

NORTH CAROLINA GENERAL ASSEMBLY
1979 SESSION

CHAPTER 483
SENATE BILL 379

AN ACT TO AMEND CERTAIN SECTIONS OF CHAPTER 53 OF THE GENERAL
STATUTES RELATING TO BANKS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 53-122(1) and (2), as the same appear in Volume 2B of the General Statutes, are rewritten in their entirety to read as follows:

"§ 53-122. **Fees for examinations and other services.** — (1) Each bank and each branch of any bank which under the laws of the State of North Carolina is subject to supervision and examination by the Commissioner of Banks and is authorized to do business or is in process of voluntary liquidation, shall, within 10 days after the assessment has been made, pay into the office of the Commissioner of Banks according to its total resources as shown by its report of condition made to the Commissioner of Banks at the close of business December 31, 1978, and on the thirty-first day of December, or the date most nearly approximating same of each year thereafter on which a report of condition is made to the Commissioner of Banks not in excess of the following fees for its annual examination: eighty-five dollars (\$85.00) for the first one hundred thousand dollars (\$100,000) of assets or less, twelve dollars (\$12.00) for each one hundred thousand dollars (\$100,000) or fraction in excess thereof, and three dollars and fifty cents (\$3.50) for each one hundred thousand dollars (\$100,000) or fraction thereof of trust assets, which said trust assets shall not include real estate carried as such; provided, however, with respect to loan agencies or brokers subject to the provisions of Article 15 of Chapter 53 of the General Statutes, the fee shall be one hundred seventy dollars (\$170.00) for the first one hundred thousand dollars (\$100,000) of assets or less, and twelve dollars (\$12.00) for each one hundred thousand dollars (\$100,000) or fraction in excess thereof.

(2) All examinations made other than those provided for in subdivision (1) hereof shall be deemed special examinations and for such special examination the bank shall pay into the office of the Commissioner of Banks the following fees for each special examination: eighty-five dollars (\$85.00) for the first one hundred thousand dollars (\$100,000) of assets or less, twelve dollars (\$12.00) for each one hundred thousand dollars (\$100,000) or fraction in excess thereof, and three dollars and fifty cents (\$3.50) for each one hundred thousand dollars (\$100,000) or fraction thereof of trust assets, which said trust assets shall not include real estate carried as such; provided, however, with respect to loan agencies or brokers subject to the provisions of Article 15 of Chapter 53 of the General Statutes, the fee shall be one hundred seventy dollars (\$170.00) for the first one hundred thousand dollars (\$100,000) of assets or less, and twelve dollars (\$12.00) for each one hundred thousand dollars (\$100,000) or fraction in excess thereof. The fees paid for special examination shall be based on the assets of the bank examined as of the date of such examination."

Sec. 2. G.S. 53-1, as the same appears in Volume 2B of the General Statutes, is amended by adding a subsection (9) to read as follows:

"(9) Unimpaired capital fund. The term 'unimpaired capital fund' means the total of the amount of unimpaired common stock, preferred stock, surplus, and the amount of capital debentures or notes, convertible or otherwise, having an average original maturity of at least seven (7) years, which have been

specifically designated as part of the bank's unimpaired capital fund by resolution duly adopted by the board of directors of the bank; provided, that upon payment of such capital debentures or notes or upon accumulation of funds in a sinking fund for amortization of such debentures or notes, unimpaired capital fund shall be reduced by the amount of such payment or accumulation. The terms and conditions of any issue of or prepayment of capital debentures or notes must have the prior written approval of the Commissioner of Banks affirming that in his opinion such issue or prepayment is in the best interest of the depositors, creditors and stockholders of the bank."

Sec. 3. G.S. 53-14, as the same appears in Volume 2B of the General Statutes, is amended by inserting after the word "dissolution and before the word "it" in line 3 thereof, the following words "or upon a National Bank making application to convert to a State-chartered bank."

