

NORTH CAROLINA GENERAL ASSEMBLY
1981 SESSION

CHAPTER 282
HOUSE BILL 145

AN ACT TO REPEAL SUBCHAPTER I OF CHAPTER 54 OF THE GENERAL STATUTES, RELATING TO BUILDING AND LOAN ASSOCIATIONS, BUILDING ASSOCIATIONS, AND SAVINGS AND LOAN ASSOCIATIONS; AND TO REPEAL CHAPTER 54A OF THE GENERAL STATUTES, RELATING TO STOCK-OWNED SAVINGS AND LOAN ASSOCIATIONS; AND TO ENACT A NEW CHAPTER 54B OF THE GENERAL STATUTES TO BE ENTITLED, "SAVINGS AND LOAN ASSOCIATIONS".

The General Assembly of North Carolina enacts:

Section 1. Subchapter I of Chapter 54 of the General Statutes is hereby repealed.

Sec. 2. Chapter 54A of the General Statutes is hereby repealed.

Sec. 3. A new Chapter 54B, entitled "Savings and Loan Associations", is hereby enacted and reads as follows:

"ARTICLE 1.

"General Provisions.

"§ 54B-1. Title. — This Chapter shall be known and may be cited as 'Savings and Loan Associations'.

"§ 54B-2. Purpose. — The purpose of this Chapter is:

- (1) to provide for the safe and sound conduct of the business of savings and loan associations, the conservation of their assets and the maintenance of public confidence in savings and loan associations;
- (2) to provide for the protection of the interests of customers and members, and the public interest in the soundness of the savings and loan industry;
- (3) to provide the opportunity for savings and loan associations to remain competitive with each other and with other savings and financial institutions existing under other laws of this and other states and the United States;
- (4) to provide the opportunity for savings and loan associations to serve effectively the convenience and advantage of customers and members, and to improve and expand their services and facilities for such purposes;
- (5) to provide the opportunity for the management of savings and loan associations to exercise prudent business judgment in conducting the affairs of savings and loan associations to the extent compatible with the purposes recited in this section; and
- (6) to provide adequate rulemaking power and administrative discretion so that the regulation and supervision of savings and loan associations are readily responsive to changes in economic conditions and in savings and loan practices.

"§ 54B-3. Applicability of Chapter. — The provisions of this Chapter, unless the context otherwise specifies, shall apply to all State associations.

"§ 54B-4. Definitions and application of terms. — (a) The terms 'building and loan association' and 'savings and loan association' when used in the General Statutes, shall mean an

association and shall be interchangeable. Use of either term shall be construed to include the other unless a different intention is expressly provided.

(b) As used in this Chapter, unless the context otherwise requires, the term:

- (1) 'Administrator' means the Administrator of the Savings and Loan Division.
- (2) 'Aggregate withdrawal value of withdrawable accounts' means the total value of all withdrawable accounts held by an association.
- (3) 'Application' means the completed package of the application to organize a State association, establish a branch office or conversion of structure of a savings and loan association which the administrator considers in making his recommendation.
- (4) 'Associate' when used to indicate a relationship with any person, means (i) any corporation or organization (other than the applicant or a majority-owned subsidiary of the applicant) of which such person is an officer or partner or is, directly or indirectly, the beneficial owner of ten percent (10%) or more of any class of equity securities, (ii) any trust or other estate in which such person has a substantial beneficial interest or as to which such person serves as trustee or in a similar fiduciary capacity, and (iii) that person's spouse, father, mother, children, brothers, sisters, and grandchildren; the father, mother, brothers, and sisters of that person's spouse; and the spouse of that person's child, brother or sister.
- (5) 'Association' includes a State association or a federal association unless limited by use of the words 'State' or 'federal'.
- (6) 'Borrowers' means those who borrow funds from or in any other way become obligated on a loan to an association.
- (7) 'Branch office' means an office of an association other than its principal office which renders savings and loan services.
- (8) 'Capital stock' means securities which represent ownership of a stock association.
- (9) 'Certificate of approval' means a document signed by the administrator informing the North Carolina Secretary of State that the Commission has approved the certificate of incorporation of a proposed association.
- (10) 'Certificate of authority to enter' means the document issued by the administrator to permit a foreign association to conduct business in this State.
- (11) 'Certificate of incorporation or charter' means the document which represents the corporate existence of a State association.
- (12) 'Certified copy' means a copy of an original document or paper which has been signed by the person or persons who certify such document to be an exact copy of the original.
- (13) 'This Chapter' means Chapter 54B of the North Carolina General Statutes.
- (14) 'Commission' means the North Carolina Savings and Loan Commission of the Department of Commerce.
- (15) 'Conflict of interest' means a matter before the board of directors in which one or more of the directors, officers or employees has a direct or indirect financial interest in its outcome.
- (16) 'Conformed copies' means photocopies or carbon copies or other mechanical reproductions of an original document or paper.
- (17) 'Court of competent jurisdiction' means a court in North Carolina which is qualified to hear the case at hand.
- (18) 'Disinterested directors' means those directors who have absolutely no direct or indirect financial interest in the matter before them.

(19) 'Dividends on stock' means the earnings of an association paid out to holders of capital stock in a stock association.

(20) 'Dividends on withdrawable accounts' means the consideration paid by an association to a holder of a withdrawable account for the use of his money.

(21) 'Division' means the Savings and Loan Division of the North Carolina Department of Commerce.

(22) 'Entrance fee per withdrawable account' means the amount to be paid by each person, firm or corporation when he or it pledges to a proposed mutual association to deposit funds in a withdrawable account.

(23) 'Examination and investigation' means a supervisory inspection of an association or proposed association which may include inspection of every relevant piece of information including subsidiary or affiliated businesses.

(24) 'Federal association' means a corporation or association organized and operated under the provisions of federal law and regulation to conduct a savings and loan business.

(25) 'Financial institution' means a person, firm or corporation engaged in the business of receiving, soliciting or accepting money or its equivalent on deposit and/or lending money or its equivalent.

(26) 'Foreign association' means a corporation or association organized in another state to conduct a savings and loan business and is so like a State association that it may, after qualifying, be certified to conduct the savings and loan business in this State.

(27) 'General reserve account' means the account from which an association shall meet its losses.

(28) 'Guaranty association' means a mutual deposit guaranty association which is a corporation organized under this Chapter or its predecessor and operated under the provisions of Article 12 of this Chapter.

(29) 'Immediate family' means one's spouse, father, mother, children, brothers, sisters, and grandchildren; and the father, mother, brothers, and sisters of one's spouse; and the spouse of one's child, brother or sister.

(30) 'Initial pledges for withdrawable accounts' means those pledges of funds by persons who promise to a proposed mutual association to deposit such amount if and when such proposed association becomes established.

(31) 'Insurance of withdrawable accounts' means insurance on an association's withdrawable accounts when the beneficiary is the holder of such insured account.

(32) 'Liquidity fund' means that portion of the assets of an association which is required to be held in readily marketable form.

(33) 'Members' means those persons who hold withdrawable accounts or are borrowers from a mutual association and are deemed the owners of the association.

(34) 'Minimum amount of consideration' means the amount of money a stock association shall be required to have received on the sale of its stock, before it shall commence business.

(35) 'Minimum amount on deposit in withdrawable accounts' means the amount of money which a mutual association must have on hand prior to its commencement of business.

(36) 'Mutual association' means all mutual savings and loan associations owned by members of the association, and organized under the provisions of this Chapter or its predecessor for the primary purpose of promoting thrift and home financing.

(37) 'Net withdrawal value of withdrawable accounts' means the aggregate of the withdrawal value of an association's withdrawable accounts less the amount of any pledged withdrawable account which serves as security for a loan.

(38) 'Net worth' means an association's total assets less total liabilities.

(39) 'Original incorporators' means the organizers of a State association responsible for the business of a proposed association from the filing of the application to the Commission's final decision on such application.

(40) 'Plan of conversion' means a detailed outline of the procedure of the conversion of an association from one to another regulatory authority or from one to another form of ownership.

(41) 'Principal office' means the office which houses the headquarters of an association.

(42) 'Proposed association' means an entity in organizational procedures prior to the Commission's final decision on its charter application.

(43) 'Registered agent' means the person named in the certificate of incorporation upon whom service of legal process shall be deemed binding upon the association.

(44) 'Rules and regulations' means those regulatory procedures and guidelines issued by the administrator and approved by the Commission.

(45) 'Service corporation' means a corporation operating under the provision of Article 8 of this Chapter which engages in activities determined by the administrator by rules and regulations to be incidental to the conduct of a savings and loan business as provided in this Chapter or activities which further or facilitate the corporate purposes of an association, or which furnishes services to an association or subsidiaries of an association, the voting stock of which is owned directly or indirectly by one or more associations.

(46) 'Specific reserve account' means an account held by an association as a loss reserve for coverage on specific loans and investments.

(47) 'This State' means the State of North Carolina.

(48) 'State association' means a corporation or association organized under this Chapter or its predecessor and operated under the provisions of this Chapter to conduct the savings and loan business; or a corporation organized under the provisions of the predecessors to this Chapter and operated under the provisions of this Chapter; or a corporation organized under the provisions of federal law and so converted as to be operated under the provisions of this Chapter.

(49) 'Stock association' means any corporation or company owned by holders of capital stock and organized under the provisions of this Chapter for the primary purpose of promoting thrift and home financing.

(50) 'Subscriptions' means the promise to purchase capital stock in a stock association and payment of a portion of the selling price.

(51) 'Total assets' means the aggregate amount of assets of any and every kind held by an association.

(52) 'Voluntary dissolution' means the dissolution and liquidation of an association initiated by its ownership.

(53) 'Withdrawable accounts' means accounts in which a customer or member places funds with an association which may be withdrawn by the account holder.

(54) 'Withdrawal application' means the request in writing by a withdrawable account holder to withdraw part or all of his balance.

"ARTICLE 2.

"Incorporation and Organization.

"§ 54B-5. Severability. — If any section or subsection of this Chapter, or the application thereof to any person is held invalid, the remaining sections or subsections of this Chapter, and the application of such section or subsection to any other person, shall not be invalidated or affected thereby.

"§ 54B-6. Hearings. — Any hearing required to be held by this Chapter shall be conducted in accordance with the applicable provisions of Article 3 of Chapter 150A of the General Statutes.

"§ 54B-7. Application of Chapter on business corporations. — All the provisions of law relating to private corporations, and particularly those enumerated in Chapter 55, of the General Statutes, entitled 'Business Corporation Act', which are not inconsistent with this Chapter, or with the proper business of savings and loan associations shall be applicable to all State associations.

"§ 54B-8. Scope and prohibitions. — (a) Nothing in this Chapter shall be construed to invalidate any charter that was valid prior to the enactment of this Chapter. All such associations shall continue operation in full force, but such associations shall be operated in accordance with the provisions of this Chapter.

(b) Foreign associations certified to operate in this State may do so only when in accordance with the provisions of Article 11 of this Chapter.

(c) No person or group of persons, nor any corporation, company, or association except one incorporated and licensed in accordance with the provisions of this Chapter to operate a State association, shall operate as a State association. Unless so authorized as a State, federal or foreign association and actually engaged in transacting a savings and loan business, no person or group of persons, nor any corporation, company, or association domiciled and doing business in this State shall:

- (1) use in its name the terms 'building and loan association' or 'savings and loan association' or words of similar import or connotation that lead the public reasonably to believe that the business so conducted is that of a savings and loan association; or
- (2) use any sign, or circulate or use any letterhead, billhead, circular or paper whatsoever, or advertise or communicate in any manner that would lead the public reasonably to believe that it is conducting the business of a savings and loan association.

(d) Upon application by the administrator or by any savings and loan association, a court of competent jurisdiction may issue an injunction to restrain any person or entity from violating or from continuing to violate any of the foregoing provisions of subsection (c).

"§ 54B-9. Application to organize a savings and loan association. — (a) It shall be lawful for any 10 or more natural persons (hereinafter referred to as the 'incorporators'), who are domiciled in this State, to organize and establish a savings and loan association in order to promote thrift and home financing, subject to approval as hereinafter provided in this Chapter. The incorporators shall file with the administrator a preliminary application to organize a State association, in the form to be prescribed by the administrator, together with the proper nonrefundable application fee.

(b) The application to organize a State association shall be received by the administrator not less than 60 days prior to the scheduled consideration of the application by the Commission, and it shall contain:

- (1) the original of the certificate of incorporation, which shall be signed by the original incorporators, or a majority of them, but not less than 10, and shall be properly acknowledged by a person duly authorized by this State to take proof or acknowledgement of deeds; and two conformed copies;

- (2) the names and addresses of the incorporators; and the names and addresses of the initial members of the board of directors;
- (3) statements of the anticipated receipts, expenditures, earnings and financial condition of the association for its first two years of operation, or such longer period as the administrator may require;
- (4) a showing satisfactory to the Commission that:
 - a. the public convenience and advantage will be served by the establishment of the proposed association;
 - b. there is a reasonable demand and necessity in the community which will be served by the establishment of the proposed association;
 - c. the proposed association will have a reasonable probability of sustaining profitable and beneficial operations within a reasonable time in the community in which the proposed association intends to locate;
 - d. the proposed association, if established, will promote healthy and effective competition in the community in the delivery to the public of savings and loan services;
- (5) the proposed bylaws;
- (6) statements, exhibits, maps and other data which may be prescribed or requested by the administrator, which data shall be sufficiently detailed and comprehensive so as to enable the administrator to pass upon the criteria set forth in this Article.

(c) The application shall be signed by the original incorporators or a majority of them but not less than 10, and shall be properly acknowledged by a person duly authorized by this State to take proof and acknowledgement of deeds.

"§ 54B-10. Certificate of incorporation. — (a) The certificate of incorporation of a proposed mutual savings and loan association shall set forth:

- (1) the name of the association, which must not so closely resemble the name of an existing association doing business under the laws of this State as to be likely to mislead the public;
- (2) the county and city or town where its principal office is to be located in this State; 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 of incorporation fails to state the period of duration, it shall be considered perpetual;
- (4) the purposes for which the association is organized, which shall be limited to purposes permitted under the laws of this State for savings and loan associations;
- (5) the amount of the entrance fee per withdrawable account based upon the amount pledged;
- (6) the minimum amount on deposit in withdrawable accounts before it shall commence business;
- (7) any provision not inconsistent with this Chapter and the proper operation of a savings and loan association, which the incorporators shall set forth in the certificate of incorporation for the regulation of the internal affairs of the association;
- (8) the number of directors, which shall not be less than seven, constituting the initial board of directors (which may be classified in accordance with the provisions of G.S. 55-26), and the name and addresses of each person who is

to serve as a director until the first meeting of members, or until his successor be elected and qualified;

(9) the names and addresses of the incorporators.

(b) The certificate of incorporation of a proposed stock savings and loan association shall set forth:

- (1) the name of the association, which must not so closely resemble the name of an existing association doing business under the laws of this State as to be likely to mislead the public;
- (2) the county and city or town where its principal office is to be located in this State; 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 of incorporation fails to state the period of duration, it shall be considered perpetual;
- (4) the purposes for which the association is organized, which shall be limited to purposes permitted under the laws of this State for savings and loan associations;
- (5) with respect to the shares of stock which the association shall have authority to issue:
 - a. if the stock is to have a par value, the number of such shares of stock and the par value of each;
 - b. if the stock is to be without par value, the number of such shares of stock;
 - c. if the stock is to be of both kinds mentioned in paragraphs a. and b. of subdivision 5 of this subsection, particulars in accordance with those paragraphs;
 - d. if the stock is to be divided into classes, or into series within a class of preferred or special shares of stock, 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 stock of each class or series;
- (6) the minimum amount of consideration to be received for its shares of stock before it shall commence business;
- (7) a statement as to whether stockholders have preemptive rights to acquire additional or treasury shares of the association and any provision limiting or denying said rights;
- (8) any provision not inconsistent with this Chapter or the proper operation of a savings and loan association, which the incorporators shall set forth in the certificate of incorporation for the regulation of the internal affairs of the association;
- (9) the number of directors, which shall not be less than seven, constituting the initial board of directors (which may be classified in accordance with the provisions of G.S. 55-26) and the name and address of each person who is to serve as a director until the first meeting of the stockholders, or until his successor be elected and qualified;
- (10) the names and addresses of the incorporators.

(c) The certificate of incorporation, whether for a mutual association or stock association, shall be signed by the original incorporators, or a majority of them, but not less than 10, and shall be acknowledged before an officer duly authorized under the law of this State to take proof or acknowledgement of deeds, and shall be filed along with two conformed copies in the office of the administrator as provided in G.S. 54B-8.

"§ 54B-11. Administrator to consider application. — (a) Upon receipt of an application the administrator shall examine or cause to be examined all the relevant facts connected with the formation of the proposed association. If it appears to the administrator that the proposed association has complied with all the requirements set forth in this Chapter for the formation of a State association, and with all the requirements set forth in the regulations for the formation of a State association and that the association is otherwise lawfully entitled to form a State association, the administrator shall present the application to the Commission.

(b) If the administrator determines that an application is not in procedural compliance with this Chapter, or if any part of the application contains incorrect or insufficient information so that the administrator cannot make a recommendation on the application, he shall notify the incorporators. He shall include suggestions as to amendments to the application so that it may conform.

(c) If the administrator determines that an application is in procedural compliance with the this Chapter, but for some substantive reason the administrator believes that the application should not be approved, the administrator shall recommend to the Commission at a public hearing conducted pursuant to G.S. 54B-13 that it deny the application.

"§ 54B-12. Criteria to be met before the administrator may recommend approval of an application. — (a) The administrator may recommend approval of an application to form a mutual association only when all of the following criteria are met:

- (1) The proposed association has an operational expense fund, from which to pay organizational and incorporation expenses, in an amount determined by the administrator to be sufficient for the safe and proper operation of the association, but in no event less than seventy-five thousand dollars (\$75,000). The moneys remaining in such expense fund shall be held by the association for at least one year from its date of licensing. No portion of such fund shall be released to an incorporator or director who contributed to it, nor to any other contributor, nor to any other person and no dividends shall be accrued or paid on such funds without the prior approval of the administrator.
- (2) The proposed association has pledges for withdrawable accounts in an amount determined by the administrator 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 entrance fees for withdrawable accounts of the proposed association have been made with legal tender of the United States.
- (4) All initial pledges for withdrawable accounts of the proposed association are made by residents of North Carolina.
- (5) The name of the proposed association will not mislead the public and is not the same as an existing association or so similar to the name of an existing association as to mislead the public.
- (6) The character, general fitness and responsibility of the incorporators and the initial board of directors of the proposed association who shall be residents of North Carolina are such as to command the confidence of the community in which the proposed association intends to locate.
- (7) There is a reasonable demand and necessity in the community which will be served by the establishment of the proposed association.
- (8) The public convenience and advantage will be served by the establishment of the proposed association.
- (9) The proposed association will have a reasonable probability of sustaining profitable and beneficial operations in the community.

