

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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SENATE BILL 205

Short Title: Community Reinvestment Act.

(Public)

Sponsors: Senator Jordan.

Referred to: Commerce.

February 15, 1995

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH THE COMMUNITY REINVESTMENT ACT.

The General Assembly of North Carolina enacts:

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

"ARTICLE 22.

"COMMUNITY REINVESTMENT ACT.

"§ 53-273. Title.

This Article shall be known and may be cited as the 'Community Reinvestment Act'.

"§ 53-274. Definitions.

As used in this Article, the following definitions apply:

(1) 'Bank' means any corporation, 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) 'Commissioner' means the Commissioner of Banks.

"§ 53-275. Community reinvestment by financial institutions.

(a) The Commissioner shall assess the record of each bank in satisfying its continuing and affirmative obligations to help meet the credit needs of its local communities, including low- and moderate-income neighborhoods, consistent with the

1 safe and sound operation of banks, and shall consider the records in connection with
2 applications submitted by banks as set forth in G.S. 53-279(e).

3 (b) Each bank shall prepare and, at least annually, review a delineation of the local
4 community or communities that comprise its community, including low- and moderate-
5 income neighborhoods. Maps shall be used to portray community delineations. The
6 Commissioner shall review the reasonableness of the delineations. For purposes of this
7 Article, a local community consists of the contiguous areas surrounding each office or
8 group of offices of the bank, including any low- and moderate-income neighborhoods in
9 the areas. More than one office of a bank may be included in the same local community.
10 A community delineation need not take into account an automated or electronic facility
11 that receives deposits for more than one bank unless the Commissioner determines
12 otherwise. In preparing its delineation of a local community, a bank shall use any one of
13 the following:

14 (1) Existing boundaries such as those of metropolitan statistical areas or
15 counties in which the bank's office or offices are located. Where
16 appropriate, portions of adjacent areas should be included. The bank
17 may make adjustments in the case of areas divided by state borders or
18 significant geographic barriers, or areas that are extremely large or of
19 unusual configuration. In addition, a small bank may delineate those
20 portions of metropolitan statistical areas or counties it reasonably may
21 be expected to serve;

22 (2) The local area or areas around each office or group of offices where the
23 bank makes a substantial portion of its loans, and all other areas
24 equidistant from its offices as those areas. Adjustments such as those
25 provided in subdivision (1) of this subsection may be made; or

26 (3) Any other reasonably delineated local area that meets the purposes of
27 this section and does not exclude low- and moderate-income
28 neighborhoods.

29 **"§ 53-276. Adoption of community reinvestment statement.**

30 (a) The board of directors or trustees of each bank shall adopt a community
31 reinvestment statement for each delineated community. Each statement shall include at
32 least the following:

33 (1) The delineation of the local community.

34 (2) A list of specific types of credit within certain categories such as
35 residential loans for one to four dwelling units, residential loans for five
36 dwelling units and over, housing rehabilitation loans, home
37 improvement loans, small business loans, farm loans, community
38 development loans, commercial loans, and consumer loans that the bank
39 is prepared to extend within the local community.

40 (3) A copy of the community reinvestment notice as provided in G.S. 53-
41 278.

42 (b) Each bank may include the following in each community reinvestment
43 statement:

1 (1) A description of how its current efforts, including special credit-related
2 programs, help to meet community credit needs.

3 (2) A periodic report regarding its record of helping to meet community
4 credit needs.

5 (3) A description of its efforts to ascertain the credit needs of its
6 community, including efforts to communicate with members of its
7 community regarding credit services.

8 (c) Each bank's board of directors or trustees shall review each community
9 reinvestment statement at least annually and shall act upon any material change made in
10 the interim at its first regular meeting after the change. All actions shall be noted in its
11 minutes.

12 (d) Each current community reinvestment statement shall be readily available for
13 public inspection (i) at the main office of the bank, and (ii) at each office of the bank in
14 the local community delineated in the statement, except automated or electronic facilities.
15 Copies of each current community reinvestment statement and copies of the public
16 section of the most recent community reinvestment performance evaluation prepared by
17 the Commissioner pursuant to G.S. 53-279, or by the appropriate federal regulatory
18 agency pursuant to Title VIII of the Federal Community Reinvestment Act, 12 U.S.C. §
19 2901, et seq. and any regulations thereunder shall be provided to the public upon request.
20 A bank may charge a fee not to exceed the cost of reproduction and mailing, if
21 applicable.

22 **"§ 53-277. Bank files; availability; content.**

23 (a) Each bank shall maintain files that are readily available for public inspection
24 of:

25 (1) Signed, written comments received from the public within the past two
26 years that specifically relate to any community reinvestment statement
27 or to the bank's performance in helping to meet the credit needs of its
28 community or communities.

29 (2) A copy of the public section of the most recent community reinvestment
30 performance evaluation prepared by the Commissioner pursuant to G.S.
31 53-279, or by the appropriate federal regulatory agency pursuant to Title
32 VIII of the Federal Community Reinvestment Act, 12 U.S.C. § 2901, et
33 seq. as from time to time amended, and any regulations thereunder.

34 (3) Responses to comments or to the performance evaluation that the bank
35 wishes to make.

36 (4) All community reinvestment statements in effect during the past two
37 years. The bank shall place a copy of the public section of the
38 performance evaluation in the files within 30 business days after
39 receiving the performance evaluation from the Commissioner or the
40 appropriate federal regulatory agency. The format and content of the
41 performance evaluation may not be altered or abridged by the bank in
42 any manner. The bank shall be required to maintain in the files only the

1 most recent performance evaluation, whether prepared by the
2 Commissioner or the appropriate federal regulatory agency.

3 (b) The bank files shall not contain any comments or responses that reflect
4 adversely upon the good name or reputation of any person other than the bank, or the
5 publication of which would violate specific provisions of law. The files shall be
6 maintained by each bank as follows:

7 (1) All materials required by this section at the main office.

8 (2) The materials required by this section relating to each local community
9 at a designated office in the community.

10 **"§ 53-278. Community reinvestment notice.**

11 (a) Each bank shall provide, in the public lobby of each of its offices other than
12 automated or electronic facilities, a public notice substantially similar to the one set forth
13 below. Bracketed material shall be used only by a bank having more than one local
14 community.

15
16 **'COMMUNITY REINVESTMENT NOTICE**

17
18 Community reinvestment requires the evaluation of our performance in helping to
19 meet the credit needs of this community, and to take this evaluation into account when
20 the Commissioner decides on certain applications submitted by us.

21
22 Your involvement is encouraged.

23
24 You should know that:

25
26 You may obtain our current Community Reinvestment Statement for this community
27 in this office. (Current Community Reinvestment Statements for other communities
28 served by us are available at our main office, located at:

29
30)

31
32 You may send signed, written comments about our Community Reinvestment
33 Statement or our performance in helping to meet community credit needs to (title and
34 address of bank official) and to the Commissioner of Banks (address). Your letter,
35 together with any responses by us, may be made public.

36
37 You may look at a file of all signed, written comments received by us within the past
38 two years, any response we have made to the comments and all Community
39 Reinvestment Statements in effect during the past two years at our office located at
40 (address). (You also may look at the file about this community at (name and address of
41 designated office).)

42
43 You may ask to look at any comments received by the Commissioner of Banks.'

1
2 (b) If the bank is a subsidiary of a holding company, the following provision shall
3 be included in the community reinvestment notice required by subsection (a) of this
4 section:

5 'You may obtain the public section of our most recent Community Reinvestment
6 Performance Evaluation at (name and address of main office and designated community
7 office).'

8 (c) Within 30 business days of receiving its most recent community reinvestment
9 performance evaluation prepared by the Commissioner or the appropriate federal
10 regulatory agency, each bank shall add the following provision to the community
11 reinvestment notice required by subsection (a) of this section:

12 'You may obtain the public section of our most recent Community Reinvestment
13 Performance Evaluation at (name and address of main office and designated community
14 office).'

15 (d) The information, statements, evaluations, and notices required under this
16 section, G.S. 53-276 and G.S. 53-277, may be combined with or attached to the
17 information, statements, evaluations, and notices required under Title VIII of the Federal
18 Community Reinvestment Act, 12 U.S.C. § 2901, et seq. as from time to time amended,
19 and any regulations thereunder.

