

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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HOUSE BILL 1251

Short Title: Financial Boards Merged.

(Public)

Sponsors: Representatives Hege and Pope.

Referred to: Commerce.

April 12, 1989

A BILL TO BE ENTITLED

AN ACT TO MERGE THE STATE BANKING COMMISSION, THE CREDIT UNION COMMISSION, AND THE SAVINGS AND LOAN COMMISSION INTO A NEW COMMISSION FOR BANKS AND FINANCIAL INSTITUTIONS.

The General Assembly of North Carolina enacts:

Section 1. Article 8 of Chapter 53 of the General Statutes reads as rewritten:

"ARTICLE 8.

"COMMISSIONER OF BANKS AND FINANCIAL INSTITUTIONS AND STATE BANKING COMMISSION FOR BANKS AND FINANCIAL INSTITUTIONS.

"§ 53-92. Appointment of Commissioner of Banks and Financial Institutions; State Banking Commission for Banks and Financial Institutions.

On or before April 1, 1983, 1991, and quadrennially thereafter, the Governor shall appoint a Commissioner of Banks and Financial Institutions subject to confirmation by the General Assembly in joint session. The name of the Commissioner of Banks and Financial Institutions shall be submitted to the General Assembly on or before February 1, of the year in which the term of his office begins. The term of office for the Commissioner of Banks and Financial Institutions shall be four-eight years. In case of a vacancy in the office of Commissioner of Banks and Financial Institutions for any reason prior to the expiration of his term of office, the name of his successor shall be submitted by the Governor to the General Assembly, not later than four weeks after the vacancy arises. If a vacancy arises in the office when the General Assembly is not in session, the Commissioner of Banks and Financial Institutions shall be appointed by the Governor to serve on an interim basis pending confirmation by the General Assembly.

1       The ~~State Banking~~ Commission for Banks and Financial Institutions, which has  
2 heretofore been created, shall consist of the State Treasurer, who shall serve as an ex  
3 officio member thereof, ~~12-15~~ members appointed by the Governor, and two members  
4 appointed by the General Assembly under G.S. 120-121, one of whom shall be  
5 appointed upon the recommendation of the President of the Senate and one of whom  
6 shall be appointed upon the recommendation of the Speaker of the House of  
7 Representatives. The Governor shall appoint ~~five~~ four practical bankers, two managing  
8 officers of State savings and loan or building and loan associations, two managing  
9 officers of State-chartered credit unions, and seven persons selected primarily as  
10 representatives of the borrowing public. Of the seven persons selected primarily as  
11 representatives of the borrowing public, at least one shall be a borrower or depositor  
12 with a bank, at least one shall be a borrower or depositor with a State savings and loan  
13 association or building and loan association, and at least one shall be a borrower or  
14 depositor with a State-chartered credit union. The person appointed by the General  
15 Assembly upon the recommendation of the President of the Senate shall be a practical  
16 banker. The person appointed by the General Assembly upon the recommendation of  
17 the Speaker of the House shall be a person selected primarily as a representative of the  
18 borrowing public. The persons selected primarily as representatives of the borrowing  
19 public shall not be employees or directors of any financial institution nor shall they have  
20 any interest in any regulated financial institution other than as a result of being a  
21 depositor or borrower. Under this section, no person shall be considered to have an  
22 interest in a financial institution whose interest in any financial institution does not  
23 exceed one-half of one percent (1/2 of 1%) of the capital stock of that financial  
24 institution. These members of the Commission shall be selected so as to fully represent  
25 the consumer, industrial, manufacturing, professional, business and farming interests of  
26 the State. No person shall serve on the Commission for more than two complete  
27 consecutive terms. As the terms of office of the appointive members of the Commission  
28 expire, their successors shall be appointed by the person appointing them, for terms of  
29 four years each. Any vacancy occurring in the membership of the Commission shall be  
30 filled by the appropriate appointing officer for the unexpired term, except that vacancies  
31 among members appointed by the General Assembly shall be filled in accordance with  
32 G.S. 120-122. The appointed members of the Commission shall receive as  
33 compensation for their services the same per diem and expenses as is paid to the  
34 members of the Advisory Budget Commission. This compensation shall be paid from  
35 the fees collected from the examination of ~~banks~~ financial institutions as provided by  
36 law.

37       The ~~Banking~~ Commission for Banks and Financial Institutions shall meet at such  
38 time or times, and not less than once every three months, as the Commission shall, by  
39 resolution, prescribe, and the Commission may be convened in special session at the  
40 call of the Governor, or upon the request of the Commissioner of Banks and Financial  
41 Institutions. The State Treasurer shall be chairman of the ~~said~~ Commission.

