

GENERAL ASSEMBLY OF NORTH CAROLINA
1989 SESSION

CHAPTER 806
HOUSE BILL 2048

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."

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

"§ 54B-48.2. Definitions.

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

- (1) 'Acquire', as applied to an association or a savings and loan holding company, means any of the following actions or transactions:
 - a. The merger or consolidation of an association with another association or savings and loan holding company or a savings and loan holding company with another savings and loan holding company.

- b. The acquisition of the direct or indirect ownership or control of voting shares of an association or savings and loan holding company if, after the acquisition, the acquiring association or savings and loan holding company will directly or indirectly own or control more than five percent (5%) of any class of voting shares of the acquired association or savings and loan holding company.
 - c. The direct or indirect acquisition of all or substantially all of the assets of an association or savings and loan holding company.
 - d. The taking of any other action that would result in the direct or indirect control of an association or savings and loan holding company.
- (2) 'Administrator' means the Administrator of the Savings Institutions Division.
 - (3) 'Association' means a mutual or capital stock savings and loan association, building and loan association or savings bank chartered under the laws of any one of the states or ~~by the Federal Home Loan Bank Board, pursuant to the 'Home Owners' Loan Act of 1933', 12 U.S.C. Section 1464, as amended.~~ under the laws of the United States.
 - (4) 'Branch office' means any office at which an association accepts deposits. The term branch office does not include:
 - a. Unmanned automatic teller machines, point-of-sale terminals, or similar unmanned electronic banking facilities at which deposits may be accepted;
 - b. Offices located outside the United States; and
 - c. Loan production offices, representative offices, service corporation offices, or other offices at which deposits are not accepted.
 - (5) 'Company' means that which is set forth in the Federal Savings and Loan Holding Company Act, 12 U.S.C. Section 1730a(a)(1)(C), as amended.
 - (6) 'Control' means that which is set forth in the Federal Savings and Loan Holding Company Act, 12 U.S.C. Section 1730a(a)(2), as amended.
 - (7) 'Deposits' means all demand, time, and savings deposits, without regard to the location of the depositor: Provided, however, that 'deposits' shall not include any deposits by associations. For purposes of this Article, determination of deposits shall be made with reference to regulatory reports of condition or similar reports made by or to State and federal regulatory authorities.
 - (8) 'Federal association' means an association chartered ~~by the Federal Home Loan Bank Board pursuant to the 'Home Owners' Loan Act of 1933', 12 U.S.C. Section 1464, as amended.~~ under the laws of the United States.

- (9) 'North Carolina association' means an association organized under the laws of the State of North Carolina or under the laws of the United States and that:
- a. Has its principal place of business in the State of North Carolina;
 - b. Which if controlled by an organization, the organization is either a North Carolina association, Southern Region association, North Carolina savings and loan holding company, or a Southern Region savings and loan holding company; and
 - c. More than eighty percent (80%) of its total deposits, other than deposits located in branch offices acquired pursuant to Section 123 of the Garn-St. Germain Depository Institutions Act of 1982 (12 U.S.C. 1730a(m)) or comparable state law, are in its branch offices located in one or more of the Southern Region states.
- (10) 'North Carolina Savings and Loan Holding Company' means a savings and loan holding company that:
- a. Has its principal place of business in the State of North Carolina;
 - b. Has total deposits of its Southern Region association subsidiaries and North Carolina association subsidiaries that exceed eighty percent (80%) of the total deposits of all association subsidiaries of the savings and loan holding company other than those association subsidiaries held pursuant to Section 123 of the Garn-St. Germain Depository Institutions Act of 1982 (12 U.S.C. 1730a(m)) or comparable state law.
- (11) 'Principal place of business' of an association means the state in which the aggregate deposits of the association are the largest. For the purposes of this Article, the principal place of business of a savings and loan holding company is the state where the aggregate deposits of the association subsidiaries of the holding company are the largest.
- (12) 'Savings and loan holding company' means any company which directly or indirectly controls an association or controls any other company which is a savings and loan holding company.
- (13) 'Service Corporation' means any corporation, the majority of the capital stock of which is owned by one or more associations and which engages, directly or indirectly, in any activities which may be engaged in by a service corporation in which an association may invest under the laws of one of the states or under the laws of the United States.
- (14) 'Southern Region association' means an association other than a North Carolina association organized under the laws of one of the Southern Region states or under the laws of the United States and that:
- a. Has its principal place of business only in a Southern Region state other than North Carolina;