Sec. 4. G.S. 53-43(3), as the same appears in Volume 2B of the General Statutes, is rewritten in its entirety to read as follows:

"(3) To purchase, hold, and convey real estate for the following purposes:

- a. Such as shall be necessary for the convenient transaction of its business, including furniture and fixtures, with its banking offices and other spaces to rent as a source of income, which investment shall not exceed fifty percent (50%) of its unimpaired capital fund: Provided, that this fifty percent (50%) limitation shall not apply to banking houses, furniture and fixtures leased for the purposes set forth in this subdivision. Provided, further, that if any bank shall demonstrate to the satisfaction of the Commissioner of Banks that an investment of more than fifty percent (50%) of its unimpaired capital fund in its banking houses, furniture and fixtures, would promote the convenience of the general public in transacting its banking business and would not adversely affect the financial stability of the bank, the Commissioner of Banks may discretion, authorize any bank to invest more than fifty percent (50%) of its unimpaired capital fund in its banking houses, furniture and fixtures."

Sec. 5. G.S. 53-46, as the same appears in Volume 2B of the General Statutes, is rewritten in its entirety to read as follows:

"§ 53-46 Limitations on investments in securities. — The investment in any bonds or other debt obligations of any one firm, individual or corporation unless it be the obligations of the United States, or agency thereof, or other obligations guaranteed by the United States Government, State of North Carolina, or other state of the United States, or of some city, town, township county, school district, or other political subdivision of the State of North Carolina, shall at no time be more than twenty percent (20%) of the unimpaired capital fund of any bank to an amount not in excess of two hundred fifty thousand dollars (\$250,000), and not more than ten percent (10%) of the unimpaired capital fund in excess of two hundred fifty thousand dollars (\$250,000)."

Sec. 6. G.S. 53-48, as the same appears in Volume 2B of the General Statutes, is amended by striking the words "and permanent surplus" in lines 6 and 8 thereof, and substituting in lieu thereof, the word "fund" after the word "capital" in line 6 and after the word "capital" in line 8.

Sec. 7. G.S. 53-51, as the same appears in Volume 2B of the General Statutes, is rewritten in its entirety to read as follows:

"§ 53-51. Reserve and cash defined. — (a) Reserve shall consist of:

- (1) cash on hand;

- (2) balances payable on demand, due from other approved solvent banks, which have been designated depositories as hereinafter provided in this Chapter; and
- (3) subject to rules and regulations, duly adopted by the State Banking Commission, fixing the maximum percentage of required reserves that may consist of such obligations, the following prescribed unencumbered, interest-bearing obligations, which shall not have more than 120 days to final maturity:
 - a. obligations of the United States Treasury and of any agency of the United States which are guaranteed by the United States Government; and
 - b. general obligation of the State of North Carolina and of any political subdivision thereof which has received an investment rating of A or higher by a nationally recognized rating service.

(b) For purposes of this section, cash shall include both lawful money of the United States and exchange of any clearinghouse association."

Sec. 8. G.S. 53-80, as the same appears in Volume 2B of the General Statutes, is rewritten in its entirety to read as follows:

"§ 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. Where the bank is a wholly owned subsidiary, the required qualifying shares shall be shares in the parent corporation. And every such director shall hold such shares in his own name unpledged and unencumbered in any way. 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 office vacant and proceed to fill such vacancy forthwith. Not less than three-fourths 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 director is not bona fide discharging his duties."

Sec. 9. G.S. 53-91, as the same appears in Volume 2B of the General Statutes, is rewritten in its entirety to read as follows:

"§53-91. When officers and employees may borrow. — (a) No officer or employee of a bank, nor a firm or partnership of which such officer or employee is a member, nor a corporation in which such officer or employee owns a controlling interest, shall borrow any amount whatever from the bank of which he is an officer or employee, except upon good collateral or other ample security or endorsement, and except upon prior approval by the bank's executive or loan committee appointed pursuant to G.S. 53-78.

(b) In addition, a certified copy of a resolution approving any loan made pursuant to this section, duly adopted by a majority of the board of directors and entered upon the minutes, including the names of the directors approving the resolution, shall be maintained in the office in which the indebtedness is housed and shall set forth the amount of the loan and a brief description of the security upon which the loan is made. The resolution approving such loan may be adopted by the board of directors either at a regular or special meeting held prior to the making of the loan, or at the next regular or special meeting held following the making of the loan: Provided, the resolution approving such loan shall be adopted by the board of directors

prior to the extension of credit or the making of any loan to an executive officer who has authority to participate in major policy-making functions of the bank, otherwise than in the capacity of a director, where such extension of credit or loan would exceed twenty-five thousand dollars (\$25,000).

(c) Collateral or other security is not required with respect to a loan or loans made to an individual pursuant to this section when the total amount of such loan or loans, in the aggregate, do not exceed five thousand dollars (\$5,000).