42       No member of ~~said~~ the Commission shall act in any matter affecting any ~~bank~~  
43 financial institution in which he is financially interested, or with which he is in any  
44 manner connected. No member of ~~said~~ the Commission shall divulge or make use of any

1 information coming into his possession as a result of his service on ~~such~~the  
2 Commission, and shall not give out any information with reference to any facts coming  
3 into his possession by reason of his services on ~~such~~the Commission in connection with  
4 the condition of any State ~~banking~~financial institution, unless such information shall be  
5 required of him at any hearing at which he is duly subpoenaed, or when required by  
6 order of a court of competent jurisdiction.

7 A quorum shall consist of a majority of the total membership of the ~~Banking~~  
8 Commission for Banks and Financial Institutions. A majority vote of the members  
9 qualified with respect to a matter under review present at that meeting shall constitute  
10 valid action of the ~~Banking~~Commission. The State Treasurer and all disqualified  
11 members who are present shall be counted to determine whether a quorum is present at  
12 a meeting.

13 The Commissioner of Banks and Financial Institutions shall act as the executive  
14 officer of the ~~Banking~~Commission for Banks and Financial Institutions, but the  
15 Commission shall provide, by rules and regulations, for hearings before the  
16 Commission upon any matter or thing which may arise in connection with the ~~banking~~  
17 laws of this State affecting financial institutions upon the request of any person  
18 interested therein, and review any action taken or done by the Commissioner of Banks  
19 and Financial Institutions.

20 The ~~Banking~~Commission for Banks and Financial Institutions is hereby vested with  
21 full power and authority to supervise, direct and review the exercise by the  
22 Commissioner of Banks and Financial Institutions of all powers, duties, and functions  
23 now vested in or exercised by the Commissioner of Banks and Financial Institutions  
24 ~~under the banking laws of this State; this Chapter, Article 14B of Chapter 54, Article 4 of~~  
25 Chapter 54B, and G.S. 143B-439; any party to a proceeding before the Banking  
26 Commission may, within 20 days after final order of ~~said~~the Commission and by  
27 written notice to the Commissioner of Banks and Financial Institutions, appeal to the  
28 Superior Court of Wake County for a final determination of any question of law which  
29 may be involved. The cause shall be entitled 'State of North Carolina on Relation of the  
30 ~~Banking~~Commission for Banks and Financial Institutions against (here insert name of  
31 appellant).' It shall be placed on the civil issue docket of such court and shall have  
32 precedence over other civil actions. In the event of an appeal the Commissioner shall  
33 certify the record to the Clerk of Superior Court of Wake County within 15 days  
34 thereafter.

35 In addition to the powers and duties provided in this Article, the Commissioner of  
36 Banks and Financial Institutions and the Commission for Banks and Financial  
37 Institutions shall have the powers and duties provided in Article 14B of Chapter 54,  
38 Article 4 of Chapter 54B, and G.S. 143B-439.

39 **"§ 53-92.1. Commission bound by requirements imposed on Commissioner as to**  
40 **certification of new banks, establishment of branches, etc.**

41 Notwithstanding any other provisions of this Chapter, the ~~State Banking~~Commission  
42 for Banks and Financial Institutions, in the exercise of its authority to review the action  
43 of the Commissioner of Banks and Financial Institutions, shall be bound by the  
44 requirements, conditions and limitations imposed in this Chapter on ~~said~~the

1 Commissioner as to the certification of new banks or the establishments of branch banks  
2 or teller's windows.

3 **"§ 53-93. Powers and duties of Commissioner.**

4 The Commissioner of Banks and Financial Institutions shall have the powers, duties  
5 and functions herein given, and in addition thereto such other powers and rights as may  
6 be necessary or incident to the proper discharge of his duties.

7 **"§ 53-93.1. Deputy commissioner.**

8 The Commissioner of Banks and Financial Institutions shall appoint, with approval  
9 of the Governor, and may remove at his discretion a deputy commissioner, who, in the  
10 event of the absence, death, resignation, disability or disqualification of the  
11 Commissioner of Banks and Financial Institutions, or in case the office of  
12 Commissioner shall for any reason become vacant, shall have and exercise all the  
13 powers and duties vested by law in the Commissioner of Banks and Financial  
14 Institutions. He shall receive such compensation as shall be fixed by the General  
15 Assembly in the Current Operations Appropriations Act.

16 Irrespective of the conditions under which the deputy commissioner may exercise  
17 the powers and perform the duties of the Commissioner of Banks and Financial  
18 Institutions, pursuant to the preceding paragraph, such deputy commissioner, in addition  
19 thereto, is hereby authorized and empowered at any and all times, at the discretion of  
20 the Commissioner of Banks and Financial Institutions, to perform such duties and  
21 exercise such powers of the Commissioner of Banks and Financial Institutions in the  
22 name of and on behalf of the Commissioner as the Commissioner, in his discretion, may  
23 direct.