- b. Which if controlled by an organization, the organization is either a Southern Region association or a Southern Region savings and loan holding company; and
 - c. More than eighty percent (80%) of its total deposits, other than deposits located in branch offices acquired pursuant to Section 123 of the Garn-St. Germain Depository Institutions Act of 1982 (12 U.S.C. 1730a(m)) or comparable state law, are in its branch offices located in one or more of the Southern Region states.
- (15) 'Southern Region savings and loan holding company' means a savings and loan holding company that:
- a. Has its principal place of business in a Southern Region state other than the State of North Carolina;
 - b. Has total deposits of its Southern Region association subsidiaries and North Carolina association subsidiaries that exceed eighty percent (80%) of the total deposits of all association subsidiaries of the savings and loan holding company other than those association subsidiaries held pursuant to Section 123 of the Garn-St. Germain Depository Institutions Act of 1982 (12 U.S.C. 1730a(m)) or comparable state law.
- (16) 'Southern Region states' means the states of Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Maryland, Mississippi, North Carolina, South Carolina, Tennessee, Virginia, West Virginia, and the District of Columbia.
- (17) 'State' means any state of the United States and the District of Columbia.
- (18) 'State association' means an association organized under the laws of one of the states.
- (19) 'Subsidiary' means that which is set forth in the Federal Savings and Loan Holding Company Act, 12 U.S.C. Section 1730a(a)(1)(H), as amended."

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

"(b1) A North Carolina savings and loan holding company or a North Carolina association may acquire any Southern Region association or Southern Region savings and loan holding company with the approval of the Administrator. The North Carolina savings and loan holding company or North Carolina association shall submit to the Administrator an application for approval of the acquisition, which application shall be approved only if the application includes a business plan extending for an initial period of at least three years from the date of the acquisition which shall be renewed thereafter for as long as may be required by the Administrator. The association may not deviate without the prior written approval of the Administrator from the business plan which shall address such matters as the Administrator may deem appropriate for the protection of the depositors and members of the North Carolina association and the general public. The business plan shall address, without limitation:

- (1) Insurance of depositors' accounts.
- (2) Conversion of corporate form or other fundamental changes.
- (3) Closing, selling, or divesting any or all North Carolina branches."

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

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

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

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

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

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

- (1) Establish off the premises of any principal office or branch a customer communications terminal, point-of-sale terminal, automated teller machine, automated or other direct or remote information-processing device or machine, whether manned or unmanned, through or by means of which funds or information relating to any financial service or transaction rendered to the public is stored and transmitted, instantaneously or otherwise to or from an association terminal or terminals controlled or used by or with other parties; and the establishment and use of such a device or machine shall not be deemed to constitute a branch office and the capital requirements and standards for approval of a branch office as set forth in the statutes and regulations, shall not be applicable to the establishment of any such off-premises terminal, device or machine; and associations may through mutual consent share on-premises unmanned automated teller machines and cash dispensers. The Administrator may prescribe rules and regulations with regard to the application for permission for use, maintenance and supervision of said terminals, devices and machines;
- (2) Subject to such regulations as the Administrator may prescribe, a state-chartered association is authorized to issue credit cards, extend credit in connection therewith, and otherwise engage in or participate in credit card operations;
- (3) Subject to such regulations as the Administrator may prescribe, a state-chartered association may act as a trustee, executor, administrator, guardian or in any other fiduciary capacity permitted for federal

savings and loan associations by the Congress of the United States, Federal Home Loan Bank Board and the Federal Savings and Loan Insurance Corporation; associations;

- (4) a. In accordance with rules and regulations issued by the Administrator, mutual capital certificates may be issued by state-chartered associations and sold directly to subscribers or through underwriters, and such certificates shall constitute part of the general reserve and net worth of the issuing association. The Administrator, in the rules and regulations relating to the issuance and sale of mutual capital certificates, shall provide that such certificates:
1. Shall be subordinate to all savings accounts, savings certificates, and debt obligations;
 2. Shall constitute a claim in liquidation on the general reserves, surplus and undivided profits of the association remaining after the payment of all savings accounts, savings certificates, and debt obligations;
 3. Shall be entitled to the payment of dividends; and
 4. May have a fixed or variable dividend rate.
- b. The Administrator shall provide in the rules and regulations for charging losses to the mutual capital certificate, reserves, and other net worth accounts."

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

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

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

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

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

"§ 54B-154. Insider loans.

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

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

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

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

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

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

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

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

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

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

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

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

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

"§ 54B-216. General reserve.

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

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

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

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

"§ 54B-236. Definitions.

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

Sec. 16. G.S. 54B-156(b) is amended by deleting "G.S. 24-10(e) and (f)" and substituting "G.S. 24-10.1".

Sec. 17. G.S. 54B-10(a)(8) and (b)(9) are amended by deleting "G.S. 55-26" and substituting "G.S. 55-8-06".

Sec. 18. G.S. 54B-14(c) is amended by deleting "G.S. 55-4" and substituting "G.S. 55-1-20" and is further amended by deleting "in accordance with G.S. 55-4(a)(6)".

Sec. 19. G.S. 54B-20(b) is amended by deleting "G.S. 55-14" and substituting "G.S. 55-5-02".

Sec. 20. G.S. 54B-40 is amended by deleting "subsection (a) of G.S. 55-116" and substituting "G.S. 55-14-01".

Sec. 21. G.S. 54B-261(a1) is amended by deleting "G.S. 55-113" and substituting "Article 13 of Chapter 55 of the General Statutes".

Sec. 22. Sections 1 through 16 of this act are effective upon ratification. Sections 17 through 21 shall become effective July 1, 1990.

In the General Assembly read three times and ratified this the 15th day of June, 1990.