

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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SENATE BILL 997
Second Edition Engrossed 6/4/92

Short Title: Savings Institutions Omnibus Bill.

(Public)

Sponsors: Senators Staton, Carpenter, Conder, and Plyler; and Forrester.

Referred to: Banks and Thrift Institutions.

May 27, 1992

1 A BILL TO BE ENTITLED
2 AN ACT TO MAKE OMNIBUS AND TECHNICAL CHANGES TO THE SAVINGS
3 INSTITUTIONS LAWS.

4 The General Assembly of North Carolina enacts:

5 Section 1. G.S. 54B-4 is amended by adding a new subdivision to read:

6 "(16a) 'Control' means the power, directly or indirectly, to direct the
7 management or policies of an association or to vote twenty-five
8 percent (25%) or more of any class of voting securities for an
9 association."

10 Sec. 2. G.S. 54B-25 reads as rewritten:

11 "**§ 54B-25. Branch offices closed.**

12 The board of a State association may discontinue the operation of a branch office
13 upon giving at least ~~30~~90 days' prior written notice to the Administrator, the notice to
14 include the date upon which the branch office shall be closed."

15 Sec. 3. G.S. 54B-33(c) reads as rewritten:

16 "(c) The association shall submit a plan of conversion as a part of the application
17 to the Administrator, and he may approve it with or without amendment, if it appears
18 that:

19 (1) After conversion the association will be in sound financial condition
20 and will be soundly managed;

21 (2) The conversion will not impair the capital of the association nor
22 adversely affect the association's operations;

- 1 (3) The conversion will be fair and equitable to the members of the
2 association and no person whether member, employee or otherwise,
3 will receive any inequitable gain or advantage by reason of the
4 conversion;
- 5 (4) The savings and loan services provided to the public by the association
6 will not be adversely affected by the conversion;
- 7 (5) The substance of the plan has been approved by a vote of two thirds of
8 the board of directors of the association;
- 9 (6) All shares of stock issued in connection with the conversion are
10 offered first to the members of the ~~association~~; association; except that
11 any one or more tax qualified stock benefit plan may first purchase in
12 the aggregate not more than ten percent (10%) of the total offering of
13 shares;
- 14 (7) All stock shall be offered to members of the association and others in
15 prescribed amounts and otherwise pursuant to a formula and procedure
16 which is fair and equitable and will be fairly disclosed to all interested
17 persons;
- 18 (8) The plan provides a statement as to whether stockholders shall have
19 preemptive rights to acquire additional or treasury shares of the
20 association and any provision limiting or denying said rights; and
- 21 (9) The conversion shall not be complete until all stock offered in
22 connection with the conversion has been subscribed.

23 If ~~he~~ the Administrator approves the plan, then the plan shall be submitted to the
24 members as provided in ~~the next subsection~~; subsection (d) of this section. If ~~he~~ the
25 Administrator refuses to approve the plan, ~~he~~ the Administrator shall state ~~his~~ the
26 objections in writing and give the converting association an opportunity to amend the
27 plan to obviate ~~such~~ the objections or to appeal ~~his~~ the Administrator's decision to the
28 ~~commission~~; Commission."

29 Sec. 4. G.S. 54C-4(a) reads as rewritten:

30 "(a) ~~The~~ Except with respect to this Chapter and Chapter 54B, the term 'savings
31 and loan association' when used in the General Statutes shall include savings banks
32 chartered under this Chapter."

33 Sec. 5. G.S. 54C-9(b) reads as rewritten:

34 "(b) The Administrator shall receive the application to organize a State savings
35 bank not less ~~then~~ ~~[than]~~ than 60 days before the scheduled consideration of the
36 application by the Commission. The application shall contain the following:

- 37 (1) The original of the certificate of incorporation, which shall be signed
38 by the original incorporators, or a majority of them, and shall be
39 properly acknowledged by a person duly authorized by this State to
40 take proof or acknowledgment of deeds; and two conformed copies;
- 41 (2) The names and addresses of the incorporators; and the names and
42 addresses of the initial members of the board of directors;

- 1 (3) Statements of the anticipated receipts, expenditures, earnings, and
 2 financial condition of the savings bank for its first three years of
 3 operation, or any longer period as the Administrator may require;
 4 (4) A showing satisfactory to the Commission that:
 5 a. The public convenience and advantage will be served by the
 6 establishment of the proposed savings bank;
 7 b. There is a reasonable demand and necessity in the community
 8 that will be served by the establishment of the proposed savings
 9 bank;
 10 c. The proposed savings bank will have a reasonable probability
 11 of sustaining profitable and beneficial operations within a
 12 reasonable time in the community in which the proposed
 13 savings bank intends to locate;
 14 d. The proposed savings bank, if established, will promote healthy
 15 and effective competition in the community in the delivery to
 16 the public of savings institution services;
 17 (5) The proposed bylaws; and
 18 (6) Statements, exhibits, maps, and other data that may be prescribed or
 19 requested by the Administrator, which data shall be sufficiently
 20 detailed and comprehensive so as to enable the Administrator to pass
 21 upon the criteria set forth in this Article."

22 Sec. 6. G.S. 54C-26 reads as rewritten:

23 **"§ 54C-26. Branch offices closed.**

24 The Board of a State savings bank may discontinue the operation of a branch office
 25 upon giving at least ~~30~~90 days prior written notice to the Administrator, the notice to
 26 include the date upon which the branch office shall be closed."

