

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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SENATE BILL 718

Short Title: Financial Boards Merged.

(Public)

Sponsors: Senator Shaw.

Referred to: Judiciary II.

April 7, 1993

1 A BILL TO BE ENTITLED
2 AN ACT TO CONSOLIDATE THE REGULATORY AUTHORITY OVER BANKS,
3 CREDIT UNIONS, SAVINGS AND LOANS, AND SAVINGS BANKS INTO A
4 NEW FINANCIAL INSTITUTIONS REGULATORY BOARD, AND TO MAKE
5 CONFORMING CHANGES TO THE GENERAL STATUTES.

6 The General Assembly of North Carolina enacts:

7 Section 1. Effective April 1, 1995, the General Statutes are amended by
8 adding the following new Chapter to read:

9 **"CHAPTER 54D.**

10 **"FINANCIAL INSTITUTIONS REGULATORY BOARD.**

11 **"ARTICLE 1.**

12 **"FINANCIAL INSTITUTIONS REGULATORY BOARD AND**
13 **DIRECTOR OF FINANCIAL INSTITUTIONS.**

14 **"§ 54D-1-1. Applicability of Chapter.**

15 This Chapter, unless the context otherwise specifies, applies to the regulation and
16 supervision of financial institutions as defined in G.S. 54D-1-2(3).

17 **"§ 54D-1-2. Definitions.**

18 As used in this Chapter unless the context clearly requires otherwise:

19 (1) 'Board' means the Financial Institutions Regulatory Board.

20 (2) 'Director' means the Director of Financial Institutions.

21 (3) 'Financial institution' means a person, firm, or corporation engaged in
22 the business of receiving, soliciting or accepting money or its
23 equivalent on deposit or lending money or its equivalent, and includes
24 any or all of the following:

- 1 a. Banks as defined and regulated under Chapter 53 of the General
2 Statutes;
3 b. Credit Unions, as defined and regulated under Subchapter III of
4 Chapter 54 of the General Statutes;
5 c. Savings and Loan Associations as defined and regulated under
6 Chapter 54B of the General Statutes;
7 d. Savings Banks as defined and regulated under Chapter 54C of
8 the General Statutes.

9 **"§ 54D-1-3. Appointment of Director of Financial Institutions.**

10 On or before April 1, 1995, and every five years thereafter, the Governor shall
11 appoint a Director of Financial Institutions subject to confirmation by the General
12 Assembly by joint resolution. The name of the Director shall be submitted to the
13 General Assembly on or before February 1 of the year in which the term of the
14 Director's office begins. The term of office for the Director shall be five years. In case
15 of a vacancy in the office of Director of Financial Institutions for any reason prior to the
16 expiration of the Director's term of office, the name of the Director's successor shall be
17 submitted by the Governor to the General Assembly, not later than four weeks after the
18 vacancy arises. If a vacancy arises in the office when the General Assembly is not in
19 session, the Director shall be appointed by the Governor to serve on an interim basis
20 pending confirmation by the General Assembly. The Director shall serve as chief
21 administrator of the Financial Institutions Regulatory Board.

22 **"§ 54D-1-4. Financial Institutions Regulatory Board established; chair, members,**
23 **terms of office; etc.**

24 (a) Membership: Effective January 1, 1995, the Financial Institutions Regulatory
25 Board is created. The Board shall consist of 11 members who shall be appointed as
26 follows: one member who represents nondepository institutions currently regulated by
27 the State shall be appointed by the General Assembly upon the recommendation of the
28 President Pro Tempore of the Senate, and one person selected primarily as a member of
29 the borrowing public shall be appointed by the General Assembly upon the
30 recommendation of the Speaker of the House of Representatives. The remaining
31 members shall be appointed by the Governor, one of whom shall be the State Treasurer,
32 five of whom shall be public members, and one from each of the following industries:
33 commercial banking, credit unions, and savings institutions. The six public members of
34 the Board shall not be employees or directors of any financial institution, nor shall they
35 have any interest in any regulated financial institution other than as a depositor or
36 borrower. Under this section, no person shall be considered to have an interest in a
37 financial institution whose interest in any financial institution does not exceed one-half
38 of one percent (1/2 of 1%) of the capital stock of that financial institution. The public
39 members of the Board shall be selected so as to fully represent the consumer, industrial,
40 manufacturing, professional, business, and farming interests of the State.

41 (b) Chair: The State Treasurer shall be the Chair of the Board.

42 (c) Terms: Except for the Chair of the Board, members shall serve four-year
43 terms. No person shall serve on the Board for more than two complete consecutive
44 terms. As the terms of office of the appointive members of the Board expire, their

1 successors shall be appointed by the original appointing authority. Any vacancy
2 occurring in the membership of the Board shall be filled by the appropriate appointing
3 officer, except that vacancies among members appointed by the General Assembly shall
4 be filled in accordance with G.S. 120-122. The appointed members of the Board shall
5 receive as compensation for their services the same per diem and expenses as is paid to
6 the members of the Advisory Budget Commission. This compensation shall be paid
7 from the fees collected from the examination of financial institutions as provided by
8 law.

9 (d) Meetings: The Financial Institutions Regulatory Board shall meet at such
10 time or times, but not less than once every three months, as the Board shall, by
11 resolution, prescribe, and the Board may be convened in special session at the call of the
12 Governor, or upon the request of the Director of Financial Institutions.

13 (e) Financial interest of members: No member of the Board shall act in any
14 matter affecting any financial institution in which the member is financially interested,
15 or with which the member is in any manner connected. No member of the Board shall
16 divulge or make use of any information coming into the member's possession as a result
17 of the member's service on the Board, and shall not give out any information with
18 reference to any facts coming into the member's possession by reason of the member's
19 services on the Board in connection with the condition of any State financial institution,
20 unless the information is required of the member at any hearing at which the member is
21 duly subpoenaed, or when required by order of a court of competent jurisdiction.

22 (f) Quorum: A quorum shall consist of a majority of the total membership of the
23 Board. A majority vote of the members qualified with respect to a matter under review
24 present at that meeting shall constitute valid action of the Board. The Chair and all
25 disqualified members who are present shall be counted to determine whether a quorum
26 is present at a meeting.

27 (g) Chief administrator: The Director shall act as the chief administrator of the
28 Board, but the Board shall provide, by rules, for hearings before the Board upon any
29 matter or thing which may arise in connection with the laws of this State governing
30 financial institutions upon the request of any person interested therein, and review any
31 action taken or done by the Director.

32 **"§ 54D-1-5. Powers and duties of Board.**

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

1 (b) The Board shall, in accordance with Chapter 150B of the General Statutes,
2 adopt rules necessary to carry out its powers and duties.

3 **"§ 54D-1-6. Powers and duties of Director.**

4 The Director shall have the powers, duties, and functions herein given, and in
5 addition thereto such other powers and rights as may be necessary or incident to the
6 proper discharge of the Director's duties.

7 **"§ 54D-1-7. Deputy director; assistant directors; general counsel.**

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

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

18 (b) The Director shall appoint five assistant directors, one each responsible for
19 regulating commercial banks, credit unions, savings institutions, and consumer
20 industries, and an assistant director for administration. The assistant directors appointed
21 pursuant to this subsection shall be subject to the State Personnel Act.

22 (c) The Director shall appoint one person as general counsel, and may appoint
23 other counsel, as necessary. All counsel positions appointed pursuant to this subsection
24 shall be subject to the State Personnel Act.

25 (d) Nothing in this section shall obligate the General Assembly to appropriate
26 funds to support personnel appointed pursuant to this section.

27 **"§ 54D-1-8. Right to sue and defend in actions involving financial institutions;**
28 **liability to suit.**

29 The Director is empowered to sue and prosecute or defend in any action or
30 proceeding in any courts of this State or any other state and in any court of the United
31 States for the enforcement or protection of any right or pursuit of any remedy necessary
32 or proper in connection with the subjects committed to the Director for administration
33 or in connection with any financial institution or the rights, liabilities, property or assets
34 thereof, under the Director's supervision; but nothing herein shall be construed to render
35 the Director liable to be sued except as other departments and agencies of the State may
36 be liable under the general law.

37 **"§ 54D-1-9. Director to exercise powers under supervision of Financial Institutions**
38 **Regulatory Board.**

39 All the powers, duties, and functions granted to or imposed upon the Director by law
40 shall be exercised by the Director under the direction and supervision of the Financial
41 Institutions Regulatory Board, and wherever provision is made in any law now in effect
42 authorizing and permitting the Commissioner of Banks or the State Banking
43 Commission to make rules and regulations with respect to any actions or things required
44 to be done under the laws of this State governing banks, such rules shall be made by the

1 Financial Institutions Regulatory Board, and the words 'the Commissioner of Banks' and
2 'the Banking Commission' used in such statutes authorizing the Commissioner of Banks
3 or the Banking Commission to make rules, shall be construed to mean the Financial
4 Institutions Regulatory Board, and the words 'Financial Institutions Regulatory Board'
5 substituted in such statutes for 'Commissioner of Banks' and 'Banking Commission'.

6 **"§ 54D-1-10. Salary of Director; legal assistance and compensation.**

7 The salary of the Director shall be fixed by the General Assembly in the Current
8 Operations Appropriations Act.

9 **"§ 54D-1-11. Seal of office of Director; certification of documents.**

10 The Director shall have a seal of office bearing the legend 'State of North Carolina –
11 Director of Financial Institutions', with such other appropriate device as the Director
12 may adopt.

13 **"§ 54D-1-12. Official records.**

14 (a) The Director shall keep a record in the Director's office of the Director's
15 official acts, rulings, and transactions which, except as hereinafter provided, shall be
16 open to inspection, examination, and copying by any person.

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

20 (1) Records compiled during or in connection with an examination, audit,
21 or investigation of any financial institution supervised by the Director
22 which operates or has applied to operate under the provisions of
23 Chapters 53, 54B, or 54C of the General Statutes, or Subchapter III of
24 Chapter 54 of the General Statutes;

25 (2) Records containing information compiled in preparation or
26 anticipation of litigation, examination, audit, or investigation;

27 (3) Records containing the names of any borrowers from a bank or
28 revealing the collateral given by any such borrower: Provided,
29 however, that every report of insider transactions made by a financial
30 institution which report is required to be filed with the appropriate
31 State or federal regulatory agency by either State or federal statute,
32 rule, or regulation shall be filed with the Director in a form prescribed
33 by the Director and shall be open to inspection, examination, and
34 copying by any person;

35 (4) Records prepared during or as a result of an examination, audit, or
36 investigation of any financial institution by an agency of the United
37 States, or jointly by such agency and the Director, if such records
38 would be confidential under federal law or regulation;

39 (5) Records prepared during or as a result of an examination, audit, or
40 investigation of any financial institution supervised by the Director by
41 a regulatory agency of jurisdiction of the region defined in G.S. 53-
42 210(11) if these records would be confidential under that jurisdiction's
43 law or regulation;

- 1 (6) Records of information and reports submitted by financial institutions
2 to federal regulatory agencies, if such records would be confidential
3 under federal law or regulation;
- 4 (7) Records of complaints from the public received by the Financial
5 Institutions Regulatory Board and concerning financial institutions
6 under its supervision if such complaints would or could result in an
7 investigation;
- 8 (8) Records of examinations and investigations of consumer finance
9 licensees;
- 10 (9) Records of examinations and investigations of licensees under the
11 Money Transmitters Act, Article 16 of Chapter 53 of the General
12 Statutes;
- 13 (10) Records of examinations and investigations of registrants under the
14 Registration Requirements Act for Certain Makers of Mortgages and
15 Deeds of Trust on Residential Real Property, Article 19 of Chapter 53
16 of the General Statutes;
- 17 (11) Records of applications and investigations of registrants under the
18 Refund Anticipation Loan Act, Article 20 of Chapter 53 of the General
19 Statutes;
- 20 (12) Any letters, reports, memoranda, recordings, charts, or other
21 documents which would disclose any information set forth in any of
22 the confidential records referred to in subdivisions (1) through (11) of
23 this subsection.

24 (c) Notwithstanding the provisions of subsection (b) of this section, the Director
25 may, by written agreement with any state or federal regulatory agency, share with that
26 agency any confidential information set out in subsection (b) of this section on the
27 condition that the information shared shall be treated as confidential under the
28 applicable laws and regulations governing the recipient agency.

29 **"§ 54D-1-13. General or special investigations of insolvent financial institutions.**

30 Whenever it may appear to be to the public interest, the Governor may cause a
31 general or special investigation to be made of the affairs of any insolvent financial
32 institutions singly or in related groups, with a view to discovering and establishing the
33 causes of the failure of such financial institutions, and responsibility therefor; and of
34 discovering the dealings with such financial institutions of persons, officers,
35 corporations, or municipalities which may have led to such insolvency or which may
36 have endangered or involved any public funds therein. The Governor may assign
37 counsel who shall prosecute such inquiry before the Director, or a deputy or assistant
38 director appointed by the Director for the purpose; and the Director is hereby
39 empowered to conduct such investigation either in person or through such deputy or
40 assistant appointed by the Director. The inquiry shall be held at the office of the
41 Director in the City of Raleigh or at any other place or places in the State designated by
42 the Director under such rules as the Board may adopt and may be adjourned from time
43 to time as convenience may require. Attendance of witnesses and production of papers
44 may be required by subpoena under the hand of the Director or the deputy director, and

1 on failure of any witness to appear as subpoenaed or his or her failure to produce any
2 books or papers, as called for by the Director or deputy director on subpoena or other
3 order, due notice shall be served, at the instance of the Director or deputy director of not
4 less than three days to appear before a judge of the superior court residing in or holding
5 courts within the district wherein such witness is subpoenaed or notified to appear or
6 produce such records or papers, on a day certain and a place named, when such judge
7 shall hear the matter and is authorized to punish such witness for contempt as the judge
8 may find on such hearing.

9 A summary of such investigation shall be made with the findings and
10 recommendations of the Director thereon, and a copy thereof submitted to the Governor,
11 and when the facts disclose that any person or persons are criminally responsible, a
12 summary shall be sent to the district attorney of the prosecutorial district, as defined in
13 G.S. 7A-60, likely to have jurisdiction of the matter, whose duty it shall be to have the
14 matter presented to the grand jury for its action. The Governor may employ counsel to
15 assist in the prosecution of any person or persons criminally responsible and fix
16 counsel's compensation and the manner of its payment.

17 **"§ 54D-1-14. Clerical help.**

18 The Director may employ sufficient clerical and secretarial help, and other necessary
19 labor to conduct the affairs of the Director's office with economy and efficiency.
20 Persons so employed shall be subject to the State Personnel Act.

21 **"§ 54D-1-15. Offices.**

22 Suitable offices shall be provided for the Director in some State-owned public
23 building in Raleigh.

24 **"§ 54D-1-16. Revenues.**

25 (a) All revenues from fees or assessments lawfully collected by the Director shall
26 be deposited by the Director into an account in the name of the Board and used for the
27 purpose of defraying the costs to carry out the duties and responsibilities of the Director
28 and the Board authorized under this Chapter and under Chapters 53, 54B, 54C, and
29 Subchapter III of Chapter 54 of the General Statutes. Revenues collected pursuant to
30 this subsection shall not revert to the General Fund.

31 (b) All revenues from civil or criminal penalties lawfully collected by the
32 Director or the Board shall be deposited into the General Fund.

33 **"ARTICLE 2.**

34 **"SUPERVISION AND REGULATION.**

35 **"PART 1. BANKS.**

36 **"§ 54D-2-1. Definitions.**

37 Definitions applied to terms defined in Chapter 53 of the General Statutes are
38 incorporated herein and apply to the same terms used in this Part.

