

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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SENATE BILL 513

Banks and Thrift Institutions Committee Substitute Adopted 4/26/93

House Committee Substitute Favorable 6/14/93

Short Title: Banking Amendments.

(Public)

Sponsors:

Referred to:

March 22, 1993

A BILL TO BE ENTITLED

AN ACT TO AMEND THE BANKING LAWS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 53-1(3) reads as rewritten:

"(3) Insolvency. – The term 'insolvency' means:

- a. When a bank cannot meet its deposit liabilities as they become due in the regular course of business;
- b. When the actual cash market value of its assets is insufficient to pay its liabilities to depositors and other creditors;
- c. When its reserve shall fall under the amount required by this Chapter, and it shall fail to make good such reserve within 30 days after being required to do so by the Commissioner of Banks; or
- d. Whenever the undivided profits and surplus shall be inadequate to cover losses of the bank, whereby an impairment of the capital stock is created."

Sec. 2. G.S. 53-7 reads as rewritten:

"§ 53-7. Statement filed before beginning business.

Before such company shall begin the business of banking, banking and trust, fiduciary, or surety business, there shall be filed with the Commissioner of Banks a statement under oath by the ~~president, cashier, or secretary,~~ president or secretary containing the names of all the directors and officers, with the date of their election or

1 appointment, term of office, residence, and post-office address of each, the amount of
2 capital stock of which each is the owner in good faith and the amount of money paid in
3 on account of the capital stock. Nothing shall be received in payment of capital stock
4 but money."

5 Sec. 3. G.S. 53-12 reads as rewritten:

6 "**§ 53-12. Merger or consolidation of ~~banks~~, banks and savings associations.**

7 A bank may merge or consolidate with or transfer its assets and liabilities to another
8 ~~bank~~, ~~bank~~ or to a savings association, or a savings association may transfer its assets
9 and liabilities to a bank. Before such merger or consolidation or transfer shall become
10 effective, each bank or savings association concerned in such merger or consolidation or
11 transfer shall file, or cause to be filed, with the Commissioner of Banks, certified copies
12 of all proceedings had by its directors and stockholders, or in the case of a mutual
13 savings association, its membership, which said stockholders' or memberships'
14 proceedings shall set forth that (i) holders of at least two thirds of the stock of the bank
15 voted in the affirmative on the proposition of merger or consolidation or transfer, or, (ii)
16 in the case of a stock or mutual savings association, such percentage of the stock or of
17 the membership as the laws applicable to such institutions require. Such stockholders' or
18 memberships' proceedings shall also contain a complete copy of the agreement made
19 and entered into between said ~~banks~~, ~~banks~~ or savings associations, with reference to
20 such merger or consolidation or transfer. Upon the filing of such stockholders' or
21 memberships' and directors' proceedings as aforesaid, the Commissioner of Banks shall
22 may cause to be made an investigation of each bank or savings association, or both, to
23 determine whether the interests of the depositors, creditors, and stockholders or
24 members of each bank or savings association are protected, and find such merger or
25 consolidation is in the public interest, and that such merger or consolidation or transfer
26 is made for legitimate purposes, and his consent to or rejection of such merger or
27 consolidation or transfer shall be based upon such investigation. No such merger or
28 consolidation or transfer shall be made without the consent of the Commissioner of
29 Banks. The expense of such investigation shall be paid by ~~such banks~~, ~~the banks~~ or
30 savings associations, or both, involved in the proposed merger or consolidation or
31 transfer. Notice of such merger or consolidation or transfer shall be published once a
32 week for four consecutive weeks before or after the same is to become effective, at the
33 discretion of the Commissioner of Banks, in a newspaper published in a ~~city, town, or~~
34 ~~county~~ the county in which each of said banks or savings associations, or both, is
35 located, ~~and a~~ or if no newspaper is published in such county, then in a newspaper
36 having a general circulation in such county. A certified copy thereof shall be filed with
37 the Commissioner of Banks. In case of either transfer or merger or consolidation the
38 rights of creditors shall be preserved unimpaired, and the respective companies deemed
39 to be in existence to preserve such rights for a period of three years. For the purposes of
40 this section, the term 'savings association' shall be construed to include a savings and
41 loan association or a savings bank, whether organized under the laws of North Carolina
42 or the United States."

43 Sec. 4. G.S. 53-13 reads as rewritten:

1 **"§ 53-13. Merged or consolidated banks and savings associations deemed one ~~bank~~**
 2 **bank or savings association.**

3 In case of merger or consolidation when the agreement of merger or consolidation is
 4 made, and a duly certified copy thereof is filed with the Secretary of State, together with
 5 a certified copy of the approval of the Commissioner of Banks to such merger or
 6 consolidation, the ~~banks, parties thereto,~~ parties thereto shall be held to be one company,
 7 possessed of the rights, privileges, powers, and franchises of the several companies, but
 8 subject to all the provisions of law under which it is created. The directors and other
 9 officers named in the agreement of consolidation shall serve until the first annual
 10 meeting for election of officers and directors, the date for which shall be named in the
 11 agreement. On filing such agreement, all and singular, the property and rights of every
 12 kind of the several companies shall thereby be transferred and vested in such surviving
 13 company in the case of merger or in such new company in the case of consolidation,
 14 and be as fully its property as they were of the companies parties to the agreement."

15 Sec. 5. G.S. 53-17 reads as rewritten:

16 **"§ 53-17. Fiduciary powers and liabilities of ~~banks or banks,~~ trust companies**
 17 **companies, savings associations or savings banks merging or transferring**
 18 **assets and liabilities.**

19 Whenever any ~~bank or trust company,~~ bank, trust company, savings association, or
 20 savings bank, organized under the laws of North Carolina or the acts of Congress, and
 21 doing business in this State, shall consolidate or merge with or shall sell to and transfer
 22 its assets and liabilities to any other ~~bank or trust company~~ bank, trust company, savings
 23 association, or savings bank doing business in this State, as provided by the laws of
 24 North Carolina or the acts of Congress, all the then existing fiduciary rights, powers,
 25 duties and liabilities of such consolidating or merging or transferring ~~bank or banks~~
 26 ~~and/or trust companies,~~ institution, including the rights, powers, duties and liabilities as
 27 executor, administrator, guardian, trustee, and/or any other fiduciary capacity, whether
 28 under appointment by order of court, will, deed, or other instrument, shall, upon the
 29 effective date of such consolidation or merger or sale and transfer, vest in, devolve
 30 upon, and thereafter be performed by, the transferee ~~bank~~ institution or the consolidated
 31 or merged ~~bank or trust company,~~ institution, and such latter ~~bank or trust company~~
 32 institution shall be deemed substituted for and shall have all the rights and powers of the
 33 transferring ~~bank or trust company.~~ institution."

34 Sec. 6. G.S. 53-17.2 reads as rewritten:

35 **"§ 53-17.2. Conversion of savings association or savings bank to a State bank.**

36 (a) Any association, as defined in G.S. 54B-4, or any savings bank as defined in
 37 G.S. 54C-4(b), may convert to a State bank as provided in this section. A mutual
 38 association or mutual savings bank must first convert to a stock association or stock
 39 savings bank before applying for conversion to a bank as provided in this section. As
 40 used in this section, the term 'conversion' includes (i) a transaction in which a State bank
 41 assumes all or substantially all of the liabilities and purchases all or substantially all of
 42 the assets of an association or savings bank and (ii) any other transaction that results in a
 43 change of identity of an association or savings bank to a State bank. A transaction in
 44 which the resulting bank is a subsidiary or an affiliate of a bank holding company or

1 bank which has been in existence for at least two years shall not be subject to the
2 provisions of this section but shall be subject to the approval of the Commissioner of
3 Banks.

4 (b) Any ~~association~~, association or savings bank, upon a majority vote of its board
5 of directors, may apply to the Commissioner of Banks for permission to convert to a
6 bank and for certification of appropriate amendments to ~~the association's~~ its certificate of
7 incorporation to effect the conversion.

8 (c) The association or savings bank shall submit a plan of conversion as a part of
9 the application to the Commissioner of Banks. The Commissioner of Banks may
10 recommend approval of the plan of conversion with or without amendment. The
11 Commissioner of Banks shall recommend approval of the plan of conversion if upon
12 examination and investigation he finds that:

- 13 (1) The resulting bank will operate in a safe, sound, and prudent manner
14 with adequate capital, liquidity, and earnings prospects;
- 15 (2) The directors, officers, and other managerial officials of the
16 association or savings bank are qualified by character and financial
17 responsibility to control and operate in a legal and proper manner the
18 bank proposed to be formed as a result of the conversion;
- 19 (3) The interest of the depositors, the creditors, and the public generally
20 will not be jeopardized by the proposed conversion; and
- 21 (4) The proposed name will not mislead the public as to the character or
22 purpose of the resulting bank, and the proposed name is not the same
23 as one already adopted or appropriated by an existing bank in this
24 State or so similar as to be likely to mislead the public.

25 (d) Any action taken by the Commissioner of Banks pursuant to this section shall
26 be subject to review by the State Banking Commission which may approve, modify, or
27 disapprove any action taken or recommended by the Commissioner of Banks. The State
28 Banking Commission may promulgate rules to govern conversions undertaken pursuant
29 to this section. The requirements for a converting association or savings bank shall be
30 no more stringent than those provided by rule or regulation applicable to other FDIC-
31 insured commercial banks. The requirements for a converting association or savings
32 bank shall be no less stringent than those provided by rule or regulation applicable to
33 other FDIC-insured commercial banks, except as may be allowed during transition
34 periods permitted by subdivisions (e)(4) and (h)(2) of this section.

35 (e) In the absence of the promulgation of rules under subsection (d), the
36 conditions to be met for approval of the application for conversion should include the
37 following:

- 38 (1) Condition. The applicant's general condition must reflect adequate
39 capital, liquidity, reserves, earnings, and asset composition necessary
40 for safe and sound operation of the resulting bank.
- 41 (2) Management. The management and the board of directors must be
42 capable of supervising a sound banking operation and overseeing the
43 changes that must be accomplished in the conversion from an
44 association or savings bank to a bank.