27 Sec. 7. G.S. 54C-30(c) reads as rewritten:

28 "(c) After lawful notice to the members or stockholders of the converting
 29 depository institution and full and fair disclosure, the substance of the plan shall be
 30 approved by a majority of the ~~total~~ votes that members or stockholders of the institution are
 31 ~~eligible and entitled to cast. The vote by the members or stockholders may be in person or by~~
 32 ~~proxy, or shares present, in person or by proxy.~~ Following the vote of the members or
 33 stockholders, the results of the vote certified by an appropriate officer of the converting
 34 depository institution shall be filed with the Administrator. The Administrator shall
 35 then either approve or disapprove the requested conversion to a State savings bank.
 36 After approval of the conversion, the Administrator shall supervise and monitor the
 37 conversion process and shall ensure that the conversion is conducted lawfully and under
 38 the approved plan of conversion."

39 Sec. 8. G.S. 54C-33(c) reads as rewritten:

40 "(c) The savings bank shall submit a plan of conversion as a part of the
 41 application to the Administrator. The Administrator may approve it with or without
 42 amendment, if it appears that:

- 43 (1) After conversion the savings bank will be in sound financial condition
 44 and will be soundly managed;

- 1 (2) The conversion will not impair the capital of the savings bank nor
2 adversely affect the savings bank's operations;
- 3 (3) The conversion will be fair and equitable to the members of the
4 savings bank and no person whether member, employee, or otherwise,
5 will receive any inequitable gain or advantage by reason of the
6 conversion;
- 7 (4) The savings bank services provided to the public by the savings bank
8 will not be adversely affected by the conversion;
- 9 (5) The substance of the plan has been approved by a vote of two-thirds of
10 the board of directors of the savings bank;
- 11 (6) All shares of stock issued in connection with the conversion are
12 offered first to the members of the savings bank; ~~bank~~; except that any
13 one or more tax qualified employee stock benefit plans may first
14 purchase in the aggregate not more than ten percent (10%) of the total
15 offering of shares;
- 16 (7) All stock shall be offered to members of the savings bank and others in
17 prescribed amounts and otherwise under a formula and procedure that
18 is fair and equitable and will be fairly disclosed to all interested
19 persons; and
- 20 (8) The plan provides a statement as to whether stockholders shall have
21 preemptive rights to acquire additional or treasury shares of the
22 savings bank.

23 If the Administrator approves the plan, then the plan shall be submitted to the
24 members as provided in subsection (d) of this section. If the Administrator refuses to
25 approve the plan, the Administrator shall state the objections in writing and give the
26 converting savings bank an opportunity to amend the plan to obviate the objections or to
27 appeal the Administrator's decision to the Commission."

28 Sec. 9. G.S. 54C-63 reads as rewritten:

29 **"§ 54C-63. Statement examined, approved, and published.**

30 It is the duty of the Administrator to receive and thoroughly examine each annual
31 statement required by ~~G.S. 54C-73~~, G.S. 54C-62, and if made in compliance with the
32 requirements thereof, each State savings bank shall publish an abstract of the same in
33 one of the newspapers of the State, to be selected by the managing officer making the
34 statement, and at the expense of the savings bank."

35 Sec. 10. G.S. 54C-78(a) reads as rewritten:

36 "(a) A person, whether a director, officer, or employee, who is found to have
37 violated this Article, whether willfully or as a result of gross negligence, gross
38 incompetency, or recklessness, may be ordered to pay a civil penalty of up to five
39 thousand dollars (\$5,000) per violation. A person who is found to have violated or
40 failed to comply with any cease and desist order issued under the authority of this
41 Article, may be ordered to pay a civil penalty of up to five thousand dollars (\$5,000) per
42 violation for each day that the violation ~~of~~ or failure to comply continues."

43 Sec. 11. G.S. 54C-170(a) reads as rewritten:

1 "(a) A savings bank may issue a deposit account to a minor as the sole and
2 absolute ~~owner~~-owner, or as a joint owner, and receive payments, pay withdrawals,
3 accept pledges and ~~act~~, or as a ~~joint owner~~, act in any other manner with respect to the
4 account on the order of the minor with like effect as if the minor were of full age and
5 legal capacity. Any payment to a minor is a discharge of the savings bank to the extent
6 thereof. The account shall be held for the exclusive right and benefit of the minor, and
7 any joint owners, free from the control of all persons, except creditors."

8 Sec. 12. Article 8 of Chapter 54C of the General Statutes is amended by
9 adding a new section to read:

10 **"§ 54C-179. Forced retirement of deposit accounts.**

11 (a) A savings bank may, at any time that funds are on hand and available for this
12 purpose, force the retirement of and redeem all or any portion of its deposit accounts
13 that have not been pledged as security for loans. A savings bank may not redeem any
14 fixed term deposit accounts that have not matured. The board of directors of the savings
15 bank shall determine the number of and total amount of the deposit accounts to be
16 retired.

17 (b) A savings bank shall give at least 30 days' notice by certified mail to the last
18 address of each holder of an affected deposit account. The redemption price of deposit
19 accounts so retired is the full withdrawal value of the account, as determined on the last
20 interest date, plus all interest on deposit accounts credited or paid as of the effective
21 retirement date. Interest continues to accrue and be paid or credited by the savings bank
22 to the deposit accounts to be retired through the effective retirement date.

23 (c) Interest on the deposit accounts called for forced retirement ceases to accrue
24 after the effective retirement date, if the required notice has been given properly, and if
25 on the retirement date the funds necessary for payment have been set aside so as to be
26 available. All rights with respect to those deposit accounts terminate after the effective
27 retirement date, except for the right of the holder of the retired deposit account to
28 receive the full redemption price.

29 (d) A savings bank shall not redeem deposit accounts by forced retirement
30 whenever it has on file applications for withdrawal or maturities that have not yet been
31 acted upon and paid."

32 Sec. 13. This act is effective upon ratification.