

NORTH CAROLINA GENERAL ASSEMBLY
1967 SESSION

CHAPTER 789
SENATE BILL 210

1 AN ACT TO AMEND THE STATE BANKING LAWS.

2
3 The General Assembly of North Carolina do enact:
4

5 **Section 1.** G.S. 53-2 is hereby amended by adding the following sentence at the end
6 of subdivision (4) of said Section:

7 "The Banking Commission is hereby authorized and directed to adopt rules and regulations
8 to keep such original required minimum capital funds intact to the end that they remain in and
9 with the bank as a protection for depositors."

10 **Sec. 2.** G.S. 53-4 is hereby amended by deleting the words "he has reason to
11 believe" immediately following the word "investigation" in line 7 and inserting the words "he
12 finds" in lieu thereof; by inserting the word "than" after the word "other" in line 8; by adding
13 the words "and directors, officers, and other managerial officials" after the word "corporation"
14 in line 11; by transferring the last sentence of subdivision (5) of said Section to be a complete
15 separate unnumbered paragraph immediately following subdivision (5) and immediately
16 preceding the last paragraph of said Section; and by deleting the words "to his satisfaction"
17 immediately following the word "ascertained" in the third line of the last paragraph.

18 **Sec. 3.** G.S. 53-10, as the same appears in the 1965 Supplement to the General
19 Statutes, is hereby amended by designating the text of the present Section as subsection (a) and
20 adding a new subsection, to be designated subsection (b), and to read as follows:

21 "(b) A bank may, with the approval of the Commissioner of Banks and by the vote of the
22 holders of at least two-thirds of the stock of the particular class or classes of stock entitled to
23 vote on such proposal, amend its charter to authorize an increase in the common stock of the
24 bank in the category of authorized but unissued stock in an amount not to exceed ten per cent
25 (10%) of the outstanding shares of such class or classes of stock and shares so authorized shall
26 be deemed released from pre-emptive rights. Such authorized but unissued stock may be issued
27 from time to time to officers or employees of the bank pursuant to a stock option or stock
28 purchase plan adopted in accordance with this chapter."

29 **Sec. 4.** G.S. 53-12 is hereby amended by striking out the word "examination" in
30 lines 11, 15, and 17 and inserting the word "investigation" in lieu thereof, and by inserting after
31 the word "protected" in line 13 the words "and find such consolidation is in the public
32 interest,".

33 **Sec. 5.** Article 5 of Chapter 53 of the General Statutes is hereby amended by adding
34 a new Section at the end thereof, to be designated as G.S. 53-42.1, and to read as follows:

35 **"G.S. 53-42.1. Report of Changes in Ownership or Management.** (a) Whenever a change
36 occurs in the outstanding voting stock of any bank which will result in a change in the control
37 of the bank, the president or other chief executive officer of such bank shall report such facts to
38 the Commissioner of Banks within 24 hours after obtaining knowledge of such change in the
39 control of the bank. As used in this Section the term 'control' means the possession, directly or
40 indirectly, of the power to direct or cause the direction of the management and policy of the
41 bank, or a change in the ownership of as much as ten per cent (10%) of the outstanding voting
42 stock in any bank.

1 "(b) Whenever a loan or loans are made by a bank, which loan or loans are, or are to be,
2 secured by ten per cent (10%) or more of the voting stock of a bank, the president or other
3 chief executive officer of the bank which makes the loan or loans shall report such fact to the
4 Commissioner of Banks within 24 hours after obtaining knowledge of such loan or loans,
5 except when the borrower has been the owner of record of the stock for a period of one year or
6 more, or the stock is of a newly organized bank prior to its opening.

7 "(c) The reports required in subsection (a) and (b) of this Section shall contain whatever
8 information is available to inform the Commissioner of Banks of the effect of the transaction
9 upon control of the bank whose stock is involved and shall contain, when known by the person
10 making the report, the number of shares involved, the identity of the sellers (or transferors) and
11 purchasers (or transferees) of record, the identity of the beneficial owners of the shares
12 involved, the purchase price, the total number of shares owned by the sellers (or transferors)
13 and purchasers (or transferees) of record, both immediately prior to and after the transaction
14 being reported, and the total number of shares owned by the beneficial owners of the shares
15 involved, both immediately prior to and after the transaction being reported, and the identity of
16 borrowers, the name of the bank issuing the stock securing the loan, the number of shares
17 securing the loan and the amount of the loan or loans, and such reports shall be in addition to
18 any reports that may be required pursuant to other provisions of law.

