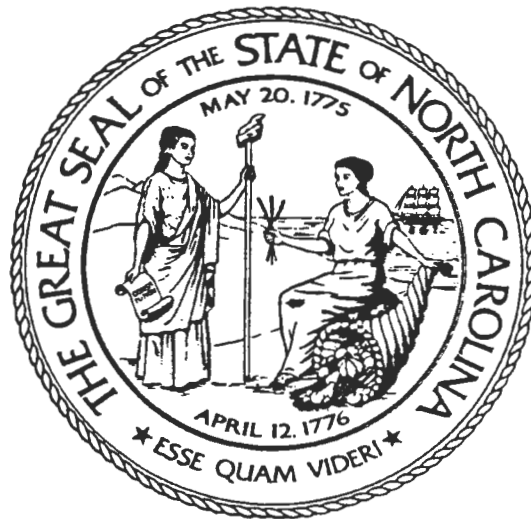


**LEGISLATIVE  
RESEARCH COMMISSION**

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**FINANCIAL INSTITUTIONS**



**REPORT TO THE  
1991 GENERAL ASSEMBLY  
OF NORTH CAROLINA  
1992 SESSION**

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AN ACT TO ALLOW BANKS AND SAVINGS ASSOCIATIONS  
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STATE OF NORTH CAROLINA  
LEGISLATIVE RESEARCH COMMISSION  
STATE LEGISLATIVE BUILDING  
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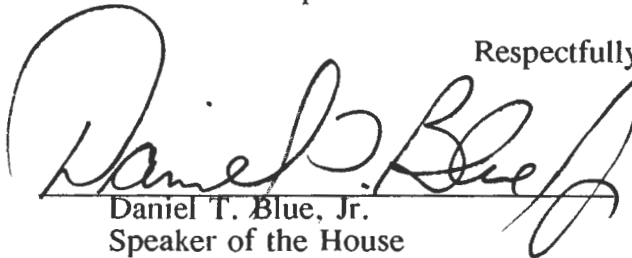


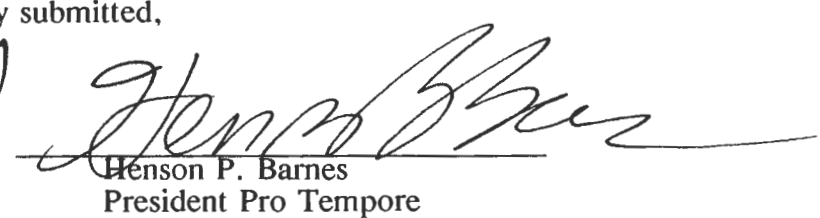
May 26, 1992

TO THE MEMBERS OF THE 1991 GENERAL ASSEMBLY (REGULAR SESSION 1992):

The Legislative Research Commission herewith submits to you for your consideration its interim report on financial institutions. The report was prepared by the Legislative Research Commission's Committee on Financial Institutions pursuant to Section 2.1 of Chapter 754 of the 1991 Session Laws.

Respectfully submitted,

  
Daniel T. Blue, Jr.  
Speaker of the House

  
Henson P. Barnes  
President Pro Tempore

Cochairmen  
Legislative Research Commission

1991-1992

LEGISLATIVE RESEARCH COMMISSION

MEMBERSHIP

President Pro Tempore of  
the Senate  
Henson P. Barnes, Cochair

Senator Frank W. Ballance, Jr.  
Senator Howard F. Bryan  
Senator J. K. Sherron, Jr.  
Senator Lura Tally  
Senator Russell G. Walker

Speaker of the House of  
Representatives  
Daniel T. Blue, Jr., Cochair

Rep. Marie W. Colton  
Rep. W. Pete Cunningham  
Rep. E. David Redwine  
Rep. Frank E. Rhodes  
Rep. Peggy M. Stamey

## PREFACE

The Legislative Research Commission, established by Article 6B of Chapter 120 of the General Statutes, is a general purpose study group. The Commission is cochaired by the Speaker of the House and the President Pro Tempore of the Senate and has five additional members appointed from each house of the General Assembly. Among the Commission's duties is that of making or causing to be made, upon the direction of the General Assembly, "such studies of and investigations into governmental agencies and institutions and matters of public policy as will aid the General Assembly in performing its duties in the most efficient and effective manner" (G.S. 120-30.17(1)).

At the direction of the 1991 General Assembly, the Legislative Research Commission has undertaken studies of numerous subjects. These studies were grouped into broad categories and each member of the Commission was given responsibility for one category of study. The Cochairs of the Legislative Research Commission, under the authority of G.S. 120-30.10(b) and (c), appointed committees consisting of members of the General Assembly and the public to conduct the studies. Cochairs, one from each house of the General Assembly, were designated for each committee.

The study of financial institutions was authorized by Sections 2.1(7), 2.1(16), and 2.1(34) of Chapter 754 of the 1991 Session Laws (1991 Regular Session). That act states that the Commission may consider House Bill 177, House Joint Resolution 696, and House Bill 1084 in determining the nature, scope and aspects of the study. Section 3 of House Bill 177, if enacted, would have directed a study of:

the impact of national developments within the depository institutions industry and what effect, if any, these developments will have upon North Carolina depository institutions.

Section 1 of House Joint Resolution 696 proposed a study of:

the present regulations and taxes applicable to commercial banks, savings institutions, and credit unions.

Section 1 of House Bill 1084 (2nd edition) would have authorized a study of:

ways financial institutions in North Carolina can best work cooperatively with community organizations, local governments, and the State to increase the capacity of financial institutions to do developmental lending that strengthens low and moderate income communities, in accord with safe and sound lending practices.

The relevant portions of Chapter 754, House Bill 177, House Joint Resolution 696, and House Bill 1084 are included in Appendix A. The Legislative Research Commission grouped this study in its Economic Development area under the direction of Senator Howard F. Bryan. The Committee was chaired by Senator William W. Staton and Representative Ray C. Fletcher. The full membership of the Committee is listed in Appendix B of this report. A committee notebook containing the committee minutes and all information presented to the committee is filed in the Legislative Library.



## COMMITTEE PROCEEDINGS

The Legislative Research Commission's Committee on Financial Institutions held two meetings -- March 23 and April 15, 1992. The following is a short synopsis of the meetings. The more detailed minutes of each meeting are available in the Legislative Library.

### Meeting on March 23, 1992

The first meeting was held on on March 23, 1992.

Senator Staton recognized Mr. William Graham, Commissioner of Banks, as the first speaker. He presented a status report on the work of the Banking Commission and the health of the State's banking industry. (See Appendices C - E) The Commissioner suggested several areas for the Committee's consideration: (1) interstate banking and branching needs to be addressed on the State level to enable the State to have an effect upon federal legislation, (2) regulatory agency consolidation, merging bank and savings and loan regulatory agencies, (3) ReBank, a system of bank assistance for ailing financial institutions, and (4) check cashing service regulation. He listed ten technical items for legislative attention: (1) definitions of director, local director, and board of managers, (2) disclosure of appropriate portions of examination reports to bank fidelity bonding companies, (3) allowing bank directors to serve on the Banking Commission, (4) elimination of the required period of existence for out-of-State purchase, (5) clarification of eligibility to serve on audit committee, (6) removal of clearinghouse examiner language, (7) elimination of an improper reference in the Deputy

Commissioner definition, (8) clarification of the special reports statute, (9) determination of a required amount of stock a director must own, and (10) elimination of the self insurance fee in lieu of recording consumer finance loans. He also requested action on two technical matters during the 1992 short session: (1) allowing banks to merge with thrifts, and (2) updating the Refund Anticipation Loan (RAL) Act. Later in the meeting, Senator Staton moved to include these two proposals in the interim report, and his motion passed unanimously.

The next speaker was Mr. Robert Jacobsen, Administrator of the Savings Institutions Division. Mr. Jacobsen addressed the Committee on the status of savings and loan institutions in the State and presented several statistical reports. (See Appendix F)

Mr. William C. Deal, Jr., Administrator of the North Carolina Credit Union Division, gave a status report on credit unions in the State. (Appendix G) He requested legislation that would eliminate "faithful performance coverage" as a requirement for credit unions.

Next on the agenda was Mr. Ron Raxter, General Counsel of the Savings Institutions Division, who summarized a legislative proposal that would amend the recently enacted Savings Bank Act.

The fifth speaker was Mr. Edmund Aycock, Vice President and General Counsel of the North Carolina Bankers Association, who requested that G.S. 53-229 be amended to enable trust companies chartered before November 1, 1987 to form holding companies. In effect, this amendment would apply to only one trust company, represented by Mr. Hassenfelt, who encouraged the Committee to recommend the legislation. (See Appendix H) Commissioner Graham supported the proposal, but suggested that it apply to any trust company, regardless of when chartered. The Committee unanimously passed Senator Conder's motion to approve the request to

consider the legislation, with the Commissioner's suggested change, and to include it in this report.

Senator Staton recognized the next speaker, Mr. Gordon P. Allen, North Carolina Alliance of Community Financial Institutions, who proposed legislation that would address ambiguities concerning late fees created by the Swindell decision of the North Carolina Supreme Court in November, 1991. Mr. Mal Maynard, who spoke later, stated that Legal Services opposes this proposal as it would have a severe impact on the ability of the clients of Legal Services to maintain their mortgage payments and avoid failures.

Mr. Robert Price, speaking for Federated Investors, Inc., was next on the agenda. He provided a summary (Appendix L) of a legislative proposal to permit the investment of trust assets in mutual funds advised by the trustee. The following speakers supported this proposal: Mr. Andrew P. Miller (Dickstein, Shapiro & Morin -- Washington, D.C.), Mr. David McMahon (Chief Investment Officer of the Trust Division, BB&T -- Wilson, NC), Mr. Steve Dove (NationsBank), Mr. Don Baird (Manager of Retirement Services, First Union), and Mr. Les Edwards (Manager of the Administrative Unit for the Trust Division, CCB). Senator Staton moved to consider this proposal at the next meeting and to include it in the interim report, and the motion passed.

