOUNTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 24-11 reads as rewritten:

"~~**§24-11. Certain revolving credit charges.** (a) On the extension of credit under an open-end credit or similar plan (including revolving credit card plans, and revolving charge accounts, but excluding any loan made directly by a lender under a check loan, check credit or other such plan) under which no service charge shall be imposed upon the consumer or debtor if the account is paid in full within 25 days from the billing date, but upon which there may be imposed an annual charge not to exceed twenty dollars ($20.00), there may be charged and collected interest, finance charges or other fees at a rate in the aggregate not to exceed one and one-half percent (1 1/2%) per month computed on the unpaid portion of the balance of the previous month less payments or credit within the billing cycle or the average daily balance outstanding~~

during the current billing period. No person, firm or corporation may charge a discount or fee in excess of six percent (6%) of the principal amount of the accounts acquired from or through any vendors or others providing services who participate in such plan.

(b) On revolving credit loans (including check loans, check credit or other revolving credit plans whereby a bank, banking institution or other lending agency makes direct loans to a borrower), if agreed to in writing by the borrower, such lender may collect interest and service charges by application of a monthly periodic rate computed on the average daily balance outstanding during the billing period, such rate not to exceed one and one-half percent (1 1/2%).

(c) Any extension of credit under an open-end or similar plan under which there is charged a monthly periodic rate greater than one and one-quarter percent (1 1/4%) may not be secured by real or personal property or any other thing of value, provided, that this subsection shall not apply to consumer credit sales regulated by Chapter 25A, the Retail Installment Sales Act; provided further, that in any action initiated for the possession of property in which a security interest has been taken, a judgement for the possession thereof shall be restricted to commercial units (as defined in G.S. 25-2-105(6)) for which the cash price was one hundred dollars ($100.00) or more.

(d) The term "billing date" shall mean any date selected by the creditor and the bill for the balance of the account must be mailed to the customer at least 14 days prior to the date specified in the statement as being the date by which payment of the new balance must be made in order to avoid the imposition of any finance charge.

(e) An annual charge pursuant to this section upon an existing credit card account upon which an annual charge has not previously been imposed may not be imposed unless the lender has given the cardholder at least 30 days notice of the proposed charge, and has advised the cardholder of his right not to accept the new charge. This notice shall be bold and conspicuous, and shall be on the face of the periodic billing statement or on a separate statement which is clearly noted on the face of the periodic billing statement provided to the cardholder. If the cardholder does not accept the new charge upon an existing credit card account, the lender may require that the cardholder make no further use of the account beyond the 30-day period in order to avoid paying the annual charge, but the cardholder shall be entitled to pay off any remaining balance according to the terms of the credit agreement. Nothing in this subsection shall limit

~~the lender from decreasing any rates or fees to the cardholder forthwith. Should any cardholder within 12 months of the initial imposition of an annual charge rescind his credit card contract and surrender all cards issued under the contract to the lender, he shall be entitled to a prorated refund of the annual fee previously charged, credited to the cardholder's credit card account.~~

§ 24-11. Open-end credit other than credit card accounts.

(a) The following definitions apply in this section:

(1) Open-end credit. Credit extended by a creditor under a plan in which the creditor reasonably contemplates repeated transactions, the creditor may impose a finance charge from time to time on an outstanding unpaid balance, and the amount of credit that may be extended to the debtor during the term of the plan, up to any limit agreed upon by the parties, is generally made available to the extent that any outstanding balance is repaid.

(2) Consumer open-end credit. Open-end credit that is extended for personal, family or household purposes in an amount of twenty-five thousand dollars ($25,000) or less.

(3) Domestic lender. A bank, savings and loan association, savings bank, or credit union organized under the laws of this State or the United States which has its principal place of business in this State.

(4) Other lenders. Persons, corporations, partnerships or other entities other than a domestic lender, that extend open-end credit.

(b) On the extension of open-end credit, whether secured or unsecured, a domestic lender may charge and collect finance charges and interest, transaction fees, overlimit charges, late payment fees or delinquency charges, charges for each return of a dishonored check or draft in payment of any portion of an outstanding balance, membership fees, whether assessed on an annual or other periodic basis, and any other fees and charges. In addition, an extension of open-end credit, whether secured or unsecured, by a domestic lender may provide for such terms and conditions as may be agreed upon by the parties. All fees and charges authorized by this section are material to the determination of interest under the most favored lender doctrine and under

section 85 of the National Bank Act, 12 USC §85, or section 521 of the Depository Institutions Deregulation and Monetary Control Act of 1980, 12 USC §1831d.

