



## North Carolina Law Life

### Before You Lose Your Friend and Your Money...

**By: Donna Ray Chmura.** *This was posted Monday, July 19th, 2010*

If you lend money to a friend, expect to lose the friend and the money. And in North Carolina, if you help a friend buy a house, you could also be committing a class 3 misdemeanor.

Until recently, the [North Carolina Mortgage Licensing Act](#) made it a criminal act for a non-licensed individual to loan money to someone else for the purchase of a property to be used for “personal, family or household use.” In English, much to the dismay of the real property bar, this means, it was illegal for parents to lend money to their children for the purpose of buying a home.

This law was modified about this time last year, and now specifically allows an individual to provide a residential mortgage loan to an immediate family member. “Immediate family member” means a spouse, child, sibling, parent, grandparent, or grandchild, or the spouse of an immediate family member. This term includes stepparents, stepchildren, stepsiblings, and adoptive relationships.

It is still illegal for an aunt and uncle to loan money to a niece or nephew, or a good family friend to loan you money to buy a house. A lot of real estate attorneys think an individual should be permitted to make a few loans to friends or family over the course of his lifetime, without having to register as a mortgage lender, broker or originator.

I was also reminded recently that there could be tax consequences to loaning money at below-market interest rates (or at no interest). If you don’t charge interest, the interest you didn’t collect could be considered income, according to the [IRS](#). They could also be considered gifts.

Finally, it is especially important to document the terms of a loan with a friend or family member, even if you just assume you’ll never see the money again. If the money is going to starting up a business, the business owner may not be able to get a bank loan or other financing down the road if he can’t show where his start-up capital came from. You may also think you own a piece of the business (equity) while the owner thinks you gave a loan (debt).

When in doubt, please consult a [business attorney](#) about the consequences of loaning money to friends and family.

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