

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001

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HOUSE BILL 803*
Committee Substitute Favorable 4/18/01

Short Title: Reorganize Savings Inst. Div.

(Public)

Sponsors:

Referred to:

March 26, 2001

1 A BILL TO BE ENTITLED
2 AN ACT TO TRANSFER THE SAVINGS INSTITUTIONS DIVISION TO THE
3 STATE BANKING COMMISSIONER; TO AUTHORIZE ADDITIONAL
4 DEPUTY COMMISSIONERS; TO MERGE THE SAVINGS INSTITUTIONS
5 COMMISSION WITH THE STATE BANKING COMMISSION; TO REQUIRE
6 THE COMMISSIONER TO REPORT TO THE GENERAL ASSEMBLY; AND
7 TO MAKE TECHNICAL AND CONFORMING CHANGES TO THE
8 STATUTES.

9 The General Assembly of North Carolina enacts:

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

11 "**§ 53-93.1. Deputy ~~commissioner~~ commissioners.**

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

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

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

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

1 "(b) A State association, as defined in G.S. 54B-4, is an eligible State association
2 if it is insured by a mutual deposit guaranty association, as defined in Article 12,
3 Chapter 54B of the General Statutes, which will provide financial assistance for a
4 transaction authorized by this section, and if the ~~Administrator, as defined in G.S. 54B-~~
5 ~~4, Commissioner of Banks~~ has found, pursuant to G.S. 54B-44, that such State
6 association is unable to operate in a safe and sound manner."

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

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

10 "(14a) 'Commissioner' means the Commissioner of Banks authorized
11 pursuant to G.S. 53-92."

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

13 "**§ 54B-54. Deputy administrator commissioner of Savings Institutions Division.**

14 ~~(a) There shall be a deputy administrator commissioner of the Savings~~
15 ~~Institutions Division who, in the event of the absence, death, resignation, disability or~~
16 ~~disqualification of the Administrator, or in case the office of Administrator shall for any~~
17 ~~reason become vacant, shall have and exercise all the powers and duties vested by law~~
18 ~~in the Administrator.~~

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

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

25 "**§ 54B-62. Relationship of savings and loan associations with the Savings**
26 **Institutions Division.**

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

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

- 33 (1) Hold an office or position in any State association or exercise any right
34 to vote on any State association matter by reason of being a member of
35 the association;
- 36 (2) Be interested, directly or indirectly in any savings and loan association
37 organized under the laws of this State; or
- 38 (3) Undertake any indebtedness, as a borrower directly or indirectly or
39 endorser, surety or guarantor, or sell or otherwise dispose of any loan
40 or investment to any savings and loan association organized under the
41 laws of this State.

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

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

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

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

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

20 "(8a) Commissioner. – The Commissioner of Banks authorized pursuant to
21 G.S. 53-92."

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

23 **"§ 54C-59. Relationship of savings banks with the Savings Institution Institutions**
24 **Division.**

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

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

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

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

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

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

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

16 "(2) All functions, powers, duties and obligations heretofore vested in an
 17 agency enumerated in Article 15 of Chapter 143A, to wit:

- 18 a. The State Board of Alcoholic Control,
- 19 b. The North Carolina Utilities Commission,
- 20 c. The Employment Security Commission,
- 21 d. The North Carolina Industrial Commission,
- 22 e. State Banking Commission and the Commissioner of Banks,
- 23 f. ~~Savings and Loan Association Division,~~Savings Institutions
 24 Division,
- 25 g. ~~The State Savings Institutions Commission,~~
- 26 h. Credit Union Commission,
- 27 i. The North Carolina Milk Commission,
- 28 j. The North Carolina Mutual Burial Association Commission,
- 29 k. The North Carolina Rural Electrification Authority,
- 30 l. The North Carolina State Ports Authority, all of which
 31 enumerated agencies are hereby expressly transferred by a Type
 32 II transfer, as defined by G.S. 143A-6, to this recreated and
 33 reconstituted Department of Commerce; ~~and, and~~".

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

35 "**§ 143B-433. Department of Commerce – organization.**

36 The Department of Commerce shall be organized to include:

- 37 (1) The following agencies:
 - 38 a. The North Carolina Alcoholic Beverage Control Commission.
 - 39 b. The North Carolina Utilities Commission.
 - 40 c. The Employment Security Commission.
 - 41 d. The North Carolina Industrial Commission.
 - 42 e. State Banking Commission.

- 1 f. ~~Savings and Loan Association Division.~~ Savings Institutions
 2 Division.
 3 ~~g. The State Savings Institutions Commission.~~
 4 h. Credit Union Commission.
 5 i. The North Carolina Milk Commission.
 6 j. The North Carolina Mutual Burial Association Commission.
 7 k. North Carolina Cemetery Commission.
 8 l. The North Carolina Rural Electrification Authority.
 9 m. Repealed by Session Laws 1985, c. 757, s. 179(d).
 10 n. North Carolina Science and Technology Research Center.
 11 o. The North Carolina State Ports Authority.
 12 p. North Carolina National Park, Parkway and Forests
 13 Development Council.
 14 q. Economic Development Board.
 15 r. Labor Force Development Council.
 16 s. Energy Policy Council.
 17 t. Energy Division.
 18 u. Navigation and Pilotage Commissions established by Chapter
 19 76 of the General Statutes.
 20 v. Repealed by Session Laws 1993, c. 321, s. 313b.
 21 (2) Those agencies which are transferred to the Department of Commerce
 22 including the:
 23 a. Community Assistance Division.
 24 b. Community Development Council.
 25 c. Employment and Training Division.
 26 d. Job Training Coordinating Council.
 27 (3) Such divisions as may be established pursuant to Article 1 of this
 28 Chapter."

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

30 "(a) The provisions of this Article shall apply to the following agencies:

- 31 (1) Occupational licensing ~~ageneies;~~ agencies.
 32 (2) The State Banking Commission, the Commissioner of Banks, ~~the~~
 33 ~~Savings Institutions Division of the Department of Commeree,~~ and the
 34 Credit Union Division of the Department of ~~Commeree;~~
 35 and Commerce.
 36 (3) The Department of Insurance and the Commissioner of Insurance.
 37 (4) The Department of Commerce in the administration of the provisions
 38 of Part 16 of Article 10 of Chapter 143B of the General Statutes."

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

40 "(a) In addition to any and all other powers, duties and functions vested in the
 41 Secretary of Commerce under the provisions of this Article, and for the protection of
 42 member institutions and the general public, the Secretary of Commerce shall have

1 general control and supervision over all mutual deposit guaranty associations doing
2 business in this State. Mutual deposit guaranty associations shall be subject to the
3 control and supervision of the Secretary of Commerce as to their conduct, organization,
4 management, business practices, reserve requirements and their financial and fiscal
5 matters. The grant of general control and supervision over mutual deposit guaranty
6 associations to the Secretary of Commerce by this Article shall in no way be deemed to
7 affect the existing powers, duties and responsibilities of the Credit Union Commission,
8 the Commissioner of Banks, or the State Banking Commission ~~or the North Carolina~~
9 ~~Savings Institutions Commission~~ except for the removal herein of general control and
10 supervision over mutual deposit guaranty associations from the Administrator of the
11 Savings Institutions Division to the Secretary of Commerce."

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

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

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

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

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

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

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

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