24 This section is not to be construed to modify the provisions of G.S. 53-97.

25 **"§ 53-94. Right to sue and defend in actions involving banks; liability to suit.**

26 As Commissioner of Banks and Financial Institutions he is empowered to sue and  
27 prosecute or defend in any action or proceeding in any courts of this State or any other  
28 state and in any court of the United States for the enforcement or protection of any right  
29 or pursuit of any remedy necessary or proper in connection with the subjects committed  
30 to him for administration or in connection with any bank or the rights, liabilities,  
31 property or assets thereof, under his supervision; but nothing herein shall be construed  
32 to render the Commissioner of Banks and Financial Institutions liable to be sued except  
33 as other departments and agencies of the State may be liable under the general law.

34 **"§ 53-95. Commissioner to exercise powers under supervision of ~~Banking~~  
35 Commission for Banks and Financial Institutions.**

36 All the powers, duties, and functions granted to or imposed upon the Commissioner  
37 of Banks and Financial Institutions by law shall be exercised by him under the direction  
38 and supervision of the Banking Commission, and wherever provision is made in any  
39 law now in effect authorizing and permitting the Commissioner of Banks and Financial  
40 Institutions to make rules and regulations with respect to any actions or things required  
41 to be done under the banking laws of this State, such rules and regulations shall be made  
42 by the ~~Banking~~-Commission for Banks and Financial Institutions, and the words 'the  
43 Commissioner of Banks and Financial Institutions,' used in such statutes authorizing  
44 him to make rules and regulations, shall be construed to mean the ~~Banking~~-Commission

1 for Banks and Financial Institutions, and the words '~~Banking~~ Commission for Banks and  
2 Financial Institutions' substituted in such statutes for 'Commissioner of Banks and  
3 Financial Institutions.'

4 **"§ 53-96. Salary of Commissioner; legal assistance and compensation.**

5 The salary of the Commissioner of Banks and Financial Institutions shall be fixed by  
6 the General Assembly in the Budget Appropriation Act. The Governor may in his  
7 discretion appoint and assign to the Commissioner of Banks and Financial Institutions  
8 such legal assistance as in his judgment may be necessary. Compensation shall be  
9 within the salary classification for attorneys established by the State Personnel  
10 Commission.

11 "§ 53-97. **Repealed by Session Laws 1983, c. 328, s. 4, effective June 1, 1983.**

12 **"§ 53-98. Seal of office of Commissioner; certification of documents.**

13 The Commissioner of Banks and Financial Institutions shall have a seal of office  
14 bearing the legend 'State of North Carolina – Commissioner of Banks and Financial  
15 Institutions,' with such other appropriate device as he may adopt.

16 **"§ 53-99. Official records.**

17 (a) The Commissioner of Banks and Financial Institutions shall keep a record in  
18 his office of his official acts, rulings, and transactions which, except as hereinafter  
19 provided, shall be open to inspection, examination and copying by any person.

20 (b) Notwithstanding any laws to the contrary, the following records of the  
21 Commissioner of Banks and Financial Institutions shall be confidential and shall not be  
22 disclosed or be subject to public inspection:

- 23 (1) Records compiled during or in connection with an examination, audit  
24 or investigation of any bank, banking office or trust department  
25 operating under the provisions of this Chapter;
- 26 (2) Records containing information compiled in preparation or  
27 anticipation of litigation, examination, audit or investigation;
- 28 (3) Records containing the names of any borrowers from a bank or  
29 revealing the collateral given by any such borrower: Provided,  
30 however, that every report of insider transactions made by a bank  
31 which report is required to be filed with the appropriate State or  
32 federal regulatory agency by either State or federal statute or  
33 regulation shall be filed with the Commissioner of Banks and  
34 Financial Institutions in a form prescribed by him and shall be open to  
35 inspection, examination and copying by any person;
- 36 (4) Records prepared during or as a result of an examination, audit or  
37 investigation of any bank, bank affiliate, data service center or banking  
38 practice by an agency of the United States, or jointly by such agency  
39 and the Commissioner of Banks and Financial Institutions, if such  
40 records would be confidential under federal law or regulation;
- 41 (5) Records of information and reports submitted by banks to federal  
42 regulatory agencies, if such records would be confidential under  
43 federal law or regulation;

- 1 (6) Records of complaints from the public received by the banking  
2 department and concerning banks under its supervision if such  
3 complaints would or could result in an investigation;
- 4 (7) Records of examinations and investigations of consumer finance  
5 licensees;
- 6 (8) Records of pre-need burial contracts maintained pursuant to Article 7A  
7 of Chapter 65 of the General Statutes including investigations of such  
8 contracts and related credit inquiries;
- 9 (9) Any letters, reports, memoranda, recordings, charts, or other  
10 documents which would disclose any information set forth in any of  
11 the confidential records referred to in subdivisions (1) through (8).

