

Joint Legislative Study Commission on the Modernization of North Carolina Banking Laws

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north carolina
COMMISSIONER OF BANKS



Objectives of Modernization the Banking Law

- Ensures that banking organizations have all of the tools necessary to compete effectively in a financial services marketplace that is now global in scope and driven by technology.
- Avoids duplication with federal law and maintains NC's reputation as among the most progressive banking states in America
- Access to capital markets and the amounts/types of capital a bank must maintain has changed substantially over the years. Reform of our banking law reduces the burden of regulatory compliance for these banks and facilitates their raising of capital in a way that is consistent with the public interest.



National Structure of Financial Institutions

		Total Assets in thousands
National	1,349	8,583,956,082
<u>State</u>	<u>5,064</u>	<u>3,782,818,212</u>
Total Commercial Banks	6,413	12,149,337,221
Federal	649	909,835,146
<u>State</u>	<u>451</u>	<u>324,205,682</u>
Total Savings Institutions	1,090	1,253,516,175
Federal	4,531	515,634,072
<u>State</u>	<u>2,855</u>	<u>439,116,196</u>
Total Credit Unions	7,386	954,750,268

Source: FDIC , NCUA as of 6/30/2011



Enumerated Consumer Laws: §1002(12) Dodd-Frank Act

Except as otherwise specifically provided in section 1029, subtitle G or subtitle H, the term “enumerated consumer laws” means—

- (A) the Alternative Mortgage Transaction Parity Act of 1982 (12 U.S.C. 3801 et seq.);
- (B) the Consumer Leasing Act of 1976 (15 U.S.C. 1667 et seq.);
- (C) the Electronic Fund Transfer Act (15 U.S.C. 1693 et seq.), except with respect to section 920 of that Act;
- (D) the Equal Credit Opportunity Act (15 U.S.C. 1691 et seq.);
- (E) the Fair Credit Billing Act (15 U.S.C. 1666 et seq.);
- (F) the Fair Credit Reporting Act (15 U.S.C. 1681 et seq.), except with respect to sections 615(e) and 628 of that Act (15 U.S.C. 1681m(e), 1681w);
- (G) the Home Owners Protection Act of 1998 (12 U.S.C. 4901 et seq.);
- (H) the Fair Debt Collection Practices Act (15 U.S.C. 1692 et seq.);
- (I) subsections (b) through (f) of section 43 of the Federal Deposit Insurance Act (12 U.S.C. 1831t(c)–(f));
- (J) sections 502 through 509 of the Gramm-Leach-Bliley Act (15 U.S.C. 6802– 6809) except for section 505 as it applies to section 501(b);
- (K) the Home Mortgage Disclosure Act of 1975 (12 U.S.C. 2801 et seq.);
- (L) the Home Ownership and Equity Protection Act of 1994 (15 U.S.C. 1601 note);
- (M) the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2601 et seq.);
- (N) the S.A.F.E. Mortgage Licensing Act of 2008 (12 U.S.C. 5101 et seq.);
- (O) the Truth in Lending Act (15 U.S.C. 1601 et seq.);
- (P) the Truth in Savings Act (12 U.S.C. 4301 et seq.);
- (Q) section 626 of the Omnibus Appropriations Act, 2009 (Public Law 111–8);
- (R) and the Interstate Land Sales Full Disclosure Act (15 U.S.C. 1701).



Industry Consolidation

Bank Industry Information

Year	# of banks	Total assets (billions of dollars)	Total assets - 5 largest (billions of dollars)	Top 5 assets as a share of nominal GDP	Top 5 assets as a share of total banking industry assets
1913	21,484	\$ 15.18	\$ 0.98	2.6%	6%
1980	14,421	\$ 1,391	\$ 410	14%	29%
2010	6,526	\$ 16,100	\$ 8,469	57%	53%

Note: assets for 1913 are for banks, while assets for 1980 and 2010 are for bank holding companies. For 1913, the top 5 bank assets are as a share of estimated GNP.



