

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 1999

SESSION LAW 1999-72
SENATE BILL 939

AN ACT TO REVISE THE REQUIREMENTS OF BANK DIRECTORS, TO CONFORM CERTAIN NORTH CAROLINA BANKING LAWS TO FEDERAL BANKING REGULATIONS, AND TO REMOVE THE SUNSET PROVISION WITH REGARD TO DE NOVO INTERSTATE BRANCH BANKING.

The General Assembly of North Carolina enacts:

Section 1. G.S. 53-80 reads as rewritten:

"§ 53-80. Qualifications of directors.

Every director of a bank doing business under this Chapter shall be the owner and holder of shares of stock in the bank representing not less than one thousand dollars (\$1,000) book value as of the last business day of the calendar year immediately prior to the election of such director. For the purpose of this section, book value shall consist of common capital stock, unimpaired surplus, undivided profits, and reserves for contingencies if any such reserves are segregations of capital. Where directors are appointed during the interval between stockholders' meetings pursuant to the provisions of G.S. 53-67, such directors shall hold the required qualifying shares as of the time of their appointment. Notwithstanding the proviso at the end of this section, where the bank is a wholly owned subsidiary, the required qualifying shares shall be shares in the parent corporation, whether or not the bank was doing business before February 18, 1921. And every such director shall hold ~~such the shares in his the director's own name~~ unpledged and unencumbered in any way. Provided, however, shares of the bank or parent corporation stock held in an individual retirement account or other retirement account of a bank director, over which the director has investment authority, shall be considered qualifying shares for the purpose of this section. The office of any director at any time violating any of the provisions of this section shall immediately become vacant, and the remaining directors shall declare ~~his that director's office~~ vacant and proceed to fill such vacancy forthwith. Not less than ~~three-fourths one-half~~ of the directors of every bank doing business under this Chapter shall be residents of the State of North Carolina: Provided, that as to banks doing business before February 18, 1921, the requirements as to amount of stock owned by a director shall not apply unless the Commissioner of Banks shall rule that ~~such the director~~ is not bona fide discharging ~~his the director's~~ duties."

Section 2. G.S. 53-91.2 reads as rewritten:

"§ 53-91.2. Loans to executive officers.

No bank may extend credit to any of its executive officers nor a firm or partnership of which such executive officer is a member, nor a company in which such executive officer owns a controlling interest, unless the extension of credit is made on substantially the same terms, including interest rates and collateral, as those prevailing at the time for comparable transactions by the bank with persons who are not employed by the bank, and provided further that the extension of credit does not involve more than the normal risk of repayment. This general prohibition shall not prevent an executive officer from obtaining loans on terms and conditions that are available to all employees of the bank. For the purposes of this section, the term "executive officer" shall mean an officer who has authority to participate in major policy-making functions of the bank. Provided further, the maximum amount of such loans shall be that as prescribed by applicable federal banking regulations."

Section 3. G.S. 53-224.14 reads as rewritten:

"§ 53-224.14. Requirement of notice and other conditions.

(a) An out-of-state bank desiring to establish and maintain a de novo branch or to acquire a branch in this State shall provide written notice of the proposed transaction to the Commissioner not later than the date on which the bank applies to the responsible federal bank supervisory agency for approval to establish or acquire the branch. The filing of such notice shall be accompanied by the filing fee prescribed by the Commissioner by regulation.

(b) The out-of-state bank shall comply with the applicable requirements of Article 15 of Chapter 55 of the North Carolina General Statutes.

(c) ~~Prior to June 1, 1999, an~~ An out-of-state bank may establish and maintain a de novo branch or may establish and maintain a branch through acquisition of a branch if:

- (1) In the case of a de novo branch, the laws of the home state of the out-of-state bank permit North Carolina banks to establish and maintain de novo branches in that state under substantially the same terms and conditions as herein set forth; and
- (2) In the case of a branch established through the acquisition of a branch, the laws of the home state of the out-of-state bank permit North Carolina banks to establish and maintain branches in that state through the acquisition of branches under substantially the same terms and conditions as herein set forth."

Section 4. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 12th day of May, 1999.

s/ Dennis A. Wicker
President of the Senate

s/ James B. Black
Speaker of the House of Representatives

s/ James B. Hunt, Jr.
Governor

Approved 9:16 a.m. this 21st day of May, 1999