

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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SENATE BILL 1350*

Short Title: Savings Inst'n. Conforming Changes.

(Public)

Sponsors: Senators Staton, Plyler, Carpenter, Conder; Block, Johnson of Cabarrus, Marvin, and Sands.

Referred to: Banks and Thrift.

May 23, 1990

A BILL TO BE ENTITLED

AN ACT TO MAKE TECHNICAL AND CONFORMING CHANGES TO THE SAVINGS INSTITUTIONS LAW.

The General Assembly of North Carolina enacts:

Section 1. G.S. 54B-30(5) reads as rewritten:

"(5) Within 60 days after approval of the proceedings by the Administrator, the association shall file an application, in the manner prescribed or authorized by the laws and regulations of the United States, to consummate the conversion to a federal association. A copy of the charter or authorization issued to such association by the ~~Federal Home Loan Bank Board~~, federal regulatory authority, or a certificate showing the organization or conversion of such association into a federal savings and loan association, and upon such filing with the Administrator the association shall cease to be a State association and shall be a federal association."

Sec. 2. G.S. 54B-33(f) reads as rewritten:

"(f) The administrator may promulgate such rules and regulations as may be necessary to govern conversions; provided, however, that such rules and regulations as may be promulgated by the Administrator shall be equal to or exceed the requirements for conversion imposed by the rules and regulations governing conversions of federal chartered mutual savings and loan associations of the ~~Federal Home Loan Bank Board~~ as set forth in the ~~Federal Register, Vol. 44, No. 62, Thursday, March 29, 1979, entitled 'Part 563b~~

1 ~~Conversion From Mutual to Stock Form' as these may be amended from time to time and other~~
2 ~~applicable rules and regulations effective as of the date of ratification. associations.~~"

3 Sec. 3. G.S. 54B-48.2 reads as rewritten:

4 **"§ 54B-48.2. Definitions.**

5 Notwithstanding the provisions of G.S. 54B-4, as used in this Article, unless the
6 context requires otherwise:

- 7 (1) 'Acquire', as applied to an association or a savings and loan holding
8 company, means any of the following actions or transactions:
- 9 a. The merger or consolidation of an association with another
10 association or savings and loan holding company or a savings
11 and loan holding company with another savings and loan
12 holding company.
 - 13 b. The acquisition of the direct or indirect ownership or control of
14 voting shares of an association or savings and loan holding
15 company if, after the acquisition, the acquiring association or
16 savings and loan holding company will directly or indirectly
17 own or control more than five percent (5%) of any class of
18 voting shares of the acquired association or savings and loan
19 holding company.
 - 20 c. The direct or indirect acquisition of all or substantially all of the
21 assets of an association or savings and loan holding company.
 - 22 d. The taking of any other action that would result in the direct or
23 indirect control of an association or savings and loan holding
24 company.
- 25 (2) 'Administrator' means the Administrator of the Savings Institutions
26 Division.
- 27 (3) 'Association' means a mutual or capital stock savings and loan
28 association, building and loan association or savings bank chartered
29 under the laws of any one of the states or ~~by the Federal Home Loan~~
30 ~~Bank Board, pursuant to the 'Home Owners' Loan Act of 1933', 12 U.S.C.~~
31 ~~Section 1464, as amended. under the laws of the United States.~~
- 32 (4) 'Branch office' means any office at which an association accepts
33 deposits. The term branch office does not include:
- 34 a. Unmanned automatic teller machines, point-of-sale terminals,
35 or similar unmanned electronic banking facilities at which
36 deposits may be accepted;
 - 37 b. Offices located outside the United States; and
 - 38 c. Loan production offices, representative offices, service
39 corporation offices, or other offices at which deposits are not
40 accepted.
- 41 (5) 'Company' means that which is set forth in the Federal Savings and
42 Loan Holding Company Act, 12 U.S.C. Section 1730a(a)(1)(C), as
43 amended.