20 **"§ 53-279. Assessment of banks; factors to be considered; community reinvestment**
21 **performance evaluation.**

22 (a) In connection with the examination of a bank required pursuant to G.S. 53-4,
23 53-117, and 53-144, the Commissioner shall assess the record of the performance of the
24 bank in helping to meet the credit needs of its entire community, including low- and
25 moderate-income neighborhoods, consistent with the safe and sound operation of the
26 bank. The Commissioner shall review the bank's community reinvestment statement and
27 signed, written comments retained by the bank or the Commissioner. In addition, the
28 Commissioner shall consider the following factors in assessing a bank's record of
29 performance:

30 (1) Activities conducted by the bank to ascertain the credit needs of its
31 community, including the extent of the bank's efforts to communicate
32 with members of its community regarding the credit services being
33 provided by the bank.

34 (2) The extent of the bank's marketing and special credit-related programs
35 to make members of the community aware of the credit services offered
36 by the bank.

37 (3) The extent of participation by the bank's board of directors or trustees in
38 formulating the bank's policies, and reviewing its performance with
39 respect to the purposes of community reinvestment as set forth in this
40 section.

41 (4) Any practices intended to discourage applications for types of credit set
42 forth in the bank's community reinvestment statement.

- 1 (5) The geographic distribution of the bank's credit extensions, credit
2 applications, and credit denials.
- 3 (6) Evidence of prohibited discriminatory or other illegal credit practices.
- 4 (7) The bank's record of opening and closing offices and providing services
5 at offices.
- 6 (8) The bank's participation, including investments, in local community
7 development and redevelopment projects or programs.
- 8 (9) The bank's origination of residential mortgage loans, housing
9 rehabilitation loans, home improvement loans, and small business or
10 small farm loans within its community, or the purchase of loans
11 originated in its community.
- 12 (10) The bank's participation in governmentally insured, guaranteed, or
13 subsidized loan programs for housing, small businesses, or small farms.
- 14 (11) The bank's ability to meet various community credit needs based on its
15 financial condition and size, its legal impediments, local economic
16 conditions, and other factors.
- 17 (12) The geographic district and use of automatic teller machines, point-of-
18 sale terminals, or similar electronic facilities.
- 19 (13) Other factors, including efforts of the bank to work with delinquent
20 residential mortgage customers who are unemployed or underemployed
21 to facilitate a resolution of the delinquency, or other initiatives and
22 programs that, in the Commissioner's judgment, reasonably bear upon
23 the extent to which a bank is helping to meet the credit needs of its
24 entire community.

25 (b) Upon the conclusion of the assessment required under subsection (a) of this
26 section, the Commissioner shall prepare a written evaluation of the bank's record of
27 meeting the credit needs of its entire community, including low- and moderate-income
28 neighborhoods. Each community reinvestment performance evaluation prepared under
29 this subsection shall have a public section and a confidential section.

30 (c) The public section of the performance evaluation shall:

- 31 (1) State the Commissioner's conclusions for each assessment factor set
32 forth in subsection (a) of this section.
- 33 (2) Discuss the facts supporting the Commissioner's conclusions.
- 34 (3) Contain the bank's rating and a statement describing the basis for the
35 rating. The rating shall be one of the following:
- 36 a. Outstanding record of meeting community credit needs;
- 37 b. Satisfactory record of meeting community credit needs;
- 38 c. Needs to improve record of meeting community credit needs; or
- 39 d. Substantial noncompliance in meeting community credit needs.

40 The Commissioner shall furnish a copy of the public portion of the performance
41 evaluation to the bank upon its completion.

42 (d) The confidential section of the performance evaluation shall contain all
43 references that identify any customer of the bank, any employee or officer of the bank, or

1 any person or organization that has provided information in confidence to the
2 Commissioner or to any authorized employee of the State Banking Commission, or to a
3 federal depository institution's regulatory agency. The confidential section shall also
4 contain any statements obtained or made by the Commissioner or the Commissioner's
5 authorized employee in the course of an examination which, in the judgment of the
6 Commissioner, are too sensitive or speculative in nature to disclose to the bank or the
7 public. The confidential section may be disclosed, in whole or in part, to the bank if the
8 Commissioner determines that the disclosure will promote the objectives of this Article,
9 provided disclosures shall not identify a person or organization that has provided
10 information in confidence to the Commissioner or any authorized employee, or to any
11 federal depository institution's regulatory agency.

12 (e) In considering an application for the establishment of a branch or other facility
13 with the ability to accept deposits, the relocation of the main office or a branch office, or
14 a merger or consolidation with or the acquisition of assets or assumption of liabilities of
15 another bank or federally insured bank, the Commissioner shall consider the bank's
16 record of performance. The assessment of a bank's record of performance in helping to
17 meet the credit needs of its community may be the basis for denial of an application.

18 **"§ 53-280. Commissioner to prepare lists of banks.**

19 (a) The Commissioner shall annually prepare and submit to the State Treasurer a
20 list of banks that have received a rating of 'needs to improve' or of 'substantial
21 noncompliance' in connection with the community reinvestment performance evaluation
22 prepared by the Commissioner pursuant to G.S. 53-279 or by a federal depository
23 institution's regulatory agency pursuant to Title VIII of the Federal Community
24 Reinvestment Act, 12 U.S.C. § 2901, et seq. as from time to time amended, and any
25 regulations promulgated thereunder, whichever evaluation is made available most
26 recently. No bank included in the list may receive deposits pursuant to G.S. 147-69, 147-
27 77, or 159-30.

28 (b) The Commissioner shall also prepare and submit annually to the State
29 Treasurer a list, based on information received from the appropriate federal agency that
30 indicates those national banking associations that have been determined by the Office of
31 Thrift Supervision, the Federal Deposit Insurance Corporation, or the Office of the
32 Comptroller of the Currency to have received a rating of 'needs to improve' or of
33 'substantial noncompliance' in connection with the most recent community reinvestment
34 performance evaluation prepared and made available by a federal depository institution's
35 regulatory agency pursuant to Title VIII of the Federal Community Reinvestment Act, 12
36 U.S.C. § 2901, et seq. as from time to time amended, and any regulations promulgated
37 thereunder. No institution included in the list may receive deposits pursuant to G.S. 147-
38 69, 147-77, or 159-30."

39 Sec. 2. G.S. 53-4 reads as rewritten:

40 **"§ 53-4. Examination by Commissioner; when certification to be refused; review by**
41 **Commission.**

42 Upon receipt of a copy of the certificate of incorporation of the proposed bank, the
43 Commissioner of Banks shall at once examine into all the facts connected with the

1 formation of ~~such~~the proposed corporation including its location and proposed
2 stockholders, and if it appears that ~~such~~the corporation, if formed, will be lawfully
3 entitled to commence the business of banking, the Commissioner of Banks shall so
4 certify to the Secretary of State, unless upon examination and investigation ~~he~~the
5 Commissioner finds that that:

- 6 (1) The proposed corporation is formed for any other than legitimate
7 banking business; or
- 8 (2) That the character, general fitness, and responsibility of the persons
9 proposed as stockholders in such corporation and directors, officers, and
10 other managerial officials are not such as to command the confidence of
11 the community in which ~~said~~the bank is proposed to be located; or
- 12 (3) That the probable volume of business and reasonable public demand in
13 ~~such~~the community is not sufficient to assure and maintain the solvency
14 of the new bank and of the then existing bank or banks in ~~said~~the
15 community; or
- 16 (4) That the name of the proposed corporation is likely to mislead the
17 public as to its character or purpose; or
- 18 (5) That the proposed name is the same as the one already adopted or
19 appropriated by an existing bank in this State, or so similar thereto as to
20 be likely to mislead the public.

21 Upon ~~such~~certification the Secretary of State shall issue and record ~~such~~the
22 certificate of incorporation.

23 Notwithstanding any other provisions of this section, the Commissioner of Banks
24 shall not make the certification to the Secretary of State described above until ~~he~~shall
25 ~~have ascertained~~the Commissioner ascertains that the establishment of ~~such~~the bank will
26 meet the needs and promote the convenience of the community to be served by the ~~bank~~
27 bank, including the needs of low- and moderate-income neighborhoods in the community
28 pursuant to Article 22 of this Chapter. Any action taken by the Commissioner of Banks
29 pursuant to this section shall be subject to review by the State Banking Commission
30 which shall have the authority to approve, modify or disapprove any action taken or
31 recommended by the Commissioner of Banks."

