

NORTH CAROLINA GENERAL ASSEMBLY
1981 SESSION

CHAPTER 1238
HOUSE BILL 1633

AN ACT TO AMEND CHAPTER 54B OF THE GENERAL STATUTES OF NORTH
CAROLINA, RELATING TO SAVINGS AND LOAN ASSOCIATIONS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 54B-4(b)(27), as the same appears in the 1981 Cumulative Supplement to Volume 2B of the General Statutes of North Carolina, is rewritten to read as follows:

"(27) 'General reserve' means appropriated or restricted funds in the form of cash or investments to be used solely for the purpose of absorbing losses."

Sec. 2. Article 10 of Chapter 54B, as the same appears in the 1981 Cumulative Supplement to Volume 2B of the General Statutes of North Carolina, is rewritten to read as follows:

"Article 10.

"General Reserve.

"§ 54B-216. General reserve. — (a) Every State association shall establish and maintain a general reserve for the sole purpose of covering losses. The general reserve shall be established and maintained separately from any specific loss reserves established and maintained at the election of the association or pursuant to rules and regulations prescribed by the Commission.

(b) The general reserve shall be maintained at a level set by the Commission based on assets. In setting the level for the general reserve, the Commission shall evaluate the risk attributable to various types of assets and shall establish percentages for each type of asset based on its level of risk.

(c) In the case of newly chartered stock associations, the permanent capital reserve required by G.S. 54B-12(b)(2) shall be deemed a constituent part of and not supplementary to the general reserve required by this section. Therefore, a minimum of five hundred thousand dollars (\$500,000) shall be the required level of the general reserve of a stock association until a greater level is required pursuant to this section and rules and regulations promulgated thereto.

(d) Notwithstanding the provision of this section, any State association which has insurance of withdrawable accounts with the Federal Savings and Loan Insurance Corporation and which meets the statutory reserve requirement of the Federal Savings and Loan Insurance Corporation need not comply with the general reserve requirement of this section.

(e) The failure of a State association to maintain the required level of general reserve set by the Commission or the statutory reserve requirement of the Federal Savings and Loan Insurance Corporation may be grounds for supervisory action by the Administrator.

(f) The Commission shall adopt rules and regulations for the implementation of this section."

Sec. 3. G.S. 54B-22, as the same appears in the 1981 Cumulative Supplement to Volume 2B of the General Statutes of North Carolina, is amended by:

(a) rewriting the second sentence in subsection (a) to read as follows:

"The application shall be in such form as may be prescribed by the Administrator and shall be accompanied by the proper branch application fee.";

- (b) rewriting subdivision (b)(2) to read as follows:
"The applicant has evidenced financial responsibility";
- (c) rewriting subdivision (b)(3) to read as follows:
"The applicant has a net worth equal to or exceeding the amount required by the insurer of the applicant's withdrawable accounts";
- (d) rewriting subsection (d) to read as follows:
"(d) Not more than 10 days following the filing of the branch application with the Administrator, the applicant shall cause a notice to be published in a newspaper of general circulation in the area to be served by the proposed branch office. Such notice shall contain:
 - (1) A statement that the branch application has been filed with the Administrator;
 - (2) The proposed address of the branch office, including city or town and street; and
 - (3) A statement that any interested or affected party may file a written statement with the Administrator, within 30 days of the date of the publication of the notice, protesting the establishment of the proposed branch office and requesting a hearing before the Administrator on the application.";
- (e) rewriting subsection (e) to read as follows:
"(e) Any interested or affected party may file a written statement with the Administrator within 30 days of the date of initial publication of the branch application notice, protesting the establishment of the proposed branch office and requesting a hearing before the Administrator on the application. If a hearing is held on the branch application, the Administrator shall only receive information and hear testimony from the applicant and from any interested or affected party which is relevant to the branch application and the operation of the proposed branch office. The Administrator shall issue his final decision on the branch application within 30 days following the hearing. Such final decision shall be in accordance with the applicable provisions of Chapter 150A of the General Statutes.";
- (f) rewriting subsection (f) to read as follows:
"(f) If a hearing is not held on the branch application, the Administrator shall issue his final decision within 120 days of the filing of the application. Such final decision shall be in accordance with the applicable provisions of Chapter 150A of the General Statutes.";
- (g) deleting present subsections (g), (h) and (i); and
- (h) renumbering present subsection (j) to be subsection (g).

