

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 1991

CHAPTER 829
SENATE BILL 997

AN ACT TO MAKE OMNIBUS AND TECHNICAL CHANGES TO THE SAVINGS
INSTITUTIONS LAWS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 54B-4 is amended by adding a new subdivision to read:

"(16a) 'Control' means the power, directly or indirectly, to direct the management or policies of an association or to vote twenty-five percent (25%) or more of any class of voting securities for an association."

Sec. 2. G.S. 54B-25 reads as rewritten:

"§ 54B-25. Branch offices closed.

The board of a State association may discontinue the operation of a branch office upon giving at least ~~30~~90 days' prior written notice to the Administrator and depositors, the notice to include the date upon which the branch office shall be closed."

Sec. 3. G.S. 54B-33(c) reads as rewritten:

"(c) The association shall submit a plan of conversion as a part of the application to the Administrator, and he may approve it with or without amendment, if it appears that:

- (1) After conversion the association will be in sound financial condition and will be soundly managed;
- (2) The conversion will not impair the capital of the association nor adversely affect the association's operations;
- (3) The conversion will be fair and equitable to the members of the association and no person whether member, employee or otherwise, will receive any inequitable gain or advantage by reason of the conversion;
- (4) The savings and loan services provided to the public by the association will not be adversely affected by the conversion;
- (5) The substance of the plan has been approved by a vote of two thirds of the board of directors of the association;
- (6) All shares of stock issued in connection with the conversion are offered first to the members of the ~~association~~association; except that any one or more tax qualified stock benefit plan may first purchase in the aggregate not more than ten percent (10%) of the total offering of shares;

- (7) All stock shall be offered to members of the association and others in prescribed amounts and otherwise pursuant to a formula and procedure which is fair and equitable and will be fairly disclosed to all interested persons;
- (8) The plan provides a statement as to whether stockholders shall have preemptive rights to acquire additional or treasury shares of the association and any provision limiting or denying said rights; and
- (9) The conversion shall not be complete until all stock offered in connection with the conversion has been subscribed.

If ~~he~~the Administrator approves the plan, then the plan shall be submitted to the members as provided in ~~the next subsection~~subsection (d) of this section. If ~~he~~the Administrator refuses to approve the plan, ~~he~~the Administrator shall state ~~his~~the objections in writing and give the converting association an opportunity to amend the plan to obviate ~~such~~the objections or to appeal ~~his~~the Administrator's decision to the ~~commission~~Commission."

Sec. 4. G.S. 54C-4(a) reads as rewritten:

"(a) ~~The~~Except with respect to this Chapter and Chapter 54B, the term 'savings and loan association' when used in the General Statutes shall include savings banks chartered under this Chapter."

Sec. 5. G.S. 54C-9(b) reads as rewritten:

"(b) The Administrator shall receive the application to organize a State savings bank not less ~~then~~ ~~[than]~~than 60 days before the scheduled consideration of the application by the Commission. The application shall contain the following:

- (1) The original of the certificate of incorporation, which shall be signed by the original incorporators, or a majority of them, and shall be properly acknowledged by a person duly authorized by this State to take proof or acknowledgment of deeds; and two conformed copies;
- (2) The names and addresses of the incorporators; and the names and addresses of the initial members of the board of directors;
- (3) Statements of the anticipated receipts, expenditures, earnings, and financial condition of the savings bank for its first three years of operation, or any longer period as the Administrator may require;
- (4) A showing satisfactory to the Commission that:
 - a. The public convenience and advantage will be served by the establishment of the proposed savings bank;
 - b. There is a reasonable demand and necessity in the community that will be served by the establishment of the proposed savings bank;
 - c. The proposed savings bank will have a reasonable probability of sustaining profitable and beneficial operations within a reasonable time in the community in which the proposed savings bank intends to locate;

- d. The proposed savings bank, if established, will promote healthy and effective competition in the community in the delivery to the public of savings institution services;
- (5) The proposed bylaws; and
- (6) Statements, exhibits, maps, and other data that may be prescribed or requested by the Administrator, which data shall be sufficiently detailed and comprehensive so as to enable the Administrator to pass upon the criteria set forth in this Article."

Sec. 6. G.S. 54C-26 reads as rewritten:

"§ 54C-26. Branch offices closed.

The Board of a State savings bank may discontinue the operation of a branch office upon giving at least ~~30~~90 days prior written notice to the Administrator and depositors, the notice to include the date upon which the branch office shall be closed."

Sec. 7. G.S. 54C-30(c) reads as rewritten:

"(c) After lawful notice to the members or stockholders of the converting depository institution and full and fair disclosure, the substance of the plan shall be approved by a majority of the ~~total votes that members or stockholders of the institution are eligible and entitled to cast. The vote by the members or stockholders may be in person or by proxy, or shares present, in person or by proxy.~~ Following the vote of the members or stockholders, the results of the vote certified by an appropriate officer of the converting depository institution shall be filed with the Administrator. The Administrator shall then either approve or disapprove the requested conversion to a State savings bank. After approval of the conversion, the Administrator shall supervise and monitor the conversion process and shall ensure that the conversion is conducted lawfully and under the approved plan of conversion."

