

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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SENATE BILL 1349*
Second Edition Engrossed 6/12/90

Short Title: Sale of New Bank/S&L.

(Public)

Sponsors: Senators Staton, Plyler, Carpenter, Conder; Block, Johnson of Cabarrus, Marvin, and Sands.

Referred to: Banks and Thrift.

May 23, 1990

A BILL TO BE ENTITLED

AN ACT TO REDUCE FROM FIVE YEARS TO THREE YEARS THE MORATORIUM ON ACQUISITION OF A NORTH CAROLINA BANK OR SAVINGS ASSOCIATION BY AN OUT-OF-STATE INSTITUTION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 53-211(a) reads as rewritten:

"(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

1 principal place of business permit such regional bank holding company
2 to be acquired by the North Carolina bank holding company or North
3 Carolina bank sought to be acquired. For the purposes of this
4 subsection, a North Carolina bank shall be treated as if it were a North
5 Carolina bank holding company;

- 6 (3) The Commissioner determines either that the North Carolina bank
7 sought to be acquired has been in existence and continuously operating
8 for more than ~~five~~three years or that all of the bank subsidiaries of the
9 North Carolina bank holding company sought to be acquired have
10 been in existence and continuously operating for more than ~~five~~three
11 years: Provided, that the Commissioner may approve the acquisition
12 by a regional bank holding company of all or substantially all of the
13 shares of a bank organized solely for the purpose of facilitating the
14 acquisition of a bank that has been in existence and continuously
15 operating as a bank for more than ~~five~~three years: ~~Provided further,~~
16 ~~where the Commissioner after examination or other investigation has~~
17 ~~determined that it is necessary to approve an interstate acquisition under this~~
18 ~~Article in order to protect the public and to prevent the possible failure of a~~
19 ~~bank or banking subsidiary of a bank holding company, then in that event~~
20 ~~the period of existence and continuous operation of the bank or banking~~
21 ~~subsidiary may be reduced from five to three years; and~~
- 22 (4) The Commissioner makes the acquisition subject to any conditions,
23 restrictions, requirements or other limitations that would apply to the
24 acquisition by a North Carolina bank holding company of a bank or
25 bank holding company in the state where the regional bank holding
26 company making the acquisition has its principal place of business but
27 that would not apply to the acquisition of a bank or bank holding
28 company in such state by a bank holding company all the bank
29 subsidiaries of which are located in that state."

30 Sec. 2. G.S. 54B-48.3 reads as rewritten:

31 **"§ 54B-48.3. Acquisitions by Southern Region savings and loan holding companies**
32 **and Southern Region associations.**

33 (a) A Southern Region savings and loan holding company or a Southern Region
34 association that does not have a North Carolina association subsidiary (other than a
35 North Carolina association subsidiary that was acquired either pursuant to Section 123
36 of the Garn-St. Germain Depository Institutions Act of 1982 (12 U.S.C. 1730a(m)), or
37 comparable provisions in state law, or in the regular course of securing or collecting a
38 debt previously contracted in good faith) may acquire a North Carolina savings and loan
39 holding company or a North Carolina association with the approval of the
40 Administrator. The Southern Region savings and loan holding company or Southern
41 Region association shall submit to the Administrator an application for approval of such
42 acquisition, which application shall be approved only if:

- 43 (1) The Administrator determines that the laws of the state in which the
44 Southern Region savings and loan holding company or Southern

