Article 7.

Loans and Investments.

§ 54C-121. Loans.

(a) A savings bank may loan funds as follows:

(1) On the security of deposit accounts, but no loan shall exceed the withdrawal value of the pledged deposit account.

(2) On the security of real property:

a. Of a value, determined in accordance with this Chapter and any appraisal rules as the Commissioner of Banks may adopt sufficient to provide good and ample security for the loan;

b. With a fee simple title or a leasehold title of no less duration than 10 years beyond the maturity of the loan;

c. With the title established by any evidence of title as is consistent with sound lending practices; and

d. With the security interest in such real estate evidenced by an appropriate written instrument and the loan evidenced by a note, bond, or similar written instrument. A loan on the security of the whole of the beneficial interest in a land trust satisfies the requirements of this sub-subdivision if the title to the land is held by a corporate trustee and if the real estate held in the land trust meets the other requirements of this subdivision.

(3) For the purpose of repair, improvement, rehabilitation, furnishing, or equipment of real estate.

(4) For the purpose of financing or refinancing an existing ownership interest, in certificates of stock, certificates of beneficial interest, or other evidence of an ownership interest in, and a proprietary lease from, a corporation, trust or partnership formed for the purpose of the cooperative ownership of real estate, secured by the assignment or transfer of the certificates or other evidence of ownership of the borrower.

(5) For the purchase of loans that, at the time of purchase, the savings bank could make in accordance with this Chapter.

(6) For the purchase of installment contracts for the sale of real estate, and title thereto that is subject to the contract, but in each instance only if the savings bank, at the time of purchase, could make a mortgage loan of the same amount and for the same length of time on the security of the real estate.

(7) For the purchase of loans guaranteed or insured, wholly or in part, by the United States or any of its instrumentalities.

(8) For secured or unsecured financing for business, corporate, personal, family, or household purposes, or for secured or unsecured loans for agricultural or commercial purposes, subject to any rules as the Commissioner of Banks may adopt.

(9) For the purpose of mobile home financing.

(10) For loans secured by no more that ninety percent (90%) of the cash surrender value of any life insurance policy.

(11) For loans on any collateral that would be a legal investment if made by the savings bank under this Chapter.

(b) Notwithstanding any provision of this Chapter to the contrary, a savings bank may make any loan that the savings bank could make if it were incorporated and operating as a federal association or as a State or national bank. (1991, c. 680, s. 1; 2001-193, s. 16.)

§ 54C-122. Lending procedures.

(a) The board of directors shall establish procedures by which loans are to be considered, approved, and made by the savings bank.

(b) All actions on loan applications to the savings bank shall be reported to the board of directors at its next meeting.

(c) Subject to any rules as the Commissioner of Banks deems appropriate, a savings bank may lend funds on any collateral deemed sufficient by the board of directors to properly secure loans. Loans made solely upon security of collateral consisting of stock or equity securities that are not listed on a national stock exchange or regularly quoted and offered for trade on an over-the-counter market are considered loans without security.

(d) A savings bank may lend funds without requiring security. No unsecured loan shall exceed the maximum amount authorized by rules of the Commissioner of Banks.

(e) A savings bank may make insured or guaranteed loans in accordance with G.S. 53C-5-3.

(f) A savings bank may invest any funds on hand in the purchase of loans of a type that the savings bank could make in accordance with this Chapter.

(g) A savings bank may invest in a participating interest in loans of a type that the savings bank could make in accordance with this Chapter.

(h) A savings bank may sell any loan, including any participating interest in a loan. (1991, c. 680, s. 1; 2001-193, s. 16; 2012-56, s. 45.)

§ 54C-123. Prohibited security.

No savings bank may accept its own capital stock or its own mutual capital certificates as security for any loan made by the savings bank. (1991, c. 680, s. 1.)

§ 54C-124. Loans conditioned on certain transactions prohibited.

(a) No savings bank or service corporation thereof shall require, as a condition of making a loan, that the borrower contract with any specific person or organization for particular services.

(b) A savings bank or service corporation thereof shall notify borrowers before the loan commitment of their right to select the attorney or law firm rendering legal services in connection with the loan, and the person or organization rendering insurance services in connection with the loan. These persons or organizations shall be approved by the savings bank's board of directors, under any rules as the Commissioner of Banks may prescribe.

(c) A savings bank or service corporation thereof may require borrowers to reimburse the savings bank for legal services rendered to it by its own attorney only when the fee is limited to legal services required by the making of the loan. (1991, c. 680, s. 1; 2001-193, s. 16.)

§ 54C-125. Loan expenses and fees.