19 "(d) Each bank shall report to the Commissioner of Banks within 24 hours any changes
20 in chief executive officers or directors, including in its report a statement of the past and current
21 business and professional affiliations of new chief executive officers or directors."

22 **Sec. 6.** G.S. 53-43 is hereby amended by adding the following numbered
23 subdivisions at the end thereof:

24 "(8) To issue, advise and confirm letters of credit authorizing the beneficiaries
25 thereof to draw upon the institution or its correspondents.

26 "(9) To receive money for transmission.

27 "(10) To become a member of a clearing house association and to pledge assets
28 required for its qualification.

29 "(11) To provide for the performance of bank service corporation services, such as
30 data processing services and bookkeeping, subject to such rules and
31 regulations as may be adopted by the State Banking Commission."

32 **Sec. 7.** Chapter 53 of the General Statutes is hereby amended by adding
33 immediately after Section 53-43.2 the following Sections, to be numbered and to read as
34 follows:

35 **"G.S. 53-43.3. Officers and Employees; Share Purchase and Option Plans.** Subject to any
36 applicable rules or regulations of the State Banking Commission, a bank may grant options to
37 purchase, sell or enter into agreements to sell shares of its capital stock to its officers or
38 employees, or both, for a consideration of not less than one hundred per cent (100%) of the fair
39 market value of the shares on the date the option is granted, or, if pursuant to a stock purchase
40 plan, eighty-five per cent (85%) of the fair market value of the shares on the date the purchase
41 price is fixed, pursuant to the terms of an officer-employee restricted stock option plan or an
42 officer-employee stock purchase plan which has been adopted by the board of directors of the
43 bank and approved by the holders of at least two-thirds of the particular class or classes of
44 stock entitled to vote on such proposal and by the Commissioner of Banks. In no event shall the
45 option to purchase such shares be for a consideration less than the par value thereof. Stock
46 options issued hereunder shall qualify as restricted stock options under the Internal Revenue
47 Code of 1954, and corresponding provisions of subsequent United States law."

48 **"G.S. 53-43.4. Issuance of Capital Notes and Debentures.** A bank shall have authority to
49 issue capital notes or debentures, convertible or otherwise, subject to such regulations as the
50 Banking Commission may adopt with respect thereto."

1 **"G.S. 53-43.5. Minors' Deposits and Safe-Deposit Agreements.** (a) Deposits. A bank may
2 operate a deposit account in the name of a minor or in the name of two or more persons, one or
3 more of whom are minors, with the same effect upon its liability as if such minors were of full
4 age. This Section shall not affect the law governing transactions with minors in cases outside
5 the scope of this Section.

6 "(b) Dealings with minor. A bank may lease a safe-deposit box to and in connection
7 therewith deal with a minor with the same effect as if leasing to and dealing with a person of
8 full legal capacity. This Section shall not affect the law governing transactions with minors in
9 cases outside the scope of this Section.

10 "(c) Safe-deposit agreements. An institution may rent a safe-deposit box or other
11 receptacle for safe deposit of property to, and receive property for safe deposit from, a married
12 minor and spouse, whether adult or minor, jointly. This Section shall not affect the law
13 governing transactions with minors in cases outside the scope of this Section."

14 **"G.S. 53-43.6. School Thrift or Savings Plan.** (a) A bank may arrange for the collection of
15 savings from school children by the principal of the school, by the teachers, or by collectors,
16 pursuant to regulations issued by the State Banking Commission and approved, in the case of
17 public schools, by the board of education or board of trustees of the city or district in which the
18 school is situated. The principal, teacher, or person authorized by the bank to make collections
19 from the school children shall be the agent of the bank and the bank is liable to the pupil for all
20 deposits made with such principal, teacher, or other authorized person to the same extent as if
21 the deposits were made directly with the bank.

22 "(b) The acceptance of deposits in furtherance of a school thrift or savings plan by an
23 officer, employee or agent of a bank at any school shall not be construed as the establishment
24 or operation of a branch or branch facility."

