

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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HOUSE BILL 1022

Short Title: NC Community Reinvestment Act.

(Public)

Sponsors: Representatives Brubaker, Fitch; Beall, Easterling, Ethridge, Fletcher, Green, Hardaway, Hege, Holmes, H. Hunter, James, Jeralds, Jones, Luebke, Ramsey, Redwine, and Wainwright.

Referred to: Commerce.

April 19, 1991

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH THE NORTH CAROLINA COMMUNITY REINVESTMENT ACT.

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 21.

"NORTH CAROLINA COMMUNITY REINVESTMENT ACT.

"§ 53-260. Purpose.

The purpose of this act is to strengthen the capacity of banks to meet the credit needs of North Carolina communities. The provisions of this act serve the following specific objectives:

- (1) Provide the North Carolina Commissioner of Banks with community reinvestment authority that is equivalent to that of federal bank regulators. The purpose is to strengthen oversight of State-chartered banks, but without increasing their regulatory obligations.
- (2) Make the broad federal statement of credit needs specific to reflect North Carolina credit needs including the need for credit in rural areas, for small farms, and for small minority businesses.
- (3) Clarify the standards for evaluating the community reinvestment performance of State-chartered banks. The purpose is to provide

1 banks with clear options on how they can strengthen their capacity for
2 community reinvestment lending.

- 3 (4) Provide a central place for information that banks already disclose on
4 community reinvestment performance for local officials and the
5 general public.

6 **"§ 53-261. Definitions.**

7 As used in this Article, unless the context clearly requires otherwise:

8 (a) 'Banks' means financial institutions that are chartered by the State of North
9 Carolina, including commercial banks, savings associations, savings banks, and trust
10 companies with banking powers that are owned by interstate holding companies.

11 (b) 'Commissioner' refers to the Commissioner of Banks.

12 **"§ 53-262. Role of the Commissioner.**

13 (a) The Commissioner must assess the record of a bank in meeting the credit
14 needs of the entire community, including low- and moderate-income neighborhoods,
15 consistent with safe and sound bank operations. The occasions for doing so are the
16 following:

17 (1) If a bank applies under this Chapter to open a bank deposit facility,
18 move an office or branch location, merge or consolidate with another
19 bank, acquire assets of another bank, or assume liabilities of another
20 bank, the Commissioner must consider the record of the bank in
21 meeting community credit needs. The Commissioner may deny the
22 application or condition its approval on grounds of meeting
23 community credit needs.

24 (2) When the Commissioner routinely examines a bank under this
25 Chapter, the Commissioner must assess the record of a bank in
26 meeting community credit needs. The Commissioner should use this
27 process to counsel a bank in ways to strengthen its capacity for
28 community lending.

29 (3) In conjunction with each routine examination, but at least once every
30 five years, the Commissioner must prepare a written community
31 reinvestment evaluation under G.S. 53-263.

32 (b) The Commissioner shall share information and work responsibility under this
33 act with federal regulators. The Commissioner shall work with federal regulators in
34 order to minimize regulatory burdens of banks and to avoid the necessity of duplicating
35 the work of assessing the record of a bank to meet community credit needs.

36 (c) Public participation shall be encouraged in the implementation of this act, as
37 follows:

38 (1) Notice and hearing.

39 a. A bank shall publish notice of an application in a newspaper of
40 general circulation in the community(s) where the main office
41 of all affected banks is located.

42 b. The Commissioner shall prepare and update on a regular basis,
43 but at least monthly, a bulletin that lists all pending
44 applications. The Commissioner must mail the bulletin without