(10) The proposed association, if established, will promote healthy and effective competition in the community in the delivery to the public of savings and loan services.

(b) The administrator may recommend approval of an application to form a stock association only when all of the following criteria are met:

- (1) The proposed association has subscriptions for capital stock in an amount determined by the administrator to be sufficient for the safe and proper operation of the association, but in no event less than one million five hundred thousand dollars (\$1,500,000).
- (2) The proposed association has certified that it shall set aside from the amount of subscriptions for capital stock required by subdivision (1) of this subsection, as a permanent capital reserve, an amount of funds determined by the administrator to be sufficient for the safe and proper operation of the association, but in no event less than five hundred thousand dollars (\$500,000).
- (3) All subscriptions for capital stock of the proposed association have been purchased with legal tender of the United States.
- (4) All owners of subscriptions for capital stock of the proposed association are natural persons and residents of this State.
- (5) The proposed association has certified that it will neither sell nor permit the transfer to any corporate person or to any person not a resident of this State any stock in the proposed association from the time of application until 180 days following the opening for business by such association.
- (6) No person, either alone or in combination with members of his immediate family, owns subscriptions for more than ten percent (10%) of the stock in the proposed association.
- (7) No financial institution owns subscriptions for stock in the association. Notwithstanding any other provision of this Chapter, stock ownership in a stock savings and loan association shall not be held by any other financial institution, except in the following situations:
 - a. a financial institution holding stock of a stock savings and loan association in a fiduciary or trust capacity, provided that, the financial institution shall whenever possible assign the voting rights in the stock to a disinterested person; provided further that, in no event may the financial institution exercise the voting rights in more than five percent (5%) of the outstanding stock in a stock savings and loan association;
 - b. a financial institution holding stock of a stock savings and loan association for a reasonable time for the sole purpose of sale to the general public, provided that, the financial institution shall not vote the stock;
 - c. a financial institution holding for a reasonable time, in its name or the name of its nominee, stock of a stock savings and loan association for the sole purpose of sale, where the stock was acquired through foreclosure or a convenience in lieu of foreclosure on a loan for which the stock served as collateral, provided that, the financial institution shall not vote the stock;
 - d. a financial institution holding stock of a stock savings and loan association as collateral for a loan, provided that, that stock is not registered in the name of the financial institution or in the name of a

nominee of the financial institution, provided further that, the financial institution shall not vote the stock; or

e. for purposes of merger as provided in G.S. 54B-38.

(8) The name of the proposed association will not mislead the public and is not the same as an existing 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 associations from mutual associations.

(9) The character, general fitness, and responsibility of the incorporators, initial board of directors and initial stockholders of the proposed association who shall be residents of North Carolina are such as to command the confidence of the community in which the proposed association intends to locate.

(10) There is a reasonable demand and necessity in the community which will be served by the establishment of the proposed association.

(11) The public convenience and advantage will be served by the establishment of the proposed association.

(12) The proposed association will have a reasonable probability of sustaining profitable and beneficial operations in the community.

(13) The proposed association, if established, will promote healthy and effective competition in the community in the delivery to the public of savings and loan services.

"§ 54B-13. Savings and Loan Commission to review findings and recommendations of administrator. — (a) If the administrator does not have the completed application within 120 days of the filing of the preliminary application, the application shall be returned to the applicants.

(b) When the administrator has completed his examination and investigation of the facts relevant to the establishment of the proposed association, he shall present his findings and recommendations to the Commission at a public hearing. The Savings and Loan Commission must approve or reject an application within 180 days of the submission of the preliminary application.

(c) Not less than 60 days prior to the public hearing held for the consideration of the application to establish a savings and loan association, the incorporators shall cause to be published a notice in a newspaper of general circulation in the area to be served by the proposed association. Such notice shall contain:

- (1) a statement that the application has been filed with the administrator;
- (2) the name of the community where the principal office of the proposed association intends to locate;
- (3) a statement that a public hearing shall be held to consider the application; and
- (4) a statement that any interested or affected party may file a written statement either favoring or protesting the creation of the proposed association. Such statement must be filed with the administrator within 30 days of the date of publication.

(d) The Commission, at the public hearing, shall consider the findings and recommendation of the administrator and shall hear such oral testimony as he may wish to give or be called upon to give, and shall also receive information and hear testimony from the incorporators of the proposed association and from any and all other interested or affected parties. The Commission shall hear only testimony and receive only information which is relevant to the consideration of the application and the operation of the proposed association.

"§ 54B-14. Grounds for approval or denial of application. — (a) After consideration of the findings and recommendation of the administrator and his oral testimony, if any, and the consideration of such other information and evidence, either written or oral, as has come before it at the public hearing, the Commission shall approve or disapprove the application within 30 days after the public hearing. The Commission shall approve the application if it finds that the certificate of incorporation is in compliance with the provisions of G.S. 54B-10, that all the criteria set out in G.S. 54B-12 have been complied with, and that all other applicable provisions of this Chapter and the General Statutes have been complied with.

(b) If the Commission approves the application, the administrator shall so notify the Secretary of State with a certificate of approval, accompanied by the original of the certificate of incorporation and the two conformed copies.

(c) Upon receipt of the certificate of approval, the original of the certificate of incorporation, and the two conformed copies, the Secretary of State shall examine the certificate of incorporation to determine whether it is in compliance with the provisions of any applicable General Statutes other than this Chapter. If it is in compliance, the Secretary of State shall, upon the payment by the newly chartered association of the appropriate organization tax and fees, file the certificate of incorporation in accordance with G.S. 55-4, except that he shall certify under his official seal the two conformed copies of the certificate of incorporation, one of which shall forthwith be forwarded to the incorporators or their representative, for the purpose of recordation in the office of the register of deeds of the county where the principal office of the association shall be located, in accordance with G.S. 55-4(a)(6), the other of which shall be forwarded to the office of the administrator for filing. Upon the recordation of the certificate of incorporation by the Secretary of State, the association shall be a body politic and corporate under the name stated in such certificate, and shall be authorized to begin the savings and loan business when duly licensed by the administrator.

(d) The said certificate of incorporation, or a copy thereof, duly certified by the Secretary of State, or by the register of deeds of the county where the association is located, or by the administrator, 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 association purporting thereby to have been established.

"§ 54B-15. Final decision. — The Commission shall present the administrator with a final decision which shall be in accordance with the applicable provisions of Chapter 150A of the General Statutes.

"§ 54B-16. Appeal. — The final decision of the Commission may be appealed in accordance with Chapter 150A of the General Statutes.

"§ 54B-17. Insurance of accounts required. — All State associations must obtain and maintain insurance on all members' and customers' withdrawable accounts. Contracts for such insurance may be made with any mutual deposit guaranty association organized under Article 12 of this Chapter, or its predecessor, or from the Federal Savings and Loan Insurance Corporation. Prior to the licensing of an association, a certificate of incorporation duly recorded under the provisions of G.S. 54B-14(c), shall be deemed to be sufficient certification to the insuring corporation that the association is a legal corporate entity. Such insurance must be obtained within the time limit prescribed in G.S. 54B-18.

"§ 54B-18. Time allowed to commence business. — A newly chartered association shall commence business within six months after the date upon which its corporate existence shall have begun. An association which shall not commence business within such time, shall forfeit its corporate existence, unless the administrator, before the expiration of such six-month period, shall have approved an extension of the time within which the association may commence business, upon a written request stating the reasons for which such request is made. Upon such forfeiture, the certificate of incorporation shall expire, and any and all action taken in connection with the incorporation and chartering of the association, with the exception of fees

paid to the Division, shall become null and void. The administrator shall determine if an association has failed to commence business within six months, without extension as provided in this section, and shall notify the Secretary of State and the register of deeds in the county in which the association is located that the certificate of incorporation has expired.

"§ 54B-19. Licensing. — A newly chartered association shall be entitled to a license to operate upon payment to the Division of the appropriate license fee as prescribed by the administrator, when it shows to the satisfaction of the administrator evidence of capable, efficient and equitable management, and when it passes a final inspection by the administrator or his representatives preceding the opening of its doors for business.

"§ 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 the total votes which members of a mutual association are eligible and entitled to cast, or by a majority of the total votes which stockholders of a stock association are eligible and entitled to cast, present in person or represented by proxy at any 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 for in G.S. 54B-9 and G.S. 54B-10 for certificates of incorporation.

"§ 54B-21. List of stockholders to be maintained. — Every stock association organized and operated under the provisions of this Chapter or its predecessor shall at all times cause to be kept an up-to-date list of the names of all its stockholders. Annually, in January or whenever called upon by the administrator, file in the office of the administrator a correct list of all its stockholders, the resident address of each, the number of shares of stock held by each, and the dates of issue.

"§ 54B-22. Branch offices. — (a) Any State association may apply to the administrator for permission to establish a branch office. The application shall be in such form as may be prescribed by the administrator. Branch applications shall be approved or denied by the administrator within 120 days of filing.

(b) The administrator shall approve a branch application when all of the following criteria are met:

- (1) the applicant has gross assets of at least ten million dollars (\$10,000,000);
- (2) the applicant has evidenced financial responsibility in that its principal office and any existing branch offices are soundly managed, and it has no record of any uncorrected serious supervisory difficulties;
- (3) the applicant has a net worth equal to at least five percent (5%) of the net withdrawal value of its withdrawable accounts;
- (4) the applicant has an acceptable internal control system. Such a system would include certain basic internal control requirements essential to the protection of assets and the promotion of operational efficiency regardless of the size of the applicant. Some of the factors which require extensive internal control requirements such as the use of a controller or internal auditor and more distinctive placement responsibilities include the applicant's size, number of personnel and history of and anticipated plans for expansion.

(c) Upon receipt of a branch application, the administrator shall examine or cause to be examined all the relevant facts connected with the establishment of the proposed branch office. If it appears to the satisfaction of the administrator that the applicant has complied with all the requirements set forth in this section and the regulations for the establishment of a branch office and that the association is otherwise lawfully entitled to establish such branch office, then the administrator shall approve the branch application.

(d) If the administrator determines that a branch application is not in procedural compliance with this section and the regulations for the establishment of a branch office or if any part of the application contains incorrect or insufficient information so that the administrator cannot make a decision on the application, he shall notify the applicant of his reasons, and give suggestions as to amendments to the application in order that it may conform.

(e) If the administrator determines that a branch application is in procedural compliance with this section and the regulations for the establishment of a branch office, but for some substantive reason the administrator believes that the application should be denied, then the administrator shall deny the branch application.

(f) A branch application fee shall be paid by the applicant according to the fee schedule fixed in the regulations.

(g) Not less than 10 days following the filing of the branch application with the administrator, the applicant shall cause to be published a notice 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 application has been filed with the administrator;
- (2) the proposed address of the branch office, including city or town and street;
- (3) a statement that a public hearing on the application will be held before the administrator; and
- (4) a statement that any interested or affected party may file a written statement either favoring or protesting the establishment of the proposed branch office. Such statement must be filed with the administrator within 30 days of the date of the publication.

(h) The administrator, at the public hearing, shall receive information and hear testimony from the applicant and from any interested or affected party. The administrator shall hear only testimony and receive only information which is relevant to the consideration of the branch application and operation of the proposed branch office.

(i) The administrator shall issue his final decision on the branch application within 30 days following the public hearing. Such final decision shall be in accordance with the applicable provisions of Chapter 150A of the General Statutes.

(j) Any party to a branch application may appeal the final decision of the administrator to the Commission at any time after final decision, but not later than 30 days after a written copy of the final decision is served upon the party and his attorney of record by personal service or by certified mail. Failure to file such appeal within the time stated shall operate as a waiver of the right of such party to review by the Commission and by a court of competent jurisdiction in accordance with Chapter 150A of the General Statutes, relating to judicial review.

"§ 54B-23. Application to change location of a branch or principal office. — (a) The board of directors of a State association may change the location of a branch office or the principal office of the association by submitting to the administrator an application for such change on forms prescribed by the administrator.

(b) Upon receipt of an application accompanied by the proper application fee, the administrator shall conduct, or cause to be conducted, an examination and investigation of the facts and circumstances connected with the consideration of the application. After such examination and investigation, the administrator shall make a recommendation to the Commission on the application at a properly publicized hearing at which other concerned parties may present their views.

(c) If an application filed under this section is approved by the Commission and the association fails to change the location of such branch office or principal office within six months after the date of the order approving such application, such approval shall be revoked. Such a six-month period may be extended upon a showing to the satisfaction of the administrator of good cause.

"§ 54B-24. Approval revoked; branch office. — The Commission may, for good cause and after a hearing, order the closing of a branch office. Such order shall be made in writing to the association and shall fix a reasonable time after which the association shall close the branch office.

"§ 54B-25. Branch office closed. — The board of a State association may discontinue the operation of a branch office upon 60 days prior written notice to the administrator. The association shall notify the administrator in writing of the date upon which the branch office shall be closed.

"§ 54B-26 to 54B-29. Reserved for future codification purposes.

"ARTICLE 3.

"Fundamental Changes.

"§ 54B-30. Conversion from State to federal association. — Any State savings and loan association, stock or mutual, organized and operated under the provisions of this Chapter, may convert into a federal savings and loan association in accordance with the provisions of the laws and regulations of the United States and with the same force and effect as though originally incorporated under such laws, and the procedure to effect such conversion shall be as follows:

- (1) The association shall submit a plan of conversion to the administrator, and he may approve the same, with or without amendment, or refuse to approve the plan. If he approves the plan, then the plan shall be submitted to the members or stockholders as provided in the next subdivision. If he refuses to approve the plan, he shall state his objections in writing and give the converting association an opportunity to amend the plan to obviate such objections or to appeal his decision to the Commission.
- (2) A meeting of the members or stockholders shall be held upon not less than 30 days' written notice to each member or stockholder, served personally or mailed to the last known address of such member or stockholder, postage prepaid. The notice shall contain a statement of the time, place and purpose for which such meeting is called. It shall be regarded as sufficient notice of the purpose of the meeting if the notice contains the following statement: 'The purpose of this meeting is to consider the conversion of this State chartered association into a federally chartered association, pursuant to the laws of the United States.' An appropriate officer of the association shall make proof by affidavit at such meeting of due service of the notice or call for said meeting.
- (3) At the meeting of the members or stockholders of such association, such members or stockholders may, by affirmative vote of a majority of shares or votes eligible to be cast by members or stockholders, in person or by proxy, resolve to convert said association to a federal savings and loan association. A copy of the minutes of the meeting of the members or stockholders certified by an appropriate officer of the association shall be filed in the office of the administrator within 10 days after such meeting. The said certified copy when so filed shall be *prima facie* evidence of the holding and the action of the meeting.
- (4) Within a reasonable time after the receipt of a certified copy of the minutes, the administrator shall either approve or disapprove the proceedings of the meeting for compliance with the procedure set forth in this section. If the administrator approves the proceedings he shall endorse the certified copy of the minutes, and shall issue a certificate of his approval of the conversion and proceedings and send the same to the association. Such certificate shall be recorded in the office of the Secretary of State and in the office of the

register of deeds of the county in which the association has its principal office, and the original shall be held by the association. If the administrator disapproves the proceedings he shall note his disapproval on the certified copy of the minutes and notify the Commission and the association of his disapproval. The association may appeal a disapproval to the Commission.

(5) Within 60 days after approval of the proceedings by the administrator, the association shall file an application, in the manner prescribed or authorized by the laws and regulations of the United States, to consummate the conversion to a federal association. A copy of the charter or authorization issued to such association by the Federal Home Loan Bank Board, or a certificate showing the organization or conversion of such association into a federal savings and loan association, and upon such filing with the administrator the association shall cease to be a State association and shall be a federal association.

(6) Whenever any such association shall convert into a federal savings and loan association it shall cease to be an association under the laws of this State, except that its corporate existence shall be deemed to be extended for the purpose of prosecuting or defending suits by or against it and of enabling it to close its business affairs as a State association, and to dispose of and convey its property. At the time when such conversion becomes effective, all the property of the State association including all its rights, title and interest in and to all property of whatever kind, whether real, personal or mixed, and things in action, and every right, privilege, interest and asset of any conceivable value or benefit then existing, belonging or pertaining to it, or which would inure to it, shall immediately by act of law and without any conveyance or transfer, and without any further act or deed, be vested in and become the property of the federal association, which shall have, hold and enjoy the same in its own right as fully and to the same extent as the same was possessed, held and enjoyed by the State association; and the federal association as of the effective time of such conversion shall succeed to all the rights, obligations and relations of the State association.

"§ 54B-31. Conversion from federal to State association. — Any federal savings and loan association, stock or mutual, organized and existing under the laws and regulations of the United States and duly authorized to operate and actually operating in North Carolina may convert into a State savings and loan association operating under the provisions of this Chapter, with the same force and effect as though originally incorporated under the provisions of this Chapter, by complying with the rules and regulations of the federal regulatory authority, and also by following the procedure as set forth in this section:

(1) The federal association shall submit a plan of conversion to the administrator. When such plan, either with or without amendment, has been approved by the administrator, it shall be submitted to the members or stockholders of the association as provided in the next subdivision.

(2) A meeting of the members or stockholders shall be held upon not less than 30 days' written notice to each member or stockholder, served personally or mailed to the last known address of such member or stockholder, postage prepaid. The notice shall contain a statement of the time, place and purpose for which such meeting is called. It shall be regarded as sufficient notice of the purpose of the meeting if the call contains the following statement: 'The purpose of this meeting is to consider the conversion of this federally chartered association to a State chartered savings and loan association, pursuant to the provisions of the laws of the State of North Carolina'. An

appropriate officer of the association shall make proof by affidavit at such meeting of the due service of the notice or call for said meeting.

(3) At the meeting of the members or stockholders of the association, the members or stockholders may, by affirmative vote of a majority of those votes eligible to be cast by members or stockholders, in person or by proxy, resolve to convert the association to a State association. A copy of the minutes of the meeting of the members or stockholders, certified by an appropriate officer of the association, shall be filed with the administrator within 10 days after the meeting, accompanied by a conversion fee. The certified copy when so filed shall be *prima facie* evidence of the holding of and the action taken at the meeting.

