

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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HOUSE BILL 2049*

Short Title: Use of "Bank" in Business Name.

(Public)

Sponsors: Representatives Brubaker, Holmes, Dickson, Hasty, and Rogers.

Referred to: Commerce.

May 23, 1990

A BILL TO BE ENTITLED

AN ACT TO CLARIFY USE OF THE TERM "BANK," "BANKING,"
"BANKER," OR "TRUST" IN CONNECTION WITH A BUSINESS.

The General Assembly of North Carolina enacts:

Section 1. G. S. 53-127 reads as rewritten:

"§ 53-127. ~~Use of "bank," "banking," or "trust" in corporate name.~~ **Unlawful use of terms indicating that business is bank or trust company.**

(a) Definitions. The following definitions apply in this section.

(1) Banking. The business of receiving or soliciting money on deposit.

(2) Banking entity. A person, partnership, corporation, or other entity that is engaged in the banking or trust business in North Carolina and is (i) subject to the supervision of the Commissioner of Banks under this Chapter, (ii) subject to supervision by the Administrator of Savings Institutions under Chapter 54B or (iii) a banking or savings institution authorized to transact a banking or trust business in this State under federal law.

(3) Nonbanking entity. A person, partnership, corporation, or other entity that is not a banking entity.

(b) Restrictions. No nonbanking entity may use any sign or written or printed paper indicating that it is a bank, savings bank, trust company, or place of banking. No entity may use the word 'bank,' 'savings bank,' 'banking,' 'banker,' or 'trust company,' or the equivalent or plural of any of these words in connection with any business other than that of banking. This section does not prohibit an individual from acting in a trust capacity.

1 (c) Exceptions.

2 (1) A nonbanking entity may use any of the terms listed above in its name
3 if the context or remaining words show clearly that the business is not
4 a bank or trust company and is not engaged in the banking or trust
5 business.

6 (2) A nonbanking entity may use any of the terms listed above where the
7 term is the proper name of a principal or former principal in the entity
8 and the use of the name is made in good faith and not in an effort to
9 deceive the public.

10 (3) A corporation that is a bank holding company as defined in G.S. 53-
11 226(2) or a savings and loan holding company as defined in G.S. 54B-
12 261(d) may use the words 'bank,' 'banker,' and 'trust company,' and
13 the equivalent and plural of these words in its name and may use a
14 name similar to that of any of its subsidiary banks or stock
15 associations.

16 (4) A corporation incorporated before January 1, 1905, may retain the
17 word 'trust' in its name, although it does not transact a business that
18 requires examination by the Commissioner of Banks.

19 (d) Penalty. Violation of this section is a misdemeanor, punishable by a fine of
20 up to five hundred dollars (\$500.00).

21 ~~Except for savings and loan associations acting pursuant to the authority granted in~~
22 ~~G.S. 54B-26, no corporation shall hereafter be chartered under the laws of this State~~
23 ~~with the words "bank," "banking," or "trust" as a part of its name except corporations~~
24 ~~reporting to and under the supervision of the Commissioner of Banks, or corporations~~
25 ~~under the supervision of the Commissioner of Insurance; nor shall any corporate name~~
26 ~~be amended so as to include the words "bank," "banking," "banker," or "trust," unless the~~
27 ~~corporation be under such supervision. Except for savings and loan associations acting~~
28 ~~pursuant to the authority granted in G.S. 54B-26, no person, association, firm or~~
29 ~~corporation domiciled within the State of North Carolina except corporations, persons,~~
30 ~~associations, or firms reporting to and under the supervision of the Commissioner of~~
31 ~~Banks or under the supervision of the Commissioner of Insurance, shall therein~~
32 ~~advertise or put forth any sign as bank, banking, banker or trust company, or use the~~
33 ~~word "bank," "banking," "banker," or "trust," as a part of its name and title, or in any~~
34 ~~way solicit or receive deposits or transact business as a trust company: Provided, that~~
35 ~~this Chapter shall not be held to prevent any individual as such from acting in any trust~~
36 ~~capacity as heretofore: Provided, further, that it shall be lawful for any corporation~~
37 ~~incorporated prior to January 1, 1905, to retain the word "trust" in the name of said~~
38 ~~corporation, though it does not transact a banking business or such other business as~~
39 ~~requires its examination by the Commissioner of Banks or the Commissioner of~~
40 ~~Insurance.~~

41 ~~Any violation of the provisions of this section shall be a misdemeanor, and upon~~
42 ~~conviction thereof the offender shall be fined in a sum not exceeding five hundred~~
43 ~~dollars (\$500.00) for each offense."~~

44 Sec. 2. This act is effective upon ratification.