- 1 (6) 'Control' means that which is set forth in the Federal Savings and Loan
2 Holding Company Act, 12 U.S.C. Section 1730a(a)(2), as amended.
- 3 (7) 'Deposits' means all demand, time, and savings deposits, without
4 regard to the location of the depositor: Provided, however, that
5 'deposits' shall not include any deposits by associations. For purposes
6 of this Article, determination of deposits shall be made with reference
7 to regulatory reports of condition or similar reports made by or to State
8 and federal regulatory authorities.
- 9 (8) 'Federal association' means an association chartered ~~by the Federal~~
10 ~~Home Loan Bank Board pursuant to the 'Home Owners' Loan Act of~~
11 ~~1933', 12 U.S.C. Section 1464, as amended. under the laws of the~~
12 ~~United States.~~
- 13 (9) 'North Carolina association' means an association organized under the
14 laws of the State of North Carolina or under the laws of the United
15 States and that:
16 a. Has its principal place of business in the State of North
17 Carolina;
18 b. Which if controlled by an organization, the organization is
19 either a North Carolina association, Southern Region
20 association, North Carolina savings and loan holding company,
21 or a Southern Region savings and loan holding company; and
22 c. More than eighty percent (80%) of its total deposits, other than
23 deposits located in branch offices acquired pursuant to Section
24 123 of the Garn-St. Germain Depository Institutions Act of
25 1982 (12 U.S.C. 1730a(m)) or comparable state law, are in its
26 branch offices located in one or more of the Southern Region
27 states.
- 28 (10) 'North Carolina Savings and Loan Holding Company' means
29 a savings and loan holding company that:
30 a. Has its principal place of business in the State of North
31 Carolina;
32 b. Has total deposits of its Southern Region association
33 subsidiaries and North Carolina association subsidiaries that
34 exceed eighty percent (80%) of the total deposits of all
35 association subsidiaries of the savings and loan holding
36 company other than those association subsidiaries held pursuant
37 to Section 123 of the Garn-St. Germain Depository Institutions
38 Act of 1982 (12 U.S.C. 1730a(m)) or comparable state law.
- 39 (11) 'Principal place of business' of an association means the state in which
40 the aggregate deposits of the association are the largest. For the
41 purposes of this Article, the principal place of business of a savings
42 and loan holding company is the state where the aggregate deposits of
43 the association subsidiaries of the holding company are the largest.

- 1 (12) 'Savings and loan holding company' means any company which
2 directly or indirectly controls an association or controls any other
3 company which is a savings and loan holding company.
- 4 (13) 'Service Corporation' means any corporation, the majority of the
5 capital stock of which is owned by one or more associations and which
6 engages, directly or indirectly, in any activities which may be engaged
7 in by a service corporation in which an association may invest under
8 the laws of one of the states or under the laws of the United States.
- 9 (14) 'Southern Region association' means an association other than a North
10 Carolina association organized under the laws of one of the Southern
11 Region states or under the laws of the United States and that:
- 12 a. Has its principal place of business only in a Southern Region
13 state other than North Carolina;
- 14 b. Which if controlled by an organization, the organization is
15 either a Southern Region association or a Southern Region
16 savings and loan holding company; and
- 17 c. More than eighty percent (80%) of its total deposits, other than
18 deposits located in branch offices acquired pursuant to Section
19 123 of the Garn-St. Germain Depository Institutions Act of
20 1982 (12 U.S.C. 1730a(m)) or comparable state law, are in its
21 branch offices located in one or more of the Southern Region
22 states.
- 23 (15) 'Southern Region savings and loan holding company' means a savings
24 and loan holding company that:
- 25 a. Has its principal place of business in a Southern Region state
26 other than the State of North Carolina;
- 27 b. Has total deposits of its Southern Region association
28 subsidiaries and North Carolina association subsidiaries that
29 exceed eighty percent (80%) of the total deposits of all
30 association subsidiaries of the savings and loan holding
31 company other than those association subsidiaries held pursuant
32 to Section 123 of the Garn-St. Germain Depository Institutions
33 Act of 1982 (12 U.S.C. 1730a(m)) or comparable state law.
- 34 (16) 'Southern Region states' means the states of Alabama, Arkansas,
35 Florida, Georgia, Kentucky, Louisiana, Maryland, Mississippi, North
36 Carolina, South Carolina, Tennessee, Virginia, West Virginia, and the
37 District of Columbia.
- 38 (17) 'State' means any state of the United States and the District of
39 Columbia.
- 40 (18) 'State association' means an association organized under the laws of
41 one of the states.
- 42 (19) 'Subsidiary' means that which is set forth in the Federal Savings and
43 Loan Holding Company Act, 12 U.S.C. Section 1730a(a)(1)(H), as
44 amended."

1 Sec. 4. G.S. 54B-48.3 is amended by adding a new subsection to read:

2 "(b1) A North Carolina savings and loan holding company or a North Carolina
3 association may acquire any Southern Region association or Southern Region savings
4 and loan holding company with the approval of the Administrator. The North Carolina
5 savings and loan holding company or North Carolina association shall submit to the
6 Administrator an application for approval of the acquisition, which application shall be
7 approved only if the application includes a business plan extending for an initial period
8 of at least three years from the date of the acquisition which shall be renewed thereafter
9 for as long as may be required by the Administrator. The association may not deviate
10 without the prior written approval of the Administrator from the business plan which
11 shall address such matters as the Administrator may deem appropriate for the protection
12 of the depositors and members of the North Carolina association and the general public.
13 The business plan shall address, without limitation:

14 (1) Insurance of depositors' accounts.