1 (3) Public Convenience. The Commission must determine that the
2 conversion will have a positive impact on the convenience of the
3 public and will not substantially reduce the services available to the
4 public in the market area.

5 (4) Transition. Within a reasonable time after the effective date of the
6 conversion, the resulting bank must divest itself of all assets and
7 liabilities that do not conform to State banking law or rules. The
8 length of this transition period shall be determined by the
9 Commissioner and shall be specified when the application for
10 conversion is approved.

11 In evaluating each of these conditions, the Commission shall consider a comparison
12 of the relevant financial ratios of the applicant with the average ratios of North Carolina
13 banks of similar asset size. The Commission may not approve a conversion where the
14 applicant presents an undue supervisory concern or has not been operated in a safe and
15 sound manner.

16 (f) If the State Banking Commission approves the plan of conversion, then the
17 association or savings bank shall submit the plan to the stockholders as provided in
18 subsection (g). After approval of the plan of conversion, the Commissioner of Banks
19 shall supervise and monitor the conversion process and shall ensure that the conversion
20 is conducted pursuant to law and the association's or savings bank's approved plan of
21 conversion.

22 (g) After lawful notice to the stockholders of the association or savings bank and
23 full and fair disclosure of the plan of conversion, the plan must be approved by a
24 majority of the total votes that stockholders of the association or savings bank are
25 eligible and entitled to cast. The vote by the stockholders may be in person or by proxy.
26 Following the vote of the stockholders, the association or savings bank shall file with
27 the Commissioner of Banks the results of the vote certified by an appropriate ~~officer of~~
28 ~~the association.~~ officer. The Commissioner of Banks shall then approve the requested
29 conversion and the association or savings bank shall file with the Secretary of State
30 amended articles of incorporation with the certificate of the Commissioner of Banks
31 attached. The conversion of the association or savings bank to a bank shall be effective
32 upon this filing.

33 (h) The Commissioner of Banks may authorize the resulting bank to do the
34 following:

35 (1) Wind up any activities legally engaged in by the association or savings
36 bank at the time of conversion but not permitted to State banks.

37 (2) Retain for a transitional period any assets and deposit liabilities legally
38 held by the association or savings bank at the effective date of the
39 conversion that may not be held by State banks.

40 The length, terms, and conditions of the transitional periods under subdivisions (1) and
41 (2) are subject to the discretion of the Commissioner of Banks.

42 (i) Upon conversion of an association or savings bank to a bank, the legal
43 existence of ~~the association~~ such institution does not terminate, and the resulting bank is
44 a continuation of the ~~association.~~ same. The conversion shall be a mere change in

1 identity or form of organization. All rights, liabilities, obligations, interest, and
2 relations of whatever kind of the association or savings bank shall continue and remain
3 in the resulting bank. Except as may be authorized during a transitional period by the
4 Commissioner of Banks pursuant to subsection (h), a bank resulting from the
5 conversion of an association or savings bank shall have only those rights, powers and
6 duties which are authorized for banks by the laws of this State and the United States.
7 All actions and legal proceedings to which the association or savings bank was a party
8 prior to conversion shall be unaffected by the conversion and shall proceed as if the
9 conversion had not taken place."

10 Sec. 7. G.S. 53-18 reads as rewritten:

11 **"§ 53-18. Voluntary liquidation.**

12 A bank may go into voluntary liquidation and be closed, and may surrender its
13 charter and franchise as a corporation of this State by the affirmative votes of its
14 stockholders owning two thirds of its stock, such vote to be taken at a meeting of the
15 stockholders duly called by resolution of the board of directors, written notice of which,
16 stating the purpose of the meeting, shall be mailed to each stockholder, or in case of his
17 death, to his legal representative or heirs at law, addressed to his last known residence
18 10 days previous to the date of said meeting. Whenever stockholders shall by such vote
19 at a meeting regularly called for the purpose, notice of which shall be given as herein
20 provided, decide to liquidate such bank, a certified copy of all proceedings of the
21 meeting at which said action shall have been taken, verified by the oath of the president
22 and ~~cashier, secretary,~~ shall be transmitted to the Commissioner of Banks for his
23 approval. If the Commissioner of Banks shall approve the same, he shall issue to the
24 said bank, under his seal, a permit for such purpose. No such permit shall be issued by
25 the Commissioner of Banks until said Commissioner of Banks shall be satisfied that
26 provision has been made by such bank to satisfy and pay off all depositors and all
27 creditors of such bank. If not so satisfied, the Commissioner of Banks shall refuse to
28 issue a permit, and shall be authorized to take possession of said bank and its assets and
29 business, and hold the same and liquidate said bank in the manner provided in this
30 Chapter. When the Commissioner of Banks shall approve the voluntary liquidation of a
31 bank, the directors of said bank shall cause to be published in a newspaper in the ~~city,~~
32 ~~town, or county~~ in which such bank is located, or if no newspaper is published in the
33 county, then in a newspaper having a general circulation in the county, a notice that the
34 bank is closing up its affairs and going into liquidation, and notify its depositors and
35 creditors to present their claims for payment. The notice shall be published once a week
36 for four consecutive weeks. When any bank shall be in process of voluntary liquidation,
37 it shall be subject to examination by the Commissioner of Banks, and shall furnish such
38 reports from time to time as may be called for by the Commissioner of Banks. All
39 unclaimed deposits and dividends remaining in the hands of such bank shall be subject
40 to the provisions of Chapter 116B. Whenever the Commissioner of Banks shall approve
41 it, any bank may sell and transfer to any other bank, either State bank or national bank,
42 all of its assets of every kind upon such terms as may be agreed upon and approved by
43 the Commissioner of Banks and by two-thirds vote of its board of directors. A certified
44 copy of the minutes of any meeting at which such action is taken, under the oath of the

1 president and ~~cashier, secretary,~~ together with a copy of the contract of sale and transfer,
 2 shall be filed with the Commissioner of Banks. Whenever voluntary liquidation shall be
 3 approved by the Commissioner of Banks or the sale and transfer of the assets of any
 4 bank shall be approved by the Commissioner of Banks, a certified copy of such
 5 approval under seal of the Commissioner of Banks, filed in the office of the Secretary of
 6 State, shall authorize the cancellation of the charter of such bank, subject, however, to
 7 its continued existence, as provided by this Chapter and the general law relative to
 8 corporations."

9 Sec. 8. G.S. 53-19 reads as rewritten:

10 **"§ 53-19. When Commissioner of Banks may take charge.**

11 The Commissioner of Banks may forthwith take possession of the business and
 12 property of any bank to which this Chapter is applicable whenever it shall appear that
 13 such bank:

- 14 (1) Has violated its charter or any laws applicable thereto;
- 15 (2) Is conducting its business in an unauthorized or unsafe manner;
- 16 (3) Is in an unsafe or unsound condition to transact its business;
- 17 (4) Has an impairment of its capital stock;
- 18 (5) Has refused to pay its depositors in accordance with the terms on
 19 which such deposits were received, or has refused to pay its holders of
 20 certificates of indebtedness or investment in accordance with the terms
 21 upon which such certificates of indebtedness or investment were sold;
- 22 (6) Has become otherwise insolvent;
- 23 (7) Has neglected or refused to comply with the terms of a duly issued
 24 lawful order of the Commissioner of Banks;
- 25 (8) Has refused, upon proper demand, to submit its records, affairs, and
 26 concerns for inspection and examination of a duly appointed or
 27 authorized examiner of the Commissioner of Banks;
- 28 (9) Its officers have refused to be examined upon oath regarding its
 29 affairs; or
- 30 (10) Has made a voluntary assignment of its assets to trustees.

31 Such banks may resume business as provided in G.S. 53-37."

32 Sec. 9. G.S. 53-20(a) reads as rewritten:

33 "(a) When Commissioner of Banks to Take Possession. – Whenever any State
 34 bank shall neglect or refuse for a period of 60 days to make a report to the
 35 Commissioner of Banks, as he may demand, or shall, after demand under seal of the
 36 Commissioner of Banks, fail, neglect or refuse to comply with any of the rules,
 37 regulations or requirements of the State Banking Commission, or the provisions of the
 38 banking law, or if at any time the Commissioner of Banks shall find a bank subject to
 39 the supervision of the Commissioner of Banks, in an insolvent, unsafe or unsound
 40 condition to transact the business for which it was organized, or in an unsafe, or
 41 unsound condition to continue its business, or if such institution shall neglect or refuse
 42 to correct any irregularity which may be called to the attention of the ~~president, cashier~~
 43 president or board of directors, by the Commissioner of Banks, or any of his assistants,
 44 then, in either of such events, the Commissioner of Banks, or any duly authorized agent

1 of the Commissioner of Banks appointed under seal of the Commissioner of Banks,
2 shall forthwith take possession of such bank, and all of its assets and business and shall
3 retain possession thereof until such bank shall be authorized by the Commissioner of
4 Banks to resume business, or its affairs shall be fully liquidated as herein provided, or
5 possession thereof shall have been surrendered under order of a judge of the superior
6 court under the provisions of this section."

7 Sec. 10. G.S. 53-20(j) reads as rewritten:

8 "(j) Notice and Time for Filing Claims; Copies Mailed. – Notice shall be given by
9 advertisement once a week for four consecutive weeks in a newspaper published in said
10 county; if no newspaper is published in said county, then in some newspaper having a
11 general circulation in said county, calling on all persons who may have claims against
12 the bank to present the same to the Commissioner of Banks at the office of the bank,
13 and within the time to be specified in the notice, not less, however, than 90 days from
14 the date of the first publication. A copy of this notice shall be mailed to all persons
15 whose names appear as creditors upon the books of the bank. Affidavit by the
16 Commissioner of Banks, or agent mailing the notice, to the effect that said notice was
17 mailed shall be conclusive evidence thereof."