39 **"§ 54D-2-2. Director shall have supervision over, etc.**

40 Every bank or corporation transacting the business of banking, or doing a banking
41 business in connection with any other business, under the laws of and within this State,
42 and any individual, partnership, association, or corporation which undertakes or
43 attempts to transact the business of banking, or do a banking business in connection
44 with any other business, shall be under the supervision of the Director Financial

1 Institutions. It shall be the Director's duty to execute and enforce, through the State
2 bank examiners and such other agents as are now or may hereafter be created or
3 appointed, all laws which are now or may hereafter be enacted relating to banks. For
4 the more complete and thorough enforcement of the provisions of this Part and Chapter
5 53 of the General Statutes, the Board may adopt such rules not inconsistent with the
6 provisions of this Part and of Chapter 53 of the General Statutes as may, in its opinion,
7 be necessary to carry out the provisions of the laws relating to banks and banking, and
8 as may be further necessary to ensure safe and conservative management of the banks
9 under its supervision, taking into consideration the appropriate interest of the depositors,
10 creditors, stockholders, and the public in their relations with such banks. All banks
11 doing business under the provisions of this Part and Chapter 53 of the General Statutes
12 shall conduct their business in a manner consistent with all laws relating to banks and
13 banking, and all rules and instructions that may be adopted or issued by the Board.

14 **"§ 54D-2-3. Board bound by requirements imposed on Director as to certification**
15 **of new banks, establishment of branches, etc.**

16 Notwithstanding any other provisions of this Part or Chapter 53 of the General
17 Statutes, the Financial Institutions Regulatory Board, in the exercise of its authority to
18 review the action of the Director, shall be bound by the requirements, conditions, and
19 limitations imposed in this Part and in Chapter 53 of the General Statutes on the
20 Director as to the certification of new banks or the establishments of branch banks or
21 limited service facilities.

22 **"§ 54D-2-4. Examination of nonbanking affiliates.**

23 The Director may examine the affiliates of a bank doing business under Chapter 53
24 of the General Statutes to the extent it is necessary to safeguard the interest of
25 depositors and creditors of the bank and of the general public, and to enforce the
26 provisions of this Part and of Chapter 53 of the General Statutes. The Director may
27 conduct the examination in conjunction with any examination of the bank or affiliate
28 conducted by any other state or federal regulatory authority. For the purpose of this
29 section, the word 'affiliate' means any bank holding company of which the bank is a
30 subsidiary and any nonbanking subsidiary of that bank holding company, as 'subsidiary'
31 is defined by section 2 of the Federal Bank Holding Company Act of 1956 (12 U.S.C. §
32 1841(d), as amended).

33 **"§ 54D-2-5. Reports of condition.**

34 Every bank shall make to the Director not less than four reports during each year in
35 the manner and form prescribed by the Board by rule. Each report shall be in a form
36 prescribed by the Director and shall exhibit in detail and under appropriate headings the
37 resources, assets, and liabilities of the bank at the close of business on any past day
38 specified by the Director, and shall be transmitted to the Director within 10 days after
39 the receipt of a request or requisition therefor from the Director. The Director may
40 extend the time for a period not to exceed 30 days for any bank to transmit the reports
41 required under this section whenever in the Director's judgment the extension is
42 necessary. A summary of reports prepared under this section shall be published in a
43 newspaper published in the place where the bank is located, or if there is no newspaper
44 in the place, then in the nearest one published thereto in the county in which such bank

1 is established. Proof of such publication shall be furnished the Director in such form as
2 may be prescribed by the Director.

3 **"§ 54D-2-6. Special reports.**

4 The Director may call for special reports whenever in the Director's judgment it is
5 necessary to inform the Director of the condition of any bank, or to obtain a full and
6 complete knowledge of its affairs. The reports shall be in and according to the form
7 prescribed by the Director, and shall be verified in the manner provided in G.S. 54D-2-
8 5, and shall be published as therein provided, if so required by the Director. The
9 Director may extend the time for filing special reports for a period not to exceed 30
10 days.

11 **"§ 54D-2-7. Penalty for failure to report.**

12 Every bank failing to make and transmit any report which the Director is authorized
13 to require by this Part or Chapter 53 of the General Statutes, and in and according to the
14 form prescribed by the Director, within 10 days after the receipt of a request or
15 requisition therefor, or within the extension of time granted by the Director, or failing to
16 publish the reports as required, shall forthwith be notified by the Director, and if such
17 failure continues for five days after the receipt of the notice, the delinquent bank shall
18 be subject to a penalty of two hundred dollars (\$200.00). The penalty herein provided
19 for shall be recovered in a civil action in any court of competent jurisdiction, and it shall
20 be the duty of the Attorney General to prosecute all such actions.

21 **"§ 54D-2-8. List of shareholders of record to be kept.**

22 Every bank doing business under this Chapter shall at all times keep a correct list of
23 its shareholders of record and whenever called upon by the Director or his duly
24 authorized agent, make available for examination a correct list of all its shareholders of
25 record, the address of each, and the number of shares held by each. Whenever the word
26 'shareholders' is used in this section, the same shall be deemed to include, to the extent
27 available, shareholders of any corporations which own ten percent (10%) or more of the
28 capital stock of any bank doing business under Chapter 53 of the General Statutes or a
29 lesser amount when required by the Director.

30 **"§ 54D-2-9. Official communications of Director.**

31 Each official communication directed by the Director or any State bank examiner, to
32 any bank, or to any officer thereof, relating to an examination or investigation
33 conducted or made by the Director, or containing suggestions or recommendations as to
34 the conduct of the bank shall, if required by the authority submitting same, be submitted
35 by the officer or director receiving it, to the executive committee or board of directors of
36 such bank and duly noted in the minutes of such meeting. The receipt and submission
37 of such notice to the executive committee or board of directors shall be certified to the
38 Director within such time as the Director may require, by three members of such
39 committee or board.

40 **"§ 54D-2-10. Board to prescribe books, records, etc.; retention, reproduction, and**
41 **disposition of records.**

42 (a) Whenever in its judgment it may appear to be advisable, the Board may adopt
43 and issue such rules and instructions prescribing the manner of keeping books, accounts,

1 and records of banks as will tend to produce uniformity in the books, accounts, and
2 records of banks of the same class.

3 (b) The following provisions shall be applicable to banks and trust companies
4 operating under Chapter 53 of the General Statutes and amendments thereto, and to
5 national banking associations insofar as this section does not contravene paramount
6 federal law:

7 (1) Each bank shall retain permanently the minute books of meetings of its
8 stockholders and directors, its capital stock ledger, and capital stock
9 certificate ledger or stubs, and all records which the Board shall, in
10 accordance with the terms of this section, require to be retained
11 permanently.

12 (2) All other bank records shall be retained for such periods as the Board
13 shall, in accordance with the terms of this section, prescribe.

14 (3) The Board shall from time to time adopt rules classifying all records
15 kept by banks and prescribing the period for which records of each
16 class shall be retained. Such periods may be permanent or for a lesser
17 term of years. Such rules may from time to time be amended or
18 repealed, but any amendment or repeal shall not affect any action
19 taken prior to such amendment or repeal. Prior to adopting any such
20 rules, the Board shall consider:

21 a. Actions at law and administrative proceedings in which the
22 production of bank records might be necessary or desirable;

23 b. State and federal statutes of limitation applicable to such actions
24 or proceedings;

25 c. The availability of information contained in bank records from
26 other sources; and

27 d. Such other matters as the Board shall deem pertinent in order
28 that its regulation will require banks to retain their records for
29 as short a period as is commensurate with the interest of bank
30 customers and stockholders and of the people of this State in
31 having bank records available.

32 (4) Any bank may cause any or all records kept by it to be recorded,
33 copied, or reproduced by any photographic, photostatic, or miniature
34 photographic or reproduction process of any kind which is capable of
35 conversion into written form within a reasonable time and which
36 correctly, accurately, and permanently copies, reproduces, or forms a
37 medium for copying or reproducing the original record on a film or
38 other durable material.

39 (5) Any such photographic, photostatic, or miniature photographic copy or
40 reproduction of any kind, including electronic or computer-generated
41 data, which is capable of conversion into written form within a
42 reasonable time, shall be deemed to be an original record for all
43 purposes and shall be treated as an original record in all courts and
44 administrative agencies for the purpose of its admissibility in evidence.

1 A facsimile, exemplification, or certified copy of any such
2 photographic copy or reproduction shall, for all purposes, be deemed a
3 facsimile, exemplification, or certified copy of the original record.

4 (6) Any bank may dispose of any record which has been retained for the
5 period prescribed by the Board or in accordance with the terms of this
6 section for retention of records for its class.

7 **"§ 54D-2-11. When reserve below legal requirement.**

8 When the reserve of any bank falls below the amount required by law, it shall not
9 make new loans or discounts, otherwise than by discounting or purchasing bills of
10 exchange, payable at sight or on demand, nor make dividends of its profits until the
11 reserve required by law is restored. The Director shall require any bank whose reserve
12 falls below the amount herein required immediately to make good such reserve. In case
13 the bank fails for 30 days thereafter to make good its reserve, the Director may
14 forthwith take possession of the property and business of such bank until its affairs are
15 adjusted or finally liquidated as provided for in this Chapter.

16 **"§ 54D-2-12. Appraisal of assets of doubtful value.**

17 If any assets of a bank are of a doubtful or disputed value, an appraisal of such assets
18 may be had by the Director, and for the purpose of making such appraisal, the Director
19 shall designate one agent as an appraiser and the bank shall designate an agent as an
20 appraiser and the two so chosen shall designate a third. The appraisers so selected shall
21 make an appraisal of the assets so designated as doubtful or disputed and file a written
22 report of their appraisal with the bank and with the Director. In making such appraisal
23 the appraisers shall determine the actual cash market value of such assets. Such
24 appraisal, when made, shall be accepted as the value of such assets for the purpose of
25 examination or for the purpose of determining the actual cash market value of such
26 assets. The appraisers designated shall not be interested, in any way, either in the bank
27 or as an employee of the Director, and all expenses of such appraisal shall be paid by
28 the bank whose assets are appraised. If any bank required to appoint an appraiser
29 hereunder shall fail for 10 days to appoint an appraiser, the Director may apply to the
30 clerk of the superior court of the county in which the bank is located for the
31 appointment of such an appraiser, and the clerk shall thereupon make the appointment
32 for the bank.

33 **"§ 54D-2-13. Certified copies of records as evidence.**

34 In all civil actions in the courts of this State wherein are involved as evidence or
35 otherwise any of the records of the Director, a certified copy over the signature and
36 under the seal of the Director shall be admissible in evidence to the same effect as if
37 produced in court at trial by the proper custodian of the records.

38 **"§ 54D-2-14. Other powers of the Board.**

39 In addition to all other powers conferred upon and vested in the Board, the Board,
40 with the approval of the Governor, is hereby authorized, empowered, and directed,
41 whenever in its judgment the circumstances warrant it:

42 (1) To authorize, permit, direct, or require all banking corporations under
43 its supervision, to extend for such period and upon such terms as it

1 deems necessary and expedient, payment of any demand or time
2 deposits.

3 (2) To direct, require, or permit, upon such terms as it may deem
4 advisable, the issuance of clearinghouse certificates or other evidences
5 of claims against assets of such banking institutions.

6 (3) To authorize and direct the creation, in such banking institutions, of
7 special trust accounts for the receipt of new deposits, which deposits
8 shall be subject to withdrawal on demand without any restriction or
9 limitation and shall be kept separate in cash or on deposit in such
10 banking institutions as it shall designate or invested in such obligations
11 of the United States or the State of North Carolina as it shall designate.

12 (4) To adopt for such banking institutions, such regulations as are
13 necessary, in its discretion, to enable such banking institutions to
14 comply fully with the federal regulations prescribed for national or
15 state banks.

16 **"§ 54D-2-15. Board to make rules.**

17 The Board shall make all necessary rules and shall give all necessary instructions
18 with respect to such actions of banking corporations which the Director may authorize,
19 permit, or direct and require to be conducted under the provisions of G.S. 53-77, 54D-2-
20 14, 54D-2-15, and 54D-2-16. It shall be the duty of all such banking corporations and
21 their officers, agents, and employees to comply fully with any and all rules and
22 instructions adopted and issued by the Board with respect to such banking corporations
23 under the terms of G.S. 53-77, 54D-2-14, 54D-2-15, and 54D-2-16; and such orders,
24 rules, and instructions shall have the same force and effect as rules and instructions
25 promulgated under the existing banking laws.

26 **"§ 54D-2-16. Director need not take over banks failing to meet deposit demands.**

27 The Director shall not take possession of any banking corporation under the
28 Director's supervision for failure to meet its deposit liabilities during the period in which
29 such banking corporation is operating under the terms of G.S. 54D-2-14 (1); and the
30 Director is hereby relieved from any and all liability for permitting such banking
31 corporations to continue operations under the terms thereof.

32 **"PART 2. CREDIT UNIONS.**

33 **"§ 54D-2-21. Definitions.**

34 Definitions applied to terms defined in Subchapter III of Chapter 54 of the General
35 Statutes are incorporated herein and apply to the same terms used in this Part.

36 **"§ 54D-2-22. Creation and supervision of Division.**

37 There is established in the Department of Commerce a Credit Union Division which
38 shall be under the general direction and supervision of the Director of Financial
39 Institutions. The Director shall appoint an Assistant Director for Credit Unions, whose
40 salary shall be fixed by the State Personnel Board.