32 Sec. 3. G.S. 53-12 reads as rewritten:

33 "**§ 53-12. Merger or consolidation of banks.**

34 (a) A bank may ~~merge or~~merge, consolidate with or transfer its assets and
35 liabilities to another ~~bank~~bank with the approval of the Commissioner of Banks. Before
36 ~~such merger or a merger~~, consolidation or transfer shall become effective, each bank
37 concerned in ~~such merger or the merger~~, consolidation or transfer shall file, or cause to be
38 filed, with the Commissioner of Banks, certified copies of all proceedings ~~had by of its~~
39 directors and ~~stockholders, which said stockholders' proceedings~~stockholders. The
40 proceedings shall set forth that holders of at least two thirds of the stock voted in the
41 affirmative on the proposition of ~~merger or merger~~, consolidation or ~~transfer~~. Such
42 stockholders' proceedings shall also transfer and shall contain a complete copy of the

1 agreement made and entered into between ~~said~~ the banks, with reference to ~~such merger or~~
2 ~~the merger~~, consolidation or transfer.

3 (b) Upon the filing of ~~such~~ the stockholders' and directors' ~~proceedings as aforesaid,~~
4 ~~proceedings~~, the Commissioner of Banks shall ~~cause to be made an investigation of~~
5 ~~investigate each bank bank. to determine whether the interests of the depositors, creditors, and~~
6 ~~stockholders of each bank are protected, and find such merger or consolidation is in the public~~
7 ~~interest, and that such merger or consolidation or transfer is made for legitimate purposes, and~~
8 ~~his consent to or rejection of such merger or consolidation or transfer shall be based upon such~~
9 ~~investigation. No such merger or consolidation or transfer shall be made without the consent of~~
10 ~~the Commissioner of Banks.~~ The Commissioner must approve all mergers and
11 consolidations based on the investigation. The Commissioner shall not approve a merger,
12 consolidation, or transfer unless the Commissioner finds:

13 (1) That the interests of the depositors, creditors, and stockholders of each
14 bank are protected.

15 (2) The merger, consolidation, or transfer is in the public interest.

16 (3) The merger, consolidation, or transfer is for legitimate purposes.

17 (4) Each of the banks has an 'outstanding' or 'satisfactory' performance
18 rating of meeting the credit needs of the community, including low- and
19 moderate-income neighborhoods consistent with the safe and sound
20 operation of the banking institution pursuant to Title VIII of the Federal
21 Community Reinvestment Act, 12 U.S.C. § 2901, et seq. and Article 22
22 of this Chapter.

23 The expense of ~~such~~ the investigation shall be paid by ~~such~~ the banks.

24 (c) Notice of ~~such merger or the merger~~, consolidation or transfer shall be published
25 for four weeks before or after the ~~same~~ notice is to become effective, at the discretion of
26 the Commissioner of Banks, in a newspaper published in a city, town, or county in which
27 each of ~~said~~ the banks is located, and a certified copy ~~thereof~~ shall be filed with the
28 Commissioner of Banks. ~~In case of either transfer or merger or consolidation the~~ The rights of
29 creditors shall be preserved unimpaired, and the respective companies shall be deemed to
30 be in existence to preserve ~~such~~ the rights of the creditors for a period of three years."

31 Sec. 4. G.S. 53-17.2 reads as rewritten:

32 "**§ 53-17.2. Conversion of savings association to a State bank.**

33 (a) Any association, as defined in G.S. 54B-4, may convert to a State bank as
34 provided in this section. A mutual association must first convert to a stock association
35 before applying for conversion to a bank as provided in this section. As used in this
36 section, the term 'conversion' includes (i) a transaction in which a State bank assumes all
37 or substantially all of the liabilities and purchases all or substantially all of the assets of
38 an association and (ii) any other transaction that results in a change of identity of an
39 association to a State bank. A transaction in which the resulting bank is a subsidiary or
40 an affiliate of a bank holding company or bank which has been in existence for at least
41 two years shall not be subject to the provisions of this section but shall be subject to the
42 approval of the Commissioner of Banks.

1 (b) Any association, upon a majority vote of its board of directors, may apply to
2 the Commissioner of Banks for permission to convert to a bank and for certification of
3 appropriate amendments to the association's certificate of incorporation to effect the
4 conversion.

5 (c) The association shall submit a plan of conversion as a part of the application to
6 the Commissioner of Banks. The Commissioner of Banks may recommend approval of
7 the plan of conversion with or without amendment. The Commissioner of Banks shall
8 recommend approval of the plan of conversion if upon examination and investigation ~~he~~
9 the Commissioner finds that:

10 (1) The resulting bank will operate in a safe, sound, and prudent manner
11 with adequate capital, liquidity, and earnings ~~prospects;~~ prospects.

12 (2) The directors, officers, and other managerial officials of the association
13 are qualified by character and financial responsibility to control and
14 operate in a legal and proper manner the bank proposed to be formed as
15 a result of the ~~conversion;~~ conversion.

16 (3) The interest of the depositors, the creditors, and the public generally will
17 not be jeopardized by the proposed ~~conversion;~~ and conversion.

18 (4) The proposed name will not mislead the public as to the character or
19 purpose of the resulting bank, and the proposed name is not the same as
20 one already adopted or appropriated by an existing bank in this State or
21 so similar as to be likely to mislead the public.

22 (5) The applicant has an 'outstanding' or 'satisfactory' performance rating of
23 meeting the credit needs of the community it services, including the
24 credit needs of low- and moderate-income neighborhoods consistent
25 with the safe and sound operation of the applicant pursuant to Title VIII
26 of the Federal Community Reinvestment Act, 12 U.S.C. § 2901, et seq.
27 and Article 22 of this Chapter.

28 (d) Any action taken by the Commissioner of Banks pursuant to this section shall
29 be subject to review by the State Banking Commission which may approve, modify, or
30 disapprove any action taken or recommended by the Commissioner of Banks. The State
31 Banking Commission may promulgate rules to govern conversions undertaken pursuant
32 to this section. The requirements for a converting association shall be no more stringent
33 than those provided by rule or regulation applicable to other FDIC-insured commercial
34 banks. The requirements for a converting association shall be no less stringent than those
35 provided by rule or regulation applicable to other FDIC-insured commercial banks,
36 except as may be allowed during transition periods permitted by subdivisions (e)(4) and
37 (h)(2) of this section.

38 (e) In the absence of the promulgation of rules under subsection (d), the conditions
39 to be met for approval of the application for conversion should include the following:

40 (1) Condition. The applicant's general condition must reflect adequate
41 capital, liquidity, reserves, earnings, and asset composition necessary
42 for safe and sound operation of the resulting bank.

- 1 (2) Management. The management and the board of directors must be
2 capable of supervising a sound banking operation and overseeing the
3 changes that must be accomplished in the conversion from an
4 association to a bank.
- 5 (3) Public Convenience. The Commission must determine that the
6 conversion will have a positive impact on the convenience of the public
7 and will not substantially reduce the services available to the public in
8 the market area. The Commission must also determine that the
9 applicant has an 'outstanding' or 'satisfactory' performance rating of
10 meeting the credit needs of the community it services, including the
11 credit needs of low- and moderate-income neighborhoods consistent
12 with the safe and sound operation of the applicant pursuant to Title VIII
13 of the Federal Community Reinvestment Act, 12 U.S.C. § 2901, et seq.
14 and Article 22 of this Chapter.
- 15 (4) Transition. Within a reasonable time after the effective date of the
16 conversion, the resulting bank must divest itself of all assets and
17 liabilities that do not conform to State banking law or rules. The length
18 of this transition period shall be determined by the Commissioner and
19 shall be specified when the application for conversion is approved.

20 In evaluating each of these conditions, the Commission shall consider a comparison
21 of the relevant financial ratios of the applicant with the average ratios of North Carolina
22 banks of similar asset size. The Commission may not approve a conversion where the
23 applicant presents an undue supervisory concern or has not been operated in a safe and
24 sound manner.