12 **"§ 53-100. General or special investigations of insolvent banks.**

13 Whenever it may appear to be to the public interest, the Governor may cause a  
14 general or special investigation to be made of the affairs of any insolvent bank or banks,  
15 singly or in related groups, with a view to discovering and establishing the causes of the  
16 failure of such bank or banks, and responsibility therefor; and of discovering the  
17 dealings with such banks of persons, officers, corporations or municipalities which may  
18 have led to such insolvency or which may have endangered or involved any public  
19 funds therein. The Governor may assign counsel who shall prosecute such inquiry  
20 before the Commissioner of Banks and Financial Institutions, or a deputy or  
21 commissioner appointed by the Commissioner of Banks and Financial Institutions for  
22 the purpose; and the Commissioner of Banks and Financial Institutions is hereby  
23 empowered to conduct such investigation either in person or through such  
24 commissioner or deputy appointed by him. The inquiry shall be held at the office of the  
25 Commissioner of Banks and Financial Institutions in the City of Raleigh or at any other  
26 place or places in the State designated by the Commissioner of Banks and Financial  
27 Institutions under such rules and regulations as the ~~State Banking Commission~~ for Banks  
28 and Financial Institutions may prescribe and may be adjourned from time to time as  
29 convenience may require. Attendance of witnesses and production of papers may be  
30 required by subpoena under the hand of the Commissioner or his deputy, and on failure  
31 of any witness to appear as subpoenaed or his or her failure to produce any books or  
32 papers, as called for by such Commissioner or deputy on subpoena or other order due  
33 notice shall be served, at the instance of such Commissioner or deputy, of not less than  
34 three days to appear before a judge of the superior court residing in or holding courts  
35 within the district wherein such witness is subpoenaed or notified to appear or produce  
36 such records or papers, on a day certain and a place named, when such judge shall hear  
37 the matter and is authorized to punish such witness as for contempt as he may find on  
38 such hearing.

39 A summary of such investigation shall be made with the findings and  
40 recommendations of the Commissioner thereon, and a copy thereof submitted to the  
41 Governor, and when the facts shall disclose that any person or persons are criminally  
42 responsible, a summary shall be sent to the district attorney of the prosecutorial district  
43 as defined in G.S. 7A-60 likely to have jurisdiction of the matter, whose duty it shall be  
44 to have the matter presented to the grand jury for its action. The Governor may employ

1 counsel to assist in the prosecution of any person or persons criminally responsible and  
2 fix his compensation and the manner of its payment.

3 **"§ 53-101. Clerical help.**

4 The Commissioner of Banks and Financial Institutions is empowered to employ  
5 sufficient clerical and secretarial help, and other necessary labor to conduct the affairs  
6 of his office with economy and efficiency. Persons so employed shall be paid as other  
7 employees in the departments of the State and shall be under the same rules and  
8 regulations.

9 **"§ 53-102. Offices.**

10 Suitable offices shall be provided for the Commissioner of Banks and Financial  
11 Institutions in some state-owned public building in Raleigh.

12 **"§ 53-103. Repealed by Session Laws 1945, c. 743, s. 1.**

13 **"§ 53-104. Commissioner of Banks and Financial Institutions shall have**  
14 **supervision over, etc.**

15 Every bank or corporation transacting the business of banking, or doing a banking  
16 business in connection with any other business, under the laws of and within this State,  
17 and any individual, partnership, association, or corporation which undertakes or  
18 attempts to transact the business of banking, or do a banking business in connection  
19 with any other business, shall be under the supervision of the Commissioner of Banks  
20 and Financial Institutions. It shall be his duty to execute and enforce through the State  
21 bank examiners and such other agents as are now or may hereafter be created or  
22 appointed, all laws which are now or may hereafter be enacted relating to banks as  
23 defined in this Chapter. For the more complete and thorough enforcement of the  
24 provisions of this Chapter, the ~~State Banking Commission~~ for Banks and Financial  
25 Institutions is hereby empowered to promulgate such rules not inconsistent with the  
26 provisions of this Chapter, as may, in its opinion, be necessary to carry out the  
27 provisions of the laws relating to banks and banking as herein defined, and as may be  
28 further necessary to insure safe and conservative management of the banks under its  
29 supervision taking into consideration the appropriate interest of the depositors, creditors,  
30 stockholders, and the public in their relations with such banks. All banks doing business  
31 under the provisions of this Chapter shall conduct their business in a manner consistent  
32 with all laws relating to banks and banking, and all rules, regulations, and instructions  
33 that may be promulgated or issued by the ~~State Banking Commission~~ for Banks and  
34 Financial Institutions.