41 **"§ 54D-2-23. Duties of Director with respect to credit unions.**

42 The duties of the Director with respect to credit unions shall be as follows:

- 1 (1) To organize and conduct in the Department of Commerce a bureau of
2 information in regard to cooperative associations and rural and
3 industrial credits.
- 4 (2) Upon request, to furnish, without cost, such printed information and
5 blank forms as in the Director's discretion may be necessary for the
6 formation and establishment of any local credit union in the State.
- 7 (3) To maintain an educational campaign in the State looking to the
8 promotion and organization of credit unions. Upon the written request
9 of 12 bona fide residents of any particular locality in this State
10 expressing a desire to form a local credit union at or in such locality,
11 the Director, or the Assistant Director of Credit Unions, shall proceed
12 as promptly as may be convenient to such locality and make an
13 investigation in order that the Director may determine whether or not a
14 local credit union should be established according to the standards set
15 forth and provided in Subchapter III of Chapter 54 of the General
16 Statutes. The Director shall notify the applicants of the Director's
17 decision within 30 days after receipt of the written request. Before
18 refusing the establishment of a credit union, the Director shall afford
19 the applicants an opportunity to be heard therewith in person or by
20 counsel, and at least 60 days prior to the date set for a hearing on any
21 such matter, shall notify in writing the applicants of the date of the
22 hearing and assign therein the grounds for the action contemplated to
23 be taken and as to which inquiry shall be made on the date of such
24 hearing. The determination of the Director shall be subject to judicial
25 review in all respects according to the provisions and procedures set
26 forth in Chapter 150B of the General Statutes.
- 27 (4) To examine at least once a year, and more often if deemed necessary
28 by the Director or the Assistant Director, the credit unions formed
29 under Subchapter III of Chapter 54 of the General Statutes. A report
30 of the examination shall be filed with the Department of Commerce,
31 and a copy mailed to the credit union at its proper address.
- 32 (5) The Director shall fix the amount of a blanket surety bond which shall
33 be required of each credit union official, committee member, and
34 employee, irrespective of whether such official, committee member,
35 and employee receives, pays, or has custody of money or other
36 personal property owned by a credit union or in the custody or control
37 of the credit union as collateral or otherwise. The surety on the bond
38 shall be a surety company authorized to do business in North Carolina.
39 Any such bond or bonds shall be in a form approved by the Director
40 with a view to providing surety coverage to the credit union with
41 reference to loss by reason of acts of fraud or dishonesty including
42 forgery, theft, embezzlement, wrongful abstraction, or misapplication
43 on the part of the person, directly or through connivance with others,
44 and such other surety coverages as the Director may determine to be

1 reasonably appropriate or as elsewhere required by Subchapter III of
 2 Chapter 54 of the General Statutes. Any such bond or bonds shall be
 3 in an amount in relation to the money or other personal property
 4 involved or in relation to the assets of the credit union as the Board
 5 may from time to time prescribe by rule for the purpose of requiring
 6 reasonable coverage. The Director may also approve the use of a form
 7 of excess coverage bond whereby a credit union may obtain an amount
 8 of coverage in excess of the basic surety coverage. No agreement,
 9 compromise, or settlement of any claim or claims filed by a credit
 10 union with any surety or any surety company for less than the full
 11 amount of said claim or claims shall be entered into or made by the
 12 board of directors of any credit union unless and until the said claim or
 13 claims shall have been submitted to the Director and the Director's
 14 advice thereon given or transmitted to the board of directors of the
 15 credit union. The following schedule shall be deemed as the minimum
 16 fidelity and faithful performance bond requirements only:

| <u>Assets</u> | <u>Minimum Coverage</u> |
|--------------------------------|-------------------------|
| <u>\$ 0,000 to \$ 5,000</u> | <u>\$ 1,000</u> |
| <u>5,001 to 10,000</u> | <u>2,000</u> |
| <u>10,001 to 20,000</u> | <u>4,000</u> |
| <u>20,001 to 30,000</u> | <u>6,000</u> |
| <u>30,001 to 40,000</u> | <u>8,000</u> |
| <u>40,001 to 50,000</u> | <u>10,000</u> |
| <u>50,001 to 75,000</u> | <u>15,000</u> |
| <u>75,001 to 100,000</u> | <u>20,000</u> |
| <u>100,001 to 200,000</u> | <u>30,000</u> |
| <u>200,001 to 300,000</u> | <u>40,000</u> |
| <u>300,001 to 400,000</u> | <u>50,000</u> |
| <u>400,001 to 500,000</u> | <u>70,000</u> |
| <u>500,001 to 750,000</u> | <u>85,000</u> |
| <u>750,001 to 1,000,000</u> | <u>100,000</u> |
| <u>1,000,001 to 50,000,000</u> | <u>\$100,000</u> |

33 plus \$50,000 for each
 34 million or fraction
 35 thereof of assets
 36 over \$1,000,000

37 \$50,000,001 to \$150,000,000 \$ 2,500,000

38 plus \$25,000 for each
 39 million or fraction
 40 thereof of assets
 41 over \$50,000,000

42 Over \$150,000,000 \$5,000,000

43 It shall be the duty of the board of directors of each credit union to provide proper
 44 protection to meet any circumstances by obtaining adequate bond (an insurance)

1 coverage in excess of the above minimum schedule. The treasurer and all other persons
2 handling credit union funds or records before entering upon his or their duties shall give
3 a proper bond with good and sufficient surety, in an amount and character to be
4 determined by the board in compliance with regulations conditioned upon the faithful
5 performance of the treasurer's or such other person's trust.

6 The Director may require additional coverage for any credit union when, in the
7 Director's opinion, the surety bonds in force are insufficient to provide adequate surety
8 coverage, and it shall be the duty of the board of directors of any credit union to obtain
9 such additional coverage within 60 days after the date of written notice by the Director
10 to the board of directors. For good cause shown, the Director may extend the time to
11 obtain additional coverage.

12 **"§ 54D-2-24. Corporations organized hereunder subject to Director; rules.**

13 In addition to any and all other powers, duties, and functions vested in the Director
14 under this Part, the Director shall have general control, management, and supervision
15 over all corporations organized under the provisions of Article 14A of Chapter 54 of the
16 General Statutes. All corporations organized under the provisions of Article 14A of
17 Chapter 54 of the General Statutes shall be subject to the management, control, and
18 supervision of the Director as to their conduct, organization, management, business
19 practices, and their financial and fiscal matters. The Board may adopt rules for the
20 administration of this Part, as well as rules relating to financial records, business
21 practices, and the conduct and management of credit unions, and it shall be the duty of
22 the board of directors and of the various officers of the credit union to put into effect
23 and to carry out such rules.

24 **"§ 54D-2-25. Fees.**

25 (a) Each credit union subject to supervision and examination by the Director,
26 including credit unions in process of voluntary liquidation, shall pay into the office of
27 the Director twice each year, in the months of January and July, supervision fees, except
28 those credit unions which liquidate or convert their charters shall pay into the office of
29 the Director, to the date of dissolution, pro rata supervision fees. Examination fees shall
30 be paid promptly upon receipt of the examination report and invoice.

31 The Director, subject to the advice and consent of the Financial Institutions
32 Regulatory Board, shall, on or before December 1 of each year, determine and fix the
33 scale of supervisory and examination fees to be assessed during the next calendar year.

34 No credit union shall be required to pay any supervisory fee until the expiration of
35 12 months from the date of the issuance of a certificate of incorporation to such credit
36 union.

37 (b) Moneys collected under this section shall be used to defray expenses incurred
38 by the office of the Director in carrying out its supervisory and auditing functions under
39 this Part and Subchapter III of Chapter 54 of the General Statutes.

40 **"§ 54D-2-26. Reports.**

41 (a) Credit unions organized under Articles 14A through 14L of Chapter 54 of the
42 General Statutes shall, in January and in July of each year, make a report of condition to
43 the Director on forms supplied for that purpose. Additional reports may be required.

1 (b) Any credit union that neglects to make semiannual reports as provided in
2 subsection (a) of this section, or any of the other reports required by the Director at the
3 time fixed by the Director, shall pay a late penalty to the Director of seventy-five dollars
4 (\$75.00) for each day the neglect continues. The Director may revoke the certificate of
5 incorporation and take possession of the assets and business of any credit union failing
6 to pay a penalty imposed under this section after serving notice of at least 15 days upon
7 the credit union of the proposed action. Penalties collected under this section shall be
8 credited as provided under G.S. 54D-1-16(b).

9 **"§ 54D-2-27. Annual examinations required; payment of cost.**

10 The Director shall cause every corporation organized under Subchapter III of
11 Chapter 54 of the General Statutes to be examined once a year and whenever the
12 Director deems it necessary. The examiners appointed by the Director shall be given
13 free access to all books, papers, securities, and other sources of information in respect to
14 the corporation; and for the purpose of such examination, the Director shall have power
15 and authority to subpoena and examine personally, or by the Assistant Director or one
16 of the examiners, witnesses on oath and documents, whether such witnesses are
17 members of the corporation or not, and whether such documents are documents of the
18 corporation or not. The Director may designate an independent auditing firm to do the
19 work under the Director's direction and supervision, with the cost to be paid by the
20 credit union involved.

21 **"§ 54D-2-28. Confidential information.**

22 (a) The following records of information of the Credit Union Division, the
23 Director, or the agent(s) of either shall be confidential and shall not be disclosed:

- 24 (1) Information obtained or compiled in preparation of, during, or as a
25 result of an examination, audit, or investigation of any credit union;
- 26 (2) Information reflecting the specific collateral given by a named
27 borrower, or specific withdrawable accounts held by a named member;
- 28 (3) Information obtained, prepared, or compiled during or as a result of an
29 examination, audit, or investigation of any credit union by an agency
30 of the United States, if the records would be confidential under federal
31 law or regulation;
- 32 (4) Information and reports submitted by credit unions to federal
33 regulatory agencies, if the records or information would be
34 confidential under federal law or regulation;
- 35 (5) Information and records regarding complaints from the members
36 received by the Division which concern credit unions when the
37 complaint would or could result in an investigation, except to the
38 management of those credit unions; and
- 39 (6) Any other letters, reports, memoranda, recordings, charts, or other
40 documents or records which would disclose any information of which
41 disclosure is prohibited in this subsection.

42 (b) A court of competent jurisdiction may order the disclosure of specific
43 information.

1 (c) The information contained in an application for a new credit union shall be
2 deemed to be public information.

3 (d) Nothing in this Part shall prevent the exchange of information relating to
4 credit unions and the business thereof with the representatives of the agencies of this
5 State, other states, or of the United States, or with reserve or insuring agencies for credit
6 unions. Nothing in this Part shall prevent the Director from disclosing pertinent
7 information relating to a credit union and the business thereof with directors, officers, or
8 members of the credit union. The private business and affairs of an individual or
9 company shall not be disclosed by any person employed by the Credit Union Division,
10 or by any person with whom information is exchanged under the authority of this
11 subsection.

12 (e) Any official or employee violating this section shall be liable to any person
13 injured by disclosure of such confidential information for all damages sustained thereby.
14 Penalties provided shall not be exclusive of other penalties.

15 (f) The willful or knowing violation of the provisions of this part by any
16 employee of the Credit Union Division shall be a misdemeanor.

17 **"§ 54D-2-29. Records.**

18 (a) A credit union shall maintain all books, records, and accounting systems and
19 procedures in accordance with such rules as the Board from time to time prescribes. In
20 prescribing such rules, the Board shall consider the relative size of a credit union and its
21 reasonable capability of compliance.

22 (b) A credit union is not liable for destroying records after the expiration of the
23 record retention time prescribed by the Board.

24 (c) A photostatic or photographic reproduction of any credit union records shall
25 be admissible as evidence of transactions with the credit union.

26 **"§ 54D-2-30. Selection of attorneys to handle loan-closing proceedings.**

27 The Board shall adopt rules relating to selection of attorneys-at-law to handle credit
28 union loan closing proceedings.

29 **"PART 3. SAVINGS AND LOAN ASSOCIATIONS.**

30 **"§ 54D-2-34. Definitions.**

31 Definitions applied to terms defined in Article 1 of Chapter 54B of the General
32 Statutes are incorporated herein and apply to the same terms used in this Part.

33 **"§ 54D-2-35. Savings Institutions Division.**

34 There is established in the Department of Commerce the Savings Institutions
35 Division which shall be under the direction and general supervision of the Director.

36 **"§ 54D-2-36. Board to adopt rules; reproduction of records.**

37 (a) The Board shall adopt rules and issue instructions as may be necessary for the
38 discharge of the Director's duties and powers as to savings and loan associations for the
39 supervision and regulation of the associations, and for the protection of the public
40 investing in the savings and loan associations.

41 (b) Without limiting the generality of the foregoing paragraph, rules and
42 instructions may be adopted and issued with respect to:

43 (1) Reserve requirements;

44 (2) Stock ownership and dividends;

- 1 (3) Stock transfers;
- 2 (4) Incorporators, stockholders, directors, officers, and employees of an
- 3 association;
- 4 (5) Bylaws;
- 5 (6) The structure of the Division;
- 6 (7) The operation of associations;
- 7 (8) Withdrawable accounts, bonus plans, and contracts for savings
- 8 programs;
- 9 (9) Loans and loan expenses;
- 10 (10) Investments;
- 11 (11) Forms and definitions;
- 12 (12) Types of financial records to be maintained by associations;
- 13 (13) Retention periods of various financial records;
- 14 (14) Internal control procedures of associations;
- 15 (15) Conduct and management of associations;
- 16 (16) Chartering and branching;
- 17 (17) Liquidations;
- 18 (18) Mergers;
- 19 (19) Conversions;
- 20 (20) Reports which may be required by the Director;
- 21 (21) Conflicts of interest;
- 22 (22) Collection of State savings and loan taxes;
- 23 (23) Service corporations; and
- 24 (24) Savings and loan holding companies.

25 (c) Any association may cause any or all records by it to be recorded, copied, or
26 reproduced by any photographic, photostatic, or miniature photographic process which
27 correctly, accurately, permanently copies, reproduces, or forms a medium for copying
28 or reproducing the original record on a film or other durable material.

29 (d) Any such photographic, photostatic, or miniature photographic copy or
30 reproduction shall be deemed to be an original record in all courts and administrative
31 agencies for the purpose of its admissibility in evidence. A facsimile, exemplification,
32 or certified copy of any such photographic copy or reproduction shall, for all purposes,
33 be deemed a facsimile, exemplification, or certified copy of the original record.

34 (e) The provisions of this section with reference to the retention and disposition
35 of records shall apply to any federal savings and loan association operating in North
36 Carolina unless in conflict with regulations prescribed by its supervisory authority.

37 **"§ 54D-2-37. Examinations by Director; report.**

38 (a) If at any time the Director deems it prudent, it shall be the Director's duty to
39 examine and investigate everything relating to the business of a State association or a
40 savings and loan holding company, and to appoint a suitable and competent person to
41 make such investigation, who shall file with the Director a full report of the person's
42 finding in such case, including in the report any violation of law or any unauthorized or
43 unsafe practices of the association disclosed by the person's examination.

1 **(b)** The Director shall furnish a copy of the report to the association examined
2 and may, upon request, furnish a copy of or excerpts from the report to the appropriate
3 federal regulatory authorities.

4 **(c)** No association may willfully delay or willfully obstruct an examination in
5 any fashion. Any person failing to comply with this subsection shall be guilty of a
6 misdemeanor.

7 **(d)** No person who has possession or control of any books, accounts, or papers of
8 any State association shall refuse to exhibit same to the Director or the Director's agents
9 on demand, or shall knowingly or willingly make any false statement in regard to the
10 same. Any person failing to comply with this subsection shall be guilty of a
11 misdemeanor.

12 **"§ 54D-2-38. Supervision and examination fees.**

13 **(a)** Every State association, including associations in process of voluntary
14 liquidation, or savings and loan holding company, shall pay into the office of the
15 Director each July a supervisory fee. Examination fees shall be paid promptly upon an
16 association's receipt of the examination billing. The Director, subject to the advice and
17 consent of the Board, shall, on or before June 1 of each year:

18 **(1)** Determine and fix the scale of supervisory and examination fees to be
19 assessed and collected during the next fiscal year; and

20 **(2)** Determine and fix the amount of the fee and set the fee collection
21 schedule for the fees to be assessed to and collected from applicants to
22 defray the cost of processing their charter, branch, merger, conversion,
23 location change, savings and loan holding company acquisition, and
24 name change applications.

25 **(b)** All funds and revenue collected by the Division under the provisions of this
26 section and the provisions of all other sections of Chapter 54B of the General Statutes
27 which authorize the collection of fees and other funds shall be used to defray expenses
28 incurred by the office of the Director in carrying out its supervisory and auditing
29 functions.

30 **(c)** Notwithstanding any of the provisions of subsections (a) and (b) of this
31 section, whenever the Director under the provisions of G.S. 54D-2-37 appoints a
32 suitable and competent person, other than a person employed by the Director's office, to
33 make an examination and investigation of the business of a State association, all costs
34 and expenses relative to such examination and investigation shall be paid by such
35 association.

36 **"§ 54D-2-39. Prolonged audit, examination, or revaluation; payment of costs.**

37 **(a)** If, in the opinion of the Director, an examination conducted under the
38 provisions of G.S. 54D-2-37 fails to disclose the complete financial condition of an
39 association, the Director may in order to ascertain its complete financial condition:

40 **(1)** Make an extended audit or examination of the association or cause
41 such an audit or examination to be made by an independent auditor; or

42 **(2)** Make an extended revaluation of any of the assets or liabilities of the
43 association or cause an independent appraiser to make such
44 revaluation.

1 (b) The Director shall collect from the association a reasonable sum for actual or
2 necessary expenses of such an audit, examination, or revaluation.