(c) On the extension of open-end credit which is not secured by real or personal property or any other thing of value, other lenders may charge and collect interest, finance charges or other fees at a rate in the aggregate not to exceed one and one-half percent (1 1/2%) per month computed on the unpaid portion of the balance of the previous month less payments or credit within the billing cycle or the average daily balance outstanding during the current billing period.

(d) On the extension of open-end credit which is secured by real or personal property or any other thing of value, other lenders may charge and collect a monthly periodic rate not to exceed one and one-quarter percent (1 1/4%).

(e) No interest or finance charge may be imposed upon an extension of secured or unsecured open-end credit, other than a direct loan to a debtor, by other lenders if the account is paid in full within 25 days from the billing date.

(f) If a creditor proposes an amendment to a consumer open-end credit plan which has the effect of increasing any charges, rate of interest, or fee to be paid by the debtor and the plan is subject to the requirements of the federal Truth-in-Lending Act (Title I of the Consumer Credit Protection Act, 15 USC §1601 et seq.), as amended, and as implemented by Regulation Z, 12 CFR §226 of the Federal Reserve System, the creditor shall notify the debtor in writing at least 30 days before the effective date of the amendment of the amended terms and of the debtor's right to cancel the plan. The debtor may cancel the plan and pay the account in accordance with the terms and conditions of the plan that are then in effect. Cancellation by the debtor is effective upon receipt by the creditor of written notification of cancellation at an address designated by the creditor. Failure to cancel the plan before the effective date of the amendment constitutes consent by the debtor to the amendment.

(g) This section does not apply to credit cards and credit card accounts as defined in G.S. 53-244."

Sec. 2. Chapter 53 of the General Statutes is amended by adding a new Article to read:

"ARTICLE 21.

"Credit Card and Credit Card Bank Act.

"§ 53-243. Title.

This Article shall be known and may be cited as the North Carolina Credit Card and Credit Card Bank Act.

"§ 53-244. Definitions.

The following definitions apply in this Article:

(1) Banking Commission. The Banking Commission of this State.

(2) Commissioner. The Commissioner of Banks of this State.

(3) Control. Defined in section 2(a)(2) of the Bank Holding Company Act of 1956, 12 USC §1841(a)(2), as amended.

(4) Credit card. Defined in Title I of the Consumer Credit Protection Act, 15 USC §1601 **et seq.**, as amended, and as implemented by section 226.2(a) of Regulation Z issued by the Board of Governors of the Federal Reserve System.

(5) Credit card account. An arrangement or agreement between a domestic lender, credit card bank, or other credit card issuer and a debtor pursuant to which open-end credit is accessed by a credit card.

(6) Credit card bank. A bank organized under the laws of the United States whose principal place of business is located in this State or a bank organized under the laws of this State, the activities of which are limited to those authorized in G.S. 53-246.

(7) Domestic lender. A bank, savings and loan association, savings bank, or credit union organized under the laws of this State or the United States which is authorized by law to accept deposits and make loans and has its principal place of business in this State.

(8) Foreign lender. A bank, savings and loan association, savings bank, or credit union organized under the laws of the United States, any state other than this State, or the District of Columbia, which is authorized by law to accept deposits and make loans and has its principal place of business outside this State.

(9) Holding company. A company that controls a domestic or foreign lender.

(10) Open-end credit. Credit extended by a creditor under a plan in which the creditor reasonably contemplates repeated transactions, the creditor may impose a finance charge from time to time on an outstanding unpaid balance, and the amount of credit that may be extended to the debtor during the term of the plan, up to any limit agreed upon by the parties, is generally made available to the extent that any outstanding balance is repaid.

(11) Other credit card issuer. A corporation, partnership, or other entity, other than a domestic lender, foreign lender, or credit card bank, that issues a credit card.

(12) Qualifying organization. A corporation, partnership, or other entity that maintains an office in this State at which are employed at least 200 residents of this State who are directly engaged in providing the following services, either for the qualifying organization or on behalf of other domestic or foreign lenders, credit card banks, or other credit card issuers.

a. The distribution of credit cards or other devices designed and effective to access credit card accounts.

b. The preparation of periodic statements of amounts due under credit card accounts.

c. The receipt from credit card holders of amounts paid with respect to credit card accounts.

d. The maintenance of financial records reflecting the status of credit card accounts from time to time.

The term 'qualifying organization' also includes any domestic bank, credit card bank, or other credit card issuer that satisfies the employment and activities requirements set forth in this subdivision.

