

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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SENATE BILL 430
House Committee Substitute Favorable 6/22/95

Short Title: Bank Investment Authority.

(Public)

Sponsors:

Referred to:

March 21, 1995

1 A BILL TO BE ENTITLED
2 AN ACT TO MODIFY THE INVESTMENT AUTHORITY OF A BANK UNDER THE
3 BANKING LAWS.

4 The General Assembly of North Carolina enacts:

5 Section 1. G.S. 53-47 reads as rewritten:

6 **"§ 53-47. Limitations on investment in stocks.**

7 ~~No bank shall make any investment in the capital stock of any other state or national~~
8 ~~bank. Provided, that nothing herein shall be construed to prevent banks doing business~~
9 ~~under this Chapter from subscribing to or purchasing, upon such terms as may be agreed~~
10 ~~upon, the capital stock of clearing corporations as defined in G.S. 25-8-102(3), the capital~~
11 ~~stock of banks organized under that act of Congress known as the "Edge Act", the capital~~
12 ~~stock of central reserve banks whose capital stock exceeds one million dollars~~
13 ~~(\$1,000,000), or capital stock of the Federal Home Loan Bank. To constitute a central~~
14 ~~reserve bank as contemplated by this Chapter, at least fifty percent (50%) of the capital~~
15 ~~stock of such bank shall be owned by other banks. The investment of any bank in the~~
16 ~~capital stock of such central reserve bank or bank organized under the act of Congress~~
17 ~~commonly known as the "Edge Act," shall at no time exceed ten percent (10%) of the~~
18 ~~paid in capital and permanent surplus of the bank making same. No bank shall invest~~
19 ~~more than seventy five percent (75%) of its unimpaired capital fund in the stocks of other~~

1 corporations, firms, partnerships, or companies, unless such stock is purchased to protect
2 the bank from loss. The foregoing limitation shall not apply to stock or ownership
3 interests acquired in corporations, firms, partnerships or companies which hold banking
4 premises or which are bank operating subsidiaries of such bank. The term "invest" shall
5 be deemed to include operating a business entity acquired by the bank, provided,
6 however, that no bank shall make any such investment resulting in operations which are
7 not closely related to banking without the prior written approval of the Commissioner of
8 Banks. The Commissioner of Banks shall monitor the impact of investment activities of
9 banks under this section on the safety and soundness of such banks. Any stocks owned or
10 hereafter acquired in excess of the limitations herein imposed shall be disposed of at
11 public or private sale within six months after the date of acquiring the same, and if not so
12 disposed of they shall be charged to profit and loss account, and no longer carried on the
13 books as an asset. The limit of time in which said stocks shall be disposed of or charged
14 off the books of the bank may be extended by the Commissioner of Banks if in his
15 judgment it is for the best interest of the bank that such extension be granted; provided
16 that the limitations imposed in this section on the ownership of stock in or securities of
17 corporations is suspended to the extent (and to that extent only) that any bank operating
18 under the supervision of the Commissioner of Banks may subscribe for and purchase
19 shares of stock in or debentures, bonds or other types of securities of any corporation
20 organized under the laws of the United States of America for the purpose of insuring to
21 depositors a part or all of their funds on deposit in banks where and to such extent as such
22 stock or security ownership is required in order to obtain the benefits of such deposit
23 insurance for its depositors.