(a) Subject to Chapter 24 of the General Statutes, a savings bank may require borrowers to pay all reasonable expenses incurred by the savings bank in connection with making, closing, disbursing, extending, adjusting, or renewing loans. The charges may be collected by the savings bank from the borrower and paid to any persons, including any director, officer, or employee of the

savings bank who may render services in connection with the loan, or the charges may be paid directly by the borrower.

(b) A savings bank may require a borrower to pay a reasonable charge for late payments made during the course of repayment of a loan. Subject to G.S. 24-10.1, the payments may be levied only upon the terms and conditions that are fixed by the savings bank's board of directors and agreed to by the borrower in the loan contract.

(c) Nothing in this Article shall be construed to modify Chapter 24 of the General Statutes, or other applicable law, or to allow fees, charges, or interest beyond that permitted by Chapter 24 of the General Statutes or other applicable law. (1991, c. 680, s. 1.)

§ 54C-126. Methods of loan repayment.

Subject to any rules as the Commissioner of Banks may prescribe, a savings bank shall agree in writing with borrowers as to the method or plan by which an indebtedness shall be repaid. (1991, c. 680, s. 1; 2001-193, s. 16.)

§ 54C-127. Insider loans.

The Commissioner of Banks may adopt rules no less stringent than the requirements of the appropriate federal regulatory authority to govern the making of loans to officers and directors, and their associates, and companies or other business entities controlled by them. (1991, c. 680, s. 1; 2001-193, s. 16.)

§ 54C-128. Rulemaking power of Commissioner of Banks.

Any rule that the Commissioner of Banks may adopt in respect to loans permitted to be made by State savings banks as may be reasonably necessary to assure that the loans are in keeping with sound lending practices and to promote the purposes of this Chapter shall not prohibit a savings bank from making any loan that is a permitted loan for federal savings banks under federal regulatory authority. (1991, c. 680, s. 1; 2001-193, s. 16.)

§ 54C-129. Nonconforming loans and investments.

Unless otherwise provided, every loan or other investment made in violation of this Chapter is due and payable according to its terms and the obligation thereof is not impaired; provided, that the violation consists only of the lending of an excessive sum on authorized security or of investing in an unauthorized investment. (1991, c. 680, s. 1.)

§ 54C-130. Limitation on loans to one borrower.

(a) The total loans and extensions of credit, both direct and indirect, by a savings bank to any person, other than a municipal corporation for money borrowed, outstanding at one time and not fully secured, as determined in a manner consistent with subsection (b) of this section, by collateral having a market value at least equal to the amount of the loan or extension of credit shall not exceed fifteen percent (15%) of the net worth of the savings bank. The total liabilities of a firm shall include the liabilities of the members of the firm.

(b) The total loans and extensions of credit, both direct and indirect, by a savings bank to any person outstanding at one time and fully secured by readily marketable collateral having a market value, as determined by reliable and continuously available price quotations, at least equal to the amount of the funds outstanding shall not exceed ten percent (10%) of the net worth of the

savings bank. This limitation shall be separate from and in addition to the limitation contained in subsection (a) of this section.

(c) For purposes of this section, the term "person" is deemed to include an individual or a corporation, partnership, trust, association, joint venture, pool, syndicate, sole proprietorship, unincorporated organization, or any other form of entity not specifically listed in this subsection. Loans or extensions of credit to one person include loans made to other persons when the proceeds of the loans or extensions of credit are to be used for the direct benefit of the first person or when the persons are engaged in a common enterprise.

(d) The limitations of this section shall not apply to loans or obligations to the extent that they are secured or covered by guarantees or by commitments or agreements to take over or purchase the same, made by any federal reserve bank or by the United States or any instrumentality of the United States, including any corporation wholly owned directly or indirectly by the United States.

(e) The limitations of this section shall not apply to loans or obligations made for the following:

(1) For any purpose otherwise permitted by this Chapter, not to exceed five hundred thousand dollars ($500,000);

(2) To develop domestic residential housing units, not to exceed the lesser of thirty million dollars ($30,000,000) or thirty percent (30%) of the savings bank's net worth if the purchase price of each single family dwelling unit which is financed under this provision does not exceed five hundred thousand dollars ($500,000) and the loans or obligations made under this provision do not, in the aggregate, exceed one hundred fifty percent (150%) of the savings bank's net worth; or

(3) Loans to one borrower to finance the sale of real property acquired in satisfaction of debts previously contracted in good faith, not to exceed fifty percent (50%) of the savings bank's net worth. (1991, c. 680, s. 1.)

§ 54C-131. Investment in banking premises.