(4) Within 30 days after the approval of the proceedings by the administrator and the approval of the conversion by the federal authority, and by the insuring corporation, the association shall file with the administrator, the Secretary of State, and the register of deeds of the county where such association intends to operate a copy of the certificate of incorporation of such association, signed by at least seven directors. The certificate of incorporation shall conform to the provisions of the laws of this State. The Secretary of State and the register of deeds of the county where the association has its principal office shall not issue or record the certificate of incorporation until authorized to do so by the administrator. Upon receipt of a copy of the certificate of incorporation the administrator shall cause to be made a careful examination and investigation of the facts connected with the conversion of the association, including an examination of its affairs generally and a determination of its assets and liabilities. The reasonable cost and expenses of the examination and investigation shall be paid by the association. If it appears that the association, if converted, will lawfully be entitled to conduct business as a State association pursuant to the provisions of this Chapter, the administrator shall so certify to the Secretary of State and the register of deeds in the county in which the association is located, who shall thereupon issue and record such certificate of incorporation. Upon issuance and recordation of the certificate of incorporation the association shall file with the appropriate federal regulatory authority a certified copy of same. Upon such filing, the association shall cease to be a federal association and shall be converted to a State association.

(5) Upon conversion, all the property of the federal association, including all its rights, title and interest in and to all property of whatsoever kind whether real, personal or mixed, and things in action, and every right, privilege, interest and asset of any conceivable value or benefit then existing, belonging or pertaining to it, or which would inure to it, shall immediately by act of law and without any conveyance or transfer, and without any further act or deed, be vested in and become the property of the State association, which shall have, hold, and enjoy the same in its own right as fully and to the same extent as if the same was possessed, held or enjoyed by said federal association; and such State association shall be deemed to be a continuation of the entity and the identity of said federal association, operating under and pursuant to the provisions of this Chapter, and all rights, obligations and relations of said federal association to or in respect to any person, estate, or creditor, depositor, trustee or beneficiary of any trust, and to or in respect to any executorship or trusteeship or other trust or fiduciary function, shall remain unimpaired, and the State association, shall by

operation of this section succeed to all such rights, obligations, relations and trusts, and the duties and liabilities connected therewith, and shall execute and perform each and every such right, obligation, trust and relation in the same manner as if such State association had itself assumed the trust or relation, including the obligations and liabilities connected therewith.

"§ 54B-32. Simultaneous charter and ownership conversion. — (a) In the event of a State charter to federal charter conversion, when the form of ownership will also simultaneously be changed from stock to mutual, or from mutual to stock, the conversion shall proceed initially as if it involves only a charter conversion, under G.S. 54B-30. After the association becomes a federal association, then the federal regulatory authority shall govern the continuing conversion of the form of ownership of such newly converted association.

(b) In the event of a federal charter to State charter conversion, when the form of ownership will also simultaneously be changed from stock to mutual or from mutual to stock, the conversion shall proceed initially as if it involves only a charter conversion, under G.S. 54B-31. After the association becomes a State association, the provisions of G.S. 54B-33 or G.S. 54B-34 shall govern the continuing conversion of the form of ownership of such newly converted association.

"§ 54B-33. Conversion of mutual to stock association. — (a) Any mutual association may convert from mutual to the stock form of ownership as provided in this section.

(b) A mutual association may apply to the administrator for permission to convert to a stock association and for certification of appropriate amendments to the association's certificate of incorporation. Upon receipt of an application to convert from mutual to stock form the administrator shall examine all facts connected with the requested conversion. The expenses and cost of such examination, monitoring and supervision shall be paid by the association applying for permission to convert.

(c) Upon completion of his examination the administrator shall report his findings to the Commission. After reviewing the findings of the administrator and conducting any further appropriate examinations and investigations the Commission may approve and permit the requested conversion if it appears that:

- (1) after conversion the association will be in sound financial condition and will be soundly managed;
- (2) the conversion will not impair the capital of the association nor adversely affect the association's operations;
- (3) the conversion will be fair and equitable to the members of the association and no person whether member, employee or otherwise, will receive any inequitable gain or advantage by reason of the conversion;
- (4) the savings and loan services provided to the public by the association will not be adversely affected by the conversion;
- (5) the conversion will be conducted as provided by law and pursuant to a plan approved by the administrator. The substance of the plan must be approved by a vote of two-thirds of the board of directors of the association; and, after lawful notice to the members of the association and full and fair disclosure, the substance of the plan must be approved by a majority of the total votes which members of the association are eligible and entitled to cast. Such a vote by the members may be in person or by special proxy restricted to matters in connection with the conversion;
- (6) the plan of conversion provides:
 - a. all shares of stock issued in connection with the conversion are offered first to the members of the association;
 - b. all stock shall be offered to members of the association and others in prescribed amounts and otherwise pursuant to a formula and

procedure which is fair and equitable and will be fairly disclosed to all interested persons;

- c. members to whom stock will be offered and the amounts of stock which will be offered shall be determined as of a date or dates approved by the administrator;
- d. a statement as to whether stockholders shall have preemptive rights to acquire additional or treasury shares of the association and any provision limiting or denying said rights;
- e. at the time of the conversion, the number of shares which any person may acquire together with any associate or group of persons acting in concert shall not exceed five percent (5%) of the total number of shares offered. For purposes of this paragraph, the members of the converting institution's board of directors shall not be deemed to be associates or a group acting in concert solely as a result of their board membership.
- f. at the time of the conversion, the total amount of stock acquired by officers and directors shall not exceed twenty-five percent (25%) of the total number of shares issued in connection with the conversion;
- g. the conversion shall not be complete until all stock offered in connection with the conversion has been subscribed.

(d) After approval of a requested conversion by the Commission, the administrator shall supervise and monitor the conversion process and he shall ensure that the conversion is conducted pursuant to law and the association's approved plan of conversion.

(e) Upon conversion of a mutual association to the stock form of ownership, the legal existence of the association shall not terminate but the converted stock association shall be a continuation of the mutual association. The conversion shall be deemed a mere change in identity or form of organization. All rights, liabilities, obligations, interest and relations of whatever kind of the mutual association shall continue and remain in the stock-owned association. All actions and legal proceedings to which the association was a party prior to conversion shall be unaffected by the conversion and proceed as if the conversion had not taken place.

(f) The administrator shall promulgate rules and regulations to govern conversions; provided, however, that such rules and regulations as may be promulgated by the administrator shall be equal to or exceed the requirements for conversion imposed by the rules and regulations governing conversions of federal chartered mutual savings and loan associations 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 these may be amended from time to time and other applicable rules and regulations effective as of the date of ratification. No provision of this section is to be interpreted to require Federal Savings and Loan Insurance Corporation (FSLIC) insurance of accounts as a prerequisite to conversion. All State associations are to continue to be allowed to choose between FSLIC and a mutual deposit guaranty association. Said rules and regulations shall implement the provisions of this section and provide procedures by which an association shall seek permission for a conversion and procedures for conducting conversions. Provided, however, the rules and regulations promulgated under this section shall apply equally to all converting associations and no converting association shall enjoy a competitive advantage over another type of converting association by reason of the rules and regulations governing its conversion; provided further, however, no association shall be required by the administrator or by regulation to change the type of insurance it maintains on its withdrawable accounts by reason of this section.

"§ 54B-34. Conversion of stock associations to mutual associations. — Any stock savings and loan association organized and operating under the provisions of this Chapter may, subject

to the approval of the Commission, convert to a mutual savings and loan association under the provisions of this section. The administrator may promulgate rules and regulations governing the conversion of stock associations to mutual associations. Such rules and regulations shall include, but shall not be limited to requirements that:

- (1) the conversion neither impair the capital of the converting association nor adversely affect its operations;
- (2) the conversion shall be fair and equitable to all stockholders of the converting associations;
- (3) the public shall not be adversely affected by the conversion;
- (4) conversion of an association shall be accomplished only pursuant to a plan approved by the administrator. Said plan must have been approved by an affirmative vote of two-thirds of the members of the board of directors of the converting association, and only after a full and fair disclosure to the stockholders, by an affirmative vote a majority of the total votes which stockholders of the association are eligible and entitled to cast;
- (5) the plan of conversion provides that:
 - a. withdrawable accounts be issued in connection with the conversion to the stockholders of the converting association;
 - b. a uniform date be fixed for the determination of the stockholders to whom, and the amount to each stockholder of which, withdrawable accounts shall be made available;
 - c. withdrawable accounts so made available to stockholders be based upon a fair and equitable formula approved by the administrator and fully and fairly disclosed to the stockholders of the converting association.

"§ 54B-35. Merger of like savings and loan associations. — Any two or more State mutual associations or any two or more State stock associations organized or operating, may merge or consolidate into a single association which may be either one of said merging associations, and the procedure to effect such merger shall be as follows:

- (1) The directors, or a majority of them, of such associations as desire to merge, may, at separate meetings, enter into a written agreement of merger signed by them and under the corporate seals of the respective associations, specifying each association to be merged and the association which is to receive into itself the merging association or associations, and prescribing the terms and conditions of the merger and the mode of carrying it into effect. Such merger agreement may provide the manner and basis of converting or exchanging the withdrawable accounts in the mutual association or associations so merged for withdrawable accounts of the same or a different class of the receiving association, or of converting or exchanging the stock in the stock association or associations so merged for stock of the same or a different class of the receiving association. The merger agreement may provide for such other provisions with respect to the merger as appear necessary or desirable, or as the administrator may require by regulation to enable him to discharge his duties with respect to such merger.
- (2) Such merger agreement together with copies of the minutes of the meetings of the respective boards of directors verified by the secretaries of the respective associations shall be submitted to the administrator, who shall cause a careful investigation and examination to be made of the affairs of the associations proposing to merge, including a determination of their respective assets and liabilities. The reasonable cost and expenses of such

examination shall be defrayed by each association so investigated and examined. If, as a result of such investigation, he shall conclude that the members or stockholders of each of the associations proposing to merge will be benefitted thereby, he shall, in writing, approve same. If he deems that the proposed merger will not be in the interest of all members or stockholders of the associations so merging, he shall, in writing, disapprove the same. If he approves the merger agreement, then same shall be submitted, within 30 days after notice to such associations of such approval, to the members or stockholders of each of such association, as provided in the next subdivision. Such disapproval may be appealed by the association to the Commission.

- (3) A special meeting of the members or stockholders of each of said associations shall be held separately upon written notice to each member or stockholder of not less than 30 days, specifying the time, place, and purpose for which such meeting is called and such notice shall be served personally or sent by mail, postage prepaid, to each member or stockholder at the last known address of such member or stockholder appearing upon the books of the association. Due notice may also be given of the time, place and object of such meeting by publication at least once a week for four successive weeks in one or more newspapers published in the county or counties wherein each such association has its principal or a branch office (and if there is no newspaper published in the county then in a newspaper published in an adjoining county). The secretary or other officer of the association shall make proof by affidavit at such meeting of the due service of the notice or call for said meeting.
- (4) At separate meetings of the members or stockholders representing a majority of the outstanding withdrawable accounts or shares of stock entitled to vote, by affirmative vote of at least two-thirds of the members or shares present, in person or by special proxy restricted to matters in connection with the merger, may declare by resolution the determination to merge into a single association upon terms of the merger as shall have been agreed upon by the directors of the respective associations and as approved by the administrator. An association may solicit special proxies, restricted to matters in connection with mergers, which may be valid for up to twelve months and which may be voted on for any proposed merger in which the association will be the surviving association. Upon the adoption of the resolution, a copy of the minutes of the proceedings of the meetings of the members or stockholders of the respective associations, certified by the president or vice-president and secretary or assistant secretary of the merging associations, shall be filed in the office of the administrator, within 10 days after such meetings. Within 15 days after the receipt of a certified copy of the minutes of said meetings the administrator shall either approve or disapprove the proceedings for compliance with this section. If the proceedings are approved by him he shall so endorse the certified copy of the minutes in his office, and shall issue a certificate of his approval of the merger and send same to each of the associations. The certificate shall be filed and recorded in the office of the Secretary of State and in the office of the register of deeds of the county or counties in this State in which the respective associations so merged shall have their original certificates of incorporation recorded; provided, that the only fees that shall be collected in connection with the merger of said associations shall be filing and recording fees. When such certificate is so filed, the merger agreement shall take effect.

according to its terms and shall be binding upon all the members or stockholders of the associations so merging, and the same shall thence be taken and deemed to be the act of merger of such constituent savings and loan associations under the laws of this State, and such record or certified copy thereof shall be evidence of the agreement and act of merger of said savings and loan associations and the observance and performance of all acts and conditions necessary to have been observed and performed precedent to such merger. If the administrator shall disapprove the proceedings he shall mark the certified copies of the meetings in his office as disapproved and notify the associations to that effect. Such disapproval may be appealed by the association to the Commission.

(5) Upon the merger of any association, as above provided, into another:

- a. Its corporate existence shall be merged into that of the receiving association; and all and singular its rights, powers, privileges and franchises, and all of its property, including all right, title, interest in and to all property of whatsoever kind, whether real, personal or mixed, and things in action, and every right, privilege, interest or asset of any conceivable value or benefit then existing, belonging or pertaining to it, or which would inure to it under an unmerged existence, shall immediately by act of law and without any conveyance or transfer, and without any further act or deed, be vested in and become the property of such receiving association which shall have, hold and enjoy the same in its own right as fully and to the same extent as if the same were possessed, held or enjoyed by the association or associations so merged; and such receiving association shall absorb fully and completely the association or associations so merged.
- b. Its rights, liabilities, obligations and relations to any person shall remain unchanged and the association into which it has been merged shall, by the merger, succeed to all the relations, obligations and liabilities as though it had itself assumed or incurred the same. No obligation or liability of a member, customer or stockholder in an association which is a party to the merger shall be affected by the merger, but obligations and liabilities shall continue as they existed before the merger, unless otherwise provided in the merger agreement.
- c. A pending action or other judicial proceeding to which any association that shall be so merged is a party, shall not be deemed to have abated or to have discontinued by reason of the merger, but may be prosecuted to final judgment, order or decree in the same manner as if the merger had not been made; or the receiving association may be substituted as a party to such action or proceeding, and any judgment, order or decree may be rendered for or against it that might have been rendered for or against such other association if the merger had not occurred.

"§ 54B-36. Merger of associations where ownership is converted. — (a) An two or more State mutual associations organized or operating may merge to form a single State stock association. The procedure to effect such a merger and conversion of ownership shall be as follows:

(1) The merging associations shall merge (to form a mutual association), as provided under G.S. 54B-35.

(2) The surviving association shall then convert to a stock association, as provided under G.S. 54B-33.

(b) Any two or more State stock associations organized or operating may merge to form a single mutual association. The procedure to effect such a merger and conversion of ownership shall be as follows:

- (1) The merging associations shall merge (to form a stock association), as provided under G.S. 54B-35.
- (2) The surviving association shall then convert to a mutual association, as provided under G.S. 54B-34.

(c) The administrator may promulgate rules and regulations to facilitate the transition from two or more associations to a single association under a new form of ownership.

"§ 54B-37. Merger of mutual and stock associations. — (a) Any State mutual association and any State stock association, organized or operating, may merge to form a single stock association. The procedure to effect such a merger shall be as follows:

- (1) The mutual association involved shall convert separately to a stock association, as provided under G.S. 54B-33.
- (2) The two stock associations shall then merge to form a single stock association, as provided in G.S. 54B-35.

(b) Any State mutual association, and any State stock association organized or operating may merge to form a mutual association. The procedure to effect such merger shall be as follows:

- (1) The stock association involved shall convert separately to a mutual association, as provided under G.S. 54B-34.
- (2) The two mutual associations shall then merge to form a single mutual association, as provided in G.S. 54B-35.

(c) The administrator is hereby empowered to promulgate rules and regulations to facilitate such a merger of mutual with stock associations.

"§ 54B-38. Merger through stock acquisition. — The Administrator may approve a plan by which an association may hold stock of other associations for the purpose of facilitating a merger of the associations. Such holding shall not exceed a period of one year from date of approval. If the merger is not consummated within the year, the holding association shall divest itself of all such stock within six months. The holding association may vote the stock only on matters relating to the merger.

"§ 54B-39. Merger of federal with State associations. — (a) Any two or more savings associations, when one or more is a State association and when one or more is a federal association operating in North Carolina, may merge to form one association under either a State or federal charter. The procedure to effect such a merger when the result is to be a federal association shall be as follows:

- (1) The State association or associations involved shall convert to a federal charter or charters, as provided under G.S. 54B-30.
- (2) The resulting federal association or associations shall then merge with the previously existing federal association or associations under the provisions of federal law and the rules and regulations of the Federal Home Loan Bank Board.

(b) The procedure to effect such a merger when the result is to be a State association shall be as follows:

- (1) The federal association or associations involved shall convert to a State charter or charters, as provided under G.S. 54B-31.
- (2) The resulting State association or associations shall then merge with the previously existing State association or associations, as provided under G.S. 54B-35.

(c) The administrator may promulgate rules and regulations to facilitate the merger of State and federal savings and loan associations.

"§ 54B-40. Voluntary dissolution by directors. — A State association may be voluntarily dissolved by a majority vote of the board of directors as provided in subsection (a) of G.S. 55-116, and when a certificate of dissolution is recorded in the manner required by this Chapter for the recording of certificates of incorporation.

"§ 54B-41. Voluntary dissolution by stockholders or members. — At any annual or special meeting called for such purpose, an association may, by an affirmative vote in person or by proxy of at least two-thirds of the total number of shares or votes which all members or stockholders of the association are entitled to cast, resolve to dissolve and liquidate the association and adopt a plan of voluntary dissolution. Upon adoption of such resolution and plan of voluntary dissolution, the members or stockholders shall proceed to elect not more than three liquidators who shall post bond as required by the administrator. The liquidators shall have full power to execute the plan; and the procedure thereafter shall be as follows:

(1) A copy of the resolution certified by the president or secretary of the association, together with the minutes of the meeting of members or stockholders, the plan of liquidation, and an itemized statement of the association's assets and liabilities sworn to by a majority of its board of directors, shall be filed with the administrator. The minutes of the meeting of members or stockholders shall be certified by the president or secretary of the association, and shall set forth the notice given and the time of mailing thereof, the vote on the resolution and the total number of shares or votes which all members of the association were entitled to cast thereon, and the names of the liquidators elected.

(2) If the administrator finds that the proceedings are in accordance with the provisions of this Chapter, and that the plan of liquidation is not unfair to any person affected, he shall attach his certificate of approval to the plan and shall forward one copy to the liquidators and one copy to the association's withdrawable account insurance corporation. Once the administrator has approved the resolution and the plan of liquidation it shall thereafter be unlawful for such association to accept any additional withdrawable accounts or additions to withdrawable accounts or make any additional loans, but all its income and receipts in excess of actual expenses of liquidation of the association shall be applied to the discharge of its liabilities.

(3) The liquidator or liquidators so appointed shall be paid a reasonable compensation by the liquidating association subject to the approval of the administrator.

(4) The plan shall become effective upon the recording of the administrator's certificate of approval in the manner required by this Chapter for the recording of the certificate of incorporation.

(5) The liquidation of the association shall be subject to the supervision and examination of the administrator.