25 (f) If the State Banking Commission approves the plan of conversion, then the
26 association shall submit the plan to the stockholders as provided in subsection (g). After
27 approval of the plan of conversion, the Commissioner of Banks shall supervise and
28 monitor the conversion process and shall ensure that the conversion is conducted
29 pursuant to law and the association's approved plan of conversion.

30 (g) After lawful notice to the stockholders of the association and full and fair
31 disclosure of the plan of conversion, the plan must be approved by a majority of the total
32 votes that stockholders of the association are eligible and entitled to cast. The vote by the
33 stockholders may be in person or by proxy. Following the vote of the stockholders, the
34 association shall file with the Commissioner of Banks the results of the vote certified by
35 an appropriate officer of the association. The Commissioner of Banks shall then approve
36 the requested conversion and the association shall file with the Secretary of State
37 amended articles of incorporation with the certificate of the Commissioner of Banks
38 attached. The conversion of the association to a bank shall be effective upon this filing.

39 (h) The Commissioner of Banks may authorize the resulting bank to do the
40 following:

- 41 (1) Wind up any activities legally engaged in by the association at the time
42 of conversion but not permitted to State banks.

- 1 (2) Retain for a transitional period any assets and deposit liabilities legally
2 held by the association at the effective date of the conversion that may
3 not be held by State banks.

4 The length, terms, and conditions of the transitional periods under subdivisions (1) and
5 (2) are subject to the discretion of the Commissioner of Banks.

6 (i) Upon conversion of an association to a bank, the legal existence of the
7 association does not terminate, and the resulting bank is a continuation of the association.
8 The conversion shall be a mere change in identity or form of organization. All rights,
9 liabilities, obligations, interest, and relations of whatever kind of the association shall
10 continue and remain in the resulting bank. Except as may be authorized during a
11 transitional period by the Commissioner of Banks pursuant to subsection (h), a bank
12 resulting from the conversion of an association shall have only those rights, powers and
13 duties which are authorized for banks by the laws of this State and the United States. All
14 actions and legal proceedings to which the association was a party prior to conversion
15 shall be unaffected by the conversion and shall proceed as if the conversion had not taken
16 place."

17 Sec. 5. G.S. 53-37 reads as rewritten:

18 **"§ 53-37. Conditions under which banks may reopen.**

19 Whenever the Commissioner of Banks has taken in possession any bank, ~~such~~the
20 bank may, with the consent of the Commissioner of Banks, resume business upon ~~such~~
21 terms and conditions ~~as may be~~ approved by the State Banking Commission. When ~~such~~
22 banks have been taken in possession under the provisions of G.S. 53-20, subsections (a)
23 or (b), ~~such~~the conditions shall be fully stated in writing and a copy ~~thereof~~
24 shall be filed with the clerk of the superior court in the action required to be commenced
25 in ~~such~~ cases against ~~said~~the bank under the provisions of G.S. 53-20, subsection (c):
26 Provided, however, no bank or banking institution ~~which~~that has been taken in
27 possession by the Commissioner of Banks under the provisions of the State banking laws
28 shall be reopened to receive deposits or for the transaction of a banking business unless
29 and until:

- 30 (1) The bank has been completely restored to ~~solvency~~solvency.
31 (2) The capital stock, if impaired, has been entirely restored in ~~cash~~cash.
32 (3) It shall clearly appear to the Commissioner of Banks that ~~such~~the bank
33 may be reopened with safety to the public and ~~such~~the reopening is
34 necessary to serve the business interests of the community.
35 (4) The Commissioner of Banks determines that the bank will serve the
36 interests of the community it services, including the low- and moderate-
37 income neighborhoods in the community, consistent with the safe and
38 sound operation of the bank based on the performance rating of the bank
39 pursuant to Title VIII of the Federal Community Reinvestment Act, 12
40 U.S.C. § 2901, et seq. and Article 22 of this Chapter."

41 Sec. 6. G.S. 53-62(b) reads as rewritten:

42 "(b) A bank doing business under this Chapter may establish branches or limited
43 service facilities within this State after having first obtained the written approval in ~~his~~

1 the Commissioner's discretion. The Commissioner of ~~Banks, in exercising such discretion,~~
2 Banks shall take into account, but not by way of limitation, such factors as the financial
3 history and condition of the applicant bank, the adequacy of ~~its~~ the applicant's capital
4 structure, its future earnings prospects, and the general character of its management. ~~Such~~
5 ~~approval~~ Approval shall not be given until ~~he shall find~~ the Commissioner finds:

6 (i)(1) ~~that~~ That the establishment of ~~such~~ the branch or limited service facility
7 will meet the needs and promote the convenience of the community to
8 be served by the ~~bank and bank.~~

9 (ii)(2) ~~that~~ That the probable volume of business and reasonable public demand
10 in ~~such~~ the community are sufficient to assure and maintain the solvency
11 of ~~said~~ the branch or limited service facility and of the existing bank or
12 banks in ~~said~~ the community.

13 (3) That the bank has an 'outstanding' or 'satisfactory' performance rating of
14 meeting the credit needs of the community it services, including the
15 credit needs of low- and moderate-income neighborhoods consistent
16 with the safe and sound operation of the banking institution pursuant to
17 Title VIII of the Federal Community Reinvestment Act, 12 U.S.C. §
18 2901, et seq. and Article 22 of this Chapter.

19 The assessment of a bank's record of performance in helping to meet the credit needs of
20 its community may be the basis for denial of an application."

21 Sec. 7. G.S. 53-141 reads as rewritten:

22 "**§ 53-141. Powers.**

23 Industrial banks shall have the powers conferred by ~~paragraphs 1, 2, 3, 5 and 7 of G.S.~~
24 ~~55-17, subdivisions (1), (2), (3), (5) and (7) of subsection (a) of G.S. 55-17 and~~
25 ~~subdivision (3) of G.S. 53-43, such additional powers as may be necessary or incidental~~
26 ~~for the carrying out of their corporate purposes, and in addition thereto the following~~
27 ~~powers:~~

28 (1) To discount and negotiate promissory notes, drafts, bills of exchange
29 and other evidences of indebtedness, and to loan money on real or
30 personal security, and to purchase notes, bills of exchange, acceptances
31 or other choses in action, and to take and receive interest or discounts
32 subject to G.S. 53-43(1).

33 (2) To make loans and charge and receive interest at rates not exceeding the
34 rates of interest provided in G.S. 24-1.1 and G.S. 24-1.2.

35 (3) To establish branch offices or places of business within the county in
36 which its principal office is located, and elsewhere in the State, after
37 having first obtained the written approval of the Commissioner of
38 Banks, which approval may be given or withheld by the Commissioner
39 of Banks, in ~~his~~ the Commissioner's discretion. The Commissioner of
40 ~~Banks, in exercising such discretion,~~ Banks shall take into account, but not
41 by way of limitation, such factors as the financial history and condition
42 of the applicant bank, the adequacy of ~~its~~ the applicant's capital
43 structure, its future earnings prospects, and the general character of its

1 management. ~~Such approval~~ Approval shall not be given until ~~he shall~~
2 ~~find the~~ Commissioner finds:

- 3 a. That the establishment of ~~such a~~ branch or teller's window will
4 meet the needs and promote the convenience of the community
5 to be served by the ~~bank, and bank~~.
- 6 b. That the probable volume of business and reasonable public
7 demand in ~~such the~~ community are sufficient to assure and
8 maintain the solvency of ~~said the~~ branch or teller's window and of
9 the existing bank or banks in ~~said the~~ community.
- 10 c. That the bank has an 'outstanding' or 'satisfactory' performance
11 rating of meeting the credit needs of the community it services,
12 including the credit needs of low- and moderate-income
13 neighborhoods consistent with the safe and sound operation of
14 the banking institution pursuant to Title VIII of the Federal
15 Community Reinvestment Act, 12 U.S.C. § 2901, et seq. and
16 Article 22 of this Chapter.

17 Provided, that the Commissioner of Banks shall not authorize the
18 establishment of any branch the paid-in capital of whose parent bank is
19 not sufficient in amount to provide for capital in an amount equal to that
20 required with respect to the establishment of branches of commercial
21 banks under the provisions of G.S. 53-62. For the purposes of this
22 paragraph, the provisions of G.S. 53-62 as to the meaning of the word
23 'capital' shall be applicable.