"**§ 53-245. Credit card banks authorized.**

Subject to the provisions of this Article, a domestic lender, foreign lender, or holding company may organize, own, and control a credit card bank. Nothing contained in this Article shall be construed to amend or alter the provisions of the North Carolina Regional Reciprocal Bank Act, G.S. 53-209 et seq., or to authorize bank holding

companies to acquire, own, or control any bank as defined in section 2(c) of the Bank Holding Company Act of 1956, 12 USC §1841(c), as amended.

"**§ 53-246. Credit card banks: creation, powers, and duties.**

(a) A credit card bank:

(1) Shall be organized under the laws of the United States or of this State.

(2) May engage only in credit card operations, which may include the business of soliciting, processing, and extending credit pursuant to credit card accounts and conducting other activities as may be incidental to this business.

(3) May not accept demand deposits or deposits that the depositor may withdraw by check or similar means or to pay to third parties.

(4) May not accept a savings or time deposit of less than one hundred thousand dollars ($100,000).

(5) May maintain only one office that accepts deposits.

(6) May not engage in the business of making commercial loans.

(7) Shall operate in a manner that is not likely to attract customers from the general public in this State to the substantial detriment of other domestic lenders.

(8) If organized under State law, shall meet the capital requirements set forth in G.S. 53-2(4).

(9) Shall have, within one year after the date it begins doing business, not less than 50 employees located in this State devoted to its credit card activities; provided, however, that where the credit card bank contracts with a qualifying organization for services incidental to offering credit card accounts, the minimum number of employees located in this State shall be determined by the Commissioner. The minimum number determined by the Commissioner shall be sufficient to assure the continued and substantive presence of the credit card bank in this State for the purpose of conducting its corporate affairs and performing the credit underwriting function and such other activities not subject to contract with the qualifying organization as may be incidental to its servicing of credit card accounts.

(b) The Banking Commission may make such rules relating to the organization, operation and supervision of credit card banks organized pursuant to the laws of this State as may be consistent with this Article. Credit card banks organized under the laws of the United States are not subject to the supervisory authority or the rules and regulations of the Banking Commission.

(c) A domestic lender or other credit card issuer is not required to establish a credit card bank to issue credit cards and create credit card accounts.

(d) All shares of capital stock, except directors' qualifying shares, if any, of a credit card bank shall be owned solely by a domestic lender, foreign lender, or a holding company.

"§ 53-247. Finance charges, interest, charges and fees authorized to be charged by domestic lenders and credit card banks.

Notwithstanding any other provisions of law, a domestic lender or credit card bank may contract for and collect in connection with a credit card account finance charges and interest, transaction fees, overlimit charges, late payment fees or delinquency charges, charges for each return of a dishonored check or draft in payment of any portion of an outstanding balance, membership fees, whether assessed on an annual or other periodic basis, and other fees and charges and may provide for such terms and conditions as may be agreed upon by the parties. All fees and charges authorized by this section are material to the determination of interest under the most favored lender doctrine and under section 85 of the National Bank Act, 12 USC §85, or section 521 of the Depository Institutions and Monetary Control Act of 1980, 12 USC §1831d. If an amendment to a credit card account has the effect of increasing any charge, rate of interest or fee to be paid by the debtor, the creditor shall notify the debtor in writing at least 30 days before the effective date of the amendment of the amended terms and of the debtor's right to surrender the credit card or cards. If, as directed by the creditor, the debtor surrenders the credit card or cards before the effective date of the amendment the debtor shall pay the account in accordance with the terms and conditions of the account as are then in effect. Failure by the debtor to surrender the credit card or cards as directed by the creditor constitutes consent by the debtor to the amendment. No interest or finance charge may be imposed by a domestic lender or credit card bank upon an extension of open-end credit, other than a direct loan to a

debtor, made under a credit card account if the account is paid in full within 25 days from the billing date.

"**§ 53-248. Finance charges, interest and fees authorized to be charged by other credit card issuers.**

Other credit card insurers may charge and collect interest, finance charges or other fees at a rate in the aggregate not to exceed one and one-half percent (1 1/2%) per month in connection with a credit card account which is not secured by real or personal property or any other thing of value and at a rate in the aggregate not to exceed one and one-quarter percent (1 1/4%) per month in connection with a credit card account which is secured by real or personal property or any other thing of value.

No interest or finance charge may be imposed by other credit issuers upon an extension of open-end credit, other than a direct loan to a debtor, made under a credit card account if the account is paid in full within 25 days from the billing date.

Other credit card issuers may impose an annual charge not to exceed twenty dollars ($20.00) on a credit card account.