"§ 54B-42. Rules, regulations and reports of voluntary dissolution. — (a) The administrator shall promulgate rules and regulations governing the dissolution and liquidation of State associations. These rules and regulations shall include, but not be limited to, provisions with respect to:

- (1) the protection and liquidation of assets;
- (2) the plan of liquidation;
- (3) notice to file claims;
- (4) claims of members;

- (5) payments of claims and distribution; and
- (6) final distribution and liquidation.

(b) Upon completion of liquidation, the liquidators shall file with the administrator a final report and accounting of the liquidation. The approval of the report by the administrator shall operate as a complete and final discharge of the liquidators, the board of directors, and each member or stockholder in connection with the liquidation of such association. Upon approval of the report, the administrator shall issue a certificate of dissolution of the association and shall record same in the manner required by this Chapter for the recording of certificates of incorporation; and upon such recording, the dissolution shall be effective.

"§ 54B-43. Stock ownership restrictions and dividends. — (a) Not more than ten percent (10%) of the outstanding capital stock of a State stock association may be owned by a person either singly or in combination with an associate.

(b) If, as of the effective date of this section, or at any time thereafter, a stockholder owns, singly or in combination with an associate, an amount in excess of ten percent (10%) of the outstanding capital stock of a stock association, the association shall notify the administrator within 10 days of determination of this fact.

(c) Except as otherwise provided in this Chapter, no bank, State or federal association, credit union or other person, firm or corporation doing a banking business (receiving, soliciting or accepting money or its equivalent on deposit as a business) shall own stock in a stock association. Notwithstanding any other provision of this Chapter, a corporate trustee shall be permitted to hold legal ownership of stock in a stock association when such stock constitutes all or a portion of the corpus of a trust.

(d) No dividends on stock shall be paid unless the association has the approval of the administrator.

"§ 54B-44 to § 54B-51. Reserved for future codification purposes.

"ARTICLE 4.

"Supervision and Regulation.

"§ 54B-52. Administrator of Savings and Loan Division. — The Administrator of the Savings and Loan Division of the State is hereby empowered and directed to perform all the duties and exercise all the powers as to savings and loan associations organized or operated under this Chapter, unless herein otherwise provided.

"§ 54B-53. Savings and Loan Commission. — (a) The Savings and Loan Commission, which has heretofore been created, shall continue to exist and the seven members of the Savings and Loan Commission who have heretofore been appointed by the Governor shall continue to serve their full terms and their successors shall be appointed by the Governor as required by this section. The Governor shall on July 1, 1981, appoint three persons to the Commission for four-year terms. On July 1, 1983, he shall appoint two persons to the Commission for three-year terms, and two persons for four-year terms. All appointments to the Commission thereafter shall be for four-year terms. Any vacancy on the Commission shall be filled by the Governor for the unexpired term. A newly appointed Commissioner shall assume office at the first regular or special meeting subsequent to his appointment.

(b) The members of the Commission shall elect one of their number to serve as chairman of the Commission for such term as set forth in rules adopted by the Commission. A vice-chairman and other officers may be elected as specified by the Commission.

(c) The term of a Commissioner shall be four years, or until his successor is appointed and qualified.

(d) At least two members of the Commission shall be persons who are currently serving as managing officers of State associations. Four members of the Commission shall be appointed as representatives of the borrowing public and shall not be employees of or directors of any financial institution or have an interest in any financial institution other than as a result of being a depositor or borrower.

(e) Meetings of the Commission shall be held regularly as provided in rules adopted by the Commission but no less than once each calendar quarter. Special meetings shall be held at any time upon the call of the chairman, or upon the call of any three Commissioners. The administrator shall call meetings when consideration by the Commission is required by law for contemplated action of the administrator. Members of the Commission shall be reimbursed as prescribed by law for expenses incurred in the performance of their duties under this section.

(f) The relationship between the Secretary of Commerce and the Savings and Loan Commission shall be as defined for a Type II transfer under Article 143A of the General Statutes.

(g) The Savings and Loan Commission is hereby vested with full power and authority to review, approve, disapprove, or modify any action taken by the administrator in the exercise of all powers, duties and functions vested in or exercised by the administrator under the savings and loan laws of this State.

"§ 54B-54. Deputy administrator of Savings and Loan Division. — (a) There shall be a deputy administrator of the Savings and Loan Division who, in the event of the absence, death, resignation, disability or disqualification of the administrator, or in case the office of administrator shall for any reason become vacant, shall have and exercise all the powers and duties vested by law in the administrator.

(b) The deputy administrator is authorized and empowered at any and all times to perform such duties and exercise such powers of the administrator as the administrator may direct.

"§ 54B-55. Power of administrator to promulgate rules and regulations; reproduction of records. — (a) The administrator shall have the right, and is empowered, to promulgate rules, instructions and regulations as may be necessary to the discharge of his duties and powers as to savings and loan associations for the supervision and regulation of said associations, and for the protection of the public investing in said savings and loan associations.

(b) Without limiting the generality of the foregoing paragraph, rules, instructions, and regulations may be promulgated with respect to:

- (1) reserve requirements;
- (2) stock ownership and dividends;
- (3) stock transfers;
- (4) incorporators, stockholders, directors, officers and employees of an association;
- (5) bylaws
- (6) the Savings and Loan Commission;
- (7) the structure of the office of the administrator;
- (8) the operation of associations;
- (9) withdrawable accounts, bonus plans, and contracts for savings programs;
- (10) loans and loan expenses;
- (11) investments;
- (12) forms and definitions;
- (13) types of financial records to be maintained by associations;
- (14) retention periods of various financial records;
- (15) internal control procedures of associations;
- (16) conduct and management of associations;
- (17) chartering and branching;
- (18) liquidations;
- (19) mergers;
- (20) conversions;
- (21) reports which may be required by the administrator;
- (22) conflicts of interest;

- (23) collection of State savings and loan taxes;
- (24) service corporations; and
- (25) savings and loan holding companies.

(c) In order to supervise the continuing operation of stock associations, the administrator shall promulgate rules to ensure the compliance by such associations.

(d) Any association may cause any or all records by it to be recorded, copied or reproduced by any photographic, photostatic or miniature photographic process which correctly, accurately, permanently copies, reproduces or forms a medium for copying or reproducing the original record on a film or other durable material.

(e) Any such photographic, photostatic or miniature photographic copy or reproduction shall be deemed to be an original record in all courts and administrative agencies for the purpose of its admissibility in evidence. A facsimile, exemplification or certified copy of any such photographic copy or reproduction shall, for all purposes, be deemed a facsimile, exemplification or certified copy of the original record.

(f) The provisions of this section with reference to the retention and disposition of records shall apply to any federal savings and loan association operating in North Carolina unless in conflict with regulations prescribed by its supervisory authority.

"§ 54B-56. Examinations by administrator, report. — (a) If at any time the administrator deems it prudent, it shall be his duty to examine and investigate everything relating to the business of a State association or a savings and loan holding company, and to appoint a suitable and competent person to make such investigation, who shall file with the administrator a full report of his finding in such case, including in his report any violation of law or any unauthorized or unsafe practices of the association disclosed by his examination.

(b) The administrator shall furnish a copy of the report to the association examined and may, upon request, furnish a copy of or excerpts from the report to the Federal Home Loan Bank Board, a Federal Home Loan Bank, any mutual deposit guaranty association organized and operated under the provisions of Article 12 of this Chapter, or the Federal Savings and Loan Insurance Corporation or its successor.

(c) No association may willfully delay or willfully obstruct an examination in any fashion. Any person failing to comply with this subsection shall be guilty of a misdemeanor.

(d) No person having in his possession or control any books, accounts or papers of any State association shall refuse to exhibit same to the administrator or his agents on demand, or shall knowingly or willingly make any false statement in regard to the same. Any person failing to comply with this subsection shall be guilty of a misdemeanor.

"§ 54B-57. Supervision and examination fees. — (a) Every State association, including associations in process of voluntary liquidation or savings and loan holding company, shall pay into the office of the administrator each July a supervisory fee. Examination fees shall be paid promptly upon an association's receipt of the examination billing. The administrator, subject to the advice and consent of the Commission, shall, on or before June 1 of each year:

- (1) determine and fix the scale of supervisory and examination fees to be assessed and collected during the next fiscal year;
- (2) determine and fix the amount of the fee and set the fee collection schedule for the fees to be assessed to and collected from applicants to defray the cost of processing their charter, branch, merger, conversion, location change and name change applications and all fees associated with foreign associations.

(b) All funds and revenue collected by the Division under the provisions of this section and the provisions of all other sections of this Chapter which authorize the collection of fees and other funds shall be deposited with the State Treasurer of North Carolina and expended under the terms of the Executive Budget Act, solely to defray expenses incurred by the office of the administrator in carrying out its supervisory and auditing functions.

(c) Notwithstanding any of the provisions of subsections (a) and (b) of this section, whenever the administrator under the provisions of G.S. 54B-56 appoints a suitable and competent person, other than a person employed by the administrator's office, to make an examination and investigation of the business of a State association, all costs and expenses relative to such examination and investigation shall be paid by such association.

"§ 54B-58. Prolonged audit, examination or revaluation; payment of costs. — (a) If, in the opinion of the administrator, an examination conducted under the provisions of G.S. 54B-57 fails to disclose the complete financial condition of an association, he may in order to ascertain its complete financial condition:

- (1) make an extended audit or examination of the association or cause such an audit or examination to be made by an independent auditor;
- (2) make an extended revaluation of any of the assets or liabilities of the association or cause an independent appraiser to make such revaluation.

(b) The administrator shall collect from the association a reasonable sum for actual or necessary expenses of such an audit, examination or revaluation.

"§ 54B-59. Cease and desist orders. — (a) If any person or association is engaging in, or has engaged in, any unsafe or unsound practice or unfair and discriminatory practice in conducting the association's business, or of any other law, rule, regulation, order or condition imposed in writing by the administrator, the administrator may issue a notice of charges to such person or association. A notice of charges shall specify the acts alleged to sustain a cease and desist order, and state the time and place at which a hearing shall be held. A hearing before the Commission on the charges shall be held no earlier than seven days, and no later than 14 days after issuance of the notice. The charged institution is entitled to a further extension of seven days upon filing a request with the administrator. The administrator may also issue a notice of charges if he has reasonable grounds to believe that any person or association is about to engage in any unsafe or unsound business practice, or any violation of this Chapter, or any other law, rule, regulation or order. If, by a preponderance of the evidence, it is shown that any person or association is engaged in, or has been engaged in, or is about to engage in, any unsafe or unsound business practice, or unfair and discriminatory practice or any violation of this Chapter, or any other law, rule, regulation, or order, a cease and desist order shall be issued. The Commission may issue a temporary cease and desist order to be effective for 14 days and may be extended once for a period of 14 days.

(b) If any person or State association is engaging in, has engaged in, or is about to engage in any unsafe or unsound practice in conducting the association's business, or any violation of this Chapter or of any other law, rules, regulation, order, or condition imposed in writing by the administrator, and the administrator has determined that immediate corrective action is required, the administrator may issue a temporary cease and desist order. A temporary cease and desist order shall be effective immediately upon issuance for a period of 14 days, and may be extended once for a period of 14 days. Such an order shall state its duration on its face and the words, 'Temporary Cease and Desist Order'. A hearing before the Commission shall be held within such time as such an order remains effective, at which time a temporary order may be dissolved or made permanent.

"§ 54B-60. Administrator to have right of access to books and records of association; right to issue subpoenas, administer oaths, examine witnesses. — (a) The administrator and his agents:

- (1) shall have free access to all books and records of an association, or a service corporation thereof, that relate to its business, and the books and records kept by an officer, agent or employee relating to or upon which any record is kept;
- (2) may subpoena witnesses and administer oaths or affirmations in the examination of any director, officer, agent, or employee of an association, or

a service corporation thereof or of any other person in relation to its affairs, transactions and conditions;

(3) may require the production of records, books, papers, contracts and other documents; and

(4) may order that improper entries be corrected on the books and records of an association.

(b) The administrator may issue subpoenas duces tecum.

(c) If a person fails to comply with a subpoena so issued or a party or witness refuses to testify on any matters, a court of competent jurisdiction, on the application of the administrator, shall compel compliance by proceedings for contempt as in the case of disobedience of the requirements of a subpoena issued from such court or a refusal to testify in such court.

"§ 54B-61. Test appraisals of collateral for loans; expense paid. — (a) The administrator may direct the making of test appraisals of real estate and other collateral securing loans made by associations doing business in this State, employ competent appraisers, or prescribe a list from which competent appraisers may be selected, for the making of such appraisals by the administrator, and do any and all other acts incident to the making of such test appraisals.

(b) In lieu of causing such appraisals to be made, the administrator may accept an appraisal caused to be made by a Federal Home Loan Bank, the Federal Home Loan Bank Board or by the Federal Savings and Loan Insurance Corporation or any mutual deposit guaranty association organized and operating under the provisions of Article 12 of this Chapter.

(c) The expense and cost of test appraisals made pursuant to this section shall be defrayed by the association subjected to such test appraisals, and each association doing business in this State shall pay all reasonable costs and expenses of such test appraisals when it shall be directed.

"§ 54B-62. Relationship of savings and loan associations with the Savings and Loan Division. — (a) Except as provided by subsection (b) of this section, a savings and loan association or any director, officer, employee, or representative thereof shall not grant or give to the administrator or to any employee of the administrator's office, or to their spouses, any loan or gratuity, directly or indirectly.

(b) Neither the administrator nor any person on the staff of the Savings and Loan Division shall:

(1) hold an office or position in any State association or exercise any right to vote on any State association matter by reason of being a member of the association;

(2) be interested, directly or indirectly in any savings and loan association organized under the laws of this State; or

(3) undertake any indebtedness, as a borrower directly or indirectly or endorser, surety or guarantor, or sell or otherwise dispose of any loan or investment to any savings and loan association organized under the laws of this State.

(c) Notwithstanding subsection (b) of this section, the administrator or any other person employed in or by his office may be a withdrawable account holder and receive earnings on such account.

(d) If the administrator or other person has any prohibited right or interest in a savings and loan association, either directly or indirectly, at the time of his appointment or employment, he shall dispose of it within 60 days after the date of his appointment, or employment. If the administrator or other such person is indebted as borrower directly or indirectly, or is an endorser, surety or guarantor on a note, at the time of his appointment or employment, he may continue in such capacity until such loan is paid off.

"§ 54B-63. Confidential information. — (a) The following records or information of the Commission, the administrator or the agent(s) of either shall be confidential and shall not be disclosed:

(1) information obtained or compiled in preparation of or anticipation of, or during an examination, audit or investigation of any association;

(2) information reflecting the specific collateral given by a named borrower, the specific amount of stock owned by a named stockholder, or specific withdrawable accounts held by a named member or customer;

(3) information obtained, prepared or compiled during or as a result of an examination, audit or investigation of any association by an agency of the United States, if the records would be confidential under federal law or regulation;

(4) information and reports submitted by associations to federal regulatory agencies, if the records or information would be confidential under federal law or regulation;

(5) information and records regarding complaints from the public received by the division which concern associations when the complaint would or could result in an investigation, except to the management of those associations;

(6) any other letters, reports, memoranda, recordings, charts or other documents or records which would disclose any information of which disclosure is prohibited in this subsection.

(b) A court of competent jurisdiction may order the disclosure of specific information.

(c) The information contained in an application shall be deemed to be public information. Disclosure shall not extend to the financial statement of the incorporators nor to any further information deemed by the administrator to be confidential.

(d) Nothing in this section shall prevent the exchange of information relating to associations and the business thereof with the representatives of the agencies of this State, other states, or of the United States, or with reserve or insuring agencies for associations. The private business and affairs of an individual or company shall not be disclosed by any person employed by the Savings and Loan Division, any member of the Commission, or by any person with whom information is exchanged under the authority of this subsection.

(e) Any official or employee violating this section shall be liable to any person injured by disclosure of such confidential information for all damages sustained thereby. Penalties provided shall not be exclusive of other penalties.

"§ 54B-64. Civil penalties; State associations. — (a) Except as otherwise provided in this Article, any association which is found to have violated any provision of this Article may be ordered to forfeit and pay a civil penalty of up to twenty thousand dollars (\$20,000). Any association which is found to have violated or failed to comply with any cease and desist order issued under the authority of this Article may be ordered to forfeit or pay a civil penalty of up to twenty thousand dollars (\$20,000) for each day that the violation or failure to comply continues.

(b) To enforce the provisions of this section, the administrator is authorized to assess such a penalty and to appear in a court of competent jurisdiction and to move the court to order payment of the penalty. Prior to the assessment of the penalty, a hearing shall be held by the administrator which shall comply with the provisions of Article 3 of Chapter 150A of the General Statutes.

(c) If the administrator determines that, as a result of a violation of any provision of this Article, or of a failure to comply with any cease and desist order issued under the authority of this Article, a situation exists requiring immediate corrective action, the administrator may impose the civil penalty in this section on the association without a prior hearing, and said penalty shall be effective as of the date of notice to the association. Imposition of such penalty may be directly appealed to the Wake County Superior Court.

(d) Nothing in this section shall prevent anyone damaged by a State association from bringing a separate cause of action in a court of competent jurisdiction.

"§ 54B-65. Civil penalties; directors, officers and employees. — (a) Any person, whether a director, officer or employee, who is found to have violated any provision of this Article, whether willfully or as a result of gross negligence, gross incompetency, or recklessness, may be ordered to forfeit and pay a civil penalty of up to five thousand dollars (\$5,000) per violation. Any person who is found to have violated or failed to comply with any cease and desist order issued under the authority of this Article, may be ordered to forfeit and pay a civil penalty of up to five thousand dollars (\$5,000) per violation for each day that the violation or failure to comply continues.

(b) To enforce the provisions of this section, the administrator is authorized to assess such a penalty and to appear in a court of competent jurisdiction and to move the court to order payment of the penalty. Prior to the assessment of the penalty, a hearing shall be held by the administrator which shall comply with the provisions of Article 3 of Chapter 150A of the General Statutes.

(c) Whenever the administrator shall determine that an emergency exists which requires immediate corrective action, the administrator, either before or after instituting any other action or proceeding authorized by this Article, may request the Attorney General to institute a civil action in a court of competent jurisdiction, in the name of the State upon the relation of the administrator seeking injunctive relief to restrain or enjoin the violation or threatened violation of this Article and for such other and further relief as the court may deem proper. Instituting an action for injunctive relief shall not relieve any party to such proceedings from any civil or criminal penalty prescribed for violation of this Article.

(d) Nothing in this section shall prevent anyone damaged by a director, officer or employee of a State association from bringing a separate cause of action in a court of competent jurisdiction.

"§ 54B-66. Criminal penalties. — (a) The provisions of this section shall in no event extend to persons who are found to have acted only with gross negligence, simple negligence, recklessness or incompetence.