24 A bank may discontinue a branch office upon resolution of its board
25 of directors or board of managers. Upon the adoption of ~~such a~~
26 resolution, the bank shall file a certification with the Commissioner of
27 Banks specifying the location of the branch office to be discontinued
28 and the date upon which it is proposed that the discontinuance shall be
29 effective. This certificate must state the reasons for the closing of ~~such~~
30 ~~the~~ branch and indicate that the needs and convenience of the
31 community would still be adequately met. Notice stating the intention to
32 discontinue the ~~said~~ branch shall be published in a newspaper serving
33 ~~said the~~ community once a week for four consecutive weeks before a
34 certificate requesting a discontinuance is filed with the Commissioner of
35 Banks. No ~~such~~ branch may be discontinued until approved by the
36 Commissioner of Banks, who shall first hold a public hearing thereon, if
37 so requested by any interested party.

- 38 (4) Subject to the approval of the Commissioner of Banks and on the
39 authority of its board of directors, or a majority thereof, to enter into
40 ~~such a~~ contract, incur ~~such~~ obligations and generally to do and perform
41 any and all ~~such~~ acts and things whatsoever as may be necessary or
42 appropriate in order to take advantage of any and all memberships,
43 loans, subscriptions, contracts, grants, rights or privileges, which may at

1 any time be available or inure to banking institutions, or to their
2 depositors, creditors, stockholders, conservators, receivers or
3 liquidators, by virtue of those provisions of section eight of the Federal
4 Banking Act of 1933 (section twelve B of the Federal Reserve Act as
5 amended) which establish the Federal Deposit Insurance Corporation
6 and provide for the insurance of deposits, or of any other provisions of
7 that or any other act or resolution of Congress to aid, regulate or
8 safeguard banking institutions and their depositors, including any
9 amendments of the same or any substitutions therefor; also, to subscribe
10 for and acquire any stock, debentures, bonds or other types of securities
11 of the Federal Deposit Insurance Corporation and to comply with the
12 lawful regulations and requirements from time to time issued or made
13 by ~~such~~ corporations.

14 (5) To solicit, receive and accept money or its equivalent on deposit both in
15 savings accounts and upon certificates of deposit.

16 (6) Subject to the approval of the State Banking Commission, to solicit,
17 receive and accept money or its equivalent on deposit subject to check;
18 provided, however, no ~~such~~ approval shall be given unless and until ~~such~~
19 the industrial bank meets the capital requirements of a commercial bank
20 as set forth in G.S. 53-2."

21 Sec. 8. G.S. 53-168(a) reads as rewritten:

22 "(a) Necessity for License; Prerequisites to Issuance. – No person shall engage in or
23 offer to engage in the business regulated by this Article unless and until a license has
24 been issued by the Commissioner of Banks, and the Commissioner shall not issue any
25 ~~such~~ license unless and until ~~he~~ the Commissioner finds:

26 (1) That authorizing the applicant to engage in ~~such~~ the business will
27 promote the convenience and advantage of the community in which the
28 applicant proposes to engage in ~~business; and~~ business, including low-
29 and moderate-income neighborhoods of the community.

30 (2) That the financial responsibility, experience, character and general
31 fitness of the applicant are such as to command the confidence of the
32 public and to warrant the belief that the business will be operated
33 lawfully and fairly, within the purposes of this ~~Article; and~~ Article.

34 (3) That the applicant has available for the operation of ~~such~~ the business at
35 the specified location loanable assets of at least twenty-five thousand
36 dollars (\$25,000)."

37 Sec. 9. G.S. 53-232.4(a) reads as rewritten:

38 "(a) International banking corporations, other than federal international bank
39 institutions, are subject to Articles 1 through 14 and Articles ~~17 and 18~~ 17, 18, and 22 of
40 this Chapter, except where it appears, from the context or otherwise, that a provision is
41 clearly applicable only to banks or trust companies organized under the laws of this State
42 or the United States. An international banking corporation has no greater right under, or
43 by virtue of, this Article than is granted to banks organized under the laws of this State."

1 Sec. 10. Chapter 54B of the General Statutes is amended by adding a new
2 Article to read:

3 **"ARTICLE 15.**

4 **"SAVINGS AND LOAN ASSOCIATIONS COMMUNITY REINVESTMENT**
5 **ACT.**

6 **"§ 54B-290. Title.**

7 This Article shall be known and may be cited as the 'Savings and Loan Associations
8 Community Reinvestment Act'.

9 **"§ 54B-291. Definitions.**

10 As used in this Article, the following definitions apply:

11 (1) 'Administrator' means the Administrator of the Savings Institutions
12 Division.

13 (2) 'Association' means State and federal associations, including mutual
14 savings and loan associations and stock associations as those terms are
15 defined in Article 1 of this Chapter.

16 **"§ 54B-292. Community reinvestment by financial institutions.**

17 (a) The Administrator shall assess the record of each association in satisfying its
18 continuing and affirmative obligations to help meet the credit needs of its local
19 communities, including low- and moderate-income neighborhoods, consistent with the
20 safe and sound operation of banks, and shall consider the records in connection with
21 applications submitted by associations as set forth in G.S. 54B-296(e).

22 (b) Each association shall prepare and, at least annually, review a delineation of
23 the local community or communities that comprise its community, including low- and
24 moderate-income neighborhoods. Maps shall be used to portray community delineations.
25 The Administrator shall review the reasonableness of the delineations. For purposes of
26 this Article, a local community consists of the contiguous areas surrounding each office
27 or group of offices of the association, including any low- and moderate-income
28 neighborhoods in the areas. More than one office of an association may be included in
29 the same local community. A community delineation need not take into account an
30 automated or electronic facility that receives deposits for more than one association
31 unless the Administrator determines otherwise. In preparing its delineation of a local
32 community, an association shall use any one of the following:

33 (1) Existing boundaries such as those of metropolitan statistical areas or
34 counties in which the association's office or offices are located. Where
35 appropriate, portions of adjacent areas should be included. The
36 association may make adjustments in the case of areas divided by state
37 borders or significant geographic barriers, or areas that are extremely
38 large or of unusual configuration. In addition, a small association may
39 delineate those portions of metropolitan statistical areas or counties it
40 reasonably may be expected to serve;

41 (2) The local area or areas around each office or group of offices where the
42 association makes a substantial portion of its loans, and all other areas

1 equidistant from its offices as those areas. Adjustments such as those
2 provided in subdivision (1) of this subsection may be made; or

- 3 (3) Any other reasonably delineated local area that meets the purposes of
4 this section and does not exclude low- and moderate-income
5 neighborhoods.

6 **"§ 54B-293. Adoption of community reinvestment statement.**

7 (a) The board of directors or trustees of each association shall adopt a community
8 reinvestment statement for each delineated community. Each statement shall include at
9 least the following:

- 10 (1) The delineation of the local community.
11 (2) A list of specific types of credit within certain categories such as
12 residential loans for one to four dwelling units, residential loans for five
13 dwelling units and over, housing rehabilitation loans, home
14 improvement loans, small business loans, farm loans, community
15 development loans, commercial loans, and consumer loans that the
16 association is prepared to extend within the local community.
17 (3) A copy of the community reinvestment notice as provided in G.S. 54B-
18 295.

19 (b) Each association may include the following in each community reinvestment
20 statement:

- 21 (1) A description of how its current efforts, including special credit-related
22 programs, help to meet community credit needs.
23 (2) A periodic report regarding its record of helping to meet community
24 credit needs.
25 (3) A description of its efforts to ascertain the credit needs of its
26 community, including efforts to communicate with members of its
27 community regarding credit services.

28 (c) Each association's board of directors or trustees shall review each community
29 reinvestment statement at least annually and shall act upon any material change made in
30 the interim at its first regular meeting after the change. All actions shall be noted in its
31 minutes.