3 **"§ 54D-2-40. Director to have right of access to books and records of association;**
4 **right to issue subpoenas, administer oaths, examine witnesses.**

5 (a) The Director and the Director's agents:

6 (1) Shall have free access to all books and records of an association, or a
7 service corporation thereof, that relate to its business, and the books
8 and records kept by an officer, agent, or employee relating to or upon
9 which any record is kept;

10 (2) May subpoena witnesses and administer oaths or affirmations in the
11 examination of any director, officer, agent, or employee of an
12 association, or a service corporation thereof or of any other person in
13 relation to its affairs, transactions, and conditions;

14 (3) May require the production of records, books, papers, contracts, and
15 other documents; and

16 (4) May order that improper entries be corrected on the books and records
17 of an association.

18 (b) The Director may issue subpoenas **duces tecum.**

19 (c) If a person fails to comply with a subpoena so issued or a party or witness
20 refuses to testify on any matters, a court of competent jurisdiction, on the application of
21 the Director, shall compel compliance by proceedings for contempt as in the case of
22 disobedience of the requirements of a subpoena issued from such court or a refusal to
23 testify in such court.

24 **"§ 54D-2-41. Test appraisals of collateral for loans; expense paid.**

25 (a) The Director may direct the making of test appraisals of real estate and other
26 collateral securing loans made by associations doing business in this State, employ
27 competent appraisers, or prescribe a list from which competent appraisers may be
28 selected, for the making of such appraisals by the Director, and do any and all other acts
29 incident to the making of such test appraisals.

30 (b) In lieu of causing such appraisals to be made, the Director may accept an
31 appraisal caused to be made by the appropriate federal regulatory authority.

32 (c) The expense and cost of test appraisals made pursuant to this section shall be
33 defrayed by the association subjected to such test appraisals, and each association doing
34 business in this State shall pay all reasonable costs and expenses of such test appraisals
35 when it shall be directed.

36 **"§ 54D-2-42. Relationship of savings and loan associations with the Division.**

37 (a) Except as provided by subsection (b) of this section, a savings and loan
38 association or any director, officer, employee, or representative thereof shall not grant
39 or give to the Director or to any employee of the Director's office, or to their spouses,
40 any loan or gratuity, directly or indirectly.

41 (b) Neither the Director nor any person on the staff of the Division shall:

42 (1) Hold an office or position in any State association or exercise any right
43 to vote on any State association matter by reason of being a member of
44 the association;

1 (2) Be interested, directly or indirectly, in any savings and loan
2 association organized under the laws of this state; or

3 (3) Undertake any indebtedness as a borrower, directly or indirectly, or
4 endorser, surety, or guarantor, or sell or otherwise dispose of any loan
5 or investment to any savings and loan association organized under the
6 laws of this state.

7 (c) Notwithstanding subsection (b) of this section, the Director or any other
8 person employed in or by his office may be a withdrawable account holder and receive
9 earnings on such account.

10 (d) If the Director or other person has any prohibited right or interest in a savings
11 and loan association, either directly or indirectly, at the time of the Director's
12 appointment or the person's employment, the Director or such other person shall dispose
13 of it within 60 days after the date of appointment or employment. If the Director or
14 other such person is indebted as borrower directly or indirectly, or is an endorser,
15 surety, or guarantor on a note, at the time of appointment or employment, the Director
16 or such other person may continue in such capacity until such loan is paid off.

17 (e) If the Director or any employee of the Division has a loan or other note
18 acquired by a State savings bank through the secondary market, the Director or such
19 employee may continue with the debt until such loan or note is paid off.

20 **"§ 54D-2-43. Confidential information.**

21 (a) The following records or information of the Board, the Director, or the
22 agent(s) of either shall be confidential and shall not be disclosed:

23 (1) Information obtained or compiled in preparation of or anticipation of,
24 or during an examination, audit, or investigation of any association;

25 (2) Information reflecting the specific collateral given by a named
26 borrower, the specific amount of stock owned by a named stockholder,
27 or specific withdrawable accounts held by a named member or
28 customer;

29 (3) Information obtained, prepared, or compiled during or as a result of an
30 examination, audit, or investigation of any association by an agency of
31 the United States, if the records would be confidential under federal
32 law or regulation;

33 (4) Information and reports submitted by associations to federal regulatory
34 agencies, if the records or information would be confidential under
35 federal law or regulation;

36 (5) Information and records regarding complaints from the public received
37 by the Division which concern associations when the complaint would
38 or could result in an investigation, except to the management of those
39 associations; and

40 (6) Any other letters, reports, memoranda, recordings, charts, or other
41 documents or records which would disclose any information of which
42 disclosure is prohibited in this subsection.

43 (b) A court of competent jurisdiction may order the disclosure of specific
44 information.

1 (c) The information contained in an application shall be deemed to be public
2 information. Disclosure shall not extend to the financial statement of the incorporators
3 nor to any further information deemed by the Director to be confidential.

4 (d) Nothing in this section shall prevent the exchange of information relating to
5 associations and the business thereof with the representatives of the agencies of this
6 State, other states, or of the United States, or with reserve or insuring agencies for
7 associations. The private business and affairs of an individual or company shall not be
8 disclosed by any person employed by the Savings Institutions Division, any member of
9 the Board, or by any person with whom information is exchanged under the authority of
10 this subsection.

11 (e) Any official or employee violating this section shall be liable to any person
12 injured by disclosure of such confidential information for all damages sustained thereby.
13 Penalties provided shall not be exclusive of other penalties.

14 **"§ 54D-2-44. Annual license fees.**

15 All State associations shall pay an annual license fee set by the Director subject to
16 the advice and consent of the Board. Such license fee shall be used to defray the
17 expenses incurred by the Division in supervising State associations. The Director may
18 license each State association upon receipt of the license fee and filing of an application
19 in such form as the Director may prescribe.

20 **"§ 54D-2-45. Statement; fees.**

21 Every State association shall file in the office of the Director, on or before the first
22 day of February in each year, in such form as the Director shall prescribe, a statement of
23 the business standing and financial condition of such association on the preceding 31st
24 day of December. This statement shall be signed and sworn to by the secretary of the
25 association before a notary public. The statement shall be accompanied by a filing fee
26 set by the Director, subject to the advice and consent of the Board. The filing fees shall
27 be used as provided in G.S. 54D-1-16(a).

28 **"§ 54D-2-46. Statement examined, approved, and published.**

29 It shall be the duty of the Administrator to receive and thoroughly examine each
30 annual statement required by G.S. 54D-2-45, and if made in compliance with the
31 requirements thereof, each State association shall publish an abstract of the same in one
32 of the newspapers of the State, to be selected by the managing officer making the
33 statement, and at the expense of the association.

34 **"§ 54D-2-47. Certain powers granted to State associations.**

35 (a) In addition to the powers granted under this Chapter and Chapter 54B of the
36 General Statutes, any savings and loan association incorporated or operated under the
37 provisions of Chapter 54B of the General Statutes may:

- 38 (1) Establish off the premises of any principal office or branch a customer
39 communications terminal, point-of-sale terminal, automated teller
40 machine, automated or other direct or remote information-processing
41 device or machine, whether manned or unmanned, through or by
42 means of which funds or information relating to any financial service
43 or transaction rendered to the public is stored and transmitted,
44 instantaneously or otherwise to or from an association terminal or

1 terminals controlled or used by or with other parties; and the
2 establishment and use of such a device or machine shall not be deemed
3 to constitute a branch office and the capital requirements and standards
4 for approval of a branch office as set forth in the statutes and
5 regulations, shall not be applicable to the establishment of any such
6 off-premises terminal, device, or machine; and associations may
7 through mutual consent share on-premises unmanned automated teller
8 machines and cash dispensers. The Board may adopt rules with regard
9 to the application for permission for use, maintenance, and supervision
10 of the terminals, devices, and machines;

11 (2) Subject to such rules as the Board may adopt, a State-chartered
12 association is authorized to issue credit cards, extend credit in
13 connection therewith, and otherwise engage in or participate in credit
14 card operations;

15 (3) Subject to such rules as the Board may adopt, a State-chartered
16 association may act as a trustee, executor, administrator, guardian, or
17 in any other fiduciary capacity permitted for federal savings and loan
18 associations;

19 (4) a. In accordance with rules adopted by the Board, mutual capital
20 certificates may be issued by State-chartered associations and sold
21 directly to subscribers or through underwriters, and such certificates
22 shall constitute part of the general reserve and net worth of the issuing
23 association. The Board, in the rules relating to the issuance and sale of
24 mutual capital certificates, shall provide that such certificates:

25 1. Shall be subordinate to all savings accounts, savings
26 certificates, and debt obligations;

27 2. Shall constitute a claim in liquidation on the general
28 reserves, surplus, and undivided profits of the association
29 remaining after the payment of all savings accounts,
30 savings certificates, and debt obligations;

31 3. Shall be entitled to the payment of dividends; and

32 4. May have a fixed or variable dividend rate.

33 b. The Board shall provide in the rules for charging losses to the
34 mutual capital certificate, reserves, and other net worth
35 accounts.

36 (b) To such extent as the Board may authorize by rule or advice in writing, a
37 State association may issue notes, bonds, debentures, or other obligations or securities.

38 **"§ 54D-2-48. Prohibited practices.**

39 Any person or association who shall engage in any of the following acts or practices
40 shall be guilty of a misdemeanor, and upon conviction thereof, shall be fined or
41 imprisoned, or both, in the discretion of the court:

42 (1) Defamation. – Making, publishing, disseminating, or circulating,
43 directly or indirectly, or aiding, abetting, or encouraging the making,
44 publishing, disseminating, or circulating of any oral, written, or printed

1 statement which is false regarding the financial condition of any
2 association.

- 3 (2) False information and advertising. – Making, publishing,
4 disseminating, or circulating or causing, directly or indirectly, to be
5 made published, disseminated, circulated, or otherwise placed before
6 the public in any publication, media, notice, pamphlet, letter, poster, or
7 any other way, an advertisement, announcement, or statement
8 containing any assertion, representation, or statement with respect to
9 the savings and loan business or with respect to any person in the
10 conduct of the savings and loan business which is untrue, deceptive, or
11 misleading.

12 **"PART 4. SAVINGS BANKS.**

13 **"§ 54D-2-52. Definitions.**

14 Definitions applied to terms defined in chapter 54c of the general statutes are
15 incorporated herein and apply to the same terms used in this part.

16 **"§ 54D-2-53. Supervision.**

17 (a) The Director shall perform the duties and exercise the powers as to savings
18 banks organized or operated under Chapter 54C of the General Statutes, except as
19 otherwise provided herein.

20 (b) The Board may review, approve, disapprove, or modify any action taken by
21 the Director in the exercise of the powers, duties, and functions granted to the Director
22 by this Part and Chapter 54C of the General Statutes.

23 **"§ 54D-2-54. Power of Board to adopt rules and definitions; reproduction of** 24 **records.**

25 (a) The Board shall adopt rules, definitions, and forms as may be necessary for
26 the supervision and regulation of savings banks and for the protection of the public
27 investing in savings banks.

28 (b) Without limiting the generality of subsection (a) of this section, the Board
29 may adopt rules, definitions, and forms with respect to the following:

- 30 (1) Reserve requirements;
31 (2) Stock ownership and dividends;
32 (3) Stock transfers;
33 (4) Original incorporators, stockholders, directors, officers, and employees
34 of a savings bank;
35 (5) Bylaws;
36 (6) The operation of savings banks;
37 (7) Deposit accounts, bonus plans, and contracts for savings programs;
38 (8) Loans and loan expenses;
39 (9) Investments and resource management;
40 (10) Forms of proxies, holders of proxies, and proxy solicitations;
41 (11) Types of financial records to be maintained by savings banks;
42 (12) Retention periods of various financial records;
43 (13) Internal control procedures of savings banks;
44 (14) Conduct and management of savings banks;

- 1 (15) Chartering and branching;
2 (16) Liquidations, dissolutions, and receiverships;
3 (17) Mergers, consolidations, conversions, and
4 combination mergers and conversions;
5 (18) Interim savings banks;
6 (19) Reports that may be required by the Director;
7 (20) Conflicts of interest;
8 (21) Service corporations; and
9 (22) Subsidiary savings banks and holding companies, including the rights
10 of members, levels of investment in the subsidiaries, and stock sales.

11 (c) A savings bank may cause any or all of its records to be recorded, copied, or
12 reproduced by any photographic, photostatic, or miniature photographic process that
13 correctly, accurately, permanently copies, reproduces, or forms a medium for copying
14 or reproducing the original record on a film or other durable material.

15 (d) A photographic, photostatic, or miniature photographic copy or reproduction
16 is deemed to be an original record in all courts and administrative agencies for the
17 purpose of its admissibility in evidence. A facsimile, exemplification, or certified copy
18 of any photographic copy or reproduction is deemed to be a facsimile, exemplification,
19 or certified copy of the original record for all purposes.

20 (e) This section, with reference to the retention and disposition of records, shall
21 apply to any federal savings bank operating in North Carolina unless in conflict with
22 regulations prescribed by its federal regulatory authority.

23 **"§ 54D-2-55. Examinations by Director; report.**

24 (a) It is the Director's duty, if at any time the Director deems it prudent, to
25 examine and investigate everything relating to the business of a State savings bank or a
26 holding company thereof, and to appoint a suitable and competent person to make the
27 investigation. The investigator shall file with the Director a full report of the findings in
28 the case, including any violation of law or any unauthorized or unsafe practices of the
29 savings bank disclosed by the examination.

30 (b) The Director shall furnish a copy of the report to the savings bank examined
31 and may, upon request, furnish a copy of, or excerpts from, the report to the insurer of
32 accounts.

33 (c) No savings bank may willfully delay or willfully obstruct an examination in
34 any fashion. A person failing to comply with this subsection is guilty of a
35 misdemeanor.

36 (d) No person who possesses or controls any books, accounts, or papers of any
37 State savings bank shall refuse to exhibit same to the Director or the Director's agent on
38 demand, or shall knowingly or willingly make any false statement in regard to the same.
39 A person failing to comply with this subsection is guilty of a misdemeanor.

40 **"§ 54D-2-56. Supervision and examination fees authorized; use of funds collected**
41 **under Part.**

42 (a) Every State savings bank, including savings banks in process of voluntary
43 liquidation, or a holding company thereof, shall pay into the office of the Director each
44 July a supervisory fee. Examination fees shall be paid promptly upon an association's

1 receipt of the examination billing. The Director, subject to the advice and consent of
2 the Board, shall, on or before June 1 of each year:

3 (1) Determine and fix the scale of supervisory and examination fees to be
4 assessed and collected during the next fiscal year; and

5 (2) Determine and fix the amount of the fee and set the fee collection
6 schedule for the fees to be assessed to and collected from applicants to
7 defray the cost of processing their charter, branch, merger, conversion,
8 holding company acquisition, and name change applications.

9 (b) All funds and revenue collected by the Division under this section and all
10 other sections of this Part that authorize the collection of fees and other funds shall be
11 used to defray expenses incurred by the office of the Director in carrying out its
12 supervisory and auditing functions. Civil penalties collected under this Chapter shall be
13 credited pursuant to G.S. 54D-1-16(b).

14 (c) Notwithstanding subsections (a) and (b) of this section, whenever the
15 Director under G.S. 54D-2-55 appoints a suitable and competent person, other than a
16 person employed by the Director's office, to make an examination and investigation of
17 the business of a state savings bank, the Savings bank shall pay all costs and expenses
18 relative to the examination and investigation.

