

Senate Bill 815
Amortization Notice and Information

Frequently Asked Questions

- 1. Our lending institution makes mortgage loans, but it only makes variable rate or adjustable rate loans. Does this statute affect us?**

Yes. All lenders that extend mortgages (which are not equity lines or lines of credit) of less than \$300,000 to natural persons for personal, family, or household purposes secured by the borrower's home are required to provide to the applicant, at the time of application or within three business days thereafter, the ["Notice of Information and Examples of Amortization of Home Loans"](#) promulgated by the Commissioner of Banks. See NCGS 24-1.1A(a1)(1). If the lender in fact makes an adjustable or variable rate loan, the lender is not required to provide the second notice or specific amortization schedule for the borrower's loan as made.

- 2. Our lending institution makes adjustable rate loans, but they are not tied to an index. Instead they start with a fixed rate and have a balloon payment at the end of three years. The institution will extend the loan after the balloon at a rate to be determined at that time if the borrower has a good payment record and has otherwise complied with the provisions of the loan. Does the institution have to provide the second notice showing the amortization of the borrower's specific loan?**

Yes. Since the loan has a fixed rate and calls for periodic payments of principal and interest, the lender is required to provide the borrower with an amortization schedule specific to such borrower's loan at closing or within three business days thereafter. It should show the principal amount borrowed, scheduled payments of principal and interest and the balance after each payment broken down by whatever payment period is called for in the loan documents (monthly, quarterly, etc.)

- 3. Our lending institution is a national bank. Do we have to comply with this law?**

Yes. The intent of the statute is to educate the consumer. Therefore all lenders that make loans in North Carolina (in other words, loans secured by real property in North Carolina) are required to provide the applicant with the Commissioner's Notice and the borrower with an amortization schedule for the borrower's loan, if applicable.

- 4. I am a loan broker. I don't make loans; I just take applications and forward them on to a lender who may in fact extend a loan. Does this law apply to me or only to the lender?**

It applies to both. To the extent that you are taking the application and sending it to the lender, the lender should ensure that one of you takes the responsibility for providing the Commissioner's Notice at application or within three business days thereafter. If in processing the application you are acting as an agent of the lender, you should provide the applicant with the required Notice. Once the loan is closed, if the lender is making a fixed rate loan otherwise covered by this statute, the lender should ensure that the borrower timely receives an amortization schedule specific to his/her loan.

- 5. Our lending is only for second mortgages; we never make a first mortgage. Do we have to comply with this law?**

No. The statute requires the Commissioner's Notice be given to all applicants' for a home loan. GS 24-1.1A(e) defines "home loan" to be a first mortgage or deed of trust. Thus, there is no requirement that the Commissioner's Notice be given to a borrower obtaining a second mortgage; however, since the Commissioner's Notice is an educational piece and the second lender may become a first, it seems clear disclosure would be permissible. Additionally, if the second is a fixed rate loan otherwise covered -- i.e., a loan to a natural person for personal, family, or household purposes secured by the borrower's home -- then a borrower might expect and appreciate an amortization schedule specific to his/her loan at closing.

6. Must the lender retain a copy of the disclosure signed by the applicant to document that we delivered a copy of the Commissioner's Notice to the applicant?

Obviously, that would be one way to prove the delivery of the document. There are other ways that may be acceptable to a bank examiner or other individual auditing a lender's performance. Having a written policy of delivery with each loan application received and documenting that the policy is rigidly followed is one way. Another would be adding a line acknowledging receipt to the Loan Application Form (or some other document signed by applicant) above the applicant's signature.

7. Our lending institution never makes fixed rate loans; we only make adjustable rate loans. Why do we have to provide the Commissioner's Notice to our applicants when it has nothing to do with the type loans we make?

The North Carolina Legislature decided that educating consumers on how loans amortize is important, and the law provides that every applicant for a home loan be provided with the Commissioner's Notice at the time of application for such loan.

8. We make fixed rate loans with a fifteen (15) year term. Many times we set them up with an amortization payment schedule based on twenty (20) or twenty-five (25) years. Do we have to provide the borrower with an amortization schedule for his/her loan at closing?

Yes. All borrowers receiving a fixed rate loan must be provided with an amortization schedule if the loan is made to a natural person(s) for personal, family, or household purposes, is less than \$300,000, and is secured by the borrower's home.

9. Our company is a Lender trying to document the fact that a borrower has received the Commissioner's Notice regarding how amortization works. We want to add a signature block and date to that form posted on the web site. Can we make that modification?

The form of the Commissioner's Notice to be delivered to the Applicant at the time of application, or within three days thereafter, is not cast in stone. You may modify the notice to add a signature block to acknowledge receipt, or you may have some other document which you normally have the applicant sign at the time of application refer to the required notice and the fact that the applicant received a copy of the notice on such date. One lender has already inquired about putting the notice on legal size paper and turning the tables to be portrait rather than landscape because of printing limitations. As long as the text is readable, accurate, and complete, you may otherwise make necessary or desirable adjustments.