

GENERAL ASSEMBLY OF NORTH CAROLINA
1993 SESSION

CHAPTER 191
SENATE BILL 936

AN ACT TO AUTHORIZE NATIONWIDE INTERSTATE BRANCH BANKING
AND SAVINGS AND LOAN AND SAVINGS BANK BRANCHING.

The General Assembly of North Carolina enacts:

Section 1. Chapter 53 of the General Statutes is amended by adding the following new Article to read:

"ARTICLE 17A.
"Interstate Branch Banking.

"§ 53-219. Title.

This Article shall be known and may be cited as the North Carolina Interstate Branch Banking Act.

"§ 53-220. Definitions.

As used in this Article, unless the context clearly requires otherwise, the following definitions apply:

- (1) 'Bank' means any corporation or national bank association, other than savings and loan associations, savings banks, industrial banks, and credit unions, receiving, soliciting, or accepting money or its equivalent on deposit as a business.
- (2) 'Branch' means a full service office of a bank through which it receives deposits, checks are paid, or loans are made, other than its principal office. Any of the functions or services authorized to be engaged in by a bank may be carried out in an authorized branch office.
- (3) 'Commissioner' means the Commissioner of Banks of North Carolina.
- (4) 'Home state' means (i) as to a state bank, the state which granted the bank its charter, and (ii) as to a national bank, the state in which the bank has its principal office.
- (5) 'Out-of-state' bank means a bank chartered by any state other than this State and whose principal office is not within this State.
- (6) 'State bank' means a bank chartered under the laws of this State.
- (7) 'Supervisor' means the state banking supervisor or equivalent state official having primary regulatory authority over an out-of-state bank.

"§ 53-221. Establishment of branches by out-of-state banks.

Any out-of-state bank that meets the requirements of this Article may establish a branch within North Carolina either by (i) **de novo** entry; (ii) the purchase of an existing branch; (iii) the purchase of all or substantially all of the assets of a State bank located in North Carolina; or (iv) merger or consolidation.

"§ 53-222. Application requirements.

(a) Any out-of-state bank desiring to establish a branch office under this Article shall file with the Commissioner a written application meeting the following requirements:

- (1) The out-of-state bank shall agree to comply with all the applicable rules and regulations, and informational filing requirements contained in the laws and rules of this State that would apply to a State bank engaging in an equivalent form of transaction. Additionally, the Commissioner shall apply the same standards of approval to the application of the out-of-state bank as would apply to an application by a State bank for an equivalent form of transaction.
- (2) The out-of-state bank shall provide the Commissioner, in the manner prescribed by the Commissioner, with such additional information as the Commissioner deems necessary, to fully evaluate the application.
- (3) The out-of-state bank shall pay an application fee established by the Commissioner pursuant to G.S. 53-122(3).
- (4) The out-of-state bank shall not commence operations of the branch office until it has received the written approval of the Commissioner.

(b) The Commissioner shall act on the application within 90 days of receipt of the completed application.

"§ 53-223. Conditions for approval.

No application by an out-of-state bank received under this Article may be finally approved by the Commissioner unless:

- (1) The Commissioner has received in writing approval of the proposed transaction from the supervisor of the out-of-state bank;
- (2) The supervisor of the out-of-state bank agrees in writing to share with the Commissioner examination reports prepared by the supervisor and any other information deemed necessary by the Commissioner regarding the out-of-state bank;
- (3) The out-of-state bank agrees in writing to make available to the Commissioner all information that may be required to effectively examine the bank;
- (4) The out-of-state bank agrees in writing that so long as it maintains a branch in North Carolina, it will meet the conditions set forth in this Article and comply with all applicable North Carolina laws and any rules issued thereunder, as well as any orders or directives issued to the bank by the Commissioner;
- (5) The home state of the out-of-state bank permits banks chartered under the laws of this State to establish branches within its border; and
- (6) The out-of-state bank designates and files with the Office of the Secretary of State a document appointing an agent in this State to receive service of judicial process.

"§ 53-224. Special conditions.

(a) The Commissioner may require an out-of-state bank to designate one of its branches in North Carolina as a 'headquarters branch' and may, by rule, require that reports, books, and records required of banks doing business under this Article be available at the designated headquarters branch.