- 1 charge to any person upon request for a reasonable period of
2 time.
- 3 c. The Commissioner shall accept public comment on an
4 application for at least 30 days from the date of final publication
5 of notice in a newspaper or 30 days after the date that the
6 bulletin notice is mailed by the Commissioner, whichever date
7 is later.
- 8 (2) Advisory Committee.
- 9 a. The Commissioner shall create an advisory committee to
10 provide comments on the administration of this act and on the
11 role of banks in North Carolina economic development.
- 12 b. The Commissioner shall appoint nine members who represent
13 the following groups:
- 14 1. Large State-chartered commercial banks;
15 2. Small State-chartered commercial banks;
16 3. State-chartered savings and loan institutions;
17 4. Small minority-owned businesses;
18 5. Nonprofit developers of housing for low-income
19 families;
20 6. Community Development Corporations;
21 7. Family farms engaged in sustainable agriculture;
22 8. Intermediary organization providing financial/technical
23 assistance for community-lending purposes;
24 9. Representative of local government.
- 25 c. The Commissioner shall meet with the advisory committee at
26 least quarterly for the first year, and at least annually in
27 following years.
- 28 d. The Commissioner shall give at least 30 days notice of
29 proposed regulations, guidelines or other policy initiatives to
30 members of the advisory committee.
- 31 (d) At least once each year, the Commissioner shall gather information that both
32 federal- and State-chartered banks in North Carolina are required to disclose, and make
33 the information available to the public at a central place. That information shall include
34 all of the following and any other information that the Commissioner deems
35 appropriate.
- 36 (1) Community reinvestment performance:
- 37 a. Federal or State community reinvestment act statements;
38 b. Federal or State community reinvestment evaluations; and
39 c. Public or private studies of community lending data under the
40 federal Home Mortgage Disclosure Act if available.
- 41 (2) Banking trends.
- 42 a. Local market shares of banking assets for individual banks as
43 well as for all banks controlled by a holding company; and

1 b. Loan portfolio mix and loan-to-deposit ratios for each county in
2 a bank's market area.

3 (e) Each year, the Commissioner shall report to the Joint Legislative Commission
4 on Government Operations a summary of information that the Commissioner gathers
5 under this section regarding community reinvestment performance and banking trends
6 that affect economic development in North Carolina.

7 **"§ 53-263. Evaluation of banks.**

8 (a) The Commissioner shall rate a bank on a four-tiered rating system. The
9 ratings include:

10 (1) Outstanding record of meeting the community credit needs;

11 (2) Satisfactory record of meeting community credit needs;

12 (3) Needs to improve record of meeting community credit needs; or

13 (4) Substantial noncompliance in meeting community credit needs.

14 (b) The Commissioner shall consider the following factors in assessing a bank
15 record of performance.

16 (1) Ascertainment of community credit needs.

17 a. Activities taken to ascertain the credit needs of the community,
18 including the low- and moderate-income communities.

19 b. The extent of participation by the board of directors in
20 formulating policies and reviewing the institution's performance
21 with respect to the purpose and intent of the CRA.

22 (2) Marketing and types of credit extended.

23 a. Efforts to market and enhance the availability of credit services
24 to community members. Community members who have been
25 underserved include borrowers from rural areas or urban
26 minority neighborhoods and small business people and farmers,
27 particularly women and minorities in small businesses and
28 farming.

29 b. Origination of residential mortgage, housing rehabilitation,
30 home improvement, small business, and small farm loans.

31 c. Participation in governmentally-insured, guaranteed, or
32 subsidized loan programs for housing, small business, and small
33 farms.

34 d. Participation in programs sponsored by intermediaries such as
35 the Community Investment Corporation of North Carolina, the
36 North Carolina Agricultural Finance Authority, the Coalition of
37 Farm & Rural Families, the Microbusiness Loan Fund and the
38 Self-Help Credit Union.

39 (3) Geographic distribution.

40 a. Geographic distribution of credit extensions, applications, and
41 denials.

42 b. Record of opening and closing offices in the local community,
43 particularly low-and moderate-income areas. Accommodation
44 of the community needs through business hours and services.

- 1 (4) Discrimination and other illegal credit practices.
2 a. Practices intended to discourage applications for types of credit.
3 Development of policies, procedures, and training programs by
4 the board of directors and senior management to prevent illegal
5 discrimination and prescreening of applications.
6 b. Evidence of prohibited discriminatory or other illegal credit
7 practices.
8 (5) Community development.
9 a. Participation in local community development and
10 redevelopment programs or projects. This includes working
11 with government programs, and also working with community
12 development corporations and nonprofit intermediaries that
13 connect local borrowers with sources of funding the technical
14 assistance.
15 b. Ability to meet various community credit needs based upon the
16 banks' financial condition, size, legal impediments, local
17 economic conditions and other factors.
18 c. Any other factors that reasonably bear upon the extent to which
19 an institution is helping to meet the credit needs of its entire
20 community.

