

GENERAL ASSEMBLY OF NORTH CAROLINA
1995 SESSION

CHAPTER 417
SENATE BILL 430

AN ACT TO MODIFY THE INVESTMENT AUTHORITY OF A BANK UNDER
THE BANKING LAWS.

The General Assembly of North Carolina enacts:

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

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

~~No bank shall make any investment in the capital stock of any other state or national bank: Provided, that nothing herein shall be construed to prevent banks doing business under this Chapter from subscribing to or purchasing, upon such terms as may be agreed upon, the capital stock of clearing corporations as defined in G.S. 25-8-102(3), the capital stock of banks organized under that act of Congress known as the "Edge Act", the capital stock of central reserve banks whose capital stock exceeds one million dollars (\$1,000,000), or capital stock of the Federal Home Loan Bank. To constitute a central reserve bank as contemplated by this Chapter, at least fifty percent (50%) of the capital stock of such bank shall be owned by other banks. The investment of any bank in the capital stock of such central reserve bank or bank organized under the act of Congress commonly known as the "Edge Act," shall at no time exceed ten percent (10%) of the paid in capital and permanent surplus of the bank making same. No bank shall invest more than seventy five percent (75%) of its unimpaired capital fund in the stocks of other corporations, firms, partnerships, or companies, unless such stock is purchased to protect the bank from loss. The foregoing limitation shall not apply to stock or ownership interests acquired in corporations, firms, partnerships or companies which hold banking premises or which are bank operating subsidiaries of such bank. The term "invest" shall be deemed to include operating a business entity acquired by the bank, provided, however, that no bank shall make any such investment resulting in operations which are not closely related to banking without the prior written approval of the Commissioner of Banks. The Commissioner of Banks shall monitor the impact of investment activities of banks under this section on the safety and soundness of such banks. Any stocks owned or hereafter acquired in excess of the limitations herein imposed shall be disposed of at public or private sale within six months after the date of acquiring the same, and if not so disposed of they shall be charged to profit and loss account, and no longer carried on the books as an asset. The limit of time in which said stocks shall be disposed of or charged off the books of the bank may be extended by the Commissioner of Banks if in his judgment it is for the best interest of the bank that such extension be granted; provided that the limitations imposed in this section on the ownership of stock in or securities of corporations is suspended to the extent (and to that~~

~~extent only) that any bank operating under the supervision of the Commissioner of Banks may subscribe for and purchase shares of stock in or debentures, bonds or other types of securities of any corporation organized under the laws of the United States of America for the purpose of insuring to depositors a part or all of their funds on deposit in banks where and to such extent as such stock or security ownership is required in order to obtain the benefits of such deposit insurance for its depositors.~~

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

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

- (1) Which is a bank operating subsidiary, or
- (2) To protect the bank from loss.

(c) In addition to the foregoing, upon 30 days prior written notice to the Commissioner of Banks, providing such detail as the Commissioner may require, a bank may invest, in the aggregate, up to seventy-five percent (75%) of its unimpaired capital fund in the stock or assets of other corporations, firms, partnerships, or companies which are:

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

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

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

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

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified this the 11th day of July, 1995.

Dennis A. Wicker
President of the Senate

Harold J. Brubaker
Speaker of the House of Representatives