The remainder of the meeting was spent discussing the recommendations and proposed legislation to be included in the interim report to the 1991 General Assembly (Second Session, 1992).

### **Meeting on April 15, 1992**

The second meeting of the Legislative Research Commission's Committee on Financial Institutions was held on April 15, 1992. The committee discussed and approved, as amended, the report and proposed recommendations to the 1991 General Assembly (Second Session, 1992).

## RECOMMENDATIONS

The Committee on Financial Institutions recommends that the 1991 General Assembly (Second Session, 1992) enact the following legislation:

1. A BILL TO BE ENTITLED AN ACT TO ALLOW BANKS AND SAVINGS ASSOCIATIONS TO MERGE OR CONSOLIDATE AND TO TRANSFER ASSETS AND LIABILITIES TO ONE ANOTHER. (See Appendix I)
2. A BILL TO BE ENTITLED AN ACT TO MAKE AMENDMENTS TO THE REFUND ANTICIPATION LOAN ACT. (See Appendix J)
3. A BILL TO BE ENTITLED AN ACT TO PERMIT A TRUST COMPANY TO BE ACQUIRED BY A BANK HOLDING COMPANY. (See Appendix K)
4. A BILL TO BE ENTITLED AN ACT TO PERMIT INVESTMENT OF TRUST ASSETS IN MUTUAL FUNDS ADVISED BY A CORPORATE TRUSTEE. (See Appendix L)
5. A BILL TO BE ENTITLED AN ACT TO MAKE OMNIBUS AND TECHNICAL CHANGES TO THE SAVINGS INSTITUTIONS LAWS. (See Appendix M)
6. A BILL TO BE ENTITLED AN ACT TO ELIMINATE THE FAITHFUL PERFORMANCE COVERAGE REQUIREMENTS FOR CREDIT UNIONS. (See Appendix N)

APPENDIX A

CHAPTER 754  
SENATE BILL 917

AN ACT TO AUTHORIZE STUDIES BY THE LEGISLATIVE RESEARCH COMMISSION, TO CREATE AND CONTINUE VARIOUS COMMITTEES AND COMMISSIONS, TO MAKE APPROPRIATIONS THEREFOR, TO DIRECT VARIOUS STATE AGENCIES TO STUDY SPECIFIED ISSUES, AND TO MAKE OTHER AMENDMENTS TO THE LAW.

PART I.-----TITLE

Section 1. This act shall be known as "The Studies Act of 1991."

. . . . .

PART II.-----LEGISLATIVE RESEARCH COMMISSION

Sec. 2.1. The Legislative Research Commission may study the topics listed below. Listed with each topic is the 1991 bill or resolution that originally proposed the issue or study and the name of the sponsor. The Commission may consider the original bill or resolution in determining the nature, scope, and aspects of the study. The topics are:

. . . . .

(7) Impact of National Developments within the North Carolina Depository Institutions Industry (H.B. 177 - Brubaker),

. . . . .

(16) Financial Institutions, including regulations and taxes applicable to commercial banks, savings institutions, and credit unions (H.J.R. 696 - Gamble),

. . . . .

(34) Methods to Increase the Developmental Lending Capacity of financial Institutions to Strengthen Low and Moderate Income Communities (H.B. 1084 - McAllister),

. . . . .

Sec. 2.7. Committee Membership. For each Legislative Research Commission Committee created during the 1991-93 biennium, the cochairs of the Commission shall appoint the Committee membership.

Sec. 2.8. Reporting Dates. For each of the topics the Legislative Research Commission decides to study under this act or pursuant to G.S. 120-30.17(1), the Commission may report its findings, together with any recommended legislation, to the 1992 Regular Session of the 1991 General Assembly or the 1993 General Assembly, or both.

Sec. 2.9. Bills and Resolution References. The listing of the original bill or resolution in this Part is for reference purposes only and shall not be deemed to have

incorporated by reference any of the substantive provisions contained in the original bill or resolution.

Sec. 2.10. Funding. From the funds available to the General Assembly, the Legislative Services Commission may allocate additional monies to fund the work of the Legislative Research Commission.

. . . . .

**PART XXI.-----EFFECTIVE DATE**

Sec. 21.1. This act is effective upon ratification.

In the General Assembly read three times and ratified this the 16th day of July, 1991.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

H

1

HOUSE BILL 177

Short Title: Depository Institutions Study Comm.

(Public)

---

Sponsors: Representatives Brubaker; and Bowman.

---

Referred to: Rules, Appointments and Calendar.

---

February 27, 1991

1                                   A BILL TO BE ENTITLED  
2 AN ACT TO PROVIDE FOR THE CONTINUATION OF THE DEPOSITORY  
3 INSTITUTIONS STUDY COMMISSION.

4 The General Assembly of North Carolina enacts:

5                   Section 1. The North Carolina Depository Institutions Study Commission is  
6 hereby reconvened. The Commission shall consist of 15 voting members and 3  
7 nonvoting members: five Senators appointed by the President Pro Tempore of the  
8 Senate; five Representatives appointed by the Speaker of the House; one representative  
9 of the North Carolina commercial banking industry appointed by the President Pro  
10 Tempore of the Senate; one representative of the North Carolina savings institution  
11 industry appointed by the Speaker of the House; one representative of the credit union  
12 industry appointed by the President Pro Tempore of the Senate; one representative of  
13 the small and minority business community appointed by the Speaker of the House; and  
14 one representative of the low-income consumer community appointed by the President  
15 Pro Tempore of the Senate. The North Carolina Commissioner of Banks, the  
16 Administrators of the Savings and Loan and Credit Union Divisions of the North  
17 Carolina Department of Economic and Community Development shall serve as ex  
18 officio nonvoting members. All replacement appointments shall be filled in the same  
19 manner as initial appointments.

20                   Sec. 2. The President Pro Tempore of the Senate shall designate one  
21 Senator as cochairman and the Speaker of the House of Representatives shall designate  
22 one Representative as cochairman. The cochairmen shall call the initial meeting of the  
23 Commission.



1           Sec. 3. The Commission shall continue to study the impact of national  
2 developments within the depository institutions industry and what effect, if any, these  
3 developments will have upon North Carolina depository institutions. The scope of the  
4 study shall include, but not be limited to:

- 5           (1) The effect on North Carolina depository institutions, if any, resulting  
6           from action by the federal government to restructure the Federal  
7           Savings and Loan Insurance Corporation;
- 8           (2) The effect on North Carolina depository institutions, if any, resulting  
9           from any increased authority which may be granted to the Federal  
10          Deposit Insurance Corporation;
- 11          (3) The level of competition between financial institutions in North  
12          Carolina;
- 13          (4) The cost and availability of financial services available through North  
14          Carolina financial institutions; and
- 15          (5) Any other issue considered to be of importance to the financial  
16          community of North Carolina.

17          Sec. 4. The Commission may submit an interim report to the General  
18 Assembly on or before the convening of its 1992 Session, and shall submit a final  
19 report of its findings and recommendations to the General Assembly on or before the  
20 first day of the 1993 Session of the General Assembly by the filing of a report with the  
21 President Pro Tempore of the Senate and the Speaker of the House of Representatives.  
22 Upon filing its final report, the Commission shall terminate. The report of the  
23 Commission shall summarize the information obtained in the course of its inquiry, set  
24 forth any findings and conclusions, and recommend such administrative actions or  
25 legislative actions that may be necessary. If legislation is recommended, the  
26 Commission shall prepare and submit with its report or reports appropriate bills.

27          Sec. 5. Upon approval of the Legislative Services Commission, the  
28 Legislative Services Officer shall assign professional and clerical staff to assist in the  
29 work of the Commission. Clerical staff shall be furnished to the Commission through  
30 the Offices of House and Senate Supervisors of Clerks. The expenses of employment  
31 of the clerical staff shall be borne by the Commission. The Commission may meet in  
32 the Legislative Building or the Legislative Office Building upon the approval of the  
33 Legislative Services Commission. The Commission may also, subject to the provisions  
34 of G.S. 120-32.02(b), enter into contracts for the provision of technical assistance it  
35 finds necessary for the performance of its responsibilities under this Part.

36          Sec. 6. Members of the Commission who are also members of the General  
37 Assembly shall be paid subsistence and travel expenses at the rate set forth in G.S. 120-  
38 3.1. Members of the Commission who are officials or employees of the State shall  
39 receive travel allowances at the rate set forth in G.S. 138-6. All other members of the  
40 Commission shall be paid the per diem and allowance at the rate set forth in G.S. 138-  
41 5.

42          Sec. 7. There is transferred from the funds appropriated to the Banking,  
43 Savings Institutions, and Credit Union Divisions for the 1990-91 fiscal year to the  
44 Legislative Services Commission for the Depository Institutions Study Commission

1 twenty-five thousand dollars (\$25,000). The respective agencies shall agree among  
2 themselves as to the amount each shall contribute toward the cost of the study. The  
3 Legislative Services Commission may allocate to the Commission additional funds  
4 necessary to enable the Commission to complete its study.

5           Sec. 8. This act becomes effective July 1, 1991.

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 1991

H

1

HOUSE JOINT RESOLUTION 696

---

Sponsors: Representative Gamble.

---

Referred to: Rules, Appointments and Calendar.