35 **"§ 53-104.1. Examination of nonbanking affiliates.**

36 The Commissioner of Banks and Financial Institutions, at his discretion, may  
37 examine the affiliates of a bank doing business under this Chapter to the extent it is  
38 necessary to safeguard the interest of depositors and creditors of the bank and of the  
39 general public, and to enforce the provisions of this Chapter. The Commissioner may  
40 conduct the examination in conjunction with any examination of the bank or affiliate  
41 conducted by any other state or federal regulatory authority. For the purpose of this  
42 section, the word 'affiliate' means any bank holding company of which the bank is a  
43 subsidiary and any nonbanking subsidiary of that bank holding company, as 'subsidiary'

1 is defined by Section 2 of the Federal Bank Holding Company Act of 1956 (12 U.S.C.  
2 Sec. 1841(d), as amended).

3 **"§ 53-105. Reports of condition.**

4 Every bank shall make to the Commissioner of Banks and Financial Institutions not  
5 less than three reports during each year, according to the form which may be prescribed  
6 by ~~said~~ the Commissioner of Banks and Financial Institutions; which report shall be  
7 verified by the oath or affirmation of the president, vice-president, cashier, secretary, or  
8 treasurer of said bank, and in addition thereto, two of the directors. Each such report  
9 shall exhibit in detail and under appropriate heads the resources, assets, and liabilities of  
10 such bank at the close of business on any past day by the Commissioner of Banks and  
11 Financial Institutions specified, and shall be transmitted to the Commissioner of Banks  
12 and Financial Institutions within 10 days after the receipt of a request or requisition  
13 therefor from the Commissioner of Banks and Financial Institutions; provided, however,  
14 the Commissioner of Banks and Financial Institutions may extend the time for a period  
15 not to exceed 30 days for any bank to transmit the reports heretofore required whenever  
16 in his judgment such extension is necessary; and in a form prescribed by the  
17 Commissioner of Banks and Financial Institutions; a summary of such report shall be  
18 published in a newspaper published in the place where the bank is located, or if there is  
19 no newspaper in the place, then in the nearest one published thereto in the county in  
20 which such bank is established. Proof of such publication shall be furnished the  
21 Commissioner of Banks and Financial Institutions in such form as may be prescribed by  
22 him.

23 **"§ 53-106. Special reports.**

24 The Commissioner of Banks and Financial Institutions may call for special reports  
25 whenever in his judgment it is necessary to inform him of the condition of any bank, or  
26 to obtain a full and complete knowledge of its affairs. Said reports shall be in and  
27 according to the form prescribed by the Commissioner of Banks and Financial  
28 Institutions, and shall be verified in the manner provided in G.S. 53-105, and shall be  
29 published as therein provided, if required by the Commissioner of Banks and Financial  
30 Institutions so to be. The Commissioner of Banks and Financial Institutions may extend  
31 the time for filing special reports for a period not to exceed 30 days.

32 **"§ 53-107. Penalty for failure to make report.**

33 Every bank failing to make and transmit any report which the Commissioner of  
34 Banks and Financial Institutions is authorized to require by this Chapter, and in and  
35 according to the form prescribed by said Commissioner of Banks and Financial  
36 Institutions, within 10 days after the receipt of a request or requisition therefor, or  
37 within the extension of time granted by the Commissioner of Banks and Financial  
38 Institutions heretofore provided or failing to publish the reports as required, shall  
39 forthwith be notified by the Commissioner of Banks and Financial Institutions, and if  
40 such failure continue for five days after the receipt of such notice, such delinquent bank  
41 shall be subject to a penalty of two hundred dollars (\$200.00). The penalty herein  
42 provided for shall be recovered in a civil action in any court of competent jurisdiction,  
43 and it shall be the duty of the Attorney General to prosecute all such actions.

44 **"§ 53-108. List of stockholders to be kept.**



1 Every bank doing business under this Chapter shall at all times keep a correct record  
2 of the names of all its stockholders and whenever called upon by the Commissioner of  
3 Banks and Financial Institutions or his duly authorized agent, make available for  
4 examination a correct list of all its stockholders, the resident address of each, and the  
5 number of shares held by each. Whenever the word 'stockholders' is used in this  
6 section, the same shall be deemed to include, to the extent available, stockholders of any  
7 corporations which own ten percent (10%) or more of the capital stock of any bank  
8 doing business under this Chapter or a lesser amount when required by the  
9 Commissioner.

10 "**§ 53-109. Official communications of Commissioner of Banks and Financial**  
11 **Institutions.**

12 Each official communication directed by the Commissioner of Banks and Financial  
13 Institutions, or any State bank examiner, to any bank, or to any officer thereof, relating  
14 to an examination or investigation conducted or made by the Commissioner of Banks  
15 and Financial Institutions, or containing suggestions or recommendations as to the  
16 conduct of the bank shall, if required by the authority submitting same, be submitted by  
17 the officer or director receiving it, to the executive committee or board of directors of  
18 such bank and duly noted in the minutes of such meeting. The receipt and submission of  
19 such notice to the executive committee or board of directors shall be certified to the  
20 Commissioner of Banks and Financial Institutions within such time as he may require,  
21 by three members of such committee or board.