24 (a) In addition to any powers or investments authorized by any other section of
25 this Chapter, a bank may invest in the capital stock or other securities of any other state,
26 national or foreign bank or trust company, and in any other industrial bank, savings bank,
27 Morris Plan bank, savings and loan association, bankers' bank or other deposit taking
28 entity chartered or existing under any federal, state, or foreign law including, but not
29 limited to, the capital stock of clearing corporations defined in G.S. 25-8-102(3), the
30 capital stock or other securities of central reserve banks whose capital stock exceeds one
31 million dollars (\$1,000,000) and the capital stock of an Edge or Agreement corporation.
32 As used in this Chapter, the term 'bankers' bank' means an insured depository financial
33 institution, organized and chartered to do business exclusively with other banks and
34 savings institutions, and the stock of which, or the stock of the holding company which
35 controls such bank, is owned exclusively (except to the extent directors' qualifying shares
36 are required by law) by banks or savings institutions. To constitute a central reserve bank
37 as contemplated by this Chapter, at least fifty percent (50%) of the capital stock of such
38 bank shall be owned by other banks. The investment of any bank in the capital stock of
39 such central reserve bank or bank organized under the 'Edge Act', (12 U.S.C. § 611 et
40 seq.) shall at no time exceed ten percent (10%) of the paid-in capital and permanent
41 surplus of the bank making the investment.

42 (b) A bank may invest, without limitation, in a corporation, firm, partnership, or
43 company:

1 (1) Which is a bank operating subsidiary, or
2 (2) To protect the bank from loss.
3 (c) In addition to the foregoing, upon 30 days prior written notice to the
4 Commissioner of Banks, providing such detail as the Commissioner may require, a bank
5 may invest, in the aggregate, up to seventy-five percent (75%) of its unimpaired capital
6 fund in the stock or assets of other corporations, firms, partnerships, or companies which
7 are:

8 (1) Primarily engaging in activities permissible for national banks or bank
9 holding companies under applicable laws, rules, regulations or orders;
10 (2) Primarily engaging in activities of a financial nature, including the
11 transmission or processing of information or data relating to such
12 activities. For the purpose of this subsection, activities of a financial
13 nature shall include, but not be limited to, all forms of securities
14 activities, including underwriting, distribution, and brokerage, together
15 with such other activities as the Commissioner of Banks shall determine
16 by regulation or order;
17 (3) Engaging in any other activity approved by the Commissioner of Banks.

18 (d) Any state or national bank subsidiary which engages in an activity subject to
19 licensure and/or regulation under other than Chapter 53 of the General Statutes shall be
20 subject to licensure and/or regulation on a basis that does not arbitrarily discriminate by
21 the appropriate regulatory agency which licenses and/or regulates nonbanks which
22 engage in the same activity.

23 (e) Unless otherwise notified by the Commissioner within 30 days following
24 receipt of the written notice, a bank may complete its investment in the stock or assets of
25 the other corporation, firm, partnership, or company, or commence a new activity through
26 an existing subsidiary. The Commissioner may extend the 30-day period if the
27 Commissioner determines that the proposed investment or activity raises issues which
28 require additional information or additional time for analysis. If the 30-day period is
29 extended, the bank may proceed with respect to the proposed investment or activity only
30 upon written approval of the Commissioner of Banks.

31 (f) The Commissioner of Banks shall monitor the impact of investment activities
32 of banks under this section on the safety and soundness of such banks. Any stocks
33 owned or hereafter acquired in excess of the limitations herein imposed shall be disposed
34 of at public or private sale within six months after the date of acquiring the stocks, and if
35 not so disposed of, they shall be charged to profit and loss account, and no longer carried
36 on the books as an asset. The limit of time in which said stocks shall be disposed of or
37 charged off the books of the bank may be extended by the Commissioner of Banks if in
38 the Commissioner's judgment it is for the best interest of the bank that such extension be
39 granted; provided that the limitations imposed in this section on the ownership of stock in
40 or securities of corporations are suspended only to the extent that any bank operating
41 under the supervision of the Commissioner of Banks may subscribe for and purchase
42 shares of stock in or debentures, bonds, or other types of securities of any corporation
43 organized under the laws of the United States for the purposes of insuring to depositors a

1 part or all of their funds on deposit in banks where and to such extent as such stock or
2 security ownership is required in order to obtain the benefits of such deposit insurance for
3 its depositors."

4 Sec. 2. This act is effective upon ratification.