

GENERAL ASSEMBLY OF NORTH CAROLINA
1989 SESSION

CHAPTER 9
HOUSE BILL 86

AN ACT TO REQUIRE CONFIDENTIALITY FOR INTERSTATE BANK
ACQUISITION RECORDS AND PUBLICATION OF NOTICE OF
APPLICATION OF INTERSTATE BANKING ACQUISITION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 53-99 reads as rewritten:

"§ 53-99. Official records.

(a) The Commissioner of Banks shall keep a record in his office of his official acts, rulings, and transactions which, except as hereinafter provided, shall be open to inspection, examination and copying by any person.

(b) Notwithstanding any laws to the contrary, the following records of the Commissioner of Banks shall be confidential and shall not be disclosed or be subject to public inspection:

- (1) Records compiled during or in connection with an examination, audit or investigation of any bank, banking office, bank holding company or its nonbank subsidiary, or trust department ~~operating which operates or has applied to operate~~ under the provisions of this Chapter;
- (2) Records containing information compiled in preparation or anticipation of litigation, examination, audit or investigation;
- (3) Records containing the names of any borrowers from a bank or revealing the collateral given by any such borrower: Provided, however, that every report of insider transactions made by a bank which report is required to be filed with the appropriate State or federal regulatory agency by either State or federal statute or regulation shall be filed with the Commissioner of Banks in a form prescribed by him and shall be open to inspection, examination and copying by any person;
- (4) Records prepared during or as a result of an examination, audit or investigation of any bank, bank affiliate, bank holding company or its nonbank subsidiary, data service center or banking practice by an agency of the United States, or jointly by such agency and the Commissioner of Banks, if such records would be confidential under federal law or regulation;
- (4a) Records prepared during or as a result of an examination, audit or investigation of any bank, bank affiliate, bank holding company or its nonbank subsidiary, data service center or banking practice by a

regulatory agency of jurisdiction of the region defined in G.S.53-210(11) if these records would be confidential under that jurisdiction's law or regulation;

- (5) Records of information and reports submitted by banks to federal regulatory agencies, if such records would be confidential under federal law or regulation;
- (6) Records of complaints from the public received by the banking department and concerning banks under its supervision if such complaints would or could result in an investigation;
- (7) Records of examinations and investigations of consumer finance licensees;
- (8) Records of pre-need burial contracts maintained pursuant to Article 7A of Chapter 65 of the General Statutes including investigations of such contracts and related credit inquiries;
- (9) Any letters, reports, memoranda, recordings, charts, or other documents which would disclose any information set forth in any of the confidential records referred to in subdivisions (1) through (8)."

Sec. 2. G.S. 53-211 reads as rewritten:

"§ 53-211. Acquisitions by regional bank holding companies.

(a) A regional bank holding company that does not have a North Carolina bank subsidiary (other than a North Carolina bank subsidiary that was acquired either pursuant to Section 116 or Section 123 of the Garn-St. Germain Depository Institutions Act of 1982 (12 U.S.C. 1730a(m), 1823(f)) or in the regular course of securing or collecting a debt previously contracted in good faith, as provided in Section 3(a) of the Bank Holding Company Act of 1956 as amended (12 U.S.C. 1842(a)) may acquire a North Carolina bank holding company or a North Carolina bank with the approval of the Commissioner. The regional bank holding company shall submit to the Commissioner an application for approval of such acquisition, which application shall be approved only if:

- (1) The Commissioner determines that the laws of the state in which the regional bank holding company making the acquisition has its principal place of business permit North Carolina bank holding companies to acquire banks and bank holding companies in that state;
- (2) The Commissioner determines that the laws of the state in which the regional bank holding company making the acquisition has its principal place of business permit such regional bank holding company to be acquired by the North Carolina bank holding company or North Carolina bank sought to be acquired. For the purposes of this subsection, a North Carolina bank shall be treated as if it were a North Carolina bank holding company;
- (3) The Commissioner determines either that the North Carolina bank sought to be acquired has been in existence and continuously operating for more than five years or that all of the bank subsidiaries of the North Carolina bank holding company sought to be acquired have

been in existence and continuously operating for more than five years: Provided, that the Commissioner may approve the acquisition by a regional bank holding company of all or substantially all of the shares of a bank organized solely for the purpose of facilitating the acquisition of a bank that has been in existence and continuously operating as a bank for more than five years; and

- (4) The Commissioner makes the acquisition subject to any conditions, restrictions, requirements or other limitations that would apply to the acquisition by a North Carolina bank holding company of a bank or bank holding company in the state where the regional bank holding company making the acquisition has its principal place of business but that would not apply to the acquisition of a bank or bank holding company in such state by a bank holding company all the bank subsidiaries of which are located in that state.

(b) A regional bank holding company that has a North Carolina bank subsidiary (other than a North Carolina bank subsidiary that was acquired either pursuant to Section 116 or Section 123 of the Garn-St. Germain Depository Institutions Act of 1982 (12 U.S.C. 1730a(m), 1823 (f)) or in the regular course of securing or collecting a debt previously contracted in good faith, as provided in Section 3(a) of the Bank Holding Company Act of 1956 as amended (12 U.S.C. 1842(a)) may acquire any North Carolina bank or North Carolina bank holding company with the approval of the Commissioner. The regional bank holding company shall submit to the Commissioner an application for approval of such acquisition, which application shall be approved only if the Commissioner makes the acquisition subject to any conditions, restrictions, requirements or other limitations that would apply to the acquisition by a North Carolina bank holding company of a bank or bank holding company in the ~~State~~state where the regional bank holding company making the acquisition has its principal place of business but that would not apply to the acquisition of a bank or bank holding company in such state by a bank holding company all the bank subsidiaries of which are located in that state.

(c) The Commissioner shall rule on any application submitted under this section not later than 90 days following the date of submission of a complete application. If the Commissioner fails to rule on the application within the requisite 90-day period, the failure to rule shall be deemed a final decision of the Commissioner approving the application.

(d) The Commissioner, within 30 days of receiving the complete application for acquisition, shall publish notice of the intent of a regional bank holding company to acquire a North Carolina bank or North Carolina bank holding company under subsection (a) or (b) of this section. The notice shall be published in newspapers serving the communities in which the principal offices of the North Carolina bank or North Carolina bank holding company and of the regional bank holding company are located. Notwithstanding any other provision of this section, the application for acquisition shall not be approved until the requirement for publication has been met."

Sec 3. This act is effective upon ratification.

In the General Assembly read three times and ratified this the 8th day of March, 1989.