32 (d) Each current community reinvestment statement shall be readily available for
33 public inspection (i) at the main office of the association, and (ii) at each office of the
34 association in the local community delineated in the statement, except automated or
35 electronic facilities. Copies of each current community reinvestment statement and
36 copies of the public section of the most recent community reinvestment performance
37 evaluation prepared by the Administrator pursuant to G.S. 54B-296, or by the appropriate
38 federal regulatory agency pursuant to Title VIII of the Federal Community Reinvestment
39 Act, 12 U.S.C. § 2901, et seq. and any regulations thereunder, shall be provided to the
40 public upon request. An association may charge a fee not to exceed the cost of
41 reproduction and mailing, if applicable.

42 **"§ 54B-294. Files; availability; content.**

1 (a) Each association shall maintain files that are readily available for public
2 inspection of:

3 (1) Signed, written comments received from the public within the past two
4 years that specifically relate to any community reinvestment statement
5 or to the association's performance in helping to meet the credit needs of
6 its community or communities.

7 (2) A copy of the public section of the most recent community reinvestment
8 performance evaluation prepared by the Administrator pursuant to G.S.
9 54B-296, or by the appropriate federal regulatory agency pursuant to
10 Title VIII of the Federal Community Reinvestment Act, 12 U.S.C. §
11 2901, et seq. as from time to time amended, and any regulations
12 thereunder.

13 (3) Responses to comments or to the performance evaluation that the
14 association wishes to make.

15 (4) All community reinvestment statements in effect during the past two
16 years. The association shall place a copy of the public section of the
17 performance evaluation in the files within 30 business days after
18 receiving the performance evaluation from the Administrator or the
19 appropriate federal regulatory agency. The format and content of the
20 performance evaluation may not be altered or abridged by the
21 association in any manner. The association shall be required to
22 maintain in the files only the most recent performance evaluation,
23 whether prepared by the Administrator or the appropriate federal
24 regulatory agency.

25 (b) The association files shall not contain any comments or responses that reflect
26 adversely upon the good name or reputation of any person other than the association or
27 the publication of which would violate specific provisions of law. The files shall be
28 maintained by each association as follows:

29 (1) All materials required by this section at the main office.

30 (2) The materials required by this section relating to each local community
31 at a designated office in the community.

32 **"§ 54B-295. Community reinvestment notice.**

33 (a) Each association shall provide, in the public lobby of each of its offices other
34 than automated or electronic facilities a public notice substantially similar to the one set
35 forth below. Bracketed material shall be used only by an association having more than
36 one local community.

37
38 **'COMMUNITY REINVESTMENT NOTICE**

39
40 Community Reinvestment requires the evaluation of our performance in helping to
41 meet the credit needs of this community, and to take this evaluation into account when
42 the Administrator decides on certain applications submitted by us.
43

Your involvement is encouraged.

You should know that:

You may obtain our current Community Reinvestment Statement for this community in this office. (Current Community Reinvestment Statements for other communities served by us are available at our main office, located at:

.....)

You may send signed, written comments about our Community Reinvestment Statement or our performance in helping to meet community credit needs to (title and address of association official) and to the Administrator. Your letter, together with any responses by us, may be made public.

You may look at a file of all signed, written comments received by us within the past two years, any response we have made to the comments and all Community Reinvestment Statements in effect during the past two years at our office located at (address). (You also may look at the file about this community at (name and address of designated office).)

You may ask to look at any comments received by the Administrator.'

(b) If the association is a subsidiary of a holding company, the following provision shall be included in the Community Reinvestment Notice required by subsection (a) of this section:

'You may obtain the public section of our most recent Community Reinvestment Performance Evaluation at (name and address of main office and designated community office).'

(c) Within 30 business days of receiving its most recent community reinvestment performance evaluation prepared by the Administrator or the appropriate federal regulatory agency, each association shall add the following provision to the community reinvestment notice required by subsection (a) of this section:

'You may obtain the public section of our most recent Community Reinvestment Performance Evaluation at (name and address of main office and designated community office).'

(d) The information, statements, evaluations, and notices required under this section, G.S. 54B-293, and G.S. 54B3-294 may be combined with or attached to the information, statements, evaluations, and notices required under Title VIII of the Federal Community Reinvestment Act, 12 U.S.C. § 2901, et seq., as from time to time amended, and any regulations thereunder.

"§ 54B-296. Assessment of associations; factors to be considered; community reinvestment performance evaluation.

1 (a) In connection with the examination of an association required pursuant to G.S.
2 54B-56, the Administrator shall assess the record of the performance of the association in
3 helping to meet the credit needs of its entire community, including low- and moderate-
4 income neighborhoods, consistent with the safe and sound operation of the association.
5 The Administrator shall review the association's community reinvestment statement and
6 signed, written comments retained by the association or the Administrator. In addition,
7 the Administrator shall consider the following factors in assessing an association's record
8 of performance:

- 9 (1) Activities conducted by the association to ascertain the credit needs of
10 its community, including the extent of the association's efforts to
11 communicate with members of its community regarding the credit
12 services being provided by the association.
- 13 (2) The extent of the association's marketing and special credit-related
14 programs to make members of the community aware of the credit
15 services offered by the association.
- 16 (3) The extent of participation by the association's board of directors or
17 trustees in formulating the association's policies, and reviewing its
18 performance with respect to the purposes of community reinvestment as
19 set forth in this section.
- 20 (4) Any practices intended to discourage applications for types of credit set
21 forth in the association's community reinvestment statement.
- 22 (5) The geographic distribution of the association's credit extensions, credit
23 applications, and credit denials.
- 24 (6) Evidence of prohibited discriminatory or other illegal credit practices.
- 25 (7) The association's record of opening and closing offices and providing
26 services at offices.
- 27 (8) The association's participation, including investments, in local
28 community development and redevelopment projects or programs.
- 29 (9) The association's origination of residential mortgage loans, housing
30 rehabilitation loans, home improvement loans, and small business or
31 small farm loans within its community, or the purchase of loans
32 originated in its community.
- 33 (10) The association's participation in governmentally insured, guaranteed,
34 or subsidized loan programs for housing, small businesses, or small
35 farms.
- 36 (11) The association's ability to meet various community credit needs based
37 on its financial condition and size, its legal impediments, local
38 economic conditions, and other factors.
- 39 (12) The geographic district and use of automatic teller machines, point-of-
40 sale terminals, or similar electronic facilities.
- 41 (13) Other factors, including efforts of the association to work with
42 delinquent residential mortgage customers who are unemployed or
43 underemployed to facilitate a resolution of the delinquency or other

1 initiatives and programs that, in the Administrator's judgment,
2 reasonably bear upon the extent to which an association is helping to
3 meet the credit needs of its entire community.

4 (b) Upon the conclusion of the assessment required under subsection (a) of this
5 section, the Administrator shall prepare a written evaluation of the association's record of
6 meeting the credit needs of its entire community, including low- and moderate-income
7 neighborhoods. Each community reinvestment performance evaluation prepared under
8 this subsection shall have a public section and a confidential section.

9 (c) The public section of the performance evaluation shall:

10 (1) State the Administrator's conclusions for each assessment factor set
11 forth in subsection (a) of this section.

12 (2) Discuss the facts supporting the Administrator's conclusions.

13 (3) Contain the association's rating and a statement describing the basis for
14 the rating. The rating shall be one of the following:

15 a. Outstanding record of meeting community credit needs;

16 b. Satisfactory record of meeting community credit needs;

17 c. Needs to improve record of meeting community credit needs; or

18 d. Substantial noncompliance in meeting community credit needs.

19 The Administrator shall furnish a copy of the public portion of the performance
20 evaluation to the association upon its completion.

21 (d) The confidential section of the performance evaluation shall contain all
22 references that identify any customer of the association, any employee or officer of the
23 association, or any person or organization that has provided information in confidence to
24 the Administrator or to a federal depository institution's regulatory agency. The
25 confidential section shall also contain any statements obtained or made by the
26 Administrator or the Administrator's authorized employee in the course of an
27 examination which, in the judgment of the Administrator, are too sensitive or speculative
28 in nature to disclose to the association or the public. The confidential section may be
29 disclosed, in whole or in part, to the association if the Administrator determines that the
30 disclosure will promote the objectives of this Article, provided disclosures shall not
31 identify a person or organization that has provided information in confidence to the
32 Administrator or any authorized employee, or to any federal depository institution's
33 regulatory agency.

