

**GENERAL ASSEMBLY OF NORTH CAROLINA**

**SESSION 1989**

**H**

**1**

**HOUSE BILL 2051\***

Short Title: Sale of New Bank/S&L.

(Public)

---

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

---

Referred to: Commerce.

---

May 23, 1990

A BILL TO BE ENTITLED

AN ACT TO REDUCE FROM FIVE YEARS TO THREE YEARS THE  
MORATORIUM ON ACQUISITION OF A NORTH CAROLINA BANK OR  
SAVINGS ASSOCIATION BY AN OUT-OF-STATE INSTITUTION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 53-211(a) reads as rewritten:

"(a) A regional bank holding company that does not have a North Carolina bank subsidiary (other than a North Carolina bank subsidiary that was acquired either pursuant to Section 116 or Section 123 of the Garn-St. Germain Depository Institutions Act of 1982 (12 U.S.C. 1730a(m), 1823(f)) or in the regular course of securing or collecting a debt previously contracted in good faith, as provided in Section 3(a) of the Bank Holding Company Act of 1956 as amended (12 U.S.C. 1842(a)) may acquire a North Carolina bank holding company or a North Carolina bank with the approval of the Commissioner. The regional bank holding company shall submit to the Commissioner an application for approval of such acquisition, which application shall be approved only if:

- (1) The Commissioner determines that the laws of the state in which the regional bank holding company making the acquisition has its principal place of business permit North Carolina bank holding companies to acquire banks and bank holding companies in that state;
- (2) The Commissioner determines that the laws of the state in which the regional bank holding company making the acquisition has its principal place of business permit such regional bank holding company to be acquired by the North Carolina bank holding company or North

1 Carolina bank sought to be acquired. For the purposes of this  
2 subsection, a North Carolina bank shall be treated as if it were a North  
3 Carolina bank holding company;

- 4 (3) The Commissioner determines either that the North Carolina bank  
5 sought to be acquired has been in existence and continuously operating  
6 for more than ~~five~~three years or that all of the bank subsidiaries of the  
7 North Carolina bank holding company sought to be acquired have  
8 been in existence and continuously operating for more than ~~five~~three  
9 years: Provided, that the Commissioner may approve the acquisition  
10 by a regional bank holding company of all or substantially all of the  
11 shares of a bank organized solely for the purpose of facilitating the  
12 acquisition of a bank that has been in existence and continuously  
13 operating as a bank for more than ~~five~~three years: Provided further,  
14 where the Commissioner after examination or other investigation has  
15 determined that it is necessary to approve an interstate acquisition  
16 under this Article in order to protect the public and to prevent the  
17 possible failure of a bank or banking subsidiary of a bank holding  
18 company, then the time limitations of this subdivision do not apply; ~~in~~  
19 ~~that event the period of existence and continuous operation of the bank or~~  
20 ~~banking subsidiary may be reduced from five to three years;~~ and

- 21 (4) The Commissioner makes the acquisition subject to any conditions,  
22 restrictions, requirements or other limitations that would apply to the  
23 acquisition by a North Carolina bank holding company of a bank or  
24 bank holding company in the state where the regional bank holding  
25 company making the acquisition has its principal place of business but  
26 that would not apply to the acquisition of a bank or bank holding  
27 company in such state by a bank holding company all the bank  
28 subsidiaries of which are located in that state."

29 Sec. 2. G.S. 54B-48.3 reads as rewritten:

30 **"§ 54B-48.3. Acquisitions by Southern Region savings and loan holding companies**  
31 **and Southern Region associations.**

32 (a) A Southern Region savings and loan holding company or a Southern Region  
33 association that does not have a North Carolina association subsidiary (other than a  
34 North Carolina association subsidiary that was acquired either pursuant to Section 123  
35 of the Garn-St. Germain Depository Institutions Act of 1982 (12 U.S.C. 1730a(m)), or  
36 comparable provisions in state law, or in the regular course of securing or collecting a  
37 debt previously contracted in good faith) may acquire a North Carolina savings and loan  
38 holding company or a North Carolina association with the approval of the  
39 Administrator. The Southern Region savings and loan holding company or Southern  
40 Region association shall submit to the Administrator an application for approval of such  
41 acquisition, which application shall be approved only if:

- 42 (1) The Administrator determines that the laws of the state in which the  
43 Southern Region savings and loan holding company or Southern  
44 Region association making the acquisition has its principal place of

