

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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SENATE BILL 91

Banks and Thrift Institutions Committee Substitute Adopted 4/30/91

Short Title: Savings Bank Act.

(Public)

Sponsors:

Referred to:

February 18, 1991

1 A BILL TO BE ENTITLED
2 AN ACT TO CREATE A SAVINGS BANK CHARTER IN NORTH CAROLINA.
3 The General Assembly of North Carolina enacts:

4 Section 1. The General Statutes of North Carolina are amended by adding a
5 new Chapter 54C to read as follows:

6 **“ARTICLE 1.**
7 **“GENERAL PROVISIONS.**

8 **“§ 54C-1. Title.**

9 This Chapter shall be known and may be cited as ‘Savings Banks.’

10 **“§ 54C-2. Purpose.**

11 The purpose of this Chapter is:

- 12 (1) To provide for the safe and sound conduct of the business of savings
13 banks, the conservation of their assets and the maintenance of public
14 confidence in savings banks;
15 (2) To provide for the protection of the interests of customers and
16 members;
17 (3) To provide the opportunity for savings banks to remain competitive
18 with each other and with other depository institutions existing under
19 other laws of this and other states and the United States;
20 (4) To provide for an increase in the savings base of the State and local
21 control of the means of finance and accumulation of capital;
22 (5) To provide the opportunity for the management of savings banks to
23 exercise prudent business judgment in conducting the affairs of

1 savings banks to the extent compatible with the purposes recited in this
2 section; and

- 3 (6) To provide adequate rule-making power and administrative discretion
4 so that the regulation and supervision of savings banks are readily
5 responsive to changes in local economic conditions and depository
6 institution practices.

7 **"§ 54C-3. Applicability of Chapter.**

8 The provisions of this Chapter, unless the context otherwise specifies, shall apply to
9 all State savings banks.

10 **"§ 54C-4. Definitions and application of terms.**

11 As used in this Chapter, unless the context otherwise requires, the term:

- 12 (1) 'Administrator' means the Administrator of the Savings Institution
13 Division.
- 14 (2) 'Affiliate' means any person or corporation which controls, is
15 controlled by, or is under common control with a savings institution.
- 16 (3) 'Associate' when used to indicate a relationship with any person,
17 means (i) any corporation or organization (other than the applicant or a
18 majority-owned subsidiary of the applicant) of which such person is an
19 officer or partner or is, directly or indirectly, the beneficial owner of
20 ten percent (10%) or more of any class of equity securities, (ii) any
21 trust or other estate in which such person has a substantial beneficial
22 interest or as to which such person serves as trustee or in a similar
23 fiduciary capacity, and (iii) any relative or spouse who lives in the
24 same house as that person, or any relative of that person's spouse who
25 lives in the same house as that person, or who is a director or officer of
26 the applicant or any of its parents or subsidiaries.
- 27 (4) 'Association' means a savings and loan association as defined by G.S.
28 54B-4(b)(5).
- 29 (5) 'Branch office' means an office of a savings bank other than its
30 principal office which renders savings institution services.
- 31 (6) 'Capital stock' means securities which represent ownership of a stock
32 savings bank.
- 33 (7) 'Certificate of incorporation or charter' means the document which
34 represents the corporate existence of a State savings bank.
- 35 (8) 'Commission' means the North Carolina Savings Institutions
36 Commission.
- 37 (9) 'Conflict of interest' means a matter before the board of directors in
38 which one or more of the directors, officers, or employees has a direct
39 or indirect financial interest in its outcome.
- 40 (10) 'Control' means the power, directly or indirectly, to direct the
41 management or policies of a savings bank or to vote twenty-five
42 percent (25%) or more of any class of voting securities for a savings
43 bank.

- 1 (11) 'Depository institution' means a person, firm, or corporation engaged
2 in the business of receiving, soliciting, or accepting money or its
3 equivalent on deposit and/or lending money or its equivalent.
- 4 (12) 'Disinterested directors' means those directors who have absolutely no
5 direct or indirect financial interest in the matter before them.
- 6 (13) 'Dividends on stock' means the earnings of a savings bank paid out to
7 holders of capital stock in a stock savings bank.
- 8 (14) 'Division' means the Savings Institutions Division.
- 9 (15) 'Examination and investigation' means a supervisory inspection of a
10 savings bank or proposed savings bank which may include inspection
11 of every relevant piece of information including subsidiary or affiliated
12 businesses.
- 13 (16) 'Immediate family' means one's spouse, father, mother, children,
14 brothers, sisters, and grandchildren; and the father, mother, brothers,
15 and sisters of one's spouse; and the spouse of one's child, brother, or
16 sister.
- 17 (17) 'Insurance of deposit accounts' means insurance on a savings bank's
18 deposit accounts when the beneficiary is the holder of such insured
19 account.
- 20 (18) 'Loan production office' means an office of a savings bank other than
21 the principal or branch offices whose activities are limited to the
22 generation of loans.
- 23 (19) 'Members' means deposit account holders and borrowers in a State
24 mutual savings bank.
- 25 (20) 'Mutual savings bank' means a savings bank owned by members of the
26 savings bank and organized under the provisions of this Chapter.
- 27 (21) 'Net worth' means a savings bank's total assets less total liabilities as
28 defined by Generally Accepted Accounting Principles plus
29 unallocated, general loan loss reserves.
- 30 (22) 'Original incorporators' means the organizers of a State savings bank
31 responsible for the business of a proposed savings bank from the filing
32 of the application to the Commission's final decision on such
33 application.
- 34 (23) 'Plan of conversion' means a detailed outline of the procedure of the
35 conversion of a savings institution from one to another regulatory
36 authority, from one to another form of ownership, or from one to
37 another charter.
- 38 (24) 'Principal office' means the office which houses the headquarters of a
39 savings bank.
- 40 (25) 'Proposed savings bank' means an entity in organizational procedures
41 prior to the Commission's final decision on its charter application.
- 42 (26) 'Registered agent' means the person named in the certificate of
43 incorporation upon whom service of legal process shall be deemed
44 binding upon the savings bank.

- 1 (27) 'Savings bank' includes a State savings bank or a federal savings bank
2 unless limited by use of the words 'State' or 'federal'.
- 3 (28) 'Savings institution' means either an association or a savings bank.
- 4 (29) 'Service corporation' means a corporation operating under the
5 provision of Article 7 of this Chapter which engages in activities
6 determined by the rules and regulations of the Administrator to be
7 incidental to the conduct of a depository institution business as
8 provided in this Chapter or activities which further or facilitate the
9 corporate purposes of a savings bank, or which furnishes services to a
10 savings bank or subsidiaries of a savings bank, the voting stock of
11 which is owned directly or indirectly by one or more savings
12 institutions.
- 13 (30) 'This Chapter' means Chapter 54C of the North Carolina General
14 Statutes.
- 15 (31) 'This State' means the State of North Carolina.
- 16 (32) 'State savings bank' means a depository institution organized under
17 this Chapter and operated under the provisions of this Chapter; or a
18 corporation organized under the provisions of federal law and so
19 converted as to be operated under the provisions of this Chapter.
- 20 (33) 'Stock savings bank' means all savings banks owned by holders of
21 capital stock and organized under the provisions of this Chapter.
- 22 (34) 'Voluntary dissolution' means the dissolution and liquidation of a
23 savings bank initiated by its ownership.

"ARTICLE 2.

"INCORPORATION AND ORGANIZATION.

"§ 54C-6. Hearings.

27 Any hearing required to be held by this Chapter shall be conducted in accordance
28 with the applicable provisions of Article 3A of Chapter 150B of the General Statutes.

"§ 54C-7. Application of Chapter on business corporations.

30 All the provisions of law relating to private corporations, and particularly those
31 enumerated in Chapter 55, of the General Statutes, entitled 'North Carolina Business
32 Corporation Act,' which are not inconsistent with this Chapter, or with the proper
33 business of depository institutions shall be applicable to all State savings banks.

"§ 54C-8. Scope and prohibitions; existing charters; injunctions.

35 (a) Nothing in this Chapter shall be construed to invalidate any charter that was
36 valid prior to the enactment of this Chapter. Any savings banks so chartered on the
37 effective date of this Chapter may continue operation in accordance with the provisions
38 of the Chapter pursuant to which it was chartered. However, no depository institution
39 after the date this Chapter becomes effective may be qualified as a savings bank except
40 in accordance with the provisions of this Chapter. Any savings bank chartered pursuant
41 to this Chapter shall use the letters 'SSB' in its legal name.

42 (b) Except as provided in subsection (a), no person or group of persons, nor any
43 corporation, company, or savings bank except one incorporated and licensed in
44 accordance with the provisions of this Chapter or federal law to operate a savings bank

1 shall operate as a savings bank. Unless so authorized as a State or federal savings bank
2 and engaged in transacting a depository institution business, no person or group of
3 persons, nor any corporation, company, or savings bank domiciled and doing business
4 in this State shall:

5 (1) Use in its name the term 'savings bank' or words of similar import or
6 connotation that lead the public reasonably to believe that the business
7 so conducted is that of a savings bank; or

8 (2) Use any sign, or circulate or use any letterhead, billhead, circular, or
9 paper whatsoever, or advertise or communicate in any manner that
10 would lead the public reasonably to believe that it is conducting the
11 business of a savings bank.

12 (c) Upon application by the Administrator or by any savings bank, a court of
13 competent jurisdiction may issue an injunction to restrain any person or entity from
14 violating or from continuing to violate any of the foregoing provisions of subsection
15 (b).

16 **"§ 54C-9. Application to organize a savings bank.**

17 (a) It shall be lawful for any one or more natural persons (hereinafter referred to
18 as the 'incorporators'), a majority of whom shall be domiciled in this State to organize
19 and establish a savings bank in order to promote the purposes of this Chapter, subject to
20 approval as provided in this Chapter. The incorporators shall file with the
21 Administrator a preliminary application to organize a State savings bank in the form to
22 be prescribed by the Administrator, together with the proper nonrefundable application
23 fee.

24 (b) The application to organize a State savings bank shall be received by the
25 Administrator not less than 60 days prior to the scheduled consideration of the
26 application by the Commission, and it shall contain:

27 (1) The original of the certificate of incorporation, which shall be signed
28 by the original incorporators, or a majority of them, but not less than
29 five, and shall be properly acknowledged by a person duly authorized
30 by this State to take proof or acknowledgment of deeds; and two
31 conformed copies;

32 (2) The names and addresses of the incorporators; and the names and
33 addresses of the initial members of the board of directors;

34 (3) Statements of the anticipated receipts, expenditures, earnings, and
35 financial condition of the savings bank for its first three years of
36 operation, or such longer period as the Administrator may require;

37 (4) A showing satisfactory to the Commission that:

38 a. The public convenience and advantage will be served by the
39 establishment of the proposed savings bank;

40 b. There is a reasonable demand and necessity in the community
41 which will be served by the establishment of the proposed
42 savings bank;

43 c. The proposed savings bank will have a reasonable probability
44 of sustaining profitable and beneficial operations within a

1 reasonable time in the community in which the proposed
2 savings bank intends to locate;

3 d. The proposed savings bank, if established, will promote healthy
4 and effective competition in the community in the delivery to
5 the public of savings institution services;

6 (5) The proposed bylaws;

7 (6) Statements, exhibits, maps, and other data which may be prescribed or
8 requested by the Administrator, which data shall be sufficiently
9 detailed and comprehensive so as to enable the Administrator to pass
10 upon the criteria set forth in this Article.

11 (c) The application shall be signed by the original incorporators or a majority of
12 them but not less than five, and shall be properly acknowledged by a person duly
13 authorized by this State to take proof and acknowledgment of deeds.

14 **"§ 54C-10. Certificate of incorporation.**

15 (a) The certificate of incorporation of a proposed mutual savings bank shall set
16 forth:

17 (1) The name of the savings bank, which must not so closely resemble the
18 name of an existing depository institution doing business under the
19 laws of this State as to be likely to mislead the public;

20 (2) The county and city or town where its principal office is to be located
21 in this State; and the name of its registered agent and the address of its
22 registered office, including county and city or town, and street and
23 number;

24 (3) The period of duration, which may be perpetual. When the certificate
25 of incorporation fails to state the period of duration, it shall be
26 considered perpetual;

27 (4) The purposes for which the savings bank is organized which shall be
28 limited to purposes permitted under the laws of this State for savings
29 banks;

30 (5) The amount of the entrance fee per deposit account based upon the
31 amount pledged;

32 (6) The minimum amount on deposit in deposit accounts before it shall
33 commence business;

34 (7) Any provision not inconsistent with this Chapter and the proper
35 operation of a savings bank, which the incorporators shall set forth in
36 the certificate of incorporation for the regulation of the internal affairs
37 of the savings bank;

38 (8) The number of directors, which shall not be less than seven,
39 constituting the initial board of directors (which may be classified in
40 the certificate of incorporation) and the name and address of each
41 person who is to serve as a director until the first meeting of members,
42 or until his successor be elected and qualified;

43 (9) The names and addresses of the incorporators.

1 (b) The certificate of incorporation of a proposed stock savings bank shall set
2 forth:

- 3 (1) The name of the savings bank which must not so closely resemble the
4 name of an existing depository institution doing business under the
5 laws of this State as to be likely to mislead the public;
- 6 (2) The county and city or town where its principal office is to be located
7 in this State; and the name of its registered agent and the address of its
8 registered office, including county and city or town, and street and
9 number;
- 10 (3) The period of duration, which may be perpetual. When the certificate
11 of incorporation fails to state the period of duration, it shall be
12 considered perpetual;
- 13 (4) The purposes for which the savings bank is organized, which shall be
14 limited to purposes permitted under the laws of this State for savings
15 banks;
- 16 (5) With respect to the shares of stock which the savings bank shall have
17 authority to issue;
- 18 a. If the stock is to have a par value, the number of such shares of
19 stock and the par value of each;
- 20 b. If the stock is to be without par value, the number of such
21 shares of stock;
- 22 c. If the stock is to be of both kinds mentioned in paragraphs a.
23 and b. above of this subdivision, particulars in accordance with
24 those paragraphs;
- 25 d. If the stock is to be divided into classes, or into series within a
26 class of preferred or special shares of stock, the certificate of
27 incorporation shall also set forth a designation of each class,
28 with a designation of each series within a class, and a statement
29 of the preferences, limitations, and relative rights of the stock of
30 each class or series;
- 31 (6) The minimum amount of consideration to be received for its shares of
32 stock before it shall commence business;
- 33 (7) A statement as to whether stockholders have preemptive rights to
34 acquire additional or treasury shares of the savings bank;
- 35 (8) Any provision not inconsistent with this Chapter or the proper
36 operation of a savings bank, which the incorporators shall set forth in
37 the certificate of incorporation for the regulation of the internal affairs
38 of the savings bank;
- 39 (9) The number of directors, which shall not be less than seven,
40 constituting the initial board of directors (which may be classified in
41 accordance with provisions in the certificate of incorporation) and the
42 name and address of each person who is to serve as a director until the
43 first meeting of the stockholders, or until his successor be elected and
44 qualified;

1 (10) The names and addresses of the incorporators.

2 **"§ 54C-11. Administrator to consider application.**

3 Upon receipt of an application to organize and establish a savings bank, the
4 Administrator shall examine or cause to be examined all the relevant facts connected
5 with the formation of the proposed savings bank. If it appears to the Administrator that
6 the proposed savings bank has complied with all the requirements set forth in this
7 Chapter and the rules and regulations for the formation of a savings bank and is
8 otherwise lawfully entitled to be organized and established as a savings bank, the
9 Administrator shall present the application to the Commission for its consideration.

10 **"§ 54C-12. Criteria to be met before the Administrator may recommend approval**
11 **of an application.**

12 (a) The Administrator may recommend approval of an application to form a
13 mutual savings bank only when all of the following criteria are met:

14 (1) The proposed savings bank has an operational expense fund, from
15 which to pay organizational and incorporation expenses, in an amount
16 determined by the Administrator to be sufficient for the safe and
17 proper operation of the savings bank, but in no event less than seventy-
18 five thousand dollars (\$75,000). The moneys remaining in such
19 expense fund shall be held by the savings bank for at least one year
20 from its date of licensing. No portion of such fund shall be released to
21 an incorporator or director who contributed to it, nor to any other
22 contributor, nor to any other person, and no dividends shall be accrued
23 or paid on such funds without the prior approval of the administrator.

24 (2) The proposed savings bank has pledges for deposit accounts in an
25 amount determined by the Administrator to be sufficient for the safe
26 and proper operation of the savings bank, but in no event less than four
27 million dollars (\$4,000,000).

28 (3) All entrance fees for deposit accounts of the proposed savings bank
29 have been made with legal tender of the United States.

30 (4) The name of the proposed savings bank will not mislead the public and
31 is not the same as an existing depository institution or so similar to the
32 name of an existing depository institution as to mislead the public.

33 (5) The character, general fitness, and responsibility of the incorporators
34 and the initial board of directors of the proposed savings bank, a
35 majority of whom shall be residents of North Carolina, are such as to
36 command the confidence of the community in which the proposed
37 savings bank intends to locate.

38 (6) There is a reasonable demand and necessity in the community which
39 will be served by the establishment of the proposed savings bank.

40 (7) The public convenience and advantage will be served by the
41 establishment of the proposed savings bank.

42 (8) The proposed savings bank will have a reasonable probability of
43 sustaining profitable and beneficial operations in the community.

1 (9) The proposed savings bank, if established, will promote healthy and
2 effective competition in the community in the delivery to the public of
3 savings institution services.