(b) Once an out-of-state bank has established at least one branch in North Carolina pursuant to this Article, subsequent applications to establish additional branches shall be considered on the same basis as an application of a State bank to establish an additional branch pursuant to G.S. 53-62.

(c) If an out-of-state bank establishes a branch or branches by merger with or purchase from a bank located in this State, and the out-of-state bank and the bank located in this State are both owned by the same holding company, any conditions, limitations, or restrictions placed on the holding company, pursuant to Articles 17 and 18 of this Chapter, shall continue to apply to both the acquiring out-of-state bank and its holding company.

"§ 53-224.1. Powers.

An out-of-state bank that establishes a branch in North Carolina may engage in all the activities authorized by North Carolina law for a State bank except to the extent that such activities have been expressly prohibited by the state supervisor of the out-of-state bank or the laws of the out-of-state bank's home state.

"§ 53-224.2. Establishment of out-of-state branches by State banks.

With the prior consent of the Commissioner, any bank chartered under the laws of North Carolina may establish a branch in any other state in accordance with the laws of such other state.

"§ 53-224.3. Regulatory and supervisory oversight.

(a) The Commissioner may enter into such agreements as necessary regarding the scope, timing, coordination, and frequency of examinations and other supervisory matters, including the sharing of information gathered in such examinations, with other supervisors and federal banking regulators. This authority applies to both out-of-state banks and their holding companies.

(b) The Commissioner may require periodic reports on the financial condition of any out-of-state bank or its holding company that maintains a branch within North Carolina and may, from time to time, require from any such out-of-state banks other reports under oath in such scope and detail as the Commissioner may reasonably determine to be necessary for the purpose of assuring continuing compliance with the provisions of this Article.

(c) The Commissioner may, if necessary, conduct full scope, on-site examinations of any branch established pursuant to this Article.

(d) Out-of-state banks shall be assessed and required to pay supervisory and examination fees in accordance with G.S. 53-122 and the rules issued thereunder.

"§ 53-224.4. Enforcement.

(a) Any enforcement authority available to the Commissioner for use against a State bank may, subject to the provisions of Chapter 150B of the General Statutes, be used against a branch established under this Article and against the out-of-state bank or its parent holding company establishing such branch.

(b) The Commissioner may suspend or revoke the authority of an out-of-state bank to establish or maintain a branch in North Carolina upon a finding of fact or condition or circumstance that is grounds for denial of an application to establish and maintain a branch under this Article.

(c) The Commissioner may enforce the provisions of this Article through an action in any court of North Carolina or any other state or any court of the United States as provided in G.S. 53-94 and G.S. 53-134 for the purpose of obtaining an appropriate remedy for violation of any provisions of this Article or the criminal penalties imposed by Article 10 of this Chapter.

(d) The Commissioner may enter into joint actions with other supervisors or federal banking regulators, or both, having concurrent jurisdiction over any out-of-state bank that has a branch in North Carolina or over any State bank that has a branch in another state, or may take such action independently to carry out the Commissioner's responsibilities under this Article and assure compliance with the provisions of this Article and the applicable banking laws of this State.

"§ 53-224.5. Branch closings.

An out-of-state bank that is subject to an order or written agreement revoking its authority to establish or maintain a branch in North Carolina and any State bank that is subject to an order or written agreement revoking its authority to establish or maintain a branch in another state shall wind up the business of that branch in an orderly manner that protects the depositors, customers, and creditors of the branch, and that complies with all North Carolina laws and all other applicable laws regarding the closing of the branch.

"§ 53-224.6. Rules.

The State Banking Commission may adopt rules as necessary to carry out the provisions of this Article.

"§ 53-224.7. Appeal of Commissioner's decision.

Any aggrieved party in a proceeding under this Article may, within 30 days after final decision of the Commissioner, appeal such decision to the State Banking Commission. The State Banking Commission, within 30 days of receipt of the notice of appeal, shall approve, disapprove, or modify the Commissioner's decision. Failure of the State Banking Commission to act within 30 days of receipt of notice of appeal shall constitute a final decision of the State Banking Commission approving the decision of the Commissioner. Notwithstanding any other provision of law, any aggrieved party to a decision of the State Banking Commission shall be entitled to an appeal pursuant to G.S. 53-92.