18 Sec. 11. G.S. 53-20(r) reads as rewritten:

19 "(r) Action by Commissioner of Banks after Full Settlement. – Whenever the
20 Commissioner of Banks shall have paid all the expenses of liquidation and shall have
21 paid to each and every depositor and creditor of such bank, whose claims shall have
22 been duly proven and allowed, the full amount of such claims, and shall have made
23 proper provision for unclaimed and unpaid deposits and disputed claims and deposits,
24 and shall have in hand other assets of said bank, he shall call a meeting of the
25 stockholders of said bank by giving notice thereof by publication once a week for
26 consecutive four weeks in a newspaper published in said county, or if no newspaper is
27 published in said county, then in a newspaper having general circulation in said county,
28 and by mailing a copy of such notice to each stockholder addressed to him at his address
29 as the same shall appear upon the books of the bank. Affidavit of the officer mailing the
30 notice herein required and of the printer as to the publication shall be conclusive
31 evidence of notice hereunder. At such meeting any stockholders may be represented by
32 proxy and the stockholders shall elect, by a majority vote of the stock present, an agent
33 or agents who shall be authorized to receive from the Commissioner of Banks all the
34 assets of said bank then remaining in his hands; and the Commissioner of Banks shall
35 cause to be transferred and delivered to the said agent, or agents, all such assets of said
36 bank. The Commissioner of Banks shall thereupon cause to be filed in the office of the
37 clerk of the superior court in the pending actions a full and complete report of all his
38 transactions, showing the assets of said bank so transferred, together with the name of
39 the agent or agents receipting for the same; and the filing of such report shall act as a
40 full and complete discharge of the Commissioner of Banks from all further liabilities by
41 reason of the liquidation of the bank. Such agent, or agents, shall convert the assets
42 coming into his hands, or their hands, into cash, and shall make distribution to the
43 stockholders of said bank as herein provided. Said agent, or agents, shall file
44 semiannually a report of all transactions with the superior court of the county in which

1 the bank is located, and with the Commissioner of Banks, and shall be allowed for such
2 services such fees not in excess of five percent (5%), as may be fixed by the court. In
3 case of death, removal or refusal to act, of any agent or agents elected by the
4 stockholders, the Commissioner of Banks shall, upon report of such action on the part of
5 such agent or agents to the superior court of the county in which the bank is located,
6 turn over to said superior court for the stockholders of said bank, all the remaining
7 assets of the bank, file his report and be discharged from any and all further liability to
8 the stockholders as herein provided. Said assets, when turned over to the superior court
9 hereunder, shall remain in the hands of the superior court until such time as, by order of
10 court or by action of the stockholders, distribution shall be provided for."

11 Sec. 12. G.S. 53-24 reads as rewritten:

12 **"§ 53-24. Destruction of records of liquidated insolvent banks.**

13 After the expiration of 10 years from the date of filing in the office of the clerk of
14 the superior court of a final order approving the liquidation by the banking department
15 of any insolvent bank and the delivery to the clerk or into his custody of the records of
16 such bank, the said records may be destroyed by the clerk of the superior court holding
17 said records ~~by burning the same~~ in the presence of the register of deeds and the sheriff of
18 said county, who shall join with the clerk in the execution of a certificate as to the
19 destruction of said records. The certificate shall be filed by the clerk in the court records
20 of the liquidation of the bank whose records are thus destroyed.

21 After 10 years from the filing by the Commissioner of Banks of a final report of
22 liquidation of any insolvent bank, the said Commissioner, by and with the consent of the
23 State Banking Commission or its successor, may destroy by burning the records of any
24 insolvent bank held in the Department of the Commissioner of Banks in connection
25 with the liquidation of such bank: Provided, that in connection with any unpaid
26 dividends the Commissioner of Banks shall preserve the deposit ledger or other
27 evidence of indebtedness of the bank with reference to the unpaid dividend until the
28 dividend shall have been paid.

29 Nothing in this section shall be construed to authorize the destruction by the clerk of
30 the superior court of any county or by the Commissioner of Banks of any of the formal
31 records of liquidation, nor shall the Commissioner of Banks have authority under this
32 section to destroy any of the records made in his office with reference to the liquidation
33 of any insolvent bank."

34 Sec. 13. G.S. 53-26 reads as rewritten:

35 **"§ 53-26. Petition for new trustee; service upon parties interested.**

36 In all cases of such insolvency and liquidation mentioned in G.S. 53-25, the clerk of
37 the superior court of any county in which such indenture, deed of trust or other
38 instrument of like character is recorded shall, upon the verified petition of any person
39 interested in any such trust, either as trustee, beneficiary or otherwise, which interest
40 shall be set out in said petition, enter an order directing service on all interested parties
41 either personally or by the publication in ~~some a~~ newspaper published in the county, or
42 ~~in some adjoining county~~ if no newspaper is published in the county where such
43 application is made, then in a newspaper having a general circulation in the county, of a
44 notice directed to all persons concerned, commanding and requiring all persons having

1 any interest in said trust, to be and appear at his office at a day designated in said order
2 and notice, not less than 30 days from the date thereof, and show cause why a new
3 trustee shall not be appointed."

4 Sec. 14. G.S. 53-35 reads as rewritten:

5 **"§ 53-35. Foreclosures and execution of deeds by Commissioner of Banks**
6 **validated.**

7 Whereas, the Commissioner of Banks, created by Chapter 243 of the Public Laws of
8 1931, was given general supervision over the banks of this State; and

9 Whereas, the Commissioner of Banks, under authority of Chapter 385 of the Public
10 Laws of 1931, succeeded to all the property of banks in liquidation, including fiduciary
11 powers under the mortgages and deeds of trust; and

12 Whereas, the Commissioner of Banks, in his own name and in the name of a number
13 of conservators or liquidating agents of banks in the process of liquidation under his
14 supervision, has foreclosed a large number of deeds of trust in which such banks were
15 the named trustee, and has executed under the powers contained therein a large number
16 of trustee's deeds under authority thereof: Now, therefore, all the deeds and acts of the
17 Commissioner of Banks and/or conservators or liquidating agents of such banks in the
18 process of liquidation, as in the preamble to this section described, are hereby in all
19 respects ratified, validated and confirmed.

20 ~~This section shall not affect litigation pending April 3, 1939."~~

21 Sec. 15. G.S. 53-37 reads as rewritten:

22 **"§ 53-37. Conditions under which banks may reopen.**

23 Whenever the Commissioner of Banks has taken in possession any bank, such bank
24 may, with the consent of the Commissioner of Banks, resume business upon such terms
25 and conditions as may be approved by the State Banking Commission. When such
26 banks have been taken in possession under the provisions of G.S. 53-20, subsections (a)
27 or (b), such conditions shall be fully stated in writing and a copy thereof shall
28 be filed with the clerk of the superior court in the action required to be commenced in
29 such cases against said bank under the provisions of G.S. 53-20, subsection (c):
30 Provided, however, no bank or banking institution which has been taken in possession
31 by the Commissioner of Banks under the provisions of the State banking laws shall be
32 reopened to receive deposits or for the transaction of a banking business unless and
33 until:

- 34 (1) The bank has been completely restored to solvency;
- 35 (2) The capital stock, if impaired, has been entirely restored in cash; or
- 36 (3) It shall clearly appear to the Commissioner of Banks that such bank
37 may be reopened with safety to the public and such reopening is
38 necessary to serve the business interests of the community."

39 Sec. 16. G.S. 53-42 reads as rewritten:

40 **"§ 53-42. Impairment of capital; assessments, etc.**

41 The Commissioner of Banks shall notify every bank whose capital shall have
42 become impaired from losses or any other cause, and the surplus and undivided profits
43 of such bank are insufficient to make good such impairment, to make the impairment
44 good within 60 days of such notice by an assessment upon the stockholders thereof, and

1 it shall be the duty of the officers and directors of the bank receiving such notice to
2 immediately call a special meeting of the stockholders for the purpose of making an
3 assessment upon its stockholders sufficient to cover the impairment of the capital,
4 payable in cash, at which meeting such assessment shall be made: Provided, that such
5 bank may reduce its capital to the extent of the impairment, as provided in G.S. 53-11.
6 If any stockholder of such bank neglects or refuses to pay such assessment as herein
7 provided, it shall be the duty of the board of directors to cause a sufficient amount of the
8 capital stock of such stockholder or stockholders to be sold at public auction, upon 30
9 days' notice given by posting such notice of sale in the office of the bank and by
10 publishing such notice in a newspaper in the ~~place~~ county where the bank is located, and
11 if none therein, a newspaper ~~circulating~~ having general circulation in the county in which
12 the bank is located, to make good the deficiency, and the balance, if any, shall be
13 returned to the delinquent shareholder or shareholders. If any such bank shall fail to
14 cause to be paid in such deficiency in its capital stock for three months after receiving
15 such notice from the Commissioner of Banks, the Commissioner of Banks may
16 forthwith take possession of the property and business of such bank until its affairs be
17 finally liquidated as provided by law. A sale of stock, as provided in this section, shall
18 effect an absolute cancellation of the outstanding certificate or certificates evidencing
19 the stock so sold, and shall make the certificate null and void, and a new certificate shall
20 be issued by the bank to the purchaser of such stock."

21 Sec. 17. G.S. 53-46 reads as rewritten:

22 **"§ 53-46. Limitations on investments in securities.**

23 The investment in any bonds or other debt obligations of any one firm, individual, or
24 corporation, unless it be the obligations of the United States, or agency thereof, or other
25 obligations guaranteed by the United States Government, State of North Carolina, or
26 other state of the United States, ~~or of some city, town, township, county, school district, or~~
27 ~~other political subdivision of such state or the State of North Carolina, shall at no time~~
28 ~~be more than twenty percent (20%) of the unimpaired capital fund of any bank to an amount~~
29 ~~not in excess of two hundred fifty thousand dollars (\$250,000); and not more than ten percent~~
30 ~~(10%) of the unimpaired capital fund in excess of two hundred fifty thousand dollars~~
31 ~~(\$250,000). exceed fifty thousand dollars (\$50,000) plus ten percent (10%) of all~~
32 amounts in excess of two hundred fifty thousand dollars (\$250,000) of the banks'
33 unimpaired capital fund."