22 "**§ 53-110. ~~Banking~~-Commission for Banks and Financial Institutions to prescribe**  
23 **books, records, etc.; retention, reproduction and disposition of records.**

24 (a) Whenever in its judgment it may appear to be advisable, the ~~State Banking~~  
25 Commission for Banks and Financial Institutions may issue such rules, instructions, and  
26 regulations prescribing the manner of keeping books, accounts, and records of banks as  
27 will tend to produce uniformity in the books, accounts, and records of banks of the same  
28 class.

29 (b) The following provisions shall be applicable to banks and trust companies  
30 operating under Chapter 53 of the General Statutes and amendments thereto, and to  
31 national banking associations insofar as this section does not contravene paramount  
32 federal law:

- 33 (1) Each bank shall retain permanently the minute books of meetings of its  
34 stockholders and directors, its capital stock ledger and capital stock  
35 certificate ledger or stubs, and all records which the ~~Banking~~  
36 Commission for Banks and Financial Institutions shall in accordance  
37 with the terms of this section require to be retained permanently.
- 38 (2) All other bank records shall be retained for such periods as the ~~Banking~~  
39 Commission for Banks and Financial Institutions shall in accordance  
40 with the terms of this section prescribe.
- 41 (3) The ~~Banking~~-Commission for Banks and Financial Institutions shall  
42 from time to time issue regulations classifying all records kept by  
43 banks and prescribing the period for which records of each class shall  
44 be retained. Such periods may be permanent or for a lesser term of

1 years. Such regulations may from time to time be amended or  
2 repealed, but any amendment or repeal shall not affect any action  
3 taken prior to such amendment or repeal. Prior to issuing any such  
4 regulations the Commission shall consider:

- 5 a. Actions at law and administrative proceedings in which the  
6 production of bank records might be necessary or desirable;
- 7 b. State and federal statutes of limitation applicable to such actions  
8 or proceedings;
- 9 c. The availability of information contained in bank records from  
10 other sources; and
- 11 d. Such other matters as the ~~Banking~~ Commission for Banks and  
12 Financial Institutions shall deem pertinent in order that its  
13 regulation will require banks to retain their records for as short  
14 a period as is commensurate with the interest of bank customers  
15 and stockholders and of the people of this State in having bank  
16 records available.

17 (4) Any bank may cause any or all records kept by it to be recorded,  
18 copied or reproduced by any photographic, photostatic or miniature  
19 photographic process which correctly, accurately, and permanently  
20 copies, reproduces or forms a medium for copying or reproducing the  
21 original record on a film or other durable material.

22 (5) Any such photographic, photostatic or miniature photographic copy or  
23 reproduction shall be deemed to be an original record for all purposes  
24 and shall be treated as an original record in all courts and  
25 administrative agencies for the purpose of its admissibility in evidence.  
26 A facsimile, exemplification or certified copy of any such  
27 photographic copy or reproduction shall, for all purposes, be deemed a  
28 facsimile, exemplification or certified copy of the original record.

29 (6) Any bank may dispose of any record which has been retained for the  
30 period prescribed by the Banking Commission or in accordance with  
31 the terms of this section for retention of records for its class.

32 **"§ 53-111. When reserve below legal requirement.**

33 When the reserve of any bank falls below the amount required by law, it shall not  
34 make new loans or discounts, otherwise than by discounting or purchasing bills of  
35 exchange, payable at sight or on demand, nor make dividends of its profits until the  
36 reserve required by law is restored. The Commissioner of Banks and Financial  
37 Institutions shall require any bank whose reserve falls below the amount herein required  
38 immediately to make good such reserve. In case the bank fails for 30 days thereafter to  
39 make good its reserve the Commissioner of Banks and Financial Institutions may  
40 forthwith take possession of the property and business of such bank until its affairs be  
41 adjusted or finally liquidated as provided for in this Chapter.

42 **"§ 53-112. Appraisal of assets of doubtful value.**

43 If any assets of a bank are of a doubtful or disputed value, an appraisal of such assets  
44 may be had by the Commissioner of Banks and Financial Institutions, and for the

1 purpose of making such appraisal the Commissioner of Banks and Financial Institutions  
2 shall designate one agent as an appraiser and the bank shall designate an agent as an  
3 appraiser and the two so chosen shall designate a third. The appraisers so selected shall  
4 make an appraisal of the assets so designated as doubtful or disputed and file a written  
5 report of their appraisal with the bank and with the Commissioner of Banks and  
6 Financial Institutions. In making such appraisal the appraisers shall determine the actual  
7 cash market value of such assets. Such appraisal, when made, shall be accepted as the  
8 value of such assets for the purpose of examination or for the purpose of determining  
9 the actual cash market value of such assets. The appraisers designated shall not be  
10 interested, in any way, either in the bank or as an employee of the Commissioner of  
11 Banks and Financial Institutions and all expenses of such appraisal shall be paid by the  
12 bank whose assets are appraised. If any bank required to appoint an appraiser hereunder  
13 shall fail for 10 days to appoint an appraiser, the Commissioner of Banks and Financial  
14 Institutions may apply to the clerk of the superior court of the county in which the bank  
15 is located for the appointment of such an appraiser, and the clerk shall thereupon make  
16 the appointment for the bank.