(b) In addition to any of the other penalties or remedies provided by this Article, the following shall be deemed to be misdemeanors and shall be punishable as provided in Chapter 14 of the North Carolina General Statutes:

- (1) The willful or knowing violation of the provisions of this Article by any employee of the Savings and Loan Division.
- (2) The willful or knowing violation of a cease and desist order which has become final in that no further administrative or judicial appeal is available.

(c) In addition to any of the other penalties or remedies provided by this Article, the willful omission, making, or concurrence in making or publishing a written report, exhibit, or entry in a financial statement on the books of the association, which contains a material statement known to be false shall be deemed to be a misdemeanor and shall be punishable as provided in Chapter 14 of the North Carolina General Statutes. For purposes of this section, 'material' shall mean 'so substantial and important as to influence a reasonable and prudent businessman or investor'.

(d) The administrator is authorized to enforce this section in a court of competent jurisdiction.

"§ 54B-67. Primary jurisdiction. — Whenever an agency of the United States Government shall defer to the administrator, or notify the administrator of pending action against an association chartered by this State or fail to exercise its authority over any State or federally chartered association doing business in this State, the administrator shall have the authority to exercise jurisdiction over such association.

"§ 54B-68. Supervisory control. — (a) Whenever the administrator determines that an association is conducting its business in an unsafe or unsound manner or in any fashion which threatens the financial integrity or sound operation of the association, the administrator may

serve a notice of charges on the association, requiring it to show cause why it should not be placed under supervisory control. Such notice of charges shall specify the grounds for supervisory control, and set the time and place for a hearing. A hearing before the Commission pursuant to such notice shall be held within 15 days after issuance of the notice of charges, and shall comply with the provisions of Article 3 of Chapter 150A of the General Statutes.

(b) If, after the hearing provided above, Commission determines that supervisory control of the association is necessary to protect the association's members, customers, stockholders or creditors, or the general public, the administrator shall issue an order taking supervisory control of the association. An appeal may be filed in the Wake County Superior Court.

(c) If the order taking supervisory control becomes final, the administrator may appoint an agent to supervise and monitor the operations of the association during the period of supervisory control. During the period of supervisory control, the association shall act in accordance with such instructions and directions as may be given by the administrator directly or through his supervisory agent and shall not act or fail to act except when to do so would violate an outstanding cease and desist order.

(d) Within 180 days of the date the order taking supervisory control becomes final, the administrator shall issue an order approving a plan for the termination of supervisory control. The plan may provide for:

- (1) the issuance by the association of capital stock;
- (2) the appointment of one or more officers and/or directors;
- (3) the reorganization, merger, or consolidation of the association;
- (4) the dissolution and liquidation of the association.

The order approving the plan shall not take effect for 30 days during which time period an appeal may be filed in the Wake County Superior Court.

(e) The costs incident to this proceeding shall be paid by the association, provided such costs are found to be reasonable.

(f) For the purposes of this section, an order shall be deemed final if:

- (1) no appeal is filed within the specific time allowed for the appeal, or
- (2) after all judicial appeals are exhausted.

"§ 54B-69. Removal of directors, officers and employees. — (a) If, in the administrator's opinion, one or more directors, officers or employees of any association has participated in or consented to any violation of this Chapter, or any other law, rule, regulation or order, or any unsafe or unsound business practice in the operation of any association; or any insider loan not specifically authorized by or pursuant to this Chapter; or any repeated violation of or failure to comply with any association's bylaws, the administrator may serve a written notice of charges upon the director, officer or employee in question, and the association, stating his intent to remove said director, officer or employee. Such notice shall specify the conduct and place for the hearing before the Commission to be held. A hearing shall be held no earlier than 15 days and no later than 30 days after the notice of charges is served, and it shall comply with the provisions of Article 3 of Chapter 150A of the General Statutes. If, after the hearing, the Commission determines that the charges asserted have been proven by a preponderance of the evidence, the administrator may issue an order removing the director, officer or employee in question. Such an order shall be effective upon issuance and may include the entire board of directors or all of the officers of the association.

(b) If it is determined that any director, officer or employee of any association has knowingly participated in or consented to any violation of this Chapter, or any other law, rule, regulation or order, or engaged in any unsafe or unsound business practice in the operation of any association, or any repeated violation of or failure to comply with any association's bylaws, and that as a result, a situation exists requiring immediate corrective action, the administrator may issue an order temporarily removing such person or persons pending a hearing. Such an

order shall state its duration on its face and the words, 'Temporary Order of Removal', and shall be effective upon issuance, for a period of 15 days, and may be extended once for a period of 15 days. A hearing must be held within 10 days of the expiration of a temporary order, or any extension thereof, at which time a temporary order may be dissolved or converted to a permanent order.

(c) Any removal pursuant to Subsections (a) or (b) of this section shall be effective in all respects as if such removal had been made by the board of directors, the members or the stockholders of the association in question.

(d) Without the prior written approval of the administrator, no director, officer or employee permanently removed pursuant to this section shall be eligible to be elected, reelected or appointed to any position as a director, officer or employee of that association, nor shall such a director, officer or employee be eligible to be elected to or retain a position as a director, officer or employee of any other State association.

"§ 54B-70. Involuntary liquidation. — (a) The administrator with prior approval of the Commission may take custody of the books, records and assets of every kind and character of any association organized and operated under the provisions of this Chapter for any of the purposes hereinafter enumerated, if it reasonably appears from examinations or from reports made to the administrator that:

- (1) the directors, officers, or liquidators have neglected, failed or refused to take such action which the administrator may deem necessary for the protection of the association, or have impeded or obstructed an examination; or
- (2) the withdrawable capital of the association is impaired to the extent that the realizable value of its assets is insufficient to pay in full its creditors and holders of withdrawable accounts; or its liquidity fund or General Reserve Account is impaired; or
- (3) the business of the association is being conducted in a fraudulent, illegal or unsafe manner, or that the association is in an unsafe or unsound condition to transact business; (any association which, except as authorized in writing by the administrator, fails to make full payment of any withdrawal when due is in an unsafe or unsound condition to transact business, notwithstanding such provisions of the certificate of incorporation or such statutes or regulations with respect to payment of withdrawals in event an association does not pay all withdrawals in full); or
- (4) the officers, directors, or employees have assumed duties or performed acts in excess of those authorized by statute or regulation or charter, or without supplying the required bond; or,
- (5) the association has experienced a substantial dissipation of assets or earnings due to any violation or violations of statute or regulation, or due to any unsafe or unsound practice or practices; or
- (6) the association is insolvent, or is in imminent danger of insolvency or has suspended its ordinary business transactions due to insufficient funds; or
- (7) the association is unable to continue operations.

(b) Unless the administrator finds that such an emergency exists which may result in loss to members, withdrawable account holders, stockholders, or creditors, and which requires that he take custody immediately, he shall first give written notice to the directors and officers specifying the conditions criticized and allowing a reasonable time in which corrections may be made before a receiver shall be appointed as outlined in subsection (d) below.

(c) The purposes for which the administrator may take custody of an association include examination or further examination; conservation of its assets; restoration of impaired capital; the making of any reasonable or equitable adjustment deemed necessary by the administrator under any plan of reorganization.

(d) If the administrator after taking custody of an association, finds that one or more of the reasons for having taken custody continue to exist through the period of his custody, with little or no likelihood of amelioration of the situation, then he shall appoint as receiver or co-receiver any qualified person, firm or corporation for the purpose of liquidation of the association, which receiver shall furnish bond in form, amount and with surety as the administrator may require. The administrator may appoint the association's withdrawable account insurance corporation or its nominee as the receiver, and such insuring corporation shall be permitted to serve without posting bond.

(e) In the event the administrator appoints a receiver for an association, he shall mail a certified copy of the appointment order by certified mail to the address of the association as it shall appear on the records of the Division, and to any previous receiver or other legal custodian of the association, and to any court or other authority to which such previous receiver or other legal custodian is subject. Notice of such appointment shall be published in a newspaper of general circulation in the county where such association has its principal office.

(f) Whenever a receiver for an association is appointed pursuant to subsection (d) above the association may within 30 days thereafter bring an action in the Superior Court of Wake County, for an order requiring the administrator to remove such receiver.

(g) The duly appointed and qualified receiver shall take possession promptly of the association for which he or it has been so appointed, in accordance with the terms of such appointment, by service of a certified copy of the administrator's appointment order upon the association at its principal office through the officer or employee who is present and appears to be in charge. Immediately upon taking possession of the association, the receiver shall take possession and title to books, records and assets of every description of such association. The receiver, by operation of law and without any conveyance or other instrument, act or deed, shall succeed to all the rights, titles, powers and privileges of the association, its members or stockholders, holders of withdrawable accounts, its officers and directors or any of them; and to the titles to the books, records and assets of every description of any previous receiver or other legal custodian of such association. Such members, stockholders, holders of withdrawable accounts, officers or directors, or any of them, shall not thereafter, except as hereinafter expressly provided, have or exercise any such rights, powers or privileges or act in connection with any assets or property of any nature of the association in receivership: Provided however, that any officer, director, member, stockholder, withdrawable account holder, or borrower of such association shall have the right to communicate with the administrator with respect to such receivership. The administrator, with the approval of the Commission, may at any time, direct the receiver to return the association to its previous or a newly constituted management. The administrator may provide for a meeting or meetings of the members or stockholders for any purpose, including, without any limitation on the generality of the foregoing, the election of directors or an increase in the number of directors, or both, or the election of an entire new board of directors; and may provide for a meeting or meetings of the directors for any purpose including, without any limitation on the generality of the foregoing, the filling of vacancies on the board, the removal of officers and the election of new officers, or for any of such purposes. Any such meeting of members or stockholders, or of directors, shall be supervised or conducted by a representative of the administrator.

(h) A duly appointed and qualified receiver shall have power and authority to:

- (1) demand, sue for, collect, receive and take into his possession all the goods and chattels, rights and credits, moneys and effects, lands and tenements, books, papers, choses in action, bills, notes, and property of every description of the association;
- (2) foreclose mortgages, deeds of trust, and other liens executed to the association to the extent the association would have had such right;

- (3) institute suits for the recovery of any estate, property, damages, or demands existing in favor of the association, and he shall, upon his own application, be substituted as party plaintiff in the place of the association in any suit or proceeding pending at the time of his appointment;
- (4) sell, convey, and assign all the property rights and interest owned by the association;
- (5) appoint agents to serve at his pleasure;
- (6) examine and investigate papers and persons, and pass on claims as provided in the regulations as prescribed by the administrator;
- (7) make and carry out agreements with the insuring corporation or with any other financial institution for the payment or assumption of the association liabilities, in whole or in part, and to sell, convey, transfer, pledge, or assign assets as security or otherwise and to make guarantees in connection therewith; and
- (8) perform all other acts which might be done by the employees, officers and directors.

Such powers shall be continued in effect until liquidation and dissolution or until return of the association to its prior or newly constituted management.

(i) A receiver may at any time during the receivership and prior to final liquidation be removed and a replacement appointed by the administrator.

(j) The administrator may determine that such liquidation proceedings should be discontinued. He shall then remove the receiver and restore all the rights, powers, and privileges of its members and stockholders, customers, employees, officers and directors, or restore such rights, powers, and privileges to its members, stockholders and customers, and grant such rights, powers and privileges to a newly constituted management, all as of the time of such restoration of the association to its management unless another time for such restoration shall be specified by the administrator. The return of an association to its management or to a newly constituted management from the possession of a receiver shall, by operation of law and without any conveyance or other instrument, act or deed, vest in such association the title to all property held by the receiver in his capacity as receiver for such association.

(k) A receiver may also be appointed under the authority of G.S. 1-502. No judge or court, however, shall appoint a receiver for any State association unless five days' advance notice of the motion, petition or application for appointment of a receiver shall have been given to such association and to the administrator.

(l) Following the appointment of a receiver, the administrator shall request the Attorney General to institute an action in the name of the administrator in the superior court against the association for the orderly liquidation and dissolution of the association, and for an injunction to restrain the officers, directors and employees from continuing the operation of the association.

(m) Claims against a State association in receivership shall have the following order of priority for payment:

- (1) costs, expenses and debts of the association incurred on or after the date of the appointment of the receiver, including compensation for the receiver;
- (2) claims of general creditors;
- (3) claims of holders of special purpose or thrift accounts;
- (4) claims of holders of withdrawable accounts;
- (5) claims of stockholders of a stock association;
- (6) all remaining assets to members and stockholders in an amount proportionate to their holdings as of the date of the appointment of the receiver.

(n) All claims of each class described within subsection (m) above shall be paid in full so long as sufficient assets remain. Members of the class for which the receiver cannot make payment in full because assets will be depleted during payment to such class shall be paid an amount proportionate to their total claims.

(o) The administrator shall have the authority to direct the payment of claims for which no provision is herein made, and may direct the payment of claims within a class. The administrator shall have the authority to promulgate rules and regulations governing the payment of claims by an association in receivership.

(p) When all assets of the association have been fully liquidated, and all claims and expenses have been paid or settled, and the receiver shall recommend a final distribution, the dissolution of the association in receivership shall be accomplished in the following manner:

- (1) The receiver shall file with the administrator a detailed report, in a form to be prescribed by the administrator, of his acts and proposed final distribution, and dissolution.
- (2) Upon the administrator's approval of the final report of the receiver, the receiver shall provide such notice and thereafter shall make such final distribution, in such manner as the administrator may direct.
- (3) When a final distribution has been made except as to any unclaimed funds, the receiver shall deposit such unclaimed funds with the administrator and shall deliver to the administrator all books and records of the dissolved association.
- (4) Upon completion of the foregoing procedure, and upon the joint petition of the administrator and receiver to the superior court, the court may find that the association should be dissolved, and following such publication of notice of dissolution as the court may direct, the court may enter a decree of final resolution and the association shall thereby be dissolved.
- (5) Upon final dissolution of the association in receivership or at such time as the receiver shall be otherwise relieved of his duties, the administrator shall cause an audit to be conducted, during which the receiver shall be available to assist in such. The accounts of the receiver shall then be ruled upon by the administrator and Commission and if approved, the receiver shall thereupon be given a final and complete discharge and release.

"§ 54B-71. Judicial review. — Any person or State Association against whom a cease and desist order is issued or a fine is imposed may have such order or fine reviewed by a court of competent jurisdiction. Except as otherwise provided, an appeal may be made only within 30 days of the issuance of the order or the imposition of the fine, whichever is later.

"§ 54B-72. Indemnity — No person who is fined or penalized for a violation of any criminal provision of this Article shall be reimbursed or indemnified in any fashion by the association for such fine or penalty.

"§ 54B-73. Cumulative penalties. — All penalties, fines, and remedies provided by this Article shall be cumulative.

"§ 54B-74. Annual license fees. — All State associations shall pay an annual license fee of twenty-five dollars (\$25.00) and may be licensed upon filing with the administrator an application in such form as the administrator may prescribe. Such license fee shall be used to defray the expenses incurred by the Division in supervising State associations.

"§ 54B-75. Statement filed by association; fees. — Every State association shall file in the office of the administrator, on or before the first day of February in each year, in such form as the administrator shall prescribe, a statement of the business standing and financial condition of such association on the preceding 31st day of December, signed and sworn to by the managing officer and secretary thereof before the administrator, or before a notary public. The

administrator shall collect a fee of five dollars (\$5.00) from each association filing such statement, and the fees shall be paid into the State treasury to be credited to the General Fund.

"§ 54B-76. Statement examined, approved, and published. — It shall be the duty of the administrator to receive and thoroughly examine each annual statement required by G.S. 54B-75, and if made in compliance with the requirements thereof, each State association shall publish an abstract of the same in one of the newspapers of the State, to be selected by the managing officer making the statement, and at the expense of the association.

"§ 54B-77. Certain powers granted to State associations. — (a) In addition to the powers granted under this Chapter, any savings and loan association incorporated or operated under the provisions of this Chapter is herein authorized to:

- (1) establish off the premises of any principal office or branch a customer communications terminal, point-of-sale terminal, automated teller machine, automated or other direct or remote information-processing device or machine, whether manned or unmanned, through or by means of which funds or information relating to any financial service or transaction rendered to the public is stored and transmitted, instantaneously or otherwise to or from an association terminal or terminals controlled or used by or with other parties; and the establishment and use of such a device or machine shall not be deemed to constitute a branch office and the capital requirements and standards for approval of a branch office as set forth in the statutes and regulations, shall not be applicable to the establishment of any such off-premises terminal, device or machine; and associations may through mutual consent share on-premises unmanned automated teller machines and cash dispensers. The administrator may prescribe rules and regulations with regard to the application for permission to use, maintenance and supervision of said terminals, devices and machines;
- (2) subject to such regulations as the administrator may prescribe, a State-chartered association is authorized to issue credit cards, extend credit in connection therewith, and otherwise engage in or participate in credit card operations;
- (3) subject to such regulations as the administrator may prescribe, a State-chartered association may act as a trustee, executor, administrator, guardian or in any other fiduciary capacity permitted for federal savings and loan associations by the Congress of the United States, Federal Home Loan Bank Board and the Federal Savings and Loan Insurance Corporation;
- (4)
 - (a) in accordance with rules and regulations issued by the administrator, mutual capital certificates may be issued by State-chartered associations and sold directly to subscribers or through underwriters, and such certificates shall constitute part of the general reserve and net worth of the issuing association. The administrator, in the rules and regulations relating to the issuance and sale of mutual capital certificates, shall provide that such certificates:
 - (i) shall be subordinate to all savings accounts, savings certificates, and debt obligations;
 - (ii) shall constitute a claim in liquidation on the general reserves, surplus and undivided profits of the association remaining after the payment of all savings accounts, savings certificates, and debt obligations;
 - (iii) shall be entitled to the payment of dividends; and
 - (iv) may have a fixed or variable dividend rate,

(b) the administrator shall provide in the rules and regulations for charging losses to the mutual capital certificate, reserves, and other net worth accounts.

"§ 54B-78 to 54B-99. Reserved for future codification purposes.

"ARTICLE 5.

"Corporate Administration.

"§ 54B-100. Membership of a mutual association. — The membership of a mutual association organized or operated under the provisions of this Chapter shall consist of:

- (1) those who hold withdrawable accounts in an association; and
- (2) those who borrow funds and those who become obligated on a loan from the association, for such time as the loan remains unpaid and the borrower remains liable to the association for the payment thereof.

Any person in his own right, or in a trust or other fiduciary capacity, or any partnership, association, corporation, political subdivision or public or governmental unit or entity may become a member of a mutual association. Members shall be possessed of such voting rights and such other rights as are provided by an association's certificate of incorporation and bylaws as approved by the administrator. Members are the owners of a mutual association.