"§ 53-224.8. Severability.

If any provision of this Article or the application of such provision to any persons or circumstances is found invalid, the remainder of this Article and its application to persons or circumstances other than those as to which it is held invalid, shall not be affected."

Sec. 2. Chapter 54B of the General Statutes is amended by adding the following new Article to read:

"ARTICLE 14.

"Savings and Loan Interstate Branches.

"§ 54B-265. Title.

This Article shall be known and may be cited as the North Carolina Savings and Loan Interstate Branch Act.

"§ 54B-266. Definitions.

As used in this Article, unless the context clearly requires otherwise, the following definitions apply:

- (1) 'Administrator' means the Administrator of the Savings Institution Division.
- (2) 'Association' means a savings and loan association and includes a State association or a federal association unless limited by use of the words 'State' or 'federal'.
- (3) 'Branch' means a full-service office of an association through which it renders a savings and loan service other than its principal office. An association may engage in any authorized function or service through an authorized branch office.
- (4) 'Commission' means the North Carolina Savings Institution Commission.
- (5) 'Home state' means (i) as to a state association, the state which granted the association its charter, and (ii) as to a federal association, the state in which the association has its principal office.
- (6) 'Out-of-state association' means an association chartered by any state other than this State and whose principal office is not within this State.
- (7) 'State association' means an association chartered under the laws of this State.
- (8) 'Supervisor' means the state association supervisor or equivalent state official having primary regulatory authority over an out-of-state association.

"§ 54B-267. Establishment of branches by out-of-state associations.

Any out-of-state association that meets the requirements of this Article may establish a branch within North Carolina either by (i) **de novo** entry; (ii) the purchase of an existing branch; (iii) the purchase of all or substantially all of the assets of a State association located in North Carolina; or (iv) merger or consolidation.

"§ 54B-268. Application requirements.

(a) Any out-of-state association desiring to establish a branch office under this Article shall file with the Administrator a written application meeting the following requirements:

- (1) The out-of-state association shall agree to comply with all the applicable rules and regulations, and informational filing requirements contained in the laws and rules of this State that would apply to a State association engaging in an equivalent form of transaction. Additionally, the Administrator shall apply the same standards of approval to the application of the out-of-state association as would

apply to an application by a State association for an equivalent form of transaction.

- (2) The out-of-state association shall provide the Administrator, in the manner prescribed by the Administrator, with such additional information as the Administrator deems necessary, to fully evaluate the application.
- (3) The out-of-state association shall pay an application fee established by the Administrator pursuant to G.S. 54B-9.
- (4) The out-of-state association shall not commence operations of the branch office until it has received the written approval of the Administrator.

(b) The Administrator shall act on the application within 90 days of receipt of the completed application.

"§ 54B-269. Conditions for approval.

No application by an out-of-state association received under this Article may be finally approved by the Administrator unless:

- (1) The Administrator has received in writing approval of the proposed transaction from the supervisor of the out-of-state association;
- (2) The supervisor of the out-of-state association agrees in writing to share with the Administrator examination reports prepared by the supervisor and any other information deemed necessary by the Administrator regarding the out-of-state association;
- (3) The out-of-state association agrees in writing to make available to the Administrator all information that may be required to effectively examine the association;
- (4) The out-of-state association agrees in writing that so long as it maintains a branch in North Carolina, it will meet the conditions set forth in this Article and comply with all applicable North Carolina laws and any rules issued thereunder, as well as any orders or directives issued to the association by the Administrator;
- (5) The home state of the out-of-state association permits associations chartered under the laws of this State to establish branches within its border; and
- (6) The out-of-state association designates and files with the Office of the Secretary of State a document appointing an agent in this State to receive service of judicial process.

"§ 54B-270. Special conditions.

(a) The Administrator may require an out-of-state association to designate one of its branches in North Carolina as a 'headquarters branch' and may, by rule, require that reports, books, and records required of associations doing business under this Article be available at the designated headquarters branch.

(b) Once an out-of-state association has established at least one branch in North Carolina pursuant to this Article, subsequent applications to establish additional

branches shall be considered on the same basis as an application of a State association to establish an additional branch pursuant to G.S. 54B-22.

