



# State of North Carolina

OFFICE OF THE COMMISSIONER OF BANKS

ROY COOPER  
GOVERNOR

RAY GRACE  
COMMISSIONER OF BANKS

## Memorandum

**To:** All Consumer Finance Licensees  
**From:** Elizabeth Hammond, CFO and Consumer Finance Manager  
**Date:** October 31, 2018  
**Subject:** Consumer Finance Late Fee Rule – 04 NCAC 03E.1601(8)

A handwritten signature in cursive script, appearing to read "Elizabeth Hammond".

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This memo is intended to provide guidance on [04 NCAC 03E .0601\(8\)](#), the rule regarding late fees, which took effect August 1, 2018. In order to demonstrate when late fees are allowed under [04 NCAC 03E .0601\(8\)](#) and [N.C.G.S. § 53-177\(b\)](#), various scenarios are provided below. Please note that this demonstration is not intended to require late fees to be charged.

**Scenario #1:** Borrower agrees to pay monthly installments on the first of every month, for 12 months. Borrower makes the January payment, but does not make any payments in February or March. Lender contacts borrower and agrees to refinance a loan as of March 31st. Lender may include late fees for February and March in the refinanced loan amount.

**Scenario #2:** Borrower agrees to pay monthly installments on the first of every month, for 12 months. Borrower makes the January payment, but does not make any payments in February or March. Lender declares borrower in default after the March grace period ends. Lender may include the late fees for February and March in the default amount.

Scenario #3: Borrower agrees to pay monthly installments of \$100 on the first of every month, for 12 months. Borrower makes the January payment on time but does not make a payment in February. Borrower resumes regular payments in March.

Installment	Due Date	Pay Date	Amount Paid	Late Fees Allowed	Why?
1	1/1	1/1	\$100	No	Payment is on time
2	2/1	3/1	\$100*	Yes	Payment is late for February installment
3	3/1	4/1	\$100	Yes	Payment is late for March installment
4	4/1	5/1	\$100	Yes	Payment is late for April installment
5	5/1	6/1	\$100	Yes	Payment is late for May installment
6	6/1	7/1	\$100	Yes	Payment is late for June installment
7	7/1	8/1	\$100	Yes	Payment is late for July installment
8	8/1	9/1	\$100	Yes	Payment is late for August installment
9	9/1	10/1	\$100	Yes	Payment is late for September installment
10	10/1	11/1	\$100	Yes	Payment is late for October installment
11	11/1	12/1	\$215 (\$100 Nov. and \$115 Dec. Payment)	Yes	Payment is late for November installment
12	12/1	12/1	(\$115 Dec. Payment noted above)	No	Payment is on time for December installment
Loan has reached maturity, interest is reduced to 8% on any remaining balance owed. Once all 12 installment payments have been made, no more late fees are allowed.					

\*Lender may apply the payment made on March 1 to the oldest installment payment that was due in February.

**Scenario #4:** Borrower agrees to pay monthly installments of \$100 on the first of every month, for 12 months. Borrower does not make payments in February and March and makes no extra payments to become current.

Installment	Due Date	Pay Date	Amount Paid	Late Fees Allowed	Why?
1	1/1	1/1	\$100	No	Payment is on time
2	2/1	4/1	\$100*	Yes	Payment is late for February installment
3	3/1	5/1	\$100	Yes	Payment is late for March installment
4	4/1	6/1	\$100	Yes	Payment is late for April installment
5	5/1	7/1	\$100	Yes	Payment is late for May installment
6	6/1	8/1	\$100	Yes	Payment is late for June installment
7	7/1	9/1	\$100	Yes	Payment is late for July installment
8	8/1	10/1	\$100	Yes	Payment is late for August installment
9	9/1	11/1	\$100	Yes	Payment is late for September installment
10	10/1	12/1	\$100	Yes	Payment is late for October installment
Loan has reached maturity, interest is reduced to 8% on remaining balance owed. Late fees remaining for installments 11 and 12 may be added to the principal balance.					

\*Lender may apply the payment made on April 1 to the oldest installment payment that was due in February.

**Scenario #5:** Borrower agrees to pay monthly installments of \$100 on the first of every month, for 12 months. Borrower makes the January payment as agreed but can only pay a portion of the February installment.

Installment	Due Date	Pay Date	Amount Paid	Late Fees Allowed	Why?
1	1/1	1/1	\$100	No	Payment is on time
2	2/1	2/1 Partial Payment	\$50	No	Payment is late for February partial payment made after grace
		2/14 Partial Payment	\$50	Yes	

					period
3	3/1	3/1	\$100	No	Payment is on time
4	4/1	4/12 Partial Payment 4/15 Partial Payment	\$80 \$20	Yes No	Payment is late for April installment
5	5/1	5/12 Partial Payment 6/20 Partial Payment	\$80 \$35 (\$20 May and \$15 June Payment)	Yes No	Payment is late for May installment
6	6/1	6/20 Partial Payment 7/15 Partial Payment	<i>(\$15 June payment noted above)</i> \$185 (\$85 June and \$100 July payment)	Yes No	Payment is late for June installment
7	7/1	7/15	<i>(\$100 July payment noted above)</i>	Yes	Payment is late for July installment
8	8/1	8/1	\$100	No	Payment is on time
9	9/1	9/1	\$100	No	Payment is on time
10	10/1	10/1	\$100	No	Payment is on time
11	11/1	11/15 Partial Payment 12/1 Partial Payment	\$10 \$190 (\$90 Nov. and \$100 Dec. Payment)	Yes No	Payment is late for Nov. installment
12	12/1	12/1	<i>(\$100 Dec. payment noted above)</i>	No	Payment is on time
Loan has reached maturity, interest is reduced to 8% on remaining balance owed.					

We hope this helps provide clarity on how late fees may be applied. If you have any questions or concerns, please do not hesitate to contact me at (919) 733-0582 or [ehammond@nccob.gov](mailto:ehammond@nccob.gov).