"§ 54B-101. Directors. — (a) The directors of a mutual association shall be elected by the members at an annual meeting, held pursuant to the terms of G.S. 54B-106, for such terms as the bylaws of the association may provide. Voting for directors shall be weighted according to the total amount of withdrawable accounts held by a member, subject to a maximum number of votes per member. Such requirements shall be fully prescribed in a detailed manner in the bylaws of the association.

(b) The directors of a stock association shall be elected by the stockholders at an annual meeting, held pursuant to the terms of G.S. 54B-106, for such terms as the bylaws of the association may provide. Voting for directors shall be weighted according to the number of shares of stock held by a stockholder. Such requirements shall be fully prescribed in a detailed manner in the bylaws of the association.

"§ 54B-102. Officers and employees. — The board of directors may set, in the bylaws, employment policies as are appropriate for the transaction of the business of an association. The managing officer of an association shall be selected by the board of directors. The remaining officers and employees of the association shall be selected by the managing officer.

"§ 54B-103. Duties and liabilities of officers and directors to their associations. — Officers and directors of a State association shall act in a fiduciary capacity towards the association and its members or stockholders. They shall discharge duties of their respective positions in good faith, and with that diligence and care which ordinarily prudent men would exercise under similar circumstances in like positions.

"§ 54B-104. Conflicts of interest. — Each director, officer and employee of a State association has a fundamental duty to avoid placing himself in a position which creates, or which leads to or could lead to a conflict of interest or appearance of a conflict of interest having adverse effects on the interests of members, customers or stockholders of the association, the soundness of the association, and the provision of economical home financing for this State.

"§ 54B-105. Voting rights. — Voting rights in the affairs of a State association may be exercised by members and stockholders by voting either in person or by proxy. The administrator shall promulgate rules and regulations governing forms of proxies, holders of proxies and proxy solicitation.

"§ 54B-106. Annual meetings; notice required. — (a) Each association shall hold an annual meeting of its members or stockholders. The annual meeting shall be held at a time and place as shall be provided in the bylaws or determined by the board of directors.

(b) The board of directors of a mutual association shall cause 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 principal office, a notice of the meeting, signed by the association's secretary, and stating the time and place where it is to be held. In addition to the foregoing notice, each association shall disseminate additional notice of any annual meeting by notice made available to all members entering the premises of any office or branch of the association in the regular course of business by posting therein, in full view of the public and such members, one or more conspicuous signs or placards announcing the pending meeting, the time, date and place of the meeting and the availability of additional information. Printed matter shall be freely available to said members containing any information as may be prescribed in rules and regulations issued by the administrator. Such additional notice shall be given at any time within the period of 60 days prior to and 14 days prior to the meeting and shall continue through the time of the meeting.

(c) The board of directors of a stock association shall cause a written or printed notice signed by the association's secretary, and stating the time and place of the annual meeting to be delivered not less than 10 days nor more than 50 days before the date of the meeting, either personally or by mail to each stockholder of record entitled to vote at the meeting. If mailed, such notice shall be deemed to be delivered when deposited in the United States Postal Service addressed to the stockholder at his address as it appears on the record of stockholders of the corporation, with postage thereon prepaid.

"§ 54B-107. Special meetings; notice required. — (a) Special meetings of members or stockholders of an association may be called by the president or the board of directors or by such other officers or persons as may be provided for in the charter or bylaws of the association.

(b) Notice of any special meeting of members or stockholders shall be given in the same manner as provided for annual meetings under G.S. 54B-106.

"§ 54B-108. Quorum. — Unless otherwise provided in the association's charter or bylaws, 50 holders of withdrawable accounts in a mutual association or 50 stockholders or a majority of shares eligible to vote in a stock association, present in person or represented by proxy, shall constitute a quorum at any annual or special meeting.

"§ 54B-109. Indemnification. — (a) An association shall maintain a blanket indemnity bond of at least a minimum amount as prescribed by the administrator.

(b) An association which employs collection agents, who for any reason are not covered by the bond as hereinabove required, shall provide for the bonding of each such agent in an amount equal to at least twice the average monthly collections of such agent. Such agents shall be required to make settlement with the association at least once monthly. No such coverage by bond will be required of any agent which is a bank insured by the Federal Deposit Insurance Corporation or an association insured by the Federal Savings and Loan Insurance Corporation or a mutual deposit guaranty association. The amount and form of such bonds and the sufficiency of the surety thereon shall be approved by the board of directors and the administrator before such is valid. All such bonds shall provide that a cancellation thereof either by the surety or by the insured shall not become effective unless and until 30 days' notice in writing shall have been given to the administrator.

(c) The administrator may require every member of the board of directors, officer or employee of an association who shall knowingly make, approve, participate in, or assent to, or who knowingly shall permit any of the officers or agents of the association to make investments not authorized by this Chapter, to deposit with the association an indemnity bond, insurance or collateral of a kind and amount sufficient to indemnify the association against damage which the association or its members or stockholders sustain in consequence of such unauthorized investment.

(d) The amount considered sufficient to indemnify the association shall, in the case of an unauthorized loan, be the difference between the book value of the loan and the amount that could legally have been made under the provisions of this Chapter. The amount considered

sufficient to indemnify the association shall, in the case of an unauthorized other investment, be the difference between the book value and the market value of the investment at the time when the administrator makes his determination that such investment is unauthorized. Whenever an unauthorized investment has been sold or disposed of without recourse, the administrator shall release such part of the indemnity as remains after deducting any loss, which amount shall be retained by the association. Whenever the balance of an unauthorized loan has been reduced to an amount which would permit such loan to be made in compliance with the provisions of this Chapter, the indemnity shall be released. The administrator, in making such determination may require an independent appraisal of the security.

(e) The administrator shall cause to be examined annually all such bonds and pass on their sufficiency and either the board of directors or the administrator may require new or additional bonds at any time.

(f) The administrator is empowered to promulgate rules and regulations with respect to litigation expenses and other indemnity matters.

"§ 54B-110 to 54B-120. Reserved for future codification purposes.

"ARTICLE 6.

"Withdrawable Accounts.

"§ 54B-121. Creation of withdrawable accounts. — (a) Every State association shall be authorized to raise capital through the solicitation of investments from any person, natural or corporate, except as restricted or limited by law, or by such regulations as the administrator may prescribe.

(b) Such funds obtained through the solicitation of investments shall be held by an association in accounts designated generally as withdrawable accounts.

(c) An association may establish as many classes of withdrawable accounts as may be provided for in its certificate of incorporation or bylaws, subject to such regulations and limitations as the administrator may prescribe.

(1) At least one class of withdrawable accounts shall be established by which the holder, upon notice to the association, shall be able to withdraw the entire balance of such account without any penalty. The required period of notice, not to exceed 30 days, shall be determined by the board of directors of each association.

(2) For any additional classes of withdrawable accounts that may be established, the board may require a fixed minimum amount of money and a fixed minimum term, at the end of which, the account holder, without any notice on his part, shall be entitled to payment of the final balance of the funds in such account. Such minimum amount and minimum term and the rate of dividends on withdrawable accounts shall be agreed upon prior to the transfer to the association of any funds by the account holder and shall be evidenced by an executed contract. Associations shall mail to each natural person account holder notification of the date of maturity of accounts at least 10 days prior to maturity.

a. An association may impose a penalty upon the holder of such account to be assessed at the time of any withdrawal from the account prior to the date of termination of the minimum term for which the account holder contracted.

b. An association may require that the holder of such an account provide the association with not less than 30 days' notice of an intended withdrawal prior to the date of the termination of the account contract.

c. When the date of termination of such an account is passed, and the account is mature and payable, all payments thereon by the holder

and all dividends on withdrawable account credits thereto by the association shall cease. However, if the holder shall notify the association, prior to the termination date of the account, that he wishes to extend the life of the account, the association shall renew the account and continue to accept payments and/or make dividends on withdrawable account credits or cancel the account as provided under the original contract.

- d. Unless the association receives notification within the proper time period and renews the account, then upon the date of termination, it shall either pay to the holder of the account the final value thereof, or mail a notice to the holder at his last address as it appears on the records of the association to the effect that he is entitled to receive payment for the account.
- e. If the association does not make payment to the holder of the account upon the date of termination and instead mails a notice to him as provided in paragraph (d) above, then until such time as the holder is paid, the account shall earn dividends on withdrawable accounts at a rate not less than the rate which the association is paying on its account or accounts established under Subdivision (1) above, unless provided otherwise by the account contract.
- f. Whenever an association has funds in an amount insufficient to make immediate payment upon the date of termination of an account, or upon an application for withdrawal, the maturity shall be paid in accordance with the provisions of G.S. 54B-124. Whenever such a situation arises, dividends on withdrawable accounts shall be credited to the account at a rate not less than the rate provided for in the account contract.

"§ 54B-122. Additional requirements. — Withdrawable accounts shall be:

- (1) withdrawable upon demand, subject to the requisite advance notice to the association by the holder, as listed in G.S. 54B-121(c)(2)b. and by such regulations as the administrator may prescribe;
- (2) entitled to dividends as provided herein or in such regulations as the administrator may prescribe;
- (3) evidenced by an executed contract setting forth any special terms and provisions applicable to the account and the conditions upon which withdrawal may be made. The form of such contract shall be subject to the prior approval of the administrator and shall be held by the association as part of its records pertaining to the account. The association shall issue to the holder of the account either an account book or certificate as evidence of ownership of the account.

"§ 54B-123. Dividends on withdrawable accounts. — (a) An association shall compute and pay dividends on withdrawable accounts in accordance with such terms and conditions as are herein prescribed, and subject to additional limitation and restrictions as shall be set forth in its bylaws, or certificate of incorporation and resolutions of its board of directors.

(b) Notwithstanding any other provisions of the General Statutes, savings and loan associations shall not be limited in the amount of dividends they may pay on withdrawable accounts. The administrator shall have the authority to insure that no association pays dividends on withdrawable accounts inconsistent with the association's continued solvency, and safe and proper operation.

"§ 54B-124. Withdrawals from withdrawable accounts. — (a) A withdrawable account holder may at any time make written application for withdrawal of all or any part of the

withdrawal value thereof except to the extent the same may be pledged as security for a loan, as recorded by the association. The association shall number, date, and file every unpaid withdrawal application in the order of actual receipt.

(b) An association shall pay the total amount of the withdrawal value of a withdrawable account upon application from the holder of the account, except as otherwise provided in this section. Payment shall be made in full, without exception, to holders of withdrawable accounts whose withdrawable account totals one hundred dollars (\$100.00) or less.

(c) If an association has funds in the treasury and from current receipts in an amount insufficient to pay all long term withdrawable accounts which are mature and due and all applications for withdrawal, then within seven days after such accounts mature or payment is due, the board of directors of such association shall provide by resolution:

- (1) a statement of the amount of money available in each calendar month to pay maturities and withdrawals, in accordance with safe and required operating procedures; provided, that after making provision for expenses, debts, obligations and cash dividends on withdrawable accounts, not less than one hundred percent (100%) of the remainder of cash treasury funds and current receipts shall be made available for the payment of outstanding applications for withdrawal and maturities;
- (2) a list of matured withdrawable accounts in order of their maturity, and if in the same series, in order of issuance within such series; and a list of applications for withdrawal in order of actual receipt;
- (3) for a maximum sum, set by the administrator which shall be paid to any one holder of a withdrawable account, for which a maturity or an application for withdrawal has not been paid, in any one month; and if the maturity or withdrawal due shall exceed the sum so fixed, then the holder shall be paid such sum in his turn according to the due date of the maturity or the filing date of the application; and his application shall be deemed refiled for payment in order in the next month; and such limited payment shall be made on a fixed date in each month for so long as any application or maturity remains unpaid.

(d) A withdrawable account pledged by the holder as sole security or partial security for a loan shall be subject to the withdrawal provisions of this section, but an application for withdrawal from such account shall be paid only if the resulting balance in such account would equal or exceed the outstanding loan balance, or portion thereof, secured by the withdrawable account. However, withdrawal of any additional amount from the account may be permitted, provided that such payment of such withdrawal application shall be applied first to the outstanding balance of the loan.

(e) The contents of a withdrawable account may be accepted by an association in payment or partial payment for any real property or other assets owned by the association and being sold.

(f) The holder of a withdrawable account which is mature and payable or for which application for withdrawal has been made does not become a creditor of the association merely by reason of such payment due to him.

(g) Any such resolution adopted by an association's board of directors pursuant to this section shall be submitted to the administrator for his approval or rejection. If he finds such to be fair to all affected parties, he shall approve it. If he determines otherwise, such resolution shall be rejected and the association shall not implement any of its provisions. The administrator shall issue his findings within 10 days after receipt of the resolution.

(h) The membership in a mutual association of a withdrawable account holder who has filed an application for withdrawal or whose account is mature and due shall remain

unimpaired for so long as any withdrawal value remains to his credit upon the books of the association.

(i) An association may not obligate itself to pay maturities and withdrawals under any provisions other than the ones set forth in this section without prior approval of the administrator.

"§ 54B-125. Emergency limitations. — The administrator, with the approval of the Governor, may impose a limitation upon the amounts withdrawable or payable from withdrawable accounts of State associations during any specifically defined period when such limitation is in the public interest and welfare.

"§ 54B-126. Forced retirement of withdrawable accounts. — (a) At any time that funds may be on hand and available for such a purpose, and the bylaws of an association and withdrawable account contracts so provide, an association shall have the authority and right to redeem all or any portion of its withdrawable accounts which have not been pledged as security for loans by forcing the retirement thereof. The number of and total amount of such withdrawable accounts to be retired by an association shall be determined by the board of directors.

(b) An association shall give notice by certified mail to the last address of each holder of an affected withdrawable account of at least 30 days. The redemption price of withdrawable accounts so retired shall be the full withdrawal value of the account, as determined on the last dividend date, plus all dividends on withdrawable accounts credited or paid as of the effective retirement date. Dividends shall continue to accrue and be paid or credited by the association to the withdrawable accounts to be retired up to and including the effective retirement date.

(c) If the required notice has been properly given, and if on the effective retirement date the funds necessary for payment have been set aside so as to be available, and shall continue to be available therefor, dividends on those withdrawable accounts called for forced retirement shall cease to accrue after the effective retirement date. All rights with respect to such accounts shall, after the effective retirement date, terminate, except only the right of the holder of the retired withdrawable account to receive the full redemption price.

(d) No association may redeem withdrawable accounts by forced retirement whenever it has on file applications for withdrawal, or maturities which have not yet been acted upon and paid. No association may redeem withdrawable accounts by forced retirement until the maturity of any fixed minimum term which may be required for the class of withdrawable accounts to be retired.

"§ 54B-127. Negotiable orders of withdrawal. — Notwithstanding any other provisions of law, the administrator shall by regulation, authorize associations to accept deposits to withdrawable accounts which may be withdrawn or transferred on or by negotiable or transferable order or authorization to the association.

"§ 54B-128. Option on nonnegotiable orders of withdrawal. — Notwithstanding any other provisions of law, the administrator may by regulation authorize State associations to establish nonnegotiable orders or authorizations of withdrawal.

"§ 54B-129. Joint accounts. — (a) Any two or more persons may open or hold a withdrawable account or accounts. The withdrawable account and any balance thereof shall be held by them as joint tenants, with or without right of survivorship, as the contract shall provide. The withdrawable account may be held pursuant to G.S. 41-2.1 and have the incidents set forth in that section, provided, however, if the account is held pursuant to G.S. 41-2.1 the signature card shall set forth that fact. Unless otherwise agreed, payment by the association to any persons holding an account authorized by this section shall be a total discharge of the association's obligation as to the amount so paid. A pledge of such account by any holder or holders shall, unless otherwise specifically agreed upon, be a valid pledge and transfer of such account, or of the amount so pledged, and shall not operate to sever or terminate the joint ownership of all or any part of the account.

(b) Nothing herein contained shall be construed to repeal or modify any of the provisions of G. S. 105-24, relating to the administration of the estate tax laws of this State, or provisions of laws relating to estate taxes; nor shall the provisions herein contained regulate or limit the rights and liabilities of the parties having an interest in such withdrawable account as among themselves, but shall instead regulate, govern and protect the association in its relationship with such joint owners of withdrawable accounts as herein provided.

(c) No addition to such account, nor any withdrawal, payment or revocation shall affect the nature of the account as a joint account.

"§ 54B-130. Trust accounts. — (a) If any one or more persons holding or opening a withdrawable account shall execute a written agreement with the association, providing for the account to be held in the name of such person or persons as trustee or trustees for one or more persons designated as beneficiaries, the account and any balance thereof shall be held as a trust account, and unless otherwise agreed upon between the trustees and the association:

- (1) any such trustee during his lifetime may change any designated beneficiaries by a written direction to the association; and
- (2) any such trustee may withdraw or receive payment in cash or check payable to his personal order, and such payment or withdrawal shall constitute a revocation of the agreement as to the amount withdrawn; and
- (3) upon the death of the surviving trustee, the person or persons designated as beneficiaries who are living at the death of the surviving trustee shall be the holder or holders of the account, as joint owners with right of survivorship if more than one, and payment by the association to the holder or any of them shall be a total discharge of the association's obligation as to the amount paid.

(b) If a person opening or holding a withdrawable account shall execute a written agreement with an association providing that upon the death of the person named as holder, that the account shall be paid to or held by another designated person or persons, then the account and any balance thereof, shall be held as a payment on death account and unless otherwise agreed between the person executing such agreement and the association:

- (1) Upon the death of the holder of such a withdrawable account, the person designated by him and who has survived him shall be the owner of the account, and payment made by the association to any such person shall be a total discharge of the association's obligation as to the amount paid;
- (2) The person to whom such account is issued may change during his lifetime the designation of any of the persons who are to be holders of the account at his death by a written direction to the association; and
- (3) The person to whom such account is issued may withdraw or receive payment, and payment so made by the association shall be a total discharge of the association's liability as to the amount paid.

(c) Whenever no beneficiary of a trust account or no person designated to hold at death in a payment on death account survives the last trustee to die or the person to whom the payment on death account is issued, then the account and any balance thereof which exists shall be held by the trustee or holder of the payment on death account, in his own right and for his own use and benefit unless otherwise agreed upon prior to such death of the last beneficiary or person designated to hold at death.

(d) No addition to such accounts, nor any withdrawal, payment, revocation or change of beneficiary or payee shall affect the nature of such accounts as trust accounts or payment on death accounts.

"§ 54B-131. Right of set-off on withdrawable accounts. — Every association shall have a right of setoff, without further agreement or pledge, upon all withdrawable accounts owned by any member or customer to whom or upon whose behalf the association has made an unsecured

advance of money by loan; and upon the default in the repayment or satisfaction thereof the association may, with 30 days notice to the member or customer, cancel on its books all or any part of the withdrawable accounts owned by such member or customer, and apply the value of such accounts in payment on account of such obligation. Any association may accept the pledge of withdrawable accounts in such association owned by a member or customer, other than the borrower as additional security for any loan secured by a withdrawable account or by a withdrawable account and real property, or as additional security for any real property loan.

