

Article 5.

Powers of Banks.

§ 53C-5-1. Powers.

(a) Except as otherwise specifically provided by this Chapter, a bank shall have the powers conferred upon business corporations organized under the laws of this State. In addition, and not by way of limitation, a bank shall have the power to do the following:

- (1) Carry on the business of banking, which includes such activities as discounting and negotiating promissory notes, drafts, bills of exchange, and other evidences of indebtedness; receiving deposits; issuing, advising, and confirming letters of credit; receiving money for transmission; and loaning money on personal security or on real or personal property.
- (2) Make any loan that could be made by a federally chartered institution doing business in this State.
- (3) Purchase or invest in loans, or a participating interest in loans, of a type that the bank could itself make.
- (4) Sell any loan, including one or more participating interests in a loan.
- (5) Make any investments authorized by G.S. 53C-5-2 or any other section of this Chapter.
- (6) Through information technology systems, processes, and capabilities, provide, deliver, or otherwise make available banking services and products, enhance the effectiveness or efficiency of its operations, and provide other benefits to its customers. Additionally, a bank may utilize its information technology systems, processes, capabilities, and capacities in the same manner and to the same extent as is permitted for national banks.
- (7) Engage in any other activities approved by rule, order, or interpretation of the Commissioner.

(b) A bank shall also have the power to engage in any of the following activities:

- (1) As principal in any activity permissible for a national bank under any law, including the National Bank Act, 12 U.S.C. § 24, as well as any activity recognized as permissible for a national bank in any regulation, order, or written interpretation issued by the OCC.
- (2) As principal in any activity that is permissible or determined by the FDIC to be permissible for a bank under the Federal Deposit Insurance Act, 12 U.S.C. § 1831a, or in any regulation, order, or written interpretation thereunder.
- (3) As principal in any activity that is permissible for a savings institution organized under Chapters 54B or 54C of the General Statutes, or that is permissible for a federal savings association under the Home Owners' Loan Act of 1933, 12 U.S.C. § 1464, or in any regulation, order, or written interpretation thereunder.
- (4) In any activity other than as principal.

(c) In addition to the other powers described in this section, a bank shall have the power to exercise all other powers that are reasonably necessary or incident to the exercise of the powers authorized in subsections (a) and (b) of this section.

(d) Except as provided in subsection (e) of this section, a bank that proposes to engage in any new activity shall apply to the Commissioner for approval to engage in the activity before its commencement. If the new activity will be conducted in a new or existing subsidiary in which the bank intends to make an investment, the bank shall apply to the Commissioner for approval to engage in the new activity before entering into the investment. The bank shall not

engage in the new activity or make the investment unless and until the Commissioner issues a written approval of the application. An application for approval shall contain a description of the proposed activity and any other information required by the Commissioner. A copy of any notice or application the bank is required to file with any bank supervisory agency with respect to the proposed activity shall also be provided to the Commissioner. For the purpose of this section, a "new activity" is any business activity in which the bank is not currently engaged. The extension or relocation of an existing activity into a new department, division, or subsidiary of the bank shall not be considered a new activity. A bank may appeal a denial of an application by the Commissioner pursuant to G.S. 53C-2-6.

(e) No application for approval to engage in a new activity shall be required, provided all of the following conditions are met as of the date the activity is commenced:

- (1) The new activity is one described in subsection (a), (b), or (c) of this section.
- (2) The bank is well-capitalized and well-managed as demonstrated by the supervisory rating it received during its most recent safety and soundness examination.
- (3) No notice or application to engage in the new activity is required to be filed by the bank with any federal banking regulator.

(f) A bank permitted to commence a new activity without prior application and approval pursuant to subsection (e) of this section shall notify the Commissioner in writing of the commencement of the new activity no later than the 30th day after the earlier of (i) commencing the new activity or (ii) if applicable, making an investment in a subsidiary through which the new activity will be conducted. (2012-56, s. 4; 2013-29, s. 7; 2017-165, s. 5.)