GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001

SESSION LAW 2001-193
HOUSE BILL 803

AN ACT TO TRANSFER THE SAVINGS INSTITUTIONS DIVISION TO THE STATE BANKING COMMISSIONER; TO AUTHORIZE ADDITIONAL DEPUTY COMMISSIONERS; TO MERGE THE SAVINGS INSTITUTIONS COMMISSION WITH THE STATE BANKING COMMISSION; TO REQUIRE THE COMMISSIONER TO REPORT TO THE GENERAL ASSEMBLY; AND TO MAKE TECHNICAL AND CONFORMING CHANGES TO THE STATUTES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 53-93.1 reads as rewritten:

"**§ 53-93.1. Deputy ~~commissioner.~~commissioners.**

(a) The Commissioner of Banks shall appoint, with approval of the Governor, and may remove at his discretion a chief deputy commissioner, who, in the event of the absence, death, resignation, disability or disqualification of the Commissioner of Banks, or in case the office of Commissioner shall for any reason become vacant, shall have and exercise all the powers and duties vested by law in the Commissioner of Banks.

Irrespective of the conditions under which the chief deputy commissioner may exercise the powers and perform the duties of the Commissioner of Banks, pursuant to the preceding paragraph, such chief deputy commissioner, in addition thereto, is hereby authorized and empowered at any and all times, at the discretion of the Commissioner of Banks, to perform such duties and exercise such powers of the Commissioner of Banks in the name of and on behalf of the Commissioner as the Commissioner, in his discretion, may direct.

(b) In addition to the chief deputy commissioner authorized by subsection (a) of this section, the Commissioner of Banks may appoint deputy commissioners to serve at the Commissioner's pleasure. The deputy commissioners authorized by this subsection shall perform any duties and exercise any powers directed by the Commissioner."

SECTION 2. G.S. 53-17.1(b) reads as rewritten:

"(b) A State association, as defined in G.S. 54B-4, is an eligible State association if it is insured by a mutual deposit guaranty association, as defined in Article 12, Chapter 54B of the General Statutes, which will provide financial assistance for a transaction authorized by this section, and if the ~~Administrator, as defined in G.S. 54B-4,~~ Commissioner of Banks has found, pursuant to G.S. 54B-44, that such State association is unable to operate in a safe and sound manner."

SECTION 3. G.S. 54B-4(b)(1), 54B-53, and 54B-55(b)(6) are repealed.

SECTION 4. G.S. 54B-4(b) is amended by adding a new subdivision to read:

"(14a) 'Commissioner' means the Commissioner of Banks authorized pursuant to G.S. 53-92."

SECTION 5. G.S. 54B-54 reads as rewritten:

"**§ 54B-54. Deputy ~~administrator~~ commissioner of Savings Institutions Division.**

~~(a)~~ There shall be a deputy ~~administrator~~ commissioner of the Savings Institutions ~~Division who, in the event of the absence, death, resignation, disability or disqualification of the Administrator, or in case the office of Administrator shall for any~~

~~reason become vacant, shall have and exercise all the powers and duties vested by law in the Administrator.~~

~~(b)~~ Division as appointed by the Commissioner in G.S. 53-93.1(b). ~~The deputy administrator is authorized and empowered at any and all times to perform such duties and exercise such powers of the Administrator as the Administrator may direct.~~ The deputy commissioner authorized by this section shall perform any duties and exercise any powers directed by the Commissioner."

SECTION 6. G.S. 54B-62 reads as rewritten:

"**§ 54B-62. Relationship of savings and loan associations with the Savings Institutions Division.**

(a) Except as provided by subsection (b) of this section, a savings and loan association or any director, officer, employee, or representative thereof shall not grant or give to ~~the Administrator or to~~ any employee of the ~~Administrator's office,~~ Savings Institutions Division, or to their spouses, any loan or gratuity, directly or indirectly.