4 (b) The Administrator may recommend approval of an application to form a
5 stock savings bank only when all of the following criteria are met:

6 (1) The proposed savings bank has prepared a plan to solicit subscriptions
7 for capital stock in an amount determined by the Administrator to be
8 sufficient for the safe and proper operation of the savings bank, but in
9 no event less than three million dollars (\$3,000,000).

10 (2) The name of the proposed savings bank will not mislead the public and
11 is not the same as an existing depository institution or so similar to the
12 name of an existing depository institution as to mislead the public; and
13 contains the wording 'corporation,' 'incorporated,' 'limited,'
14 'company,' or an abbreviation of one of such words or other words
15 sufficient to distinguish stock savings banks from mutual savings
16 banks.

17 (3) The character, general fitness, and responsibility of the incorporators,
18 initial board of directors, and initial stockholders of the proposed
19 savings bank are such as to command the confidence of the community
20 in which the proposed savings bank intends to locate.

21 (4) There is a reasonable demand and necessity in the community which
22 will be served by the establishment of the proposed savings bank.

23 (5) The public convenience and advantage will be served by the
24 establishment of the proposed savings bank.

25 (6) The proposed savings bank will have a reasonable probability of
26 sustaining profitable and beneficial operations in the community.

27 (7) The proposed savings bank, if established, will promote healthy and
28 effective competition in the community in the delivery to the public of
29 savings institution services.

30 (c) The minimum amount of pledges for deposit accounts or subscriptions for
31 capital stock may be adjusted in the discretion of the Administrator if he determines
32 that a greater requirement is necessary or that a smaller requirement will provide a
33 sufficient capital base. Such a finding and recommendation to the Commission shall be
34 based upon due consideration of (i) the population of the proposed trade area, (ii) the
35 total deposits of the depository institutions operating in the proposed trade area, (iii) the
36 economic conditions of and projections for the proposed trade area, (iv) the business
37 experience and reputation of the proposed management, (v) the business experience and
38 reputation of the proposed incorporators and directors, and (vi) the projected deposit
39 growth, capitalization, and profitability of the proposed savings bank.

40 **"§ 54C-13. Savings Institution Commission to review findings and**
41 **recommendations of Administrator.**

42 (a) If the Administrator does not have the completed application within 120 days
43 of the filing of the preliminary application, the application shall be returned to the
44 applicants.

1 (b) When the Administrator has completed his examination and investigation of
2 the facts relevant to the establishment of the proposed savings bank, he shall present his
3 findings and recommendations to the Commission at a public hearing. The Commission
4 must approve or reject an application within 180 days of the submission of the
5 preliminary application.

6 (c) Not less than 45 days prior to the public hearing held for the consideration of
7 the application to establish a savings bank, the incorporators shall cause to be published
8 a notice in a newspaper of general circulation in the area to be served by the proposed
9 savings bank. Such notice shall contain:

- 10 (1) A statement that the application has been filed with the Administrator;
- 11 (2) The name of the community where the principal office of the proposed
12 savings bank intends to locate;
- 13 (3) A statement that a public hearing shall be held to consider the
14 application; and
- 15 (4) A statement that any interested or affected party may file a written
16 statement either favoring or protesting the creation of the proposed
17 savings bank. Such statement must be filed with the Administrator
18 within 30 days of the date of publication.

19 (d) The Commission, at the public hearing, shall consider the findings and
20 recommendation of the Administrator and shall hear such oral testimony as he may wish
21 to give or be called upon to give, and shall also receive information and hear testimony
22 from the incorporators of the proposed savings bank and from any and all other
23 interested or affected parties. The Commission shall hear only testimony and receive
24 only information which is relevant to the consideration of the application and the
25 operation of the proposed savings bank.

26 **"§ 54C-14. Grounds for approval or denial of application.**

27 (a) After consideration of the findings and recommendation of the Administrator
28 and his oral testimony, if any, and the consideration of such other information and
29 evidence, either written or oral, as has come before it at the public hearing, the
30 Commission shall approve or disapprove the application within 30 days after the public
31 hearing. The Commission shall approve the application if it finds that the certificate of
32 incorporation is in compliance with the provisions of G.S. 54C-10, that all the criteria
33 set out in G.S. 54C-12 have been complied with, and that all other applicable provisions
34 of this Chapter, rules and regulations, and the General Statutes have been complied
35 with.

36 (b) If the Commission approves the application, the Administrator shall so notify
37 the Secretary of State with a certificate of approval, accompanied by the original of the
38 certificate of incorporation and the two conformed copies.

39 (c) Upon receipt of the certificate of approval, the original of the certificate of
40 incorporation, and the two conformed copies, the Secretary of State shall, upon the
41 payment by the newly chartered savings bank of the appropriate organization tax and
42 fees, file the certificate of incorporation in accordance with G.S. 55-1-20. He shall
43 certify under his official seal the two conformed copies of the certificate of
44 incorporation, one of which shall forthwith be forwarded to the incorporators or their

1 representative, the other of which shall be forwarded to the office of the Administrator
2 for filing. Upon the recordation of the certificate of incorporation by the Secretary of
3 State, the savings bank shall be a body politic and corporate under the name stated in
4 such certificate, and shall be authorized to begin the savings bank business when duly
5 licensed by the Administrator.

6 (d) The said certificate of incorporation, or a copy thereof, duly certified by the
7 Secretary of State, or by the register of deeds of the county where the savings bank is
8 located, or by the Administrator, under their respective seals, shall be evidence in all
9 courts and places, and shall, in all judicial proceedings, be deemed **prima facie**
10 evidence of the complete organization and incorporation of the savings bank purporting
11 thereby to have been established.

12 (e) After approval of the application, the Administrator shall supervise and
13 monitor the organization process. He shall ensure that sufficient pledges for deposit
14 accounts or subscriptions for capital stock as well as insurance of deposit accounts have
15 been secured by the organizers.

16 **"§ 54C-15. Final decision.**

17 The Commission shall present the Administrator with a final decision which shall be
18 in accordance with the applicable provisions of Chapter 150B of the General Statutes.

19 **"§ 54C-16. Appeal.**

20 The final decision of the Commission may be appealed in accordance with Chapter
21 150B of the General Statutes.

22 **"§ 54C-17. Insurance of accounts required.**

23 All State savings banks must obtain, and maintain insurance on all members' and
24 customers' deposit accounts from an insurance corporation created by an act of
25 Congress. Prior to the licensing of a savings bank, a certificate of incorporation duly
26 recorded under the provisions of G.S. 54C-14(c), shall be deemed to be sufficient
27 certification to the insuring corporation that the savings bank is a legal corporate entity.
28 Such insurance must be obtained within the time limit prescribed in G.S. 54C-19.
29 Subject to the rules and regulations of the Administrator, a State savings bank may
30 obtain or participate in efforts to obtain insurance of deposits that is in excess of the
31 amount eligible for federal insurance of accounts. Such insurance shall be known as
32 'excess insurance'.

33 **"§ 54C-18. Status as IRS qualified thrift institution.**

34 All State savings banks must qualify for and maintain eligibility for the bad debt
35 reserve under section 7701(a)(19) of the Internal Revenue Code of 1968 and any
36 amendments thereto.

37 **"§ 54C-19. Time allowed to commence business.**

38 A newly chartered savings bank shall commence business within one year after the
39 date upon which its corporate existence shall have begun. A savings bank which shall
40 not commence business within such time, shall forfeit its corporate existence, unless the
41 administrator, before the expiration of such one-year period, shall have approved an
42 extension of the time within which the association may commence business, upon a
43 written request stating the reasons for such a request. Upon forfeiture, the certificate of
44 incorporation shall expire, and any and all action taken in connection with the

1 incorporation and chartering of the savings bank, with the exception of fees paid to the
2 Division, shall become null and void. The Administrator shall determine if a savings
3 bank has failed to commence business within one year, without extension as provided in
4 this section, and shall notify the Secretary of State and the register of deeds in the
5 county in which the savings bank is located that the certificate of incorporation has
6 expired.

7 **"§ 54C-20. Licensing.**

8 A newly chartered savings bank shall be entitled to a license to operate upon
9 payment to the Division of the appropriate license fee as prescribed by the
10 Administrator, when it shows to the satisfaction of the Administrator evidence of
11 capable, efficient, and equitable management, that the organization of the savings bank
12 has been conducted pursuant to law and is complete and when it passes a final
13 inspection by the Administrator or his representatives preceding the opening of its doors
14 for business.

15 **"§ 54C-21. Amendments to certificate of incorporation.**

16 (a) Any amendment to the certificate of incorporation of a State savings bank
17 shall be made at any annual or special meeting of such savings bank, held in accordance
18 with the provisions of G.S. 54C-106 and G.S. 54C-107, by a majority of votes or shares
19 cast by members or stockholders present in person or by proxy at such meeting. Any
20 amendment shall be certified by the appropriate corporate official, submitted to the
21 Administrator for his approval or rejection, and if approved, then certified by the
22 Administrator and recorded as provided in G.S. 54C-14 for certificates of incorporation.

23 (b) Notwithstanding the provisions of subsection (a) of this section, any State
24 savings bank may change its registered office or its registered agent or both in
25 accordance with the provisions of G.S. 55-5-02. A copy of the statement or certificate
26 certified by the Secretary of State shall be filed by the savings bank in the office of the
27 Administrator.

28 **"§ 54C-22. List of stockholders to be maintained.**

29 Every stock savings bank organized and operated under the provisions of this
30 Chapter shall at all times cause to be kept an up-to-date list of the names of all its
31 stockholders. Whenever called upon by the Administrator, a stock savings bank shall
32 file in the office of the Administrator a correct list of all its stockholders, the resident
33 address of each, the number of shares of stock held by each, and the dates of issue.

34 **"§ 54C-23. Branch offices.**

35 (a) Any State savings bank may apply to the Administrator for permission to
36 establish a branch office. The application shall be in such form as may be prescribed by
37 the Administrator and shall be accompanied by the proper branch application fee.
38 Branch applications shall be approved or denied by the Administrator within 120 days
39 of filing.

40 (b) The Administrator shall approve a branch application when all of the
41 following criteria are met:

- 42 (1) The applicant has gross assets of at least ten million dollars
43 (\$10,000,000);
- 44 (2) The applicant has evidenced financial responsibility;

1 (3) The applicant has a net worth equal to or exceeding the amount
2 required by the insurer of deposit accounts;

3 (4) The applicant has an acceptable internal control system. Such a
4 system would include certain basic internal control requirements
5 essential to the protection of assets and the promotion of operational
6 efficiency regardless of the size of the applicant.

7 (c) Upon receipt of a branch application, the Administrator shall examine or
8 cause to be examined all the relevant facts connected with the establishment of the
9 proposed branch office. If it appears to the satisfaction of the Administrator that the
10 applicant has complied with all the requirements set forth in this section and the
11 regulations for the establishment of a branch office and that the savings bank is
12 otherwise lawfully entitled to establish such branch office, then the Administrator shall
13 approve the branch application.

14 (d) Not more than 10 days following the filing of the branch application with the
15 Administrator, the applicant shall cause a notice to be published in a newspaper of
16 general circulation in the area to be served by the proposed branch office. Such notice
17 shall contain:

18 (1) A statement that the branch application has been filed with the
19 Administrator;

20 (2) The proposed address of the branch office, including city or town and
21 street; and

22 (3) A statement that any interested or affected party may file a written
23 statement with the Administrator, within 30 days of the date of the
24 publication of the notice, protesting the establishment of the proposed
25 branch office and requesting a hearing before the Administrator on the
26 application.

27 (e) Any interested or affected party may file a written statement with the
28 Administrator within 30 days of the date of initial publication of the branch application
29 notice, protesting the establishment of the proposed branch office and requesting a
30 hearing before the Administrator on the application. If a hearing is held on the branch
31 application, the Administrator shall only receive information and hear testimony from
32 the applicant and from any interested or affected party which is relevant to the branch
33 application and the operation of the proposed branch office. The Administrator shall
34 issue his final decision on the branch application within 30 days following the hearing.
35 Such final decision shall be in accordance with the applicable provisions of Chapter
36 150B of the General Statutes.

37 (f) If a hearing is not held on the branch application, the Administrator shall
38 issue his final decision within 120 days of the filing of the application. Such final
39 decision shall be in accordance with the applicable provisions of Chapter 150B of the
40 General Statutes.

41 (g) Any party to a branch application may appeal the final decision of the
42 Administrator to the Commission at any time after final decision, but not later than 30
43 days after a written copy of the final decision is served upon the party and his attorney
44 of record by personal service or by certified mail. Failure to file such appeal within the

1 time stated shall operate as a waiver of the right of such party to review by the
2 Commission and by a court of competent jurisdiction in accordance with Chapter 150B
3 of the General Statutes, relating to judicial review.

4 **"§ 54C-24. Request to change location of a branch or principal office.**

5 The board of directors of a State savings bank may change the location of a branch
6 office or the principal office of the savings bank with the prior written approval of the
7 Administrator. The Administrator may request, and the savings bank shall provide,
8 such information as the Administrator determines is necessary to evaluate the request.

9 **"§ 54C-25. Approval revoked; branch office.**

10 The Commission may, for good cause and after a hearing, order the closing of a
11 branch office. Such order shall be made in writing to the savings bank and shall fix a
12 reasonable time after which the savings bank shall close the branch office.

13 **"§ 54C-26. Branch offices closed.**

14 The Board of a State savings bank may discontinue the operation of a branch office
15 upon giving at least 30 days prior written notice to the Administrator, the notice to
16 include the date upon which the branch office shall be closed.

17 **"§ 54C-27. Loan production office.**

18 A State savings bank may open or close a loan production office with the prior
19 written approval of the Administrator. The Administrator may request, and the savings
20 bank shall provide, such information as the Administrator determines is necessary to
21 evaluate the request.

22 **"§§ 54C-28 to 54B-29: Reserved for future codification purposes.**

23 **"ARTICLE 3.**

24 **"CORPORATE CHANGES.**

25 **"§ 54C-30. Conversion to savings bank.**

26 (a) Any association or State or national bank, upon a majority vote of its board of
27 directors, may apply to the Administrator for permission to convert to a State savings
28 bank and for certification of appropriate amendments to its certificate of incorporation
29 to effect the change. Upon receipt of an application to convert to a State savings bank,
30 the Administrator shall examine all facts connected with the conversion. The expenses
31 and cost of the examination shall be paid by the depository institution applying for
32 permission to convert.

33 (b) The converting depository institution shall submit a plan of conversion as a
34 part of the application to the Administrator. The Administrator may approve it with or
35 without amendment. If he approves the plan, then the plan shall be submitted to the
36 members or stockholders as provided in the next subsection. If he refuses to approve
37 the plan, he shall state his objections in writing and give the converting depository
38 institution an opportunity to amend the plan to obviate such objections or to appeal his
39 decision to the Commission.

40 (c) After lawful notice to the members or stockholders of the converting
41 depository institution and full and fair disclosure, the substance of the plan must be
42 approved by a majority of the total votes which members or stockholders of the
43 institution are eligible and entitled to cast. Such a vote by the members or stockholders
44 may be in person or by proxy. Following the vote of the members or stockholders, the

1 results of the vote certified by an appropriate officer of the converting depository
2 institution shall be filed with the Administrator. The Administrator shall then either
3 approve or disapprove the requested conversion to a State savings bank. After approval
4 of the conversion, the Administrator shall supervise and monitor the conversion process
5 and he shall ensure that the conversion is conducted pursuant to law and the approved
6 plan of conversion.

7 (d) The Administrator may promulgate such rules and regulations as may be
8 necessary to govern conversions under this section.

9 **"§ 54C-31. Conversion from State to federal charter.**

10 Any State savings bank, stock or mutual, organized and operated under the
11 provisions of this Chapter, may convert to a federal charter in accordance with the
12 provisions of the laws and regulations of the United States and with the same force and
13 effect as though originally incorporated under such laws, and the procedure to effect
14 such conversion shall be as follows:

15 (1) The savings bank shall submit a plan of conversion to the
16 Administrator, and he may approve the same, with or without
17 amendment, or refuse to approve the plan. If he approves the plan,
18 then the plan shall be submitted to the members or stockholders as
19 provided in the next subdivision. If he refuses to approve the plan, he
20 shall state his objections in writing and give the converting savings
21 bank an opportunity to amend the plan to obviate such objections or to
22 appeal his decision to the Commission.

23 (2) A meeting of the members or stockholders shall be held upon not less
24 than 15 days' notice to each member or stockholder. Notice can be
25 made either by mailing such to each member or stockholder, postage
26 prepaid, to the last known address or by the board of directors causing
27 to be published once a week for two weeks preceding such meeting, in
28 a newspaper of general circulation in the county where such savings
29 bank has its principal office, a notice of the meeting. It shall be
30 regarded as sufficient notice of the purpose of the meeting if the notice
31 contains substantially the following statement: 'The purpose of this
32 meeting is to consider the conversion of this State-chartered savings
33 bank to a federal charter, pursuant to the laws of the United States.'
34 An appropriate officer of the savings bank shall make proof by
35 affidavit at such meeting of due service of the notice or call for said
36 meeting.

37 (3) At the meeting of the members or stockholders of such savings bank
38 such members or stockholders may by affirmative vote of a majority of
39 votes or shares present, in person or by proxy, resolve to convert said
40 savings bank to a federal charter. A copy of the minutes of the
41 meeting of the members or stockholders certified by an appropriate
42 officer of the savings bank shall be filed in the office of the
43 Administrator. The said certified copy when so filed shall be **prima**
44 **facie** evidence of the holding and the action of the meeting.