A savings bank may invest in real property and equipment and in leasehold improvements to rented facilities necessary for the conduct of its business and in real property to be held for its future use. A savings bank may invest in office buildings and appurtenances for the purpose of the transaction of the savings bank's business. This investment may not be made without the prior written approval of the Commissioner of Banks if the total amount of these investments exceeds fifty percent (50%) of the savings bank's net worth. Facilities, furniture, and fixtures leased for the purpose set forth in this section are not included in this limitation. (1991, c. 680, s. 1; 2001-193, s. 16.)

§ 54C-132. United States obligations.

A savings bank may invest in any obligation issued and fully guaranteed in principal and interest by the United States government or any instrumentality of the United States. (1991, c. 680, s. 1.)

§ 54C-133. North Carolina obligations.

A savings bank may invest in any obligation issued and fully guaranteed in principal and interest by the State or any instrumentality of the State. (1991, c. 680, s. 1.)

§ 54C-134. Federal Home Loan Bank obligations.

A savings bank may invest in the stock of the Federal Home Loan Bank of which the association is a member, and in bonds or other evidences of indebtedness or obligation of any Federal Home Loan Bank. (1991, c. 680, s. 1.)

§ 54C-135. Deposits in depository institutions.

A savings bank may invest in certificates of deposit, time-insured deposits, savings accounts, demand deposits, or withdrawable accounts of any banks, associations, or savings banks as are approved by the board of directors of the savings bank. (1991, c. 680, s. 1.)

§ 54C-136. Federal government-sponsored enterprise obligations.

A savings bank may invest in stock or other evidences of indebtedness or obligations of Fannie Mae, the Federal Home Loan Mortgage Corporation, or any other federal government sponsored enterprise, or any successor thereto. (1991, c. 680, s. 1; 2001-487, s. 14(e).)

§ 54C-137. Municipal and county obligations.

A savings bank may invest in bonds or other evidences of indebtedness that are direct general obligations of any county, city, town, village, school district, sanitation, or park district, or other political subdivision or municipal corporation of this State; or in bonds or other evidences of indebtedness that are payable from revenues or earnings specifically pledged therefor, which are issued by a county or a political subdivision or municipal corporation of a county in this State. (1991, c. 680, s. 1.)

§ 54C-138. Stock in education agency.

A savings bank may invest in stock or obligations of any corporation doing business in this State, or of any agency of this State or of the United States, where the principal business of the corporation or agency is to make loans for the financing of a college or university education, or education at an industrial education center, technical institute, or community college. (1991, c. 680, s. 1.)

§ 54C-139. Industrial development corporation stock.

A savings bank may invest in stock or other evidence of indebtedness or obligations of business or industrial development corporations chartered by this State or by the United States. (1991, c. 680, s. 1.)

§ 54C-140. Urban renewal investment corporation stock.

A savings bank may invest in stock or other evidence of indebtedness or obligations of an urban renewal investment corporation chartered under the laws of this State or of the United States. (1991, c. 680, s. 1.)

§ 54C-141. Limitations on investment in stocks and securities.

(a) No savings bank shall make an investment in the capital stock of any other State or federal depository institution that represents more than five percent (5%) of the capital stock of that depository institution.

(b) No savings bank shall invest in stock of other than investment grade. No savings bank shall invest in the aggregate more than fifty percent (50%) of its net worth in the stocks of other

corporations, firms, partnerships, or companies, unless the stock is purchased to protect the savings bank from loss. Of this amount, no more than two and one-half percent (2 1/2%) of the savings bank's net worth may be invested in the stock or securities of any one issuer. This limitation shall not apply to stock or ownership interests in corporations, firms, partnerships, or companies that are subsidiaries of the savings bank. The term "invest" is deemed to include operating a business entity acquired by the savings bank, provided, however, that no savings bank shall make any investment resulting in operations that are not closely related to the savings bank business without the prior written approval of the Commissioner of Banks. Any stocks owned or hereafter acquired in excess of the limitations imposed in this section shall be disposed of at public or private sale within six months after the date of acquiring the same, and if not so disposed of they shall be charged to the profit and loss account, and no longer carried on the books as an asset. The limit of time in which the stocks are disposed of or charged off the books of the savings bank may be extended by the Commissioner of Banks if the Commissioner of Banks determines it is in the best interest of the savings bank that the extension be granted.

(c) This limitation shall not apply with respect to obligations of the government of the United States or its agencies, or to other obligations guaranteed by the United States, North Carolina, or any other state, or of a city, town, township, county, school district, or other political subdivision of this State. (1991, c. 680, s. 1; 2001-193, s. 16.)

§ 54C-142. Suspension of investment and loan limitation.