34 Sec. 18. G.S. 53-47 reads as rewritten:

35 **"§ 53-47. Limitations on investment in stocks.**

36 No bank shall make any investment in the capital stock of any other state or national
37 ~~bank, bank or bank holding company.~~ Provided, that nothing herein shall be construed to
38 prevent banks doing business under this Chapter from subscribing to or purchasing,
39 upon such terms as may be agreed upon, the capital stock of clearing corporations as
40 defined in G.S. 25-8-102(3), the capital stock of banks organized under that act of
41 Congress known as the 'Edge Act', the capital stock of central reserve banks whose
42 capital stock exceeds one million dollars (\$1,000,000), or capital stock of the Federal
43 Home Loan Bank. To constitute a central reserve bank as contemplated by this Chapter,
44 at least fifty percent (50%) of the capital stock of such bank shall be owned by other

1 banks. The investment of any bank in the capital stock of such central reserve bank or
2 bank organized under the act of Congress commonly known as the 'Edge Act,' shall at
3 no time exceed ten percent (10%) of the paid-in capital and permanent surplus of the
4 bank making same. No bank shall invest more than seventy-five percent (75%) of its
5 unimpaired capital fund in the stocks of other corporations, firms, partnerships, or
6 companies, unless such stock is purchased to protect the bank from loss. The foregoing
7 limitation shall not apply to stock or ownership interests acquired in corporations, firms,
8 partnerships or companies which hold banking premises or which are bank operating
9 subsidiaries of such bank. The term 'invest' shall be deemed to include operating a
10 business entity acquired by the bank, provided, however, that no bank shall make any
11 such investment resulting in operations which are not closely related to banking without
12 the prior written approval of the Commissioner of Banks. The seventy-five percent
13 (75%) limitation shall be cumulative and the Commissioner of Banks shall monitor the
14 impact of investment activities of banks under this section on the safety and soundness
15 of such banks. Any stocks owned or hereafter acquired in excess of the limitations
16 herein imposed shall be disposed of at public or private sale within six months after the
17 date of acquiring the same, and if not so disposed of they shall be charged to profit and
18 loss account, and no longer carried on the books as an asset. The limit of time in which
19 said stocks shall be disposed of or charged off the books of the bank may be extended
20 by the Commissioner of Banks if in his judgment it is for the best interest of the bank
21 that such extension be granted; provided that the limitations imposed in this section on
22 the ownership of stock in or securities of corporations is suspended to the extent (and to
23 that extent only) that any bank operating under the supervision of the Commissioner of
24 Banks may subscribe for and purchase shares of stock in or debentures, bonds or other
25 types of securities of any corporation organized under the laws of the United States of
26 America for the purpose of insuring to depositors a part or all of their funds on deposit
27 in banks where and to such extent as such stock or security ownership is required in
28 order to obtain the benefits of such deposit insurance for its depositors."

29 Sec. 19. G.S. 53-54 reads as rewritten:

30 **"§ 53-54. Transactions not performed during banking hours.**

31 Nothing in any law of this State shall in any manner whatsoever affect the validity
32 of, or render void or voidable, the payment, certification, or acceptance of a check or
33 other negotiable instrument or any other transaction by a bank in this State, because
34 done or performed during any time other than regular banking hours: ~~Provided, that~~
35 ~~nothing herein shall be construed to compel any bank in this State, which by law or custom is~~
36 ~~entitled to close at 12 noon on any Saturday, or for the whole part day of any legal holiday, to~~
37 ~~keep open for the transaction of business, or to perform any of the acts or transactions~~
38 ~~aforsaid on any Saturday after such hour or on any legal holiday, except at its option.~~ hours.
39 Nothing herein shall be construed to require a bank doing business in this State to be
40 open when it may otherwise lawfully be closed or to prohibit a bank from conducting a
41 transaction at times other than its regularly scheduled hours of operation."

42 Sec. 20. G.S. 53-62(e) reads as rewritten:

43 "(e) ~~A bank may discontinue a branch office upon resolution of its board of~~
44 ~~directors or board of managers. Upon the adoption of such a resolution, the bank shall~~

1 ~~file a certification with the Commissioner of Banks specifying the location of the branch~~
 2 ~~office to be discontinued and the date upon which it is proposed that the discontinuance~~
 3 ~~shall be effective. This certificate must state the reasons for the closing of such branch~~
 4 ~~and indicate that the needs and conveniences of the community would still be~~
 5 ~~adequately met. Notice stating the intention to discontinue said branch shall be~~
 6 ~~published in a newspaper serving such community once a week for four consecutive~~
 7 ~~weeks before any certificate requesting discontinuance is filed with the Commissioner~~
 8 ~~of Banks. No such branch may be discontinued until approved by the Commissioner of~~
 9 ~~Banks, who shall first hold a public hearing thereon, if so requested by any interested~~
 10 ~~party. A bank may, upon resolution by the board of directors, discontinue a branch~~
 11 ~~office subject to the following:~~

- 12 (1) The bank shall notify the Commissioner in writing of its intent to close
 13 a branch not later than 90 days prior to the proposed closing date.
 14 Such notice shall include a detailed statement of the reasons for the
 15 decision to close a branch and statistical or other information in
 16 support of such reasons.
- 17 (2) The bank shall provide a notice of its intent to close a branch to its
 18 customers. Such notice shall be posted in a conspicuous manner on
 19 the branch premises for a period of 30 days prior to the proposed
 20 closing date and shall either be included in at least one of any regular
 21 account statement mailed to customers of such branch or in a separate
 22 mailing to such customers. The latter notice shall be given at least 90
 23 days prior to the proposed closing date.

24 No branch shall be closed until approved by the Commissioner of Banks."

25 Sec. 21. G.S. 53-63 reads as rewritten:

26 **"§ 53-63. Unlawful issuing of certificate of deposit.**

27 It shall be unlawful for any bank to issue any certificate of deposit or other
 28 negotiable instrument of its indebtedness to the holder thereof except for lawful money
 29 of the United States, checks, drafts, or bills of exchange which are the actual equivalent
 30 of such money; ~~nor shall such moneys, checks, drafts, or bills of exchange be the proceeds of~~
 31 ~~any note given in payment of the purchase price of any stock.~~ money. Any officer or
 32 employee of any bank violating the provisions of this section shall be guilty of a
 33 misdemeanor, and upon conviction thereof shall be fined or imprisoned, or both, in the
 34 discretion of the court."

35 Sec. 22. G.S. 53-77.1A reads as rewritten:

36 **"§ 53-77.1A. Days and hours of operation.**

37 (a) ~~A bank as defined at G.S. 53-1 or G.S. 53-136, including national banking~~
 38 ~~associations and Federal Reserve banks, or any branch of the foregoing, located in this~~
 39 ~~State, shall operate not less than five days per week. On one day of the week each bank~~
 40 ~~and its branches shall remain open for not less than seven hours, three of which shall be~~
 41 ~~after 3 o'clock p.m.~~

42 (b) ~~In addition to the minimum hours required of a bank and its branches in~~
 43 ~~subsection (a), a bank and its branches may operate on such days and during such hours~~
 44 ~~as the bank deems appropriate.~~

1 ~~(e) A limited service facility may operate on such days of the week and during~~
2 ~~such hours as the bank deems appropriate.~~

3 ~~(d) A bank shall give such notice of the days and hours during which it and its~~
4 ~~branches and limited service facilities shall operate as required by the Commissioner of~~
5 ~~Banks.~~

6 Except as provided in G.S. 53-77.2A, a bank as defined in G.S. 53-1 or G.S. 53-136,
7 including national banking associations and Federal Reserve Banks, or any branch or
8 limited service facility of the foregoing, located in this State, may operate on such days
9 and during such hours as the board of directors shall designate."

10 Sec. 23. G.S. 53-78 reads as rewritten:

11 "**§ 53-78. Appointment of executive and loan committees by directors.**

12 The board of directors shall appoint an executive committee or committees, each of
13 which shall be composed of at least three of its members with such duties and powers as
14 are defined by the regulations or bylaws, who shall serve until their successors are
15 appointed. Such executive committee or committees shall meet as often as the board of
16 directors may require, except that the executive committee or committees shall meet at
17 least once during each month in which there is no meeting of the board of directors, and
18 approve or disapprove all loans and investments. All loans and investments shall be
19 made under such rules and regulations as the board of directors may prescribe.

20 The board of directors may appoint, in addition to the executive committee or
21 committees, a general loan committee, the membership of which shall include at least
22 three directors and such officers of the bank as may be appointed, with such duties and
23 powers with respect to making loans and investments as are defined in the bylaws or by
24 resolution of the board of directors, the members of such general loan committee to
25 serve until their successors are appointed. Such general loan committee, if appointed,
26 shall meet as often as the bylaws or resolution of the board of directors may require,
27 which shall not be less frequently than once each month, and approve or disapprove all
28 such loans and investments as may be required by the bylaws or by resolution of the
29 board of directors to be submitted to the general loan committee. The board of directors
30 of any bank, which has branches, may appoint, in addition to a general loan committee,
31 a loan committee for the parent bank and for any branch, each of which committees
32 shall include at least three members who are officers or members of the ~~board of~~
33 ~~managers~~ local advisory board for such parent bank or branch, with such duties and
34 powers with respect to approving or disapproving loans and investments as may be
35 defined in the bylaws or by resolution of the board of directors, and under such rules
36 and regulations as the board of directors may prescribe. Such loans and investments as
37 are authorized or approved by a general loan committee or either of the other loan
38 committees hereinabove provided for may, but need not, be approved or disapproved by
39 the executive committee or committees. All loans and investments made, however, shall
40 be authorized or approved by either the executive committee or committees, a general
41 loan committee, or one of the other loan committees herein provided for."