---

April 11, 1991

1 A JOINT RESOLUTION AUTHORIZING THE LEGISLATIVE RESEARCH  
2 COMMISSION TO STUDY THE PRESENT SYSTEM OF REGULATING AND  
3 TAXING BANKS, SAVINGS INSTITUTIONS, AND CREDIT UNIONS.

4 Whereas, the members of the North Carolina General Assembly are keenly  
5 aware of changes currently taking place with regard to the operational and  
6 organizational strategies of financial institutions in North Carolina; and

7 Whereas, the laws that deal with regulation and taxation are not uniformly  
8 applicable to commercial banks, savings institutions, and credit unions, as dramatically  
9 illustrated in the following table:

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STATE AND LOCAL TAXES LEVIED ON BANKS,  
SAVINGS INSTITUTIONS, AND CREDIT UNIONS

Banks

Savings  
Institutions

Credit  
Unions

I. Franchise Tax

General business

franchise

G.S. 105-122

(\$1.50 per \$1,000 tax

base)

Taxable

Taxable

Exempt

II. Corporate Income Tax

G.S. 105-130

Taxable

Taxable

Exempt

1	7% of State taxable			
2	income			
3				
4	<u>III. Intangibles Tax (Paid</u>			
5	by the institutions)			
6				
7	Accounts Receivable			
8	G.S. 105-201	Taxable	Exempt	Exempt
9	(25¢ per \$100.00)			
10				
11	Notes Receivable, etc.			
12	G.S. 105-202	Taxable	Exempt	Exempt
13	(25¢ per \$100.00)			
14				
15	Shares of Stock			
16	G.S. 105-203	Taxable	Exempt	Exempt
17				
18	<u>IV. License Tax</u>			
19				
20	Annual privilege tax			
21	G.S. 105-102.3	Taxable	Exempt	Exempt
22	(\$30.00 per \$1,000,000			
23	of average total			
24	assets)			
25				
26	<u>V. Sales and Use Tax</u>	Taxable	Taxable	Taxable
27				
28	<u>VI. Ad Valorem Tax</u>	Taxable	Taxable	Taxable; and
29				

30           Whereas, the General Assembly has created and provided for separate and  
 31 autonomous regulatory bodies in the Banking Commission, the Savings Institutions  
 32 Commission, and the Credit Union Commission, all with separate and express  
 33 jurisdictional responsibilities none of which have an overall authority to develop a State  
 34 policy for regulation and taxation; and

35           Whereas, the public interest dictates the need for a legislative review of the  
 36 entire industry, with emphasis upon regulation and taxation;

37 Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

38           Section 1. The Legislative Research Commission may study the present  
 39 regulations and taxes applicable to commercial banks, savings institutions, and credit  
 40 unions.

41           Sec. 2. The Legislative Research Commission shall report its findings,  
 42 together with any recommended legislation, to the 1993 General Assembly.

43           Sec. 3. This resolution is effective upon ratification.

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 1991

H

2

HOUSE BILL 1084  
Committee Substitute Favorable 7/3/91

Short Title: Developmental Lending Study.

(Public)

---

Sponsors:

---

Referred to:

---

April 24, 1991

1                                   A BILL TO BE ENTITLED  
2 AN ACT TO AUTHORIZE THE LEGISLATIVE RESEARCH COMMISSION TO  
3 STUDY WAYS FINANCIAL INSTITUTIONS, COMMUNITY ORGANIZATIONS,  
4 AND LOCAL GOVERNMENTS CAN COOPERATIVELY WORK TO INCREASE  
5 DEVELOPMENTAL LENDING THAT STRENGTHENS LOW AND MODERATE  
6 INCOME COMMUNITIES IN NORTH CAROLINA.  
7                   Whereas, developmental lending plays an essential role in building and  
8 revitalizing low and moderate income communities;  
9                   Whereas, as federal programs to support developmental lending disappear,  
10 state and local governments are increasingly interested in leveraging their limited  
11 financial resources; and  
12                   Whereas, financial institutions in North Carolina are working cooperatively  
13 with local governments, State government, and community organizations to strengthen  
14 the capacity of financial institutions for risk management, marketing, staff expertise,  
15 liquidity, public partnerships, and private partnerships to promote developmental  
16 lending; Now, therefore,  
17 The General Assembly of North Carolina enacts:  
18                   Section 1. The Legislative Research Commission may study ways financial  
19 institutions in North Carolina can best work cooperatively with community  
20 organizations, local governments, and the State to increase the capacity of financial  
21 institutions to do developmental lending that strengthens low and moderate income  
22 communities, in accord with safe and sound lending practices. The study, if  
23 undertaken, shall include an identification of any unmet credit needs in low and

1 moderate income communities, ways financial institutions can increase their capacity in  
2 the areas of risk management, marketing, staff expertise, liquidity, private partnerships,  
3 and public partnerships, and what the State and local governments can do to support  
4 the role of financial institutions in these areas.

5           Sec. 2. In conducting its study, the Commission may create a Joint Steering  
6 Committee consisting of the cochairs of the study committee created under Section 1 of  
7 this act and one representative from each of the following: the North Carolina Bankers  
8 Association, the North Carolina Legal Services Resource Center, the Alliance of  
9 Community Financial Institutions, and the Community Reinvestment Association of  
10 North Carolina. The Joint Steering Committee may hold a series of six meetings across  
11 the State to solicit input from local financial institutions, community based development  
12 organizations, and local governments. Necessary professional and clerical assistance for  
13 the six meetings may be provided by the Legislative Services Office.

14           Sec. 3. If the study authorized in Section 1 of this act is conducted, the  
15 Commission may make an interim report to the 1991 General Assembly, 1992 Regular  
16 Session, and shall make a final report to the 1993 Session of the General Assembly.

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

## APPENDIX B

### MEMBERSHIP OF LRC COMMITTEE ON FINANCIAL INSTITUTIONS

**LRC Member:** Sen. Howard F. Bryan  
P.O. Box 1654  
Statesville, NC 28677  
(704) 873-0501

**Members:**

**President Pro Tempore's Appointments**

Sen. William W. Staton, Cochair  
P.O. Box 1320  
Sanford, NC 27330  
(919) 775-5616

Mr. Ron Burrell  
1100 Hardee Road - Suite 103  
Kinston, NC 28501

Sen. Robert C. Carpenter  
180 Georgia Road  
Franklin, NC 28734  
(704) 524-5009

Sen. J. Richard Conder  
P.O. Box 1627  
Rockingham, NC 28379  
(919) 997-5551

Sen. Aaron W. Plyler  
2170 Concord Avenue  
Monroe, NC 28110  
(704) 289-3541

Sen. James F. Richardson  
1739 Northbrook Drive  
Charlotte, NC 28216  
(704) 399-1555

Mr. Fenner Spivey  
P.O. Box 819  
Louisburg, NC 27549

**Speaker's Appointments**

Rep. Ray C. Fletcher, Cochair  
P.O. Box 68  
Valdese, NC 28690  
(704) 874-0701

Rep. Charles M. Beall  
Route 3, Box 322  
Clyde, NC 28721  
(704) 627-2423

Rep. Harold J. Brubaker  
138 Scarboro Street  
Asheboro, NC 27203  
(919) 629-5128

Rep. John R. Gamble, Jr.  
P.O. Box 250  
Lincolnton, NC 28093  
(704) 735-5452

Mr. John Jordan  
225 Hillsborough Street  
Raleigh, NC 27602  
(919) 828-2501

Rep. Mary E. McAllister  
1506 Edgecombe Avenue  
Fayetteville, NC 28301  
(919) 483-2579

Rep. Timothy N. Tallent  
565 Windsor Place, NE  
Concord, NC 28025  
(704) 782-6136

Rep. William L. Wainwright  
P.O. Box 996  
New Bern, NC 28563  
(919) 633-2422

**Staff:**

Ms. Kristin Godette  
Ms. Robin Johnson  
Ms. Cindy Avrette  
(919) 733-2578

**Clerk:**

Ms. Jerry Batchelor  
(919) 733-9255 (O)  
(919) 782-2312 (H)



APPENDIX C

**LEGISLATIVE RESEARCH COMMISSION  
FINANCIAL INSTITUTIONS STUDY COMMISSION**

MARCH 23, 1992

Thank you for inviting me to present a report on the state of state-chartered banking or more accurately the state of the State Banking Commission. As everything cannot be covered in the limited time that you will be subject to my presentation, let me introduce the other members of our staff who are always available to you for questions and assistance:

Deputy Commissioner of Banks Hal D. Lingerfelt

General Counsel McNeil Chestnut

Assistant General Counsel Mercedes Oglukian

Consumer Finance Administrator Reitzel Deaton

Operations Administrator Guy Stewart

Special Services Administrator David Evers - Preneed Workshop, Lenoir

Special Assistant Phyllis Stephens - Preneed Workshop, Lenoir

The Banking Commission is a self-funded agency with a \$4.1 million budget and 74 employees, organized as shown on the organizational chart that you have in your packet. We are charged with regulating North Carolina's state-chartered banks and bank holding companies, consumer finance companies, refund anticipation lenders, preneed burial trust funds, mortgage bankers and mortgage brokers, reverse mortgage lenders, and money transmitters.

As you want to focus primarily on banking, I will give only a brief run-down on our other industries and refer you to the Fact Sheet provided you for further information.

In the mortgage banker/broker industry, we continue to receive a number of complaints. House Bill 55 addressed these problems, and this bill should be brought back to life, and amended to provide for a branch location fee and appeal to the Banking Commission.

In the money transmitter industry, we are implementing the 1991 legislation affecting this industry.

In preneed, we have 5 suits pending for engaging in business without a license and there are a number of investigations pending in this industry. Senate Bill 51 which passed the Senate, 29-20, and which would remove the regulation of this 100 million dollar plus industry from financial examination and have it regulated by a funeral director dominated board, is alive in the House. We oppose this change. We support the creation of an independent board with power to review our actions just as the Banking Commission does as to banks.