21 (c) The Commissioner must develop community reinvestment guidelines that
22 clarify the assessment factors in a way that identifies North Carolina credit needs and
23 opportunities. The guidelines must provide banks with clear options on how they can
24 strengthen their capacity for risk management, marketing, staff expertise, liquidity, and
25 public/private partnerships.

26 "**§ 53-264. Written evaluation and public disclosure.**

27 After concluding each evaluation of a bank under G.S. 53-236, the Commissioner
28 shall prepare a written evaluation of the bank's record of meeting community credit
29 needs. Each evaluation shall include a public and a confidential section.

- 30 (1) The public section of an evaluation shall include:
31 a. The Commissioner's conclusions for each of the assessment
32 factors under this act;
33 b. A discussion of the facts supporting the Commissioner's
34 conclusions; and
35 c. A rating for the bank and a statement of the basis for the rating.
36 The Commissioner shall keep the public section of the evaluation in
37 a file readily available for public inspection.
38 (2) The confidential section of the evaluation the Commissioner shall
39 include all references that identify any customer, employee, or officer
40 of the bank, or person or organization that has provided information in
41 confidence to a federal or State agency.
42 In the confidential section the Commissioner may include any
43 statements obtained or made by the Commissioner in the course of an

1 evaluation that is too sensitive or speculative in nature to disclose to
2 the bank or the public.

3 The Commissioner may disclose all or part of the confidential
4 section to the bank, if the Commissioner decides that disclosure will
5 promote the purposes of this act. However, the Commissioner shall
6 not identify a person or organization that has provided information in
7 confidence to the Commissioner or another agency.

8 **"§ 53-265. Requirements of banks.**

9 (a) Each bank shall annually delineate the local community or communities that
10 it serves. The bank shall use maps to portray community delineations.

11 For the purpose of this act, a community delineator must include contiguous areas
12 surrounding each bank office or branch. The community delineation must also include
13 any low- and moderate-income neighborhoods in the contiguous areas. A bank may
14 include more than one office in the same community. A community delineation need
15 not take into account an off-premises electronic facility that receives deposits for more
16 than one institution unless the Commissioner determines otherwise.

17 (b) The board of directors or trustees of each bank shall adopt a community
18 reinvestment statement for each delineated community, as follows:

19 (1) The bank shall include at least the following in each community
20 reinvestment statement:

21 a. The delineation of its community service area.

22 b. A list of specific types of credit within categories that the
23 institution is prepared to extend within its community.

24 c. A copy of the community reinvestment files.

25 (2) The bank may include the following in each community reinvestment
26 statement:

27 a. A description of how its current efforts, including special
28 credit-related programs, help to meet community credit needs.

29 b. A periodic report regarding its record of helping to meet
30 community credit needs.

31 c. A description of its efforts to ascertain the credit needs of its
32 community, including efforts to communicate with members of
33 its community regarding credit needs.

34 d. An annual business plan for community lending that identifies
35 how the institution intends to strengthen bank capacity for
36 community lending with respect to risk management,
37 marketing, staff expertise, liquidity, and participation in public
38 or private programs.

39 A bank board of directors or trustees shall review each community
40 reinvestment statement at least annually and shall act upon any
41 material changed in the statement at its first regular meeting after the
42 change.

43 **"§ 53-266. Public disclosure of community reinvestment statements.**

1 (a) A bank shall make a current community reinvestment statement readily
2 available for public inspection at the head office of the bank, and at each main office of
3 the institution in its market areas, except off-premises electronic deposit facilities.

4 (b) A bank shall provide copies of each current community reinvestment
5 statement to the public upon request. A bank may charge a fee for such copies not to
6 exceed the actual cost of reproduction.

7 (c) Each bank shall maintain files that are readily available for public inspection
8 of:

9 (1) Any signed, written comments received from the public within the
10 past two years that specifically relate to any community reinvestment
11 statement or to the bank's record of meeting community credit needs:

12 (2) Any responses to the comments that the bank has made; and

13 (3) Each community reinvestment statements effect during the past two
14 years.

15 (d) A bank shall not include in the public file a comment or response that impairs
16 the reputation of any person other than the institution, or a statement that would violate
17 specific provisions of law.

18 (e) A bank shall maintain its public file at the head office and shall maintain
19 materials relating to each delineated community at a designated office in that
20 community."

21 Sec. 2. This act becomes effective January 1, 1992.