- 1 (4) Within a reasonable time after the receipt of a certified copy of the
2 minutes, the Administrator shall either approve or disapprove the
3 proceedings of the meeting for compliance with the procedure set forth
4 in this section. If the Administrator approves the proceedings, he shall
5 issue a certificate of his approval of the conversion. Such certificate
6 shall be recorded by the savings bank in the office of the Secretary of
7 State. If the Administrator disapproved the proceedings he shall
8 provide a written explanation of his disapproval and notify the savings
9 bank of his disapproval. The savings bank may appeal a disapproval
10 to the Commission.
- 11 (5) The savings bank shall file an application, in the manner prescribed or
12 authorized by the laws and regulations of the United States, to
13 consummate the conversion to a federal charter. A copy of the charter
14 or authorization issued to the savings bank by the appropriate federal
15 regulatory authority shall be filed with the Administrator. Upon filing
16 with the Administrator the savings bank shall cease to be a State
17 savings bank and shall be a federal depository institution.
- 18 (6) Whenever any savings bank shall convert to a federal charter it shall
19 cease to be a savings bank under the laws of this State, except that its
20 corporate existence shall be deemed to be extended for the purpose of
21 prosecuting or defending suits by or against it and of enabling it to
22 close its business affairs as a State savings bank and to dispose of and
23 convey its property. At the time when such conversion becomes
24 effective all the property of the State savings bank including all its
25 rights, title, and interest in and to all property of whatever kind,
26 whether real, personal or mixed, and things in action, and every right,
27 privilege, interest, and asset of any conceivable value or benefit then
28 existing, belonging or pertaining to it, or which would inure to it, shall
29 immediately by act of law and without any conveyance or transfer, and
30 without any further act or deed, be vested in and become the property
31 of the federal depository institution which shall have, hold and enjoy
32 the same in its own right as fully and to the same extent as the same
33 was possessed, held, and enjoyed by the savings bank; and the federal
34 depository institution as of the effective time of such conversion shall
35 succeed to all the rights, obligations, and relations of the State savings
36 bank.

37 **§ 54C-32. Simultaneous charter and ownership conversion.**

38 (a) In the event of a State charter to federal charter conversion, when the form of
39 ownership will also simultaneously be changed from stock to mutual, or from mutual to
40 stock, the conversion shall proceed initially as if it involves only a charter conversion,
41 under G.S. 54C-31. After the savings bank becomes a federal depository institution,
42 then the federal regulatory authority shall govern the continuing conversion of the form
43 of ownership of such newly converted depository institution.

1 (b) In the event of a federal charter to State charter conversion, when the form of
2 ownership will also simultaneously be changed from stock to mutual or from mutual to
3 stock, the conversion shall proceed initially as if it involves only a charter conversion
4 under G.S. 54C-30. After the federal depository institution becomes a State savings
5 bank, the provisions of G.S. 54C-33 or G.S. 54C-34 shall govern the continuing
6 conversion of the form of ownership of such newly converted savings bank.

7 (c) The provisions of this section shall not apply to any simultaneous charter and
8 ownership conversion accomplished in conjunction with a merger under the provisions
9 of G.S. 54C-39.

10 **"§ 54C-33. Conversion of mutual to stock savings bank.**

11 (a) Any mutual savings bank may convert from mutual to the stock form of
12 ownership as provided in this section.

13 (b) A mutual savings bank may apply to the Administrator for permission to
14 convert to a stock savings bank and for certification of appropriate amendments to the
15 savings bank's certificate of incorporation. Upon receipt of an application to convert
16 from mutual to stock form the Administrator shall examine all facts connected with the
17 requested conversion. The expenses and cost of such examination, monitoring and
18 supervision shall be paid by the savings bank applying for permission to convert.

19 (c) The savings bank shall submit a plan of conversion as a part of the
20 application to the Administrator. The Administrator may approve it with or without
21 amendment, if it appears that:

- 22 (1) After conversion the savings bank will be in sound financial condition
23 and will be soundly managed;
- 24 (2) The conversion will not impair the capital of the savings bank nor
25 adversely affect the savings bank's operations;
- 26 (3) The conversion will be fair and equitable to the members of the
27 savings bank and no person whether member, employee, or otherwise,
28 will receive any inequitable gain or advantage by reason of the
29 conversion;
- 30 (4) The savings bank services provided to the public by the savings bank
31 will not be adversely affected by the conversion;
- 32 (5) The substance of the plan has been approved by a vote of two-thirds of
33 the board of directors of the savings bank;
- 34 (6) All shares of stock issued in connection with the conversion are
35 offered first to the members of the savings bank;
- 36 (7) All stock shall be offered to members of the savings bank and others in
37 prescribed amounts and otherwise pursuant to a formula and procedure
38 which is fair and equitable and will be fairly disclosed to all interested
39 persons;
- 40 (8) The plan provides a statement as to whether stockholders shall have
41 preemptive rights to acquire additional or treasury shares of the
42 savings bank.

43 If the Administrator approves the plan, then the plan shall be submitted to the
44 members as provided in the next subsection. If he refuses to approve the plan, the

1 Administrator shall state his objections in writing and give the converting savings bank
2 an opportunity to amend the plan to obviate such objections or to appeal his decision to
3 the Commission.

4 (d) After lawful notice to the members of the savings bank and full and fair
5 disclosure, the substance of the plan must be approved by a majority of the total votes
6 which members of the savings bank are eligible and entitled to cast. Such a vote by the
7 members may be in person or by proxy. Following the vote of the members, the results
8 of the vote certified by an appropriate officer of the savings bank shall be filed by the
9 Administrator. The Administrator shall then either approve or disapprove the requested
10 conversion. After approval of the conversion, the Administrator shall supervise and
11 monitor the conversion process and he shall ensure that the conversion is conducted
12 pursuant to law and the savings bank's approved plan of conversion.

13 (e) The Administrator may promulgate such rules and regulations as may be
14 necessary to govern conversions; provided, however, that such rules and regulations as
15 may be promulgated by the Administrator shall be equal to or exceed the requirements
16 for conversion, if any, imposed by the federal insurer of deposit accounts.

17 **§ 54C-34. Conversion of stock savings bank to mutual savings bank.**

18 Any stock savings bank organized and operating under the provisions of this Chapter
19 may, subject to the approval of the Administrator, convert to a mutual savings bank
20 under the provisions of this section. The Administrator may promulgate rules and
21 regulations governing the conversion of stock savings banks to mutual savings banks.
22 Such rules and regulations shall include, but shall not be limited to requirements that:

- 23 (1) The conversion neither impair the capital of the converting savings
24 bank nor adversely affect its operations;
- 25 (2) The conversion shall be fair and equitable to all stockholders of the
26 converting savings bank;
- 27 (3) The public shall not be adversely affected by the conversion;
- 28 (4) Conversion of a savings bank shall be accomplished only pursuant to a
29 plan approved by the Administrator. Said plan must have been
30 approved by an affirmative vote of two-thirds of the members of the
31 board of directors of the converting savings bank, after a full and fair
32 disclosure to the stockholders, by an affirmative vote of a majority of
33 the total votes which stockholders of the savings bank are eligible and
34 entitled to cast;
- 35 (5) The plan of conversion provides that:
- 36 a. Deposit accounts be issued in connection with the conversion to
37 the stockholders of the converting savings bank;
- 38 b. A uniform date be fixed for the determination of the
39 stockholders to whom, and the amount to each stockholder of
40 which, deposit accounts shall be made available;
- 41 c. Deposit accounts so made available to stockholders be based
42 upon a fair and equitable formula approved by the
43 Administrator and fully and fairly disclosed to the stockholders
44 of the converting savings bank.

1 "§ 54C-35. Merger of like savings banks.

2 Any two or more mutual savings banks or any two or more stock savings banks
3 organized and operating, may merge or consolidate into a single savings bank. The
4 procedure to effect such merger shall be as follows:

5 (1) The directors, or a majority of them, of such savings banks as desire to
6 merge, may, at separate meetings, enter into a written agreement of
7 merger signed by them and under the corporate seals of the respective
8 savings banks specifying each savings bank to be merged and the
9 savings bank which is to receive into itself the merging savings bank
10 or banks, and prescribing the terms and conditions of the merger and
11 the mode of carrying it into effect. The merger agreement may
12 provide such other provisions with respect to the merger as appear
13 necessary or desirable, or as the Administrator may require to enable
14 him to discharge his duties with respect to such merger.

15 (2) Such merger agreement together with copies of the minutes of the
16 meetings of the respective boards of directors verified by the
17 secretaries of the respective savings banks shall be submitted to the
18 Administrator, who shall cause a careful investigation and examination
19 to be made of the affairs of the savings banks proposing to merge,
20 including a determination of their respective assets and liabilities. The
21 reasonable cost and expenses of such examination shall be defrayed by
22 each savings bank so investigated and examined. If, as a result of such
23 investigation, he shall conclude that the members or stockholders of
24 each of the savings banks proposing to merge will be benefited
25 thereby, he shall, in writing, approve same. If he deems that the
26 proposed merger will not be in the interest of all members or
27 stockholders of the savings banks so merging, he shall, in writing,
28 disapprove the same. If he approves the merger agreement, then it
29 shall be submitted, within 45 days after notice to such savings banks of
30 the approval, to the members or stockholders of each savings bank, as
31 provided in the next subdivision. Such disapproval may be appealed
32 by the savings bank to the Commission.

33 (3) A meeting of the members or stockholders of each of the savings
34 banks shall be held separately upon written notice of not less than 15
35 days to members or stockholders of each savings bank. The notice
36 shall specify the time, place, and purpose for the calling of the
37 meeting. Notice shall be made by personal service or postage prepaid
38 mail to the last address of each member or stockholder appearing upon
39 the records of the savings bank and by publication of notice at least
40 once a week for two weeks preceding the meeting in one or more
41 newspapers of general circulation in the county or counties where each
42 savings bank has its principal or a branch office, or in a newspaper of
43 general circulation in an adjoining county if none is available in the
44 county. An appropriate officer of the savings bank shall make proof

1 by affidavit at such meeting of the due service of the notice or call for
2 said meeting.

3 (4) At separate meetings of the members or stockholders of the respective
4 savings banks, the members or stockholders may adopt, by an
5 affirmative vote of a majority of the votes or shares present, in person
6 or by proxy, a resolution to merge into a single savings bank upon the
7 terms of the merger agreement as shall have been agreed upon by the
8 directors of the respective savings banks and as approved by the
9 Administrator. Upon the adoption of the resolution, a copy of the
10 minutes of the proceedings of the meetings of the members or
11 stockholders of the respective savings banks certified by an
12 appropriate officer of the merging savings banks, shall be filed in the
13 office of the Administrator. Within 15 days after the receipt of a
14 certified copy of the minutes of such meetings the Administrator shall
15 either approve or disapprove the proceedings for compliance with this
16 section. If the proceedings are approved by him, he shall issue a
17 certificate of his approval of the merger. The certificate shall be filed
18 and recorded in the office of the Secretary of State. When the
19 certificate is so filed, the merger agreement shall take effect according
20 to its terms and shall be binding upon all the members or stockholders
21 of the savings banks merging, and it shall be deemed to be the act of
22 merger of such constituent savings banks under the laws of this State,
23 and the certificate or certified copy thereof shall be evidence of the
24 agreement and act of merger of the savings banks and the observance
25 and performance of all acts and conditions necessary to have been
26 observed and performed precedent to such merger. Within 60 days
27 after its receipt from the Secretary of State, the certified copy of the
28 certificate shall be filed with the register of deeds of the county or
29 counties in which the respective savings banks so merged have
30 recorded their original certificates of incorporation. Failure to so file
31 shall only subject the savings bank to a penalty of one hundred dollars
32 (\$100.00) to be collected by the Secretary of State. If the
33 Administrator disapproved the proceedings, he shall issue a written
34 statement of the reasons for his disapproval and notify the savings
35 banks to that effect. Such disapproval may be appealed by the savings
36 banks to the Commission.

37 (5) Upon the merger of any savings bank, as above provided into another:
38 a. Its corporate existence shall be merged into that of the receiving
39 savings bank; and all its right, title, interest in and to all
40 property of whatsoever kind, whether real, personal or mixed,
41 and things in action, and every right, privilege, interest or asset
42 of any conceivable value or benefit then existing belonging or
43 pertaining to it, or which would inure to it under an unmerged
44 existence, shall immediately by act of law and without any

1 conveyance or transfer, and without any further act or deed, be
2 vested in and become the property of such receiving savings
3 bank which shall have, hold, and enjoy the same in its own right
4 as fully and to the same extent as if the same were possessed,
5 held, or enjoyed by the savings banks so merged; and such
6 receiving savings bank shall absorb fully and completely the
7 savings bank or banks so merged.

8 b. Its rights, liabilities, obligations, and relations to any person
9 shall remain unchanged and the savings bank into which it has
10 been merged shall, by the merger, succeed to all the relations,
11 obligations, and liabilities as though it had itself assumed or
12 incurred the same. No obligation or liability of a member,
13 customer, or stockholder in a savings bank which is a party to
14 the merger shall be affected by the merger, but obligations and
15 liabilities shall continue as they existed before the merger,
16 unless otherwise provided in the merger agreement.

17 c. A pending action or other judicial proceeding to which any
18 savings bank that shall be so merged is a party, shall not be
19 deemed to have abated or to have discontinued by reason of the
20 merger, but may be prosecuted to final judgment, order, or
21 decree in the same manner as if the merger had not been made;
22 or the receiving savings bank may be substituted as a party to
23 such action or proceeding, and any judgment, order, or decree
24 may be rendered for or against it that might have been rendered
25 for or against such other savings bank if the merger had not
26 occurred.

27 (6) Notwithstanding any other provision of this section, the Administrator
28 may waive any or all of the foregoing requirements upon finding that
29 such waiver would be in the best interest of the members or
30 stockholders of the merging savings banks.

31 **"§ 54C-36. Merger of savings banks where ownership is converted.**

32 (a) Any two or more State mutual savings banks may merge to form a single
33 State stock savings bank in separate merger-conversion proceedings or in simultaneous
34 merger-conversion proceedings.

35 (b) Any two or more State stock savings banks may merge to form a single State
36 mutual savings bank in separate merger-conversion proceedings or in simultaneous
37 merger-conversion proceedings.

38 (c) The Administrator may promulgate rules and regulations to facilitate the
39 transition from two or more savings banks to a single savings bank under a new form of
40 ownership.

41 **"§ 54C-37. Merger of mutual and stock savings banks.**

42 (a) Any two or more savings banks, when one or more is mutually owned and
43 one or more is stock owned, may merge to form either a mutual or stock savings bank in

1 separate conversion-merger proceedings or in simultaneous conversion-merger
2 proceedings.

3 (b) The Administrator may promulgate rules and regulations to facilitate the
4 merger of mutual and stock savings banks.

5 **"§ 54C-38. Simultaneous merger and conversion.**

6 (a) Any combination of associations and State savings banks may merge to form
7 either an association or a State savings bank.

8 (b) The Administrator shall promulgate rules and regulations to facilitate the
9 merger of associations and State savings banks.

10 **"§ 54C-39. Merger of federal charters with State savings banks.**

11 (a) Any two or more depository institutions, when one or more is a State savings
12 bank and one or more is a federal depository institution operating in North Carolina,
13 may merge under either a State savings bank charter or a federal charter.

14 (b) The Administrator shall promulgate rules and regulations to facilitate the
15 merger of federal depository institutions and State savings banks.

16 **"§ 54C-40. Merger of savings banks with banks and associations.**

17 (a) Any State savings bank, upon a majority vote of its board of directors, may
18 apply to the Administrator for permission to merge with any bank, as defined in G.S.
19 53-1, or any association, as defined in G.S. 54B-4.

20 (b) The State savings bank shall submit a plan of merger as a part of the
21 application to the Administrator. The Administrator may recommend approval of the
22 plan of merger with or without amendment.

23 If he approves the plan, then the plan shall be submitted to the stockholders or
24 members as provided in the next subsection. If he refuses to approve the plan, he shall
25 state his objections in writing and give the merging savings bank an opportunity to
26 amend the plan to obviate such objections or to appeal his decision to the commission.

27 (c) After lawful notice to the stockholders or members of the savings bank and
28 full and fair disclosure, the substance of the plan must be approved by a majority of the
29 total votes which stockholders or members of the savings bank are eligible and entitled
30 to cast. Such a vote by the stockholders or members may be in person or by proxy.
31 Following the vote of the stockholders or members, the results of the vote certified by
32 an appropriate officer of the savings bank shall be filed with the Administrator. The
33 Administrator shall then either approve or disapprove the requested merger.

34 (d) The Administrator may promulgate such rules and regulations as may be
35 necessary to govern such mergers.

36 **"§ 54C-41. Voluntary dissolution by directors.**

37 A State savings bank may be voluntarily dissolved by a majority vote of the board of
38 directors when substantially all of the assets have been sold for the purpose of
39 terminating the business of the savings bank or as provided in G.S. 55-14-01 and when
40 a certificate of dissolution is recorded in the manner required by this Chapter for the
41 recording of certificates of incorporation.