- 1 business permit North Carolina savings and loan holding companies  
2 and North Carolina associations to acquire associations and savings  
3 and loan holding companies in that state;
- 4 (2) The Administrator determines that the laws of the state in which the  
5 Southern Region savings and loan holding company or Southern  
6 Region association making the acquisition has its principal place of  
7 business permit such Southern Region savings and loan holding  
8 company or Southern Region association to be acquired by the North  
9 Carolina savings and loan holding company or North Carolina  
10 association sought to be acquired;
- 11 (3) The Administrator determines either that the North Carolina  
12 association sought to be acquired has been in existence and  
13 continuously operating for more than ~~five~~three years or that all of the  
14 association subsidiaries of the North Carolina savings and loan holding  
15 company sought to be acquired have been in existence and  
16 continuously operating for more than ~~five~~three years: Provided, that  
17 the Administrator may approve the acquisition by a Southern Region  
18 savings and loan holding company or Southern Region association of  
19 all or substantially all of the shares of an association organized solely  
20 for the purpose of facilitating the acquisition of an association that has  
21 been in existence and continuously operating as an association for  
22 more than ~~five~~three years; and
- 23 (4) The Administrator makes the acquisition subject to any conditions,  
24 restrictions, requirements or other limitations that would apply to the  
25 acquisition by a North Carolina savings and loan holding company or  
26 North Carolina association of an association or savings and loan  
27 holding company in the state where the Southern Region savings and  
28 loan holding company or Southern Region association making the  
29 acquisition has its principal place of business but that would not apply  
30 to the acquisition of an association or savings and loan holding  
31 company in such state by an association or a savings and loan holding  
32 company all the association subsidiaries of which are located in that  
33 state;
- 34 (5) With respect to acquisitions involving the merger or consolidation of  
35 two associations resulting in a Southern Region association, the  
36 application includes a business plan extending for an initial period of  
37 at least three years from the date of the acquisition which shall be  
38 renewed thereafter for as long as may be required by the  
39 Administrator. The association may not deviate without the prior  
40 written approval of the Administrator from the business plan which  
41 shall address such matters as the Administrator may deem appropriate  
42 for the protection of the depositors and members of the acquired North  
43 Carolina association and the general public. The business plan shall  
44 address, without limitation:

- 1 a. Insurance of depositors' accounts.
- 2 b. Limitation of services and activities to those permitted under
- 3 this Chapter to North Carolina associations.
- 4 c. Conversion of corporate form or other fundamental changes.
- 5 d. Closing, selling or divesting any or all North Carolina branches.
- 6 e. Protection of the voting rights of North Carolina members.

7 (b) A Southern Region savings and loan holding company or Southern Region  
8 association that has a North Carolina association subsidiary (other than a North Carolina  
9 association subsidiary that was acquired either pursuant to Section 123 of the Garn-St.  
10 Germain Depository Institutions Act of 1982 (12 U.S.C. 1730a(m)), or comparable  
11 provisions in North Carolina law, or in the regular course of securing or collecting a  
12 debt previously contracted in good faith) may acquire any North Carolina association or  
13 North Carolina savings and loan holding company with the approval of the  
14 Administrator. The Southern Region savings and loan holding company shall submit to  
15 the Administrator an application for approval of such acquisition, which application  
16 shall be approved only if:

- 17 (1) The Administrator determines either that the North Carolina  
18 association sought to be acquired has been in existence and  
19 continuously operating for more than ~~five~~three years or that all of the  
20 association subsidiaries of the North Carolina savings and loan holding  
21 company sought to be acquired have been in existence and  
22 continuously operating for more than ~~five~~three years: Provided, that  
23 the Administrator may approve the acquisition by a Southern Region  
24 savings and loan holding company or Southern Region association of  
25 all or substantially all of the shares of an association organized solely  
26 for the purpose of facilitating the acquisition of an association that has  
27 been in existence and continuously operating as an association for  
28 more than ~~five~~three years; and
- 29 (2) The Administrator makes the acquisition subject to any conditions,  
30 restrictions, requirements or other limitations that would apply to the  
31 acquisition by the North Carolina savings and loan holding company  
32 or North Carolina association of an association or savings and loan  
33 holding company in the State where the Southern Region savings and  
34 loan holding company or Southern Region association making the  
35 acquisition has its principal place of business but that would not apply  
36 to the acquisition of an association or savings and loan holding  
37 company in such state by a savings and loan holding company all the  
38 association subsidiaries of which are located in that state.
- 39 (3) With respect to acquisitions involving the merger or consolidation of  
40 two associations resulting in a Southern Region association, the  
41 application includes a business plan extending for an initial period of  
42 at least three years from the date of the acquisition which shall be  
43 renewed thereafter for as long as may be required by the  
44 Administrator. The association may not deviate without the prior

1 written approval of the Administrator from the business plan which  
2 shall address such matters as the Administrator may deem appropriate  
3 for the protection of the depositors and members of the acquired North  
4 Carolina association and the general public. The business plan shall  
5 address, without limitation:

- 6 a. Insurance of depositors' accounts.
- 7 b. Limitation of services and activities to those permitted under  
8 this Chapter to North Carolina associations.
- 9 c. Conversion of corporate form or other fundamental changes.
- 10 d. Closing, selling or divesting any or all North Carolina branches.
- 11 e. Protection of the voting rights of North Carolina members.

12 (c) The Administrator shall rule on any application submitted under this section  
13 not later than 90 days following the date of submission of a complete application. If the  
14 Administrator fails to rule on the application within the requisite 90-day period, the  
15 failure to rule shall be deemed a final decision of the Administrator approving the  
16 application."

17 Sec. 3. This act is effective upon ratification.