19 **"§ 54D-2-57. Prolonged audit, examination, or revaluation; payment of costs.**

20 (a) If, in the opinion of the Director, an examination conducted under G.S. 54D-
21 2-56 fails to disclose the complete financial condition of a savings bank, the Director
22 may in order to ascertain its complete financial condition:

23 (1) Make an extended audit or examination of the savings bank or cause
24 an audit or examination to be made by an independent auditor; and

25 (2) Make an extended revaluation of any of the assets or liabilities of the
26 savings bank or cause an independent appraiser to make a revaluation.

27 (b) The Director shall collect from the savings bank a reasonable sum for actual
28 or necessary expenses of an audit, examination, or revaluation.

29 **"§ 54D-2-58. Director to have right of access to books and records of the savings
30 bank; right to issue subpoenas, administer oaths, examine witnesses.**

31 (a) The Director and the Director's agents:

32 (1) Shall have free access to all books and records of a savings bank, or a
33 service corporation or holding company thereof, that relate to its
34 business, and the books and records kept by an officer, agent, or
35 employee relating to or upon which any record is kept;

36 (2) May subpoena witnesses and administer oaths or affirmations in the
37 examination of any director, officer, agent, or employee of a savings
38 bank, or a service corporation or holding company thereof or of any
39 other person in relation to its affairs, transactions, and conditions;

40 (3) May require the production of records, books, papers, contracts, and
41 other documents; and

42 (4) May order that improper entries be corrected on the books and records
43 of a savings bank.

44 (b) The Director may issue subpoenas **duces tecum.**

1 (c) If a person fails to comply with a subpoena so issued or a party or witness
2 refuses to testify on any matters, a court of competent jurisdiction, on the application of
3 the Director, shall compel compliance by proceedings for contempt as in the case of
4 disobedience of the requirements of a subpoena issued from the court or a refusal to
5 testify in the court.

6 **"§ 54D-2-59. Test appraisals of collateral for loans; expense paid.**

7 (a) The Director may direct the making of test appraisals of real estate and other
8 collateral securing loans made by savings banks doing business in this State, employ
9 competent appraisers, or prescribe a list from which competent appraisers may be
10 selected, for the making of these appraisals by the Director, and any and all other acts
11 incident to the making of test appraisals.

12 (b) In lieu of causing an appraisal to be made, the Director may accept an
13 appraisal caused to be made by the insurer of accounts.

14 (c) The expense and cost of test appraisals made under this section shall be
15 defrayed by the savings bank subjected to the test appraisals, and each savings bank
16 doing business in this State shall pay all reasonable costs and expenses of the test
17 appraisals when it is directed.

18 **"§ 54D-2-60. Relationship of savings banks with the Division.**

19 (a) Except as provided by subsection (b) of this section, a savings bank or any
20 director, officer, employee, or representative thereof shall not grant or give to the
21 Director or to any employee of the Division or to their spouses, any loan or gratuity,
22 directly or indirectly.

23 (b) Neither the Director nor any employee of the Division shall:

24 (1) Hold an office or position in any State savings bank or exercise any
25 right to vote on any State savings bank matter by reason of being a
26 member of the savings bank;

27 (2) Be interested, directly or indirectly, in any savings bank organized
28 under the laws of this State; or

29 (3) Undertake any indebtedness as a borrower, directly or indirectly, or act
30 as endorser, surety, or guarantor, or sell or otherwise dispose of any
31 loan or investment to any savings bank organized under the laws of
32 this State.

33 (c) Notwithstanding subsection (b) of this section, the Director or any employee
34 of the Division may be a deposit account holder and receive earnings on a deposit
35 account.

36 (d) The Director or any employee of the Division shall dispose of any prohibited
37 right or interest in a savings bank, either directly or indirectly, within 60 days after the
38 date of the Director's or employee's appointment or employment. If the Director or any
39 employee of the Division is indebted as borrower, directly or indirectly, or is an
40 endorser, surety, or guarantor on a note, at the time of appointment or employment, the
41 Director or employee may continue in that capacity until the loan is paid off.

42 (e) If the Director or any employee of the Division has a loan or other note
43 acquired by a State savings bank through the secondary market, the Director or
44 employee may continue with the debt until the loan or note is paid off.

1 **"§ 54D-2-61. Confidential information.**

2 (a) The following records or information of the Board, the Director, or the agent
3 of either shall be confidential and shall not be disclosed:

4 (1) Information obtained or compiled in preparation of or anticipation of,
5 or during an examination, audit, or investigation of any association;

6 (2) Information reflecting the specific collateral given by a named
7 borrower, the specific amount of stock owned by a named stockholder,
8 any stockholder list supplied to the Director under G.S. 54C-22, or
9 specific deposit accounts held by a named member or customer;

10 (3) Information obtained, prepared, or compiled during or as a result of an
11 examination, audit, or investigation of any savings bank by an agency
12 of the United States, if the records would be confidential under federal
13 law or regulation;

14 (4) Information and reports submitted by savings banks to federal
15 regulatory agencies, if the records or information would be
16 confidential under federal law or regulation;

17 (5) Information and records regarding complaints from the public received
18 by the Division that concern savings banks when the complaint would
19 or could result in an investigation, except to the management of those
20 savings banks; and

21 (6) Any other letters, reports, memoranda, recordings, charts, or other
22 documents or records that would disclose any information of which
23 disclosure is prohibited in this subsection.

24 (b) A court of competent jurisdiction may order the disclosure of specific
25 information.

26 (c) The information contained in an application is deemed to be public
27 information. Disclosure shall not extend to the financial statement of the incorporators
28 nor to any further information deemed by the Director to be confidential.

29 (d) Nothing in this section shall prevent the exchange of information relating to
30 savings banks and the business thereof with the representatives of the agencies of this
31 State, other states, or of the United States, or with reserve or insuring agencies for
32 savings banks. The private business and affairs of an individual or company shall not
33 be disclosed by any person employed by the Division, any member of the Board, or by
34 any person with whom information is exchanged under the authority of this subsection.

35 (e) An official or employee of this State violating this section is liable to any
36 person injured by disclosure of the confidential information for all damages sustained
37 thereby. Penalties provided are not exclusive of other penalties.

38 **"§ 54D-2-62. Annual license fees.**

39 A state savings bank shall pay an annual license fee set by the Director, subject to
40 the advice and consent of the Board. The license fee shall be used to defray the
41 expenses incurred by savings institution division in supervising State savings banks.
42 The Director may license each State savings bank upon receipt of the license fee and
43 filing of an application in the form prescribed by the Director.

44 **"§ 54D-2-63. Statement filed by savings bank; fees.**

1 A State savings bank shall file in the office of the Director, on or before the first day
2 of February in each year, in the form prescribed by the Director, a statement of the
3 business standing and financial condition of the savings bank on the preceding thirty-
4 first day of December, signed and sworn to by the secretary of the savings bank before a
5 notary public. The statement shall be accompanied by a filing fee set by the Director,
6 subject to the advice and consent of the Board. The filing fees shall be used to defray
7 the expenses incurred by the Division in supervising State savings banks.

8 **"§ 54D-2-64. Statement examined, approved, and published.**

9 It is the duty of the Director to receive and thoroughly examine each annual
10 statement required by G.S. 54D-2-63, and if made in compliance with the requirements
11 thereof, each State savings bank shall publish an abstract of the same in one of the
12 newspapers of the State, to be selected by the managing officer making the statement,
13 and at the expense of the savings bank.

14 **"§ 54D-2-65. Prohibited practices.**

15 A person who engages in any of the following acts or practices is guilty of a
16 misdemeanor, and upon conviction thereof shall be fined or imprisoned, or both, in the
17 discretion of the court:

- 18 (1) Defamation: Making, publishing, disseminating, or circulating,
19 directly or indirectly, or aiding, abetting, or encouraging the making,
20 publishing, disseminating, or circulating of any oral, written, or printed
21 statement that is false regarding the financial condition of any savings
22 bank.
- 23 (2) False information and advertising: Making, publishing, disseminating,
24 circulating, or otherwise placing before the public in any publication,
25 media, notice, pamphlet, letter, poster, or any other way, an
26 advertisement, announcement, or statement containing any assertion,
27 representation, or statement with respect to the savings bank business
28 or with respect to any person in the conduct of the savings bank
29 business that is untrue, deceptive, or misleading.
- 30 (3) Misleading advertising: Use of a name or designation by a savings
31 bank in advertisements, announcements, or statements concerning the
32 savings bank that does not include the words 'savings bank' and the
33 designation 'SSB' in type that is equally prominent with the other terms
34 in the name or designation of the savings bank.

35 **"ARTICLE 3.**

36 **"ENFORCEMENT AND PENALTIES.**

37 **"PART 1. BANKS.**

38 **"§ 54D-3-1. Definitions.**

39 Definitions applied to terms defined in Chapter 53 of the General Statutes are
40 incorporated herein and apply to the same terms used in this Part.

41 **"§ 54D-3-2. Examiner making false report.**

42 If any bank examiner shall knowingly and willfully make any false or fraudulent
43 report of the condition of any bank, which shall have been examined by him, with the
44 intent to aid or abet the officers, owners, or agents of such bank in continuing to operate

1 an insolvent bank, or if any such examiner shall keep or accept any bribe or gratuity
2 given for the purpose of inducing the examiner not to file any report of examination of
3 any bank made by the examiner or shall neglect to make an examination of any bank by
4 reason of having received or accepted any bribe or gratuity, the examiner shall be guilty
5 of a felony, and on conviction thereof shall be imprisoned in the State prison for not less
6 than four months nor more than 10 years.

7 **"§ 54D-3-3. Examiners disclosing confidential information.**

8 If any bank examiner or other employee of the Director of Banks fails to keep secret
9 the facts and information obtained in the course of an examination of a bank, except
10 when the public duty of such examiner or employee requires him to report upon or take
11 official action regarding the affairs of such bank, he shall be guilty of a misdemeanor,
12 and upon conviction thereof shall be fined not more than five hundred dollars (\$500.00)
13 or imprisoned not more than 12 months, or both, in the discretion of the court. Nothing
14 in this section shall prevent the proper exchange of information with the representatives
15 of the banking departments of other states, with the federal reserve bank or national
16 bank examiners, or other authorities, with the creditors of such bank or others with
17 whom a proper exchange of information is wise or necessary, or with the clearinghouse
18 officials and examiners.

19 **"§ 54D-3-4. Loans or gratuities forbidden.**

20 No State bank, or any officer, director, or employee thereof shall hereafter make any
21 loan or grant any gratuity to the Director, any bank examiner or assistant bank examiner
22 of the Director of Financial Institutions of North Carolina. Any such officer, director,
23 or employee violating this provision shall be guilty of a misdemeanor and imprisoned
24 not exceeding one year or fined not more than one thousand dollars (\$1,000), or both;
25 and they may be fined a further sum equal to the money so loaned or gratuity given. If
26 the Director, or any bank examiner, or assistant bank examiner of the Director of
27 Financial Institutions of North Carolina shall accept a loan or gratuity from any State
28 bank, or from any officer, director, or employee thereof, he shall be guilty of a
29 misdemeanor and imprisoned not exceeding one year, or fined not more than one
30 thousand dollars (\$1,000), or both, and may be fined a further sum equal to the money
31 so loaned or gratuity given.

32 **"§ 54D-3-5. Unlawful use of terms indicating that business is bank or trust**
33 **company.**

34 (a) Definitions. The following definitions apply in this section:

35 (1) Banking. The business of receiving or soliciting money on deposit.

36 (2) Banking entity. A person, partnership, corporation, or other entity that
37 is engaged in the banking or trust business in North Carolina and is (i)
38 subject to the supervision of the Commissioner of Banks under this
39 Chapter, (ii) subject to supervision by the Administrator of Savings
40 Institutions under Chapter 54B or Chapter 54C, or (iii) a banking or
41 savings institution authorized to transact a banking or trust business in
42 this State under federal law.

43 (3) Nonbanking entity. A person, partnership, corporation, or other entity
44 that is not a banking entity.

1 (b) Restrictions. No nonbanking entity may use any sign or written or printed
2 paper indicating that it is a bank, savings bank, trust company, or place of banking. No
3 entity may use the word 'bank,' 'savings bank,' 'banking,' 'banker,' or 'trust company,' or
4 the equivalent or plural of any of these words in connection with any business other
5 than that of banking. This section does not prohibit an individual from acting in a trust
6 capacity.

7 (c) Exceptions.

8 (1) A nonbanking entity may use any of the terms listed above in its name
9 if the context or remaining words show clearly that the business is not
10 a bank or trust company and is not engaged in the banking or trust
11 business.

12 (2) A nonbanking entity may use any of the terms listed above where the
13 term is the proper name of a principal or former principal in the entity
14 and the use of the name is made in good faith and not in an effort to
15 deceive the public.

16 (3) A corporation that is a bank holding company as defined in G.S. 53-
17 226(2) or a savings and loan holding company as defined in G.S. 54B-
18 261(d) may use the words 'bank,' 'banker,' and 'trust company,' and the
19 equivalent and plural of these words in its name and may use a name
20 similar to that of any of its subsidiary banks or stock associations.

21 (4) A corporation incorporated before January 1, 1905, may retain the
22 word 'trust' in its name, although it does not transact a business that
23 requires examination by the Commissioner of Banks.

24 (d) Penalty. Violation of this section is a misdemeanor, punishable by a fine of
25 up to five hundred dollars (\$500.00).

26 **"§ 54D-3-6. Willfully and maliciously making derogatory reports.**

27 Any person who shall willfully and maliciously make, circulate, or transmit to
28 another or others any statement, rumor, or suggestion, written, printed, or by word of
29 mouth, which is directly or by inference false and derogatory to the financial condition,
30 or affects the solvency or financial standing of any bank, or who shall counsel, aid,
31 procure, or induce another to state, transmit, or circulate any such statement or rumor
32 shall be guilty of a misdemeanor, and upon conviction thereof shall be fined or
33 imprisoned, or both, in the discretion of the court.

34 **"§ 54D-3-7. Misapplication, embezzlement of funds, etc.**

35 Whoever being an officer, employee, agent or director of a bank, with intent to
36 defraud or injure the bank, or any person or corporation, or to deceive an officer of the
37 bank or an agent appointed to examine the affairs of such bank, embezzles, abstracts, or
38 misapplies any of the money, funds, credit, or property of such bank, whether owned by
39 it or held in trust, or who, with such intent, willfully and fraudulently issues or puts
40 forth a certificate of deposit, draws an order or bill of exchange, makes an acceptance,
41 assigns a note, bond, draft, bill of exchange, mortgage, judgment, decree or fictitiously
42 borrow or solicits, obtains or receives money for a bank not in good faith, intended to
43 become the property of such bank; or whoever being an officer, employee, agent, or
44 director of a bank, makes or permits the making of a false statement or certificate, as to

1 a deposit, trust fund or contract, or makes or permits to be made a false entry in a book,
2 report, statement, or record of such bank, or conceals or permits to be concealed by any
3 means or manner, the true and correct entries of said bank, or its true and correct
4 transactions, who knowingly loans, or permits to be loaned, the funds or credit of any
5 bank to any insolvent company or corporation, or corporation which has ceased to exist,
6 or which never had any existence, or upon collateral consisting of stocks or bonds of
7 such company or corporation, or who makes or publishes or knowingly permits to be
8 made or published a false report, statement, or certificate as to the true financial
9 condition of such bank, shall be punished as a Class E felon.

10 **"§ 54D-3-8. Making false entries in banking accounts; misrepresenting assets and**
11 **liabilities of banks.**

12 If any person shall willfully and knowingly subscribe to, or make, or cause to be
13 made, any false statement or false entry in the books of any bank, or shall knowingly
14 subscribe to or exhibit false papers, with intent to deceive any person authorized to
15 examine into the affairs of such bank, or shall willfully and knowingly make, state, or
16 publish any false statement of the amount of the assets or liabilities of any bank, he shall
17 be guilty of a felony, and upon conviction thereof shall be imprisoned in the State's
18 prison not less than four months nor more than 10 years.