42 **"§ 54C-42. Voluntary dissolution by stockholders or members.**

43 At any annual or special meeting called for such purpose, a savings bank may, by an
44 affirmative vote in person or by proxy of at least two-thirds of the total number of

1 shares or votes which all members or stockholders of the association are entitled to cast,
2 resolve to dissolve and liquidate the savings bank and adopt a plan of voluntary
3 dissolution. Upon adoption of such resolution and plan of voluntary dissolution, the
4 members or stockholders shall proceed to elect not more than three liquidators who
5 shall post bond as required by the Administrator. The liquidators shall have full power
6 to execute the plan; and the procedure thereafter shall be as follows:

7 (1) A copy of the resolution certified by an appropriate officer of the
8 savings bank together with the minutes of the meeting of members or
9 stockholders, the plan of liquidation, and an itemized statement of the
10 savings bank's assets and liabilities sworn to by a majority of its board
11 of directors, shall be filed with the Administrator. The minutes of the
12 meeting of members or stockholders shall be certified by an
13 appropriate officer of the association, and shall set forth the notice
14 given and the time of mailing thereof, the vote on the resolution, and
15 the total number of shares or votes which all members of the savings
16 bank were entitled to cast thereon, and the names of the liquidators
17 elected.

18 (2) If the Administrator finds that the proceedings are in accordance with
19 the provisions of this Chapter, and that the plan of liquidation is not
20 unfair to any person affected, he shall attach his certificate of approval
21 to the plan and shall forward one copy to the liquidators and one copy
22 to the savings bank's federal deposit account insurance corporation.
23 Once the Administrator has approved the resolution and the plan of
24 liquidation it shall thereafter be unlawful for such savings bank to
25 accept any additional deposit accounts or additions to deposit accounts
26 or make any additional loans, but all its income and receipts in excess
27 of actual expenses of liquidation of the savings bank shall be applied
28 to the discharge of its liabilities.

29 (3) The liquidator or liquidators so appointed shall be paid a reasonable
30 compensation by the liquidating savings bank subject to the approval
31 of the Administrator.

32 (4) The plan shall become effective upon the recording of the
33 Administrator's certificate of approval in the manner required by this
34 Chapter for the recording of the certificate of incorporation.

35 (5) The liquidation of the savings bank shall be subject to the supervision
36 and examination of the Administrator.

37 **"§ 54C-43. Rules, regulations, and reports of voluntary dissolution.**

38 (a) The Administrator shall promulgate rules and regulations governing the
39 dissolution and liquidation of State savings banks.

40 (b) Upon completion of liquidation, the liquidators shall file with the
41 Administrator a final report and accounting of the liquidation. The approval of the
42 report by the Administrator shall operate as a complete and final discharge of the
43 liquidators, the board of directors, and each member or stockholder in connection with
44 the liquidation of the savings bank. Upon approval of the report, the Administrator shall

1 issue a certificate of dissolution of the savings bank and shall record same in the manner
2 required by this Chapter for the recording of certificates of incorporation; and upon such
3 recording, the dissolution shall be effective.

4 **"§ 54C-44. Stock dividends.**

5 No dividend on stock shall be paid unless the savings bank has the prior written
6 approval of the Administrator except as provided in such rules and regulations as the
7 Administrator may adopt.

8 **"§ 54C-45. Supervisory mergers, consolidations, conversions, and combination**
9 **mergers and conversions.**

10 (a) Notwithstanding any other provision of this Chapter, in order to protect the
11 public, including members, depositors, and stockholders of a State savings bank, the
12 Administrator, upon making a finding that a State savings bank is unable to operate in a
13 safe and sound manner, may authorize or require a short form merger, consolidation,
14 conversion, or combination merger and conversion of the State savings bank, or any
15 other transaction, as to which the finding is made.

16 (b) The Administrator shall promulgate rules and regulations to govern
17 supervisory mergers, consolidations, conversions, combination mergers and
18 conversions, and other supervisory action authorized by this section.

19 **"§ 54C-46. Interim savings banks.**

20 (a) Article 2 of this Chapter shall not apply to applications for permission to
21 organize an interim State savings bank so long as the application is approved by the
22 Administrator.

23 (b) Preliminary approval of an application for permission to organize an interim
24 State savings bank shall be conditional upon the Administrator's approval of an
25 application to merge the interim savings bank and an existing stock savings bank or on
26 the Administrator's approval of any other transaction.

27 (c) The Administrator shall promulgate rules and regulations to govern the
28 formation of interim savings banks authorized by this section.

29 **"§§ 54C-47 to 54C-51: Reserved for future codification purposes.**

30 **"ARTICLE 4.**

31 **"SUPERVISION.**

32 **"§ 54C-52. Supervision.**

33 (a) The Administrator of the Savings Institutions Division of the State is
34 empowered and directed to perform the duties and exercise the powers as to savings
35 banks organized or operated under this Chapter except as otherwise provided herein.

36 (b) The Savings Institutions Commission is vested with full power and authority
37 to review, approve, disapprove, or modify any action taken by the Administrator in the
38 exercise of the powers, duties, and functions granted him by this Chapter.

39 **"§ 54C-53. Power of Administrator to promulgate rules and regulations;**
40 **reproduction of records.**

41 (a) The Administrator shall have the right, and is empowered, to promulgate
42 rules, instructions, and regulations as may be necessary to the discharge of his duties
43 and powers as to savings banks for the supervision and regulation of savings banks, and
44 for the protection of the public investing in savings banks.

1 (b) Without limiting the generality of the foregoing paragraph, rules, instructions,
2 and regulations may be promulgated with respect to:

- 3 (1) Reserve requirements;
- 4 (2) Stock ownership and dividends;
- 5 (3) Stock transfers;
- 6 (4) Incorporators, stockholders, directors, officers, and employees of a
7 savings bank;
- 8 (5) Bylaws;
- 9 (6) The operation of savings banks;
- 10 (7) Deposit accounts, bonus plans, and contracts for savings programs;
- 11 (8) Loans and loan expenses;
- 12 (9) Investments;
- 13 (10) Forms and definitions;
- 14 (11) Types of financial records to be maintained by savings banks;
- 15 (12) Retention periods of various financial records;
- 16 (13) Internal control procedures of savings banks;
- 17 (14) Conduct and management of savings banks;
- 18 (15) Chartering and branching;
- 19 (16) Liquidations;
- 20 (17) Mergers;
- 21 (18) Conversions;
- 22 (19) Reports which may be required by the Administrator;
- 23 (20) Conflicts of interest;
- 24 (21) Service corporations; and
- 25 (22) Holding companies.

26 (c) Any savings bank may cause any or all of its records to be recorded, copied,
27 or reproduced by any photographic, photostatic, or miniature photographic process
28 which correctly, accurately, permanently copies, reproduces, or forms a medium for
29 copying or reproducing the original record on a film or other durable material.

30 (d) Any such photographic, photostatic, or miniature photographic copy or
31 reproduction shall be deemed to be an original record in all courts and administrative
32 agencies for the purpose of its admissibility in evidence. A facsimile, exemplification
33 or certified copy of any such photographic copy or reproduction shall, for all purposes,
34 be deemed a facsimile, exemplification, or certified copy of the original record.

35 (e) The provisions of this section with reference to the retention and disposition
36 of records shall apply to any federal savings bank operating in North Carolina unless in
37 conflict with regulations prescribed by its federal regulatory authority.

38 **"§ 54C-54. Examinations by Administrator; report.**

39 (a) If at any time the Administrator deems it prudent, it shall be his duty to
40 examine and investigate everything relating to the business of a State savings bank or a
41 holding company thereof, and to appoint a suitable and competent person to make such
42 investigation. The investigator shall file with the Administrator a full report of his
43 finding in such case, including in his report any violation of law or any unauthorized or
44 unsafe practices of the savings bank disclosed by his examination.

1 **(b)** The Administrator shall furnish a copy of the report to the savings bank
2 examined and may, upon request, furnish a copy of or excerpts from the report to the
3 insurer of accounts.

4 **(c)** No savings bank may willfully delay or willfully obstruct an examination in
5 any fashion. Any person failing to comply with this subsection shall be guilty of a
6 misdemeanor.

7 **(d)** No person having in his possession or control any books, accounts, or papers
8 of any State savings bank shall refuse to exhibit same to the Administrator or his agents
9 on demand, or shall knowingly or willingly make any false statement in regard to the
10 same. Any person failing to comply with this subsection shall be guilty of a
11 misdemeanor.

12 **"§ 54C-55. Supervision and examination fees.**

13 **(a)** Every State savings bank, including savings banks in process of voluntary
14 liquidation, or a holding company thereof, shall pay into the office of the Administrator
15 each July a supervisory fee. Examination fees shall be paid promptly upon an
16 association's receipt of the examination billing. The Administrator, subject to the
17 advice and consent of the Commission, shall, on or before June 1 of each year:

18 **(1)** Determine and fix the scale of supervisory and examination fees to be
19 assessed and collected during the next fiscal year;

20 **(2)** Determine and fix the amount of the fee and set the fee collection
21 schedule for the fees to be assessed to and collected from applicants to
22 defray the cost of processing their charter, branch, merger, conversion,
23 holding company acquisition, and name change applications.

24 **(b)** All funds and revenue collected by the Division under the provisions of this
25 section and the provisions of all other sections of this Chapter which authorize the
26 collection of fees and other funds shall be deposited with the State Treasurer of North
27 Carolina and expended under the terms of the Executive Budget Act, solely to defray
28 expenses incurred by the office of the Administrator in carrying out its supervisory and
29 auditing functions.

30 **(c)** Notwithstanding any of the provisions of subsections (a) and (b) of this
31 section, whenever the Administrator under the provisions of G.S. 54C-54 appoints a
32 suitable and competent person, other than a person employed by the Administrator's
33 office, to make an examination and investigation of the business of a State savings bank,
34 all costs and expenses relative to such examination and investigation shall be paid by
35 such savings bank.

36 **"§ 54C-56. Prolonged audit, examination, or revaluation; payment of costs.**

37 **(a)** If, in the opinion of the Administrator, an examination conducted under the
38 provisions of G.S. 54C-55 fails to disclose the complete financial condition of a savings
39 bank, he may in order to ascertain its complete financial condition:

40 **(1)** Make an extended audit or examination of the savings bank or cause
41 such an audit or examination to be made by an independent auditor;

42 **(2)** Make an extended revaluation of any of the assets or liabilities of the
43 savings bank or cause an independent appraiser to make such
44 revaluation.

1 (b) The Administrator shall collect from the savings bank a reasonable sum for
2 actual or necessary expenses of such an audit, examination, or revaluation.

3 **"§ 54C-57. Administrator to have right of access to books and records of the**
4 **savings bank; right to issue subpoenas, administer oaths, examine**
5 **witnesses.**

6 (a) The Administrator and his agents:

7 (1) Shall have free access to all books and records of a savings bank, or a
8 service corporation or holding company thereof, that relate to its
9 business, and the books and records kept by an officer, agent, or
10 employee relating to or upon which any record is kept;

11 (2) May subpoena witnesses and administer oaths or affirmations in the
12 examination of any director, officer, agent, or employee of a savings
13 bank, or a service corporation or holding company thereof or of any
14 other person in relation to its affairs, transactions, and conditions;

15 (3) May require the production of records, books, papers, contracts, and
16 other documents; and

17 (4) May order that improper entries be corrected on the books and records
18 of a savings bank.

19 (b) The Administrator may issue subpoenas **duces tecum.**

20 (c) If a person fails to comply with a subpoena so issued or a party or witness
21 refuses to testify on any matters, a court of competent jurisdiction, on the application of
22 the Administrator, shall compel compliance by proceedings for contempt as in the case
23 of disobedience of the requirements of a subpoena issued from such court or a refusal to
24 testify in such court.

25 **"§ 54C-58. Test appraisals of collateral for loans; expense paid.**

26 (a) The Administrator may direct the making of test appraisals of real estate and
27 other collateral securing loans made by savings banks doing business in this State,
28 employ competent appraisers, or prescribe a list from which competent appraisers may
29 be selected, for the making of such appraisals by the Administrator, and any and all
30 other acts incident to the making of such test appraisals.

31 (b) In lieu of causing such appraisals to be made, the Administrator may accept
32 an appraisal caused to be made by the insurer of accounts.

33 (c) The expense and cost of test appraisals made pursuant to this section shall be
34 defrayed by the savings bank subjected to such test appraisals, and each savings bank
35 doing business in this State shall pay all reasonable costs and expenses of such test
36 appraisals when it shall be directed.

37 **"§ 54C-59. Relationship of savings banks with the Savings Institution Division.**

38 (a) Except as provided by subsection (b) of this section, a savings bank or any
39 director, officer, employee, or representative thereof shall not grant or give to the
40 Administrator or to any employee of the Division or to their spouses, any loan or
41 gratuity, directly or indirectly.

42 (b) Neither the Administrator nor any employee of the Division shall:

- 1 (1) Hold an office or position in any State savings bank or exercise any
2 right to vote on any State savings bank matter by reason of being a
3 member of the savings bank;
4 (2) Be interested, directly or indirectly, in any savings bank organized
5 under the laws of this State; or
6 (3) Undertake any indebtedness as a borrower, directly or indirectly, or act
7 as endorser, surety, or guarantor, or sell or otherwise dispose of any
8 loan or investment to any savings bank organized under the laws of
9 this State.

10 (c) Notwithstanding subsection (b) of this section, the Administrator or any
11 employee of the Division may be a deposit account holder and receive earnings on such
12 account.

13 (d) If the Administrator or any employee of the Division has any prohibited right
14 or interest in a savings bank, either directly or indirectly, at the time of his appointment,
15 he shall dispose of it within 60 days after the date of his appointment or employment. If
16 the Administrator or any employee of the Division is indebted as borrower directly or
17 indirectly, or is an endorser, surety, or guarantor on a note, at the time of his
18 appointment or employment, he may continue in such capacity until such loan is paid
19 off.

20 (e) If the Administrator or any employee of the Division has a loan or other note
21 acquired by a State savings bank through the secondary market, he may continue with
22 the debt until such loan or note is paid off.

23 **"§ 54C-60. Confidential information.**

24 (a) The following records or information of the Commission, the Administrator
25 or the agent(s) of either shall be confidential and shall not be disclosed:

- 26 (1) Information obtained or compiled in preparation of or anticipation of,
27 or during an examination, audit, or investigation of any association;
28 (2) Information reflecting the specific collateral given by a named
29 borrower, the specific amount of stock owned by a named stockholder,
30 any stockholder list supplied to the Administrator pursuant to G.S.
31 54C-22, or specific deposit accounts held by a named member or
32 customer;
33 (3) Information obtained, prepared, or compiled during or as a result of an
34 examination, audit, or investigation of any savings bank by an agency
35 of the United States, if the records would be confidential under federal
36 law or regulation;
37 (4) Information and reports submitted by savings banks to federal
38 regulatory agencies, if the records or information would be
39 confidential under federal law or regulation;
40 (5) Information and records regarding complaints from the public received
41 by the Division which concern savings banks when the complaint
42 would or could result in an investigation, except to the management of
43 those savings banks;

1 (6) Any other letters, reports, memoranda, recordings, charts or other
2 documents or records which would disclose any information of which
3 disclosure is prohibited in this subsection.

4 (b) A court of competent jurisdiction may order the disclosure of specific
5 information.

6 (c) The information contained in an application shall be deemed to be public
7 information. Disclosure shall not extend to the financial statement of the incorporators
8 nor to any further information deemed by the Administrator to be confidential.

9 (d) Nothing in this section shall prevent the exchange of information relating to
10 savings banks and the business thereof with the representatives of the agencies of this
11 State, other states, or of the United States, or with reserve or insuring agencies for
12 savings banks. The private business and affairs of an individual or company shall not
13 be disclosed by any person employed by the Division, any member of the Commission,
14 or by any person with whom information is exchanged under the authority of this
15 subsection.

16 (e) Any official or employee of this State violating this section shall be liable to
17 any person injured by disclosure of such confidential information for all damages
18 sustained thereby. Penalties provided shall not be exclusive of other penalties.

19 **"§ 54C-61. Annual license fees.**

20 All state savings banks shall pay an annual license fee set by the Administrator,
21 subject to the advice and consent of the Commission. Such license fee shall be used to
22 defray the expenses incurred by the Division in supervising State savings banks. The
23 Administrator may license each State savings bank upon receipt of the license fee and
24 filing of an application in such form as the Administrator may prescribe.

25 **"§ 54C-62. Statement filed by savings bank; fees.**

26 Every State savings bank shall file in the office of the Administrator, on or before
27 the first day of February in each year, in such form as the Administrator shall prescribe,
28 a statement of the business standing and financial condition of such savings bank on the
29 preceding thirty-first day of December, signed and sworn to by the secretary of the
30 savings bank before a notary public. The statement shall be accompanied by a filing fee
31 set by the Administrator, subject to the advice and consent of the Commission. The
32 filing fees shall be used to defray the expenses incurred by the Division in supervising
33 State savings banks.

34 **"§ 54C-63. Statement examined, approved, and published.**

35 It shall be the duty of the Administrator to receive and thoroughly examine each
36 annual statement required by G.S. 54C-73, and if made in compliance with the
37 requirements thereof, each State savings bank shall publish an abstract of the same in
38 one of the newspapers of the State, to be selected by the managing officer making the
39 statement, and at the expense of the savings bank.

