

NORTH CAROLINA GENERAL ASSEMBLY
1977 SESSION

CHAPTER 543
HOUSE BILL 1035

AN ACT TO PROVIDE FOR THE INCORPORATION AND OPERATION OF STOCK-OWNED SAVINGS AND LOAN ASSOCIATIONS IN NORTH CAROLINA.

The General Assembly of North Carolina enacts:

Section 1. A new Chapter 54A of the General Statutes is enacted, entitled "Capital Stock Savings and Loan Associations", to read as follows:

"ARTICLE I.

"Stock-Owned Associations.

"§ 54A-1. Stock-owned associations permitted. — In addition to the savings and loan associations described in Chapter 54, savings and loan associations may be organized, incorporated and operated under this Chapter and owned by holders of capital stock in the association. Such associations shall be known as 'stock-owned' savings and loan associations. Savings and loan associations organized under Chapter 54 shall be known as 'mutual savings' and loan associations. No mutual savings and loan association shall be allowed to convert to a stock-owned savings and loan association under the provisions of this Chapter.

"§ 54A-2. Statutes and regulations pertaining to mutual associations and private corporations shall apply. — (a) Except as otherwise provided in this Chapter the provisions of Chapter 54 and the regulations promulgated thereunder shall apply to stock-owned savings and loan associations.

(b) All provisions of law relating to private corporations including the provisions of Chapter 55, not inconsistent with this Chapter or with the proper business of savings and loan associations shall apply to stock-owned savings and loan associations.

"§ 54A-3. Under control of Administrator of the Savings and Loan Division. — Stock owned savings and loan associations shall be under the supervision of the Administrator of the Savings and Loan Division. It shall be his duty to execute and enforce all laws which are now or may hereafter be enacted relating to stock-owned savings and loan associations as defined in this Chapter. The powers, duties, and functions granted to or imposed by this Chapter upon the Administrator of the Savings and Loan Division shall be exercised by him subject to the provisions of Article 4 of this Chapter. For the more complete and thorough enforcement of the provisions of this Chapter, the Administrator of the Savings and Loan Division is hereby empowered to promulgate such rules, regulations, and instructions, not inconsistent with the provisions of this Chapter, as may in his opinion be necessary to carry out the provisions of this Chapter, and to provide adequate protection for the interests of the depositories, creditors, stockholders and the public.

"G.S. 54A-4 and G.S. 54A-5. (Reserved.)

"ARTICLE 2.

"Organization.

"§ 54A-6. How incorporated. — (a) In order to incorporate a stock-owned savings and loan association, the proposed incorporators, not less than 10 in number, shall, by a certificate of incorporation under their hands and seals set forth:

- (1) The name of the corporation, which must not so closely resemble the name of an existing corporation doing business under the laws of this State as to be likely to mislead the public.
- (2) The address where its principal office is to be located in this State, including county and city or town, and street and number; and the name of its registered agent and the address of its registered office including county and city or town, and street and number.
- (3) The period of duration, which may be perpetual. When the certificate fails to state the period of duration, it shall be considered perpetual.
- (4) The purposes for which the corporation is formed, which shall be limited to purposes permitted under the laws of this State for stock-owned savings and loan associations.
- (5) With respect to the shares which the associations shall have authority to issue:
 - a. if the shares are to have a par value, the number of such shares and the par value of each share;
 - b. if the shares are to be without par value, the number of such shares;
 - c. if the shares are to be of both kinds mentioned in paragraphs a. and b. of subdivision (5) of this section, particulars in accordance with those paragraphs;
 - d. if the shares are to be divided into classes, or into series within a class of preferred or special shares, the certificate of incorporation shall also set forth a designation of each class, with a designation of each series within a class, and a statement of the preferences, limitations and relative rights of the shares of each class or series.
- (6) The minimum amount of consideration for its shares to be received by the association before it shall commence business.
- (7) The names and addresses of all the subscribers for stock, and the number of shares subscribed by each.
- (8) A statement as to whether stockholders have preemptive rights to acquire additional or treasury shares of the corporation and any provision limiting or denying said rights.
- (9) The number of directors not less than five constituting the initial board of directors (who may be classified in accordance with the provisions of G.S. 55-26) and the names and addresses of each person who is to serve as a director until the first meeting of shareholders or until his successor be elected and qualified.
- (10) The names and addresses of the incorporators.
- (11) The certificate shall be signed and sealed by the incorporators.