42 Sec. 24. G.S. 53-80 reads as rewritten:

43 "**§ 53-80. Qualifications of directors.**

1 Every director of a bank doing business under this Chapter shall be the owner and
2 holder of shares of stock in the bank representing not less than one thousand dollars
3 (\$1,000) book value as of the last business day of the calendar year immediately prior to
4 the election of such director. For the purpose of this section, book value shall consist of
5 common capital stock, unimpaired surplus, undivided profits, and reserves for
6 contingencies if any such reserves are segregations of capital. Where directors are
7 appointed during the interval between stockholders' meetings pursuant to the provisions
8 of G.S. 53-67, such directors shall hold the required qualifying shares as of the time of
9 their appointment. Notwithstanding the proviso at the end of this section, where the
10 bank is a wholly owned subsidiary, the required qualifying shares shall be shares in the
11 parent corporation, whether or not the bank was doing business before February 18,
12 1921. And every such director shall hold such shares in his own name unpledged and
13 unencumbered in any way. The office of any director at any time violating any of the
14 provisions of this section shall immediately become vacant, and the remaining directors
15 shall declare his office vacant and proceed to fill such vacancy forthwith. Not less than
16 three fourths of the directors of every bank doing business under this Chapter shall be
17 residents of the State of North Carolina: Carolina. Provided, that as to banks doing
18 business before February 18, 1921, the requirements as to amount of stock owned by a
19 director shall not apply unless the Commissioner of Banks shall rule that such director is
20 not bona fide discharging his duties."

21 Sec. 25. G.S. 53-83 reads as rewritten:

22 **"§ 53-83. Examining committee of directors.**

23 A committee of at least three directors ~~or stockholders~~ shall be appointed annually to
24 examine, or to superintend the examination of the assets and the liabilities of the bank,
25 and to report to the board of directors the result of such examination. The committee,
26 with the approval of the board of directors, ~~may~~ shall provide for such examinations by
27 a certified public accountant ~~or clearinghouse examiner in any city where such examination~~
28 ~~is provided for by the rules of such clearinghouse association.~~ A copy of such report of
29 examination, which is herein required to be made, attested, and verified under oath by
30 the signature of at least three members of such committee, shall forthwith be filed with
31 the Commissioner of Banks."

32 Sec. 26. G.S. 53-84 reads as rewritten:

33 **"§ 53-84. Depositories designated by directors.**

34 By resolution of the board of directors, ~~other banks organized under the laws of this~~
35 ~~State, or of another state, or under the laws of the United States, shall be designated as~~
36 ~~depositories or reserve banks in which a part of such bank's reserve shall be deposited,~~
37 ~~subject to payment on demand.~~ a Federal Reserve Bank, a Federal Home Loan Bank, or
38 any federally insured depository financial institution organized under the laws of this
39 State, or of another state, or of the United States, may be designated as a depository in
40 which part of a bank's funds may be deposited subject to withdrawal on demand. A
41 copy of such resolution shall, upon its adoption, be forthwith certified to the
42 Commissioner of Banks and the depository so designated shall be subject to the
43 approval of the Commissioner of Banks. For causes which he may deem adequate, the
44 Commissioner of Banks shall have authority at any time to withdraw such approval.

1 Designation of a Federal Reserve Bank or a Federal Home Loan Bank as a depository
2 shall not be subject to the approval of the Commissioner of Banks.

3 A bank may deposit funds in a bank of a foreign country, but such deposits shall not
4 constitute any part of its reserve as defined in G.S. 53-51."

5 Sec. 27. G.S. 53-91 is repealed.

6 Sec. 28. Chapter 53 of the General Statutes is amended by adding the
7 following new sections to read:

8 **"§ 53-91.1. Loans to executive officers.**

9 No bank may extend credit to any of its executive officers nor a firm or partnership
10 of which such executive officer is a member, nor a company in which such executive
11 officer owns a controlling interest, unless the extension of credit is made on
12 substantially the same terms, including interest rates and collateral, as those prevailing
13 at the time for comparable transactions by the bank with persons who are not employed
14 by the bank, and provided further that the extension of credit does not involve more than
15 the normal risk of repayment. For the purposes of this section, the term 'executive
16 officer' shall mean an officer who has authority to participate in major policy-making
17 functions of the bank. The amount of such loans shall be that as prescribed by
18 applicable federal banking regulations.

19 **"§ 53-91.2. Directors defined; appointment of advisory directors.**

20 (a) Unless otherwise expressly provided, reference to 'director' or 'board of
21 directors' shall mean a director of the banking corporation as elected by the shareholders
22 pursuant to North Carolina corporation law.

23 (b) The board of directors so elected by the shareholders may, consistent with a
24 bank's articles of incorporation or bylaws, appoint advisory directors to perform such
25 duties as prescribed by the board with respect to local offices and branches of any bank
26 chartered under Chapter 53 of the General Statutes."

27 Sec. 29. G.S. 53-92 reads as rewritten:

28 **"§ 53-92. Appointment of Commissioner of Banks; State Banking Commission.**

29 On or before April 1, 1983, and quadrennially thereafter, the Governor shall appoint
30 a Commissioner of Banks subject to confirmation by the General Assembly by joint
31 resolution. The name of the Commissioner of Banks shall be submitted to the General
32 Assembly on or before February 1, of the year in which the term of his office begins.
33 The term of office for the Commissioner of Banks shall be four years. In case of a
34 vacancy in the office of Commissioner of Banks for any reason prior to the expiration of
35 his term of office, the name of his successor shall be submitted by the Governor to the
36 General Assembly, not later than four weeks after the vacancy arises. If a vacancy arises
37 in the office when the General Assembly is not in session, the Commissioner of Banks
38 shall be appointed by the Governor to serve on an interim basis pending confirmation by
39 the General Assembly.

40 ~~The State Banking Commission, which has heretofore been created, Commission~~ shall
41 consist of the State Treasurer, who shall serve as an ex officio member thereof, 12
42 members appointed by the Governor, and ~~two~~ four members appointed by the General
43 Assembly under G.S. 120-121, one of whom shall be appointed upon the
44 recommendation of the President of the ~~Senate~~ Senate, one of whom shall be appointed

1 upon the recommendation of the President Pro Tempore of the Senate, and ~~one~~ two of
2 whom shall be appointed upon the recommendation of the Speaker of the House of
3 Representatives. The Governor shall appoint five practical bankers and seven persons
4 selected primarily as representatives of the borrowing public. As the current terms
5 expire, each new member appointed by the Governor shall reside in a different
6 congressional district of the State. The person appointed by the General Assembly upon
7 the recommendation of the President of the Senate shall be a practical banker. One of
8 ~~The~~ ~~the person~~ persons appointed by the General Assembly upon the recommendation of
9 the Speaker of the House shall be a person selected primarily as a representative of the
10 borrowing public. and the other shall be a representative of the nondepository
11 consumer finance industry. ~~The persons selected primarily as representatives of the~~
12 ~~borrowing public shall not be employees or directors of any financial institution nor shall they~~
13 ~~have any interest in any regulated financial institution other than as a result of being a depositor~~
14 ~~or borrower. Under this section, no person shall be considered to have an interest in a financial~~
15 ~~institution whose interest in any financial institution does not exceed one half of one percent~~
16 ~~(1/2 of 1%) of the capital stock of that financial institution. These members of the Commission~~
17 ~~shall be selected so as to fully represent the consumer, industrial, manufacturing, professional,~~
18 ~~business and farming interests of the State. No person shall serve on the Commission for more~~
19 ~~than two complete consecutive terms. As the terms of office of the appointive members of the~~
20 ~~Commission expire, their successors shall be appointed by the person appointing them, for~~
21 ~~terms of four years each. Any vacancy occurring in the membership of the Commission shall be~~
22 ~~filled by the appropriate appointing officer for the unexpired term, except that vacancies among~~
23 ~~members appointed by the General Assembly shall be filled in accordance with G.S. 120-122.~~
24 ~~The appointed members of the Commission shall receive as compensation for their services the~~
25 ~~same per diem and expenses as is paid to the members of the Advisory Budget Commission.~~
26 ~~This compensation shall be paid from the fees collected from the examination of banks as~~
27 ~~provided by law.~~ One person selected by the Governor as primarily a representative of
28 the borrowing public may be a director of a financial institution. The balance of such
29 members of the Banking Commission shall not be employees or directors of any
30 financial institution nor shall they have any interest in any regulated financial institution
31 other than as a depositor or borrower. The public member who may be a director of a
32 financial institution shall not have an interest in any regulated financial institution
33 except as hereinafter provided.

34 For purposes of this section, no person shall be considered to have an interest in any
35 financial institution whose interest in any financial institution does not exceed one-half
36 of one percent (1/2 of 1%) of the capital stock of that financial institution.

37 Except as otherwise provided, members of the Commission who shall be
38 representatives of the borrowing public shall be selected so as to fully represent the
39 consumer, industrial, manufacturing, professional, business, and farming interests of the
40 State. No person shall serve on the Commission for more than two complete
41 consecutive terms.

42 As the terms of office of the appointive members of the Commission expire, their
43 successors shall be appointed by the person appointing them for terms of four years
44 each. Any vacancy occurring in the membership of the Commission shall be filled by
45 the appropriate appointing officer for the unexpired term, except that vacancies among

1 members appointed by the General Assembly shall be filled in accordance with G.S.
2 120-122. The appointed members of the Commission shall receive as compensation for
3 their services the same per diem and expenses as is paid to the members of the Advisory
4 Budget Commission. This compensation shall be paid from the fees collected from the
5 examination of banks as provided by law.