40 **"§ 54C-64. Prohibited practices.**

41 Any person who shall engage in any of the following acts or practices shall be guilty
42 of a misdemeanor, and upon conviction thereof shall be fined or imprisoned, or both, in
43 the discretion of the court:

- 1 (1) Defamation: Making, publishing, disseminating, or circulating,
2 directly or indirectly, or aiding, abetting, or encouraging the making,
3 publishing, disseminating, or circulating of any oral, written, or printed
4 statement which is false regarding the financial condition of any
5 savings bank.
- 6 (2) False information and advertising: Making, publishing, disseminating,
7 circulating, or otherwise placing before the public in any publication,
8 media, notice, pamphlet, letter, poster, or any other way, an
9 advertisement, announcement, or statement containing any assertion,
10 representation, or statement with respect to the savings bank business
11 or with respect to any person in the conduct of the savings bank
12 business which is untrue, deceptive, or misleading.
- 13 (3) Misleading advertising: Use of a name or designation by a savings
14 bank in advertisements, announcements, or statements concerning the
15 savings bank which does not include the words 'savings bank' and the
16 designation 'SSB' in type that is equally prominent with the other
17 terms in the name or designation of the savings bank.

18 **"§§ 54C-65 to 54C-75: Reserved for future codification purposes.**

19 **"ARTICLE 5.**

20 **"ENFORCEMENT.**

21 **"§ 54C-76. Cease and desist orders.**

22 (a) If any person or savings bank is engaging in, or has engaged in, any unsafe or
23 unsound practice or unfair and discriminatory practice in conducting the savings bank's
24 business, or of any other law, rule, regulation, order, or condition imposed in writing by
25 the Administrator, the Administrator may issue a notice of charges to such person or
26 association. A notice of charges shall specify the acts alleged to sustain a cease and
27 desist order, and state the time and place at which a hearing shall be held. A hearing
28 before the Commission on the charges shall be held no earlier than seven days, and no
29 later than 15 days after issuance of the notice. The charged institution is entitled to a
30 further extension of seven days upon filing a request with the Administrator. The
31 Administrator may also issue a notice of charges if he has reasonable grounds to believe
32 that any person or savings bank is about to engage in any unsafe or unsound business
33 practice, or any violation of this Chapter, or any other law, rule, regulation, or order. If,
34 by a preponderance of the evidence, it is shown that any person or savings bank is
35 engaged in, or has been engaged in, or is about to engage in, any unsafe or unsound
36 business practice, or unfair and discriminatory practice or any violation of this Chapter,
37 or any other law, rule, regulation, or order, a cease and desist order shall be issued. The
38 Commission may issue a temporary cease and desist order to be effective for 15 days
39 and may be extended once for a period of 15 days.

40 (b) If any person or State savings bank is engaging in, has engaged in, or is about
41 to engage in any unsafe or unsound practice in conducting the savings bank's business,
42 or any violation of this Chapter or of any other law, rule, regulation, order, or condition
43 imposed in writing by the Administrator, and the Administrator has determined that
44 immediate corrective action is required, the Administrator may issue a temporary cease

1 and desist order. A temporary cease and desist order shall be effective immediately
2 upon issuance for a period of 15 days, and may be extended once for a period of 15
3 days. Such an order shall state its duration on its face and the words, 'Temporary Cease
4 and Desist Order.' A hearing before the Commission shall be held within the time that
5 the order remains effective, at which time a temporary order may be dissolved or made
6 permanent.

7 **"§ 54C-77. Civil penalties; State savings banks.**

8 (a) Except as otherwise provided in this Article, any savings bank which is found
9 to have violated any provision of this Article may be ordered to forfeit and pay a civil
10 penalty of up to twenty thousand dollars (\$20,000). Any savings bank which is found to
11 have violated or failed to comply with any cease and desist order issued under the
12 authority of this Article may be ordered to forfeit or pay a civil penalty of up to twenty
13 thousand dollars (\$20,000) for each day that the violation or failure to comply
14 continues.

15 (b) To enforce the provisions of this section, the Administrator is authorized to
16 assess such a penalty and to appear in a court of competent jurisdiction and to move the
17 court to order payment of the penalty. Prior to the assessment of the penalty, a hearing
18 shall be held by the Administrator which shall comply with the provisions of Article 3A
19 of Chapter 150B of the General Statutes.

20 (c) If the Administrator determines that, as a result of a violation of any provision
21 of this Article, or of a failure to comply with any cease and desist order issued under the
22 authority of this Article, a situation exists requiring immediate corrective action, the
23 Administrator may impose the civil penalty in this section on the savings bank without a
24 prior hearing, and said penalty shall be effective as of the date of notice to the
25 association. Imposition of such penalty may be directly appealed to the Wake County
26 Superior Court.

27 (d) Nothing in this section shall prevent anyone damaged by a State savings bank
28 from bringing a separate cause of action in a court of competent jurisdiction.

29 **"§ 54C-78. Civil penalties; directors, officers, and employees.**

30 (a) Any person, whether a director, officer, or employee who is found to have
31 violated any provision of this Article, whether willfully or as a result of gross
32 negligence, gross incompetency, or recklessness may be ordered to forfeit and pay a
33 civil penalty of up to five thousand dollars (\$5,000) per violation. Any person who is
34 found to have violated or failed to comply with any cease and desist order issued under
35 the authority of this Article, may be ordered to forfeit and pay a civil penalty of up to
36 five thousand dollars (\$5,000) per violation for each day that the violation of failure to
37 comply continues.

38 (b) To enforce the provisions of this section, the Administrator is authorized to
39 assess such a penalty and to appear in a court of competent jurisdiction and to move the
40 court to order payment of the penalty. Prior to the assessment of the penalty, a hearing
41 shall be held by the Administrator which shall comply with the provisions of Article 3A
42 of Chapter 150B of the General Statutes.

43 (c) Whenever the Administrator shall determine that an emergency exists which
44 requires immediate corrective action, the Administrator, either before or after instituting

1 any other action or proceeding authorized by this Article, may request the Attorney
2 General to institute a civil action in a court of competent jurisdiction, in the name of the
3 State upon the relation of the Administrator seeking injunctive relief to restrain or
4 enjoin the violation or threatened violation of this Article and for such other and further
5 relief as the court may deem proper. Instituting an action for injunctive relief shall not
6 relieve any party to such proceedings from any civil or criminal penalty prescribed for
7 violation of this Article.

8 (d) Nothing in this section shall prevent anyone damaged by a director, officer, or
9 employee of a State savings bank from bringing a separate cause of action in a court of
10 competent jurisdiction.

11 **"§ 54C-79. Criminal penalties.**

12 (a) The provisions of this section shall in no event extend to persons who are
13 found to have acted only with gross negligence, simple negligence, recklessness, or
14 incompetence.

15 (b) In addition to any of the other penalties or remedies provided by this Article,
16 the following shall be deemed to be misdemeanors and shall be punishable as provided
17 in Chapter 14 of the General Statutes:

18 (1) The willful or knowing violation of the provisions of this Article by
19 any employee of the Division.

20 (2) The willful or knowing violation of a cease and desist order which has
21 become final in that no further administrative or judicial appeal is
22 available.

23 (c) In addition to any of the other penalties or remedies provided by this Article,
24 the willful omission, making, or concurrence in making or publishing a written report,
25 exhibit, or entry in a financial statement on the books of the association, which contains
26 a material statement known to be false shall be deemed to be a misdemeanor and shall
27 be punishable as provided in Chapter 14 of the General Statutes. For purposes of this
28 section, 'material' shall mean 'so substantial and important as to influence a reasonable
29 and prudent businessman or investor.'

30 (d) The Administrator is authorized to enforce this section in a court of
31 competent jurisdiction.

32 **"§ 54C-80. Primary jurisdiction.**

33 Whenever an agency of the United States government shall defer to the
34 Administrator, or notify the Administrator of pending action against a savings bank
35 chartered by this State or fail to exercise its authority over any State- or federally-
36 chartered savings bank doing business in this State, the Administrator shall have the
37 authority to exercise jurisdiction over the savings bank.

38 **"§ 54C-81. Supervisory control.**

39 (a) Whenever the Administrator determines that a savings bank is conducting its
40 business in an unsafe or unsound manner or in any fashion which threatens the financial
41 integrity or sound operation of the savings bank, the Administrator may serve a notice
42 of charges on the savings bank, requiring it to show cause why it should not be placed
43 under supervisory control. Such notice of charges shall specify the grounds for
44 supervisory control, and set the time and place for a hearing. A hearing before the

1 Commission pursuant to such notice shall be held within 15 days after issuance of the
2 notice of charges, and shall comply with the provisions of Article 3A of Chapter 150B
3 of the General Statutes.

4 (b) If, after the hearing provided above, the Commission determines that
5 supervisory control of the savings bank is necessary to protect the savings bank's
6 members, customers, stockholders, or creditors, or the general public, the Administrator
7 shall issue an order taking supervisory control of the savings bank. An appeal may be
8 filed in the Wake County Superior Court.

9 (c) If the order taking supervisory control becomes final, the Administrator may
10 appoint an agent to supervise and monitor the operations of the savings bank during the
11 period of supervisory control. During the period of supervisory control, the savings
12 bank shall act in accordance with such instructions and directions as may be given by
13 the Administrator directly or through his supervisory agent and shall not act or fail to
14 act except when to do so would violate an outstanding cease and desist order.

15 (d) Within 180 days of the date the order taking supervisory control becomes
16 final, the Administrator shall issue an order approving a plan for the termination of
17 supervisory control. The plan may provide for:

- 18 (1) The issuance by the savings bank of capital stock;
- 19 (2) The appointment of one or more officers and/or directors;
- 20 (3) The reorganization, merger, or consolidation of the savings bank;
- 21 (4) The dissolution and liquidation of the savings bank.

22 The order approving the plan shall not take effect for 30 days during which time
23 period an appeal may be filed in the Wake County Superior Court.

24 (e) The costs incident to this proceeding shall be paid by the savings bank,
25 provided such costs are found to be reasonable.

26 (f) For the purposes of this section, an order shall be deemed final if:

- 27 (1) No appeal is filed within the specific time allowed for the appeal, or
- 28 (2) After all judicial appeals are exhausted.

29 **"§ 54C-82. Removal of directors, officers, and employees.**

30 (a) If, in the Administrator's opinion, one or more directors, officers, or
31 employees of any savings bank has participated in or consented to any violation of this
32 Chapter, or any other law, rule, regulation, or order, or any unsafe or unsound business
33 practice in the operation of any savings bank; or any insider loan not specifically
34 authorized by or pursuant to this Chapter; or any repeated violation of or failure to
35 comply with any savings bank's bylaws, the Administrator may serve a written notice of
36 charges upon the director, officer, and employee in question, and the savings bank,
37 stating his intent to remove said director, officer, or employee. Such notice shall
38 specify the conduct and place for the hearing before the Commission to be held. A
39 hearing shall be held no earlier than 15 days and no later than 30 days after the notice of
40 charges is served, and it shall comply with the provisions of Article 3A of Chapter 150B
41 of the General Statutes. If, after the hearing, the Commission determines that the
42 charges asserted have been proven by a preponderance of the evidence, the
43 Administrator may issue an order removing the director, officer, or employee in

1 question. Such an order shall be effective upon issuance and may include the entire
2 board of directors or all of the officers of the savings bank.

3 (b) If it is determined that any director, officer, or employee of any savings bank
4 has knowingly participated in or consented to any violation of this Chapter, or any other
5 law, rule, regulation, or order, or engaged in any unsafe or unsound business practice in
6 the operation of any savings bank, or any repeated violation of or failure to comply with
7 any savings bank's bylaws, and that as a result, a situation exists requiring immediate
8 corrective action, the Administrator may issue an order temporarily removing such
9 person or persons pending a hearing. Such an order shall state its duration on its face
10 and the words, 'Temporary Order of Removal,' and shall be effective upon issuance, for
11 a period of 15 days, and may be extended once for a period of 15 days. A hearing must
12 be held within 10 days of the expiration of a temporary order, or any extension thereof,
13 at which time a temporary order may be dissolved or converted to a permanent order.

14 (c) Any removal pursuant to subsections (a) or (b) of this section shall be
15 effective in all respects as if such removal had been made by the board of directors and
16 the members or the stockholders of the savings bank in question.

17 (d) Without the prior written approval of the Administrator, no director, officer,
18 or employee permanently removed pursuant to this section shall be eligible to be
19 elected, reelected, or appointed to any position as a director, officer, or employee of that
20 savings bank, nor shall such a director, officer, or employee be eligible to be elected to
21 or retain a position as a director, officer, or employee of any other State savings bank.

22 **"§ 54C-83. Involuntary liquidation.**

23 (a) The Administrator with prior approval of the Commission may take custody
24 of the books, records, and assets of every kind and character of any savings bank
25 organized and operated under the provisions of this Chapter for any of the purposes
26 hereinafter enumerated if it reasonably appears from examinations or from reports made
27 to the Administrator that:

28 (1) The directors, officers, or liquidators have neglected, failed, or refused
29 to take such action which the Administrator may deem necessary for
30 the protection of the savings bank or have impeded or obstructed an
31 examination; or

32 (2) The net worth of the savings bank is impaired to the extent that the
33 realizable value of its assets is insufficient to pay in full its creditors
34 and holders of deposit accounts; or

35 (3) The business of the savings bank is being conducted in a fraudulent,
36 illegal, or unsafe manner, or that the savings bank is in an unsafe or
37 unsound condition to transact business; (any savings bank which,
38 except as authorized in writing by the Administrator, fails to make full
39 payment of any withdrawal when due is in an unsafe or unsound
40 condition to transact business, notwithstanding such provisions of the
41 certificate of incorporation or such statutes or regulations with respect
42 to payment of withdrawals in event a savings bank does not pay all
43 withdrawals in full); or

1 (4) The officers, directors, or employees have assumed duties or
2 performed acts in excess of those authorized by statute or regulation or
3 charter, or without supplying the required bond; or

4 (5) The savings bank has experienced a substantial dissipation of assets or
5 earnings due to any violation or violation of statute or regulation, or
6 due to any unsafe or unsound practice or practices; or

7 (6) The savings bank is insolvent, or is in imminent danger of insolvency
8 or has suspended its ordinary business transactions due to insufficient
9 funds; or

10 (7) The savings bank is unable to continue operations.

11 (b) Unless the Administrator finds that such an emergency exists which may
12 result in loss to members, deposit account holders, stockholders, or creditors, and which
13 requires that he take custody immediately, he shall first give written notice to the
14 directors and officers specifying the conditions criticized and allowing a reasonable
15 time in which corrections may be made before a receiver shall be appointed as outlined
16 in subsection (d) below.

17 (c) The purposes for which the Administrator may take custody of a savings bank
18 include, but are not limited to, examination or further examination, conservation of its
19 assets, restoration of impaired capital, and the making of any reasonable or equitable
20 adjustment deemed necessary by the Administrator under any plan of reorganization.

21 (d) If the Administrator after taking custody of a savings bank finds that one or
22 more of the reasons for having taken custody continue to exist through the period of his
23 custody, with little or no likelihood of amelioration of the situation, then he shall
24 appoint as receiver or coreceiver any qualified person, firm, or corporation for the
25 purpose of liquidation of the savings bank, which receiver shall furnish bond in form,
26 amount, and with surety as the Administrator may require. The Administrator may
27 appoint the association's deposit account insurance corporation or its nominee as the
28 receiver, and such insuring corporation shall be permitted to serve without posting bond.

29 (e) In the event the Administrator appoints a receiver for a savings bank, he shall
30 mail a certified copy of the appointment order by certified mail to the address of the
31 savings bank as it shall appear on the records of the Division, and to any previous
32 receiver or other legal custodian of the savings bank, and to any court or other authority
33 to which such previous receiver or other legal custodian is subject. Notice of such
34 appointment may be published in a newspaper of general circulation in the county
35 where the savings bank has its principal office.

36 (f) Whenever a receiver for a savings bank is appointed pursuant to subsection
37 (d) above the savings bank may within 30 days thereafter bring an action in the Superior
38 Court of Wake County, for an order requiring the Administrator to remove such
39 receiver.

40 (g) The duly appointed and qualified receiver shall take possession promptly of
41 the savings bank for which he or it has been so appointed, in accordance with the terms
42 of such appointment, by service of a certified copy of the Administrator's appointment
43 order upon the savings bank at its principal office through the officer or employee who
44 is present and appears to be in charge. Immediately upon taking possession of the

1 savings bank, the receiver shall take possession and title to books, records, and assets of
2 every description of the savings bank. The receiver, by operation of law and without
3 any conveyance or other instrument, act or deed, shall succeed to all the rights, titles,
4 powers, and privileges of the savings bank, its members or stockholders, holders of
5 deposit accounts, its officers and directors or any of them; and to the titles to the books,
6 records, and assets of every description of any previous receiver or other legal custodian
7 of the savings bank. Such members, stockholders, holders of deposit accounts, officers
8 or directors, or any of them, shall not thereafter, except as hereinafter expressly
9 provided have or exercise any such rights, powers or privileges or act in connection
10 with any assets or property of any nature of the savings bank in receivership. The
11 Administrator, with the approval of the Commission, may at any time, direct the
12 receiver to return the savings bank to its previous or a newly constituted management.
13 The Administrator may provide for a meeting or meetings of the members or
14 stockholders for any purpose, including, without any limitation on the generality of the
15 foregoing, the election of directors or an increase in the number of directors, or both, or
16 the election of an entire new board of directors; and may provide for a meeting or
17 meetings of the directors for any purpose including, without any limitation on the
18 generality of the foregoing, the filling of vacancies on the board, the removal of officers
19 and the election of new officers, or for any of such purposes. Any such meeting of
20 members or stockholders, or of directors, shall be supervised or conducted by a
21 representative of the Administrator.