(b) ~~Neither the Administrator nor any~~ No person on the staff of the Savings Institutions Division shall:

(1) Hold an office or position in any State association or exercise any right to vote on any State association matter by reason of being a member of the association;

(2) Be interested, directly or indirectly in any savings and loan association organized under the laws of this State; or

(3) Undertake any indebtedness, as a borrower directly or indirectly or endorser, surety or guarantor, or sell or otherwise dispose of any loan or investment to any savings and loan association organized under the laws of this State.

(c) Notwithstanding subsection (b) of this section, ~~the Administrator or~~ any ~~other~~ person employed in or by ~~his office~~ the Savings Institutions Division may be a withdrawable account holder and receive earnings on such account.

(d) ~~If the Administrator or other person has any prohibited right or interest in a savings and loan association, either directly or indirectly, at the time of his appointment or employment, he shall dispose of it within 60 days after the date of his appointment, or employment.~~ Any employee of the Savings Institutions Division shall dispose of any right or interest in a savings and loan association, held either directly or indirectly, that is prohibited under subsection (b) of this section, within 60 days after the date of the employee's appointment or employment. If ~~the Administrator or other such~~ that person is indebted as borrower directly or indirectly, or is an endorser, surety or guarantor on a note, at the time of his appointment or employment, he may continue in such capacity until such loan is paid off.

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

SECTION 7. G.S. 54C-4(b)(1) is repealed.

SECTION 8. G.S. 54C-4(b) is amended by adding a new subdivision to read:

"(8a) Commissioner. – The Commissioner of Banks authorized pursuant to G.S. 53-92."

SECTION 9. G.S. 54C-59 reads as rewritten:

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

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

(b) ~~Neither the Administrator nor any~~ No employee of the Savings Institutions Division shall:

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

(c) Notwithstanding subsection (b) of this section, ~~the Administrator or~~ any employee of the Savings Institutions Division may be a deposit account holder and receive earnings on a deposit account.

(d) ~~The Administrator or any employee of the Division shall dispose of any prohibited right or interest in a savings bank, either directly or indirectly, within 60 days after the date of the Administrator's or employee's appointment or employment~~. Any employee of the Savings Institutions Division shall dispose of any right or interest in a savings bank, held either directly or indirectly, that is prohibited under subsection (b) of this section, within 60 days after the date of the employee's appointment or employment. If ~~the Administrator or~~ any employee of the Division is indebted as borrower, directly or indirectly, or is an endorser, surety, or guarantor on a note, at the time of appointment or employment, the ~~Administrator or~~ employee may continue in that capacity until the loan is paid off.

(e) If ~~the Administrator or~~ any employee of the Savings Institutions Division has a loan or other note acquired by a State savings bank through the secondary market, the ~~Administrator or~~ employee may continue with the debt until the loan or note is paid off."

SECTION 10. G.S. 143B-431(a)(2) reads as rewritten:

"(2) All functions, powers, duties and obligations heretofore vested in an agency enumerated in Article 15 of Chapter 143A, to wit:
a. The State Board of Alcoholic Control,
b. The North Carolina Utilities Commission,
c. The Employment Security Commission,
d. The North Carolina Industrial Commission,
e. State Banking Commission and the Commissioner of Banks,
f. ~~Savings and Loan Association Division,~~Savings Institutions Division,
~~g. The State Savings Institutions Commission,~~
h. Credit Union Commission,
i. The North Carolina Milk Commission,
j. The North Carolina Mutual Burial Association Commission,
k. The North Carolina Rural Electrification Authority,
l. The North Carolina State Ports Authority, all of which enumerated agencies are hereby expressly transferred by a Type II transfer, as defined by G.S. 143A-6, to this recreated and reconstituted Department of Commerce; ~~and,~~and".