"**§ 53-249. Discount fees.**

A creditor may charge discounts and fees as agreed upon by the creditor and merchants and others who provide goods or services and who participate in the creditor's credit card plan."

Sec. 3. G.S. 25A-11 reads as rewritten:

"**§25A-11. "Revolving charge account contract" defined.** Revolving charge account contract" means an agreement or understanding between a seller and a buyer under which consumer credit sales may be made from time to time, under the terms of which a finance charge or service charge is to be computed in relation to the buyer's unpaid balance from time to time, and under which the buyer has the privilege of paying the balance in full or in installments. ~~This definition shall not affect the meaning of the term "revolving charge account" appearing in G.S. 24-11(a).~~ "

Sec. 4. G.S. 25A-14 reads as rewritten:

"**§25A-14. Finance charge rates for revolving charge account contracts.**

~~(a) The finance charge rate for a consumer credit sale made pursuant to a revolving charge account contract may not exceed the rates provided for revolving credit by G.S. 24-11(a). The annual fee provided in G.S. 24-11(a) may not be imposed.~~

(a) Notwithstanding any other provision of law, on the extension of consumer credit made pursuant to a revolving charge account contract under which no finance charge shall be imposed upon the consumer or debtor if the account is paid in full within 25 days from the billing date, there may be charged a finance charge at a rate not to exceed one and three quarters percent (1 3/4%) per month computed on the unpaid portion of the balance of the previous month less payments or credit within the billing cycle or the average daily balance outstanding during the current billing period; provided, however, that a minimum charge not in excess of fifty cents (50¢) may be charged and collected upon the unpaid balance of such contract, and provided, further, that an annual fee may not be imposed upon such contract.

(b) In the event the revolving charge account contract is secured in whole or in part by a security interest in real property, then the finance-charge rate shall not exceed the rate set out in G.S. 25A- 15(d).

(c) No default or deferral charge shall be imposed by the seller in connection with a revolving charge-account ~~contract, except as specifically provided for in G.S. 24-11(a)~~ contract."

Sec. 5. This act is effective upon ratification.

APPENDIX BB

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November 13, 1990

MEMORANDUM

TO: Committee on Deregulation of Credit, Credit Card Banks, and Linked Deposit Programs
Legislative Research Commission

FROM: Terrence D. Sullivan
Committee Counsel

RE: Analysis of CREDITCARDBILL11/13/90 -- A BILL TO BE ENTITLED AN ACT TO AUTHORIZE CREDIT CARD BANKS, TO AMEND THE RATE OF INTEREST AND FEES APPLICABLE TO CREDIT CARD ACCOUNTS, OPEN-END CREDIT, AND REVOLVING CHARGE ACCOUNTS.

SUMMARY

This bill generally would:

1. Deregulate present restrictions on interest rates and fees which may be charged in open-end credit and credit cards extended by domestic lenders (state and federally-chartered financial institutions having their principal place of business in North Carolina), and retain present grace period for these extensions of credit, other than for a direct loan;

2. Retain the present restrictions on the grace period, and fees and interest chargeable in open-end credit extensions by other than domestic lenders and retail merchants;

3. Authorize the establishment of credit card banks within this State, give them and domestic lenders the power to charge any interest, fees and charges agreed to by the parties to a credit card account while retaining the present 25-day grace period to pay the bill without interest or other penalty and make various corresponding changes;

4. Would limit credit card issuers other than credit card banks, to interest fees and charges allowable under the present statutes: i.e. 1½ percent per month on the unpaid balance for unsecured credit, 1¼ percent on secured credit, the 25-day grace period and a maximum annual charge of $20;

5. Deregulate discount fees chargeable to merchants and others under credit card plans (now limited to 6 percent of purchase); and

6. Separate revolving charge accounts under the Retail Installment Sales Act (RISA) from the general interest and fee open-end credit restrictions contained in Chapter 24, set in RISA maximum interest and fees for revolving charge accounts at 1 3/4 percent per month on the unpaid balance, retain the present grace period, and prohibit an annual fee.

SECTION-BY-SECTION ANALYSIS

Section 1 would rewrite the present **G.S. 24-11, Certain revolving credit charges.** The present statute, among other matters,

1. Allows lenders under an open-end credit or revolving credit plan to charge interest, finance charges, or other fees at a rate on the unpaid balance not to exceed 1 1/2% per month (now commonly referred to as 18% a year) and an annual charge of not more than $20;

2. Establishes a "grace period" under which no service charge can be imposed if the account is paid in full within 25 days of the billing date;

3. Prohibits the charging of any discount or processing fee in excess of 6% of the principal amount of the acquired accounts of vendors or others participating in an open-end credit or revolving credit plan;

4. Ties the interest and service charges permitted on revolving credit loans to that of revolving credit plans, i.e. a maximum of 1 1/2% per month; and

5. Prohibits any open-end credit plan charging between 1 1/4 and 1 1/2% per month from securing the loan by real or personal property, or any other thing of value (this provision does not apply to consumer credit sales under the Retail Installment Sales Act (RISA).

