

**GENERAL ASSEMBLY OF NORTH CAROLINA**  
**SESSION 1991**

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SENATE BILL 996

Short Title: Credit Unions/Faithful Performance Bonds.

(Public)

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Sponsors: Senators Staton, Carpenter, Conder, Plyler; Forrester and Bryan.

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Referred to: Banks and Thrift Institutions.

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May 27, 1992

A BILL TO BE ENTITLED  
AN ACT TO ELIMINATE THE FAITHFUL PERFORMANCE COVERAGE  
REQUIREMENTS FOR CREDIT UNIONS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 54-109.11 reads as rewritten:

**"§ 54-109.11. Duties of Administrator.**

The duties of the Administrator of Credit Unions shall be as follows:

- (1) To organize and conduct in the State Department of Economic and Community Development, a bureau of information in regard to cooperative associations and rural and industrial credits.
- (2) Upon request, to furnish, without cost, ~~such any~~ printed information and blank forms as, in ~~his the~~ Administrator's discretion, may be necessary for the formation and establishment of any local credit union in the State.
- (3) To maintain an educational campaign in the State looking to the promotion and organization of credit unions. Upon the written request of 12 bona fide residents of any particular locality in this State expressing a desire to form a local credit union at or in ~~such that~~ locality, the Administrator of Credit Unions, or one of ~~his the~~ Administrator's assistants, shall proceed as promptly as may be convenient to ~~such that~~ locality and make an investigation in order that the Administrator may determine whether or not a local credit union should be established according to the standards set forth and provided in this Article. The Administrator shall notify the applicants of ~~his the~~

1 Administrator's decision within 30 days after receipt of the written  
2 request. Before refusing the establishment of a credit union, the  
3 Administrator shall ~~afford~~ give the applicants an opportunity to be  
4 heard ~~therewith~~ in person or by ~~counsel~~ and at counsel. At least 60 days  
5 ~~prior to~~ before the date set for a hearing on ~~any such matter~~ the matter,  
6 the Administrator shall notify in writing the applicants of the date of  
7 ~~said~~ the hearing and assign therein the grounds for the action  
8 contemplated to be taken and as to which inquiry shall be made on the  
9 date of ~~such~~ the hearing. The determination of the Administrator ~~shall~~  
10 ~~be~~ is subject to judicial review in all respects according to ~~the~~  
11 ~~provisions and procedures set forth in Chapter 150A of the General Statutes~~  
12 ~~of North Carolina, as amended.~~ Chapter 150A.

13 (4) To examine ~~at least~~ as often as necessary, but not less than once a year,  
14 ~~and oftener if such examination be more often if~~ deemed necessary by  
15 the Administrator or ~~his~~ the Administrator's assistant, the credit unions  
16 formed under this Article. A report of ~~such~~ the examination shall be  
17 filed with the State Department of Economic and Community  
18 Development, and a copy mailed to the credit union at its proper  
19 address.

20 (5) ~~The Administrator of Credit Unions is authorized, empowered, and directed~~  
21 ~~to~~ To fix the amount of a blanket surety bond ~~which shall be~~ that is  
22 required of each credit union official, committee member and  
23 employee, irrespective of whether ~~such~~ the official, committee member  
24 and employee receives, pays or has custody of money or other  
25 personal property owned by a credit union or in the custody or control  
26 of the credit union as collateral or otherwise. The surety on the bond  
27 shall be a surety company authorized to do business in North Carolina.  
28 ~~Any such bond or bonds~~ The surety bond shall be in a form approved by  
29 the Administrator of Credit Unions with a view to providing surety  
30 coverage to the credit union with reference to loss by reason of acts of  
31 fraud or dishonesty including forgery, theft, embezzlement, wrongful  
32 abstraction or misapplication on the part of the person, directly or  
33 through connivance with others, and ~~such~~ any other surety coverages  
34 as the Administrator of Credit Unions may determine to be reasonably  
35 appropriate or as elsewhere required by the Chapter. ~~Any such bond or~~  
36 ~~bonds~~ The surety bond shall be in an amount in relation to the money  
37 or other personal property involved or in relation to the assets of the  
38 credit union as the Administrator may from time to time prescribe by  
39 regulation for the purpose of requiring reasonable coverage. The  
40 Administrator may also approve the use of a form of excess coverage  
41 bond whereby a credit union may obtain an amount of coverage in  
42 excess of the basic surety coverage. No agreement, compromise or  
43 settlement of ~~any claim or claims~~ a claim filed by a credit union with  
44 any surety or any surety company for less than the full amount of ~~said~~

1 ~~the claim or claims shall~~ may be entered into or made by the board of  
 2 directors of any credit union unless ~~and until the said claim or claims~~  
 3 ~~shall have~~ the claim has been submitted to the Administrator of Credit  
 4 ~~Unions and his advice thereon given or transmitted~~ Unions and the  
 5 Administrator's advice has been given to the board of directors of said  
 6 the credit union. The following schedule ~~shall be deemed~~ is considered  
 7 as the minimum ~~fidelity and faithful performance~~ blanket security bond  
 8 requirements only:

	Assets	Minimum Coverage
10	\$ 0,000 to	\$ 5,000
11	5,001 to	10,000
12	10,001 to	20,000
13	20,001 to	30,000
14	30,001 to	40,000
15	40,001 to	50,000
16	50,001 to	75,000
17	75,001 to	100,000
18	100,001 to	200,000
19	200,001 to	300,000
20	300,001 to	400,000
21	400,001 to	500,000
22	500,001 to	750,000
23	750,001 to	1,000,000
24	1,000,001 to	50,000,000
25		\$100,000 plus
26		\$50,000 for each million or
27		fraction thereof of assets
28	\$50,000,001 to	\$2,500,000 plus
29	\$150,000,000	\$25,000 for each million or
30		fraction thereof of assets
31		over \$50,000,000
32	Over \$150,000,000	\$5,000,000

33 ~~It shall be the duty of the board of directors of each credit union to~~ The board of  
 34 directors of each credit union may provide proper protection to meet any circumstances  
 35 ~~by obtaining adequate bond (an insurance) coverage in excess of the above minimum~~  
 36 ~~schedule. The treasurer and all other persons handling~~ No person, including the  
 37 treasurer, shall handle credit union funds or records ~~before entering upon his or their~~  
 38 ~~duties shall give before giving~~ a proper bond with good and sufficient surety, ~~in an~~  
 39 ~~amount and character to be determined by the board in compliance with regulations~~  
 40 ~~conditioned upon the faithful performance of his or their trust.~~ surety.

41 The Administrator may require additional coverage for any credit union when, in ~~his~~  
 42 the Administrator's opinion, the surety bonds in force are insufficient to provide  
 43 adequate surety coverage, and ~~it shall be the duty of~~ the board of directors of any credit  
 44 union ~~to shall~~ obtain such this additional coverage within 60 days after the date of the

1 Administrator's written notice by the Administrator to such to that board of directors. For  
2 good cause shown, the Administrator may extend the time to obtain additional  
3 coverage."

4 Sec. 2. G.S. 54-109.44 reads as rewritten:

5 **"§ 54-109.44. Duties of directors.**

6 ~~It shall be the duty of the directors to:~~ The directors shall:

- 7 (1) Act upon applications for membership or ~~to~~ appoint one or more  
8 membership officers to approve applications for membership under  
9 ~~such any~~ conditions as the board prescribes. A record of a membership  
10 officer's approval or denial of membership shall be available to the  
11 board of directors for inspection. A person denied membership by a  
12 membership officer may appeal the denial to the ~~board;~~ board.
- 13 (2) Purchase a blanket fidelity bond, in accordance with any rules ~~and~~  
14 ~~regulations~~ of the Administrator, to protect the credit union against  
15 losses caused by occurrences covered therein such as fraud,  
16 dishonesty, forgery, embezzlement, ~~misappropriation, misapplication, or~~  
17 ~~unfaithful performance of duty~~ misappropriation, or misapplication by a  
18 director, officer, employee, member of an official committee, attorney-  
19 at-law or other ~~agent~~ agent.
- 20 (3) Determine from time to time the interest ~~rate or rates~~ rates, consistent  
21 with Articles 14A to 14L of this Chapter, ~~which shall be that are~~  
22 charged on loans and ~~to~~ authorize interest refunds, if any, to members  
23 from income earned and received in proportion to the interest paid by  
24 them on ~~such the~~ classes of loans and under ~~such the~~ conditions as the  
25 board ~~prescribes;~~ prescribes.
- 26 (4) Fix from time to time the maximum amount which may be loaned to  
27 any one ~~member;~~ member.
- 28 (5) Declare dividends on shares in the manner and form as provided in the  
29 bylaws; and determine the interest ~~rate or rates which will be~~ rates that  
30 are paid on deposits; ~~deposits.~~
- 31 (6) Set the number of shares and the amount of deposits which may be  
32 owned by a ~~member, such~~ member. These limitations ~~to~~ shall apply  
33 ~~alike the same~~ to all ~~members;~~ members.
- 34 (7) Have charge of the investment of surplus funds, except that the board  
35 of directors may designate an investment committee or any qualified  
36 individual to have charge of making investments under controls  
37 established by the board of ~~directors;~~ directors.
- 38 (8) Authorize the employment of ~~such~~ persons necessary to carry on the  
39 business of the credit ~~union;~~ union.
- 40 (9) Authorize the conveyance of ~~property;~~ property.
- 41 (10) Borrow or lend money to carry on the functions of the credit ~~union;~~  
42 union.
- 43 (11) Designate a depository or depositories for the funds of the credit ~~union;~~  
44 union.

- 1           (12) Suspend any or all members of the credit or supervisory committee for  
2           failure to perform their ~~duties;~~ duties.
- 3           (13) Appoint any special committees deemed ~~necessary;~~ and necessary.
- 4           (14) Perform ~~such~~ any other duties as the members from time to time direct,  
5           and perform or authorize any action not inconsistent with Articles 14A  
6           to 14L of this Chapter and not specifically reserved by the bylaws for  
7           the members."  
8           Sec. 3. This act is effective upon ratification.