

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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SENATE BILL 996  
Second Edition Engrossed 6/16/92

Short Title: Credit Unions/Faithful Performance Bonds.

(Public)

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

Referred to: Banks and Thrift Institutions.

May 27, 1992

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

4 The General Assembly of North Carolina enacts:

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

6 **"§ 54-109.11. Duties of Administrator.**

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

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

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

14 (4) ~~To examine at least once a year, and oftener if such examination be~~  
15 ~~deemed necessary by the Administrator or his assistant, the credit~~  
16 ~~unions formed under this Article.~~To examine the credit unions formed  
17 under this Article at least once a year and more often if considered  
18 necessary by the Administrator or the Administrator's assistant. A  
19 report of ~~such~~the examination shall be filed with the State Department  
20 of Economic and Community Development, and a copy mailed to the  
21 credit union at its proper address.

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

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

Assets		Minimum Coverage
12	\$ 0,000 to \$ 5,000	\$ 1,000
13	5,001 to 10,000	2,000
14	10,001 to 20,000	4,000
15	20,001 to 30,000	6,000
16	30,001 to 40,000	8,000
17	40,001 to 50,000	10,000
18	50,001 to 75,000	15,000
19	75,001 to 100,000	20,000
20	100,001 to 200,000	30,000
21	200,001 to 300,000	40,000
22	300,001 to 400,000	50,000
23	400,001 to 500,000	70,000
24	500,001 to 750,000	85,000
25	750,001 to 1,000,000	100,000
26	1,000,001 to 50,000,000	\$100,000 plus
27		\$50,000 for each million or
28		fraction thereof of assets
29		over \$1,000,000
30	\$50,000,001 to \$150,000,000	\$ 2,500,000 plus
31		\$25,000 for each million or
32		fraction thereof of assets
33		over \$50,000,000
34	Over \$150,000,000	\$5,000,000

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

43 The Administrator may require additional coverage for any credit union when, in ~~his~~  
 44 the Administrator's opinion, the surety bonds in force are insufficient to provide

1 adequate surety coverage, and ~~it shall be the duty of the board of directors of any credit~~  
2 ~~union to~~ shall obtain such this additional coverage within 60 days after the date of the  
3 Administrator's written notice ~~by the Administrator to such to that~~ board of directors. For  
4 good cause shown, the Administrator may extend the time to obtain additional  
5 coverage."

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

7 **"§ 54-109.44. Duties of directors.**

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

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

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