6 The Banking Commission shall meet at such time or times, and not less than once
7 every three months, as the Commission shall, by resolution, prescribe, and the
8 Commission may be convened in special session at the call of the Governor, or upon the
9 request of the Commissioner of Banks. The State Treasurer shall be chairman of the
10 said Commission.

11 No member of said Commission shall act in any matter affecting any bank in which
12 he is financially interested, or with which he is in any manner connected. No member of
13 said Commission shall divulge or make use of any information coming into his
14 possession as a result of his service on such Commission, and shall not give out any
15 information with reference to any facts coming into his possession by reason of his
16 services on such Commission in connection with the condition of any State banking
17 institution, unless such information shall be required of him at any hearing at which he
18 is duly subpoenaed, or when required by order of a court of competent jurisdiction.

19 A quorum shall consist of a majority of the total membership of the Banking
20 Commission. A majority vote of the members qualified with respect to a matter under
21 review present at that meeting shall constitute valid action of the Banking Commission.
22 The State Treasurer and all disqualified members who are present shall be counted to
23 determine whether a quorum is present at a meeting.

24 The Commissioner of Banks shall act as the executive officer of the Banking
25 Commission, but the Commission shall provide, by rules and regulations, for hearings
26 before the Commission upon any matter or thing which may arise in connection with the
27 banking laws of this State upon the request of any person interested therein, and review
28 any action taken or done by the Commissioner of Banks.

29 The Banking Commission is hereby vested with full power and authority to
30 supervise, direct and review the exercise by the Commissioner of Banks of all powers,
31 duties, and functions now vested in or exercised by the Commissioner of Banks under
32 the banking laws of this State; any party to a proceeding before the Banking
33 Commission may, within 20 days after final order of said Commission and by written
34 notice to the Commissioner of Banks, appeal to the Superior Court of Wake County for
35 a final determination of any question of law which may be involved. The cause shall be
36 entitled 'State of North Carolina on Relation of the Banking Commission against (here
37 insert name of appellant).' It shall be placed on the civil issue docket of such court and
38 shall have precedence over other civil actions. In the event of an appeal the
39 Commissioner shall certify the record to the Clerk of Superior Court of Wake County
40 within 15 days thereafter."

41 Sec. 30. G.S. 53-92.1 reads as rewritten:

42 "**§ 53-92.1. Commission bound by requirements imposed on Commissioner as to**
43 **certification of new banks, establishment of branches, etc.**

1 Notwithstanding any other provisions of this Chapter, the State Banking
2 Commission, in the exercise of its authority to review the action of the Commissioner of
3 Banks, shall be bound by the requirements, conditions and limitations imposed in this
4 Chapter on ~~said~~ the Commissioner as to the certification of new banks or the
5 establishments of branch banks or ~~teller's windows~~ limited service facilities."

6 Sec. 31. G.S. 53-93.1 reads as rewritten:

7 **"§ 53-93.1. Deputy commissioner.**

8 The Commissioner of Banks shall appoint, with approval of the Governor, and may
9 remove at his discretion a deputy commissioner, who, in the event of the absence, death,
10 resignation, disability or disqualification of the Commissioner of Banks, or in case the
11 office of Commissioner shall for any reason become vacant, shall have and exercise all
12 the powers and duties vested by law in the Commissioner of Banks.

13 Irrespective of the conditions under which the deputy commissioner may exercise
14 the powers and perform the duties of the Commissioner of Banks, pursuant to the
15 preceding paragraph, such deputy commissioner, in addition thereto, is hereby
16 authorized and empowered at any and all times, at the discretion of the Commissioner
17 of Banks, to perform such duties and exercise such powers of the Commissioner of
18 Banks in the name of and on behalf of the Commissioner as the Commissioner, in his
19 discretion, may direct.

20 ~~This section is not to be construed to modify the provisions of G.S. 53-97."~~

21 Sec. 32. G.S. 53-99 is amended by adding the following new subsection to
22 read:

23 "(d) Nothing in this section shall prohibit a bank, upon approval by the
24 Commissioner, from disclosing to an insurance carrier, for purposes of obtaining
25 insurance coverage required by this Chapter, the bank's regulatory rating prepared by
26 the Commissioner's office provided that the insurance underwriter agrees in writing to
27 maintain the confidentiality of such information and to not disclose the information in
28 any manner."

29 Sec. 33. G.S. 53-105 reads as rewritten:

30 **"§ 53-105. Reports of condition.**

31 Every bank shall make to the Commissioner of Banks not less than four reports
32 during each year in the manner and form prescribed by the Commission by regulation.
33 Each such report shall exhibit in detail and under appropriate heads the resources,
34 assets, and liabilities of such bank at the close of business on any past day by the
35 Commissioner of Banks specified, and shall be transmitted to the Commissioner of
36 Banks within 10 days after the receipt of a request or requisition therefor from the
37 Commissioner of Banks; provided, however, the Commissioner of Banks may extend
38 the time for a period not to exceed 30 days for any bank to transmit the reports
39 heretofore required whenever in his judgment such extension is necessary; and in a form
40 prescribed by the Commissioner of Banks; a summary of ~~such report~~ the report for the
41 quarter ending December 31, shall be published in a newspaper published in the ~~place~~
42 county where the bank is located, or if there is no newspaper in the ~~place,~~ county, then in
43 ~~the nearest one published thereto~~ a newspaper having a general circulation in the county in

1 which such bank is established. Proof of such publication shall be furnished the
2 Commissioner of Banks in such form as may be prescribed by him."

3 Sec. 34. G.S. 53-106 reads as rewritten:

4 **"§ 53-106. Special reports.**

5 The Commissioner of Banks may call for special reports whenever in his judgment it
6 is necessary to inform him of the condition of any bank, or to obtain a full and complete
7 knowledge of its affairs. Said reports shall be in and according to the form prescribed by
8 the Commissioner of Banks, ~~and shall be verified in the manner provided in G.S. 53-105,~~
9 Banks and shall be published as therein provided, provided in G.S. 53-105, if required by
10 the Commissioner of Banks so to be. The Commissioner of Banks may extend the time
11 for filing special reports for a period not to exceed 30 days."

12 Sec. 35. G.S. 53-114 reads as rewritten:

13 **"§ 53-114. Other powers of State Banking Commission.**

14 In addition to all other powers conferred upon and vested in the State Banking
15 Commission, the said Commission, with the approval of the Governor, is hereby
16 authorized, empowered and directed, whenever in its judgment the circumstances
17 warrant it:

- 18 (1) To authorize, permit, and/or direct and require all banking corporations
19 under its supervision, to extend for such period and upon such terms as
20 it deems necessary and expedient, payment of any demand and/or time
21 deposits.
- 22 (2) To direct, require or permit, upon such terms as it may deem
23 advisable, the issuance of ~~clearinghouse certificates or other evidences~~
24 other evidence of claims against assets of such banking institutions.
- 25 (3) To authorize and direct the creation, in such banking institutions, of
26 special trust accounts for the receipt of new deposits, which deposits
27 shall be subject to withdrawal on demand without any restriction or
28 limitation and shall be kept separate in cash or on deposit in such
29 banking institutions as it shall designate or invested in such obligations
30 of the United States and/or the State of North Carolina as it shall
31 designate.
- 32 (4) To adopt for such banking institutions such regulations as are
33 necessary in its discretion to enable such banking institutions to
34 comply fully with the federal regulations prescribed for national or
35 state banks."

36 Sec. 36. G.S. 53-125 reads as rewritten:

37 **"§ 53-125. Examiners disclosing confidential information.**

38 If any bank examiner or other employee of the Commissioner of Banks fails to keep
39 secret the facts and information obtained in the course of an examination of a bank,
40 except when the public duty of such examiner or employee requires him to report upon
41 or take official action regarding the affairs of such bank, he shall be guilty of a
42 misdemeanor, and upon conviction thereof shall be fined not more than five hundred
43 dollars (\$500.00) or imprisoned not more than 12 months, or both, in the discretion of
44 the court. Nothing in this section shall prevent the proper exchange of information with

1 the representatives of the banking departments of other states, with the federal reserve
2 bank or national bank examiners, or other authorities, with the creditors of such bank or
3 others with whom a proper exchange of information is wise or ~~necessary, or with the~~
4 ~~clearinghouse officials and examiners.~~ necessary."

5 Sec. 37. G.S. 53-141(3) reads as rewritten:

6 "(3) To establish branch offices or places of business within the county in
7 which its principal office is located, and elsewhere in the State, after
8 having first obtained the written approval of the Commissioner of
9 Banks, which approval may be given or withheld by the Commissioner
10 of Banks in his discretion. The Commissioner of Banks, in exercising
11 such discretion, shall take into account, but not by way of limitation,
12 such factors as the financial history and condition of the applicant
13 bank, the adequacy of its capital structure, its future earnings
14 prospects, and the general character of its management. Such approval
15 shall not be given until he shall find

- 16 a. That the establishment of such branch or ~~teller's window~~ limited
17 service facility will meet the needs and promote the
18 convenience of the community to be served by the bank, and
19 b. That the probable volume of business and reasonable public
20 demand in such community are sufficient to assure and
21 maintain the solvency of said branch or ~~teller's window~~ limited
22 service facility and of the existing bank or banks in said
23 community.

24 Provided, that the Commissioner of Banks shall not authorize the
25 establishment of any branch the paid-in capital of whose parent bank is
26 not sufficient in amount to provide for capital in an amount equal to
27 that required with respect to the establishment of branches of
28 commercial banks under the provisions of G.S. 53-62. For the
29 purposes of this paragraph, the provisions of G.S. 53-62 as to the
30 meaning of the word 'capital' shall be applicable.