The board of directors of any savings bank may, by resolution duly passed at a meeting of the board, request the Commissioner of Banks to suspend temporarily the limitations on loans and investments as they may apply to any particular loan or investment in excess of the limitations of G.S. 54C-130 and G.S. 54C-141 that the savings bank desires to make. Upon receipt of a duly certified copy of the resolution, the Commissioner of Banks may suspend the limitations on loans and investments insofar as they would apply to the loan or investment that the savings bank desires to make, as long as every loan or investment is amply secured and is for a period not longer than 36 months. (1991, c. 680, s. 1; 2001-193, s. 16.)

§ 54C-143. Commercial lending.

A savings bank may lend and invest in commercial loans in an aggregate amount that either (i) does not exceed fifteen percent (15%) of its total assets; or (ii) equals a percentage of its total assets greater than fifteen percent (15%), if approved by the Commissioner of Banks upon written request of the savings bank. In considering a request for an increased limit, the Commissioner of Banks shall take into consideration the commercial lending expertise of the management and the overall risk profile of the savings bank making the request. For the purposes of this section, "commercial loan" means a loan for business, commercial, corporate, or agricultural purposes. (1991, c. 680, s. 1; 1999-179, s. 3; 2001-193, s. 16.)

§ 54C-144. Service corporations.

(a) A savings bank or group of savings banks or associations may establish service corporations under Chapter 55 of the General Statutes, provided that the Commissioner of Banks receives copies of the proposed articles of incorporation and bylaws for approval, before filing them with the Secretary of State. A savings bank may also invest in the capital stock, obligations, or other securities of existing service corporations.

(b) No savings bank may make any investment in service corporations if its aggregate investment would exceed ten percent (10%) of its total assets.

(c) A service corporation is subject to audit and examination by the Commissioner of Banks, and the service corporation shall pay the cost of examination.

(d) The permitted activities of a service corporation shall be described in the rules adopted by the Commissioner of Banks.

(e) The location of the principal and branch offices of a service corporation shall be approved by the Commissioner of Banks. (1991, c. 680, s. 1; 2001-193, s. 16.)

§ 54C-145. Parity in loans or investments.

Subject to any limitations and restrictions as the Commissioner of Banks may prescribe through rules, a savings bank may make any loan or investment, or engage in any activity, which may be permitted under State law for banks or under the laws of the United States for federal associations or national banks whose principal offices are located within this State. (1991, c. 680, s. 1; 2001-193, s. 16.)

§ 54C-146. Certain powers granted to State savings banks.

(a) In addition to the powers granted under this Chapter, but subject to any rules that the Commissioner of Banks may prescribe, a savings bank incorporated or operated under this Chapter may:

(1) Establish off the premises of any principal office or branch a customer communications terminal, point of sale terminal, automated teller machine, automated or other direct or remote information processing device or machine, whether manned or unmanned, through or by means of which funds or information relating to any financial service or transaction rendered to the public is stored and transmitted, instantaneously or otherwise to or from a savings bank terminal or terminals controlled or used by or with other parties. The establishment and use of a device or machine is not deemed to constitute a branch office, and the capital requirements and standards for approval of a branch office as set forth in the statutes and regulations are not applicable to the establishment of any off-premises terminal, device or machine. Savings banks may, through mutual consent, share on-premises, unmanned, automated teller machines and cash dispensers.

(2) Issue credit cards, extend credit in connection therewith, and otherwise engage in or participate in credit card operations.

(3) Act as a trustee, executor, administrator, guardian, or in any other fiduciary capacity.

(4) Become a member of a clearing house association and pledge assets required for its qualification.

(5) a. Mutual capital certificates may be issued by State-chartered savings banks and sold directly to subscribers or through underwriters, and the certificates shall constitute part of the general reserve and net worth of the issuing savings bank. The Commissioner of Banks, in the rules relating to the issuance and sale of mutual capital certificates, shall provide that the certificates:

1. Are subordinate to all savings accounts, savings certificates, and debt obligations;
2. Constitute a claim in liquidation on the general reserves, surplus and undivided profits of the savings bank remaining after the payment of all savings accounts, savings certificates, and debt obligations;
3. Are entitled to the payment of dividends; and
4. May have a fixed or variable dividend rate.

b. The Commissioner of Banks shall provide in the rules for charging losses to the mutual capital, reserves, and other net worth accounts.

(b) To the extent that the Commissioner of Banks may authorize by rules, a savings bank may issue notes, bonds, debentures, or other obligations or securities. (1991, c. 680, s. 1; 2001-193, s. 16.)

§§ 54C-147 through 54C-160. Reserved for future codification purposes.