17 **"§ 53-113. Certified copies of records as evidence.**

18 In all civil actions in the courts of this State wherein are involved as evidence or  
19 otherwise any of the records of the Commissioner of Banks and Financial Institutions, a  
20 certified copy over the signature and under the seal of the Commissioner of Banks and  
21 Financial Institutions shall be admissible in evidence to the same effect as if produced in  
22 court at trial by the proper custodian of the records.

23 **"§ 53-114. Other powers of ~~State Banking Commission~~ for Banks and Financial**  
24 **Institutions.**

25 In addition to all other powers conferred upon and vested in the ~~State Banking~~  
26 Commission for Banks and Financial Institutions, the said Commission, with the  
27 approval of the Governor, is hereby authorized, empowered and directed, whenever in  
28 its judgment the circumstances warrant it:

- 29 (1) To authorize, permit, and/or direct and require all banking corporations  
30 under its supervision, to extend for such period and upon such terms as  
31 it deems necessary and expedient, payment of any demand and/or time  
32 deposits.
- 33 (2) To direct, require or permit, upon such terms as it may deem  
34 advisable, the issuance of clearinghouse certificates or other evidences  
35 of claims against assets of such banking institutions.
- 36 (3) To authorize and direct the creation, in such banking institutions, of  
37 special trust accounts for the receipt of new deposits, which deposits  
38 shall be subject to withdrawal on demand without any restriction or  
39 limitation and shall be kept separate in cash or on deposit in such  
40 banking institutions as it shall designate or invested in such obligations  
41 of the United States and/or the State of North Carolina as it shall  
42 designate.
- 43 (4) To adopt for such banking institutions such regulations as are  
44 necessary in its discretion to enable such banking institutions to

1                   comply fully with the federal regulations prescribed for national or  
2                   state banks.

3 **"§ 53-115. ~~State Banking~~ Commission for Banks and Financial Institutions to make**  
4 **rules and regulations.**

5       The ~~State Banking~~ Commission for Banks and Financial Institutions is hereby  
6 authorized, empowered and directed to make all necessary rules and regulations, and to  
7 give all necessary instructions with respect to such actions of banking corporations  
8 which the Commissioner of Banks and Financial Institutions may authorize, permit  
9 and/or direct and require to be conducted under the provisions of G.S. 53-77, 53-114,  
10 53-115, and 53-116. And it shall be the duty of all such banking corporations and their  
11 officers, agents and employees, to comply fully with any and all such rules, regulations  
12 and instructions, established and promulgated by the ~~State Banking~~ Commission for  
13 Banks and Financial Institutions with respect to such banking corporations under the  
14 terms of G.S. 53-77, 53-114, 53-115, and 53-116; and such orders, rules, and  
15 regulations shall have the same force and effect as rules, regulations and instructions  
16 promulgated under the existing banking laws.

17 **"§ 53-116. Commissioner need not take over banks failing to meet deposit**  
18 **demands.**

19       The Commissioner of Banks and Financial Institutions is authorized and directed not  
20 to take possession of any banking corporation under his supervision for failure to meet  
21 its deposit liabilities during the period in which such banking corporation is operating  
22 under the terms of G.S. 53-114, subdivision (1); and he is hereby relieved from any and  
23 all liability for permitting such banking corporations to continue operations under the  
24 terms thereof."

25               Sec. 2. Notwithstanding the provisions of G.S. 53-92, in order to provide  
26 staggered terms for the members of the Commission for Banks and Financial  
27 Institutions, the initial appointments made pursuant to G.S. 53-92 shall be for the  
28 following terms beginning July 1, 1991: for two practical bankers, one association  
29 manager, one credit union manager, and four representatives of the public, a four-year  
30 term; and for the remaining members of the Commission, a two-year term. All  
31 appointments following the initial appointments shall be for four-year terms.