22 (h) A duly appointed and qualified receiver shall have power and authority to:

- 23 (1) Demand, sue for, collect, receive and take into his possession all the
24 goods and chattels, rights and credits, moneys and effects, lands and
25 tenements, books, papers, choses in action, bills, notes and property
26 of every description of the savings bank;
- 27 (2) Foreclose mortgages, deeds of trust, and other liens executed to the
28 savings bank to the extent the savings bank would have had such right;
- 29 (3) Institute suits for the recovery of any estate, property, damages, or
30 demands existing in favor of the savings bank, and he shall, upon his
31 own application, be substituted as party plaintiff in the place of the
32 savings bank in any suit or proceeding pending at the time of his
33 appointment;
- 34 (4) Sell, convey, and assign all the property rights and interests owned by
35 the savings bank;
- 36 (5) Appoint agents to serve at his pleasure;
- 37 (6) Examine and investigate papers and persons, and pass on claims as
38 provided in the regulations as prescribed by the Administrator;
- 39 (7) Make and carry out agreements with the insuring corporation or with
40 any other financial institution for the payment or assumption of the
41 savings bank's liabilities, in whole or in part, and to sell, convey,
42 transfer, pledge, or assign assets as security or otherwise and to make
43 guarantees in connection therewith; and

1 (8) Perform all other acts which might be done by the employees, officers,
2 and directors.

3 Such powers shall be continued in effect until liquidation and dissolution or until
4 return of the savings bank to its prior or newly constituted management.

5 (i) A receiver may at any time during the receivership and prior to final
6 liquidation be removed and a replacement appointed by the Administrator.

7 (j) The Administrator may determine that such liquidation proceedings should be
8 discontinued. He shall then remove the receiver and restore all the rights, powers, and
9 privileges of its members and stockholders, customers, employees, officers, and
10 directors, or restore such rights, powers, and privileges to its members, stockholders,
11 and customers, and grant such rights, powers, and privileges to a newly constituted
12 management, all as of the time of such restoration of the savings bank to its
13 management unless another time for such restoration shall be specified by the
14 Administrator. The return of a savings bank to its management or to a newly
15 constituted management from the possession of a receiver shall, by operation of law and
16 without any conveyance or other instrument, act or deed, vest in the savings bank the
17 title to all property held by the receiver in his capacity as receiver for the savings bank.

18 (k) A receiver may also be appointed under the authority of G.S. 1-502. No
19 judge or court, however, shall appoint a receiver for any State savings bank unless five
20 days' advance notice of the motion, petition, or application for appointment of a receiver
21 shall have been given to the savings bank and to the Administrator.

22 (l) Following the appointment of a receiver, the Administrator may request the
23 Attorney General to institute an action in the name of the Administrator in the superior
24 court against the savings bank for the orderly liquidation and dissolution of the
25 association, and for an injunction to restrain the officers, directors, and employees from
26 continuing the operation of the savings bank.

27 (m) Claims against a State association in receivership shall have the following
28 order of priority for payment:

29 (1) Costs, expenses, and debts of the savings bank incurred on or after the
30 date of the appointment of the receiver, including compensation for the
31 receiver;

32 (2) Claims of holders of special purpose or thrift accounts;

33 (3) Claims of holders of deposit accounts;

34 (4) Claims of general creditors;

35 (5) Claims of stockholders of a stock savings bank;

36 (6) All remaining assets to members and stockholders in an amount
37 proportionate to their holdings as of the date of the appointment of the
38 receiver.

39 (n) All claims of each class described within subsection (m) above shall be paid
40 in full so long as sufficient assets remain. Members of the class for which the receiver
41 cannot make payment in full because assets will be depleted during payment to such
42 class shall be paid an amount proportionate to their total claims.

43 (o) The Administrator shall have the authority to direct the payment of claims for
44 which no provision is herein made, and may direct the payment of claims within a class.

1 The Administrator shall have the authority to promulgate rules and regulations
2 governing the payment of claims by an association in receivership.

3 (p) When all assets of the savings bank have been fully liquidated, and all claims
4 and expenses have been paid or settled, and the receiver shall recommend a final
5 distribution, the dissolution of the savings bank in receivership shall be accomplished in
6 the following manner:

7 (1) The receiver shall file with the Administrator a detailed report, in a
8 form to be prescribed by the Administrator, of his acts and proposed
9 final distribution, and dissolution.

10 (2) Upon the Administrator's approval of the final report of the receiver,
11 the receiver shall provide such notice and thereafter shall make such
12 final distribution, in such manner as the Administrator may direct.

13 (3) When a final distribution has been made except as to any unclaimed
14 funds, the receiver shall deposit such unclaimed funds with the
15 Administrator and shall deliver to the Administrator all books and
16 records of the dissolved association.

17 (4) Upon completion of the foregoing procedure, and upon the joint
18 petition of the Administrator and receiver to the superior court, the
19 court may find that the savings bank should be dissolved, and
20 following such publication of notice of dissolution as the court may
21 direct, the court may enter a decree of final resolution and the savings
22 bank shall therefore be dissolved.

23 (5) Upon final dissolution of the savings bank in receivership or at such
24 time as the receiver shall be otherwise relieved of his duties, the
25 Administrator shall cause an audit to be conducted, during which the
26 receiver shall be available to assist in such. The accounts of the
27 receiver shall then be ruled upon by the Administrator and
28 Commission and if approved, the receiver shall thereupon be given a
29 final and complete discharge and release.

30 **§ 54C-84. Judicial review.**

31 Any person or State savings bank against whom a cease and desist order is issued or
32 a fine is imposed may have such order or fine reviewed by a court of competent
33 jurisdiction. Except as otherwise provided, an appeal may be made only within 30 days
34 of the issuance of the order or the imposition of the fine, whichever is later.

35 **§ 54C-85. Indemnity.**

36 No person who is fined or penalized for a violation of any criminal provision of this
37 Article shall be reimbursed or indemnified in any fashion by the savings bank for such
38 fine or penalty.

39 **§ 54C-86. Cumulative penalties.**

40 All penalties, fines, and remedies provided by this Article shall be cumulative.

41 **§ 54C-87. Emergency limitations.**

42 The Administrator, with the approval of the Governor, may impose a limitation upon
43 the amounts withdrawable or payable from deposit accounts of savings banks during

1 any specifically defined period when such limitation is in the public interest and
2 welfare.

3 **"§§ 54C-88 to 54C-99: Reserved for future codification purposes.**

4 **"ARTICLE 6.**

5 **"CORPORATE ADMINISTRATION.**

6 **"§ 54C-100. Membership of a mutual association.**

7 The membership of a mutual State savings bank shall consist of:

8 (1) Those who hold deposit accounts in a savings bank, and

9 (2) Those who borrow funds and those who become obligated on a loan
10 from the savings bank, for such time as the loan remains unpaid and
11 the borrower remains liable to the savings bank for the payment
12 thereof.

13 Any person in his own right, or in a trust or other fiduciary capacity, or any
14 partnership, association, corporation, political subdivision, or public or governmental
15 unit or entity may become a member of a mutual savings bank. Members shall be
16 possessed of such voting rights and such other rights as are provided by a savings bank's
17 certificate of incorporation and bylaws as approved by the Administrator. Members are
18 the owners of a mutual savings bank.

19 **"§ 54C-101. Directors.**

20 (a) The directors of a mutual savings bank shall be elected by the members at an
21 annual meeting, held pursuant to the terms of G.S. 54C-106, for such terms as the
22 bylaws of the savings bank may provide. Director's terms may be classified in the
23 certificate of incorporation. Voting for directors by deposit account holders shall be
24 weighted according to the total amount of deposit accounts held by such members,
25 subject to any maximum number of votes per member which a savings bank may
26 choose to prescribe in its bylaws. Voting rights for borrowers shall be as prescribed in
27 the bylaws. Such requirement shall be fully prescribed in a detailed manner in the
28 bylaws of the savings bank.

29 (b) The directors of a stock savings bank shall be elected by the stockholders at
30 an annual meeting, held pursuant to the terms of G.S. 54C-106, for such terms as the
31 bylaws of the savings bank may provide. Director's terms may be classified in the
32 certificate of incorporation.

33 (c) Each director of a State savings bank shall have a significant ownership
34 interest in the State savings bank. The Administrator shall promulgate rules and
35 regulations defining significant ownership interest.

36 (d) Every State savings bank shall have no less than five directors.

37 **"§ 54C-102. Bylaws.**

38 The bylaws and any amendments thereof shall be certified by the appropriate
39 corporate official and submitted to the Administrator for his approval before they may
40 become effective.

41 **"§ 54C-103. Duties and liabilities of officers and directors to their associations.**

42 Officers and directors of a State savings bank shall act in a fiduciary capacity
43 towards the savings bank and its members or stockholders. They shall discharge duties

1 of their respective positions in good faith, and with that diligence and care which
2 ordinarily prudent men would exercise under similar circumstances in like positions.

3 **"§ 54C-104. Conflicts of interest.**

4 Each director, officer, and employee of a State savings bank has a fundamental duty
5 to avoid placing himself in a position which creates, or which leads to or could lead to a
6 conflict of interest or appearance of a conflict of interest having adverse effects on the
7 interests of members, customers, or stockholders of the savings bank, soundness of the
8 savings bank, and the purposes of this Chapter.

9 **"§ 54C-105. Voting rights.**

10 Voting rights in the affairs of a State savings bank may be exercised by members
11 and stockholders by voting either in person or by proxy. The Administrator shall
12 promulgate rules and regulations governing forms of proxies, holders of proxies, and
13 proxy solicitation.

14 **"§ 54C-106. Annual meetings notice required.**

15 (a) Each savings bank shall hold an annual meeting of its members or
16 stockholders. The annual meeting shall be held at a time and place as shall be provided
17 in the bylaws or determined by the board of directors.

18 (b) The board of directors of a mutual savings bank shall cause to be published
19 once a week for two weeks preceding such meeting, in a newspaper of general
20 circulation in the county where such savings bank has its principal office, a notice of the
21 meeting, signed by the savings bank's secretary, and stating the time and place where it
22 is to be held. In addition to the foregoing notice, each savings bank shall disseminate
23 additional notice of any annual meeting by notice made available to all members
24 entering the premises of any office or branch of the savings bank in the regular course
25 of business by posting therein, in full view of the public and such members, one or more
26 conspicuous signs or placards announcing the pending meeting, the time, date, and
27 place of the meeting and the availability of additional information. Printed matter shall
28 be freely available to said members containing any information as may be prescribed in
29 rules and regulations issued by the Administrator. Such additional notice shall be given
30 at any time within the period of 60 days prior to and 14 days prior to the meeting and
31 shall continue through the time of the meeting.

32 (c) The board of directors of a stock savings bank shall cause a written or printed
33 notice signed by the savings bank's secretary, and stating the time and place of the
34 annual meeting to be delivered not less than 10 days nor more than 50 days before the
35 date of the meeting, either personally or by mail to each stockholder of record entitled to
36 vote at the meeting. If mailed, such notice shall be deemed to be delivered when
37 deposited in the United States postal service addressed to the stockholder at his address
38 as it appears on the records of the corporation, with postage thereon prepaid.

39 **"§ 54C-107. Special meetings; notice required.**

40 (a) Special meetings of members or stockholders of a savings bank may be called
41 by the president or the board of directors or by such other officers or persons as may be
42 provided for in the charter or bylaws of the savings bank.

43 (b) Notice of any special meeting of members or stockholders shall be given in
44 the same manner as provided for annual meetings under G.S. 54C-106.

1 **"§ 54C-108. Quorum.**

2 Unless otherwise provided in the savings bank's charter or bylaws, 50 holders of
3 deposit accounts in a mutual savings bank or 50 stockholders or a majority of shares
4 eligible to vote in a stock savings bank, present in person or represented by proxy, shall
5 constitute a quorum at any annual or special meeting.

6 **"§ 54C-109. Bonding.**

7 (a) A savings bank shall maintain a blanket indemnity bond of at least a
8 minimum amount as prescribed by the Administrator.

9 (b) A savings bank which employs collection agents, who for any reason are not
10 covered by the bond as hereinabove required, shall provide for the bonding of each such
11 agent in an amount equal to at least twice the average monthly collections of such agent.
12 Such agents shall be required to make settlement with the association at least once
13 monthly. No such coverage by bond will be required of any agent which is a bank or an
14 association insured by the Federal Deposit Insurance Corporation. The amount and
15 form of such bonds and the sufficiency of the surety thereon shall be approved by the
16 board of directors and the Administrator before such is valid. All such bonds shall
17 provide that a cancellation thereof either by the surety or by the insured shall not
18 become effective unless and until 30 days' notice in writing shall have been given to the
19 Administrator.

20 **"§§ 54C-110 to 54C-120: Reserved for future codification purposes.**

21 **"ARTICLE 7.**

22 **"LOANS AND INVESTMENTS.**

23 **"§ 54C-121. Loans.**

24 (a) A savings bank may loan funds as follows:

25 (1) On the security of deposit accounts, but no such loan shall exceed the
26 withdrawal value of the pledged deposit account.

27 (2) On the security of real property:

28 a. Of a value, determined in accordance with the provisions of this
29 Chapter and such appraisal rules and regulations as the
30 Administrator may promulgate, sufficient to provide good and
31 ample security for the loan; and

32 b. With a fee simple title or a leasehold title of no less duration
33 than 10 years beyond the maturity of the loan; and

34 c. With the title established by such evidence of title as is
35 consistent with sound lending practices; and

36 d. With the security interest in such real estate evidenced by an
37 appropriate written instrument and the loan evidenced by a
38 note, bond, or similar written instrument. A loan on the
39 security of the whole of the beneficial interest in a land trust
40 satisfies the requirements of this subparagraph if the title to the
41 land is held by a corporate trustee and if the real estate held in
42 the land trust meets the other requirements of this paragraph.

43 (3) For the purpose of repair, improvement, rehabilitation, furnishing, or
44 equipment of real estate.

- 1 (4) For the purpose of financing or refinancing an existing ownership
2 interest, in certificates of stock, certificates of beneficial interest, or
3 other evidence of an ownership interest in, and a proprietary lease
4 from, a corporation, trust or partnership formed for the purpose of the
5 cooperative ownership of real estate, secured by the assignment or
6 transfer of such certificates or other evidence of ownership of the
7 borrower.
- 8 (5) For the purchase of loans which, at the time of purchase, the savings
9 bank could make in accordance with this Chapter.
- 10 (6) For the purchase of installment contracts for the sale of real estate, and
11 title thereto which is subject to such contract, but in each instance only
12 if the savings bank at the time of purchase, could make a mortgage
13 loan of the same amount and for the same length of time on the
14 security of such real estate.
- 15 (7) For the purchase of loans guaranteed or insured, wholly or in part, by
16 the United States or any of its instrumentalities.
- 17 (8) For secured or unsecured financing for business, corporate, personal,
18 family, or household purposes, or for secured or unsecured loans for
19 agricultural or commercial purposes, subject to such rules and
20 regulations as the Administrator may promulgate.
- 21 (9) For the purpose of mobile home financing subject to such rules and
22 regulations as the Administrator may promulgate.
- 23 (10) For loans secured by no more than ninety percent (90%) of the cash
24 surrender value of any life insurance policy.
- 25 (11) For loans on any collateral which would be a legal investment if made
26 by the savings bank pursuant to the provisions of this Chapter.

27 (b) Any provision of this Chapter to the contrary notwithstanding, any savings
28 bank may make any loan which such savings bank could make if it were incorporated
29 and operating as a federal association or as a State or national bank.

30 **"§ 54C-122. Lending procedures.**

31 (a) The board of directors shall establish procedures by which loans are to be
32 considered, approved, and made by the savings bank.

33 (b) All actions on loan applications to the savings bank shall be reported to the
34 board of directors at its next meeting.

35 (c) Subject to such regulations as the Administrator deems appropriate, a savings
36 bank may lend funds on any collateral deemed sufficient by the board of directors to
37 properly secure loans. Loans made solely upon security of collateral consisting of stock
38 or equity securities which are not listed on a national stock exchange or regularly quoted
39 and offered for trade on an over-the-counter market shall be considered loans without
40 security.

41 (d) A savings bank may lend funds without requiring security. No unsecured
42 loan shall exceed the maximum amount authorized by rules and regulations of the
43 Administrator.

1 (e) A savings bank may make insured or guaranteed loans in accordance with the
2 provisions of G.S. 53-45.

3 (f) A savings bank may invest any funds on hand in the purchase of loans of a
4 type which the savings bank could make in accordance with the provisions of this
5 Chapter.

6 (g) A savings bank may invest in a participating interest in loans of a type which
7 the savings bank could make in accordance with the provisions of this Chapter.

8 (h) A savings bank may sell any loan, including any participating interest in a
9 loan.

10 **"§ 54C-123. Prohibited security.**

11 No savings bank may accept its own capital stock or its own mutual capital
12 certificates as security for any loan made by such savings bank.

13 **"§ 54C-124. Loans conditioned on certain transactions prohibited.**

14 (a) No savings bank or service corporation thereof shall require as a condition of
15 making a loan that the borrower contract with any specific person or organization for
16 particular services.

17 (b) A savings bank or service corporation thereof must notify borrowers prior to
18 the loan commitment of their right to select the attorney or law firm rendering legal
19 services in connection with the loan, and the person or organization rendering insurance
20 services in connection with the loan. Such persons or organizations must be approved
21 by the savings bank's board of directors, pursuant to such rules and regulations as the
22 Administrator may prescribe.

