

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

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HOUSE BILL 144
PROPOSED COMMITTEE SUBSTITUTE H144-PCS40182-BB-2

Short Title: Credit Union/Trust Institution Changes.

(Public)

Sponsors:

Referred to:

February 22, 2017

A BILL TO BE ENTITLED

AN ACT TO MAKE VARIOUS CHANGES TO THE GENERAL STATUTES TO INCLUDE CREDIT UNIONS BY REFERENCING FEDERALLY INSURED DEPOSITORY INSTITUTIONS AND TO INCLUDE TRUST INSTITUTIONS, TO DECREASE THE FREQUENCY OF EXAMINATIONS BY THE ADMINISTRATOR OF CREDIT UNIONS, AND TO CORRECT A CITATION.

The General Assembly of North Carolina enacts:

SECTION 1.(a) G.S. 1A-1, Rule 22, reads as rewritten:

"Rule 22. Interpleader.

...

(b) Where funds are subject to competing claims by parties to the action, the court may order the party in possession of the funds either to deposit the funds in an interest bearing account in a ~~bank, savings and loan, or trust company licensed to do business in this State~~ federally insured depository institution or a trust institution authorized to do business in this State or to deposit the funds with the clerk. If the funds are deposited in a ~~bank, savings and loan, or trust company,~~ federally insured depository institution or a trust institution authorized to do business in this State, the court shall specify the type of interest bearing account to be used. Funds deposited with the clerk shall be invested or deposited as provided in G.S. 7A-112 and G.S. 7A-112.1. Upon determination of the action, the judgment shall provide for disbursement of the principal and interest earned on the funds while so deposited."

SECTION 1.(b) G.S. 20-63.01 reads as rewritten:

"§ 20-63.01. Bonds required for commission contractors.

...

(c) An applicant that is unable to secure a bond may seek a waiver of the guaranty bond from the Division and approval of one of the guaranty bond alternatives set forth in this subsection. With the approval of the Division, an applicant may file with the clerk of the superior court and/or the register of deeds of the county in which the commission contractor will be located, in lieu of a bond:

- (1) An assignment of a savings account in an amount equal to the bond required (i) ~~which that~~ is in a form acceptable to the Division; (ii) ~~which that~~ is executed by the applicant; (iii) ~~which that~~ is executed by a ~~state or federal savings and loan association, state bank, or national bank that is doing business in North Carolina and whose accounts are insured by a federal depositors corporation;~~ federally insured depository institution or a trust institution authorized to do business in this State; and (iv) for which access to the account in favor of the



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1 State of North Carolina is subject to the same conditions as for a bond in
2 subsection (b) of this section.

- 3 (2) A certificate of deposit (i) ~~which that is executed by a state or federal savings~~
4 ~~and loan association, state bank, or national bank which is doing business in~~
5 ~~North Carolina and whose accounts are insured by a federal depositors~~
6 ~~corporation; federally insured depository institution or a trust institution~~
7 ~~authorized to do business in this State;~~ (ii) ~~which that is~~ either payable to the
8 State of North Carolina, unrestrictively endorsed to the Division of Motor
9 Vehicles; in the case of a negotiable certificate of deposit, is unrestrictively
10 endorsed to the Division of Motor Vehicles; or in the case of a nonnegotiable
11 certificate of deposit, is assigned to the Division of Motor Vehicles in a form
12 satisfactory to the Division; and (iii) for which access to the certificate of
13 deposit in favor of the State of North Carolina is subject to the same conditions
14 as for a bond in subsection (b) of this section."

15 **SECTION 1.(c)** G.S. 42A-17(a) reads as rewritten:

16 "(a) A vacation rental agreement shall identify the name and address of the ~~bank or savings~~
17 ~~and loan association~~ federally insured depository institution or trust institution in which the
18 tenant's security deposit and other advance payments are held in a trust account, and the landlord
19 and real estate broker shall provide the tenant with an accounting of such deposit and payments if
20 the tenant makes a reasonable request for an accounting prior to the tenant's occupancy of the
21 property."