(c) If an out-of-state association establishes a branch or branches by merger with or purchase from an association located in this State, and the out-of-state association and the association located in this State are both owned by the same holding company, any conditions, limitations, or restrictions placed on the holding company, pursuant to Articles 3A and 13 of this Chapter, shall continue to apply to both the acquiring out-of-state association and its holding company.

"§ 54B-271. Powers.

An out-of-state association that establishes a branch in North Carolina may engage in all the activities authorized by North Carolina law for a State association except to the extent that such activities have been expressly prohibited by the state supervisor of the out-of-state association or the laws of the out-of-state association's home state.

"§ 54B-272. Establishment of out-of-state branches by state associations.

With the prior consent of the Administrator, any association chartered under the laws of North Carolina may establish a branch in any other state in accordance with the laws of such other state.

"§ 54B-273. Regulatory and supervisory oversight.

(a) The Administrator may enter into such agreements as necessary regarding the scope, timing, coordination, and frequency of examinations and other supervisory matters, including the sharing of information gathered in such examinations, with other supervisors and federal association regulators. This authority applies to both out-of-state associations and their holding companies.

(b) The Administrator may require periodic reports on the financial condition of any out-of-state association or its holding company that maintains a branch within North Carolina and may from time to time require from any such out-of-state associations other reports under oath in such scope and detail as the Administrator may reasonably determine to be necessary for the purpose of assuring continuing compliance with the provisions of this Article.

(c) The Administrator may, if necessary, conduct full-scope, on-site examinations of any branch established pursuant to this Article.

(d) Out-of-state associations shall be assessed and required to pay supervisory and examination fees in accordance with G.S. 54B-57 and the rules issued thereunder.

"§ 54B-274. Enforcement.

(a) Any enforcement authority available to the Administrator for use against a State association may, subject to the provisions of Chapter 150B of the General Statutes, be used against a branch established under this Article and against the out-of-state association or its parent holding company establishing such branch.

(b) The Administrator may suspend or revoke the authority of an out-of-state association to establish or maintain a branch in North Carolina upon a finding of fact or condition or circumstance that is grounds for denial of an application to establish and maintain a branch under this Article.

(c) The Administrator may enforce the provisions of this Article through an action in any court of North Carolina or any other state or any court of the United States

as provided in G.S. 54B-64, 54B-65, 54B-66, and 54B-68 for the purpose of obtaining an appropriate remedy for violation of any provisions of this Article.

(d) The Administrator may enter into joint actions with other supervisors or federal association regulators, or both, having concurrent jurisdiction over any out-of-state association that has a branch in North Carolina or over any State association that has a branch in another state, or may take such action independently to carry out the Administrator's responsibilities under this Article and assure compliance with the provisions of this Article and the applicable association laws of this State.

"§ 54B-275. Branch closings.

An out-of-state association that is subject to an order or written agreement revoking its authority to establish or maintain a branch in North Carolina and any State association that is subject to an order or written agreement revoking its authority to establish or maintain a branch in another state shall wind up the business of that branch in an orderly manner that protects the depositors, customers, and creditors of the branch, and that complies with all North Carolina laws and all other applicable laws regarding the closing of the branch.

"§ 54B-276. Rules.

The Commission may adopt rules as necessary to carry out the provisions of this Article.

"§ 54B-277. Appeal of administrator's decision.

Any aggrieved party in a proceeding under this Article may, within 30 days after final decision of the Administrator, appeal such decision to the Commission. The Commission, within 30 days of receipt of the notice of appeal, shall approve, disapprove, or modify the Administrator's decision. Failure of the Commission to act within 30 days of receipt of notice of appeal shall constitute a final decision of the Commission approving the decision of the Administrator. Notwithstanding any other provision of law, any aggrieved party to a decision of the Commission shall be entitled to an appeal pursuant to G.S. 54B-16.

"§ 54B-278. Severability.

If any provision of this Article or the application of such provision to any persons or circumstances is found invalid, the remainder of this Article and its application to persons or circumstances other than those as to which it is held invalid, shall not be affected."

Sec. 3. Chapter 54C of the General Statutes is amended by adding the following new Article to read:

"ARTICLE 10.

"Savings Bank Interstate Branches.

"§ 54C-199. Title.