32               Sec. 3. G.S. 54-109.10 reads as rewritten:

33 **"§ 54-109.10. Creation and supervision of Division.**

34       ~~There shall be established in the North Carolina Department of Commerce a Credit~~  
35 ~~Union Division which shall be under the supervision of [the] Administrator of Credit~~  
36 ~~Unions appointed by the Secretary of Commerce. The Credit Union Division and the~~  
37 ~~Administrator of Credit Unions shall be under the general direction and supervision of~~  
38 ~~the Secretary of Commerce, and there shall be such assistants to the Administrator of~~  
39 ~~Credit Unions as may be necessary and the salaries of the Administrator and assistants~~  
40 ~~shall be fixed by the State Personnel Council. Effective July 1, 1991, all functions,~~  
41 records, and property of the Credit Union Division, the Credit Union Commission, and  
42 the Credit Union Administrator are transferred to the Commission for Banks and  
43 Financial Institutions and the Commissioner of Banks and Financial Institutions. All  
44 references to the Credit Union Division in this Article shall be construed as references

1 to the Commission for Banks and Financial Institutions and all references to the Credit  
2 Union Administrator shall be construed as references to the Commissioner of Banks and  
3 Financial Institutions."

4 Sec. 4. G.S. 54B-52 reads as rewritten:

5 **"§ 54B-52. Administrator of Savings and Loan Division.**

6 ~~The Administrator of the Savings and Loan Division of the State is hereby~~  
7 ~~empowered and directed to perform all the duties and exercise all the powers as to~~  
8 ~~savings and loan associations organized or operated under this Chapter, unless herein~~  
9 ~~otherwise provided.~~

10 Effective July 1, 1991, all functions, records, and property of the Administrator of  
11 the Savings and Loan Division are transferred to the Commissioner of Banks and  
12 Financial Institutions. All references to the Administrator of the Savings and Loan  
13 Division shall be construed as references to the Commissioner of Banks and Financial  
14 Institutions."

15 Sec. 5. G.S. 54B-53 reads as rewritten:

16 **"§ 54B-53. Savings and Loan Commission.**

17 ~~(a) The Savings and Loan Commission, which has heretofore been created, shall~~  
18 ~~continue to exist and the seven members of the Savings and Loan Commission who~~  
19 ~~have heretofore been appointed by the Governor shall continue to serve their full terms~~  
20 ~~and their successors shall be appointed by the Governor as required by this section. The~~  
21 ~~Governor shall on July 1, 1981, appoint three persons to the Commission for four year~~  
22 ~~terms. On July 1, 1983, he shall appoint two persons to the Commission for three year~~  
23 ~~terms, and two persons for four year terms. All appointments to the Commission~~  
24 ~~thereafter shall be for four year terms. Any vacancy on the Commission shall be filled~~  
25 ~~by the Governor for the unexpired term. A newly appointed commissioner shall assume~~  
26 ~~office at the first regular or special meeting subsequent to his appointment.~~

27 ~~(b) The members of the Commission shall elect one of their number to serve as~~  
28 ~~chairman of the Commission for such term as set forth in rules adopted by the~~  
29 ~~Commission. A vice chairman and other officers may be elected as specified by the~~  
30 ~~Commission.~~

31 ~~(c) The term of a commissioner shall be four years, or until his successor is~~  
32 ~~appointed and qualified.~~

33 ~~(d) At least two members of the Commission shall be persons who are currently~~  
34 ~~serving as managing officers of State associations. Four members of the Commission~~  
35 ~~shall be appointed as representatives of the borrowing public and shall not be employees~~  
36 ~~of or directors of any financial institution or have an interest in any financial institution~~  
37 ~~other than as a result of being a depositor or borrower.~~

38 ~~(e) Meetings of the Commission shall be held regularly as provided in rules~~  
39 ~~adopted by the Commission but no less than once each calendar quarter. Special~~  
40 ~~meetings shall be held at any time upon the call of the chairman, or upon the call of any~~  
41 ~~three commissioners. The Administrator shall call meetings when consideration by the~~  
42 ~~Commission is required by law for contemplated action of the Administrator. Members~~  
43 ~~of the Commission shall be reimbursed as prescribed by law for expenses incurred in~~  
44 ~~the performance of their duties under this section.~~

1       ~~(f) The relationship between the Secretary of Commerce and the Savings and~~  
2 ~~Loan Commission shall be as defined for a Type II transfer under Article [Chapter]~~  
3 ~~143A of the General Statutes.~~

4       ~~(g) The Savings and Loan Commission is hereby vested with full power and~~  
5 ~~authority to review, approve, disapprove, or modify any action taken by the~~  
6 ~~Administrator in the exercise of all powers, duties and functions vested in or exercised~~  
7 ~~by the Administrator under the savings and loan laws of this State.~~

8       Effective July 1, 1991, all functions, records, and property of the Savings and Loan  
9 Commission are transferred to the Commission for Banks and Financial Institutions.

10 All references to the Savings and Loan Commission in this Article shall be construed as  
11 references to the Commission for Banks and Financial Institutions."

12       Sec. 6. G.S. 143B-439 is repealed. All functions, records, and property of  
13 the Credit Union Commission are transferred to the Commission for Banks and  
14 Financial Institutions.

15       Sec. 7. This act shall become effective July 1, 1991, except that the Governor  
16 shall appoint the new Commissioner of Banks and Financial Institutions on or before  
17 April 1, 1991.