Sec. 8. G.S. 54C-33(c) reads as rewritten:

"(c) The savings bank shall submit a plan of conversion as a part of the application to the Administrator. The Administrator may approve it with or without amendment, if it appears that:

- (1) After conversion the savings bank will be in sound financial condition and will be soundly managed;
- (2) The conversion will not impair the capital of the savings bank nor adversely affect the savings bank's operations;
- (3) The conversion will be fair and equitable to the members of the savings bank and no person whether member, employee, or otherwise, will receive any inequitable gain or advantage by reason of the conversion;
- (4) The savings bank services provided to the public by the savings bank will not be adversely affected by the conversion;
- (5) The substance of the plan has been approved by a vote of two-thirds of the board of directors of the savings bank;
- (6) All shares of stock issued in connection with the conversion are offered first to the members of the savings ~~bank; bank;~~ except that any one or more tax qualified employee stock benefit plans may first

purchase in the aggregate not more than ten percent (10%) of the total offering of shares;

- (7) All stock shall be offered to members of the savings bank and others in prescribed amounts and otherwise under a formula and procedure that is fair and equitable and will be fairly disclosed to all interested persons; and
- (8) The plan provides a statement as to whether stockholders shall have preemptive rights to acquire additional or treasury shares of the savings bank.

If the Administrator approves the plan, then the plan shall be submitted to the members as provided in subsection (d) of this section. If the Administrator refuses to approve the plan, the Administrator shall state the objections in writing and give the converting savings bank an opportunity to amend the plan to obviate the objections or to appeal the Administrator's decision to the Commission."

Sec. 9. G.S. 54C-63 reads as rewritten:

"§ 54C-63. Statement examined, approved, and published.

It is the duty of the Administrator to receive and thoroughly examine each annual statement required by ~~G.S. 54C-73~~, G.S. 54C-62, and if made in compliance with the requirements thereof, each State savings bank shall publish an abstract of the same in one of the newspapers of the State, to be selected by the managing officer making the statement, and at the expense of the savings bank."

Sec. 10. G.S. 54C-78(a) reads as rewritten:

"(a) A person, whether a director, officer, or employee, who is found to have violated this Article, whether willfully or as a result of gross negligence, gross incompetency, or recklessness, may be ordered to pay a civil penalty of up to five thousand dollars (\$5,000) per violation. A person who is found to have violated or failed to comply with any cease and desist order issued under the authority of this Article, may be ordered to pay a civil penalty of up to five thousand dollars (\$5,000) per violation for each day that the violation ~~of [or] or~~ failure to comply continues. All civil penalties, plus interest and cost, that are collected under this subsection shall be deposited into the General Fund of the State treasury."

Sec. 11. G.S. 54C-170(a) reads as rewritten:

"(a) A savings bank may issue a deposit account to a minor as the sole and absolute ~~owner~~ owner, or as a joint owner, and receive payments, pay withdrawals, accept pledges and ~~act, or as a joint owner, act~~ in any other manner with respect to the account on the order of the minor with like effect as if the minor were of full age and legal capacity. Any payment to a minor is a discharge of the savings bank to the extent thereof. The account shall be held for the exclusive right and benefit of the minor, and any joint owners, free from the control of all persons, except creditors."

Sec. 12. Article 8 of Chapter 54C of the General Statutes is amended by adding a new section to read:

"§ 54C-179. Forced retirement of deposit accounts.

(a) A savings bank may, at any time that funds are on hand and available for this purpose, force the retirement of and redeem all or any portion of its deposit accounts

that have not been pledged as security for loans. A savings bank may not redeem any fixed term deposit accounts that have not matured. The board of directors of the savings bank shall determine the number of and total amount of the deposit accounts to be retired.

(b) A savings bank shall give at least 30 days' notice by certified mail to the last address of each holder of an affected deposit account. The redemption price of deposit accounts so retired is the full withdrawal value of the account, as determined on the last interest date, plus all interest on deposit accounts credited or paid as of the effective retirement date. Interest continues to accrue and be paid or credited by the savings bank to the deposit accounts to be retired through the effective retirement date.

(c) Interest on the deposit accounts called for forced retirement ceases to accrue after the effective retirement date, if the required notice has been given properly, and if on the retirement date the funds necessary for payment have been set aside so as to be available. All rights with respect to those deposit accounts terminate after the effective retirement date, except for the right of the holder of the retired deposit account to receive the full redemption price.

(d) A savings bank shall not redeem deposit accounts by forced retirement whenever it has on file applications for withdrawal or maturities that have not yet been acted upon and paid."

Sec. 13. This act is effective upon ratification.

In the General Assembly read three times and ratified this the 2nd day of July, 1992.

James C. Gardner
President of the Senate

Daniel Blue, Jr.
Speaker of the House of Representatives