"§ 54B-132. Minors as withdrawable account holders. — An association may issue a withdrawable account to a minor as the sole and absolute owner and receive payments, pay withdrawals, accept pledges and act in any other manner with respect to such account on the order of the minor with like effect as if he were of full age and legal capacity. Any payment to a minor shall be a discharge of the association to the extent thereof. The account shall be held for the exclusive right and benefit of the minor free from the control of all persons, except creditors.

"§ 54B-133. Withdrawable accounts as deposit of securities. — Notwithstanding any restrictions or limitations contained in any law of this State, the withdrawable accounts of any State association or of any federal association having its principal office in this State, may be accepted by any agency, department or official of this State in any case wherein such agency, department or official acting in its or his official capacity requires that securities be deposited with such agency, department or official.

"§ 54B-134. New account books. — A new account book or certificate or other evidence of ownership of a withdrawable account may be issued in the name of the holder of record at any time when requested by such holder or his legal representative upon proof satisfactory to the association that the original account book or certificate has been lost or destroyed. Such new account book or certificate shall expressly state that it is issued in lieu of the one lost or destroyed and that the association shall in no way be liable thereafter on account of the original book or certificate. The association may in its bylaws require indemnification against any loss that might result from the issuance of the new account book or certified certificate.

"§ 54B-135. Transfer of withdrawable accounts. — The owner of a withdrawable account may transfer his rights therein absolutely or conditionally to any other person eligible to hold the same but such transfer may be made on the books of the association only upon presentation of evidence of transfer satisfactory to the association, and accompanied by the proper application for transfer by the transferor and transferee, who shall accept such account subject to the terms and conditions of the savings contract, the bylaws of the association, the provisions of its certificate of incorporation, and all rules and regulations of the administrator. Notwithstanding the effectiveness of such a transfer between the parties thereto, the association may treat the holder of record of a withdrawable account as the owner thereof for all purposes, including payment and voting (in the case of a mutual association) until such transfer and assignment has been recorded by the association.

"§ 54B-136. Authority of power of attorney. — An association may continue to recognize the authority of an individual holding a power of attorney in writing to manage or to make withdrawals either in whole or in part from the withdrawable account of a customer or member until it receives written or actual notice of death or of adjudication of incompetency of such member or revocation of the authority of such individual holding such power of attorney. Payment by the association to an individual holding a power of attorney prior to receipt of such notice shall be a total discharge of the association's obligation as to the amount so paid.

"§ 54B-137 to 54B-149. Reserved for future codification purposes.

"ARTICLE 7.

"Loans.

"§ 54B-150. Manner of making loans. — (a) The bylaws of an association shall provide for procedures by which loans are to be considered, approved and made by the association.

(b) All actions on loan applications to the association shall be reported to the board of directors at its next meeting.

"§ 54B-151. Permitted loans. — (a) An association may lend funds on the sole security of pledged withdrawable accounts, but no loan so made shall exceed the withdrawal value of the pledged account. However, no such loan shall be made when an association has applications for withdrawals or maturities which have not been paid.

(b) An association may lend funds on the security of real property:

- (1) of such value, determined in accordance with the provisions of this Chapter and the rules and regulations concerning appraisals, sufficient to provide good and ample security for the loan; and
- (2) which has a fee simple title, totally free from encumbrances except as permitted within this Article; or
- (3) which has a leasehold title extending or renewable automatically or at the option of the holder or at the option of the association for a period of at least 10 years beyond the maturity of the loan; and
- (4) which has a clear title established by such evidence of title as is consistent with sound lending practices; and
- (5) where the security interest in such real property is evidenced by an appropriate written instrument creating or constituting a first and prior lien on real property, and the loan is evidenced by a note, bond or similar written instrument; or
- (6) where the security interest in such real property is evidenced by an appropriate written instrument creating or constituting a second or junior lien on real property which is subject only to a mortgage or deed of trust securing a commercial loan or a residential loan made by the association or another lender; and
- (7) where the security property may be subject also to taxes and special assessments not yet due and payable.

(c) An association may lend funds on the security of the whole of the beneficial interest in a trust in which the trust property consists of real property of the type upon which a loan would be permitted under G.S. 54B-151(b).

(d) An association may lend funds on the security of bonds issued as general obligations of or guaranteed by the United States, bonds issued as general obligations of this State, and bonds issued as general obligations of any county, city, town, village, school district, sanitation or park district, or other political subdivision or municipal corporation of this State. The amount of such loan made under the authority of this subsection shall not exceed ninety percent (90%) of the face value of the bonds which serve as security.

(e) An association may invest in construction loans, the proceeds of which, under the terms of a written contract between a lender and a borrower, are to be disbursed periodically as such construction work progresses. Such loans may include advances for the purchase price of the real property upon which such improvements are to be constructed. Any construction loan may be converted into a loan with permanent financing, and the term of the permanent financing shall be considered to begin at the end of the term allowed for construction.

(f) An association may lend funds without requiring security. No unsecured loan shall exceed the maximum amount authorized by regulation by the administrator.

(g) An association may invest in loans secured by a lien on unimproved real property.

(h) An association may invest in loans secured by the cash surrender value of any life insurance policy on the life of the borrower. However, the amount of such loan shall in no event exceed ninety percent (90%) of the cash surrender value of such life insurance policy.

(i) An association may invest in loans, obligations and advances of credit made for the payment of expenses of college or university education. Such loans may be secured, partly

secured or unsecured, and the association may require a comaker or comakers, an insurance guarantee under a governmental student loan guarantee plan, or other protection against contingencies. The borrower shall certify to the association that the proceeds of the loan are to be used by a full-time student solely for the payment of expenses of college or university education or industrial education center, technical institute or community college education.

(j) An association may lend funds on any collateral deemed sufficient by the board of directors to properly secure loans; however, if the collateral consists of stock or equity securities of any kind, the stock or securities must be listed on a national stock exchange or regularly quoted and offered for trade on an over-the-counter market.

(k) An association may lend funds on the security of a mobile home subject to such rules and regulations governing such loans as may be promulgated by the administrator.

"§ 54B-152. Real property encumbrances. — (a) Real property is deemed encumbered within the meaning of this Chapter unless the security instrument thereon establishes a first lien upon such real property or interest therein.

(b) Notwithstanding the provisions of the immediately preceding subsection, real property is not deemed encumbered within the meaning of this Chapter merely by reason of the existence of:

- (1) an instrument reserving a right-of-way, sewer rights, or rights in wells; or
- (2) building restrictions or other restrictive covenants; or
- (3) a lease under which rents or profits are reserved by the owner; or
- (4) current taxes or assessments not yet payable; or
- (5) other encumbrances which, in accordance with sound lending practices in the locality, are not regarded as constituting defects in title to real property.

"§ 54B-153. Prohibited security. — No association may accept its own capital stock or its own mutual capital certificates as security for any loan made by such association.

"§ 54B-154. Insider loans. — (a) As used in this section, the term:

- (1) 'Company' means any corporation, partnership, limited partnership, business or voting trust, association other than a State association, joint venture, pool syndicate, sole proprietorship, unincorporated organization, or any other form of business entity or trust excepting only corporations owned by the United States or a state.
- (2) 'Control' means that a person:
 - a. directly or indirectly, or acting through other persons or associates, owns, influences, directs, or has the power to vote more than twenty-five percent (25%) of any class of voting securities of a company;
 - b. directs, influences, or has the power to vote the election of a majority of the directors of a company;
 - c. has the power, directly or indirectly, to exercise a controlling or directing influence over the management or policies of a company.

(b) Except as provided in subsection (c) of this section, a State association shall not make any loan or extension of credit to any director, officer, member of the immediate family of such persons, or company controlled by such persons.

(c) A State association may make a loan or extension of credit to any director, officer, member of the immediate family of such persons, or company controlled by such persons where the loan or extension of credit is made in the ordinary course of business of the association and does not involve a more than normal risk of collectibility or present other unfavorable terms to the association. Such loan or extension of credit shall be limited to the following categories:

- (1) loans secured by a single-family dwelling owned and occupied by the borrower as his principal residence;

- (2) loans, in the aggregate not exceeding an amount specified by the rules and regulations, for adding to, improving, altering, repairing, or furnishing a single-family dwelling owned and occupied by the borrower as his principal residence;
- (3) loans secured by a mobile home owned and occupied by the borrower as his principal residence;
- (4) loans secured by withdrawable accounts maintained by the borrower at the association;
- (5) loans, in the aggregate not exceeding an amount specified by the rules and regulations, for payment of educational expenses;
- (6) consumer loans, in the aggregate not exceeding an amount specified by the rules and regulations, which may be made only to natural persons, and which must comply with the association's consumer loan underwriting standards and procedures; and
- (7) loans or extensions of credit specifically related to credit cards, negotiable order of withdrawal accounts and noninterest bearing negotiable order of withdrawal accounts. Such loans in the aggregate shall not exceed an amount specified in the rules and regulations.

(d) Each loan or extension of credit made under this section to any director, officer, member of the immediate family of such persons, or company controlled by such persons shall be approved by a resolution of the board of directors containing a full disclosure. Such resolution shall be approved by an affirmative vote of at least two-thirds of the directors of the association with any interested directors taking no part in the appraisal of the security property or in such vote. For purposes of this section, 'full disclosure' shall mean disclosure as to whether the loan or extension of credit is made on substantially the same terms (including interest rate and collateral) as those for loans or extensions of credit to the general public. With respect to loans made under subdivision (7) of subsection (c) of this section, the resolution shall be adopted with respect to the initial establishment of a line of credit and any increase in such line of credit, but need not be adopted for each extension of credit. Further the resolution need not be adopted for loans made under subdivision (6) of subsection (c) of this section.

"§ 54B-155. Rule-making power of administrator. — The administrator shall, from time to time, promulgate such rules and regulations in respect to loans permitted to be made by State associations as may be reasonably necessary to assure that such loans are in keeping with sound lending practices and to promote the purposes of this Chapter; provided, that such rules and regulations shall not prohibit an association from making any loan which is a permitted loan for federal associations under federal regulatory authority.

"§ 54B-156. Loan expenses and fees. — (a) Subject to the provisions of N.C.G.S. Chapter 24, an association may require borrowers to pay all reasonable expenses incurred by the association in connection with making, closing, disbursing, extending, adjusting or renewing loans. Such charges may be collected by the association from the borrower and paid to any persons, including any director, officer or employee of the association who may render services in connection with the loan, or such charges may be paid directly by the borrower.

(b) An association may require a borrower to pay a reasonable charge for late payments made during the course of repayment of a loan. Subject to the provisions of G.S. 24-10(e) and (f), such payments may be levied only upon such terms and conditions as shall be fixed by the association's board of directors and agreed to by the borrower in the loan contract.

"§ 54B-157. Loans conditioned on certain transactions prohibited. — No association or service corporation thereof shall require as a condition of making a loan that the borrower contract with any specific person or organization for particular services.

"§ 54B-158. Insured or guaranteed loans. — An association may make insured or guaranteed loans in accordance with the provisions of G.S. 53-45.

"§ 54B-159. Purchase of loans. — An association may invest any funds on hand in the purchase of loans of a type which the association could make in accordance with the provisions of this Chapter.

"§ 54B-160. Participation in loans. — An association may invest in a participating interest in loans of a type which the association would be authorized to originate; provided, that the other participants are instrumentalities of or corporations owned solely or in part by the United States or this State, or are State associations, or are federal associations, or are service corporations of State or federal associations.

"§ 54B-161. Sale of loans. — An association may sell without recourse any loan, including any participating interest therein. Loans may be assigned or pledged with recourse to any Federal Home Loan Bank or any mutual deposit guaranty association of which the association is a member or to any bank as a requirement of borrowing.

"§ 54B-162. Power to borrow money. — An association, in its certificate of incorporation or in its bylaws, may authorize the board of directors to borrow money and the board of directors may by resolution adopted by a vote of at least two-thirds of the entire board duly recorded in the minutes may authorize the officers of the association to borrow money for the association on such terms and conditions as it may deem proper; provided, that the total amount of money borrowed shall at no time exceed fifty percent (50%) of the gross assets of the association. However, an association may borrow without limit from any agency or instrumentality of the United States, or from any agency or instrumentality of this State, or from any mutual deposit guaranty association, upon such terms and conditions as the agency, instrumentality or association may impose.

"§ 54B-163. Methods of loan repayment. — Subject to such rules and regulations as the administrator may prescribe, an association shall agree in writing with borrowers as to the method or plan by which an indebtedness shall be repaid.

"§ 54B-164. Loans to one borrower. — The aggregate amount of mortgage loans outstanding granted by an association to any one borrower shall not exceed ten percent (10%) of the net withdrawal value of such association's withdrawable accounts or an amount equal to the total net worth of such association, whichever amount is less.

"§ 54B-165. Professional services. — (a) A State association or service corporation thereof must notify borrowers prior to the loan commitment of their right to select the attorney or law firm rendering legal services in connection with the loan, and the person or organization rendering insurance services in connection with the loan. Such persons or organizations must be approved by the association's board of directors, pursuant to such rules and regulations as the administrator may prescribe.

(b) A State association or service corporation thereof may require borrowers to reimburse such association for legal services rendered to it by its own attorney only when the fee is limited to legal services required by the making of such loan.

"§ 54B-166. Non-conforming investments. — Unless otherwise provided, every loan or other investment made in violation of this Chapter shall be due and payable according to its terms and the obligation thereof shall not be impaired; provided, that such violation consists only of the lending of an excessive sum on authorized security or of investing in an unauthorized investment.

"§ 54B-167. Scope of Article. — Nothing in this Article shall be construed to modify Chapter 24 of the General Statutes, or other applicable law, or to allow fees, charges, or interest beyond that permitted by Chapter 24 or other applicable law.

"§ 54B-168 to 54B-179. Reserved for future codification purposes.

"ARTICLE 8.

"Other Investments.

"§ 54B-180. Other investments. — In addition to the loans and investments permitted under Article 7 of this Chapter, the assets of a State association in excess of the demands of its

members or customers may be invested subject to the approval of the board of directors only as described under the provisions of this Article.

"§ 54B-181. Business property of a State association. — A State association may invest in real property and equipment necessary for the conduct of its business and in real property to be held for its future use. Such association may invest in an office building or buildings, and appurtenances for the purpose of the transaction of such association's business or for rental. No such investment may be made without the prior written approval of the administrator if the total amount of such investments exceeds the association's net worth.

"§ 54B-182. United States obligations. — A State association may invest in any obligation issued and fully guaranteed in principal and interest by the United States Government or any instrumentality thereof.

"§ 54B-183. North Carolina obligations. — A State association may invest in any obligation issued and fully guaranteed in principal and interest by the State of North Carolina or any instrumentality thereof.

"§ 54B-184. Federal Home Loan Bank obligations. — A State association may invest in the stock of the Federal Home Loan Bank of which such association is a member, and in bonds or other evidences of indebtedness or obligation of any Federal Home Loan Bank.

"§ 54B-185. Deposits in banks. — A State association may invest in certificates of deposit, time insured deposits, savings accounts, or demand deposits of such banks as are approved by the board of directors of the association.

"§ 54B-186. Deposits in other associations. — A State association may invest in withdrawable accounts of any State association, or of any federal association having its principal office within this State, up to an amount equal to the amount of insurance coverage on such association's withdrawable accounts by either the Federal Savings and Loan Insurance Corporation or by a mutual deposit guaranty association organized or operated pursuant to Article 12 of this Chapter.

"§ 54B-187. Federal National Mortgage Association obligations. — A State association may invest in stock or other evidences of indebtedness or obligations of the Federal National Mortgage Association, or any successor thereto.

"§ 54B-188. Municipal and county obligations. — A State association may invest in bonds or other evidences of indebtedness which are direct general obligations of any county, city, town, village, school district, sanitation or park district, or other political subdivision or municipal corporation of this State; or in bonds or other evidences of indebtedness which are payable from revenues or earnings specifically pledged therefor, which are issued by the county or an adjoining county or a political subdivision or municipal corporation of a county in this State.

"§ 54B-189. Stock in education agency. — A State association may invest in stock or obligations of any corporation doing business in this State, or of any agency of this State or of the United States, where the principal business of such corporation or agency is to make loans for the financing of a college or university education, or education at an industrial education center, technical institute or community college in this State.

"§ 54B-190. Industrial development corporation stock. — A State association may invest in stock or other evidence of indebtedness or obligations of business or industrial development corporations chartered by this State or by the United States.

"§ 54B-191. Urban renewal investment corporation stock. — A State association may invest in stock or other evidence of indebtedness or obligations of an urban renewal investment corporation chartered under the laws of this State or of the United States.

"§ 54B-192. Urban renewal projects. — (a) A State association may invest in the initial purchase and development, or the purchase or commitment to purchase after completion, of unimproved residential real property or improved residential real property for sale or rental, including projects for the reconstruction, rehabilitation or rebuilding of residential properties to meet the minimum standards of health and occupancy prescribed by appropriate local

authorities, and the provision of accommodations for retail stores, shops and other community services which are reasonably incident to such housing projects. No such investment shall be made under the provisions of this section without the prior approval of the administrator. The administrator may approve such investment under the provisions of this section only when the association shows:

- (1) that the association has adequate assets available for such an investment;
- (2) that the amount of the proposed investment does not exceed ninety percent (90%) of the reasonable market value of the property or interest therein; and
- (4) that the proposed project is to be located in an area, including any contiguous area acquired incidentally thereto, determined by the administrator to be an urban renewal, redevelopment, blighted or conservation area, or any similar area provided for by the laws of this State or of the United States, or local ordinances for slum clearance, conservation, blighted area clearance, redevelopment, urban renewal or of a similar nature or purpose.

(b) Nothing herein contained shall prohibit a State association from developing or building on land acquired by it under any other provisions of this Chapter; nor shall a State association be prohibited from completing the construction of buildings pursuant to any construction loan contract where the borrower has failed to comply with the terms of such contract.

"§ 54B-193. Loans on sufficient collateral. — A State association may invest in loans secured by any collateral deemed sufficient by the board of directors to properly secure loans; however, if the collateral consists of stock or equity securities of any kind, the stock or securities must be listed on a national stock exchange or regularly quoted and offered for trade on an over-the-counter market.

"§ 54B-194. Service corporations. — (a) Any association or group of associations whose principal offices are located within this State, may establish service corporations under the provisions of Chapter 55 for corporate organization, provided that the administrator receives copies of the proposed articles of incorporation and bylaws for approval, prior to filing them with the Secretary of State. Any such association may also invest in the capital stock, obligations or other securities of existing service corporations.