In reverse mortgages, unless business picks up in this industry, the new legislation will likely sunset on October 1, 1995, as we have only one institution registered and one exempted institution making this type mortgage.

We are proposing technical legislation to this Commission in the rapidly growing refund anticipation loan industry.

In consumer finance, House Bill 277 is alive in the Senate. While we support this legislation, which basically overrules the Attorney General, it is not the recommended approach to this problem and in our opinion and will not solve the matter. I would note that as of February 28, 1992, we had completed most of our current examination cycle of consumer finance companies, and these examinations have resulted in the return to North Carolina borrowers of various types of overcharges totaling of \$638,470.71. We believe this

amount is an aberration and that the completed cycle amount will not appreciably increase, although we will not know for certain, of course, until all of the examinations are processed.

This brings us to banks. Even though we deal only with state-chartered institutions, I know that you are also concerned about the overall health of the industry. In this regard, I commend to you the Industry Performance Report, which you have, prepared by the FDIC. It is an excellent overview of the entire banking industry in North Carolina.

As to state-chartered banks only, we now have 66 banks open, with one more, a conversion from an S&L, expected to open shortly as a commercial bank. On the 1991 and 1992 deposit and asset ranking lists, you will see Barclays Bank which ceased its retail banking business in North Carolina on February 28, 1992 and is in the process of surrendering its charter. Thus, one bank is ceasing business; one bank will be added; one merger is pending. There are no applications for new banks, S&L conversions, regulator conversions, or additional mergers being openly discussed, so if this does not change, 1992 will end with 65 state-chartered banks. The ranking list which you have are for all North Carolina banks for 1991 and 1992 for comparison purposes.

1991 deposits increased \$1,362,963,000, 7.01% over 1990 from \$19,455,890 to \$20,818,853. Assets increased from \$21,858,311 to \$23,759,486, 8.7%, or \$1,901,175,000. It might be of interest to know that on December 31, 1986, 5 months before I became Commissioner, deposits are \$10,928,043,000 and assets were \$12,403,815,000.

Also in your packet is a consolidated balance sheet showing 1991 and 1992 figures. Let me caution that these figures are as reported and as with all other figures herein are subject to verification. You also will be interested

in the consolidated comparative ratios on the bottom of the balance sheet. Please note the 4.07% increase in the loan to deposit ratio. So much for their being any credit crunch at our state-chartered banks.

A sizable portion of the bank growth in North Carolina has come at the expense of S&L's. During 1991 alone, 10 S&L's were merged in whole or in part with North Carolina's state-chartered banks. Also, First Federal of Raleigh was recently bid off to Centura and it is expected that the RTC will auction Security Federal of Morganton sometime this year. First American of Greensboro is presently in the early resolution program and also should close out this year.

The number of S&L's in North Carolina declined to 112 by year end. This number will decline further in 1992 as pending mergers are completed and purchases by banks continue and, unfortunately, by the failure of an additional very limited few S&L's. This shrinkage is in line with what is happening nationally. Bill Taylor, FDIC head, says he expects the S&L industry to level out at about .5 trillion in assets compared to 1.2 trillion it controlled prior to the late 1980's.

What is the condition of our state-chartered banks? Nationally, according to Robert Calvert, a leading bank consultant, banks have CAMEL ratings as follows (as you know banks are rated 1-5 with 1 being the best, and 5 being the worst):

	<u>U.S.A.</u>	<u>N.C.</u>
1	9%	29%
2	42%	52%
3	38%	15%
4	11%	5%
5		0%

Using a January 31 date, North Carolina CAMEL ratings are as follows, in raw figures:

<u>Rating</u>	<u># Banks 1991</u>	<u># Banks 1992</u>
1	21	18
2	32	32
3	6	9
4	2	3
5	0	0

If current actions are carried out as planned then hopefully we will have no 4- or worse-rated banks by mid-year.

When looked at as a percentage of total assets, the unsatisfactorily rated banks, i.e., the 3's or above, contain only 4% of the total assets of all state-chartered banks. December 31, 1991 figures:

<u>Rating</u>	<u>% Total Assets</u>
1	30%
2	67%
3	3%
4	1%
5	0%

This 4% of assets in the higher-rated banks is the same percentage as of December 31, 1990.

To give a further perspective on this, Bill Taylor, FDIC Chairman, says that according to their research, in one exam cycle, 85% of 5-rated banks fail, whereas 50% of the 4-rated banks return to a 3 rating.

Nationally, the number of troubled banks, per Paul Fritts, the operating head of the FDIC, is 1,100. It had gone down to almost 1,000 by mid-1991 from a high of 1600. The really bad side of this is that there are

many large banks on the list, especially in the Northeast and on the West Coast. Nationwide, banks hold over 100 billion dollars in troubled assets.

127 banks, including 1 in North Carolina, failed in 1991. About 130 banks are expected to fail in 1992, hopefully none in North Carolina. The number of banks continues to decrease both by failure and by merger. While the number of separate institutions remains above 12,000 nationwide, when holding company combinations are considered, the number shrinks by several thousand. This continued shrinkage and the continuing down-sizing of big banks, which will be followed by smaller banks in order to compete, means that as many as 250,000 banking jobs will disappear in this country in the relatively near future.

Fortunately North Carolina can never match Texas where 456 banks failed in the past 5 years, and according to the new Texas Commissioner of Banks, 15 or 20 are expected to fail in 1992. We have only 83 banks, total. North Carolina did have its first bank failure in 1991 since March 18, 1943, when the Bank of Black Mountain closed. The technical reason for First Hanover Bank's failure was poor management and numerous criminal referrals have been made to the FBI and the U.S. Attorney's Office. While it did not appear to us that the alleged criminal activities caused the bank to fail, the tone set by the persons in charge has to be listed as a major contributing element. The practical reason for the failure was that in previous years when a bank was on the brink of closing, and several banks have been a lot closer to failure than First Hanover was, another bank would buy it, problems and all, because the franchise always has some value. Now with so many S&L's and banks having failed, the purchasing bank is better off to wait for the failure and buy a clean bank, i.e., a bank with no bad loans, from the FDIC or the RTC, and that is what happened here. This is in contrast to what would

happen if a bank were bought before the closing in that the purchaser would have to take the bad loans along with the good. The failure inconvenienced the customers very little, if any, and in fact the ATM machine was never even shut off. Thus, a depositor, whether insured or not, could withdraw his money from the bank even though the bank had failed and closed. No depositor, no matter how large his account was, lost any money whatsoever.

That completes where we are. North Carolina is unique in its banking system. While our diversified economy is a large element, much credit must be given to the progressive legislative atmosphere that has made North Carolina banking the envy of every state in America. The General Assembly has never restricted branching, thereby allowing any bank to better serve its customers and to broaden its base. This shows up best when we look at the number of banks -- North Carolina has 83 banks and we are the 10th largest state, Georgia as the 11th largest state has 409 banks. Illinois, our 6th largest state, has 1,087 banks, at least they have more people. Kansas may be the winner in this regard as it is 32nd in population and has 555 banks. North Carolina even in the heyday of the early 1920's never had much over 400 banks and that number declined steadily until the recent resurgence of community banking.

North Carolina has never restricted the products and services a bank can offer. North Carolina was, note that I said was, a leader in providing for interstate banking. The General Assembly has much to be proud of in assisting banking in not only serving the people of North Carolina well, but making North Carolina one of the leading exporters of banking services. It is in this spirit of progress that I offer the following as proposals that need to be studied and in some instances adopted in order to keep North Carolina as a leader in the financial services field.

Topping the list is interstate banking/branching. This problem needs to be addressed on the state level and a measure of state control retained so that we can have an effect upon federal legislation in this area.

Also very important is regulatory agency consolidation. The overlap between banks and savings and loans is now complete and to maintain two separate regulatory agencies serves no one well.

Another subject worthy of legislative thought is what we have named ReBank, a system of bank assistance to an ailing financial institution.

Finally, we would be remiss if we did not mention that we receive a considerable number of complaints about the activity of check cashing services. This industry is unregulated in North Carolina and by its nature comes in contact with the regulated industries of consumer finance, money transmitters and refund anticipation lenders, in that many of these industries' lower income customers are the same.

The remaining 10 items are important but are very technical so I will only list them:

1. Director/Local Director/Board of Managers definitions.
2. Disclosure of appropriate portions of examination reports to bank fidelity bonding companies.
3. Allow bank directors to serve on the Banking Commission.
4. Eliminate required period of bank existence for out of state purchase.
5. Clarification of eligibility to serve on audit committee.
6. Removal of clearinghouse examiner language.
7. Eliminate improper reference in Deputy Commissioner definition.
8. Clarification of special reports statute.



9. Determination of required amount of stock a director must own.
10. Elimination of self insurance fee in lieu of recording consumer finance loans.

We also support an amendment to G.S. 24-10.1 to clarify the Swindell decision, an amendment to allow banking holding companies to own non-depository trust companies, and an amendment to clarify the right of trust departments to sell mutual funds.

There are two technical matters that we are asking this Commission to study in hope that action can be taken in the 1992 short session. First is the question of merger of a bank and a thrift. The 1991 session passed legislation allowing a thrift-to-bank merger, but there are still statutes preventing a bank-to-thrift merger. This corrective change should have no opposition.