15 (2) Conversion of corporate form or other fundamental changes.

16 (3) Closing, selling, or divesting any or all North Carolina branches."

17 Sec. 5. G.S. 54B-56(b) reads as rewritten:

18 "(b) The Administrator shall furnish a copy of the report to the association
19 examined and may, upon request, furnish a copy of or excerpts from the report to the
20 ~~Federal Home Loan Bank Board, a Federal Home Loan Bank, any mutual deposit guaranty~~
21 ~~association organized and operated under the provisions of Article 12 of this Chapter, or the~~
22 ~~Federal Savings and Loan Insurance Corporation or its successor.~~ appropriate federal
23 regulatory authorities."

24 Sec. 6. G.S. 54B-61(b) reads as rewritten:

25 "(b) In lieu of causing such appraisals to be made, the Administrator may accept
26 an appraisal caused to be made by a ~~Federal Home Loan Bank, the Federal Home Loan~~
27 ~~Bank Board or by the Federal Savings and Loan Insurance Corporation or any mutual~~
28 ~~deposit guaranty association organized and operating under the provisions of Article 12~~
29 ~~of this Chapter.~~ the appropriate federal regulatory authority."

30 Sec. 7. G.S. 54B-77(a) reads as rewritten:

31 "(a) In addition to the powers granted under this Chapter, any savings and loan
32 association incorporated or operated under the provisions of this Chapter is herein
33 authorized to:

34 (1) Establish off the premises of any principal office or branch a customer
35 communications terminal, point-of-sale terminal, automated teller
36 machine, automated or other direct or remote information-processing
37 device or machine, whether manned or unmanned, through or by
38 means of which funds or information relating to any financial service
39 or transaction rendered to the public is stored and transmitted,
40 instantaneously or otherwise to or from an association terminal or
41 terminals controlled or used by or with other parties; and the
42 establishment and use of such a device or machine shall not be deemed
43 to constitute a branch office and the capital requirements and standards
44 for approval of a branch office as set forth in the statutes and

1 regulations, shall not be applicable to the establishment of any such
2 off-premises terminal, device or machine; and associations may
3 through mutual consent share on-premises unmanned automated teller
4 machines and cash dispensers. The Administrator may prescribe rules
5 and regulations with regard to the application for permission for use,
6 maintenance and supervision of said terminals, devices and machines;

7 (2) Subject to such regulations as the Administrator may prescribe, a state-
8 chartered association is authorized to issue credit cards, extend credit
9 in connection therewith, and otherwise engage in or participate in
10 credit card operations;

11 (3) Subject to such regulations as the Administrator may prescribe, a state-
12 chartered association may act as a trustee, executor, administrator,
13 guardian or in any other fiduciary capacity permitted for federal
14 savings and loan associations by the Congress of the United States, Federal
15 Home Loan Bank Board and the Federal Savings and Loan Insurance
16 Corporation; associations;

17 (4) a. In accordance with rules and regulations issued by the
18 Administrator, mutual capital certificates may be issued by state-
19 chartered associations and sold directly to subscribers or through
20 underwriters, and such certificates shall constitute part of the general
21 reserve and net worth of the issuing association. The Administrator, in
22 the rules and regulations relating to the issuance and sale of mutual
23 capital certificates, shall provide that such certificates:

24 1. Shall be subordinate to all savings accounts, savings
25 certificates, and debt obligations;

26 2. Shall constitute a claim in liquidation on the general
27 reserves, surplus and undivided profits of the association
28 remaining after the payment of all savings accounts,
29 savings certificates, and debt obligations;

30 3. Shall be entitled to the payment of dividends; and

31 4. May have a fixed or variable dividend rate.

32 b. The Administrator shall provide in the rules and regulations for
33 charging losses to the mutual capital certificate, reserves, and
34 other net worth accounts."

35 Sec. 8. G.S. 54B-109(b) reads as rewritten:

36 "(b) An association which employs collection agents, who for any reason are not
37 covered by the bond as hereinabove required, shall provide for the bonding of each such
38 agent in an amount equal to at least twice the average monthly collections of such agent.
39 Such agents shall be required to make settlement with the association at least once
40 monthly. No such coverage by bond will be required of any agent which is a ~~bank~~
41 ~~insured by the Federal Deposit Insurance Corporation or an association insured by the Federal~~
42 ~~Savings and Loan Insurance Corporation or a mutual deposit guaranty association.~~ federally
43 insured depository institution. The amount and form of such bonds and the sufficiency
44 of the surety thereon shall be approved by the board of directors and the Administrator

1 before such is valid. All such bonds shall provide that a cancellation thereof either by
2 the surety or by the insured shall not become effective unless and until 30 days' notice
3 in writing shall have been given to the Administrator."