The proposed new G.S. 24-11 would speak to open-end credit other than credit card accounts, covered in Section 2 of the bill, and revolving charge accounts, covered in Section 4 of the bill.

Subsection (b) would permit a "domestic lender" (North Carolina-or federally-chartered bank, savings and loan association, or credit union, having its principal place of business within this State) to charge any fees and charges in extending open-end credit, whether secured or unsecured. In such an extension the domestic lender could provide terms and conditions as are agreed upon by the parties. All fees and charges are specifically deemed to be material to the determination of interest under the federal most favored lender doctrine and specified federal legislation.

Lenders, other than domestic lenders, in an open-end credit plan are limited, to: a monthly rate of 1 1/2% on the unpaid balance of the loan for unsecured credit (Subsection (c)), and 1 1/4% for secured credit (Subsection (d)); and 25-day grace period is imposed on these lenders (Subsection (e)).

Generally, any lender in a consumer open-end credit plan which is subject to the Federal Truth-in-Lending Act who proposes amendments increasing any charge, interest rate or fee to be paid by the debtor must notify the debtor in writing at least 30 days before the amendment's effective date and of the debtor's right to cancel the plan.

Section 2 would create in General Statutes, Chapter 53, **Banks**, a new Article 20 entitled, **Credit Card and Credit Card Bank Act**. The new §53-245 would permit a domestic lender (a North Carolina- or federally- chartered lender authorized to accept deposits and make loans and having its principal place of business within this State), a foreign lender (a lender chartered by the United States, the District of Columbia, or another state authorized to accept deposits and make loans, having its principal place of business outside of North Carolina), or a holding company (a company controlling either of the two above types of lenders) to establish a credit card bank.

The proposed §53-246, among other matters, would require that a credit card bank engage only in credit card operations (including soliciting, processing and extending credit), maintain only one office, operate in a manner not likely to attract customers from the general public in this State to the substantial detriment of other domestic lenders, meet the requirements imposed on other state banks under G.S. 53-2(4) and employ 50 persons in its credit card operations within a year of its beginning business. The bank cannot accept demand deposits or other deposits which the depositor may withdraw by check or similar means or pay to third parties, or a savings or time deposit of less than $100,000. The bank is specifically prohibited from making commercial loans. All of the bank's capital stock, except the directors' qualifying shares, if any, must be owned solely by the domestic or foreign lender, or a holding company. This section specifically provides that credit card issuers are not required to establish a credit card bank to issue and process credit cards.

MEMORANDUM
November 13, 1990

The proposed §53-247 generally tracks for credit card banks the deregulation of domestic lender open-end credit contained in the proposed rewritten §24-11 set forth above but retains the present 25-day grace period. The proposed §53-248 imposes for other credit card issuers the same terms to be imposed on foreign lenders in an open-end credit plan (i.e., 1 1/2% on unsecured loans, 1 1/4% on secured loans, the 25-day grace period, and a maximum annual charge of $20).

§53-249 would allow a creditor to charge discounts and fees as agreed upon by the parties for those who provide goods or services and participate in the credit card plan.

Section 3 would make a corresponding change to G.S. 25A-11.

Section 4 would amend **G.S. 25A-14, Finance charge rates for revolving charge account contracts**, to remove the references to revolving credit extensions to Chapter 24, Interest, and establish in the Retail Installment Sales Act (Chapter 25 of the General Statutes) new operative regulations.

Subsection (a) presently incorporates the maximum charges and fees chargeable for open-end and revolving credit in G.S. 24-11, i.e. 1 1/2% per month on the unpaid balance and specifically prohibits the imposition of the annual fee (a maximum of $20) allowed in open-credit transactions. The proposed new language of subsection (a) would establish for extensions of consumer credit under a revolving charge account contract a maximum finance charge of 1 3/4% per month on the unpaid balance (with a $0.50 minimum charge), would transfer the 25-day grace period contained in G.S. 24-11, would continue the prohibition against imposing an annual charge, and would eliminate surplus language in G.S. 25A-14(c).

Section 5 would make this act **effective upon ratification**.