(d) In no event shall loans the total of which exceeds one hundred thousand dollars (\$100,000) be made by any bank to any officer or employee of such bank.

(e) This section shall not apply to directors who are neither officers nor employees of the bank."

Sec. 10. G.S. 53-104, as the same appears in Volume 2B of the General Statutes, is amended by rewriting the third sentence thereof in its entirety to read as follows:

"For the more complete and thorough enforcement of the provisions of this Chapter, the State Banking Commission is hereby empowered to promulgate such rules not inconsistent with the provisions of this Chapter, as may, in its opinion, be necessary to carry out the provisions of the laws relating to banks and banking as herein defined, and as may be further necessary to insure safe and conservative management of the banks under its supervision taking into consideration the appropriate interest of the depositors, creditors, stockholders, and the public in their relations with such banks."

Sec. 11. Chapter 53 of the General Statutes, is amended by inserting between Sections 53-104 and 53-105, a section to be designated as G.S. 53-104.1, to read as follows:

"**§ 53-104.1. Examination of nonbanking affiliates.** — The Commissioner of Banks, at his discretion, may examine the affiliates of a bank doing business under this Chapter to the extent it is necessary to safeguard the interest of depositors and creditors of the bank and of the general public, and to enforce the provisions of this Chapter. The Commissioner may conduct the examination in conjunction with any examination of the bank or affiliate conducted by any other state or federal regulatory authority. For the purpose of this section, the word 'affiliate' means any bank holding company of which the bank is a subsidiary and any nonbanking subsidiary of that bank holding company, as 'subsidiary' is defined by Section 2 of the Federal Bank Holding Company Act of 1956 (12 U.S.C. Sec. 1841(d), as amended)."

Sec. 12. G.S. 53-105, as the same appears in Volume 2B of the General Statutes, is amended by inserting after the semicolon and before the word "and" in line 10 thereof, the following:

"provided, however, the Commissioner of Banks may extend the time for a period not to exceed thirty (30) days for any bank to transmit the reports heretofore required whenever in his judgment such extension is necessary;"

Sec. 13. G.S. 53-107, as the same appears in Volume 2B of the General Statutes, is amended by inserting after the comma and before the word "or" in line 5 thereof, the following: "or within the extension of time granted by the Commissioner of Banks heretofore provided."

Sec. 14. G.S. 53-108, as the same appears in Volume 2B of the General Statutes, is rewritten in its entirety to read as follows:

"**§ 53-108. List of stockholders to be kept.** — Every bank doing business under this Chapter shall at all times keep a correct record of the names of all its stockholders and whenever called upon by the Commissioner of Banks or his duly authorized agent, make available for examination a correct list of all its stockholders, the resident address of each, and the number of shares held by each. Whenever the word 'stockholders' is used in this section, the same shall be deemed to include, to the extent available, stockholders of any corporations which own ten percent (10%) or more of the capital stock of any bank doing business under this Chapter or a lesser amount when required by the Commissioner."

Sec. 15. G.S. 53-115, as the same appears in Volume 2B of the General Statutes, is amended by inserting in line 4 thereof after the word "such" and before the word "banking" the words "actions of".

Sec. 16. G.S. 53-154, as the same appears in Volume 2B of the General Statutes, is amended by inserting after the word "value" and before the word "as" in line 8 thereof, the words "and at such annual dividend rate".

Sec. 17. G.S. 53-155, as the same appears in Volume 2B of the General Statutes, is amended by striking the words "a rate not exceeding six percent (6%) per annum" in lines 2 and 3 thereof, and inserting in lieu thereof the words "an annual rate approved by the Commissioner of Banks."

Sec. 18. G.S. 53-156, as the same appears in Volume 2B of the General Statutes, is rewritten in its entirety to read as follows:

"§ 53-156. **Term 'stock' to include preferred stock.** — Whenever in existing banking law, the words 'stock', 'stockholders', 'capital', or 'capital stock' are used, the same shall be deemed to include preferred stock: Provided, that no bank issuing preferred stock under the provisions hereof, shall be permitted at any time to make loans secured by such preferred stock; provided further that such words shall not be deemed to include preferred stock where they are used in G.S. 53-2, G.S. 53-10, G.S. 53-80, G.S. 53-87, G.S. 53-88 and G.S. 53-139."

Sec. 19. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 30th day of April, 1979.