25 **"G.S. 53-43.7. Safe-Deposit Boxes; Unpaid Rentals; Procedure; Escheats.** (a) If the rental
26 due on a safe-deposit box has not been paid for one year, the lessor may send a notice by
27 registered mail to the last known address of the lessee stating that the safe-deposit box will be
28 opened and its contents stored at the expense of the lessee unless payment of the rental is made
29 within 30 days. If the rental is not paid within 30 days from the mailing of the notice, the box
30 may be opened in the presence of an officer of the lessor and of a notary public who is not a
31 director, officer, employee or stockholder of the lessor. The contents shall be sealed in a
32 package by the notary public who shall write on the outside the name of the lessee and the date
33 of the opening. The notary public shall execute a certificate reciting the name of the lessee, the
34 date of the opening of the box and a list of its contents. The certificate shall be included in the
35 package and a copy of the certificate shall be sent by registered mail to the last known address
36 of the lessee. The package shall then be placed in the general vaults of the lessor at a rental not
37 exceeding the rental previously charged for the box.

38 "(b) Any documents or writings of a private nature, and having little or no apparent
39 value need not be offered for sale, but shall be retained, unless claimed by the owner, for the
40 period specified for unclaimed deposits, after which they may be destroyed.

41 "(c) If the contents of the safe-deposit box have not been claimed within two years of the
42 mailing of the certificate, the lessor may send a further notice to the last known address of the
43 lessee stating that, unless the accumulated charges are paid within 30 days, the contents of the
44 box will be sold at public auction at a specified time and place, or, in the case of securities
45 listed on a stock exchange, will be sold upon the exchange on or after a specified date and that
46 unsalable items will be destroyed. The time, place and manner of sale shall also be posted
47 conspicuously on the premises of the lessor and advertised once in a newspaper of general
48 circulation in the community. If the articles are not claimed, they may then be sold in
49 accordance with the notice.

50 "(d) The balance of the proceeds, after deducting accumulated charges, including the
51 expense of advertising and conducting the sale, together with any money discovered in the box

1 shall be deposited to the credit of the lessee in any account maintained by him, or if none, shall
2 be deemed a deposit account with the bank or trust company operating the safe-deposit facility,
3 or in the case of a subsidiary safe-deposit company, a bank or trust company owning stock
4 therein, and shall be identified on the books of the bank as arising from the sale of contents of a
5 safe-deposit box. When any such deposit is surrendered as unclaimed deposits, the lessor shall
6 also send to the Commissioner a copy of the certificate and an itemized statement of the
7 amount received and the deductions. Any items remaining unsold may be destroyed.

8 "(e) The deposits or proceeds from sales referred to in the preceding paragraph shall be
9 subject to all the provisions of G.S. 116-24, relating to the escheat of bank deposits.

10 "(f) A copy of this Section shall be printed on every contract for rental of a safe-deposit
11 box."

12 **Sec. 8.** G.S. 53-46 (is hereby rewritten to read as follows:

13 "**G.S. 53-46. Limitations on Investments in Securities.** The investment in any bonds or other
14 debt obligations of any one firm, individual, or corporation, unless it be the obligations of the
15 United States, or agency thereof, or other obligations guaranteed by the United States
16 Government, State of North Carolina, or other state of the United States, or of some city, town,
17 township, county, school district, or other political subdivision of the State of North Carolina,
18 shall at no time be more than twenty per cent (20%) of the unimpaired capital and permanent
19 surplus of any bank to an amount not in excess of two hundred and fifty thousand dollars
20 (\$250,000.00); and not more than ten per cent (10%) of the unimpaired capital and permanent
21 surplus in excess of two hundred and fifty thousand dollars (\$250,000.00)."

22 **Sec. 9.** G.S. 53-48 is hereby amended by inserting a comma after the words "United
23 States" in line 13 and adding the words "or an agency of the United States, or other obligations
24 guaranteed by the United States Government," and by adding after the words "United States,"
25 in line 14 the words "or agency thereof, or other obligations guaranteed by the United States
26 Government,".

27 **Sec. 10.** G.S. 53-50 is hereby rewritten to read as follows:

28 "**G.S. 53-50. Requirement of Reserve Fund.** (a) A bank which is not a member of the
29 Federal Reserve System shall maintain at all times a reserve fund in an amount equal to at least
30 fifteen per cent (15%) of the aggregate amount of its demand deposits and five per cent (5%) of
31 the aggregate amount of its other deposits. The amount of the required reserve for each day
32 shall be computed on the basis of average daily deposits covering such biweekly or shorter
33 periods as shall be fixed by regulation of the Banking Commission.