22 **SECTION 1.(d)** G.S. 85B-7.1(a) reads as rewritten:

23 "(a) Each licensee who does not disburse all funds to the seller on auction day shall
24 maintain a trust or escrow account and shall deposit in the account all funds that are received for
25 the benefit of another person and are not disbursed to the seller on auction day. The licensee shall
26 deposit funds that are not disbursed on auction day with ~~an insured bank or savings and loan~~
27 ~~association located in North Carolina.~~ a federally insured depository institution or a trust
28 institution authorized to do business in this State. At or before the time of all final settlements, the
29 auctioneer shall provide the seller or consignor with a settlement statement, which includes a
30 description of all goods sold, the selling price of the goods sold, the net proceeds due to the seller
31 or consignor, the name and address of the person receiving the disbursement, and the amount of
32 the disbursement. All settlement statements shall be signed by the licensee or the licensee's agent
33 and by the person receiving the disbursement."

34 **SECTION 1.(e)** G.S. 85B-8 reads as rewritten:

35 **"§ 85B-8. Prohibited acts; assessment of civil penalty; denial, suspension, or revocation of**
36 **license.**

37 (a) The following shall be grounds for the assessment of a civil penalty in accordance with
38 G.S. 85B-3.1(b) or the denial, suspension, or revocation of an auctioneer, auctioneer apprentice, or
39 auction firm license:

40 ...

- 41 (7) Commingling the funds or property of a client with the licensee's own or failing
42 to maintain and deposit in a trust or escrow account in ~~an insured bank or~~
43 ~~savings and loan association located in North Carolina.~~ a federally insured
44 depository institution or a trust institution authorized to do business in this State
45 funds received for another person through sale at auction.

46"

47 **SECTION 1.(f)** G.S. 86A-22 reads as rewritten:

48 **"§ 86A-22. Licensing and regulating barber schools and colleges.**

49 The North Carolina State Board of Barber Examiners may approve barber schools or colleges
50 in the State, and may prescribe rules and regulations for their operation. The Board shall adopt
51 rules establishing criteria for barber schools and colleges to maintain their accreditation. No barber

1 school or college shall be approved by the Board unless the school or college meets all of the
 2 following requirements:

3 ...
 4 (7) ...

5 c. An applicant that is unable to secure a bond may seek a waiver of the
 6 guaranty bond from the Board and approval of one of the guaranty bond
 7 alternatives set forth in this subpart. With the approval of the Board, an
 8 applicant may file with the clerk of the superior court of the county in
 9 which the school will be located, in lieu of a bond:

- 10 1. An assignment of a savings account in an amount equal to the
 11 bond required (i) ~~which that~~ is in a form acceptable to the Board;
 12 (ii) ~~which that~~ is executed by the applicant; ~~and (iii) which that~~
 13 ~~is executed by a state or federal savings and loan association,~~
 14 ~~state bank, or national bank, that is doing business in North~~
 15 ~~Carolina and whose accounts are insured by a federal depositors~~
 16 ~~corporation; federally insured depository institution or a trust~~
 17 ~~institution authorized to do business in this State; and (iv) for~~
 18 ~~which access to the account in favor of the State of North~~
 19 ~~Carolina is subject to the same conditions as for a bond in~~
 20 ~~subpart b. above.~~
- 21 2. A certificate of deposit (i) ~~which that~~ is executed by a ~~state or~~
 22 ~~federal savings and loan association, state bank, or national~~
 23 ~~bank, which is doing business in North Carolina and whose~~
 24 ~~accounts are insured by a federal depositors corporation;~~
 25 ~~federally insured depository institution or a trust institution~~
 26 ~~authorized to do business in this State and (ii) which that~~ is
 27 either payable to the State of North Carolina, unrestrictively
 28 endorsed to the Board; in the case of a negotiable certificate of
 29 deposit, is unrestrictively endorsed to the Board; or in the case of
 30 a nonnegotiable certificate of deposit, is assigned to the Board in
 31 a form satisfactory to the Board; and (iii) for which access to the
 32 certificate of deposit in favor of the State of North Carolina is
 33 subject to the same conditions as for a bond in subpart b. above."