(b) The certificate of incorporation shall be signed by the original incorporators, or a majority of them not less than 10, and shall be proved or acknowledged before an officer duly authorized under the laws of this State to take proof or acknowledgement of deeds, and shall be filed in the office of the Secretary of State. The Secretary of State shall forthwith transmit to the Administrator of the Savings and Loan Division a copy of said certificate of incorporation, and shall not issue or record the same until duly authorized so to do by the Administrator of the Savings and Loan Division as hereinafter provided.

“§ 54A-7. Administrator to consider application.” — (a) Upon receipt from the Secretary of State of the certificate of incorporation of a proposed stock-owned association, the Administrator of the Savings and Loan Division shall examine all the facts connected with the proposed association. If it appears that such association complies with the requirements of this section, and is otherwise lawfully entitled to commence the business for which it is organized,

the Administrator of the Savings and Loan Division shall so certify to the Secretary of State, who shall issue and record the certificate of incorporation.

(b) The Administrator of the Savings and Loan Division shall certify the certificate of incorporation of a proposed stock-owned association when all of the following criteria are met:

- (1) The proposed corporation has subscriptions for capital stock in an amount determined by the Administrator of the Savings and Loan Division to be sufficient for the safe and proper operation of the corporation, but in no event less than three hundred fifty thousand dollars (\$350,000).
- (2) The proposed association has set aside as a permanent capital reserve, an amount of funds determined by the Administrator of the Savings and Loan Division to be sufficient for the safe and proper operation of the association, but in no event less than three hundred fifty thousand dollars (\$350,000).
- (3) All subscriptions for capital stock of the proposed association have been purchased with legal tender of the United States.
- (4) All initial stockholders of the proposed association are natural persons and residents of North Carolina.
- (5) No stockholders of the proposed association own or control more than ten percent (10%) of the stock in the association. Notwithstanding any other provisions of this Chapter, stock ownership in a stock-owned savings and loan association shall not be held by any other financial institution.
- (6) The character, general fitness, and responsibility of the stockholders of the proposed corporation command the confidence of the community where the association is to be located.
- (7) The public convenience and advantage will be served by the establishment of the proposed association.
- (8) The name of the proposed association will not mislead the public; is not the same as an existing savings and loan association or so similar to the name of an existing association as to mislead the public; and contains the wording 'corporation', 'incorporated', 'limited' or 'company', an abbreviation of one of such words or other words sufficient to distinguish stock-owned savings and loan associations from mutual savings and loan associations.

"§ 54A-8. Amendments to certificate. — Any addition, alteration or amendment of the certificate of incorporation of any stock-owned savings and loan association shall be governed by the provisions of Article 8, Chapter 55 of the General Statutes except to the extent that said provisions are inconsistent with this Chapter or with the business of stock-owned savings and loan associations. Any such addition, alteration or amendment shall be filed with the Secretary of State and register of deeds in the county where the principal office is located, and examined by the Administrator of the Savings and Loan Division in the manner provided for certificates of incorporation in G.S. 54A-6 and G.S. 54A-7.

"§ 54A-9. Certification of certificate; when to begin business. — (a) Upon receipt of such certificate from the Administrator of the Savings and Loan Division, the Secretary of State shall, if said certificate of incorporation be in accordance with law, cause the same to be recorded in his office in a book to be kept for that purpose, and known as the corporation book, and he shall, upon the payment of the organization tax and fees, certify under his official seal two copies of the said certificate of incorporation and probates, one of which shall forthwith be recorded in the office of the register of deeds of the county where the principal office of said corporation in this State shall or is to be located, in a book to be known as the record of incorporations, and the other certified copy shall be filed in the office of the Administrator of the Savings and Loan Division, and thereupon the said persons shall be a body politic and corporate under the name stated in such certificate. The said certificate of incorporation, or a copy thereof, duly certified by the Secretary of State or the register of deeds of the county in

which the same is recorded, or by the Administrator of the Savings and Loan Division, under their respective seals, shall be evidence in all courts and places, and shall, in all judicial proceedings, be deemed *prima facie* evidence of the complete organization and incorporation of the company purporting thereby to have been established.