31 A bank may discontinue a branch office upon resolution of its
32 board of ~~directors or board of managers.~~ directors. Upon the adoption of
33 such a resolution, the bank shall ~~file a certification with the Commissioner~~
34 ~~of Banks specifying the location of the branch office to be discontinued and~~
35 ~~the date upon which it is proposed that the discontinuance shall be effective.~~
36 ~~This certificate must state the reasons for the closing of such branch and~~
37 ~~indicate that the needs and convenience of the community would still be~~
38 ~~adequately met. Notice stating the intention to discontinue the said branch~~
39 ~~shall be published in a newspaper serving said community once a week for~~
40 ~~four consecutive weeks before a certificate requesting a discontinuance is~~
41 ~~filed with the Commissioner of Banks. No such branch may be discontinued~~
42 ~~until approved by the Commissioner of Banks, who shall first hold a public~~
43 ~~hearing thereon, if so requested by any interested party.~~ follow the
44 procedures for closing a branch as set forth in G.S. 53-62(e). No
45 branch may be closed until approved by the Commissioner."

1 Sec. 38. G.S. 53-145 reads as rewritten:

2 **"§ 53-145. Sections of general law applicable.**

3 Sections 53-1, 53-3, 53-4, 53-5, 53-6, 53-7, 53-8, 53-9, 53-10, 53-11, 53-12, 53-13,
4 53-18, 53-20, 53-22, 53-23, 53-42, 53-42.1, 53-47, 53-50, 53-51, 53-54, 53-63, 53-64,
5 53-67, 53-68, 53-70, 53-71, 53-72, 53-73, 53-74, 53-78, 53-79, 53-80, 53-81, 53-82, 53-
6 83, 53-85, 53-87, 53-88, 53-90, ~~53-91~~, ~~53-91.1~~, ~~53-91.2~~, 53-105, 53-106, 53-107, 53-
7 108, 53-109, 53-110, 53-111, 53-112, 53-117, 53-118, 53-119, 53-120, 53-121, 53-122,
8 53-123, 53-124, 53-125, 53-126, 53-128, 53-129, 53-132, 53-133, 53-134, relating to
9 the supervision and examination of commercial banks, shall be construed to be
10 applicable to industrial banks, insofar as they are not inconsistent with the provisions of
11 this Article. Sections 53-19, 53-24, 53-37, 53-39, 53-40, 53-41, 53-44, 53-45, ~~53-58~~, ~~53-~~
12 ~~59~~, 53-61, 53-66, 53-75, 53-76, 53-77, 53-86, 53-113, 53-114, 53-115, 53-116, 53-135,
13 53-146, and 53-148 through 53-158, relating to commercial banks, shall be construed to
14 be applicable to industrial banks."

15 Sec. 39. G.S. 53-153 reads as rewritten:

16 **"§ 53-153. Segregation of recent deposits not effective after bank turned back to**
17 **officers; notice of turning bank back to officers.**

18 After 15 days after the affairs of a bank shall have been turned back to its board of
19 directors by the conservator, either with or without a reorganization as provided in G.S.
20 53-152 hereof, the provisions of G.S. 53-151 with respect to the segregation of deposits
21 received while it is in the hands of the conservator, and with respect to the use of such
22 deposits to liquidate the indebtedness of such bank, shall no longer be effective:
23 Provided, that before the conservator shall turn back the affairs of the bank to its board
24 of directors, he shall cause to be published in a newspaper published in the ~~city, town or~~
25 ~~county~~ in which such bank is located, and if no newspaper is published in such ~~city,~~
26 ~~town or county~~, in a newspaper ~~to be selected by the Commissioner of Banks,~~ having a
27 general circulation in the county, a notice in form approved by the Commissioner of
28 Banks, stating the date on which the affairs of the bank will be returned to its board of
29 directors, and that the said provisions of G.S. 53-151 will not be effective after 15 days
30 after such date; and on the date of publication of such notice, the conservator shall
31 immediately send to every person who is a depositor in such bank under G.S. 53-151, a
32 copy of such notice by registered mail, addressing it to the last known address of such
33 persons shown by the records of the bank; and the conservator shall send similar notice
34 in like manner to every person making deposit in such bank under G.S. 53-151, after the
35 date of such newspaper publication and before the time when the affairs of the bank are
36 returned to its directors."

37 Sec. 40. G.S. 53-193 reads as rewritten:

38 **"§ 53-193. Definitions.**

39 The following definitions apply in this Article:

40 (1) Check. – A check, draft, money order, or other instrument for the
41 transmission or payment of money, including any instrument
42 transmitted by wire or any other means.

43 (1a) Commission. – The State Banking Commission.

- 1 (2) Commissioner. – The Commissioner of Banks of the State of North
2 Carolina.
- 3 (3) Licensee. – A person duly licensed by the Commissioner under this
4 Article.
- 5 (3a) Outstanding Checks. – Any unpaid check sold anywhere in the United
6 States the sale of which has been reported to the licensee.
- 7 (4) Permissible Investment. – An investment in any of the following:
- 8 a. ~~Unencumbered cash.~~ Cash.
- 9 b. ~~Unencumbered investment securities that are obligations of the~~
10 ~~United States, its agencies, or instrumentalities.~~ Interest-bearing
11 bills, notes, bonds, debentures, or other obligations issued or
12 guaranteed by the United States or any state or other local
13 governmental entity or any agent or instrumentality thereof,
14 bearing a rating of one of the three highest grades by a
15 nationally recognized investment service organization that has
16 been engaged regularly in rating state and municipal issues for a
17 period of not less than five years.
- 18 c. ~~Unencumbered obligations fully guaranteed as to principal and~~
19 ~~interest by the United States.~~ Certificates of deposit or other
20 debt instruments of a commercial bank.
- 21 d. ~~Unencumbered obligations of any state, municipality, or any political~~
22 ~~subdivision thereof.~~ Bills of exchange or time drafts drawn on
23 and accepted by a commercial bank, otherwise known as
24 bankers acceptances, which are eligible for purchase by
25 member banks of the Federal Reserve System.
- 26 e. ~~Any other investments approved by the Commissioner.~~ Commercial
27 paper of prime quality as defined by a nationally recognized
28 organization which rates such securities.
- 29 f. Interest-bearing bills, notes, bonds, debentures, or preferred
30 stock traded on any national securities exchange or on a
31 national over-the-counter market or bearing a rate of one of the
32 three highest grades by a nationally recognized investment
33 service organization that has been engaged regularly in rating
34 corporate debt or equity issues for a period of not less than five
35 years.
- 36 g. If the Commissioner finds that any type of investment not
37 enumerated herein has sufficient liquidity and quality to be a
38 permissible investment, the Commissioner may by regulation or
39 order declare such investment to be permissible.
- 40 (5) Person. – An individual, a partnership, an association, a joint stock
41 company, a trust, or a corporation."

42 Sec. 41. G.S. 53-199.1 reads as rewritten:

43 **"§ 53-199.1. Required investments; permissible investments.**

1 Every licensee ~~under this Article shall have on hand permissible investments in an~~
2 ~~amount equal to the aggregate face value of all outstanding checks sold by the licensee~~
3 ~~for which the licensee is liable for payment. shall at all times maintain permissible~~
4 investments having (i) a market value, computed in accordance with generally
5 accepted accounting principles, at least equal to the aggregate of the amount of all of its
6 outstanding checks or (ii) a net carrying value, computed in accordance with generally
7 accepted accounting principles, at least equal to the aggregate of the amount of all of its
8 outstanding checks so long as the market value of such permissible investments is at
9 least eighty percent (80%) of the net carrying value. The requirements of this section
10 may be waived by the Commissioner if a finding is made, upon examination of audited
11 financial statements and other appropriate analysis, that the surety bond required by
12 G.S. 53-198 is sufficient to cover the aggregate face value of all outstanding checks sold
13 by the licensee."

14 Sec. 42. G.S. 53-206 reads as rewritten:

15 "**§ 53-206. Notice of denial or revocation of license; hearing; appeal.**

16 (a) No license shall be denied or revoked except on 10 days' notice to the
17 applicant or licensee. Upon receipt of such notice the applicant or licensee may, within
18 five days of such receipt, make written demand for a hearing. The hearing before the
19 Commissioner shall be an informal hearing and shall be held with reasonable
20 promptness. ~~The decision of the Commissioner may be appealed to the Banking Commission.~~

21 (b) The Commission shall have full authority to review any rule, regulation,
22 order, or act of the Commissioner done pursuant to or with respect to the provisions of
23 this Article, and any person aggrieved by any such rule, regulation, order, or act may
24 appeal to the Commission for review upon giving notice in writing within 20 days after
25 such rule, regulation, order, or act complained of is adopted, issued, or done."

26 Sec. 43. G.S. 53-211(d) reads as rewritten:

27 "(d) The Commissioner, within 30 days of receiving the complete application for
28 acquisition, shall publish notice of the intent of a regional bank holding company to
29 acquire a North Carolina bank or North Carolina bank holding company under
30 subsection (a) or (b) of this section. The notice shall be published in newspapers ~~erving~~
31 ~~the communities in the counties in~~ which the principal offices of the North Carolina bank
32 or North Carolina bank holding company and of the regional bank holding company are
33 ~~located.~~ located; if no newspapers are published in the counties, then in newspapers
34 having a general circulation in such counties. Notwithstanding any other provision of
35 this section, the application for acquisition shall not be approved until the requirement
36 for publication has been met."