19 **"§ 54D-3-9. False certification of a check.**

20 Whoever, being an officer, employee, agent, or director of a bank, certifies a check
21 drawn on such bank, and willfully fails to forthwith charge the amount thereof against
22 the account of the drawer thereof, or willfully certifies a check drawn on such bank
23 unless the drawer of such check has on deposit with the bank an amount of money
24 subject to the payment of such check and equivalent to the amount therein specified,
25 shall be guilty of a felony, and upon conviction shall be fined not more than five
26 thousand dollars (\$5,000) or imprisoned in the State prison for not more than five years,
27 or both.

28 **"§ 54D-3-10. Receiving deposits in insolvent banks.**

29 Any person, being an officer or employee of a bank, who receives, or being an
30 officer thereof, permits an employee to receive money, checks, drafts, or other property
31 as a deposit therein when he has knowledge that such bank is insolvent, shall be guilty
32 of a felony, and upon conviction thereof shall be fined not more than five thousand
33 dollars (\$5,000) or imprisoned in the State prison not more than five years, or both.
34 Provided, that in any indictment hereunder, insolvency shall not be deemed to include
35 insolvency as defined under G.S. 53-1(3)d.

36 **"§ 54D-3-11. Advertising larger amount than that paid in capital stock.**

37 It shall be unlawful for any bank to advertise in a newspaper, letterhead, or any other
38 way, a larger capital stock than has been actually paid in in cash. Any bank violating
39 this section shall be subject to a penalty of five hundred dollars (\$500.00) for each and
40 every offense. The penalty herein provided for shall be recovered by the State in a civil
41 action in any court of competent jurisdiction, and it shall be the duty of the Attorney
42 General to prosecute all such actions.

43 **"§ 54D-3-12. Offenses declared misdemeanors; prosecution; employment of**
44 **counsel; punishment.**

1 Any offense against the banking laws of the State of North Carolina which is not
2 elsewhere specifically declared to be a crime, or for which elsewhere a penalty is not
3 specifically provided, is hereby declared to be a misdemeanor, and shall be punishable
4 at the discretion of the court. The Director of Financial Institutions is authorized and
5 directed to prosecute all offenses against the banking laws of the state, and to that end is
6 expressly authorized to employ counsel to prosecute in the inferior courts and to aid the
7 district attorney in the superior courts. The Auditor of the State shall, upon the
8 certificate of the Director of Financial Institutions, accompanied by an itemized
9 statement of the account, draw his warrant upon the State Treasurer to compensate the
10 counsel so employed, and the State Treasurer shall pay the same out of the funds in the
11 treasury and not otherwise appropriated.

12 **"§ 54D-3-13. General corporation law to apply.**

13 All provisions of the law relating to private corporations, and particularly those
14 enumerated in the Chapter entitled 'North Carolina Business Corporation Act,' not
15 inconsistent with this Chapter or with the business of banking, shall be applicable to
16 banks.

17 **"§ 54D-3-14. Administrative orders; penalties for violation.**

18 (a) In addition to any other powers conferred by this Chapter or Chapter 53 of the
19 General Statutes, the Director shall have the power to:

20 (1) Order any bank, trust company, or subsidiary thereof, or any director,
21 officer, or employee to cease and desist violating any provision of this
22 Chapter or any lawful regulation issued thereunder; and

23 (2) Order any bank, trust company, or subsidiary thereof, or any director,
24 officer, or employee to cease and desist from a course of conduct that
25 is unsafe or unsound and which is likely to cause insolvency or
26 dissipation of assets or is likely to jeopardize or otherwise seriously
27 prejudice the interests of a depositor.

28 (b) Consistent with Article 3A of Chapter 150B of the General Statutes, notice
29 and opportunity for hearing shall be provided before any of the foregoing actions shall
30 be undertaken by the Commissioner. Provided, however, in cases involving
31 extraordinary circumstances requiring immediate action, the Director may take such
32 action, but shall promptly afford a subsequent hearing upon application to rescind the
33 action taken.

34 (c) The Director shall have the power to subpoena witnesses, compel their
35 attendance, require the production of evidence, administer oaths, and examine any
36 person under oath in connection with any subject related to a duty imposed or a power
37 vested in the Commissioner.

38 (d) The Director may impose a civil money penalty of not more than one
39 thousand dollars (\$1,000) for each violation by any bank, trust company, or subsidiary
40 thereof, or any director, officer, or employee of an order issued under subdivision (1) of
41 subsection (a) of this section. Provided further, the Commissioner may impose a civil
42 money penalty of not more than five hundred dollars (\$500.00) per day for each day that
43 a bank, trust company, or subsidiary thereof, or any director, officer, or employee
44 violates a cease and desist order issued under subdivision (2) of subsection (a) of this

1 section. All civil money penalties collected under this section shall be deposited in the
2 General Fund.

3 **"§ 54D-3-15. Review by the board; additional penalties.**

4 (a) Administrative orders issued by the Director and civil money penalties
5 imposed for violation of such orders shall be subject to review by the Board which shall
6 have power to amend, modify, or disapprove the same at any regular or special meeting.

7 (b) Notwithstanding any penalty imposed by the Director, the Board may after
8 notice of and opportunity for hearing, impose, enter judgment for, and enforce by
9 appropriate process, a penalty of not more than ten thousand dollars (\$10,000) against
10 any bank, trust company, or subsidiary thereof, or against any of its directors, officers,
11 or employees for violating any lawful orders of the Commission or Commissioner of
12 Banks. All civil money penalties collected under this section shall be deposited in the
13 General Fund.

14 **"PART 2. CREDIT UNIONS.**

15 **"§ 54D-3-16. Removal of directors, officers, committee members, and employees of**
16 **credit unions.**

17 (a) The Director may serve a written notice of the Director's intention to remove
18 from office any officer, director, committee member, or employee of any credit union
19 doing business under Articles 14A through 15 of Chapter 54 of the General Statutes
20 who shall be found to be dishonest, incompetent, or reckless in the management of the
21 affairs of the credit union, or who persistently violates the laws of this State or the
22 lawful orders, instructions, and regulations issued by the Director or the Board.

23 (b) A notice of intention to remove a director, officer, committee member, or
24 employee from office shall contain a statement of the alleged facts constituting the
25 grounds therefor and shall fix a time and place at which a hearing before the Board will
26 be held thereon. Such hearing shall be fixed for a date not earlier than 30 days nor later
27 than 60 days after the date of service of such notice unless an earlier or a later date is set
28 by the Board at the request of such director, officer, committee member, or employee
29 and for good cause shown. Pending this hearing, the Director may remove the alleged
30 violation if the Director finds that it is essential to the continued well-being of the credit
31 union or the public to do so. Unless, such director, officer, committee member, or
32 employee appears at the hearing in person or by a duly authorized representative, such
33 person shall be deemed to have consented to the issuance of an order of such removal.
34 In the event of such consent, or if upon the record made at any such hearing the Board
35 shall find that any of the grounds specified in such notice has been determined by the
36 greater weight of the evidence, the Board may issue such orders of removal from office
37 as it may deem appropriate. Any such order shall become effective at the expiration of
38 30 days after service upon such credit union and the director, officer, committee
39 member, or employee concerned (except in the case of an order issued upon consent,
40 which shall become effective at the time specified therein). such order shall remain
41 effective and enforceable except to such extent as it is stayed, modified, terminated, or
42 set aside by action of the Board or a reviewing court.

43 **"§ 54D-3-17. Revocation of certificate, liquidation of credit unions.**

1 If any corporation shall neglect to make its annual report, as provided in Part 2 of
2 Article 2 of this Chapter, or any other report required by the Director for more than 15
3 days, or shall fail to pay the charges required, including the fines for delay in filing
4 reports, the Director shall give notice to such corporation of the Director's intention to
5 revoke the certificate of approval of the corporation for such neglect or failure, and if
6 such neglect or failure continues for 15 days after such notice, the Director may
7 personally or by an agent appointed by the Director, take possession of the property and
8 business of the corporation and retain possession until such time as the Director may
9 permit it to resume business, or until its affairs be finally liquidated as provided for in
10 G.S. 54-109.93.

11 **"PART 3. SAVINGS BANKS; SAVINGS & LOAN ASSOCIATIONS.**

12 **"§ 54D-3-18. Cease and desist orders.**

13 (a) If a person, savings and loan association, or savings bank is engaging in, or
14 has engaged in, any unsafe or unsound practice or unfair and discriminatory practice in
15 conducting the business of the association or the savings bank, or of any other law, rule,
16 order, or condition imposed in writing by the Board or the Director, the Director may
17 issue a notice of charges to the person, association, or savings bank. A notice of
18 charges shall specify the acts alleged to sustain a cease and desist order, and state the
19 time and place at which a hearing shall be held. A hearing before the Board on the
20 charges shall be held no earlier than seven days, and no later than 15 days after issuance
21 of the notice. The charged institution is entitled to a further extension of seven days
22 upon filing a request with the Director. The Director may also issue a notice of charges
23 if there are reasonable grounds to believe that a person, association, or savings bank is
24 about to engage in any unsafe or unsound business practice, or any violation of this Part
25 or Parts 3 or 4 of Article 2 of this Chapter, Chapters 54B or 54C of the General Statutes,
26 or any other law, rule, or order. If, by a preponderance of the evidence, it is shown that
27 any person, association, or savings bank is engaged in, or has been engaged in, or is
28 about to engage in, any unsafe or unsound business practice, or unfair and
29 discriminatory practice or any violation of Parts 3 or 4 of Article 2 of this Chapter,
30 Chapters 54B or 54C of the General Statutes, or any other law, rule, or order, a cease
31 and desist order shall be issued. The Board may issue a temporary cease and desist
32 order to be effective for 15 days and which may be extended once for a period of 15
33 days.

34 (b) If a person, State association, or State savings bank is engaging in, has
35 engaged in, or is about to engage in any unsafe or unsound practice in conducting the
36 association's or savings bank's business, or any violation of Parts 3 or 4 of Article 2 of
37 this Chapter, Chapters 54B or 54C of the General Statutes, or of any other law, rule,
38 order, or condition imposed in writing by the Board or the Director, and the Director has
39 determined that immediate corrective action is required, the Director may issue a
40 temporary cease and desist order. A temporary cease and desist order is effective
41 immediately upon issuance for a period of 15 days, and may be extended once for a
42 period of 15 days. The order shall state its duration on its face and the words,
43 'Temporary Cease and Desist Order.' A hearing before the Board shall be held within

1 the time that the order remains effective, at which time a temporary order may be
2 dissolved or made permanent.

3 **"§ 54D-3-19. Civil penalties; State associations, and State savings banks.**

4 (a) Except as otherwise provided in Parts 3 or 4 of Article 2 of this Chapter, an
5 association or savings bank that is found to have violated Parts 3 or 4 may be ordered to
6 pay a civil penalty of up to twenty thousand dollars (\$20,000). An association or
7 savings bank that is found to have violated or failed to comply with any cease and desist
8 order issued under the authority of Parts 3 or 4 of Article 2 of this Chapter may be
9 ordered to pay a civil penalty of up to twenty thousand dollars (\$20,000) for each day
10 that the violation or failure to comply continues.

11 (b) To enforce this section, the Director may assess the penalty, appear in a court
12 of competent jurisdiction, and move the court to order payment of the penalty. Before
13 the assessment of the penalty, the Board shall hold a hearing, which shall comply with
14 Article 3A of Chapter 150B of the General Statutes.

15 (c) If the Director determines that, as a result of a violation of Parts 3 or 4 of
16 Article 2 of this Chapter or of a failure to comply with any cease and desist order issued
17 under the authority of this Part, a situation exists requiring immediate corrective action,
18 the Director may impose the civil penalty in this section on the association or savings
19 bank without a prior hearing, and the penalty is effective as of the date of notice to the
20 association or savings bank. Imposition of the penalty may be directly appealed to the
21 Wake County Superior Court.

22 (d) Nothing in this section shall prevent anyone damaged by a State association
23 or State savings bank from bringing a separate cause of action in a court of competent
24 jurisdiction.

25 **"§ 54D-3-20. Civil penalties; directors, officers, and employees.**

26 (a) A person, whether a director, officer, or employee, who is found to have
27 violated Parts 3 or 4 of Article 2 of this Chapter, whether willfully or as a result of gross
28 negligence, gross incompetence, or recklessness, may be ordered to pay a civil penalty
29 of up to five thousand dollars (\$5,000) per violation. A person who is found to have
30 violated or failed to comply with any cease and desist order issued under the authority
31 of Parts 3 or 4 of Article 2 of this Chapter, may be ordered to pay a civil penalty of up to
32 five thousand dollars (\$5,000) per violation for each day that the violation or failure to
33 comply continues. All civil penalties, plus interest and cost, that are collected under this
34 subsection shall be deposited into the General Fund of the State treasury.

35 (b) To enforce this section, the Director may assess the penalty, appear in a court
36 of competent jurisdiction, and move the court to order payment of the penalty. Before
37 the assessment of the penalty, the Board shall hold a hearing, which shall comply with
38 Article 3A of Chapter 150B of the General Statutes.

39 (c) Whenever the Director determines that an emergency exists that requires
40 immediate corrective action, the Director, either before or after instituting any other
41 action or proceeding authorized by Parts 3 or 4 of Article 2 of this Chapter, or by this
42 Article, may request the Attorney General to institute a civil action in a court of
43 competent jurisdiction, in the name of the State upon the relation of the Director seeking
44 injunctive relief to restrain or enjoin the violation or threatened violation of Parts 3 or 4

1 of this Article and for any other and further relief as the court may deem proper.
2 Instituting an action for injunctive relief shall not relieve any party to the proceedings
3 from any civil or criminal penalty prescribed for violation of Parts 3 or 4 of Article 2 of
4 this Chapter.

5 (d) Nothing in this section shall prevent anyone damaged by a director, officer, or
6 employee of a State association or a State savings bank from bringing a separate cause
7 of action in a court of competent jurisdiction.

8 **"§ 54D-3-21. Criminal penalties.**

9 (a) This section shall in no event extend to persons who are found to have acted
10 only with gross negligence, simple negligence, recklessness, or incompetence.

11 (b) In addition to any of the other penalties or remedies provided by Parts 3 or 4
12 of Article 2 of this Chapter, or by this Article, the following are deemed to be
13 misdemeanors and are punishable as provided in Chapter 14 of the General Statutes:

14 (1) The willful or knowing violation of Parts 3 or 4 of Article 2 of this
15 Chapter by any employee of the Savings Institution Division.

16 (2) The willful or knowing violation of a cease and desist order that has
17 become final in that no further administrative or judicial appeal is
18 available.

19 (c) In addition to any of the other penalties or remedies provided by Parts 3 or 4
20 of Article 2 of this Chapter, or by this Article, the willful omission, making, or
21 concurrence in making or publishing a written report, exhibit, or entry in a financial
22 statement on the books of the association or savings bank, which contains a material
23 statement known to be false is deemed to be a misdemeanor and is punishable as
24 provided in Chapter 14 of the General Statutes. For purposes of this section, 'material'
25 shall mean 'so substantial and important as to influence a reasonable and prudent
26 businessman or investor.'

27 (d) The Director may enforce this section in a court of competent jurisdiction.

28 **"§ 54D-3-22. Primary jurisdiction.**

29 Whenever an agency of the United States government defers to the Director, or
30 notifies the director of pending action against a savings association or a savings bank
31 chartered by this State, or fails to exercise its authority over any state or federally
32 chartered savings association or savings bank doing business in this State, the Director
33 may exercise jurisdiction over the savings association or savings bank.