This Article shall be known and may be cited as the North Carolina Savings Bank Interstate Branch Act.

"§ 54C-200. Definitions.

As used in this Article, unless the context clearly requires otherwise, the following definitions apply:

- (1) 'Administrator' means the Administrator of the Savings Institution Division.
- (2) 'Branch' means a full service office of a savings bank through which it renders a savings bank service other than its principal office. A savings bank may engage in any authorized function or service through an authorized branch office.
- (3) 'Commission' means the North Carolina Savings Institution Commission.
- (4) 'Home state' means (i) as to a state-chartered savings bank, the state which granted the savings bank its charter, and (ii) as to a federal savings bank, the state in which the savings bank has its principal office.
- (5) 'Out-of-state' savings bank means a savings bank granted a charter by any state other than this State and whose principal office is not located in this State.
- (6) 'Savings bank' means a state savings bank or a federal savings bank, unless limited by use of the words 'State' or 'federal'.
- (7) 'State savings bank' means a depository institution chartered under the laws of this State.
- (8) 'Supervisor' means the state savings bank supervisor or equivalent state official having primary regulatory authority over an out-of-state savings bank.

"§ 54C-201. Establishment of branches by out-of-state savings banks.

Any out-of-state savings bank that meets the requirements of this Article may establish a branch within North Carolina either by (i) **de novo** entry; (ii) the purchase of an existing branch; (iii) the purchase of all or substantially all of the assets of a State savings bank located in North Carolina; or (iv) merger or consolidation.

"§ 54C-202. Application requirements.

(a) Any out-of-state savings bank desiring to establish a branch office under this Article shall file with the Administrator a written application meeting the following requirements:

- (1) The out-of-state savings bank shall agree to comply with all the applicable rules and regulations, and informational filing requirements contained in the laws and rules of this State that would apply to a State savings bank engaging in an equivalent form of transaction. Additionally, the Administrator shall apply the same standards of approval to the application of the out-of-state savings bank as would apply to an application by a State savings bank for an equivalent form of transaction.
- (2) The out-of-state savings bank shall provide the Administrator, in the manner prescribed by the Administrator, with such additional information as the Administrator deems necessary, to fully evaluate the application.

- (3) The out-of-state savings bank shall pay an application fee established by the Administrator pursuant to G.S. 54C-9.
- (4) The out-of-state savings bank shall not commence operations of the branch office until it has received the written approval of the Administrator.

(b) The Administrator shall act on the application within 90 days of receipt of the completed application.

"§ 54C-203. Conditions for approval.

No application by an out-of-state savings bank received under this Article may be finally approved by the Administrator unless:

- (1) The Administrator has received in writing approval of the proposed transaction from the supervisor of the out-of-state savings bank;
- (2) The supervisor of the out-of-state savings bank agrees in writing to share with the Administrator examination reports prepared by the supervisor and any other information deemed necessary by the Administrator regarding the out-of-state savings bank;
- (3) The out-of-state savings bank agrees in writing to make available to the Administrator all information that may be required to effectively examine the savings bank;
- (4) The out-of-state savings bank agrees in writing that so long as it maintains a branch in North Carolina, it will meet the conditions set forth in this Article and comply with all applicable North Carolina laws and any rules issued thereunder, as well as any orders or directives issued to the savings bank by the Administrator;
- (5) The home state of the out-of-state savings bank permits savings banks chartered under the laws of this State to establish branches within its border; and
- (6) The out-of-state savings bank designates and files with the Office of the Secretary of State a document appointing an agent in this State to receive service of judicial process.

"§ 54C-204. Special conditions.

(a) The Administrator may require an out-of-state savings bank to designate one of its branches in North Carolina as a 'headquarters branch' and may, by rule, require that reports, books, and records required of savings banks doing business under this Article be available at the designated headquarters branch.

(b) Once an out-of-state savings bank has established at least one branch in North Carolina pursuant to this Article, subsequent applications to establish additional branches shall be considered on the same basis as an application of a State savings bank to establish an additional branch pursuant to G.S. 54C-23.

(c) If an out-of-state savings bank establishes a branch or branches by merger with or purchase from a savings bank located in this State, and the out-of-state savings bank and the savings bank located in this State are both owned by the same holding company, any conditions, limitations, or restrictions placed on the holding company,

pursuant to Article 9 of this Chapter, shall continue to apply to both the acquiring out-of-state savings bank and its holding company.

