

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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HOUSE BILL 2048*

Short Title: Savings Inst'n. Conforming Changes.

(Public)

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

Referred to: Commerce.

May 23, 1990

A BILL TO BE ENTITLED

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

The General Assembly of North Carolina enacts:

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

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

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

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

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

2 **"§ 54B-48.2. Definitions.**

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

5 (1) 'Acquire', as applied to an association or a savings and loan holding
6 company, means any of the following actions or transactions:

7 a. The merger or consolidation of an association with another
8 association or savings and loan holding company or a savings
9 and loan holding company with another savings and loan
10 holding company.

11 b. The acquisition of the direct or indirect ownership or control of
12 voting shares of an association or savings and loan holding
13 company if, after the acquisition, the acquiring association or
14 savings and loan holding company will directly or indirectly
15 own or control more than five percent (5%) of any class of
16 voting shares of the acquired association or savings and loan
17 holding company.

18 c. The direct or indirect acquisition of all or substantially all of the
19 assets of an association or savings and loan holding company.

20 d. The taking of any other action that would result in the direct or
21 indirect control of an association or savings and loan holding
22 company.

23 (2) 'Administrator' means the Administrator of the Savings Institutions
24 Division.

25 (3) 'Association' means a mutual or capital stock savings and loan
26 association, building and loan association or savings bank chartered
27 under the laws of any one of the states or ~~by the Federal Home Loan~~
28 ~~Bank Board, pursuant to the 'Home Owners' Loan Act of 1933', 12 U.S.C.~~
29 ~~Section 1464, as amended, under the laws of the United States.~~

30 (4) 'Branch office' means any office at which an association accepts
31 deposits. The term branch office does not include:

32 a. Unmanned automatic teller machines, point-of-sale terminals,
33 or similar unmanned electronic banking facilities at which
34 deposits may be accepted;

35 b. Offices located outside the United States; and

36 c. Loan production offices, representative offices, service
37 corporation offices, or other offices at which deposits are not
38 accepted.

39 (5) 'Company' means that which is set forth in the Federal Savings and
40 Loan Holding Company Act, 12 U.S.C. Section 1730a(a)(1)(C), as
41 amended.

42 (6) 'Control' means that which is set forth in the Federal Savings and Loan
43 Holding Company Act, 12 U.S.C. Section 1730a(a)(2), as amended.

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

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

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

43 "(b1) A North Carolina savings and loan holding company or a North Carolina
44 association may acquire any Southern Region association or Southern Region savings

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

10 The business plan shall address, without limitation:

11 (1) Insurance of depositors' accounts.

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

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

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

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

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

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

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

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

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

1 machines and cash dispensers. The Administrator may prescribe rules
2 and regulations with regard to the application for permission for use,
3 maintenance and supervision of said terminals, devices and machines;

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

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

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

21 1. Shall be subordinate to all savings accounts, savings
22 certificates, and debt obligations;

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

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

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

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

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

33 "(b) An association which employs collection agents, who for any reason are not
34 covered by the bond as hereinabove required, shall provide for the bonding of each such
35 agent in an amount equal to at least twice the average monthly collections of such agent.
36 Such agents shall be required to make settlement with the association at least once
37 monthly. No such coverage by bond will be required of any agent which is a bank
38 ~~insured by the Federal Deposit Insurance Corporation or an association insured by the Federal~~
39 ~~Savings and Loan Insurance Corporation or a mutual deposit guaranty association. federally~~
40 insured depository institution. The amount and form of such bonds and the sufficiency
41 of the surety thereon shall be approved by the board of directors and the Administrator
42 before such is valid. All such bonds shall provide that a cancellation thereof either by
43 the surety or by the insured shall not become effective unless and until 30 days' notice
44 in writing shall have been given to the Administrator."

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

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

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

8 **"§ 54B-154. Insider loans.**

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

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

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

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

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

34 **"§ 54B-195. Any loan or investment permitted for federal associations.**

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

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

1 **"§ 54B-210. Components of liquidity fund.**

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

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

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

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

10 **"§ 54B-216. General reserve.**

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

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

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

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

19 **"§ 54B-236. Definitions.**

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

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