34 **SECTION 1.(g) G.S. 88B-17 reads as rewritten:**

35 **"§ 88B-17. Bond required for private cosmetic art schools.**

36 ...
 37 (c) An applicant who is unable to secure a bond may seek from the Board a waiver of the
 38 guaranty bond requirement and approval of one of the guaranty bond alternatives set forth in this
 39 subsection. With the approval of the Board, an applicant may file one of the following instead of a
 40 bond with the clerk of court in the county in which the school is located:

- 41 (1) An assignment of a savings account in an amount equal to the bond required
 42 that is in a form acceptable to the Board, and is executed by the applicant and a
 43 ~~state or federal savings and loan association, state bank, or national bank that is~~
 44 ~~doing business in this State and whose accounts are insured by a federal~~
 45 ~~depositor's corporation; federally insured depository institution or a trust~~
 46 ~~institution authorized to do business in this State, and access to the account is~~
 47 ~~subject to the same conditions as those for a bond in subsection (b) of this~~
 48 ~~section.~~
- 49 (2) A certificate of deposit that is executed by a ~~state or federal savings and loan~~
 50 ~~association, state bank, or national bank that is doing business in this State and~~
 51 ~~whose accounts are insured by a federal depositor's corporation~~ federally

insured depository institution or a trust institution authorized to do business in this State and access to the certificate of deposit is subject to the same conditions as those for a bond in subsection (b) of this section."

SECTION 1.(h) G.S. 90-171.55 reads as rewritten:

"§ 90-171.55. Nurses Aides Registry.

...
(b) ...

(3) An applicant that is unable to secure a bond may seek a waiver of the guaranty bond from the Board and approval of one of the guaranty bond alternatives set forth in this subdivision. With the approval of the Board, an applicant may file with the clerk of the superior court of the county in which the program will be located, in lieu of a bond:

a. An assignment of a savings account in an amount equal to the bond required (i) ~~which that~~ is in a form acceptable to the Board; (ii) ~~which that~~ is executed by the applicant; ~~and (iii) which that is executed by a state or federal savings and loan association, state bank, or national bank, that is doing business in North Carolina and whose accounts are insured by a federal depositors corporation;~~ federally insured depository institution or a trust institution authorized to do business in this State; and (iv) for which access to the account in favor of the State of North Carolina is subject to the same conditions as for a bond in subdivision (2) of this subsection.

b. A certificate of deposit (i) ~~which that~~ is executed by a ~~state or federal savings and loan association, state bank, or national bank, which is doing business in North Carolina and whose accounts are insured by a federal depositors corporation;~~ federally insured depository institution or a trust institution authorized to do business in this State ~~and (ii) which that~~ is either payable to the State of North Carolina, unrestrictively endorsed to the Board; in the case of a negotiable certificate of deposit, is unrestrictively endorsed to the Board; or in the case of a nonnegotiable certificate of deposit, is assigned to the Board in a form satisfactory to the Board; and (iii) for which access to the certificate of deposit in favor of the State of North Carolina is subject to the same conditions as for a bond in subdivision (2) of this subsection."

SECTION 1.(i) G.S. 90-210.86 reads as rewritten:

"§ 90-210.86. Deposit or investment of funds of mutual burial associations.

Funds belonging to each mutual burial association over and above the amount determined by the Board of Funeral Service to be necessary for operating capital shall be invested in:

- (1) Deposits in any ~~bank or trust company in this State~~ federally insured depository institution or any trust institution authorized to do business in this State.
- (2) Obligations of the United States of America.
- (3) Obligations of any agency or instrumentality of the United States of America if the payment of interest and principal of ~~such the~~ obligations is fully guaranteed by the United States of America.
- (4) Obligations of the State of North Carolina.
- (5) Bonds and notes of any North Carolina local government or public authority, subject to ~~such~~ restrictions as the Board of Funeral Service may impose.
- (6) Shares of or deposits in any savings and loan association organized under the laws of this State and shares of or deposits in any federal savings and loan association having its principal office in this State, provided that ~~any such the~~ savings and loan association is insured by the United States of America or any

1 agency thereof or by any mutual deposit guaranty association authorized by the
2 Commissioner of Insurance of North Carolina to do business in North Carolina
3 pursuant to Article 7A of Chapter 54 of the General Statutes.

- 4 (7) Obligations of the Federal Intermediate Credit Banks, the Federal Home Loan
5 Banks, Fannie Mae, the Banks for Cooperatives, and the Federal Land Banks,
6 maturing no later than 18 months after the date of purchase.

7 Violation of the provisions of this section shall, after hearing, be cause for revocation or
8 suspension of license to operate a mutual burial association."

9 **SECTION 1.(j)** G.S. 93A-3 reads as rewritten:

10 **"§ 93A-3. Commission created; compensation; organization.**

11 ...