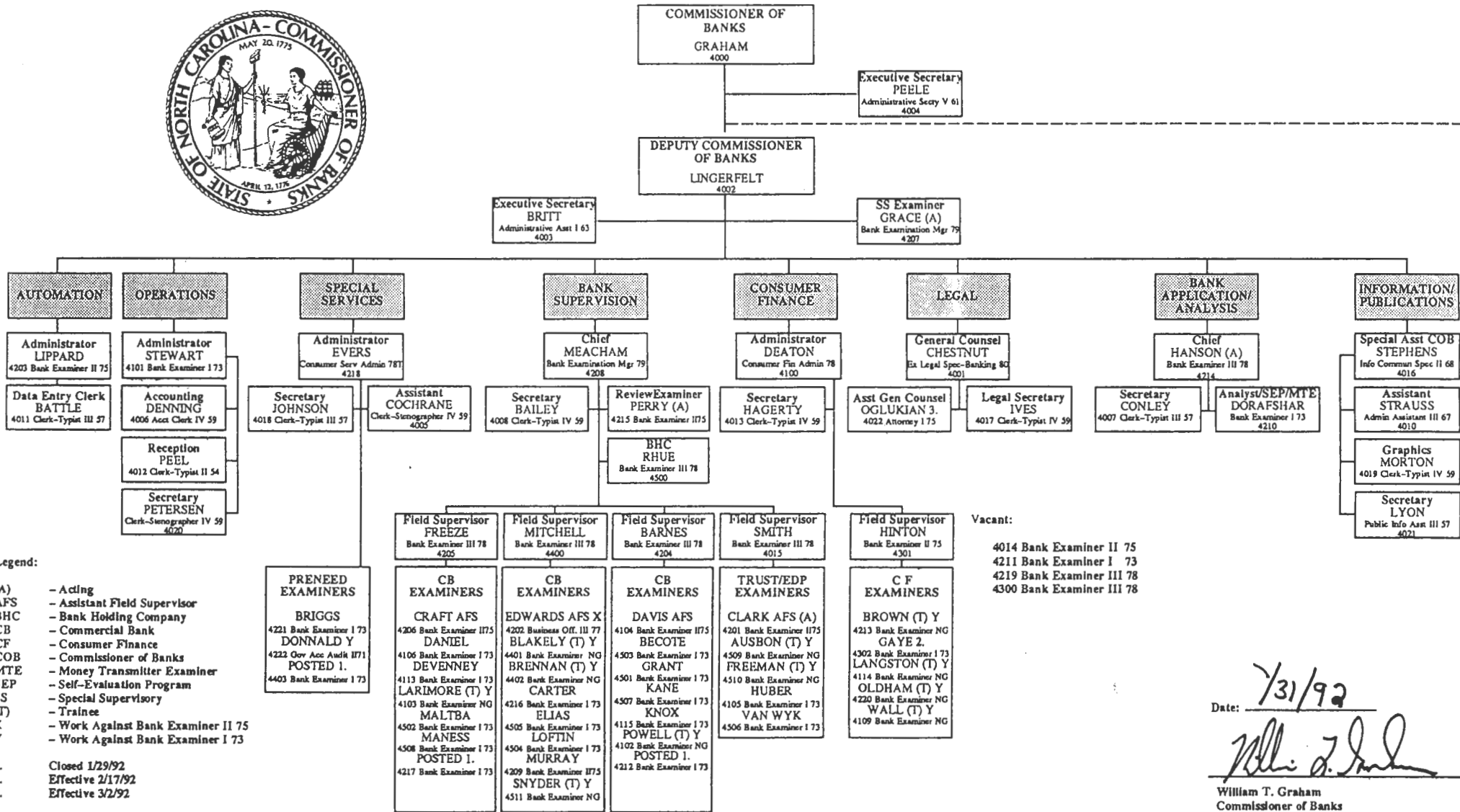
The second is an updating of the Refund Anticipation Loan statute, now that we have had 3 years' experience in this rapidly expanding industry. North Carolina was a test state for electronic federal tax filing and this led to the creation of the Refund Anticipation Loan industry. This year as of March 5, 1992, 461,593 federal returns have already been electronically filed and industry sources advise us that at least 80% of electronic filers also get refund anticipation loans. The lenders limit the size of the loans to a \$300 minimum and \$3,300 maximum. The average refund appears to be \$1,150 this year. The present legislation calls for us to set the loan fee which we feel is pretty much now pegged at \$50 in view of the loan fees established by the Commercial Loan Fee Act enacted in 1991. This has resulted in attempts by some RAL lenders to charge an excessive electronic fee. Thus far, we have succeeded in tying these fees together.

Some of the problems that must be addressed in order to efficiently administer this industry include: Exception for RAL lenders from the loan broker statute, requiring license at an earlier date, providing for the nonrefundability of licensing and providing for the nonrefundability of licensing fees.

Thus, while there are a number of things that we think are worthy of study in the financial services field, these two items, bank to thrift merger and RAL changes, make up our request package for the 1991 short session.

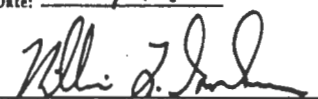
Thank you for your time and attention and I will be happy to answer any questions.

# NORTH CAROLINA BANKING COMMISSION



- Legend:**
- (A) - Acting
  - AFS - Assistant Field Supervisor
  - BHC - Bank Holding Company
  - CB - Commercial Bank
  - CF - Consumer Finance
  - COB - Commissioner of Banks
  - MTE - Money Transmitter Examiner
  - SEP - Self-Evaluation Program
  - SS - Special Supervisory
  - (T) - Trainee
  - X - Work Against Bank Examiner II 75
  - Y - Work Against Bank Examiner I 73
1. Closed 1/29/92  
2. Effective 2/17/92  
3. Effective 3/2/92

Date: 7/31/92



William T. Graham  
Commissioner of Banks

# THE NORTH CAROLINA BANKING COMMISSION FACT SHEET

## BANKS AND BANK HOLDING COMPANIES

The North Carolina Commissioner of Banks regulates banking under N.C.G.S.53 *et seq.* Primarily this office ensures the safe conduct of banking business, maintains public confidence in state-chartered banks, and protects the banks' depositors, debtors, creditors, and shareholders.

### As of 11/30/91 we had:

20 Bank Holding Companies regulated  
29 Bank Holding Companies registered

### As of 1/15/92 we regulated:

66 banks – 1142 branches  
1 bank is approved but not open

### As of 12/31/91 state-chartered banks had:

Total Deposits – \$20,818,853,000  
Total Assets – \$23,759,484,000

## CONSUMER FINANCE

The North Carolina Consumer Finance Act (N.C.G.S. 53–164 *et seq.*) authorizes the Commissioner of Banks to license and supervise small loan companies that make direct consumer loans of \$10,000 or less and charge rates in excess of those permitted by Chapter 24. These lenders may choose to make loans as a General Lender (N.C.G.S. 53–173) or as an Optional Rate Lender (N.C.G.S. 53–176).

### As of 1/15/92 we had licensed:

121 General Lenders (can lend \$3,000 or less)  
516 Optional Rate Lenders (can lend \$10,000 or less)  
637 Total Offices

## REFUND ANTICIPATION LOANS

The Refund Anticipation Loan Act requires facilitators who make tax refund loans to register with the Commissioner of Banks.

### As of 1/15/92 we had licensed:

410 Refund Anticipation lenders

## FUNERAL AND BURIAL TRUST FUNDS

The Funeral and Burial Trust Fund Act (N.C.G.S. 90–120 *et seq.*) authorizes the Commissioner of Banks to regulate funeral homes which sell preneed burial contracts. A preneed burial contract is an arrangement that allows the consumer to plan and to pay in advance for his funeral. The preneed burial trust law governs the prepayment of funeral services, merchandise, and personal property. It does not govern prepayment of cemetery lots, crypts, niches, mausoleums, grave markers, or monuments.

### As of 3/19/92 we had:

419 Preneed licensees  
39,546 Contracts

### As of 12/31/90 we had:

\$107,356,885.57 Total Preneed Trust Deposits

## REGISTRATION OF MORTGAGE BANKERS AND BROKERS

Under the provisions of N.C.G.S. 53–233 *et seq.*, mortgage bankers and brokers must register with the Commissioner of Banks unless they are exempt. These exemptions include financial institutions presently regulated by the state or federal government and real estate agents or brokers licensed by the North Carolina Real Estate Commission.

### As of 1/15/92 we had:

52 Mortgage Bankers	15 branches
73 Mortgage Banker/Brokers	21 branches
76 Mortgage Brokers	10 branches

Totals: Registrants – 201 Branches – 46 Offices – 247

## MONEY TRANSMITTERS

The Money Transmitters Act (N.C.G.S. 53–192 *et seq.*) provides that no one can sell or issue checks, drafts, money orders, or other instruments for the payment of transmission of money unless licensed by the Commissioner of Banks.

### As of 1/15/92 we had:

14 Money Transmitters Licensees

## REVERSE MORTGAGES

The Reverse Mortgage Act (N.C.G.S. 53–255 *et seq.*) authorizes the Commissioner of Banks to approve reverse mortgage lenders. Even though banks, savings institutions, and credit unions are exempt and do not have to obtain the Commissioner's approval, nevertheless they must notify him of their intent to offer reverse mortgages.

Reverse mortgages are available to homeowners over 62. They provide monthly loan advances which are repaid upon death or the sale of the house.