- 1 Region association making the acquisition has its principal place of
2 business permit North Carolina savings and loan holding companies
3 and North Carolina associations to acquire associations and savings
4 and loan holding companies in that state;
- 5 (2) The Administrator determines that the laws of the state in which the
6 Southern Region savings and loan holding company or Southern
7 Region association making the acquisition has its principal place of
8 business permit such Southern Region savings and loan holding
9 company or Southern Region association to be acquired by the North
10 Carolina savings and loan holding company or North Carolina
11 association sought to be acquired;
- 12 (3) The Administrator determines either that the North Carolina
13 association sought to be acquired has been in existence and
14 continuously operating for more than ~~five~~three years or that all of the
15 association subsidiaries of the North Carolina savings and loan holding
16 company sought to be acquired have been in existence and
17 continuously operating for more than ~~five~~three years: Provided, that
18 the Administrator may approve the acquisition by a Southern Region
19 savings and loan holding company or Southern Region association of
20 all or substantially all of the shares of an association organized solely
21 for the purpose of facilitating the acquisition of an association that has
22 been in existence and continuously operating as an association for
23 more than ~~five~~three years; and
- 24 (4) The Administrator makes the acquisition subject to any conditions,
25 restrictions, requirements or other limitations that would apply to the
26 acquisition by a North Carolina savings and loan holding company or
27 North Carolina association of an association or savings and loan
28 holding company in the state where the Southern Region savings and
29 loan holding company or Southern Region association making the
30 acquisition has its principal place of business but that would not apply
31 to the acquisition of an association or savings and loan holding
32 company in such state by an association or a savings and loan holding
33 company all the association subsidiaries of which are located in that
34 state;
- 35 (5) With respect to acquisitions involving the merger or consolidation of
36 two associations resulting in a Southern Region association, the
37 application includes a business plan extending for an initial period of
38 at least three years from the date of the acquisition which shall be
39 renewed thereafter for as long as may be required by the
40 Administrator. The association may not deviate without the prior
41 written approval of the Administrator from the business plan which
42 shall address such matters as the Administrator may deem appropriate
43 for the protection of the depositors and members of the acquired North

1 Carolina association and the general public. The business plan shall
2 address, without limitation:

- 3 a. Insurance of depositors' accounts.
- 4 b. Limitation of services and activities to those permitted under
5 this Chapter to North Carolina associations.
- 6 c. Conversion of corporate form or other fundamental changes.
- 7 d. Closing, selling or divesting any or all North Carolina branches.
- 8 e. Protection of the voting rights of North Carolina members.

9 (b) A Southern Region savings and loan holding company or Southern Region
10 association that has a North Carolina association subsidiary (other than a North Carolina
11 association subsidiary that was acquired either pursuant to Section 123 of the Garn-St.
12 Germain Depository Institutions Act of 1982 (12 U.S.C. 1730a(m)), or comparable
13 provisions in North Carolina law, or in the regular course of securing or collecting a
14 debt previously contracted in good faith) may acquire any North Carolina association or
15 North Carolina savings and loan holding company with the approval of the
16 Administrator. The Southern Region savings and loan holding company shall submit to
17 the Administrator an application for approval of such acquisition, which application
18 shall be approved only if:

19 (1) The Administrator determines either that the North Carolina
20 association sought to be acquired has been in existence and
21 continuously operating for more than ~~five~~three years or that all of the
22 association subsidiaries of the North Carolina savings and loan holding
23 company sought to be acquired have been in existence and
24 continuously operating for more than ~~five~~three years: Provided, that
25 the Administrator may approve the acquisition by a Southern Region
26 savings and loan holding company or Southern Region association of
27 all or substantially all of the shares of an association organized solely
28 for the purpose of facilitating the acquisition of an association that has
29 been in existence and continuously operating as an association for
30 more than ~~five~~three years; and

31 (2) The Administrator makes the acquisition subject to any conditions,
32 restrictions, requirements or other limitations that would apply to the
33 acquisition by the North Carolina savings and loan holding company
34 or North Carolina association of an association or savings and loan
35 holding company in the State where the Southern Region savings and
36 loan holding company or Southern Region association making the
37 acquisition has its principal place of business but that would not apply
38 to the acquisition of an association or savings and loan holding
39 company in such state by a savings and loan holding company all the
40 association subsidiaries of which are located in that state.

41 (3) With respect to acquisitions involving the merger or consolidation of
42 two associations resulting in a Southern Region association, the
43 application includes a business plan extending for an initial period of
44 at least three years from the date of the acquisition which shall be

1 renewed thereafter for as long as may be required by the
2 Administrator. The association may not deviate without the prior
3 written approval of the Administrator from the business plan which
4 shall address such matters as the Administrator may deem appropriate
5 for the protection of the depositors and members of the acquired North
6 Carolina association and the general public. The business plan shall
7 address, without limitation:

- 8 a. Insurance of depositors' accounts.
- 9 b. Limitation of services and activities to those permitted under
10 this Chapter to North Carolina associations.
- 11 c. Conversion of corporate form or other fundamental changes.
- 12 d. Closing, selling or divesting any or all North Carolina branches.
- 13 e. Protection of the voting rights of North Carolina members.

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

19 Sec. 3. This act is effective upon ratification.