

GENERAL ASSEMBLY OF NORTH CAROLINA
1985 SESSION

CHAPTER 948
HOUSE BILL 2133

AN ACT TO AMEND CHAPTERS 53 AND 54B OF THE GENERAL STATUTES
TO PROVIDE FOR SUPERVISORY ACQUISITION OF A SAVINGS AND
LOAN ASSOCIATION BY A COMMERCIAL BANK CHARTERED
PURSUANT TO THE PROVISIONS HEREOF.

The General Assembly of North Carolina enacts:

Section 1. Article 2 of Chapter 53 of the General Statutes is amended by adding a new Section 53-17.1 to read:

"§ 53-17.1. **Supervisory acquisition of State association.** – (a) A commercial bank may be chartered under the supervisory provisions provided in this section and may enter into and consummate the purchase and assumption transaction contemplated by subdivision (1) of this subsection if:

- (1) the commercial bank proposes to purchase all or substantially all of the book assets and to assume all or substantially all of the book liabilities of an eligible State association; and
- (2) the Commissioner of Banks approves such chartering and such purchase and assumption pursuant to subsection (c) of this section.

(b) A State association, as defined in G.S. 54B-4, is an eligible State association if it is insured by a mutual deposit guaranty association, as defined in Article 12, Chapter 54B of the General Statutes, which will provide financial assistance for a transaction authorized by this section, and if the Administrator, as defined in G.S. 54B-4, has found, pursuant to G.S. 54B-44, that such State association is unable to operate in a safe and sound manner.

(c) The Commissioner of Banks shall approve the chartering of a commercial bank, and the purchase and retention by such commercial bank of all or substantially all of the book assets and the assumption by such commercial bank of all or substantially all of the book liabilities, of an eligible State association, pursuant to this section if:

- (1) such commercial bank satisfies the requirements of G.S. 53-4; and
- (2) the chartering and such purchase and assumption will promote the public interest.

(d) Notwithstanding any regulatory or statutory requirement or provision to the contrary, chartering of a commercial bank, the acquisition by such bank of the assets and assumption of the liabilities of an eligible State association and actions taken by the Commissioner of Banks pursuant to this section, are not subject to any notice or public hearing requirements, nor to the provisions of Chapter 150B of the General Statutes or

any other administrative procedure requirements under Chapter 53 or Chapter 54B of the General Statutes, or otherwise, other than as stated in this section.

(e) Notwithstanding any other provision of the General Statutes of this State, any bank holding company, as defined in G.S. 53-210(4), may acquire a commercial bank chartered pursuant to this section, and a bank holding company which has acquired, directly or indirectly, such a commercial bank may acquire a North Carolina bank or a North Carolina bank holding company, each as defined in G.S. 53-210, on the same terms and conditions, and subject to the same regulatory requirements, as a North Carolina bank or North Carolina bank holding company could acquire a North Carolina bank holding company or a North Carolina bank. A purpose of this section is to remove the limitation imposed by Section 3(d) of the Bank Holding Company Act of 1956, as amended (12 U.S.C. 1842(d)) on bank holding company acquisitions only to the extent of the limited supervisory circumstances provided for herein.

(f) A bank holding company which acquires a commercial bank chartered pursuant to this section, and such commercial bank, shall be deemed to be a North Carolina bank holding company and a North Carolina bank, respectively, as defined in, and for all purposes of G.S. 53-210.

(g) Notwithstanding any regulatory or statutory requirement or provision to the contrary, a commercial bank chartered pursuant to this section shall, except as provided in this section, be a 'bank' for all purposes of Chapter 53 of the General Statutes.

(h) A commercial bank that is chartered pursuant to this section shall not receive any deposits, or conduct any other transactions with the public, until it has purchased the assets and assumed the liabilities of an eligible State association as contemplated by this section, and has received the certificate of authority provided for in G.S. 53-8.

(i) No commercial bank may be chartered under this section, and no purchase and assumption may be consummated in reliance upon the authority provided in this section, after September 30, 1986."

Sec. 2. G.S. 54B-44(a) is amended by deleting the last sentence thereof.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of July, 1986.