34 (e) In considering an application for the establishment of a branch or other facility
35 with the ability to accept deposits, the relocation of the main office or a branch office, or
36 a merger or consolidation with or the acquisition of assets or assumption of liabilities of
37 another association, bank, federally insured bank or association, the Administrator shall
38 consider the association's record of performance. The assessment of an association's
39 record of performance in helping to meet the credit needs of its community may be the
40 basis for denial of an application.

41 **"§ 54B-297. Administrator to prepare lists of associations.**

42 (a) The Administrator shall annually prepare and submit to the State Treasurer a
43 list of associations that have received a rating of 'needs to improve' or of 'substantial

1 noncompliance' in connection with the community reinvestment performance evaluation
2 prepared by the Administrator, pursuant to G.S. 54B-296 or by a federal depository
3 institution's regulatory agency pursuant to Title VIII of the Federal Community
4 Reinvestment Act, 12 U.S.C. § 2901, et seq., as from time to time amended, and any
5 regulations promulgated thereunder, whichever evaluation is made available most
6 recently. No association included in the list may receive deposits pursuant to G.S. 147-
7 69, 147-77, or 159-30.

8 (b) The Administrator shall also prepare and submit annually to the State
9 Treasurer a list, based on information received from the appropriate federal agency that
10 indicates those national associations that have been determined by the Office of Thrift
11 Supervision, the Federal Deposit Insurance Corporation, or the Office of the Comptroller
12 of the Currency to have received a rating of 'needs to improve' or of 'substantial
13 noncompliance' in connection with the most recent community reinvestment performance
14 evaluation prepared and made available by a federal depository institution's regulatory
15 agency pursuant to Title VIII of the Federal Community Reinvestment Act, 12 U.S.C. §
16 2901, et seq., as from time to time amended, and any regulations promulgated thereunder.
17 No association included in the list may receive deposits pursuant to G.S. 147-69, 147-77,
18 or 159-30."

19 Sec. 11. G.S. 54B-9(b) reads as rewritten:

20 "(b) The application to organize a State association shall be received by the
21 Administrator not less than 60 days prior to the scheduled consideration of the
22 application by the Commission, and it shall contain:

- 23 (1) The original of the certificate of incorporation, which shall be signed by
24 the original incorporators, or a majority of them, but not less than five,
25 and shall be properly acknowledged by a person duly authorized by this
26 State to take proof or acknowledgment of deeds; and two conformed
27 ~~copies;~~ copies.
- 28 (2) The names and addresses of the incorporators; and the names and
29 addresses of the initial members of the board of ~~directors;~~ directors.
- 30 (3) Statements of the anticipated receipts, expenditures, earnings and
31 financial condition of the association for its first two years of operation,
32 or such longer period as the Administrator may ~~require;~~ require.
- 33 (4) A showing satisfactory to the Commission that:
- 34 a. The public convenience and advantage will be served by the
35 establishment of the proposed ~~association;~~ association.
- 36 b. There is a reasonable demand and necessity in the community
37 which will be served by the establishment of the proposed
38 ~~association;~~ association and the needs and demands of low- and
39 moderate-income neighborhoods in the community will be met
40 by the proposed association.
- 41 c. The proposed association will have a reasonable probability of
42 sustaining profitable and beneficial operations within a

1 reasonable time in the community in which the proposed
2 association intends to ~~locate~~, locate.

3 d. The proposed association, if established, will promote healthy
4 and effective competition in the community in the delivery to the
5 public of savings and loan ~~services~~, services.

6 (5) The proposed ~~bylaws~~, bylaws.

7 (6) Statements, exhibits, maps and other data which may be prescribed or
8 requested by the Administrator, which data shall be sufficiently detailed
9 and comprehensive so as to enable the administrator to pass upon the
10 criteria set forth in this Article."

11 Sec. 12. G.S. 54B-12 reads as rewritten:

12 **"§ 54B-12. Criteria to be met before the Administrator may recommend approval**
13 **of an application.**

14 (a) The Administrator may recommend approval of an application to form a
15 mutual association only when all of the following criteria are met:

16 (1) The proposed association has an operational expense fund, from which
17 to pay organizational and incorporation expenses, in an amount
18 determined by the Administrator to be sufficient for the safe and proper
19 operation of the association, but in no event less than seventy-five
20 thousand dollars (\$75,000). The moneys remaining in such expense
21 fund shall be held by the association for at least one year from its date of
22 licensing. No portion of such fund shall be released to an incorporator or
23 director who contributed to it, nor to any other contributor, nor to any
24 other person and no dividends shall be accrued or paid on such funds
25 without the prior approval of the Administrator.

26 (2) The proposed association has pledges for withdrawable accounts in an
27 amount determined by the Administrator to be sufficient for the safe and
28 proper operation of the association, but in no event less than four
29 million dollars (\$4,000,000).

30 (3) All entrance fees for withdrawable accounts of the proposed association
31 have been made with legal tender of the United States.

32 (4) All initial pledges for withdrawable accounts of the proposed
33 association are made by residents of North Carolina.

34 (5) The name of the proposed association will not mislead the public and is
35 not the same as an existing association or so similar to the name of an
36 existing association as to mislead the public.

37 (6) The character, general fitness and responsibility of the incorporators and
38 the initial board of directors of the proposed association who shall be
39 residents of North Carolina are such as to command the confidence of
40 the community in which the proposed association intends to locate.

41 (7) There is a reasonable demand and necessity in the community which
42 will be served by the establishment of the proposed ~~association~~.

1 association and the needs and demands of low- and moderate-income
2 neighborhoods of the community will be served.

3 (8) The public convenience and advantage will be served by the
4 establishment of the proposed association.

5 (9) The proposed association will have a reasonable probability of
6 sustaining profitable and beneficial operations in the community.

7 (10) The proposed association, if established, will promote healthy and
8 effective competition in the community in the delivery to the public of
9 savings and loan services.

10 (b) The Administrator may recommend approval of an application to form a stock
11 association only when all of the following criteria are met:

12 (1) The proposed association has prepared a plan to solicit subscriptions for
13 capital stock in an amount determined by the Administrator to be
14 sufficient for the safe and proper operation of the association, but in no
15 event less than three million dollars (\$3,000,000).

16 (2) Repealed by Session Laws 1989, c. 76, s. 3.

17 (3) All subscriptions for capital stock of the proposed association have been
18 purchased with legal tender of the United States.

19 (4) to (7). Repealed by Session Laws 1983, c. 144, s. 5.

20 (8) The name of the proposed association will not mislead the public and is
21 not the same as an existing association or so similar to the name of an
22 existing association as to mislead the public; and contains the wording
23 'corporation,' 'incorporated,' 'limited,' or 'company,' an abbreviation of
24 one of such words or other words sufficient to distinguish stock
25 associations from mutual associations.

26 (9) The character, general fitness, and trustworthiness of the incorporators,
27 initial board of directors, and initial stockholders of the proposed
28 association are such as to command the confidence of the community in
29 which the proposed association intends to locate.

30 (10) There is a reasonable demand and necessity in the community which
31 will be served by the establishment of the proposed ~~association.~~
32 association and the needs and demands of low- and moderate-income
33 neighborhoods of the community will be served.

34 (11) The public convenience and advantage will be served by the
35 establishment of the proposed association.

36 (12) The proposed association will have a reasonable probability
37 of sustaining profitable and beneficial operations in the community.

38 (13) The proposed association, if established, will promote healthy and
39 effective competition in the community in the delivery to the public of
40 savings and loan services.

41 (c) The minimum amount of pledges for withdrawable accounts or subscriptions
42 for capital stock may be adjusted in the discretion of the Administrator if he determines
43 that a greater requirement is necessary or that a smaller requirement will provide a

1 sufficient capital base. Such a finding and recommendation to the Commission shall be
2 based upon due consideration of (i) the population of the proposed trade area, (ii) the total
3 deposits of the depository financial institutions operating in the proposed trade area, (iii)
4 the economic conditions of and projections for the proposed trade area, (iv) the business
5 experience and reputation of the proposed management, (v) the business experience and
6 reputation of the proposed incorporators and directors, and (vi) the projected deposit
7 growth, capitalization, and profitability of the proposed association."