### As of 1/15/92 we had approved:

1 Reverse Mortgage Lender  
1 Exempt Lender

1/15/92

	12-31-91	12-31-90	PERCENT CHANGE
	66 BANKS	63 BANKS	
(Dollar amounts in thousands)			
*****			
<b>ASSETS</b>			
1. Cash and balances due from depositories:			
a. Noninterest-bearing and currency/coin	1,380,074	1,453,470	-5.05%
b. Interest-bearing balances	19,497	154,016	-87.34%
2. Securities	6,056,882	5,317,273	13.91%
3. Federal Funds Sold and Repos	397,438	644,515	-38.34%
4. Loans and lease financing receivables:			
a. Loans and leases net of unearned inc.	15,063,890	13,527,716	11.36%
b. LESS: Allowance for loan/lease losses	233,449	188,106	24.11%
c. LESS: Allocated transfer risk reserve	0	0	
d. Net loans and leases (4a less 4b & 4c)	14,830,441	13,339,610	11.18%
5. Assets held in trading accounts	386	60	543.33%
6. Premises and fixed assets incl cap leases	505,931	461,210	9.70%
7. Other real estate owned	125,171	67,625	85.10%
8. Investments in unconsolidated subs.	4,571	4,632	-1.32%
9. Customer liability - bank acceptances	2,361	2,845	-17.01%
10. Intangible assets	37,903	30,301	25.09%
11. Other assets	398,831	382,754	4.20%
-----			
12. Total assets (sum 1 thru 11)	\$23,759,486	\$21,858,311	8.70%
=====			
<b>LIABILITIES</b>			
13. Deposits:			
a. In domestic offices ( sum (1) & (2) )	20,632,924	19,246,127	7.21%
(1) Noninterest bearing	3,097,525	2,954,000	4.86%
(2) Interest bearing	17,535,399	16,292,127	7.63%
b. In foreign offices ( sum (1) & (2) )	185,929	209,763	-11.36%
(1) Non-interest bearing	0	0	
(2) Interest bearing	185,929	209,763	-11.36%
14a. Federal funds purchased	292,001	132,568	120.27%
14b. Securities sold under repo agreements	147,906	137,809	7.33%
15. Demand notes issued to US Treasury	93,827	63,803	47.06%
16. Other borrowed money	283,730	175,175	61.97%
17. Mortgages and capital lease obligations	10,302	11,613	-11.29%
18. Bank's liability on customer acceptances	2,361	2,845	-17.01%
19. Subordinated notes and debentures	74,171	75,843	-2.20%
20. Other liabilities	223,917	231,522	-3.28%
-----			
21. Total Liabilities	21,947,068	20,287,068	8.18%
22. Limited-life preferred stock	0	0	
<b>EQUITY CAPITAL</b>			
23. Perpetual preferred stock	0	0	
24. Common stock	229,159	207,720	10.32%
25. Surplus	669,351	595,359	12.43%
26. Undivided profits and capital reserves	914,447	774,105	18.13%
26b. Less unrealized loss on equity securities	539	5,941	-90.93%
27. Cumulative foreign currency trans. adj.	0	0	
28. Total equity capital (sum items 23-27)	1,812,418	1,571,243	15.35%
-----			
29. Total liabilities, limited-life preferred stock, and equity capital (sum 21,22,28)	\$23,759,486	\$21,858,311	8.70%
=====			
<b>Consolidated ratios:</b>			
Total Equity to Total Assets	7.63%	7.19%	6.12%
Total Equity and Reserves to Total Assets	8.61%	8.05%	6.98%
Total Loans to Total Deposits	72.36%	69.53%	4.07%
Total Loans to Total Assets	63.40%	61.89%	2.45%
Reserve for Loan Losses to Total Loans	1.55%	1.39%	11.45%
Non-interest Bearing Deposits to Total Dep.	14.88%	15.18%	-2.01%
Interest Bearing Deposits to Total Deposits	85.12%	84.82%	0.36%
Total Net Income (000)	184,874	182,847	1.11%

NORTH CAROLINA: COMMERCIAL BANKING, THRIFT & ECONOMIC PROFILE\*

Banking Industry Performance

North Carolina was one of only eight states that did not experience a bank failure during the 1980s. The failure record as well as the consistently superior income results of North Carolina's banks reflected the strength of the state economy. However, the current recession has had a substantial impact upon the state banking industry. The state's 81 commercial banks reported an average annualized return on assets of 0.73 percent for the first nine months of 1991, their worst profit performance since 1981. In addition, during 1991, the state experienced its first bank failure in forty-one years.

North Carolina's 46 small commercial banks with less than \$100 million in assets sustained an average annualized loss on assets of 0.10 percent for the first nine months of 1991, a marginal deterioration from the poor zero percent return posted in 1990. The loss was attributable to declining net interest margins, excessive operating costs, and increased levels of loan-loss provisioning and net charge-offs. The volume of nonperforming assets increased by nearly 40 percent in the first nine months of 1991, rising to 1.68 percent of assets, still marginally below the problem-asset statistic for small banks industry-wide (1.73 percent). The number of banks reporting operating losses was unchanged (17) during the first nine months of the year. Ten of the deficit institutions were new banks chartered in the last four years.

Among the state's 35 large commercial banks with more than \$100 million in assets, profitability declined by 16 percent, as measured by return on assets. These institutions earned an average annualized return on assets of 0.75 percent, down from the 0.89 percent return achieved in 1990, yet substantially above the 0.56 percent return realized by large banks nationwide. The falloff in profitability was prompted by higher levels of loan-loss provisioning and net charge-offs and reduced noninterest income. Problem loans represented 1.77 percent of assets at the end of the third quarter 1991, substantially below the 3.22 percent nonperforming-asset statistic for large banks nationally. All of the state's large banks announced operating profits as of September 30, 1991.

Table 1 provides additional detail on the financial performance and condition of North Carolina's commercial banks.

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\* Prepared by Victor L. Saulsbury, Financial Analyst, Division of Research & Statistics. February 4, 1992.

Table 1

## Assorted Annualized Performance Ratios for Insured Commercial Banks, North Carolina

	Preliminary 9/91 Data			1990			1989		
	Assets < \$100mill	Assets > \$100mill	All Banks	Assets < \$100mill	Assets > \$100mill	All Banks	Assets < \$100mill	Assets > \$100mill	All Banks
Number of banks reporting.....	46	35	81	46	32	78	47	31	78
Total employees (full-time equivalent).....	1,265	33,351	34,616	1,391	36,882	38,273	1,446	38,332	39,778
Total assets.....	2,023,141	85,550,747	87,573,888	2,130,714	78,114,818	80,245,532	1,950,670	73,597,864	75,548,534
Total earning assets.....	1,809,638	75,611,076	77,420,714	1,917,943	68,856,631	70,774,574	1,753,365	65,231,393	66,984,758
Total loans & leases.....	1,278,441	50,730,251	52,008,692	1,332,987	49,699,996	51,032,983	1,221,138	45,850,202	47,071,340
Return on assets.....	-0.10	0.75	0.73	0.00	0.89	0.87	0.30	1.05	1.03
Net operating income to average assets.....	-0.16	0.58	0.56	-0.02	0.86	0.84	0.27	0.99	0.98
Return on equity.....	-0.85	12.34	11.76	-0.01	14.80	14.07	2.25	17.25	16.46
Net interest margin.....	4.27	3.57	3.58	4.46	3.47	3.49	4.72	3.53	3.56
Average earning asset yield.....	9.83	9.24	9.25	10.65	10.31	10.32	10.92	10.72	10.73
Break-even yield.....	5.56	5.67	5.67	6.19	6.84	6.83	6.20	7.19	7.17
Noninterest expense to average assets.....	3.82	2.91	2.93	3.87	2.93	2.96	4.02	2.97	3.00
Noninterest income to average assets.....	0.80	1.28	1.27	0.75	1.53	1.52	0.79	1.39	1.37
Net charge-offs to loans & leases.....	0.86	0.79	0.79	0.65	0.46	0.47	0.43	0.23	0.24
Loss provision to average assets.....	0.76	0.72	0.72	0.79	0.54	0.55	0.52	0.21	0.22
Retained earning to average equity.....	-1.47	4.46	4.19	-1.30	3.72	3.47	1.58	9.45	9.03
Banks losing money.....	36.96	N/A	20.99	36.96	6.25	24.36	29.79	3.23	19.23
Past-due 90 days or more to loans & leases..	0.60	0.33	0.34	0.59	0.29	0.29	0.69	0.22	0.23
Nonperforming assets to assets.....	1.68	1.77	1.76	1.22	1.51	1.50	1.05	0.67	0.68
Reserves to loans & leases.....	1.72	1.72	1.72	1.59	1.46	1.46	1.35	1.15	1.15
Equity to assets.....	11.25	5.83	5.95	11.06	6.03	6.16	12.46	6.04	6.20
Primary capital to adjusted average assets..	12.63	7.08	7.21	12.32	6.92	7.06	13.51	6.71	6.88
Net loans & leases to assets.....	62.10	58.28	58.37	61.56	62.69	62.66	61.76	61.58	61.59

### S&L Industry Performance

North Carolina's 61 S&Ls with less than \$100 million in assets were among the most profitable small S&Ls in the nation, ranking twelfth among the 50 states in return on assets for the first nine months of 1991. These institutions earned an average annualized return on assets of 0.58 percent for the first nine months of 1991, down from the 0.77 percent return realized for the comparable period in 1990. The falloff in profitability was attributable to increased levels of charge-offs. In contrast, small S&Ls nationwide incurred a loss of 0.26 percent on assets. The superior profit performance of North Carolina's small S&Ls was based on low levels of problem assets and delinquent mortgages. Delinquent mortgages represented only 1.16 percent of mortgage loan assets at the close of the third quarter, substantially below the 2.08 percent delinquency statistic for small S&Ls industry-wide. Only one of the state's small S&Ls had tangible net worth below three percent of assets. Equity represented 9.59 percent of assets on September 30, 1991.

The state's 56 large S&Ls with more than \$100 million in assets earned a 0.10 percent annualized return on assets for the first nine months of 1991. However, if the income results of two conservatorship institutions are excluded, the remaining 54 solvent S&Ls posted a profit of approximately \$45 million, indicating a 0.42 percent return on assets. The solvent S&Ls are well-capitalized with equity totaling 6.77 percent of assets and more than 90 percent of these institutions having tangible capital in excess of three percent.