Sec. 4. G.S. 54B-20, as the same appears in the 1981 Cumulative Supplement to Volume 2B of the General Statutes of North Carolina, is rewritten to read as follows:

"§ 54B-20. Amendments to certificate of incorporation. — (a) Any addition, alteration or amendment to the certificate of incorporation of any State association shall be made at any annual or special meeting of such association, held in accordance with the provisions of G.S. 54B-106 and G.S. 54B-107, by a majority of votes or shares cast by members or stockholders present in person or by proxy at such meeting. Any such addition, alteration or amendment shall be signed, submitted to the Administrator for his approval or rejection, and if approved, then certified and recorded as provided in G.S. 54B-14 for certificates of incorporation.

(b) Notwithstanding the provisions of subsection (a) of this section, any State association may change its registered office or its registered agent or both in accordance with the provisions of G.S. 55-14. A copy of the statement or certificate certified by the Secretary of State shall be filed in the office of the Administrator."

Sec. 5. G.S. 54B-30, as the same appears in the 1981 Cumulative Supplement to Volume 2B of the General Statutes of North Carolina, is amended by:

- (a) rewriting the first two sentences in subsection (2) to read as follows:

"(2) A meeting of the members or stockholders shall be held upon not less than 15 days' notice to each member or stockholder. Notice can be made either by mailing such to each member or stockholder, postage prepaid, to the last known address or by the board of directors causing to be published once a week for two weeks preceding such meeting, in a newspaper of general circulation published in the county where such association has its principle office, a notice of the meeting."

(b) rewriting the first sentence in subsection (3) thereof to read as follows:

"At the meeting of the members or stockholders of such association, such members or stockholders may by affirmative vote of a majority of votes or shares present, in person or by proxy, resolve to convert said association to a federal savings and loan association."

Sec. 6. G.S. 54B-31, as the same appears in the 1981 Cumulative Supplement to Volume 2B of the General Statutes of North Carolina, is amended by:

(a) rewriting the first two sentences in subsection (2) to read as follows:

"A meeting of the members or stockholders shall be held upon not less than 15 days' notice to each member or stockholder. Notice can be made either by mailing such to each member or stockholder, postage prepaid, to the last known address or by the board of directors causing to be published once a week for two weeks preceding such meeting, in a newspaper of general circulation published in the county where such association has its principle office, a notice of the meeting."

(b) rewriting the first sentence in subsection (3) to read as follows:

"At the meeting of the members or stockholders of such association, such members or stockholders may by affirmative vote of a majority of votes or shares present, in person or by proxy, resolve to convert said association to a State association."

Sec. 7. G.S. 54B-33, as the same appears in the 1981 Cumulative Supplement to Volume 2B of the General Statutes of North Carolina, is amended by adding a new subsection (g) to read as follows:

"(g) Notwithstanding the provisions of this section, any State mutual association maintaining FSLIC insurance of accounts coverage may convert from mutual to stock form of ownership by complying with the requirements for conversion from mutual to stock form of ownership imposed by the rules and regulations of the Federal Home Loan Bank Board as set forth in the Federal Register, Vol. 44, No. 62, Thursday, March 29, 1979, entitled 'Part 563b Conversion From Mutual to Stock Form' as amended from time to time and other applicable rules and regulations effective as of the date of ratification. Any such conversion shall have full force and effect as if such conversion were conducted pursuant to this section and the rules and regulations promulgated by the Administrator pursuant to subsection (f) of this section."

Sec. 8. G.S. 54B-35, as the same appears in the 1981 Cumulative Supplement to Volume 2B of the General Statutes of North Carolina, is amended by:

(a) deleting the word "State" each place that it is used in the first line thereof;

(b) changing the number "30" to "45" in the last sentence of subdivision (2) thereof;

(c) changing the number "30" to "20" in the first sentence of subdivision (3) thereof;

(d) rewriting the first sentence of subdivision (4) thereof to read as follows:

"At separate meetings of the members or stockholders of the respective associations, such members or stockholders may adopt, by an affirmative vote of a majority of the votes or shares present, in person or by proxy, a resolution to merge into a single association upon the terms of the merger agreement as shall have been agreed upon by the directors of the respective associations and as approved by the Administrator.";

(e) deleting the second sentence of subdivision (4) thereof; and

(f) adding a new subdivision (6) to read as follows:

"(6) Notwithstanding any other provision of this section, the Administrator may waive any or all of the foregoing requirements upon finding that such waiver would be in the best interest of the members or stockholders of the merging associations."

Sec. 9. G.S. 54B-32, as the same appears in the 1981 Cumulative Supplement to Volume 2B of the General Statutes of North Carolina, is amended by adding a new subsection (c) to read as follows:

"(c) The provisions of this section shall not apply to any simultaneous charter and ownership conversion accomplished in conjunction with a merger under the provisions of G.S. 54B-39."