34 **"§ 54D-3-23. Supervisory control.**

35 (a) Whenever the Director determines that a savings association or a savings
36 bank is conducting its business in an unsafe or unsound manner or in any fashion that
37 threatens the financial integrity or sound operation of the association or savings bank,
38 the Director may serve a notice of charges on the association or savings bank, requiring
39 it to show cause why it should not be placed under supervisory control. The notice of
40 charges shall specify the grounds for supervisory control, and set the time and place for
41 a hearing. A hearing before the Board shall be held within 15 days after issuance of the
42 notice of charges, and shall comply with Article 3A of Chapter 150B of the General
43 Statutes.

1 **(b)** If, after the hearing provided in subsection (a) of this section, the Board
2 determines that supervisory control of the association or savings bank is necessary to
3 protect the members, customers, stockholders, or creditors of the association or savings
4 bank, or necessary to protect the general public, the Director shall issue an order taking
5 supervisory control of the association or savings bank. An appeal may be filed in the
6 Wake County Superior Court.

7 **(c)** If the order taking supervisory control becomes final, the Director may
8 appoint an agent to supervise and monitor the operations of the association or savings
9 bank during the period of supervisory control. During the period of supervisory control,
10 the association or savings bank shall act in accordance with any instructions and
11 directions as may be given by the Director, directly or through a supervisory agent, and
12 shall not act or fail to act except when to do so would violate an outstanding cease and
13 desist order.

14 **(d)** Within 180 days of the date the order taking supervisory control becomes
15 final, the Director shall issue an order approving a plan for the termination of
16 supervisory control. The plan may provide for:

- 17 **(1)** The issuance by the association or savings bank of capital stock;
- 18 **(2)** The appointment of one or more officers, one or more directors, or one
19 or more officers and directors;
- 20 **(3)** The reorganization, merger, or consolidation of the association or
21 savings bank; and
- 22 **(4)** The dissolution and liquidation of the association or savings bank.

23 The order approving the plan shall not take effect for 30 days during which time
24 period an appeal may be filed in the Wake County Superior Court.

25 **(e)** The costs incident to this proceeding shall be paid by the association or
26 savings bank, provided the costs are found to be reasonable.

27 **(f)** For the purposes of this section, an order is deemed final if:

- 28 **(1)** No appeal is filed within the specific time allowed for the appeal, or
- 29 **(2)** After all judicial appeals are exhausted.

30 **"§ 54D-3-24. Removal of directors, officers, and employees of savings associations**
31 **and savings banks.**

32 **(a)** If, in the Director's opinion, one or more directors, officers, or employees of a
33 savings association or a savings bank has participated in or consented to any violation of
34 Parts 3 or 4 of Article 2 of this Chapter, Chapters 54B or 54C of the General Statutes, or
35 any other law, rule, or order, or any unsafe or unsound business practice in the operation
36 of any association or savings bank; or any insider loan not specifically authorized by or
37 under Parts 3 or 4 of Article 2 of this Chapter, or Chapters 54B or 54C of the General
38 Statutes; or any repeated violation of or failure to comply with the bylaws of an
39 association or savings bank, the Director may serve a written notice of charges upon the
40 director, officer, and employee in question, and the association or savings bank, stating
41 the Director's intent to remove the director, officer, or employee. The notice shall
42 specify the conduct and place for the hearing before the Board to be held. A hearing
43 shall be held no earlier than 15 days and no later than 30 days after the notice of charges
44 is served, and it shall comply with Article 3A of Chapter 150B of the General Statutes.

1 If, after the hearing, the Board determines that the charges asserted have been proven by
2 a preponderance of the evidence, the Director may issue an order removing the director,
3 officer, or employee in question. The order is effective upon issuance and may include
4 the entire board of directors or all of the officers of the association or savings bank.

5 (b) If it is determined that a director, officer, or employee of an association or
6 savings bank has knowingly participated in or consented to any violation of Parts 3 or 4
7 of Article 2 of this Chapter, Chapters 54B or 54C of the General Statutes, or any other
8 law, rule, or order, or engaged in any unsafe or unsound business practice in the
9 operation of any association or savings bank, or any repeated violation of or failure to
10 comply with the bylaws of an association or savings bank, and that as a result, a
11 situation exists requiring immediate corrective action, the Director may issue an order
12 temporarily removing the person pending a hearing. The order shall state its duration
13 on its face and the words, 'Temporary Order of Removal,' and is effective upon
14 issuance, for a period of 15 days, and may be extended once for a period of 15 days. A
15 hearing shall be held within 10 days of the expiration of a temporary order, or any
16 extension thereof, at which time a temporary order may be dissolved or converted to a
17 permanent order.

18 (c) Any removal under subsections (a) or (b) of this section is effective in all
19 respects as if the removal had been made by the board of directors and the members or
20 the stockholders of the association or savings bank in question.

21 (d) Without the prior written approval of the Director, no director, officer, or
22 employee permanently removed under this section shall be eligible to be elected,
23 reelected, or appointed to any position as a director, officer, or employee of that
24 association or savings bank, nor shall that director, officer, or employee be eligible to be
25 elected to or retain a position as a director, officer, or employee of any other state
26 association or savings bank.

27 **"§ 54D-3-25. Involuntary liquidation of savings associations and savings banks.**

28 (a) The director, with prior approval of the Board, may take custody of the
29 books, records, and assets of every kind and character of any savings association or
30 savings bank organized and operated under Chapters 54B and 54C of the General
31 Statutes, as applicable, for any of the purposes enumerated in this section, if it
32 reasonably appears from examinations or from reports made to the Director that:

33 (1) The directors, officers, or liquidators have neglected, failed, or refused
34 to take action that the Director may deem necessary for the protection
35 of the association or savings bank or have impeded or obstructed an
36 examination;

37 (2) The net worth of the association or savings bank is impaired to the
38 extent that the realizable value of its assets is insufficient to pay in full
39 its creditors and holders of deposit accounts;

40 (3) The business of the association or savings bank is being conducted in a
41 fraudulent, illegal, or unsafe manner, or that the association or savings
42 bank is in an unsafe or unsound condition to transact business; for
43 purposes of this subdivision, any association or savings bank that,
44 except as authorized in writing by the Director, fails to make full

1 payment of any withdrawal when due is in an unsafe or unsound
2 condition to transact business, notwithstanding the certificate of
3 incorporation or the statutes or regulations with respect to payment of
4 withdrawals in event an association or savings bank does not pay all
5 withdrawals in full;

6 (4) The officers, directors, or employees have assumed duties or
7 performed acts in excess of those authorized by statute or regulation or
8 charter, or without supplying the required bond;

9 (5) The association or savings bank has experienced a substantial
10 dissipation of assets or earnings due to any violation or violation of
11 statute or regulation, or due to any unsafe or unsound practice or
12 practices;

13 (6) The association or savings bank is insolvent, or is in imminent danger
14 of insolvency or has suspended its ordinary business transactions due
15 to insufficient funds; or

16 (7) The association or savings bank is unable to continue operations.

17 (b) Unless the Director finds that an emergency exists that may result in loss to
18 members, deposit account holders, stockholders, or creditors, and that requires that the
19 Director take custody immediately, the Director shall first give written notice to the
20 directors and officers specifying the conditions criticized and allowing a reasonable
21 time in which corrections may be made before a receiver shall be appointed as outlined
22 in subsection (d) of this section.

23 (c) The purposes for which the Director may take custody of an association or
24 savings bank include examination or further examination, conservation of its assets,
25 restoration of impaired capital, and the making of any reasonable or equitable
26 adjustment deemed necessary by the Director under any plan of reorganization.

27 (d) If the Director, after taking custody of an association or savings bank, finds
28 that one or more of the reasons for having taken custody continue to exist through the
29 period of custody, with little or no likelihood of amelioration of the situation, then the
30 Director shall appoint as receiver or coreceiver any qualified person, firm, or
31 corporation for the purpose of liquidation of the association or savings bank, which
32 receiver shall furnish bond in form, amount, and with surety as the Director may
33 require. The Director may appoint the association's or savings bank's deposit account
34 insurance corporation or its nominee as the receiver, and the insuring corporation shall
35 be permitted to serve without posting bond.

36 (e) In the event the Director appoints a receiver for an association or savings
37 bank, the Director shall mail a certified copy of the appointment order by certified mail
38 to the address of the association or savings bank as it appears on the records of the
39 Division, and to any previous receiver or other legal custodian of the association or
40 savings bank, and to any court or other authority to which the previous receiver or other
41 legal custodian is subject. Notice of the appointment may be published in a newspaper
42 of general circulation in the county where the association or savings bank has its
43 principal office.

1 (f) Whenever a receiver for an association or savings bank is appointed under
2 subsection (d) of this section, the association or savings bank may within 30 days
3 thereafter bring an action in the Superior Court of Wake County, for an order requiring
4 the Director to remove the receiver.

5 (g) The duly appointed and qualified receiver shall take possession promptly of
6 the association or savings bank for which the receiver has been so appointed, in
7 accordance with the terms of the appointment, by service of a certified copy of the
8 Director's appointment order upon the association or savings bank at its principal office
9 through the officer or employee who is present and appears to be in charge.
10 Immediately upon taking possession of the association or savings bank, the receiver
11 shall take possession and title to books, records, and assets of every description of the
12 association or savings bank. The receiver, by operation of law and without any
13 conveyance or other instrument, act, or deed, shall succeed to all the rights, titles,
14 powers, and privileges of the association or savings bank, its members or stockholders,
15 holders of deposit accounts, its officers and directors, or any of them; and to the titles to
16 the books, records, and assets of every description of any previous receiver or other
17 legal custodian of the association or savings bank. The members, stockholders, holders
18 of deposit accounts, officers or directors, or any of them, shall not thereafter, except as
19 expressly provided in this section have or exercise any rights, powers, or privileges or
20 act in connection with any assets or property of any nature of the association or savings
21 bank in receivership. The Director, with the approval of the Board, may at any time,
22 direct the receiver to return the association or savings bank to its previous or a newly
23 constituted management. The Director may provide for a meeting or meetings of the
24 members or stockholders for any purpose, including the election of directors or an
25 increase in the number of directors, or both, or the election of an entire new board of
26 directors; and may provide for a meeting or meetings of the directors for any purpose
27 including the filling of vacancies on the board, the removal of officers and the election
28 of new officers, or for any of these purposes. Any meeting of members or stockholders,
29 or of directors, shall be supervised or conducted by a representative of the director.

30 (h) A duly appointed and qualified receiver may:

- 31 (1) Demand, sue for, collect, receive, and take into possession all the
32 goods and chattels, rights and credits, moneys and effects, lands and
33 tenements, books, papers, choses in action, bills, notes, and property of
34 every description of the association or savings bank;
- 35 (2) Foreclose mortgages, deeds of trust, and other liens executed to the
36 association or savings bank to the extent the association or savings
37 bank would have had this right;
- 38 (3) Institute suits for the recovery of any estate, property, damages, or
39 demands existing in favor of the association or savings bank, and shall,
40 upon the receiver's own application, be substituted as party plaintiff in
41 the place of the association or savings bank in any suit or proceeding
42 pending at the time of the receiver's appointment;
- 43 (4) Sell, convey, and assign all the property rights and interests owned by
44 the association or savings bank;

- 1 (5) Appoint agents;
2 (6) Examine and investigate papers and persons, and pass on claims as
3 provided in the regulations as prescribed by the director;
4 (7) Make and carry out agreements with the insuring corporation or with
5 any other financial institution for the payment or assumption of the
6 association's or savings bank's liabilities, in whole or in part, and to
7 sell, convey, transfer, pledge, or assign assets as security or otherwise
8 and to make guarantees in connection therewith; and
9 (8) Perform all other acts that might be done by the employees, officers,
10 and directors.

11 These powers shall be continued in effect until liquidation and dissolution or until
12 return of the association or savings bank to its prior or newly constituted management.

13 (i) A receiver may, at any time during the receivership and before final
14 liquidation, be removed and a replacement appointed by the Director.

15 (j) The Director may determine that the liquidation proceedings should be
16 discontinued. The Director shall then remove the receiver and restore all the rights,
17 powers, and privileges of its members and stockholders, customers, employees, officers,
18 and directors, or restore these rights, powers, and privileges to its members,
19 stockholders, and customers, and grant these rights, powers, and privileges to a newly
20 constituted management, all as of the time of the restoration of the association or
21 savings bank to its management unless another time for the restoration is specified by
22 the Director. The return of an association or savings bank to its management or to a
23 newly constituted management from the possession of a receiver shall, by operation of
24 law and without any conveyance or other instrument, act, or deed, vest in the
25 association or savings bank the title to all property held by the receiver in the capacity
26 as receiver for the association or savings bank.

27 (k) A receiver may also be appointed under the authority of G.S. 1-502. No
28 judge or court, however, shall appoint a receiver for any State association or State
29 savings bank unless five days' advance notice of the motion, petition, or application for
30 appointment of a receiver has been given to the association or savings bank and to the
31 Director.

32 (l) Following the appointment of a receiver, the Director may request the
33 Attorney General to institute an action in the name of the Director in the superior court
34 against the association or savings bank for the orderly liquidation and dissolution of the
35 association or savings bank, and for an injunction to restrain the officers, directors, and
36 employees from continuing the operation of the association or savings bank.

37 (m) Claims against a State association or State savings bank in receivership shall
38 have the following order of priority for payment:

- 39 (1) Costs, expenses, and debts of the association or savings bank incurred
40 on or after the date of the appointment of the receiver, including
41 compensation for the receiver.
42 (2) Claims of holders of special purpose or thrift accounts.
43 (3) Claims of holders of deposit accounts.
44 (4) Claims of general creditors.

- 1 (5) Claims of stockholders of a stock savings bank.
- 2 (6) All remaining assets to members and stockholders in an amount
3 proportionate to their holdings as of the date of the appointment of the
4 receiver.
- 5 (n) All claims of each class described within subsection (m) of this section shall
6 be paid in full so long as sufficient assets remain. Members of the class for which the
7 receiver cannot make payment in full because assets will be depleted during payment to
8 that class shall be paid an amount proportionate to their total claims.
- 9 (o) The Director may direct the payment of claims for which no provision is
10 made in this section, and may direct the payment of claims within a class.
- 11 (p) When all assets of the association or savings bank have been fully liquidated,
12 and all claims and expenses have been paid or settled, and the receiver has
13 recommended a final distribution, the dissolution of the association or savings bank in
14 receivership shall be accomplished in the following manner:
- 15 (1) The receiver shall file with the Director a detailed report, in a form to
16 be prescribed by the Director, of the receiver's acts and proposed final
17 distribution, and dissolution.
- 18 (2) Upon the Director's approval of the final report of the receiver, the
19 receiver shall provide notice and thereafter shall make the final
20 distribution, in any manner as the Director may direct.
- 21 (3) When a final distribution has been made except as to any unclaimed
22 funds, the receiver shall deposit the unclaimed funds with the Director
23 and shall deliver to the Director all books and records of the dissolved
24 association or savings bank.
- 25 (4) Upon completion of the foregoing procedure, and upon the joint
26 petition of the Director and receiver to the superior court, the court
27 may find that the association or savings bank should be dissolved, and
28 following publication of notice of dissolution as the court may direct,
29 the court may enter a decree of final resolution and the association or
30 savings bank shall therefore be dissolved.
- 31 (5) Upon final dissolution of the association or savings bank in
32 receivership or at any time as the receiver shall be otherwise relieved
33 of duties, the Director shall cause an audit to be conducted, during
34 which the receiver shall be available to assist. The accounts of the
35 receiver shall then be ruled upon by the Director and Board and if
36 approved, the receiver shall thereupon be given a final and complete
37 discharge and release.