Table 2 presents additional statistics on the financial performance and condition of North Carolina's S&Ls, while the graphs on pages 5 and 6 illustrate the comparative positions of commercial banks and thrifts in terms of size, profitability and capital.

### RTC Operations

As of January 27, 1992, the RTC had two North Carolina S&Ls with \$592.2 million in assets in conservatorship. These thrifts held \$96 million in repossessed real estate. Liabilities exceeded assets by approximately \$31 million.

The RTC completed the resolution of six cases involving \$1.26 billion in net assets; liabilities exceeded assets by \$142 million.

As of January 22, 1992, the RTC listed 606 properties for sale: residential - 359; commercial - 50; land - 197. The book value of these properties was estimated to be \$139 million.



Table 2

North Carolina  
Selected Statistics for All SAIF-Insured Savings Institutions

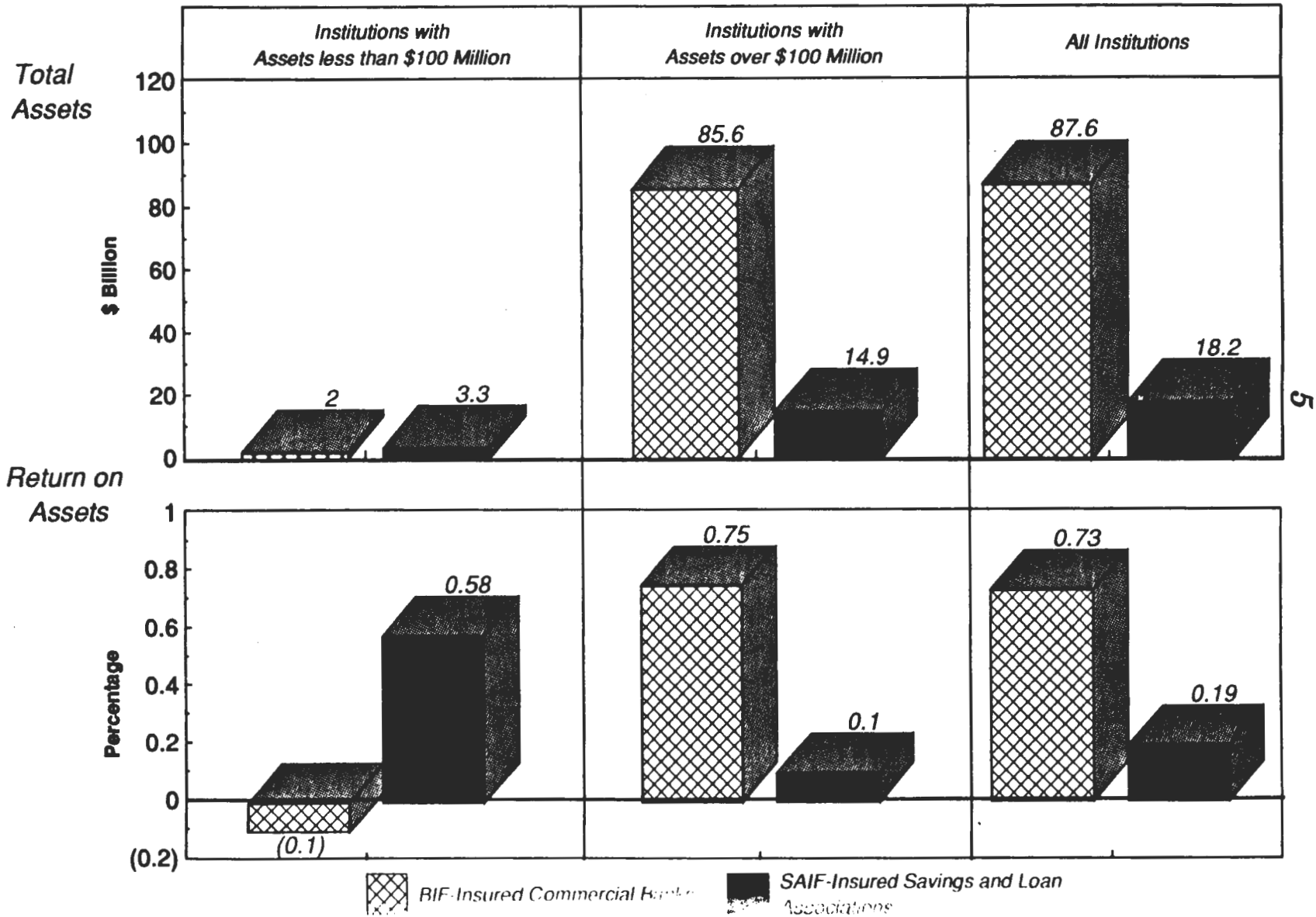
First Three Quarters 1991

	3rd Qtr 1991	2nd Qtr 1991	1st Qtr 1991	4th Qtr 1990	< \$100 mill	\$100 mill +	Total
Number of institutions.....	117	124	125	126	61	56	117
<b>Summary Information (\$ in thousands):</b>							
Total assets.....	19,175,926	19,782,427	19,972,919	20,233,878	3,296,374	14,079,552	10,175,926
Total loans*.....	15,080,659	16,606,782	16,800,258	17,287,056	2,696,574	12,384,085	15,080,659
Total mortgage loans*.....	13,694,196	15,105,232	15,264,303	15,681,023	2,533,714	11,160,482	13,694,196
Total deposits.....	15,533,830	16,926,985	17,041,699	17,161,600	2,900,458	12,633,372	15,533,830
Reposessed real estate (OREO).....	231,814	251,936	290,253	282,555	27,794	204,020	231,814
Net income.....	14,473	11,453	(759)	(8,389)	14,179	10,988	25,167
<b>Key Performance Measures:</b>							
Return on assets.....	0.32	0.23	-0.02	-0.17	0.58	0.10	0.19
Net interest margin to earning assets.....	3.00	2.84	2.66	2.60	3.21	2.96	3.01
Net noninterest exp to earning assets.....	1.76	1.83	1.85	2.02	1.66	1.99	1.93
Net charge-offs to loans.....	0.06	0.43	0.13	0.15	0.19	0.24	0.23
Delinquent mortgages to mortgages.....	1.92	1.88	2.15	2.05	1.16	2.10	1.92
Noncurrent loans plus OREO to assets.....	3.13	3.31	3.32	3.14	1.42	3.51	3.13
Percent of institutions losing money...	8.55	8.87	13.60	15.08	6.56	14.29	10.26
<b>Capital Trends (\$ in thousands):</b>							
Equity (GAAP net worth).....	1,252,958	1,320,589	1,311,460	1,322,246	315,971	936,987	1,252,958
Goodwill and other intangibles.....	104,810	116,027	119,080	125,296	915	103,895	104,810
Tangible net worth.....	1,148,148	1,204,562	1,192,380	1,196,950	315,056	833,092	1,148,148
Equity to assets.....	6.89	6.68	6.57	6.54	9.59	6.30	6.89
<b>Percent with Tangible Net Worth:</b>							
less than 0%.....	2.56	3.23	4.00	4.76	0.00	5.36	2.56
0% to less than 1.5%.....	0.86	2.42	2.40	0.79	0.00	1.79	0.86
1.5% to less than 3%.....	2.56	2.42	1.60	1.59	1.64	3.57	2.56
3% or greater.....	94.02	91.94	92.00	92.86	98.36	89.29	94.02

\* Includes mortgage-backed securities.

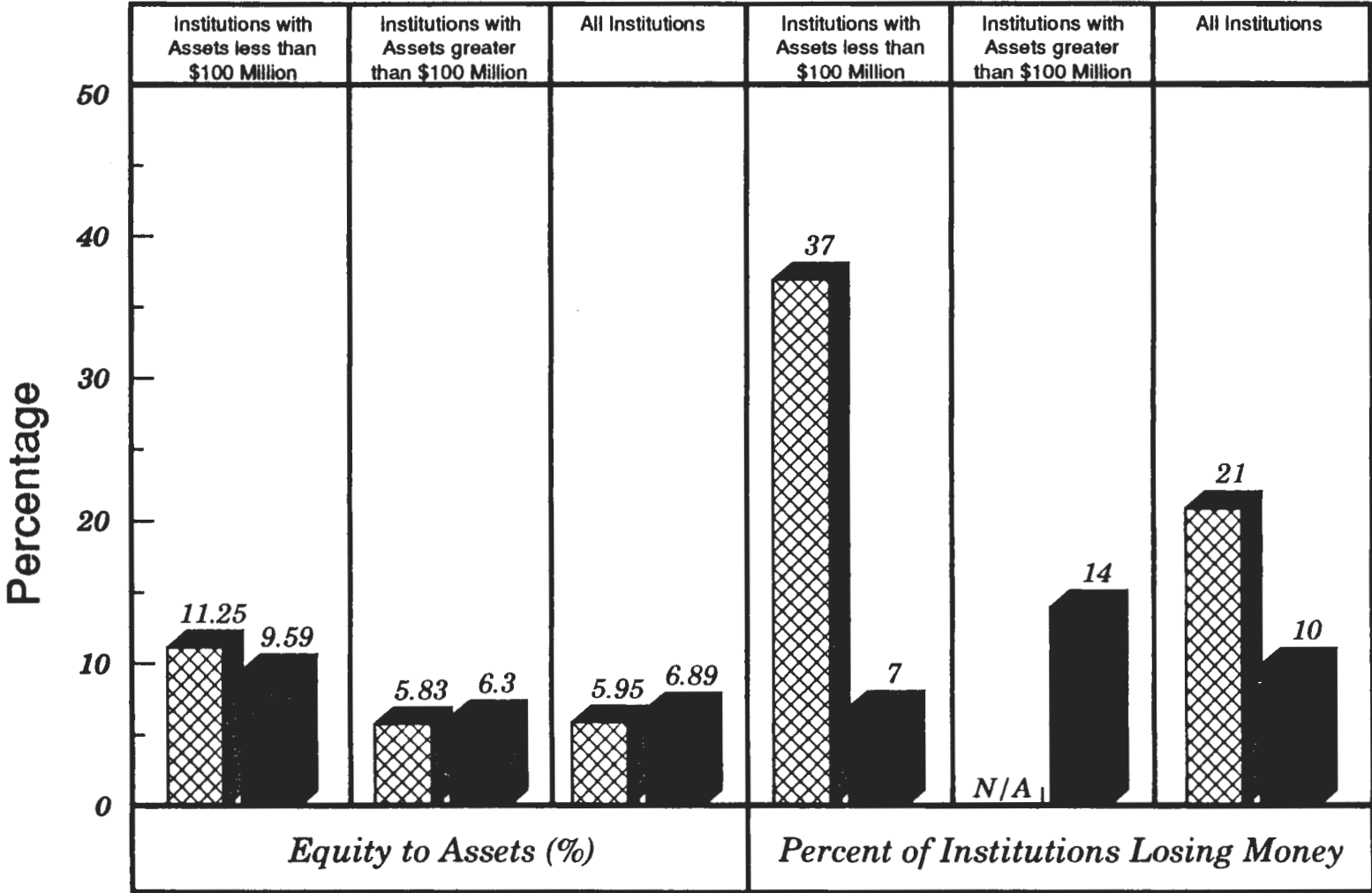
# Commercial Banks and Savings and Loan Associations In the State of North Carolina