12 (b) The provisions of G.S. 93B-5 notwithstanding, members of the Commission shall
13 receive as compensation for each day spent on work for the Commission a per diem in an amount
14 established by the Commission by rule, and mileage reimbursement for transportation by privately
15 owned automobile at the business standard mileage rate set by the Internal Revenue Service per
16 mile of travel along with actual cost of tolls paid. The total expense of the administration of this
17 Chapter shall not exceed the total income therefrom; and none of the expenses of said Commission
18 or the compensation or expenses of any office thereof or any employee shall ever be paid or
19 payable out of the treasury of the State of North Carolina; and neither the Commission nor any
20 officer or employee thereof shall have any power or authority to make or incur any expense, debt
21 or other financial obligation binding upon the State of North Carolina. After all expenses of
22 operation, the Commission may set aside an expense reserve each year. The Commission may
23 deposit moneys in accounts, certificates of deposit, or time deposits as the Commission may
24 approve, in any ~~bank, savings and loan association, or trust company.~~ federally insured depository
25 institution or any trust institution authorized to do business in this State. Moneys also may be
26 invested in the same classes of securities referenced in G.S. 159-30(c).

27"

28 **SECTION 1.(k)** G.S. 93A-42 reads as rewritten:

29 **"§ 93A-42. Time shares deemed real estate.**

30 ...

31 (d) The independent escrow agent provided by G.S. 93A-42(c)(2) shall deposit and
32 maintain the purchaser's payments in an insured trust or escrow account in a ~~bank or savings and~~
33 ~~loan association located in this State.~~ federally insured depository institution or a trust institution
34 authorized to do business in this State. The trust or escrow account may be interest-bearing and the
35 interest earned shall belong to the developer, if agreed upon in writing by the purchaser; provided,
36 however, if the time share instrument is not recorded within the time periods specified in this
37 section, then the interest earned shall belong to the purchaser. The independent escrow agent shall
38 return all payments to the purchaser at the expiration of 180 days following the execution of the
39 contract of sale by the purchaser, unless prior to that time the time share instrument has been
40 recorded. However, if prior to the expiration of 180 days following the execution of the contract of
41 sale, the developer and the purchaser provide their written consent to the independent escrow
42 agent, the developer's obligation to record the time share instrument and the escrow period may be
43 extended for an additional period of 120 days. Upon recordation of the time share instrument, the
44 independent escrow agent shall pay the purchaser's funds to the developer. Upon request by the
45 Commission, the independent escrow agent shall promptly make available to the Commission
46 inspection of records of money held by the independent escrow agent.

47"

48 **SECTION 1.(l)** G.S. 93A-45 reads as rewritten:

49 **"§ 93A-45. Purchaser's right to cancel; escrow; violation.**

50 ...

1 (c) Any payments received by a time share developer or time share salesperson in
2 connection with the sale of the time share shall be immediately deposited by ~~such the~~ developer or
3 salesperson in a trust or escrow account in ~~an insured bank or savings and loan association in~~
4 ~~North Carolina~~ a federally insured depository institution or a trust institution authorized to do
5 business in this State and shall remain in such account for 10 days or cancellation by the
6 purchaser, whichever occurs first. Payments held in such trust or escrow accounts shall be deemed
7 to belong to the purchaser and not the developer. In lieu of such escrow requirements, the
8 Commission shall have the authority to accept, in its discretion, alternative financial assurances
9 adequate to protect the purchaser's interest during the contract cancellation period, including but
10 not limited to a surety bond, corporate bond, cash deposit or irrevocable letter of credit in an
11 amount equal to the escrow requirements.

12"

13 **SECTION 2.(a)** G.S. 42-50 reads as rewritten:

14 **"§ 42-50. Deposits from the tenant.**

15 Security deposits from the tenant in residential dwelling units shall be deposited in a trust
16 account with a licensed and federally insured depository institution ~~lawfully doing business in this~~
17 ~~State; or a trust institution authorized to do business in this State,~~ or the landlord may, at ~~his the~~
18 landlord's option, furnish a bond from an insurance company licensed to do business in North
19 Carolina. The security deposits from the tenant may be held in a trust account outside of the State
20 of North Carolina only if the landlord provides the tenant with an adequate bond in the amount of
21 ~~said the~~ deposits. The landlord or ~~his the~~ landlord's agent shall notify the tenant within 30 days
22 after the beginning of the lease term of the name and address of the bank or institution where ~~his~~
23 the tenant's deposit is currently located or the name of the insurance company providing the bond."