38 **"§ 54D-3-26. Judicial review for savings associations and savings banks.**

39 A person, State savings association, or State savings bank against whom a cease and
40 desist order is issued or a fine is imposed may have the order or fine reviewed by a court
41 of competent jurisdiction. Except as otherwise provided, an appeal may be made only
42 within 30 days of the issuance of the order or the imposition of the fine, whichever is
43 later.

44 **"§ 54D-3-27. Indemnity.**

1 No person who is fined or penalized for a violation of any criminal provision of
2 Parts 3 or 4 of Article 2 of this Chapter shall be reimbursed or indemnified in any
3 fashion by the association or savings bank for the fine or penalty.

4 **"§ 54D-3-28. Cumulative penalties.**

5 All penalties, fines, and remedies provided by Parts 3 and 4 of Article 2 of this
6 Chapter are cumulative.

7 **"§ 54D-3-29. Emergency limitations.**

8 The Director, with the approval of the Governor, may impose a limitation upon the
9 amounts withdrawable or payable from deposit accounts of savings associations and
10 savings banks during any specifically defined period when the limitation is in the public
11 interest and welfare."

12 Sec. 2. Effective April 1, 1995, G.S. 54B-4(b) reads as rewritten:

13 "(b) As used in this Chapter, unless the context otherwise requires, the term:

- 14 (1) 'Administrator' means the ~~Administrator of the Savings Institutions~~
15 ~~Division.~~ Director of Financial Institutions.
- 16 (2) 'Aggregate withdrawal value of withdrawable accounts' means the total
17 value of all withdrawable accounts held by an association.
- 18 (3) 'Application' means the completed package of the application to
19 organize a State association, establish a branch office or conversion of
20 structure of a savings and loan association which the ~~Administrator~~
21 Director considers in making his recommendation.
- 22 (3a) 'Affiliate' means a person or corporation that controls, is controlled by,
23 or is under common control with an association.
- 24 (4) 'Associate' when used to indicate a relationship with any person,
25 means (i) any corporation or organization (other than the applicant or a
26 majority-owned subsidiary of the applicant) of which such person is an
27 officer or partner or is, directly or indirectly, the beneficial owner of
28 ten percent (10%) or more of any class of equity securities, (ii) any
29 trust or other estate in which such person has a substantial beneficial
30 interest or as to which such person serves as trustee or in a similar
31 fiduciary capacity, and (iii) any relative or spouse who lives in the
32 same house as that person, or any relative of that person's spouse who
33 lives in the same house as that person, or who is a director or officer of
34 the applicant or any of its parents or subsidiaries.
- 35 (5) 'Association' includes a State association or a federal association
36 unless limited by use of the words 'State' or 'federal.'
- 37 (6) 'Borrowers' means those who borrow funds from or in any other way
38 become obligated on a loan to an association.
- 39 (7) 'Branch office' means an office of an association other than its
40 principal office which renders savings and loan services.
- 41 (8) 'Capital stock' means securities which represent ownership of a stock
42 association.
- 43 (9) 'Certificate of approval' means a document signed by the ~~Administrator~~
44 Director informing the North Carolina Secretary of State that the

- 1 Board has approved the certificate of incorporation of a proposed
2 association.
- 3 (10) Repealed by Session Laws 1985, c. 659, s. 1.
- 4 (11) 'Certificate of incorporation or charter' means the document which
5 represents the corporate existence of a State association.
- 6 (12) 'Certified copy' means a copy of an original document or paper which
7 has been signed by the person or persons who certify such document to
8 be an exact copy of the original.
- 9 (13) 'This Chapter' means Chapter 54B of the North Carolina General
10 Statutes.
- 11 (14) 'Board' means the ~~North Carolina Savings~~ Financial Institutions
12 Regulatory Board of the Department of Commerce.
- 13 (15) 'Conflict of interest' means a matter before the board of directors in
14 which one or more of the directors, officers or employees has a direct
15 or indirect financial interest in its outcome.
- 16 (16) 'Conformed copies' means photocopies or carbon copies or other
17 mechanical reproductions of an original document or paper.
- 18 (16a) 'Control' means the power, directly or indirectly, to direct the
19 management or policies of an association or to vote twenty-five
20 percent (25%) or more of any class of voting securities for an
21 association.
- 22 (17) 'Court of competent jurisdiction' means a court in North Carolina
23 which is qualified to hear the case at hand.
- 24 (18) 'Disinterested directors' means those directors who have absolutely no
25 direct or indirect financial interest in the matter before them.
- 26 (19) 'Dividends on stock' means the earnings of an association paid out to
27 holders of capital stock in a stock association.
- 28 (20) 'Dividends on withdrawable accounts' means the consideration paid by
29 an association to a holder of a withdrawable account for the use of his
30 money.
- 31 (21) 'Division' means the Savings Institutions Division of the North
32 Carolina Department of Commerce.
- 33 (22) 'Entrance fee per withdrawable account' means the amount to be paid
34 by each person, firm or corporation when he or it pledges to a
35 proposed mutual association to deposit funds in a withdrawable
36 account.
- 37 (23) 'Examination and investigation' means a supervisory inspection of an
38 association or proposed association which may include inspection of
39 every relevant piece of information including subsidiary or affiliated
40 businesses.
- 41 (24) 'Federal association' means a corporation or association organized and
42 operated under the provisions of federal law and regulation to conduct
43 a savings and loan business.

- 1 (25) 'Financial institution' means a person, firm or corporation engaged in
2 the business of receiving, soliciting or accepting money or its
3 equivalent on deposit and/or lending money or its equivalent.
- 4 (26) Repealed by Session Laws 1985, c. 659, s. 1.
- 5 (27) 'General reserve' means appropriated or restricted funds in the form of
6 cash or investments to be used solely for the purpose of absorbing
7 losses.
- 8 (28) 'Guaranty association' means a mutual deposit guaranty association
9 which is a corporation organized under this Chapter or its predecessor
10 and operated under the provisions of Article 12 of this Chapter.
- 11 (29) 'Immediate family' means one's spouse, father, mother, children,
12 brothers, sisters, and grandchildren; and the father, mother, brothers,
13 and sisters of one's spouse; and the spouse of one's child, brother or
14 sister.
- 15 (30) 'Initial pledges for withdrawable accounts' means those pledges of
16 funds by persons who promise to a proposed mutual association to
17 deposit such amount if and when such proposed association becomes
18 established.
- 19 (31) 'Insurance of withdrawable accounts' means insurance on an
20 association's withdrawable accounts when the beneficiary is the holder
21 of such insured account.
- 22 (32) 'Liquidity fund' means that portion of the assets of an association
23 which is required to be held in readily marketable form.
- 24 (32a) 'Interim association' means an association formed to facilitate the
25 acquisition of one hundred percent (100%) of the voting shares of an
26 existing stock association by a newly-formed association or an existing
27 savings and loan holding company or to facilitate any other transaction
28 the ~~Administrator~~ Director may approve.
- 29 (33) 'Members' means withdrawable account holders and borrowers in a
30 state mutual association.
- 31 (34) 'Minimum amount of consideration' means the amount of money a
32 stock association shall be required to have received on the sale of its
33 stock, before it shall commence business.
- 34 (35) 'Minimum amount on deposit in withdrawable accounts' means the
35 amount of money which a mutual association must have on hand prior
36 to its commencement of business.
- 37 (36) 'Mutual association' means all mutual savings and loan associations
38 owned by members of the association, and organized under the
39 provisions of this Chapter or its predecessor for the primary purpose of
40 promoting thrift and home financing.
- 41 (37) 'Net withdrawal value of withdrawable accounts' means the aggregate
42 of the withdrawal value of an association's withdrawable accounts less
43 the amount of any pledged withdrawable account which serves as
44 security for a loan.

- 1 (38) 'Net worth' means an association's total assets less total liabilities.
- 2 (39) 'Original incorporators' means the organizers of a state association
3 responsible for the business of a proposed association from the filing
4 of the application to the Board's final decision on such application.
- 5 (40) 'Plan of conversion' means a detailed outline of the procedure of the
6 conversion of an association from one to another regulatory authority
7 or from one to another form of ownership.
- 8 (41) 'Principal office' means the office which houses the headquarters of an
9 association.
- 10 (42) 'Proposed association' means an entity in organizational procedures
11 prior to the Board's final decision on its charter application.
- 12 (43) 'Registered agent' means the person named in the certificate of
13 incorporation upon whom service of legal process shall be deemed
14 binding upon the association.
- 15 (44) 'Rules and regulations' means those regulatory procedures and
16 guidelines issued by the adopted Administrator and approved by the
17 Board.
- 18 (44a) Repealed by Session Laws 1991, c. 680, s. 2, effective October 1,
19 1991.
- 20 (45) 'Service corporation' means a corporation operating under the
21 provision of Article 8 of this Chapter which engages in activities
22 determined by the Administrator-Board by rules and regulations to be
23 incidental to the conduct of a savings and loan business as provided in
24 this Chapter or activities which further or facilitate the corporate
25 purposes of an association, or which furnishes services to an
26 association or subsidiaries of an association, the voting stock of which
27 is owned directly or indirectly by one or more associations.
- 28 (46) 'Specific reserve account' means an account held by an association as a
29 loss reserve for coverage on specific loans and investments.
- 30 (47) 'This State' means the State of North Carolina.
- 31 (48) 'State association' means a corporation or association organized under
32 this Chapter or its predecessor and operated under the provisions of
33 this Chapter to conduct the savings and loan business; or a corporation
34 organized under the provisions of the predecessors to this Chapter and
35 operated under the provisions of this Chapter; or a corporation
36 organized under the provisions of federal law and so converted as to be
37 operated under the provisions of this Chapter.
- 38 (49) 'Stock association' means any corporation or company owned by
39 holders of capital stock and organized under the provisions of this
40 Chapter for the primary purpose of promoting thrift and home
41 financing.
- 42 (50) 'Subscriptions' means the promise to purchase capital stock in a stock
43 association and payment of a portion of the selling price.

- 1 (51) 'Total assets' means the aggregate amount of assets of any and every
2 kind held by an association.
- 3 (52) 'Voluntary dissolution' means the dissolution and liquidation of an
4 association initiated by its ownership.
- 5 (53) 'Withdrawable accounts' means accounts in which a customer or
6 member places funds with an association which may be withdrawn by
7 the account holder.
- 8 (54) Repealed by Session Laws 1989, c. 76, s. 1, effective April 26, 1989."
9 Sec. 3. Effective April 1, 1995, G.S. 54C-4(b)(1) reads as rewritten:
10 "(1) Administrator. – ~~the Administrator of the Savings Institution Division.~~
11 Director of Financial Institutions."
- 12 Sec. 4. Effective April 1, 1995, G.S. 54C-4(b)(8) reads as rewritten:
13 "(8) Board. – ~~The North Carolina Savings~~ Financial Institutions Regulatory
14 Board."
- 15 Sec. 5. Effective April 1, 1995, G.S. 143B-431(a) reads as rewritten:
16 "(a) The functions of the Department of Commerce, except as otherwise expressly
17 provided by Article 1 of this Chapter or by the Constitution of North Carolina, shall
18 include:
- 19 (1) All of the executive functions of the State in relation to economic
20 development including by way of enumeration and not of limitation,
21 the expansion and recruitment of environmentally sound industry,
22 labor force development, the promotion of and assistance in the
23 orderly development of North Carolina counties and communities, the
24 promotion and growth of the travel and tourism industries, the
25 development of our State's ports, energy resource management and
26 energy policy development;
- 27 (2) All functions, powers, duties and obligations heretofore vested in an
28 agency enumerated in Article 15 of Chapter 143A, to wit:
- 29 a. The State Board of Alcoholic Control,
30 b. The North Carolina Utilities Board,
31 c. The Employment Security Board,
32 d. The North Carolina Industrial Board,
33 e. ~~State Banking Commission and the Commissioner of Banks,~~
34 Financial Institutions Regulatory Board and the Director of
35 Financial Institutions,
36 f. Savings and Loan Association Division,
37 ~~g. The State Savings Institutions Commission,~~
38 ~~h. Credit Union Commission,~~
39 i. The North Carolina Milk Board,
40 j. The North Carolina Mutual Burial Association Board,
41 k. The North Carolina Rural Electrification Authority,
42 l. The North Carolina State Ports Authority, all of which
43 enumerated agencies are hereby expressly transferred by a Type

1 II transfer, as defined by G.S. 143A-6, to this recreated and
2 Reconstituted Department of Commerce; and,

- 3 (3) All other functions, powers, duties and obligations as are conferred by
4 this Chapter, delegated or assigned by the Governor and conferred by
5 the Constitution and laws of this State. Any agency transferred to the
6 Department of Commerce by a Type II transfer, as defined by G.S.
7 143A-6, shall have the authority to employ, direct and supervise
8 professional and technical personnel, and such agencies shall not be
9 accountable to the Secretary of Commerce in their exercise of quasi-
10 judicial powers authorized by statute, notwithstanding any other
11 provisions of this Chapter, provided that the authority of the North
12 Carolina State Ports Authority to employ, direct and supervise
13 personnel shall be as provided in Part 10 of this Article."

14 Sec. 6. Effective April 1, 1995, G.S. 143B-433(a) reads as rewritten:

- 15 "(a) (1) The North Carolina Alcoholic Beverage Control Board,
16 (2) The North Carolina Utilities Board,
17 (3) The Employment Security Board,
18 (4) The North Carolina Industrial Board,
19 (5) ~~State Banking Commission~~, Financial Institutions Regulatory Board,
20 (6) Savings and Loan Association Division,
21 (7) ~~The State Savings Institutions Commission~~,
22 (8) ~~Credit Union Commission~~,
23 (9) The North Carolina Milk Board,
24 (10) The North Carolina Mutual Burial Association Board,
25 (11) North Carolina Cemetery Board,
26 (12) The North Carolina Rural Electrification Authority,
27 (13) Repealed by Session Laws 1985, c. 757, s. 179(d),
28 (14) North Carolina Science and Technology Research Center,
29 (15) The North Carolina State Ports Authority,
30 (16) North Carolina National Park, Parkway and Forests Development
31 Council,
32 (17) Economic Development Board,
33 (18) Labor Force Development Council,
34 (19) Energy Policy Council,
35 (20) Energy Division,
36 (21) Navigation and Pilotage Boards established by Chapter 76 of the
37 General Statutes,
38 (22) The North Carolina Technological Development Authority."

39 Sec. 7. Effective April 1, 1995, the following are repealed: (i) Articles 8 and
40 10 of Chapter 53 of the General Statutes; (ii) Articles 14B and 14M of Chapter 54 of the
41 General Statutes; (iii) Article 4 of Chapter 54B of the General Statutes; (iv) Articles 4
42 and 5 of Chapter 54C of the General Statutes; and (v) Part 4 of Article 10 of Chapter
43 143B of the General Statutes.

1 Sec. 8. Effective April 1, 1995, (a) The phrase "commissioner of banks" is deleted
2 and replaced by the phrase "Director of Financial Institutions" wherever it occurs in the
3 General Statutes.

4 (b) The phrase "State Banking Commission" is deleted and replaced by the
5 phrase "Financial Institutions Regulatory Board" wherever it occurs in the General
6 Statutes.

7 Sec. 9. The Revisor of Statutes is authorized to correct any reference or
8 citation in the General Statutes to any portion of the General Statutes which is
9 recodified, subdivided, or amended by this act by deleting incorrect references and
10 substituting correct references.

11 Sec. 10. This act is effective upon ratification.