"§ 54C-205. Powers.

An out-of-state savings bank that establishes a branch in North Carolina may engage in all the activities authorized by North Carolina law for a State savings bank except to the extent that such activities have been expressly prohibited by the state supervisor of the out-of-state savings bank or the laws of the out-of-state savings bank's home state.

"§ 54C-206. Establishment of out-of-state branches by State savings banks.

With the prior consent of the Administrator, any savings bank chartered under the laws of North Carolina may establish a branch in any other state in accordance with the laws of such other state.

"§ 54C-207. Regulatory and supervisory oversight.

(a) The Administrator may enter into such agreements as necessary regarding the scope, timing, coordination, and frequency of examinations and other supervisory matters, including the sharing of information gathered in such examinations, with other supervisors and federal savings bank regulators. This authority applies to both out-of-state savings banks and their holding companies.

(b) The Administrator may require periodic reports on the financial condition of any out-of-state savings bank or its holding company that maintains a branch within North Carolina and may from time to time require from any such out-of-state savings banks other reports under oath in such scope and detail as the Administrator may reasonably determine to be necessary for the purpose of assuring continuing compliance with the provisions of this Article.

(c) The Administrator may, if necessary, conduct full-scope, on-site examinations of any branch established pursuant to this Article.

(d) Out-of-state savings banks shall be assessed and required to pay supervisory and examination fees in accordance with G.S. 54C-55 and the rules issued thereunder.

"§ 54C-208. Enforcement.

(a) Any enforcement authority available to the Administrator for use against a State savings bank may, subject to the provisions of Chapter 150B of the General Statutes, be used against a branch established under this Article and against the out-of-state savings bank or its parent holding company establishing such branch.

(b) The Administrator may suspend or revoke the authority of an out-of-state savings bank to establish or maintain a branch in North Carolina upon a finding of fact or condition or circumstance that is grounds for denial of an application to establish and maintain a branch under this Article.

(c) The Administrator may enforce the provisions of this Article through an action in any court of North Carolina or any other state or any court of the United States as provided in G.S. 54C-76, 54C-77, 54C-78, and 54C-79 for the purpose of obtaining an appropriate remedy for violation of any provisions of this Article.

(d) The Administrator may enter into joint actions with other supervisors or federal savings banking regulators, or both, having concurrent jurisdiction over any out-of-state savings bank that has a branch in North Carolina or over any State savings bank that has a branch in another state, or may take such action independently to carry out the

Administrator's responsibilities under this Article and assure compliance with the provisions of this Article and the applicable savings banking laws of this State.

"§ 54C-209. Branch closings.

An out-of-state savings bank that is subject to an order or written agreement revoking its authority to establish or maintain a branch in North Carolina and any State savings bank that is subject to an order or written agreement revoking its authority to establish or maintain a branch in another state shall wind up the business of that branch in an orderly manner that protects the depositors, customers, and creditors of the branch, and that complies with all North Carolina laws and all other applicable laws regarding the closing of the branch.

"§ 54C-210. Rules.

The Commission may adopt rules as necessary to carry out the provisions of this Article.

"§ 54C-211. Appeal of Administrator's decision.

Any aggrieved party in a proceeding under this Article may, within 30 days after final decision of the Administrator, appeal such decision to the Commission. The Commission, within 30 days of receipt of the notice of appeal, shall approve, disapprove, or modify the Administrator's decision. Failure of the Commission to act within 30 days of receipt of notice of appeal shall constitute a final decision of the Commission approving the decision of the Administrator. Notwithstanding any other provision of law, any aggrieved party to a decision of the Commission shall be entitled to an appeal pursuant to G.S. 54C-16.

"§ 54C-212. Severability.

If any provision of this Article or the application of such provision to any persons or circumstances is found invalid, the remainder of this Article and its application to persons or circumstances other than those as to which it is held invalid, shall not be affected."

Sec. 4. This act becomes effective October 1, 1993.

In the General Assembly read three times and ratified this the 22nd day of June, 1993.

Dennis A. Wicker
President of the Senate

Daniel Blue, Jr.
Speaker of the House of Representatives