

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003**

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SENATE BILL 658

Short Title: Appellate Procedure/State Banking Commission. (Public)

Sponsors: Senators Soles and Clodfelter.

Referred to: Commerce.

April 1, 2003

A BILL TO BE ENTITLED

1 AN ACT TO RESOLVE CONFLICTING STATUTES; TO AMEND THE
2 APPELLATE PROCEDURE BEFORE THE STATE BANKING COMMISSION;
3 AND TO AUTHORIZE THE COMMISSIONER OF BANKS TO APPOINT A
4 HEARING OFFICER.
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6 The General Assembly of North Carolina enacts:

7 **SECTION 1.** G.S. 7A-29(a) reads as rewritten:

8 "(a) From any final order or decision of the North Carolina Utilities Commission
9 not governed by subsection (b) of this section, the Department of Health and Human
10 Services under G.S. 131E-188(b), ~~the Commissioner of Banks under Articles 17, 18,~~
11 ~~18A, and 21 of Chapter 53 of the General Statutes, the Administrator of Savings and~~
12 ~~Loans under Article 3A of Chapter 54B of the General Statutes,~~ the North Carolina
13 Industrial Commission, the North Carolina State Bar under G.S. 84-28, the Property Tax
14 Commission under G.S. 105-290 and G.S. 105-342, the Commissioner of Insurance
15 under G.S. 58-2-80, or the Secretary of Environment and Natural Resources under G.S.
16 104E-6.2 or G.S. 130A-293, appeal as of right lies directly to the Court of Appeals."

17 **SECTION 2.** G.S. 53-92(d) reads as rewritten:

18 "(d) The Banking Commission is hereby vested with full power and authority to
19 supervise, direct and review the exercise by the Commissioner of Banks of all powers,
20 duties, and functions now vested in or exercised by the Commissioner of Banks under
21 the banking laws of this ~~State; any State.~~ Upon an appeal to the Banking Commission
22 by any party from an order entered by the Commissioner of Banks following an
23 administrative hearing pursuant to Article 3A of Chapter 150B of the General Statutes,
24 the Administrative Procedure Act, the chairman of the Commission may appoint an
25 appellate review panel of not less than five members to review the record on appeal,
26 hear oral arguments, and make a recommended decision to the Commission. Any party
27 to an order by the Commissioner of Banks may, within 20 days after the order and upon
28 written notice to the Commissioner, appeal the Commissioner's order to the Banking
29 Commission for review. Upon notice of an appeal, the Commissioner of Banks shall,

1 within 30 days of the notice, certify to the Commission the record on appeal. Any party
2 to a proceeding before the Banking Commission may, within 20 days after final order of
3 said Commission and by written notice to the Commissioner of Banks, appeal to the
4 Superior Court of Wake County for a final determination of any question of law which
5 may be involved. The cause shall be entitled "State of North Carolina on Relation of the
6 Banking Commission against (here insert name of appellant)." It shall be placed on the
7 civil issue docket of such court and shall have precedence over other civil actions. In the
8 event of an appeal the Commissioner shall certify the record to the Clerk of Superior
9 Court of Wake County within 15 days thereafter."

10 **SECTION 3.** G.S. 53-93 reads as rewritten:

11 "**§ 53-93. Powers and duties of Commissioner.**

12 The Commissioner of Banks shall have the powers, duties and functions herein
13 given, and in addition thereto such other powers and rights as may be necessary or
14 incident to the proper discharge of ~~his~~ the Commissioner's duties. The Commissioner
15 may appoint and assign a member of the staff of the Office of the Commissioner of
16 Banks to preside at administrative hearings required by Article 3A of Chapter 150B of
17 the General Statutes, the Administrative Procedure Act, and make a recommended
18 decision to the Commissioner."

19 **SECTION 4.** This act is effective when it becomes law.