8 Sec. 13. G.S. 54B-22 reads as rewritten:

9 "**§ 54B-22. Branch offices.**

10 (a) Any State association may apply to the Administrator for permission to
11 establish a branch office. The application shall be in ~~such a~~ form as may be prescribed by
12 the Administrator and shall be accompanied by the proper branch application fee. Branch
13 applications shall be approved or denied by the Administrator within 120 days of filing.

14 (b) The Administrator shall approve a branch application when all of the following
15 criteria are met:

16 (1) The applicant has gross assets of at least ten million dollars
17 ~~(\$10,000,000);~~ (\$10,000,000).

18 (2) The applicant has evidenced financial ~~responsibility;~~ responsibility.

19 (3) The applicant has a net worth equal to or exceeding the amount required
20 by the insurer of the applicant's withdrawable ~~accounts;~~ accounts.

21 (4) The applicant has an acceptable internal control ~~system.~~ Such a system
22 ~~would include~~ system, which includes certain basic internal control
23 requirements essential to the protection of assets and the promotion of
24 operational efficiency regardless of the size of the applicant. Some of
25 the factors ~~which~~ that require extensive internal control requirements
26 such as the use of the controller or internal auditor and more distinctive
27 placement responsibilities include the applicant's size, number of
28 personnel and history of and anticipated plans for expansion.

29 (5) That the applicant has an 'outstanding' or 'satisfactory' performance
30 rating of meeting the credit needs of the community it services,
31 including the credit needs of low- and moderate-income neighborhoods
32 consistent with the safe and sound operation of the association pursuant
33 to Title VIII of the Federal Community Reinvestment Act, 12 U.S.C. §
34 2901, et seq. and Article 15 of this Chapter.

35 (c) Upon receipt of a branch application, the Administrator shall examine or cause
36 to be examined all the relevant facts connected with the establishment of the proposed
37 branch office. If it appears to the satisfaction of the Administrator that the applicant has
38 complied with all the requirements set forth in this section and the regulations for the
39 establishment of a branch office and that the association is otherwise lawfully entitled to
40 establish ~~such a~~ branch office, then the ~~administrator~~ Administrator shall approve the
41 branch application. The assessment of an applicant's record of performance in helping to
42 meet the credit needs of its community may be the basis for denial of an application.

1 (d) Not more than 10 days following the filing of the branch application with the
2 Administrator, the applicant shall cause a notice to be published in a newspaper of
3 general circulation in the area to be served by the proposed branch office. ~~Such~~The
4 notice shall contain:

5 (1) A statement that the branch application has been filed with the
6 ~~Administrator;~~Administrator.

7 (2) The proposed address of the branch office, including city or town and
8 ~~street; and street.~~

9 (3) A statement that any interested or affected party may file a written
10 statement with the Administrator, within 30 days of the date of the
11 publication of the notice, protesting the establishment of the proposed
12 branch office and requesting a hearing before the Administrator on the
13 application.

14 (e) Any interested or affected party may file a written statement with the
15 Administrator within 30 days of the date of initial publication of the branch application
16 notice, protesting the establishment of the proposed branch office and requesting a
17 hearing before the Administrator on the application. If a hearing is held on the branch
18 application, the Administrator shall only receive information and hear testimony from the
19 applicant and from any interested or affected party which is relevant to the branch
20 application and the operation of the proposed branch office. The Administrator shall
21 issue ~~his~~a final decision on the branch application within 30 days following the hearing.
22 ~~Such~~The final decision shall be in accordance with the applicable provisions of Chapter
23 150B of the General Statutes.

24 (f) If a hearing is not held on the branch application, the Administrator shall issue
25 ~~his~~a final decision within 120 days of the filing of the application. ~~Such~~The final
26 decision shall be in accordance with the applicable provisions of Chapter 150B of the
27 General Statutes.

28 (g) to (i) Repealed by Session Laws 1981 (Regular Session, 1982), c. 1238, s. 3.

29 (j) Any party to a branch application may appeal the final decision of the
30 Administrator to the Commission at any time after final decision, but not later than 30
31 days after a written copy of the final decision is served upon the party and ~~his~~the attorney
32 of record by personal service or by certified mail. Failure to file ~~such~~an appeal within
33 the time stated shall operate as a waiver of the right of ~~such~~the party to review by the
34 Commission and by a court of competent jurisdiction in accordance with Chapter 150B
35 of the General Statutes, relating to judicial review."

36 Sec. 14. G.S. 54B-23 reads as rewritten:

37 "**§ 54B-23. Application to change location of a branch or principal office.**

38 (a) The board of directors of a State association may change the location of a
39 branch office or the principal office of the association by submitting to the Administrator
40 an application for such change on forms prescribed by the Administrator.

41 (b) Upon receipt of an application accompanied by the proper application fee, the
42 Administrator shall conduct, or cause to be conducted, an examination and investigation
43 of the facts and circumstances connected with the consideration of the application. In

1 considering the application, the Administrator shall consider the association's record of
2 performance in helping to meet the credit needs of its community pursuant to G.S. 54B-
3 296. After ~~such an~~ examination and investigation, the Administrator shall approve or
4 deny the application.

5 (c) If an application filed under this section is approved by the Administrator and
6 the association fails to change the location of ~~such the~~ branch office or principal office
7 within six months after the date of the order approving ~~such the~~ application, ~~such~~ approval
8 shall be revoked. ~~Such a~~ The six-month period may be extended upon a showing to the
9 satisfaction of the Administrator of good cause."

10 Sec. 15. Article 3 of Chapter 54B is amended by adding a new section to read:
11 **"§ 54B-39.1. Community performance ratings considered.**

12 Neither the Administrator nor the Commission shall approve a plan of conversion or a
13 merger under this Article unless the associations applying for conversion or the
14 associations applying for merger have 'outstanding' or 'satisfactory' performance ratings
15 of meeting the credit needs of the community served pursuant to Article 15 of this
16 Chapter."

17 Sec. 16. G.S. 147-69 reads as rewritten:
18 **"§ 147-69. Deposits of State funds in banks and savings and loan associations**
19 **regulated.**

20 Banks and savings and loan associations having State deposits shall furnish to the
21 Auditor of the State, upon ~~his the~~ Auditor's request, a statement of the moneys which
22 have been received and paid by them on account of the treasury. The Treasurer shall
23 keep ~~in his office~~ a full account of all moneys deposited in and drawn from all banks and
24 savings and loan associations in which ~~he the~~ Treasurer may deposit or cause to be
25 deposited any of the public funds, and ~~such the~~ accounts shall be open to the inspection of
26 the Auditor. The Treasurer shall sign all checks, and no depository bank or savings and
27 loan association shall be authorized to pay checks not bearing ~~his the~~ official signature.
28 The Treasurer is authorized to use a facsimile signature machine or device in affixing ~~his~~
29 the Treasurer's signature to warrants, checks or any other instrument ~~he is required by law~~
30 to sign. law. The Commissioner of Banks and the bank examiners, and the Administrator
31 of the Savings Institutions Division, and savings and loan examiners, when so required
32 by the State Treasurer, shall keep the State Treasurer fully informed at all times as to the
33 condition of all ~~such~~ depository banks and savings and loan associations, so as to fully
34 protect the State from loss. The State Treasurer shall, before making deposits in any
35 bank or savings and loan association, require ample security from the bank or savings and
36 loan association for ~~such the~~ deposit. Banks and savings and loan associations listed by
37 the Commissioner of Banks and the Administrator of the Savings Institution Division
38 pursuant to G.S. 53-280 and G.S. 54B-297, respectively, may not receive deposits of
39 State funds."

40 Sec. 17. G.S. 159-30(b) reads as rewritten:

41 "(b) Moneys may be deposited at interest in any bank, savings and loan association,
42 or trust company in this State in the form of certificates of deposit or such other forms of
43 time deposit as the Commission may ~~approve~~ approve, except that banks and savings and

1 loan associations listed by the Commissioner of Banks and the Administrator of the
2 Savings Institution Division pursuant to G.S. 53-280 and G.S. 54B-297, respectively,
3 may not receive deposits of State funds. Investment deposits, including investment
4 deposits of a mutual fund for local government investment established under subdivision
5 (c)(8) of this section, shall be secured as provided in G.S. 159-31(b)."
6

Sec. 18. This act becomes effective October 1, 1995.