SECTION 11. G.S. 143B-433 reads as rewritten:

"**§ 143B-433. Department of Commerce – organization.**

The Department of Commerce shall be organized to include:

(1) The following agencies:
a. The North Carolina Alcoholic Beverage Control Commission.
b. The North Carolina Utilities Commission.
c. The Employment Security Commission.
d. The North Carolina Industrial Commission.
e. State Banking Commission.

f. ~~Savings and Loan Association Division.~~Savings Institutions Division.
~~g. The State Savings Institutions Commission.~~
h. Credit Union Commission.
i. The North Carolina Milk Commission.
j. The North Carolina Mutual Burial Association Commission.
k. North Carolina Cemetery Commission.
l. The North Carolina Rural Electrification Authority.
m. Repealed by Session Laws 1985, c. 757, s. 179(d).
n. North Carolina Science and Technology Research Center.
o. The North Carolina State Ports Authority.
p. North Carolina National Park, Parkway and Forests Development Council.
q. Economic Development Board.
r. Labor Force Development Council.
s. Energy Policy Council.
t. Energy Division.
u. Navigation and Pilotage Commissions established by Chapter 76 of the General Statutes.
v. Repealed by Session Laws 1993, c. 321, s. 313b.

(2) Those agencies which are transferred to the Department of Commerce including the:
a. Community Assistance Division.
b. Community Development Council.
c. Employment and Training Division.
d. Job Training Coordinating Council.

(3) Such divisions as may be established pursuant to Article 1 of this Chapter."

SECTION 12. G.S. 150B-38(a) reads as rewritten:

"(a) The provisions of this Article shall apply to the following agencies:
(1) Occupational licensing ~~agencies;~~ agencies.
(2) The State Banking Commission, the Commissioner of Banks, ~~the Savings Institutions Division of the Department of Commerce,~~ and the Credit Union Division of the Department of ~~Commerce; and~~Commerce.
(3) The Department of Insurance and the Commissioner of Insurance.
(4) The Department of Commerce in the administration of the provisions of Part 16 of Article 10 of Chapter 143B of the General Statutes."

SECTION 13. G.S. 54B-246(a) reads as rewritten:

"(a) In addition to any and all other powers, duties and functions vested in the Secretary of Commerce under the provisions of this Article, and for the protection of member institutions and the general public, the Secretary of Commerce shall have general control and supervision over all mutual deposit guaranty associations doing business in this State. Mutual deposit guaranty associations shall be subject to the control and supervision of the Secretary of Commerce as to their conduct, organization, management, business practices, reserve requirements and their financial and fiscal matters. The grant of general control and supervision over mutual deposit guaranty associations to the Secretary of Commerce by this Article shall in no way be deemed to affect the existing powers, duties and responsibilities of the Credit Union Commission, the Commissioner of Banks, or the State Banking Commission ~~or the North Carolina Savings Institutions Commission~~ except for the removal herein of general control and supervision over mutual deposit guaranty associations from the Administrator of the Savings Institutions Division to the Secretary of Commerce."

SECTION 14. G.S. 53-92(b) reads as rewritten:

"(b) The State Banking Commission, which has heretofore been created, shall consist of the State Treasurer, who shall serve as an ex officio member thereof, ~~12~~ 19 members appointed by the Governor, and two members appointed by the General Assembly under G.S. 120-121, one of whom shall be appointed upon the recommendation of the President Pro Tempore of the Senate and one of whom shall be appointed upon the recommendation of the Speaker of the House of Representatives. The Governor shall appoint five practical ~~bankers and~~ bankers, ~~seven~~ 11 persons selected primarily as representatives of the borrowing ~~public.~~ public, and two chief executive officers of State savings institutions. The person appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate shall be a practical banker. The person appointed by the General Assembly upon the recommendation of the Speaker of the House shall be a person selected primarily as a representative of the borrowing public. The persons selected primarily as representatives of the borrowing public shall not be employees or directors of any financial institution nor shall they have any interest in any regulated financial institution other than as a result of being a depositor or borrower. Under this section, no person shall be considered to have an interest in a financial institution whose interest in any financial institution does not exceed one-half of one percent (1/2 of 1%) of the capital stock of that financial institution. These members of the Commission shall be selected so as to fully represent the consumer, industrial, manufacturing, professional, business and farming interests of the State. No person shall serve on the Commission for more than two complete consecutive terms. As the terms of office of the appointive members of the Commission expire, their successors shall be appointed by the person appointing them, for terms of four years each. Any vacancy occurring in the membership of the Commission shall be filled by the appropriate appointing officer for the unexpired term, except that vacancies among members appointed by the General Assembly shall be filled in accordance with G.S. 120-122. The appointed members of the Commission shall receive as compensation for their services the same per diem and expenses as is paid to the members of the Advisory Budget Commission. This compensation shall be paid from the fees collected from the examination of banks as provided by law."