37 Sec. 44. G.S. 53-215 reads as rewritten:

38 "**§ 53-215. Appeal of Commissioner's decision.**

39 Any aggrieved party in a proceeding under G.S. 53-211, G.S. 53-212(2) or G.S. 53-
40 227.1 may, within 30 days after final decision of the Commissioner, appeal his decision
41 to the State Banking Commission. The State Banking Commission, within 30 days of
42 receipt of the notice of appeal, shall approve, disapprove or modify the Commissioner's
43 decision. Failure of the State Banking Commission to act within 30 days of receipt of
44 notice of appeal shall constitute a final decision of the State Banking Commission

1 approving the decision of the Commissioner. Notwithstanding any other provision of
2 law, any aggrieved party to a decision of the State Banking Commission, within 30 days
3 after final decision of the Commission, may appeal directly to the North Carolina Court of
4 Appeals for judicial review on the record ~~the decision pursuant to G.S. 53-92.~~"

5 Sec. 45. G.S. 53-231 reads as rewritten:

6 **"§ 53-231. Appeal of Commissioner's decision.**

7 ~~Notwithstanding any other provision of law, any aggrieved party may, within 30~~
8 ~~days after final decision of the Commissioner and by written notice to the~~
9 ~~Commissioner, appeal directly to the North Carolina Court of Appeals for judicial~~
10 ~~review on the record. In the event of an appeal, the Commissioner shall certify the~~
11 ~~record to the Clerk of the Court of Appeals within 30 days thereafter. Such record shall~~
12 ~~include all memoranda, briefs and any other documents, data, information or evidence~~
13 ~~submitted by any party to such proceeding except for material such as trade secrets~~
14 ~~normally not available through commercial publication for which such party has made a~~
15 ~~claim of confidentiality and requested exclusion from the record which the~~
16 ~~Commissioner deems confidential. All factual information contained in any report of~~
17 ~~examination or investigation submitted to or obtained by the Commissioner's staff shall~~
18 ~~also be made a part of the record unless deemed confidential by the Commissioner. Any~~
19 ~~aggrieved party in a proceeding under this Article may, within 30 days after final~~
20 ~~decision of the Commissioner, appeal such decision to the State Banking Commission.~~
21 The State Banking Commission, within 30 days of receipt of the notice of appeal, shall
22 approve, disapprove, or modify the Commissioner's decision. Failure of the State
23 Banking Commission to act within 30 days of receipt of notice of appeal shall constitute
24 a final decision of the State Banking Commission approving the decision of the
25 Commissioner. Notwithstanding any other provision of law, any aggrieved party to a
26 decision of the State Banking Commission shall be entitled to an appeal pursuant to
27 G.S. 53-92."

28 Sec. 46. G.S. 53-232.17 reads as rewritten:

29 **"§ 53-232.17. Appeal of Commissioner's decision.**

30 ~~Notwithstanding any other law, an aggrieved party may, within 30 days after final~~
31 ~~decision of the Commissioner and by written notice to the Commissioner, appeal~~
32 ~~directly to the North Carolina Court of Appeals for judicial review on the record. In the~~
33 ~~event of an appeal, the Commissioner shall certify the record to the Clerk of the Court~~
34 ~~of Appeals within 30 days thereafter. The record shall include all memoranda, briefs,~~
35 ~~and any other documents, data, information, or evidence submitted by any party to the~~
36 ~~proceeding, except for material such as trade secrets normally not available through~~
37 ~~commercial publication of which the party has made a claim of confidentiality and~~
38 ~~requested exclusion from the record which the Commissioner deems confidential. All~~
39 ~~factual information contained in any report of examination or investigation submitted to~~
40 ~~or obtained by the Commissioner's staff is also made a part of the record unless deemed~~
41 ~~confidential by the Commissioner. Any aggrieved party in a proceeding under this~~
42 Article may, within 30 days after the final decision of the Commissioner, appeal the
43 decision to the State Banking Commission. The State Banking Commission, within 30
44 days of receipt of the notice of appeal, shall approve, disapprove, or modify the

1 Commissioner's decision. Failure of the State Banking Commission to act within 30
2 days of receipt of the notice of appeal shall constitute a final decision of the State
3 Banking Commission approving the decision of the Commissioner. Notwithstanding
4 any other provision of law, any aggrieved party to a decision of the State Banking
5 Commission shall be entitled to an appeal pursuant to G.S. 53-92."

6 Sec. 47. G.S. 53-247 is amended by adding the following new subsection to
7 read:

8 "(d) A person registered as a facilitator under this Article is, for the purpose of
9 facilitating refund anticipation loans, exempt from Article 20 of Chapter 66."

10 Sec. 48. G.S. 53-248 reads as rewritten:

11 "**§ 53-248. Registration procedure; procedure; informal hearing.**

12 (a) Initial Registration. An application to become registered as a facilitator shall
13 be in writing, under oath, and in a form prescribed by the Commissioner. The
14 application shall contain all information prescribed by the Commissioner. Each
15 application for registration shall be accompanied by a nonrefundable application fee,
16 payable to the Commissioner, of two hundred fifty dollars (\$250.00) together with a fee
17 of one hundred dollars (\$100.00) for each office where the registrant intends to facilitate
18 refund anticipation loans.

19 Upon the filing of an application for registration, if the Commissioner finds that the
20 responsibility and general fitness of the applicant are such as to command the
21 confidence of the community and to warrant belief that the business of facilitating
22 refund anticipation loans will be operated within the purposes of this Article, the
23 Commissioner shall register the applicant as a facilitator of refund anticipation loans
24 and shall issue and transmit to the applicant a certificate attesting to the registration. If
25 the Commissioner does not so find, ~~he~~ the Commissioner shall not register the applicant
26 and shall notify the applicant of the reasons for the ~~denial~~ denial by certified mail,
27 return receipt requested.

28 Upon receipt of a certificate of registration, the applicant is registered under this
29 Article and may engage in the business of facilitating refund anticipation loans at the
30 offices identified on the application for registration.

31 (b) Renewal. Each registration as a facilitator of refund anticipation loans shall
32 expire on December 31 following the date it was issued, unless it is renewed for the
33 succeeding year. Before the registration expires, the registrant may renew the
34 registration by filing with the Commissioner an application for renewal in the form and
35 containing all information prescribed by the Commissioner. Each application for
36 renewal of registration shall be filed on or before November 30 in the year issued and
37 shall be accompanied by a nonrefundable fee of one hundred dollars (\$100.00) for each
38 office where the registrant intends to facilitate refund anticipation loans during the
39 succeeding year.

40 Upon the filing of an application for renewal of registration under this Article, the
41 Commissioner shall renew the registration unless the Commissioner determines that the
42 fitness of the registrant or the operations of the registrant would not support an initial
43 registration of the registrant under subsection (a)-(a) of this section. ~~If the Commissioner~~
44 ~~makes such a determination, he shall so~~ this determination is made, the Commissioner shall

1 notify the registrant, by certified mail, return receipt requested, stating the reasons for
2 the determination.

3 (c) Display of Certificate. Each registrant shall prominently display a certificate
4 issued under this Article in each place of business in the State where the registrant
5 facilitates the making of refund anticipation loans.

6 (d) Within five days of receipt of the Commissioner's notice, as required by
7 subsections (a) and (b) of this section, the applicant may make written demand of the
8 Commissioner for a hearing. The hearing before the Commissioner shall be an informal
9 hearing and shall be held with reasonable promptness."

10 Sec. 49. G.S. 53-252 reads as rewritten:

11 **"§ 53-252. Appeal of Commissioner's decision.**

12 ~~Notwithstanding any other provision of law, an aggrieved party may, within 30 days~~
13 ~~after a final decision of the Commissioner and with written notice to the Commissioner,~~
14 ~~appeal the decision directly to the North Carolina Court of Appeals for judicial review~~
15 ~~on the record. In the event of an appeal, the Commissioner shall certify the record to~~
16 ~~the Clerk of the Court of Appeals within 30 days after receipt of notice of appeal. The~~
17 ~~record shall include all memoranda and briefs, and any other documents, data,~~
18 ~~information, or evidence submitted by any party to the proceeding except for material~~
19 ~~such as trade secrets normally not available through commercial publication for which a~~
20 ~~party has made a claim of confidentiality and requested exclusion from the record. All~~
21 ~~factual information contained in any report submitted to or obtained by the~~
22 ~~Commissioner's staff shall also be made a part of the record unless deemed confidential~~
23 ~~by the Commissioner. The Commission shall have full authority to review any rule,~~
24 regulation, order, or act of the Commissioner done pursuant to or with respect to the
25 provisions of this Article, and any person aggrieved by any such rule, regulation, order,
26 or act may appeal to the Commission for review upon giving notice in writing within 20
27 days after such rule, regulation, order, or act complained of is adopted, issued, or done."

28 Sec. 50. G.S. 53-253 reads as rewritten:

29 **"§ 53-253. Rules; enforcement.**

30 ~~Notwithstanding the provisions of G.S. 53-95, the Commissioner may promulgate. The~~
31 Commission may adopt reasonable rules as necessary to effectuate the purpose of this
32 Article, to provide for the protection of the borrowing public, and to assist registrants in
33 interpreting this Article. In order to enforce this Article, the Commissioner may make
34 investigations, subpoena witnesses, require audits and reports, and conduct hearings
35 regarding possible violations of its provisions."

36 Sec. 51. G.S. 53-272 reads as rewritten:

37 **"§ 53-272. Appeals.**

38 ~~Notwithstanding any other provision of law, an aggrieved party may, within 30 days~~
39 ~~after final decision of the Commissioner, and by written notice to the Commissioner,~~
40 ~~appeal directly to the North Carolina Court of Appeals for judicial review of the record.~~
41 ~~In the event of an appeal the Commissioner shall certify the record to the Clerk of the~~
42 ~~Court of Appeals no later than 30 days after receipt of the notice of appeal. The record~~
43 ~~shall include all memoranda, briefs, and any other documents, data, information, or~~
44 ~~evidence submitted by any party to the proceeding. All factual information contained in~~

1 ~~a report of examination or investigation submitted to or otherwise obtained by the~~
2 ~~Commissioner or the Commissioner's staff shall be made a part of the record unless the~~
3 ~~information is deemed confidential by the Commissioner.~~ The Commission may review
4 any rule, regulation, order, or act of the Commissioner done pursuant to or with respect
5 to the provisions of this Article, and any person aggrieved by any such rule, regulation,
6 order, or act may appeal to the Commission for review upon giving notice in writing
7 within 20 days after such rule, regulation, order, or act complained of is adopted, issued,
8 or done."

9 Sec. 52. This act is effective upon ratification.