24 **SECTION 2.(b)** G.S. 42A-15 reads as rewritten:

25 **"§ 42A-15. Trust account uses.**

26 A landlord or real estate broker may require a tenant to pay all or part of any required rent,
27 security deposit, or other fees permitted by law in advance of the commencement of a tenancy
28 under this Chapter if these payments are expressly authorized in the vacation rental agreement. If
29 the tenant is required to make any advance payments, other than a security deposit, whether the
30 payment is denominated as rent or otherwise, the landlord or real estate broker shall deposit these
31 payments in a trust account in a federally insured depository institution ~~lawfully doing business in~~
32 ~~this State; or a trust institution authorized to do business in this State~~ no later than three banking
33 days after the receipt of these payments. These payments deposited in a trust account shall not
34 earn interest unless the landlord and tenant agree in the vacation rental agreement that the
35 payments may be deposited in an interest-bearing account. The landlord and tenant shall also
36 provide in the agreement to whom the accrued interest shall be disbursed."

37 **SECTION 2.(c)** G.S. 47C-4-110 reads as rewritten:

38 **"§ 47C-4-110. Escrow of deposits.**

39 (a) Any deposit made in connection with the purchase or reservation of a unit from a
40 person required to deliver a public offering statement pursuant to G.S. 47C-4-102(c) shall be
41 immediately deposited in a trust or escrow account in a federally insured depository institution
42 ~~lawfully doing business in this State~~ or a trust institution authorized to do business in this State
43 and shall remain in ~~such the~~ account for such period of time as a purchaser is entitled to cancel
44 pursuant to G.S. 47C-4-108 or cancellation by the purchaser thereunder whichever occurs first.
45 Payments held in such trust or escrow accounts shall be deemed to belong to the purchaser and not
46 the seller.

47 (b) Except as provided in G.S. 47C-4-108, nothing in subsection (a) is intended to preclude
48 the parties to a contract from providing for the use of progress payments by the declarant during
49 construction."

50 **SECTION 3.** G.S. 36C-8-816(31) reads as rewritten:

1 "(31) Distribute the assets of an inoperative trust consistent with the authority granted
2 under ~~G.S. 28A-22-110~~;G.S. 28A-22-10;"

3 **SECTION 4.(a)** G.S. 54-109.11 reads as rewritten:

4 **"§ 54-109.11. Duties of Administrator.**

5 The duties of the Administrator of Credit Unions shall be as follows:

6 ...

7 (4) To examine at least once ~~a year, and oftener every 18 months, or more often if~~
8 ~~such an examination be is deemed necessary~~ by the Administrator or ~~his the~~
9 ~~Administrator's assistant~~, the credit unions formed under ~~this Article. Article~~
10 ~~14A of this Chapter~~. A report of ~~such the~~ examination shall be filed with the
11 State Department of Commerce, and a copy mailed to the credit union at its
12 proper address.

13"

14 **SECTION 4.(b)** G.S. 54-109.16 reads as rewritten:

15 **"§ 54-109.16. Annual examinations Examinations required; payment of cost.**

16 The Administrator of Credit Unions shall cause every ~~such corporation credit union formed~~
17 ~~under Article 14A of this Chapter~~ to be examined once ~~a year and every 18 months or whenever~~
18 ~~he the Administrator~~ deems it necessary. The examiners appointed by ~~him the Administrator~~ shall
19 be given free access to all books, papers, securities, and other sources of information in respect to
20 the ~~corporation; and credit union~~; for the purpose of ~~such examination the examination~~, the
21 Administrator shall ~~have power and authority to may~~ subpoena and examine personally, or by one
22 of ~~his the Administrator's~~ deputies or examiners, witnesses on oath and documents, whether ~~such~~
23 ~~the~~ witnesses are members of the ~~corporation credit union~~ or not, and whether ~~such the~~ documents
24 are documents of the ~~corporation credit union~~ or not. The Administrator may designate an
25 independent auditing firm to do the work under ~~his the Administrator's~~ direction and supervision,
26 with the cost to be paid by the credit union involved."

27 **SECTION 5.** This act is effective when it becomes law.