34 "(b) A bank which is a member of the Federal Reserve System shall maintain at all times
35 a reserve fund in accordance with the requirements applicable to a member bank under the laws
36 of the United States.

37 "(c) A bank shall give written notice to the Commissioner of Banks, in the manner
38 prescribed by the Commissioner for such notice, of any deficiency in the reserve fund required
39 under subsection (a) or (b) of this Section within three business days after the close of any
40 scheduled averaging period during which such deficiency occurs."

41 **Sec. 11.** G.S. 53-62 is hereby amended by striking out the words "he shall have
42 ascertained to his satisfaction" following the word "until" in line 9 of subsection (b) and
43 inserting the words "he shall find" in lieu thereof, and by striking out the word "and" after the
44 word "cashier" in line 4 of subsection (c) and inserting the word "or" in lieu thereof.

45 "G.S. 53-62 is hereby further amended by redesignating subsection(e) to be subsection (f),
46 and inserting a new subsection (e) to read as follows:

47 '(e) A bank may discontinue a branch office or teller's window upon resolution of its
48 board of directors or board of managers. Upon the adoption of such a resolution, the bank shall
49 file a certification with the Commissioner of Banks specifying the location of the branch office
50 or teller's window to be discontinued and the date upon which it is proposed that the
51 discontinuance shall be effective. This certificate must state the reasons for the closing of such

1 branch or teller's window and indicate that the needs and conveniences of the community
2 would still be adequately met. Notice stating the intention to discontinue said branch or teller's
3 window shall be published in a newspaper serving such community once a week for four
4 consecutive weeks before any certificate requesting discontinuance is filed with the
5 Commissioner of Banks. No such branch or teller's window may be discontinued until
6 approved by the Commissioner of Banks, who shall first hold a public hearing thereon, if so
7 requested by any interested party."

8 **Sec. 12.** G.S. 53-67 is hereby amended by adding the following sentence at the end
9 of said Section:

10 "In addition to the foregoing powers relating to the fixing of the number and the election of
11 directors, the stockholders of a bank, at any stockholders' meeting, special or annual, may
12 authorize not more than two additional directorships which may be left unfilled and to be filled
13 in the discretion of the directors of the institution during the interval between such stockholders'
14 meetings."

15 **Sec. 13.** G.S. 53-77.2 is hereby amended by redesignating subsection (g) to be
16 subsection (h), and by inserting a new subsection (g) to read as follows:

17 "(g) After a five-day week basis has been ordered pursuant to this Section with respect to
18 any bank or banks, the above procedure shall be applicable with respect to any subsequent
19 request to revert to a six-day week basis, and such reversion may be ordered by the
20 Commissioner if he shall find that the best interest of the commercial banks and the public will
21 be served by a six-day week for commercial banks."

22 **Sec. 14.** G.S. 53-84 is hereby amended by adding a new paragraph at the end
23 thereof to read as follows:

24 "A bank may deposit funds in a bank of a foreign country, but such deposits shall not
25 constitute any part of its reserve as defined in G.S. 53-51."

26 **Sec. 15.** G.S. 53-91 is hereby amended by striking out the period at the end thereof,
27 inserting a semicolon in lieu thereof, and adding the following words:

28 "Provided, further, that it shall not be necessary to require collateral or other security with
29 respect to loans, the total of which to an individual borrower, does not exceed twenty-five
30 hundred dollars (\$2500.00) made pursuant to this Section; provided, further, that in no event
31 shall a loan in excess of twenty-five hundred dollars (\$2500.00) be made by any bank to any
32 officer of such bank."

33 **Sec. 16.** G.S. 53-92 is hereby amended by rewriting the second sentence of the
34 second paragraph thereof, to read as follows: "Not more than five members of the said
35 Commission shall be practical bankers, and the remainder of the membership of the said
36 Commission shall be selected so as to fully represent the consumer, industrial, manufacturing,
37 professional, business and farming interests of the State." The amendment contained in this
38 Section shall not apply to members currently serving under appointments made prior to the
39 effective date of this Act, but shall apply to their successors only.