(b) Upon filing the certificate of incorporation with the Secretary of State and with the register of deeds in the county where the principal office of the stock-owned association is to be located, the stock-owned savings and loan association shall become a body authorized to begin business when licensed or certified by the Administrator of the Savings and Loan Division as provided in G.S. 54A-7.

"G.S. 54A-10 and G.S. 54A-11. (Reserved.)

"ARTICLE 3.

"Operation of Stock-owned Associations.

"§ 54A-12. Rules and regulations. — The Administrator of the Savings and Loan Division shall promulgate rules and regulations governing the continuing operation of stock-owned savings and loan associations. These rules and regulations shall include requirements that:

- (1) the capital stock and permanent capital reserve of the corporation remain sufficient to continue safe and proper operation of the corporation;
- (2) all initial stockholders, directors, and officers of the corporation are natural persons and residents of North Carolina;
- (3) no stockholder of the corporation owns or controls more than ten percent (10%) of the stock of the corporation;
- (4) the customers of the corporation, and the citizens of North Carolina in general, are protected as fully as possible from poor or improper operation of the corporation.

"§ 54A-13. Profits and permanent capital reserve. — The Administrator of the Savings and Loan Division shall promulgate rules and regulations governing the manner and amount of dividends which may be paid to stockholders of the corporation, and the methods, if any, by which permanent capital reserve may be retired or reduced.

"§ 54A-14. Penalty for violation. — Violation by a stockholder, director, officer of a corporation, or by the corporation itself, of any provision of this Chapter or any rules and regulations of the Administrator of the Savings and Loan Division, shall be grounds for revocation of the corporations license, in the discretion of the Administrator of the Savings and Loan Division. Knowing and intentional violation shall also be a misdemeanor, to be punished as provided by law.

"G.S. 54A-15 through G.S. 54A-19. (Reserved.)

"ARTICLE 4.

"Loans and Deposits.

"§ 54A-20. Maximum for charges. — Notwithstanding any other provision of the General Statutes, stock-owned savings and loan associations may not charge interest on residential loans in excess of ten percent (10%) per annum on any loan. The interest rates on all other loans shall be in compliance with the applicable provisions of Chapter 24 of the General Statutes.

"§ 54A-21. No maximum on interest paid on deposits. — Notwithstanding any other provision of the General Statutes, stock-owned savings and loan associations are not limited in the rate of interest they may pay on deposits. Nevertheless, the Administrator of the Savings and Loan Division shall have the authority to insure that no savings and loan association pays a rate of interest on deposits inconsistent with the association's continued solvency, and safe and proper operation. All deposits shall be insured. All savings and loan associations established under this Chapter shall obtain and maintain insurance on all depositors' accounts from any mutual deposit guaranty associations which qualify under Article 7A of Chapter 54 of the General Statutes or from the Federal Savings and Loan Insurance Corporation."

Sec. 2. G.S. 54-1 is amended by denominating the present section as subsection (a) and adding a subsection (b) to read as follows:

"(b) The preceding subsection notwithstanding, a stock-owned savings and loan association organized under Chapter 54A shall be a 'building and loan association' or 'savings and loan association' as those terms are used in this Subchapter and the General Statutes. All the provisions of this Subchapter and of the General Statutes relating to building and loan associations or savings and loan associations shall apply to stock-owned savings and loan associations except as otherwise provided in Chapter 54A. The corporation organized under the provisions of this Chapter shall be taxed as a business corporation organized under the provisions of Chapter 55.

Stock-owned savings and loan associations may use the terms 'building and loan association' and 'savings and loan association' in their corporate names and said associations may hold themselves out to the public as building and loan associations or savings and loan associations subject to the requirements of G.S. 54A-7(b). Stock-owned savings and loan associations shall not hold themselves out to the public as mutual savings and loan associations."

Sec. 3. This act shall become effective on July 1, 1977.

In the General Assembly read three times and ratified, this the 13th day of June, 1977.