

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2009

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SENATE DRS35200-RO-7 (03/10)

Short Title: Amend Banking Laws.

(Public)

Sponsors: Senators Soles, Hoyle, McKissick, and Rand.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO ALLOW A BANK TO ISSUE PREFERRED STOCK, TO PAY DIVIDENDS ON CERTAIN PREFERRED SHARES, AND TO PERMIT THE COMMISSIONER OF BANKS TO APPOINT THE FEDERAL DEPOSIT INSURANCE CORPORATION AS RECEIVER.

The General Assembly of North Carolina enacts:

**SECTION 1.** Article 7 of Chapter 53 of the General Statutes is amended by adding a new section to read:

**"§ 53-87.1. Payment of dividends on preferred shares issued to the United States**

**Treasury.**

(a) Notwithstanding any other provision of this Chapter, the board of directors of any bank may declare and pay a dividend on preferred shares issued by the bank to the United States Treasury in connection with and as a condition of the bank's participation in the Capital Purchase Program authorized by Title I of the Emergency Economic Stabilization Act of 2008 (Public Law 110-343).

(b) Notwithstanding any other provision of this Chapter, with the prior approval of the Commissioner of Banks and subject to any conditions the Commissioner may impose, a bank may issue preferred or preference shares and pay dividends thereon, in order to recapitalize itself."

**SECTION 2.** G.S.53-20(h) reads as rewritten:

"(h) Bond of Commissioner of Banks; Surety; Condition; Minimum Penalty. – Upon taking possession of any bank, the Commissioner of Banks, or the duly appointed agent, shall execute and file a bond payable to the State of North Carolina, with some surety company as surety thereon, with the clerk of the superior court of the county where the bank is ~~located,~~ located. The bond shall be conditioned upon the faithful performance of all duties imposed by reason of the liquidation of ~~such~~ the bank by the ~~said~~ Commissioner of Banks, or the duly appointed agent, or any agent or assistant assisting in the liquidation of the ~~said bank,~~ bank. ~~the~~ The penal sum of ~~said~~ the bond ~~to~~ shall be fixed by order of the Commissioner of Banks, which in no case shall be less than five thousand dollars (\$5,000). Any person interested, by motion in the pending action, shall be heard by the resident or presiding judge as to the sufficiency of the ~~bond;~~ bond. ~~the~~ The judge hearing the motion may thereupon fix the bond; provided, that where ~~such~~ the bank under this section is taken possession of by the Commissioner of Banks, ~~he~~ the Commissioner may, in ~~his~~ the Commissioner's discretion ~~with the approval of the State Banking Commission,~~ appoint as his agent with the powers, duties and responsibilities of such agent under this section, the Federal Deposit Insurance Corporation or



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1 any corporation or agency established under ~~and by virtue of~~ the laws of the United States of  
2 America which is established for the purposes for which the ~~said~~ Federal Deposit Insurance  
3 Corporation was created under the Banking Act of 1933, ~~enacted by Congress; and provided~~  
4 ~~further that such~~ 1933. The appointment may be made when and only when the liabilities of  
5 ~~such the~~ bank to its depositors are insured by ~~said the~~ corporation or agency, either in whole  
6 or in part. In the event of such ~~appointment such~~ appointment, the corporation or agency, with  
7 the approval of the Commissioner of Banks, may serve as ~~such the~~ agent without giving the  
8 bond required under all other circumstances in this subsection. Also, in the event of such  
9 appointment, the Commissioner of Banks shall thereafter be forever relieved from any and all  
10 responsibility and liability in respect to the liquidation of ~~such the~~ bank."

11 **SECTION 3.** This act is effective when it becomes law.