23 (c) A savings bank or service corporation thereof may require borrowers to
24 reimburse such savings bank for legal services rendered to it by its own attorney only
25 when the fee is limited to legal services required by the making of such loan.

26 **"§ 54C-125. Loan expenses and fees.**

27 (a) Subject to the provisions of Chapter 24 of the General Statutes, a savings
28 bank may require borrowers to pay all reasonable expenses incurred by the savings bank
29 in connection with making, closing, disbursing, extending, adjusting, or renewing loans.
30 Such charges may be collected by the savings bank from the borrower and paid to any
31 persons, including any director, officer or employee of the savings bank who may
32 render services in connection with the loan, or such charges may be paid directly by the
33 borrower.

34 (b) A savings bank may require a borrower to pay a reasonable charge for late
35 payments made during the course of repayment of a loan. Subject to the provisions of
36 G.S. 24-10.1, such payments may be levied only upon such terms and conditions as
37 shall be fixed by the savings bank's board of directors and agreed to by the borrower in
38 the loan contract.

39 (c) Nothing in this Article shall be construed to modify Chapter 24 of the
40 General Statutes, or other applicable law, or to allow fees, charges, or interest beyond
41 that permitted by Chapter 24 or other applicable law.

42 **"§ 54C-126. Methods of loan repayment.**

1 Subject to such rules and regulations as the Administrator may prescribe, a savings
2 bank shall agree in writing with borrowers as to the method or plan by which an
3 indebtedness shall be repaid.

4 **"§ 54C-127. Insider loans.**

5 The Administrator may promulgate rules and regulations no less stringent than the
6 requirements of the appropriate federal regulatory authority, and as he deems necessary,
7 to govern the making of loans to officers and directors, and their associates, and
8 companies or other business entities controlled by them.

9 **"§ 54C-128. Rule-making power of Administrator.**

10 The Administrator shall, from time to time, promulgate such rules and regulations in
11 respect to loans permitted to be made by State savings banks as may be reasonably
12 necessary to assure that such loans are in keeping with sound lending practices and to
13 promote the purposes of this Chapter; provided, that such rules and regulations shall not
14 prohibit a savings bank from making any loan which is a permitted loan for federal
15 savings banks under federal regulatory authority.

16 **"§ 54C-129. Nonconforming loans and investments.**

17 Unless otherwise provided, every loan or other investment made in violation of this
18 Chapter shall be due and payable according to its terms and the obligation thereof shall
19 not be impaired; provided, that such violation consists only of the lending of an
20 excessive sum on authorized security or of investing in an unauthorized investment.

21 **"§ 54C-130. Limitation on loans to one borrower.**

22 (a) The total loans and extensions of credit, both direct and indirect, by a savings
23 bank to any person, other than a municipal corporation for money borrowed,
24 outstanding at one time and not fully secured, as determined in a manner consistent with
25 subsection (b) of this section, by collateral having a market value at least equal to the
26 amount of the loan or extension of credit shall not exceed fifteen percent (15%) of the
27 net worth of the savings bank. The total liabilities of a firm shall include the liabilities
28 of the members of the firm.

29 (b) The total loans and extensions of credit, both direct and indirect, by a savings
30 bank to any person outstanding at one time and fully secured by readily marketable
31 collateral having a market value, as determined by reliable and continuously available
32 price quotations, at least equal to the amount of the funds outstanding shall not exceed
33 ten percent (10%) of the net worth of the savings bank. This limitation shall be separate
34 from and in addition to the limitation contained in subsection (a) above.

35 (c) For purposes of this section, the term 'person' shall be deemed to include an
36 individual or a corporation, partnership, trust, association, joint venture, pool, syndicate,
37 sole proprietorship, unincorporated organization, or any other form of entity not
38 specifically listed herein. Loans or extensions of credit to one person include loans
39 made to other persons when the proceeds of the loans or extensions of credit are to be
40 used for the direct benefit of the first person or when the persons are engaged in a
41 common enterprise.

42 (d) The limitations of this section shall not apply to loans or obligations to the
43 extent that they are secured or covered by guarantees or by commitments or agreements
44 to take over or purchase the same, made by any federal reserve bank or by the United

1 States or any department, board, bureau, commission, or establishment of the United
2 States, including any corporation wholly owned directly or indirectly by the United
3 States.

4 (e) The limitations of this section shall not apply to loans or obligations made for
5 the following:

6 (1) For any purpose otherwise permitted by this Chapter, not to exceed
7 five hundred thousand dollars (\$500,000); or

8 (2) To develop domestic residential housing units, not to exceed the lesser
9 of thirty million dollars (\$30,000,000) or thirty percent (30%) of the
10 savings bank's net worth if the purchase price of each single family
11 dwelling unit which is financed under this provision does not exceed
12 five hundred thousand dollars (\$500,000) and the loans or obligations
13 made under this provision do not in the aggregate, exceed one hundred
14 fifty percent (150%) of the savings bank's net worth; or

15 (3) Loans to one borrower to finance the sale of real property acquired in
16 satisfaction of debts previously contracted in good faith, not to exceed
17 fifty percent (50%) of the savings bank's net worth.

18 **"§ 54C-131. Investment in banking premises.**

19 A savings bank may invest in real property and equipment and in leasehold
20 improvements to rented facilities necessary for the conduct of its business and in real
21 property to be held for its future use. A savings bank may invest in an office building or
22 buildings and appurtenances for the purpose of the transaction of the savings bank's
23 business. No such investment may be made without the prior written approval of the
24 Administrator if the total amount of such investments exceeds fifty percent (50%) of the
25 savings bank's net worth. Facilities, furniture and fixtures leased for the purpose set
26 forth in this section shall not be included in this limitation.

27 **"§ 54C-132. United States obligations.**

28 A savings bank may invest in any obligation issued and fully guaranteed in principal
29 and interest by the United States government or any instrumentality thereof.

30 **"§ 54C-133. North Carolina obligations.**

31 A savings bank may invest in any obligation issued and fully guaranteed in principal
32 and interest by the State of North Carolina or any instrumentality thereof.

33 **"§ 54C-134. Federal Home Loan Bank obligations.**

34 A savings bank may invest in the stock of the Federal Home Loan Bank of which
35 such association is a member, and in bonds or other evidences of indebtedness or
36 obligation of any Federal Home Loan Bank.

37 **"§ 54C-135. Deposits in depository institutions.**

38 A savings bank may invest in certificates of deposit, time-insured deposits, savings
39 accounts, demand deposits, or withdrawable accounts of such banks, associations or
40 savings banks as are approved by the board of directors of the savings bank.

41 **"§ 54C-136. Federal government-sponsored enterprise obligations.**

42 A savings bank may invest in stock or other evidences of indebtedness or obligations
43 of the Federal National Mortgage Association, the Federal Home Loan Mortgage

1 Corporation, or any other federal government-sponsored enterprise, or any successor
2 thereto.

3 **"§ 54C-137. Municipal and county obligations.**

4 A savings bank may invest in bonds or other evidences of indebtedness which are
5 direct general obligations of any county, city, town, village, school district, sanitation or
6 park district, or other political subdivision or municipal corporation of this State; or in
7 bonds or other evidences of indebtedness which are payable from revenues or earnings
8 specifically pledged therefor, which are issued by the county or an adjoining county or a
9 political subdivision or municipal corporation of a county in this State.

10 **"§ 54C-138. Stock in education agency.**

11 A savings bank may invest in stock or obligations of any corporation doing business
12 in this State, or of any agency of this State or of the United States, where the principal
13 business of such corporation or agency is to make loans for the financing of a college or
14 university education, or education at an industrial education center, technical institute or
15 community college in this State.

16 **"§ 54C-139. Industrial development corporation stock.**

17 A savings bank may invest in stock or other evidence of indebtedness or obligations
18 of business or industrial development corporations chartered by this State or by the
19 United States.

20 **"§ 54C-140. Urban renewal investment corporation stock.**

21 A savings bank may invest in stock or other evidence of indebtedness or obligations
22 of an urban renewal investment corporation chartered under the laws of this State or of
23 the United States.

24 **"§ 54C-141. Limitations on investment in stocks and securities.**

25 (a) No savings bank shall make an investment in the capital stock of any other
26 State or federal depository institution that represents more than five percent (5%) of the
27 capital stock of that depository institution.

28 (b) No savings bank shall invest in stock of other than investment grade. No
29 savings bank shall invest in the aggregate more than fifty percent (50%) of its net worth
30 in the stocks of other corporations, firms, partnerships, or companies, unless such stock
31 is purchased to protect the savings bank from loss. Of this amount, no more than two
32 and one-half percent (2.5%) of the savings bank's net worth may be invested in the
33 stocks or securities of any one issuer. This limitation shall not apply to stock or
34 ownership interests in corporations, firms, partnerships or companies which are
35 subsidiaries of such savings bank. The term 'invest' shall be deemed to include
36 operating a business entity acquired by the savings bank, provided, however, that no
37 savings bank shall make any such investment resulting in operations which are not
38 closely related to the savings bank business without the prior written approval of the
39 Administrator. Any stocks owned or hereafter acquired in excess of the limitations
40 herein imposed shall be disposed of at public or private sale within six months after the
41 date of acquiring the same and if not so disposed of they shall be charged to the profit
42 and loss account, and no longer carried on the books as an asset. The limit of time in
43 which said stocks shall be disposed of or charged off the books of the savings bank may

1 be extended by the Administrator if in his judgment it is in the best interest of the
2 savings bank that such extension be granted.

3 (c) This limitation shall not apply with respect to obligations of the government
4 of the United States, or agencies thereof, or to other obligations guaranteed by the
5 United States Government, State of North Carolina, or other state of the United States,
6 or of a city, town, township, county, school district, or other political subdivision of the
7 State of North Carolina.

8 (d) The Administrator may adopt such rules and regulations as are necessary to
9 carry out the provisions of this section, including, but not limited to, requirements as to
10 investment diversification and resource management.

11 **"§ 54C-142. Suspension of investment and loan limitation.**

12 The board of directors of any savings bank may by resolution duly passed at a
13 meeting of the board request the Administrator to suspend temporarily the limitations on
14 loans and investments as the same may apply to any particular loan or investment in
15 excess of the limitations of G.S. 54C-130 and G.S. 54C-141 which the savings bank
16 desires to make. Upon receipt of a duly certified copy of such resolution, the
17 Administrator may, in his discretion, suspend the limitations on loans and investments
18 insofar as they would apply to the loan or investment which the savings bank desires to
19 make: Provided, however, such loan shall be amply secured and shall be for a period
20 not longer than 36 months.

21 **"§ 54C-143. Commercial lending.**

22 Subject to such regulations as the Administrator deems appropriate, a savings bank
23 may lend and invest no more than fifteen percent (15%) of its total assets in commercial
24 loans. A commercial loan shall be for business, commercial, corporate, and agricultural
25 purposes.

26 **"§ 54C-144. Service corporations.**

27 (a) Any savings bank or group of savings banks or associations may establish
28 service corporations under the provisions of Chapter 55 for corporate organization,
29 provided that the Administrator receives copies of the proposed articles of incorporation
30 and bylaws for approval, prior to filing them with the Secretary of State. Any such
31 savings bank may also invest in the capital stock, obligations, or other securities of
32 existing service corporations.

33 (b) No savings bank may make any investment in service corporations if its
34 aggregate investment would exceed ten percent (10%) of its total assets.

35 (c) Service corporations shall be subject to audit and examination by the
36 Administrator, and the cost of examination shall be paid by the service corporation.

37 (d) The permitted activities of a service corporation shall be described in the
38 rules and regulations as promulgated by the Administrator.

39 (e) The location of the principal and branch offices of a service corporation must
40 be approved by the Administrator.

41 **"§ 54C-145. Parity in loans or investments.**

42 Subject to such limitations and restrictions as the Administrator may prescribe
43 through rules and regulations, any savings bank is authorized and permitted to make any
44 loan or investment, or engage in any activity, which may be permitted under State law

1 for banks or under the laws of the United States for federal associations or national
2 banks whose principal offices are located within this State.

3 **"§ 54C-146. Certain powers granted to State savings banks.**

4 (a) In addition to the powers granted under this Chapter, any savings bank
5 incorporated or operated under the provisions of this Chapter is herein authorized to:

- 6 (1) Establish off the premises of any principal office or branch a customer
7 communications terminal, point-of-sale terminal, automated teller
8 machine, automated or other direct or remote information-processing
9 device or machine, whether manned or unmanned, through or by
10 means of which funds or information relating to any financial service
11 or transaction rendered to the public is stored and transmitted,
12 instantaneously or otherwise to or from a savings bank terminal or
13 terminals controlled or used by or with other parties; and the
14 establishment and use of such a device or machine shall not be deemed
15 to constitute a branch office and the capital requirements and standards
16 for approval of a branch office as set forth in the statutes and
17 regulations, shall not be applicable to the establishment of any such
18 off-premises terminal, device or machine; and savings banks may
19 through mutual consent share on-premises unmanned automated teller
20 machines and cash dispensers. The Administrator may prescribe rules
21 and regulations with regard to the application for permission for use,
22 maintenance, and supervision of said terminals, devices, and machines;
- 23 (2) Subject to such rules and regulations as the Administrator may
24 prescribe, a savings bank is authorized to issue credit cards, extend
25 credit in connection therewith, and otherwise engage in or participate
26 in credit card operations;
- 27 (3) Subject to such rules and regulations as the Administrator may
28 prescribe, a savings bank may act as a trustee, executor, administrator,
29 guardian, or in any other fiduciary capacity;
- 30 (4) Become a member of a clearing house association and to pledge assets
31 required for its qualification;
- 32 (5) a. In accordance with rules and regulations issued by the
33 Administrator, mutual capital certificates may be issued by State-
34 chartered savings banks and sold directly to subscribers or through
35 underwriters, and such certificates shall constitute part of the general
36 reserve and net worth of the issuing savings bank. The Administrator,
37 in the rules and regulations relating to the issuance and sale of mutual
38 capital certificates, shall provide that such certificates:
 - 39 1. Shall be subordinate to all savings accounts, savings
40 certificates, and debt obligations;
 - 41 2. Shall constitute a claim in liquidation on the general
42 reserves, surplus and undivided profits of the savings
43 bank remaining after the payment of all savings
44 accounts, savings certificates, and debt obligations;

- 1 3. Shall be entitled to the payment of dividends; and
2 4. May have a fixed or variable dividend rate.
3 b. The Administrator shall provide in the rules and regulations for
4 charging losses to the mutual capital, reserves, and other net
5 worth accounts.

6 (b) To such extent as the Administrator may authorize by rules and regulations, a
7 savings bank may issue notes, bonds, debentures, or other obligations or securities.

8 **"§§ 54C-147 to 54C-160: Reserved for future codification purposes.**

9 **"ARTICLE 8.**

10 **"OPERATIONS.**

11 **"§ 54C-161. Generally accepted accounting principles.**

12 Savings banks shall maintain their books and records in accordance with generally
13 accepted accounting principles.

14 **"§ 54C-162. Liquidity.**

15 Savings banks shall maintain cash and readily marketable investments in an amount
16 that may be established in the rules and regulations of the Administrator but such a
17 requirement shall not be less than ten percent (10%) of the assets of the savings bank.
18 Upon receipt of a duly certified copy of a resolution by the board of directors of any
19 savings bank requesting a temporary suspension, the Administrator may suspend the
20 liquidity requirement for a period not longer than six months.

21 **"§ 54C-163. Net worth requirement.**

22 Savings banks shall maintain net worth in an amount that may be established in the
23 rules and regulations of the Administrator but such requirement shall not be less than
24 five percent (5%) of the assets of the savings bank. Upon receipt of a duly certified
25 copy of a resolution by the board of directors of any savings bank requesting a
26 temporary suspension, the Administrator may suspend the net worth requirement for a
27 period not longer than six months.

28 **"§ 54C-164. Deposit accounts.**

29 (a) Every savings bank shall be authorized to raise capital through the solicitation
30 of deposits from any person, natural or corporate, except as restricted or limited by law,
31 or by such regulations as the Administrator may prescribe.

32 (b) Savings banks may receive deposits of funds upon such terms as the contract
33 of deposit shall provide subject to withdrawals or to be paid upon checks of the
34 depositor.