SECTION 15. All (i) statutory authority, powers, duties, and functions, including rule making, budgeting, and purchasing, (ii) records, (iii) personnel, personnel positions, and salaries, (iv) property, and (v) unexpended balances of appropriations, allocations, reserves, support costs, and other funds of the Savings Institutions Division of the Department of Commerce are transferred to and vested in the Office of Commissioner of Banks authorized by Article 8 of Chapter 53 of the General Statutes. Though transferred to the Office of Commissioner of Banks pursuant to this section, the Savings Institutions Division shall continue to function under that name. All statutory authority, powers, duties, and functions of the Administrator of the Savings Institutions Division are transferred to and vested in the Commissioner of Banks. This transfer has all the elements of a Type I transfer, as defined in G.S. 143A-6.

SECTION 16. Except for those sections of the General Statutes amended in this act, the Revisor of Statutes shall substitute the term "Commissioner of Banks" for the terms "Administrator of the Savings Institutions Division", "Administrator of Savings Institutions Division", and "Administrator of Savings Institutions" everywhere those terms appear in the General Statutes. In addition, the Revisor of Statutes shall substitute the term "Commissioner of Banks" for the term "Administrator" everywhere that term appears in Chapters 54B and 54C of the General Statutes.

SECTION 17. Except for those sections of the General Statutes amended in this act, the Revisor of Statutes shall substitute the term "State Banking Commission" for the terms "North Carolina Savings Institution Commission", "North Carolina Savings Institutions Commission", "Savings Institution Commission", "Savings Institutions Commission", "State Savings Institutions Commission", and "State Savings Institution Commission" everywhere those terms appear in the General Statutes.

SECTION 18. Those persons who are serving as members of the Savings Institutions Commission as of June 30, 2001, are hereby appointed to the State Banking Commission to serve as the new members of the State Banking Commission pursuant to G.S. 53-92, as amended by Section 18 of this act. Those members whose terms on the Savings Institutions Commission expire June 30, 2001, shall serve on the State Banking Commission until March 31, 2002, and those members whose terms expire June 30, 2002, shall serve on the State Banking Commission until March 31, 2003. Thereafter, the Governor shall appoint members to fill those vacancies in compliance with the requirements of G.S. 53-92, as amended by Section 18 of this act.

SECTION 19. The Commissioner of Banks shall study the issue of regulation of State-chartered banks and savings institutions and develop a plan to regulate those banks and savings institutions in the most effective, efficient, and equitable manner. The study shall include a consideration of various financial charter options and the feasibility and advisability of reorganizing the banking and savings institutions regulatory agency to a cabinet level status. After the State Banking Commission has approved the plan, the Commissioner shall report the plan and any legislative recommendations or proposals to implement the plan to the General Assembly on or before May 1, 2002.

SECTION 20. This act becomes effective July 1, 2001.

In the General Assembly read three times and ratified this the 7th day of June, 2001.

s/ Beverly E. Perdue
President of the Senate

s/ Joe Hackney
Speaker Pro Tempore of the House of Representatives

s/ Michael F. Easley
Governor

Approved 6:46 p.m. this 12th day of June, 2001