(b) No State association may make any investment in service corporations if its aggregate investment would exceed five percent (5%) of its total assets.

(c) Service corporations shall be subject to audit and examination by the administrator, and the cost of examination shall be paid by the service corporation.

(d) The permitted activities of a service corporation shall be described in the rules and regulations as promulgated by the administrator. In addition, a service corporation may engage in those activities which are approved by the Federal Home Loan Bank Board for service corporations owned solely by federal associations who have their principal offices in this State, unless such activities are prohibited by the administrator.

(e) The location of the principal and branch offices of a service corporation must be approved by the administrator.

"§ 54B-195. Any loan or investment permitted for federal associations. — Subject to such limitations and restrictions as the administrator may prescribe through rules and regulations, any State association is authorized and permitted to make any loan or investment which may be permitted by the Federal Home Loan Bank Board, the Federal Savings and Loan Insurance Corporation, and the United States Congress for federal associations whose principal offices are located within this State. Every loan or investment made by a State association prior to the enactment of this Chapter shall for all purposes be considered to have been permitted loans or investments if federal associations were authorized to make such loans or investments at the time they were made by the State association.

"§ 54B-196. Parity of interest rates. — Notwithstanding any other provision of law, any savings and loan association in North Carolina may contract for interest on any loan, purchase money loan, advance, commitment for a loan or forbearance at any rate permitted by federal law to a savings and loan association the accounts of which are insured by the Federal Savings and Loan Insurance Corporation.

"§ 54B-197. Effect of change in law or regulation. — Any loan or investment made by a State association which was in compliance with the law or regulations in effect at the time such loan or investment was made will remain a legal loan or investment even though the power to make such loans or investments in the future is amended or revoked.

"§ 54B-198 to 54B-209. Reserved for future codification purposes.

"ARTICLE 9.

"Liquidity Fund.

"§ 54B-210. Components of liquidity fund. — (a) Every State association shall at all times have on hand and unpledged, cash, investments in obligations of the United States government, or the government of the State of North Carolina, or stock in the Federal Home Loan Bank, or deposits in any mutual deposit guaranty association organized or operated pursuant to Article 12 of this Chapter, or bonds issued by the Federal Home Loan Bank, or funds on deposit in a Federal Reserve Bank or in other bank or banks as may have been approved by a majority of the entire board of directors, in an amount set by the Commission equal to at least four percent (4%) of the net withdrawal value of the association's withdrawable account, or two hundred fifty thousand dollars (\$250,000), whichever is greater, as the liquidity fund and held to assure the liquidity of such association. Such investments and funds on deposit shall be readily marketable and shall not exceed a term of five years.

"§ 54B-211. Renewal of liquidity fund. — If the liquidity fund falls below the amount required by the Commission, the association shall make no new real property loans until the required level has been attained. The refinancing, recasting or renewal of loans previously made and loans made as a result of foreclosure sales under instruments held by the association shall not be considered as new loans, within the meaning of this section.

"§ 54B-212 to 54B-215. Reserved for future codification purposes.

"ARTICLE 10.

"General Reserve Account.

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

(b) The general reserve account shall be maintained at a level set by the Commission based on assets. In setting the level for the general reserve account, 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. Transfers to the general reserve account shall be made at such times as the Commission shall prescribe.

(c) In the case of newly chartered mutual associations, transfers to the general reserve account shall be made as prescribed by the Commission.

(d) 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 in the general reserve account of a stock association until the assets of the association increase above a level to be set by the Commission. Thereafter, transfers to the general reserve account shall be made as prescribed by the Commission.

(e) The general reserve account required by this section shall be deemed identical with and not supplementary to the reserves required to be established and maintained by a State association insured by the Federal Savings and Loan Insurance Corporation.

(f) The failure of a State association to maintain the required level set by the Commission for the general reserve account may be grounds for supervisory action by the administrator.

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

"§ 54B-217 to 54B-220. Reserved for future codification purposes.

"ARTICLE 11.

"Foreign Associations.

"§ 54B-221. Allowed to do business. — A corporation or association chartered by another state to conduct the savings and loan business may be certified by this State for the purpose of conducting the business of a savings and loan association in the manner hereinafter provided. Unless so certified, no foreign association shall conduct a savings and loan business in this State.

"§ 54B-222. Application by a foreign association. — Application by a foreign association to conduct a savings and loan business in this State shall be made to the administrator. Upon making such application, the association shall file with the administrator two certified copies of its charter or certificate of incorporation, and bylaws, and thereafter certified copies of all amendments thereto; the names and addresses of its officers and directors; and a report of its condition, in such form as may be prescribed by the administrator, which shall be verified by oath of such officers and other persons as the administrator shall designate. The administrator may call for additional reports.

"§ 54B-223. Certificate of authority to enter State. — If the administrator finds that the association has good assets of sufficient value to cover all its liabilities and that its methods of doing business are safe and not contrary to the laws governing associations in this State, it may be permitted to conduct the business of a savings and loan association in this State upon a certificate of authority to enter, which shall be issued by the administrator only when such association shall have complied with the further requirements of this Article. The administrator shall have the authority to conduct, or cause to be conducted, an examination and investigation, upon the premises of the association as a prerequisite to the issuance of a certificate of authority to enter. Such certificate of authority to enter must be renewed annually for so long as such foreign association desires to operate within this State. Renewal may occur upon payment by the association of the appropriate renewal fee and a determination by the administrator of the association's continued fitness to operate within this State.

"§ 54B-224. Deposit of securities. — The administrator, prior to issuing a certificate of authority to enter, shall require every such foreign association to deposit with the administrator such securities as he may approve, amounting to at least thirty thousand dollars (\$30,000). These securities shall be held by him in trust for the exclusive benefit and security of the creditors and withdrawable account holders of the foreign association who are resident in this State and he shall have authority to require it to deposit additional securities at any time. No change or transfer of such securities shall be made without his consent. Such deposit of securities shall be maintained intact at all times in the full sum required, but the association making such deposit, so long as it shall continue solvent and in compliance with all the provisions of this Chapter applicable to it, may receive the dividends or interest on the securities deposited, and may from time to time, with the approval of the administrator withdraw any such securities upon depositing with the administrator other like securities the market value of which shall be equal to such as may be withdrawn.

"§ 54B-225. Appointment of administrator as attorney. — The certificate of authority to enter shall be for the current calendar year only. It shall not be issued until the association shall

by a duly executed instrument filed with the administrator, constitute as its true and lawful attorney the administrator and his successors in office, upon whom all original process in any action or legal proceedings against it may be served, and therein shall agree that any original process against it which may be served upon the administrator shall be of the same force and validity as if served on the association itself, and that the authority thereof shall continue in force irrevocable so long as any liability of the association remains outstanding in this State. Such service of process shall be made by leaving a copy of same in the office of the administrator along with a fee of two dollars (\$2.00) to be taxed in the plaintiff's costs. When any original process is thus served, the administrator, by letter directed to the secretary of the association, shall within two days after such service forward to the secretary a copy of the process served upon him, and such service shall be deemed sufficient service upon the association. The administrator shall keep a record of all such process showing the day and hour of such service.

"§ 54B-226. Certificate required for agent. — No person may solicit business for, nor act as agent for any foreign association doing business in North Carolina without having first procured from the administrator a certificate stating that the association for which he offers to act is duly certified by this State to do business in the year in which such person solicits business or offers to act as agent. The administrator shall be paid a fee of one dollar (\$1.00) for issuing the certificate, to be paid by the association for which the same was issued. Any person violating the provisions of this section shall be guilty of a misdemeanor.

"§ 54B-227. Fees and expenses. — Every such association shall pay for filing two certified copies of its certificate of incorporation, twenty dollars (\$20.00); for filing original annual reports, twenty dollars (\$20.00); for original or any renewal certificate of authority to enter, two hundred fifty dollars (\$250.00); for certificate of each agency, five dollars (\$5.00); and shall pay a fee set annually by the administrator for the examination of the association. The administrator may maintain an action in the name of this State against such association for the recovery of any such fees in any court of competent jurisdiction.

"§ 54B-228. Subject to North Carolina law. — Any contract made by any foreign association with any citizen of this State shall be deemed and considered a North Carolina contract, and shall be so construed by all the courts of this State according to the laws thereof.

"§ 54B-229 to 54B-235. Reserved for future codification purposes.

"ARTICLE 12.

"Mutual Deposit Guaranty Associations.

"§ 54B-236. Definitions. — The term 'institution' as used in this Article shall mean savings and loan associations organized or operated under the provisions of this Chapter, or credit unions organized or operated under the provisions of Article 10, Subchapter III of Chapter 54 of the General Statutes.

"§ 54B-237. Organization of a mutual deposit guaranty association. — (a) Any number of institutions, not less than 25, may become incorporated as a mutual deposit guaranty association without capital stock subject to the limitations prescribed in this Article. A mutual deposit guaranty association shall be governed by a board of directors or board of trustees of which a majority shall be representatives of the public and shall not be employees or directors of any insured member institution or have an interest in any insured member institution other than as a result of being a depositor or borrower.

(b) Articles of incorporation of a guaranty association shall be filed in the office of the Secretary of State. The Secretary of State shall, upon receipt of such articles, transmit a copy of them to the administrator and shall not record them until authorized to do so by the administrator.

"§ 54B-238. Examination and certification by administrator. — (a) Upon receipt from the Secretary of State of a copy of the articles of incorporation of a proposed guaranty association, the administrator shall at once examine all the facts connected with the formation of the

proposed corporation. If the articles of incorporation are correct in form and substance and the examination shows that such corporation, if formed, would be entitled to commence the business of a guaranty association, the administrator shall so certify to the Secretary of State.

(b) The administrator may refuse to make such certification if upon examination he has reason to believe the proposed corporation is to be formed for any business other than assuring the liquidity of member institutions and guaranteeing deposits therein, if he has reason to believe that the character and general fitness of the incorporators are not such as to command the confidence of the general public or if the best interests of the public will not be promoted by its establishment.

"§ 54B-239. Recordation of articles of incorporation. — Upon receipt of the certification provided for in G.S. 54B-238, the Secretary of State shall record the articles of incorporation of such guaranty association and furnish a certified copy thereof to the incorporators and to the administrator. Upon such recordation, such association shall be deemed a corporation. All papers thereafter filed in the office of the Secretary of State relating to such corporation shall be recorded as provided by law and a certified copy forwarded to the administrator.

"§ 54B-240. Proposed amendments submitted to administrator. — Any proposed amendments to the articles of incorporation of a mutual deposit guaranty association shall be filed in the office of the Secretary of State, who shall forward a copy thereof to the administrator, and shall not record the amendments until authorized to do so by certification of the administrator.

"§ 54B-241. Examination and certification of amendments. — (a) Upon receipt from the Secretary of State of a copy of proposed amendments to the articles of incorporation of a mutual deposit guaranty association, the administrator shall at once examine the proposed amendments to determine their effect on the operation of the guaranty association.

(b) In the event the proposed amendments are correct in form and substance and the examination shows that if adopted they would not change the character or principal business of the guaranty association, the administrator shall so certify to the Secretary of State.

(c) The administrator may refuse to make certification if upon examination he has reason to believe that the proposed amendments would change the character of the business of the guaranty association or that the best interests of the public will not be promoted by their adoption.

"§ 54B-242. Recordation of amendments. — Upon receipt of the certification provided for in G.S. 54B-241, the Secretary of State shall record the amendments to the articles of incorporation and furnish a certified copy thereof to the mutual deposit guaranty association and to the administrator.

"§ 54B-243. Reserve for losses. — A mutual deposit guaranty association shall maintain at all times an amount of funds equal to no less than one percent (1%) of its insured liability to cover losses of its members. These funds may include cash, investments, and reinsurance.

"§ 54B-244. Purposes and powers of mutual deposit guaranty associations. — (a) The purposes of a mutual deposit guaranty association incorporated in accordance with the provisions of this Article are to:

- (1) assure the liquidity of a member institution;
- (2) guarantee the withdrawable accounts, shares or deposits of member institutions;
- (3) serve, when appointed, as receiver of a member institution.

(b) A mutual deposit guaranty association incorporated in accordance with the provisions of this Article may:

- (1) lend money to a member institution for the purpose of assuring its liquidity and withdrawable accounts, shares or deposits therein;
- (2) purchase any assets owned by a member institution for the purpose of assuring its liquidity and withdrawable accounts, shares or deposits therein;

(3) invest any of its funds in:

- a. bonds or interest-bearing obligations of the United States or for which the faith and credit of the United States are pledged for the payment of principal and interest;
- b. bonds or interest-bearing obligations of this State;
- c. farm loans issued under the Federal Farm Loan Act and amendments thereto;
- d. notes, debentures, and bonds of a federal home loan bank issued under the Federal Home Loan Bank Act and any amendments thereto;
- e. bonds or other securities issued under the Home Owners' Loan Act of 1933 and any amendments thereto;
- f. securities acceptable to the United States to secure government deposits in national banks;
- g. deposits in any financial institution that is subject to examination and supervision by the United States or by this State;
- h. bonds or other evidences of indebtedness of counties and municipalities of the State of North Carolina, provided, that said bonds or other evidences of indebtedness of the counties and municipalities shall have a rating by Moody's Investors Services, Inc., of not less than AA, and a rating by the North Carolina Municipal Council, Inc., of not less than 90 points out of 100 points;
- i. stock in banking institutions licensed to do business in this State;
- j. securities and other investments authorized as liquid investments for any financial institution that is subject to examination and supervision by the United States or by this State;
- k. notes, bonds, debentures or securities rated in one of the four highest grades by a nationally recognized investment rating service.

(4) issue its capital notes or debentures to member institutions, provided the holders of these capital notes or debentures shall not be individually responsible for any debts, contracts, or engagements of the guaranty association issuing the notes or debentures;

(5) borrow money;

(6) exercise any corporate power or powers not inconsistent with, and which may be necessary or convenient to, the accomplishment of its purposes of assuring liquidity of member institutions and guaranteeing withdrawable accounts, shares or deposits therein;

(7) serve as receiver of a member institution;

(8) make or cause to be made examinations or audits of member institutions.

"§ 54B-245. Filing of semiannual financial reports; fees. — Each mutual deposit guaranty association shall on the 30th day of June and the 31st day of December of each year, or within 40 days thereafter, file with the administrator a report for the preceding half year, showing its financial condition at the end thereof. Such reports shall be in such form and contain such information as may be prescribed by the administrator. Each guaranty association doing business in this State shall pay to the administrator, at the time of filing each semiannual report required by this section, the sum of five dollars (\$5.00). All such fees shall be paid into the State treasury to the credit of the General Fund.

"§ 54B-246. Supervision by administrator. — (a) In addition to any and all other powers, duties and functions vested in the administrator under the provisions of this Article, and for the protection of member institutions and the general public, the administrator shall have general control and supervision over all mutual deposit guaranty associations doing business in this

State. Mutual deposit guaranty associations shall be subject to the control and supervision of the administrator as to their conduct, organization, management, business practices, reserve requirements and their financial and fiscal matters. Such control and supervision is subject to the provisions of G.S. 54B-53(g).

(b) The administrator shall have the right, and is hereby empowered to issue rules and regulations whenever he deems it necessary for the administration of this Article as well as rules and regulations with respect to:

- (1) types of financial records to be maintained by mutual deposit guaranty associations;
- (2) retention periods of various financial records;
- (3) internal control procedures of mutual deposit guaranty associations;
- (4) conduct and management of mutual deposit guaranty associations;
- (5) additional reports which may be required by the administrator.

It shall be the duty of the board of directors or board of trustees of the mutual deposit guaranty association to put into effect and to carry out such rules and regulations.

(c) At least once each year the administrator shall make or cause to be made an examination into the affairs of each mutual deposit guaranty association doing business in this State. The administrator of the Credit Union Division of this State, in his capacity as supervisor of State chartered credit unions, if he deems it necessary, may designate agents to participate in such examination. The expenses of such yearly examination shall be paid by the mutual deposit guaranty association so examined.

"§ 54B-247. Special examinations. — Whenever the administrator deems it necessary, he may make or cause to be made a special examination or audit of any mutual deposit guaranty association doing business in this State, in addition to the regular examination provided for by this Article. The expenses of such a special examination or audit shall be paid by the mutual deposit guaranty association so examined.

"§ 54B-248. Right to enter and to conduct investigations. — The administrator or any examiner appointed by him shall have access to and may compel the production of all books, papers, securities, moneys, and other property of a mutual deposit guaranty association under examination by him. He may administer oaths to and examine the officers and agents of such association as to its affairs.

"§ 54B-249. Removal of officers or employees. — The administrator shall have the right, and is hereby empowered, to require the board of directors or board of trustees of any guaranty association to immediately remove from office any officer, director, trustee or employee of any mutual deposit guaranty association doing business in this State, who shall be found by the administrator to be dishonest, incompetent, or reckless in the management of the affairs of the mutual deposit guaranty association, or in violation of the lawful orders, rules and regulations issued by the administrator, or who violates any of the laws set forth in Chapter 54B of the General Statutes.

"§ 54B-250 to 54B-260. Reserved for future codification purposes.

"ARTICLE 13.

"Savings and Loan Holding Companies.

"§ 54B-261. Savings and loan holding companies. — (a) Notwithstanding any other provision of law, any stock association may reorganize its ownership, to provide for ownership by a savings and loan holding company, upon adoption of a plan of reorganization by a favorable vote of not less than two-thirds of the members of the board of directors of the association and approval of such plan of reorganization by the holders of not less than a majority of the issued and outstanding shares of stock of the association. The plan of reorganization shall provide that (i) the resulting ownership shall be vested in a North Carolina corporation, (ii) all stockholders of the stock association shall have the right to exchange shares, (iii) the exchange of stock shall not be subject to State or federal income taxation, (iv)

stockholders not wishing to exchange shares shall be entitled to dissenters' rights as provided under G.S. 55-113 and (v) the plan of reorganization is fair and equitable to all stockholders.

(b) All limitations or restrictions on the ownership of the stock of a stock association contained in this Chapter shall be and hereby are made applicable to the ownership of the stock of a savings and loan holding company which owns shares of stock of a stock association organized pursuant to this Chapter.

(c) A savings and loan holding company may invest only in (i) the stock of one or more other stock associations, (ii) deposits in financial institutions the principal offices of which are located in North Carolina and (iii) other investments in accordance with rules and regulations promulgated by the administrator. However, in no event shall a savings and loan holding company make any investment not specified by this section or not permitted for an association under this Chapter.

"§ 54B-262. Supervision of savings and loan holding companies. — Savings and loan holding companies shall be under the supervision of the administrator. The administrator shall exercise all powers and responsibilities with respect to savings and loan holding companies which he exercises with respect to associations."

Sec. 4. This act shall become effective May 1, 1981.

In the General Assembly read three times and ratified, this the 30th day of April, 1981.