Sec. 10. G.S. 54B-39, as the same appears in the 1981 Cumulative Supplement to Volume 2B of the General Statutes of North Carolina, is rewritten to read as follows:

"§ 54B-39. Merger of federal with State associations. — (a) Any two or more associations, when one or more is a State association and one or more is a federal association operating in North Carolina, may merge to form one association under either a State or federal charter.

(b) The Administrator shall promulgate rules and regulations to facilitate the merger of federal and State associations."

Sec. 11. G.S. 54B-44, as the same appears in the 1981 Cumulative Supplement to Volume 2B of the General Statutes of North Carolina, is rewritten to read as follows:

"§ 54B-44. Supervisory mergers, consolidations, conversions, and combination mergers and conversions. — (a) Notwithstanding any other provision of this Chapter, in order to protect the public, including members, depositors and stockholders of a State association, the Administrator, upon making a finding that a State association is unable to operate in a safe and sound manner, may authorize or require a short form merger, consolidation, conversion, or combination merger and conversion of the State association as to which the finding is made. The resulting association may be a mutual association or a stock association.

(b) The Administrator shall promulgate rules and regulations to govern supervisory mergers, consolidations, conversions, and combination mergers and conversions authorized by this section."

Sec. 12. G.S. 54B-121(c)(2), as the same appears in the 1981 Cumulative Supplement to Volume 2B of the General Statutes of North Carolina, is amended by deleting the last sentence thereof which reads as follows:

"Associations shall mail to each natural person account holder, notification of the date of maturity of accounts at least 10 days prior to maturity."

Sec. 13. G.S. 54B-122(3), as the same appears in the 1981 Cumulative Supplement to Volume 2B of the General Statutes of North Carolina, is amended by deleting the last sentence thereof.

Sec. 14. Chapter 54B, as the same appears in the 1981 Cumulative Supplement to Volume 2B of the General Statutes of North Carolina, is amended by inserting a new Article following Article 6 to be numbered and to read as follows:

"Article 6A.

"Fee for Returned Checks.

"§ 54B-147. Collection of processing fee for returned checks. —

Notwithstanding any other provision of law, a processing fee, not to exceed ten dollars (\$10.00), may be charged and collected by any association for checks (including Negotiable Orders of Withdrawals drafts) on which payment has been refused by the payor depository institution because of insufficient funds or because the drawer did not have an account at that depository institution. An association may also collect said fee for checks drawn on that association with respect to an account with insufficient funds."

Sec. 15. G.S. 54B-160, as the same appears in the 1981 Cumulative Supplement to Volume 2B of the General Statutes of North Carolina, is amended by placing a period after the word "originate" and deleting the remainder of the section.

Sec. 16. G.S. 54B-161, as the same appears in the 1981 Cumulative Supplement to Volume 2B of the General Statutes of North Carolina, is rewritten to read as follows:

"§ **54B-161. Sale of loans.** — An association may sell any loan, including any participating interest in a loan."

Sec. 17. G.S. 54B-162, as the same appears in the 1981 Cumulative Supplement to Volume 2B of the General Statutes of North Carolina, is amended by inserting a period after the phrase "it may deem proper" and deleting the remainder of the section.

Sec. 18. G.S. 54B-186, as the same appears in the 1981 Cumulative Supplement to Volume 2B of the General Statutes of North Carolina, is rewritten to read as follows:

"§ **54B-186. Deposits in other associations.** — A State association may invest in withdrawable accounts of any association as approved by the board of directors."

Sec. 19. G.S. 54B-193, as the same appears in the 1981 Cumulative Supplement to Volume 2B of the General Statutes of North Carolina, is amended by changing the catchline to read "Loans on sufficient collateral; other investments."; and by designating the existing language as subsection (a) and adding a new subsection (b) to read as follows:

"(b) Subject to such limitations as the Administrator may prescribe by regulation, a State association may invest in any investment deemed appropriate by its board of directors."

Sec. 20. G.S. 54B-194(b), as the same appears in the 1981 Cumulative Supplement to Volume 2B of the General Statutes of North Carolina, is amended by deleting "five percent (5%)" and substituting "ten percent (10%)".

Sec. 21. G.S. 54B-210, as the same appears in the 1981 Cumulative Supplement to Volume 2B of the General Statutes of North Carolina, is amended by adding after the comma in the sixth line thereof and before the word "or" the following words and punctuation "or Government National Mortgage Association pass-through certificates, or Federal Home Loan Mortgage Corporation pass-through certificates,".

Sec. 22. G.S. 54B-102, as the same appears in the 1981 Cumulative Supplement to Volume 2B of the General Statutes of North Carolina, is rewritten to read as follows:

"§ **54B-102. Employment policies.** — Employment policies appropriate for the transaction of the business of a State association may be set forth in the bylaws or established by resolution of the board of directors."

Sec. 23. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 18th day of June, 1982.