40 **Sec. 17.** G.S. 53-117 is hereby amended by striking out the period at the end of the
41 first sentence, inserting a comma in lieu thereof, and adding the words "provided the
42 Commissioner of Banks may extend this period to 15 months when, in his opinion, an
43 emergency condition exists that necessitates such action."

44 **Sec. 18.** G.S. 53-139 is hereby rewritten to read as follows:

45 "**G.S. 53-139. Capital Stock.** The amount of capital stock with which any industrial bank shall
46 commence business shall not be less than fifty per cent (50 9) of that which would be required
47 of a commercial bank under the provisions of G.S. 53-2."

48 **Sec. 19.** (a) G.S. 53-141 is hereby amended by rewriting subdivision (4) thereof to
49 read as follows:

50 "(4) To establish branch offices or places of business within the county in which
51 its principal office is located, and elsewhere in the State, after having first

1 obtained the written approval of the Commissioner of Banks, which
2 approval may be given or withheld by the Commissioner of Banks in his
3 discretion. The Commissioner of Banks, in exercising such discretion, shall
4 take into account, but not by way of limitation, such factors as the financial
5 history and condition of the applicant bank, the adequacy of its capital
6 structure, its future earnings prospects, and the general character of its
7 management. Such approval shall not be given until he shall find (i) that the
8 establishment of such branch or teller's window will meet the needs and
9 promote the convenience of the community to be served by the bank, and (ii)
10 that the probable volume of business and reasonable public demand in such
11 community are sufficient to assure and maintain the solvency of said branch
12 or teller's window and of the existing bank or banks in said community.
13 Provided, that the Commissioner of Banks shall not authorize the
14 establishment of any branch the paid-in capital of whose parent bank is not
15 sufficient in amount to provide for capital in an amount equal to that
16 required with respect to the establishment of branches of commercial banks
17 under the provisions of G.S. 53-62. For the purposes of this paragraph, the
18 provisions of G.S. 53-62 as to the meaning of the word 'capital' shall be
19 applicable.

20 "A bank may discontinue a branch office upon resolution of its board of directors or board
21 of managers. Upon the adoption of such a resolution, the bank shall file a certification with the
22 Commissioner of Banks specifying the location of the branch office to be discontinued and the
23 date upon which it is proposed that the discontinuance shall be effective. This certificate must
24 state the reasons for the closing of such branch and indicate that the needs and convenience of
25 the community would still be adequately met. Notice stating the intention to discontinue the
26 said branch shall be published in a newspaper serving said community once a week for four
27 consecutive weeks before a certificate requesting a discontinuance is filed with the
28 Commissioner of Banks. No such branch may be discontinued until approved by the
29 Commissioner of Banks, who shall first hold a public hearing thereon, if so requested by any
30 interested party."

31 (b) Subdivision (7) of said G.S. 53-141 is hereby rewritten to read as follows:

32 "(7) Subject to the approval of the State Banking Commission, to solicit, receive
33 and accept money or its equivalent on deposit subject to check; provided,
34 however, no such approval shall be given unless and until such industrial
35 bank meets the capital requirements of a commercial bank as set forth in
36 G.S. 53-2."Sec. 20. G.S. 53-160 is hereby amended by striking out the
37 period at the end thereof, inserting a colon in lieu thereof and adding the
38 following words: "Provided, however, that a national bank which has been
39 granted trust powers by the Comptroller of the Currency or his duly
40 authorized agent shall be annually licensed as required in this Section and
41 shall be granted a certificate of solvency which will meet the provisions of
42 Section 53-162 without examination by the Commissioner of Banks as
43 required in Section 53-161."

44 **Sec. 21.** G.S. 53-1 is hereby amended by redesignating subdivisions (5), (6) and (7)
45 as (6), (7) and (8), respectively, and inserting a new subdivision (5) to read as follows:

46 "(5) Practical Banker. The term 'practical banker' means an officer or employee
47 of a bank actively engaged in performing duties in managing or supervising
48 or assisting in managing or supervising the conducting of a banking
49 business, including any such banker who is in a retired status from such
50 duties."

51 **Sec. 22.** All laws and clauses of laws in conflict with this Act are hereby repealed.

1 **Sec. 23.** This Act shall become effective upon its ratification.
2 In the General Assembly read three times and ratified, this the 15th day of June,
3 1967.