35 **"§ 54C-165. Joint accounts.**

36 (a) Any two or more persons may open or hold a withdrawable account or
37 accounts. The withdrawable account and any balance thereof shall be held by them as
38 joint tenants, with or without right of survivorship, as the contract shall provide; the
39 account may also be held pursuant to G.S. 41-2.1 and have incidents set forth in that
40 section; provided, however, if the account is held pursuant to G.S. 41-2.1, the contract
41 shall set forth that fact as well. Unless the persons establishing the account have agreed
42 with the savings bank that withdrawals require more than one signature, payment by the
43 savings bank to, or on the order of, any persons holding an account authorized by this
44 section shall be a total discharge of the savings bank's obligation as to the amount so

1 paid. Funds in a joint account established with the right of survivorship shall belong to
2 the surviving joint tenant or tenants upon the death of a joint tenant, and the funds shall
3 be subject only to the personal representative's right of collection as set forth in G.S.
4 28A-15-10(a)(3), or as provided in G.S. 41-2.1 if the account is established pursuant to
5 the provisions of that section. Payment by the savings bank of funds in the joint
6 account to a surviving joint tenant or tenants shall terminate the personal
7 representative's authority under G.S. 28A-15-10(a)(3) to collect against the savings
8 bank for the funds so paid, but the personal representative's authority to collect such
9 funds from the surviving joint tenant or tenants is not terminated. A pledge of such
10 account by any holder or holders shall, unless otherwise specifically agreed upon, be a
11 valid pledge and transfer of such account, or of the amount so pledged, and shall not
12 operate to sever or terminate the joint ownership of all or any part of the account.
13 Persons establishing an account under this section shall sign a statement showing their
14 election of the right of survivorship in the account, and containing language set forth in
15 a conspicuous manner and substantially similar to the following:

16 **'SAVINGS BANK (OR NAME OF INSTITUTION) JOINT ACCOUNT**
17 **WITH RIGHT OF SURVIVORSHIP**
18 **G.S. 54C-165**

19 We understand that by establishing a joint account under the provisions of G.S. 54C-
20 165 that:

- 21 1. The savings bank (or name of institution) may pay the money in the
22 account to, or on the order of, any person named in the account unless
23 we have agreed with the savings bank that withdrawals require more
24 than one signature; and
- 25 2. Upon the death of one joint owner the money remaining in the account
26 will belong to the surviving joint owners and will not pass by
27 inheritance to the heirs of the deceased joint owner or be controlled by
28 the deceased joint owner's will.

29 We DO elect to create the right of survivorship in this account.

30
31

32 (a1) This section shall not be deemed exclusive. Deposit accounts not conforming
33 to this section shall be governed by other applicable provisions of the General Statutes
34 or the common law as appropriate.

35 (b) Nothing herein contained shall be construed to repeal or modify any of the
36 provisions of G.S. 105-24, relating to the administration of the estate tax laws of this
37 State, or provisions of law relating to estate taxes; the provisions herein shall regulate,
38 govern, and protect the savings bank in its relationships with such joint owners of
39 deposit accounts as herein provided.

40 (c) No addition to such account, nor any withdrawal or payment shall affect the
41 nature of the account as a joint account or affect the right of any tenant to terminate the
42 account.

43 **"§ 54C-166. Trust accounts.**

1 (a) If any person establishing a withdrawable account shall execute a written
 2 agreement with the savings bank containing a statement that it is executed pursuant to
 3 the provisions of this subsection and providing for the account to be held in the name of
 4 such person as trustee for not more than one person designated as beneficiary, the
 5 account and any balance thereof shall be held as a trust account with the following
 6 incidents:

- 7 (1) The trustee during the trustee's lifetime may change the designated
 8 beneficiary by a written direction to the savings bank.
 9 (2) The trustee may withdraw funds by writing checks or otherwise, as set
 10 forth in the account contract, and receive payment in cash or check
 11 payable to the trustee's personal order. Such payment or withdrawal
 12 shall constitute a revocation of the trust agreement as to the amount
 13 withdrawn.
 14 (3) If the beneficiary is living and of legal age at the death of the trustee,
 15 the beneficiary shall be the holder of the account, and payment by the
 16 savings bank to the holder shall be a total discharge of the savings
 17 bank's obligation as to the amount paid.
 18 (4) If the beneficiary predeceases the trustee, the account shall become an
 19 individual account of the trustee and shall have the legal incidents of
 20 an individual account.
 21 (5) If the named beneficiary is not of legal age at the death of the trustee,
 22 the savings bank shall transfer the funds in the account to the general
 23 guardian or guardian of the estate, if any, of the minor beneficiary. If
 24 no guardian of the minor beneficiary has been appointed, the savings
 25 bank shall hold the funds in a similar interest-bearing account in the
 26 name of the minor until the minor reaches the age of majority or until a
 27 duly appointed guardian withdraws the funds.
 28 (6) Funds in a trust account established pursuant to this subsection shall
 29 belong to the beneficiary upon the death of the trustee and the funds
 30 shall be subject only to the personal representative's right of collection
 31 as set forth in G.S. 28A-15-10(a)(1). Payment by the savings bank of
 32 funds in the trust account to the beneficiary shall terminate the
 33 personal representative's authority under G.S. 28A-15-10(a)(1) to
 34 collect against the savings bank for the funds so paid, but the personal
 35 representative's authority to collect such funds from the beneficiary is
 36 not terminated.

37 The person establishing an account under this subsection shall sign a statement
 38 containing language set forth in a conspicuous manner and substantially similar to the
 39 following:

40 **'SAVINGS BANK (OR NAME OF INSTITUTION) TRUST ACCOUNT**

41 **G.S. 54C-166(A)**

42 I understand that by establishing a trust account under the provisions of G.S. 54C-
 43 166(a) that:

- 44 1. During my lifetime I may withdraw the money in the account; and

1 (b) An account created under the provisions of this section grants no ownership
2 right or interest in the agent. Upon the death of the principal there is no right of
3 survivorship to the account and the authority set out in subsection (a) terminates.

4 (c) The written contract referred to in subsection (a) shall provide that the
5 principal may elect to extend the authority of the agent set out in subsection (a) to act on
6 behalf of the principal in regard to the account notwithstanding the subsequent
7 incapacity or mental incompetence of the principal. If the principal so elects to extend
8 such authority of the agent, then upon the subsequent incapacity or mental
9 incompetence of the principal, the agent may continue to exercise such authority,
10 without the requirement of bond or of accounting to any court, until such time as the
11 agent shall receive actual knowledge that such authority has been terminated by a duly
12 qualified guardian of the estate of the incapacitated or incompetent principal, or by the
13 duly appointed attorney-in-fact for the incapacitated or incompetent principal, acting
14 pursuant to a durable power of attorney (as defined in G.S. 32A-8) which grants to the
15 attorney-in-fact that authority in regard to the account which is granted to the agent by
16 the written contract executed pursuant to the provisions of this section, at which time
17 the agent shall account to such guardian or attorney-in-fact for all actions of the agent in
18 regard to the account during the incapacity or incompetence of the principal. If the
19 principal does not so elect to extend the authority of the agent, then upon the subsequent
20 incapacity or mental incompetence of the principal, the authority of the agent set out in
21 subsection (a) terminates.

22 (d) When an account under this section has been established, all or part of the
23 account or any interest or dividend thereon may be paid by the savings bank on a check
24 made, signed, or executed by the agent. In the absence of actual knowledge that the
25 principal has died or that the agency created by the account has been terminated, such
26 payment shall be a valid and sufficient discharge to the savings bank for payment so
27 made.

28 **"§ 54C-168. Collection of processing fee for returned checks.**

29 Notwithstanding any other provision of law, a processing fee may be charged and
30 collected by any savings bank for checks on which payment has been refused by the
31 payor depository institution. A savings bank may also collect said fee for checks drawn
32 on that savings bank with respect to an account with insufficient funds.

33 **"§ 54C-169. Right of setoff on deposit accounts.**

34 (a) A savings bank shall have a right of setoff, without further agreement or
35 pledge, upon all deposit accounts owned by any member or customer to whom or upon
36 whose behalf the savings bank has made an unsecured advance of money by loan; and
37 upon default in the repayment or satisfaction thereof, the savings bank may cancel on its
38 books all or any part of the deposit accounts owned by such member or customer, and
39 apply the value of such accounts in payment of such obligation.

40 (b) A savings bank which exercises the right of setoff provided in this section
41 shall first give 30 days notice to the member or customer that such right will be
42 exercised. Such accounts may be held or frozen, with no withdrawals permitted, during
43 the 30-day notice period. Such accounts may not be canceled and the value thereof may
44 not be applied to pay such obligation until the 30-day period has expired without the

1 member or customer having cured the default on the obligation. The amount of any
2 member's or customer's interest in a joint account or other account held in the names of
3 more than one person shall be subject to the right of setoff provided in this section.

4 (c) This section is not exclusive, but shall be in addition to contract, common law
5 and other rights of setoff. Such other rights shall not be governed in any fashion by this
6 section.

7 **"§ 54C-170. Minors as deposit account holders.**

8 (a) A savings bank may issue a deposit account to a minor as the sole and
9 absolute owner and receive payments, pay withdrawals, accept pledges and act, or as a
10 joint owner, in any other manner with respect to such account on the order of the minor
11 with like effect as if he were of full age and legal capacity. Any payment to a minor
12 shall be a discharge of the savings bank to the extent thereof. The account shall be held
13 for the exclusive right and benefit of the minor, and any joint owners, free from the
14 control of all persons, except creditors.

15 (b) A savings bank may lease a safe deposit box to a minor and, with respect to
16 such lease, may deal with the minor in all regards as if the minor were of full age and
17 legal capacity. A minor entering a lease agreement with a savings bank pursuant to this
18 subsection shall be bound by the terms of the agreement to the same extent as if the
19 minor were of full age and legal capacity.

20 **"§ 54C-171. Deposit accounts as deposit of securities.**

21 Notwithstanding any restrictions or limitations contained in any law of this State, the
22 deposit accounts of any State savings bank may be accepted by any agency, department,
23 or official of this State in any case wherein such agency, department, or official acting
24 in its or his official capacity requires that securities be deposited with such agency,
25 department, or official.

26 **"§ 54C-172. New account books.**

27 A new account book or certificate or other evidence of ownership of a deposit
28 account may be issued in the name of the holder of record at any time, when requested
29 by such holder or his legal representative upon proof satisfactory to the savings bank,
30 that the original account book or certificate has been lost or destroyed. Such new
31 account book or certificate shall expressly state that it is issued in lieu of the one lost or
32 destroyed and that the savings bank shall in no way be liable thereafter on account of
33 the original book or certificate. The savings bank may in its bylaws require
34 indemnification against any loss that might result from the issuance of the new account
35 book or certified certificate.

36 **"§ 54C-173. Transfer of deposit accounts.**

37 The owner of a deposit account may transfer his rights therein absolutely or
38 conditionally to any other person eligible to hold the same, but such transfer may be
39 made on the books of the savings bank only upon presentation of evidence of transfer
40 satisfactory to the savings bank, and accompanied by the proper application for transfer
41 by the transferor and transferee, who shall accept such account subject to the terms and
42 conditions of the account contract, the bylaws of the savings bank, the provisions of its
43 certificate of incorporation, and all rules and regulations of the Administrator.
44 Notwithstanding the effectiveness of such a transfer between the parties thereto, the

1 savings bank may treat the holder of record of a deposit account as the owner thereof for
2 all purposes, including payment and voting (in the case of a mutual savings bank) until
3 such transfer and assignment has been recorded by the savings bank.

4 **"§ 54C-174. Authority of power of attorney.**

5 A savings bank may continue to recognize the authority of an individual holding a
6 power of attorney in writing to manage or to make withdrawals either in whole or in
7 part from the deposit account of a customer or member until it receives written or actual
8 notice of death or of adjudication of incompetency of such member or revocation of the
9 authority of such individual holding such power of attorney. Payment by the savings
10 bank to an individual holding a power of attorney prior to receipt of such notice shall be
11 a total discharge of the savings bank's obligation as to the amount so paid.

12 **"§ 54C-175. Holidays.**

13 (a) Each State and federal savings bank, including every branch or office thereof,
14 domiciled in North Carolina shall observe the following as legal holidays and shall not
15 open for the transaction of business with the public on those days:

- 16 (1) New Year's Day, January 1;
- 17 (2) Monday, January 2, when January 1 (New Year's Day) falls on Sunday;
- 18 (3) Monday, January 3, when January 1 (New Year's Day) falls on a
19 Saturday;
- 20 (4) President's Day, the third Monday in February;
- 21 (5) Good Friday;
- 22 (6) Memorial Day, the last Monday in May;
- 23 (7) Independence Day, July 4;
- 24 (8) Monday, July 5, when July 4 (Independence Day) falls on a Sunday;
- 25 (9) Friday, July 3, when July 4 (Independence Day) falls on a Saturday;
- 26 (10) Labor Day, the first Monday in September;
- 27 (11) Thanksgiving Day, the fourth Thursday in November;
- 28 (12) Christmas Day, December 25;
- 29 (13) Monday, December 26, when December 25 (Christmas Day) falls on a
30 Sunday.
- 31 (14) Monday, December 27, when December 25 (Christmas Day) falls on a
32 Saturday.

33 (b) Any savings bank may, in addition to the holidays listed above, observe as a
34 holiday any other day designated as a holiday by the savings bank's board of directors.

35 **"§ 54C-176. Power to borrow money.**

36 A savings bank, in its certificate of incorporation or in its bylaws, may authorize the
37 board of directors to borrow money and the board of directors may by resolution
38 adopted by a vote of at least two-thirds of the entire board duly recorded in the minutes
39 authorize the officers of the savings bank to borrow money for the savings bank on such
40 terms and conditions as it may deem proper.

41 **"§ 54C-177. Authority to join federal reserve bank.**

42 Any State savings bank shall have the power to subscribe to the capital stock and
43 become a member of a federal reserve bank. Any such savings bank shall continue to
44 be subject to the supervision and examination required by the laws of this State, except

1 that the Federal Reserve Board shall have the right, if it deems necessary, to make
2 examinations; and the Administrator may disclose to the Federal Reserve Board, or to
3 the examiners duly appointed by it, all information in reference to the affairs of any
4 savings bank which has become, or desires to become, a member of a federal reserve
5 bank.

6 **"§ 54C-178. Regional reciprocal acquisitions.**

7 State savings banks and holding companies thereof shall have the same powers to
8 acquire and be acquired as State associations and their savings and loan holding
9 companies under Article 3A of Chapter 54B of the General Statutes. For this purpose,
10 the term 'association' as used in Article 3A of Chapter 54B of the General Statutes shall
11 include a State savings bank chartered pursuant to this Chapter and the term 'savings
12 and loan holding company' shall include holding companies of State savings banks
13 chartered pursuant to this Chapter.

14 **"§§ 54C-179 to 54C-194: Reserved for further codification purposes.**

15 **"ARTICLE 9.**

16 **"HOLDING COMPANIES.**

17 **"§ 54C-195. Holding companies.**

18 (a) Notwithstanding any other provision of law, any stock savings bank may
19 simultaneously with its incorporation or conversion to a stock savings bank provide for
20 its ownership by a holding company. In the case of a conversion, members of the
21 converting savings bank shall have the right to purchase capital stock of the holding
22 company in lieu of capital stock of the converted savings bank in accordance with G.S.
23 54C-33(c)(6).

24 (b) Notwithstanding any other provision of law, any stock savings bank may
25 reorganize its ownership, to provide for ownership by a holding company, upon
26 adoption of a plan of reorganization by a favorable vote of not less than two-thirds of
27 the members of the board of directors of the savings bank and approval of such plan of
28 reorganization by the holders of not less than a majority of the issued and outstanding
29 shares of stock of the savings bank. The plan of reorganization shall provide that (i) the
30 resulting ownership shall be vested in a North Carolina corporation, (ii) all stockholders
31 of the stock savings bank shall have the right to exchange shares, (iii) the exchange of
32 stock shall not be subject to State or federal income taxation, (iv) stockholders not
33 wishing to exchange shares shall be entitled to dissenters' rights as provided under G.S.
34 55-113, and (v) the plan of reorganization is fair and equitable to all stockholders.

35 (c) Notwithstanding any other provision of law, any mutual savings bank may
36 reorganize its ownership to provide for ownership by a holding company upon adoption
37 of a plan of reorganization by favorable vote of not less than two-thirds of the members
38 of the board of directors of the savings bank and approval of the plan of reorganization
39 by a majority of the voting members of the savings bank. The plan of reorganization
40 shall provide that (i) the resulting ownership shall be vested in a North Carolina
41 corporation, (ii) the resulting ownership of one or more subsidiary savings banks shall
42 be evidenced by stock shares, (iii) the substantial portion of the assets and all of the
43 insured deposits and part or all of the other liabilities shall be transferred to one or more
44 subsidiary savings banks, (iv) the reorganization shall not be subject to State or federal

1 income taxation, and (v) the plan of reorganization is fair and equitable to all members
2 of the savings bank. The Administrator shall promulgate rules regarding the formation
3 of the subsidiary savings banks and the holding company, including the rights of
4 members, levels of investment in the holding company subsidiaries, and stock sales.

5 (d) A holding company may invest in any investment authorized by its board of
6 directors, except as limited by regulations promulgated by the Administrator pursuant to
7 this Article.

8 (e) Any entity which controls a stock savings bank, or acquires control of a stock
9 savings bank, is a holding company.

10 **"§ 54C-196. Supervision of holding companies.**

11 Holding companies shall be under the supervision of the Administrator. The
12 Administrator shall exercise all powers and responsibilities with respect to holding
13 companies which he exercises with respect to savings banks.

14 **"§§ 54C-197 to 54C-210: Reserved for future codification purposes."**

15 Sec. 2. G.S. 54B-26 is repealed.

16 Sec. 3. G.S. 53-127 reads as rewritten:

17 **"§ 53-127. Unlawful use of terms indicating that business is bank or trust**
18 **company.**

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

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

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

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

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

36 (c) Exceptions.

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

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

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

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

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

12 Sec. 4. For the purposes of Chapters 7A, 14, 22, 24, 28A, 32A, 33A, 35A,
13 41, 41A, 45, 47, 53, 53A, 53B, 54, 58, 66, 78A, 78C, 85B, 86A, 88, 90, 93A, 105,
14 115C, 115D, 122A, 122D, 131E, 142, 143B, 147, 159, 159I, and 163 of the General
15 Statutes the term "savings and loan association" shall include savings banks chartered
16 pursuant to Chapter 54C of the General Statutes.

17 Sec. 5. This act becomes effective July 1, 1991.