4 Sec. 9. G.S. 54B-121(c) is amended by adding a new subdivision to read:

5 "(3) An association may establish demand deposit accounts as a class of
6 withdrawable accounts. The association shall not permit any
7 overdraft, including an intraday overdraft, on behalf of an affiliate or
8 incur any overdraft in the association's account at a federal reserve
9 bank or federal home loan bank on behalf of an affiliate."

10 Sec. 10. G.S. 54B-154 reads as rewritten:

11 **"§ 54B-154. Insider loans.**

12 The Administrator ~~shall~~may promulgate rules and regulations ~~consistent with this~~
13 ~~section, no less stringent than the requirements of the appropriate federal regulatory~~
14 authority, and as he deems necessary, to govern the making of loans to officers and
15 directors, and their associates, and companies or other business entities controlled by
16 them.

17 ~~Such loans shall be in the ordinary business of the association, which do not involve~~
18 ~~more than normal risk of collectibility, or pose other unfavorable features. Such loans~~
19 ~~shall be made only when approved by a majority of the directors, by resolution upon~~
20 ~~which no director interested in the loan proceeds may vote, and only upon a full~~
21 ~~disclosure of the transaction to the board. Full disclosure must include whether the loan~~
22 ~~is made on substantially the same terms, including interest rate and collateral, as those~~
23 ~~prevailing at the time for comparable loans to other persons. Departure from the terms~~
24 ~~of loans made to others must be justified and approved as a part of the resolution. The~~
25 ~~Administrator's rules shall clearly state that no officer, director, or their associates, or~~
26 ~~companies or other business entities controlled by them, shall enjoy an improper~~
27 ~~advantage with respect to loan transactions beyond those advantages enjoyed by other~~
28 ~~loan applicants."~~

29 Sec. 11. G.S. 54B-194(d) reads as rewritten:

30 "(d) The permitted activities of a service corporation shall be described in the
31 rules and regulations as promulgated by the Administrator. In addition, a service
32 corporation may engage in those activities which are approved ~~by the Federal Home Loan~~
33 ~~Bank Board~~ for service corporations owned solely by federal associations who have their
34 principal offices in this State, unless such activities are prohibited by the
35 Administrator."

36 Sec. 12. G.S. 54B-195 reads as rewritten:

37 **"§ 54B-195. Any loan or investment permitted for federal associations.**

38 Subject to such limitations and restrictions as the Administrator may prescribe
39 through rules and regulations, any State association is authorized and permitted to make
40 any loan or investment, or engage in any activity, which may be permitted ~~by the Federal~~
41 ~~Home Loan Bank Board, the Federal Savings and Loan Insurance Corporation, and the United~~
42 ~~States Congress~~ for federal associations whose principal offices are located within this
43 State. Every loan or investment made by a State association prior to the enactment of
44 this Chapter shall for all purposes be considered to have been permitted loans or

1 investments if federal associations were authorized to make such loans or investments at
2 the time they were made by the State association."

3 Sec. 13. G.S. 54B-210 reads as rewritten:

4 **"§ 54B-210. Components of liquidity fund.**

5 (a) Every State association shall establish and maintain a regulatory capital
6 account in an amount and in such funds and investments that comply with the
7 requirements of ~~its federal insurer of withdrawable accounts.~~ the appropriate federal
8 regulatory authorities.

9 (b) The failure of a State association to maintain the required level and type of
10 regulatory capital may be grounds for supervisory action by the Administrator.

11 (c) The Administrator may adopt rules to implement this section."

12 Sec. 14. G.S. 54B-216 reads as rewritten:

13 **"§ 54B-216. General reserve.**

14 (a) Every State association shall establish and maintain general valuation
15 allowances and specific loss reserves in compliance with the requirements of ~~its federal~~
16 ~~insurer of withdrawable accounts.~~ the appropriate federal regulatory authorities.

17 (b) The failure of a State association to maintain the required level of general
18 valuation allowances or specific loss reserves may be grounds for supervisory action by
19 the Administrator.

20 (c) The Administrator may adopt rules to implement this section."

21 Sec. 15. G.S. 54B-236 reads as rewritten:

22 **"§ 54B-236. Definitions.**

23 The term 'institution' as used in this Article shall mean savings and loan associations
24 organized or operated under the provisions of this Chapter, or credit unions organized or
25 operated under the provisions of Articles 14A to 14L of Chapter 54 of the General
26 Statutes, or any institution that is eligible for insurance by ~~the Federal Savings and Loan~~
27 ~~Insurance Corporation,~~ the Federal Deposit Insurance Corporation or the National Credit
28 Union Administration."

29 Sec. 16. This act is effective upon ratification.