Structure of NC Financial Institutions

Banks with NC HQ		Total Deposits in millions
National	4	136,956
<u>State</u>	<u>67</u>	<u>86,391</u>
Total Commercial Banks	71	223,347
Federal	12	3,783
<u>State</u>	<u>16</u>	<u>2,975</u>
Total Savings Institutions	28	6,758
Federal	47	7,816
<u>State</u>	<u>49</u>	<u>23,345</u>
Total Credit Unions	96	31,161



NCCOB Regulated Entities

NCCOB Regulated Institutions	Number of Institutions
Commercial Banks	65 with 3,273 Branches
Savings Banks	15 with 54 branches
Savings and Loan Assn.	1
State Trust Companies	8
Bank Holding Companies	47 Regulated, 59 Registered
Consumer Finance Companies	80 with 407 branches
Mortgage Companies	1,315 with 718 branches
Mortgage Loan Originators	6,371
Refund Anticipation Loan Facilitators	584 with 1,337 branches
Check Cashers	325 with 1,511 locations
Money Transmitters	75
Reverse Mortgage Lenders	59



Timeline of NC Banking Law

- 1921 - North Carolina Banking laws were first codified
- 1931 - Substantially rewritten in response to Depression Era changes
- Only been amended from time to time in response to specific needs, such as:
 - 1933, 1989, requiring federal deposit insurance
 - 1956, 1991, 2001, regulation of bank holding companies
 - 1991, regulation of international Banking
 - 1995, 1997, regulation of interstate banking and branching



Proposed Draft Changes: Article 1

- Replaces Article 1 of current law.
- Replacement of definitions that reflect the accounting and supervisory capital restrictions of the current law with definitions relating to capital adequacy that reflect the “prompt corrective action” categories that are the real and effective measures under current law.
- Adding provisions relating to a bank’s capitalization that are consistent with the Business Corporation Act.
- Including definitions that describe the various banking organizations affected by the statute and their federal and state supervisory and regulatory agencies.
- Adding definitions that reflect the inclusion of interstate banking.



Proposed Draft Changes: Article 2

- Replaces portions of Article 8 of the current law.
- The structure and governance of the Commission and Commissioner, which have served this State well for 80 years, remain intact.
- The proposal seeks to establish rule-making, hearing and official records provisions that are applicable to all of the statutes administered by the Commission and the Commissioner, not just the banking law.
- Provisions of the current Article 8 that deal with bank supervisory activities have been moved to Article 8 of the proposed statute.



Proposed Draft Changes: Article 3

Contains the provisions governing the organization of a new bank. It replaces Article 2 of the current statute. The proposal attempts to simplify and clarify the role of the Commission and the Commissioner in the organization of new banks. Changes are not intended to materially change the process or impede organization of banks.



Proposed Draft Changes: Article 4

- Contains provisions regarding the governance of banks. The proposed Article replaces Article 5 and Article 7 of current law.
- Repeal of the provision of current law that authorizes assessment of shareholders of banks whose capital is impaired.
- Liberalizes the director qualification requirements of current law by removing residency and investment requirements.
- Adds a new provision to the banking law that makes a review of board composition, structure and conduct a factor in its examinations of the bank and its management.



Proposed Draft Changes: Article 5

Contains provisions regarding bank powers and investments, including investments in subsidiaries. The proposed Article replaces Article 6 of current law. The proposal carries forward the provisions of existing law and attempts to conform them to federal law, particularly the Gramm-Leach-Bliley Act.



Proposed Draft Changes: Article 6

- Addresses bank operations.
- *Lending restrictions; loans to one customer.* This provision has been amended to conform to the requirements of Section 611 of the Dodd-Frank Act.
- *Accounts.* The proposal contains provisions regarding bank accounts, replacing current Article 12. The proposal carries forward the General Assembly's recent revision of the provision on payable on death accounts.
- *Branching.* The proposal seeks to cover both branching by banks (North Carolina and out-of-state banks), within North Carolina and interstate. It also replaces the concept of a "limited service facility" with that of a "non-branch bank business office." These provisions replace N.C.G.S. § 53-62 and Articles 17 and 17B.



Proposed Draft Changes: Article 7 & 8

- Article 7 covers mergers, acquisitions and other control transactions. It is intended to replace current N.C.G.S. §§ 53-12 – 53-17.2 and to incorporate provisions regarding interstate transactions currently contained in Articles 17, 17B and 18 of Chapter 53.
- Article 8 authorizes the supervision of North Carolina banks by the Commissioner and OCOB. It replaces portions of Article 8 and all of Articles 9 and 10 of the current law. The proposal carries forward many provisions of prior law, updating supervisory enforcement powers to apply the proposed new capital provisions.



Proposed Draft Changes: Article 9 & 10

- Article 9 authorizes voluntary liquidations of banks and involuntary liquidation by the Commissioner in cases of a distressed bank. It replaces Articles 3 and 4 and part of Article 13.
- Article 10 authorizes supervision of bank holding companies. It is intended to replace Article 18 of current law.



What modernization doesn't do...

- Does not revise or repeal Article 11 (Industrial Banks) or 18A (International Banking) of the current law.
- Does not revise Chapters 54B (Savings and Loan Associations) or 54C (Savings Banks).



Questions or Comments

