

GENERAL ASSEMBLY OF NORTH CAROLINA
1983 SESSION

CHAPTER 214
SENATE BILL 263

AN ACT TO AMEND CHAPTER 53 OF THE GENERAL STATUTES OF NORTH CAROLINA RELATING TO BANKS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 53-1(9) is amended by adding after the words "preferred stock, surplus," and before the words "and the amount of capital" in the first sentence thereof the following words:

"undivided profits, reserve for contingencies and other capital reserves (excluding accrued dividends on preferred stock and limited life preferred stock), mandatory convertible instruments, allowance for possible loan losses,".

Sec. 2. G.S. 53-43(4) is amended in the third line thereof by deleting the words ", either directly or through subsidiary corporations".

Sec. 3. G.S. 53-47 is amended by:

(a) deleting in the fourteenth line thereof the words and figures "fifty percent (50%) of its permanent surplus" and substituting the words and figures "seventy-five percent (75%) of its unimpaired capital fund", and

(b) adding after the word "loss." in the sixteenth line thereof the following new sentences:

"The foregoing limitation shall not apply to stock or ownership interests acquired in corporations, firms, partnerships or companies which hold banking premises or which are bank operating subsidiaries of such bank. The term 'invest' shall be deemed to include operating a business entity acquired by the bank, provided, however, that no bank shall make any such investment resulting in operations which are not closely related to banking without the prior written approval of the Commissioner of Banks. The Commissioner of Banks shall monitor the impact of investment activities of banks under this section on the safety and soundness of such banks."

Sec. 4. G.S. 53-48 is rewritten to read:

§ 53-48. Limitation of loans. – (a) The total loans and extensions of credit, both direct and indirect, by a bank to a person, other than a municipal corporation for money borrowed, including in the liabilities of a firm the liabilities of the several members thereof, outstanding at one time and not fully secured, as determined in a manner consistent with subsection (b) of this section, by collateral having a market value at least equal to the amount of the loan or extension of credit shall not exceed fifteen percent (15%) of the unimpaired capital fund of the bank.

(b) The total loans and extensions of credit, both direct and indirect, by a bank to a person outstanding at one time and fully secured by readily marketable collateral

having a market value, as determined by reliable and continuously available price quotations, at least equal to the amount of the funds outstanding shall not exceed ten percent (10%) of the unimpaired capital fund of the bank. This limitation shall be separate from and in addition to the limitation contained in subsection (a) above.

(c) The discount of bills of exchange drawn in good faith against actual existing values, the discount of solvent trade acceptances or other solvent commercial or business paper actually owned by the person negotiating the same, loans or extensions of credit secured by a segregated deposit account in the lending bank, the purchase of bankers acceptances of the kind described in Section 13 of the Federal Reserve Act and issued by other banks, and the purchase of any notes and the making of any loans, secured by not less than a like face amount of bonds of the United States, or an agency of the United States, or other obligations guaranteed by the United States Government, or State of North Carolina or certificates of indebtedness of the United States, or agency thereof, or other obligations guaranteed by the United States Government, shall not be considered as money borrowed within the meaning of this section: Provided, however, that the limitations of this section shall not apply to loans or obligations to the extent that they are secured or covered by guarantees or by commitments or agreements to take over or purchase the same, made by any federal reserve bank or by the United States or any department, board, bureau, commission or establishment of the United States, including any corporation wholly owned directly or indirectly by the United States.

(d) For purposes of this section, the term 'person' shall be deemed to include an individual, or a corporation, partnership, trust, association, joint venture, pool, syndicate, sole proprietorship, unincorporated organization or any other form of entity not specifically listed herein. Loans or extensions of credit to one person include loans made to other persons when the proceeds of the loans or extensions of credit are to be used for the direct benefit of the first person or the persons are engaged in a common enterprise. The Commissioner of Banks shall monitor the lending activities of banks under this section for undue credit concentrations and inadequate risk diversification which could adversely affect the safety and soundness of such banks."

Sec. 5. G.S. 53-62(c) is amended in the fifth, sixth, seventh and eighth lines thereof by deleting the words "and a board of managers or loan committee shall be responsible for the conduct and management of said branch, but not of the parent bank of any branch save that of which they are officers, managers, or committee".

Sec. 6. G.S. 53-64 is amended by:

(a) inserting after the word "stock" and before the first comma in line two thereof the words "or the stock of its parent bank holding company";

(b) inserting after the word "stock" and before the word "unless" in line three thereof the words "or of the capital stock of its parent bank holding company"; and

(c) inserting after the word "stock" and before the word "sold" in line five thereof the words "or the stock of its parent bank holding company".

Sec. 7. G.S. 53-66 is repealed.

Sec. 8. G.S. 53-80 is amended by rewriting the fourth sentence to read as follows:

"Notwithstanding the proviso at the end of this section, where the bank is a wholly owned subsidiary, the required qualifying shares shall be shares in the parent corporation, whether or not the bank was doing business before February 18, 1921."

Sec. 9. G.S. 53-91(d) is amended at the end thereof by changing the period at the end thereof to a semicolon and by adding the following words: "provided, however, this limitation shall not apply to loans extended to any officer or employee for the purchase of primary residences."

Sec. 10. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 22nd day of April, 1983.