(As of September 30, 1991)



# Commercial Banks and Savings and Loan Associations In the State of North Carolina

(as of September 30, 1991)



*BIF-Insured Commercial Banks*  
 *SAIF-Insured Savings and Loan Associations*

**\*Percent of Institutions Losing Money**  
Values are rounded to WHOLE numbers.

### Economic Overview

Until 1991, North Carolina had enjoyed eight consecutive years of economic expansion since emerging from the 1982 recession. During the expansion period, the state economy averaged a strong 5.6 percent annual growth rate. While nondurable goods manufacturing retains its traditional importance in North Carolina, a more diversified economy continues to develop led by services, transportation and the manufacture of durable goods.

North Carolina's economy slowed significantly in 1990, a result that was not surprising given the duration of the state's economic expansion and the sluggish pace of the national economy. In the fourth quarter of 1990, the state economy entered a short-lived recessionary phase. Although unemployment peaked at 6.7 percent in May, the recovery of the state economy began in the second quarter of 1991, led surprisingly by strength in the manufacturing sector. Between July and November of 1991, the state economy added 22,000 new jobs, including 7,000 manufacturing positions. Unemployment continues to decline, falling to 5.7 percent in November. Construction remains the state economy's weakest major sector, while manufacturing, services and government provide sources of strength. Manufacturing accounts for approximately 30 percent of the state's economic base; a sustained economic recovery requires growth in manufacturing.

Analysts at the University of North Carolina expect the state economy to expand at a 2.2 percent inflation-adjusted rate in 1992. Employment is anticipated to advance by approximately 2.0 percent, adding 61,000 new jobs in 1992.

Banking StructureIntrastate Banking Authority:

North Carolina permits statewide expansion through branching or multibank holding companies.

Interstate Banking Authority:

North Carolina's regional, reciprocal banking law became effective July 1, 1985. The region includes the District of Columbia and the states of Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Maryland, Mississippi, South Carolina, Tennessee, Texas, Virginia and West Virginia.

Emergency Takeover Provisions: None.

Depositor Preference Statute: None.

Bank-Failure Resolutions:

During 1991, the FDIC used a purchase-and-assumption transaction to close the \$48.1 million First Hanover Bank. The FDIC anticipates a loss of \$13.6 million and retained assets with a book value of \$10.8 million.

Unusual Banking Activity Authority:

Commercial banks may invest up to 75 percent of unimpaired total capital funds in stocks of corporations and partnerships, subject to approval by the state's banking commission.

Number of Operating Commercial Banks:

	<u>1989</u>	<u>1990</u>	<u>9/91</u>
North Carolina	78	78	81
U.S.	12,707	12,340	12,072

APPENDIX E

COMMERCIAL BANKS IN NORTH CAROLINA RANKED BY TOTAL ASSETS  
(National and State-Chartered)

		December 31, 1991			
BANK NAME	CITY	TOTAL ASSETS (000)	RANK	PERCENTAGE OF TOTAL	
* NationsBank of N.C., N.A.	Charlotte	18,824,934	1	23.65%	
* Wachovia Bank of N.C., N.A.	Winston-Salem	17,081,512	2	21.46%	
* First Union National Bank	Charlotte	15,877,902	3	19.94%	
First-Citizens Bank and Trust	Raleigh	5,448,323	4	6.84%	
Branch Banking and Trust	Wilson	5,379,927	5	6.76%	
* Southern National Bank	Lumberton	2,989,346	6	3.75%	
Centura Bank	Rocky Mount	2,469,037	7	3.10%	
United Carolina Bank	Whiteville	2,375,360	8	2.98%	
Central Carolina Bank	Durham	1,943,556	9	2.44%	
High Point Bank and Trust	High Point	427,330	10	0.54%	
Security Bank and Trust	Salisbury	360,343	11	0.45%	
Bank of Granite	Granite Falls	335,396	12	0.42%	
Lexington State Bank	Lexington	312,715	13	0.39%	
Southern Bank and Trust	Mount Olive	258,261	14	0.32%	
The Fidelity Bank	Fuquay-Varina	250,047	15	0.31%	
* First Charter National Bank	Concord	241,173	16	0.30%	
First Bank	Troy	231,808	17	0.29%	
* First National Bank and Trust	Asheboro	228,266	18	0.29%	
* The First National Bank	Shelby	225,229	19	0.28%	
Republic Bank and Trust	Charlotte	213,125	20	0.27%	
Yadkin Valley Bank	Elkin	185,562	21	0.23%	
Barclays Bank of N.C.	Charlotte	168,915	22	0.21%	
Lincoln Bank of N.C.	Lincolnton	168,673	23	0.21%	
Mid-South Bank	Sanford	159,602	24	0.20%	
First Charlotte Bank	Charlotte	154,606	25	0.19%	
Peoples Bank	Newton	148,360	26	0.19%	
The East Carolina Bank	Engelhard	146,528	27	0.18%	
* First National Bank	Reidsville	146,498	28	0.18%	
First Commercial Bank	Asheville	137,035	29	0.17%	
Unity Bank and Trust	Rocky Mount	136,886	30	0.17%	
Triangle Bank	Raleigh	129,394	31	0.16%	
Farmers & Merchants Bank	Granite Quarry	119,849	32	0.15%	
Triad Bank	Greensboro	103,689	33	0.13%	
Mechanics and Farmers Bank	Durham	101,477	34	0.13%	
The Heritage Bank	Lucama	94,893	35	0.12%	
Bank of Union	Monroe	93,164	36	0.12%	
Bank of Stanly	Albemarle	93,105	37	0.12%	
FirstSouth Bank	Burlington	92,913	38	0.12%	
Four Oaks Bank and Trust	Four Oaks	84,451	39	0.11%	
Salem Trust Bank	Winston-Salem	80,039	40	0.10%	
Randolph Bank and Trust	Asheboro	73,300	41	0.09%	
Bank of Mecklenburg	Charlotte	69,656	42	0.09%	
The Village Bank	Chapel Hill	67,260	43	0.08%	
First Community Bank	Gastonia	63,367	44	0.08%	
Bankers Trust of N.C.	Greensboro	63,174	45	0.08%	
Guaranty State Bank	Durham	61,357	46	0.08%	
Citizens Bank	Murphy	61,186	47	0.08%	
* Southtrust Bank of N.C., N.A.	Raleigh	60,566	48	0.08%	
The Community Bank	Pilot Mountain	60,251	49	0.08%	
The Bank of Currituck	Moyock	60,120	50	0.08%	
The Bank of Iredell	Statesville	58,483	51	0.07%	
Blue Ridge Bank	Sparta	58,438	52	0.07%	
* Columbus National Bank	Whiteville	52,500	53	0.07%	
Community Bank and Trust	Rutherfordton	47,509	54	0.06%	
State Bank	Fayetteville	46,063	55	0.06%	
First Carolina Bank	Sanford	44,563	56	0.06%	
Topsail State Bank	Hampstead	38,948	57	0.05%	
Avery County Bank	Newland	38,883	58	0.05%	
Piedmont State Bank	Greensboro	37,447	59	0.05%	
Central State Bank	High Point	32,749	60	0.04%	
Granville United Bank	Oxford	31,542	61	0.04%	
Lumbee Guaranty Bank	Pembroke	31,419	62	0.04%	
* Enterprise National Bank	Winston-Salem	30,794	63	0.04%	
New East Bank of Greenville	Greenville	29,864	64	0.04%	
Standard Bank	Dunn	29,410	65	0.04%	
New East Bank of Fayetteville	Fayetteville	29,143	66	0.04%	
New East Bank of Goldsboro	Goldsboro	29,038	67	0.04%	
* Crown National Bank	Charlotte	28,219	68	0.04%	
First Scotland Bank	Laurinburg	28,177	69	0.04%	
Morris Plan Industrial Bank	Burlington	27,046	70	0.03%	
* United National Bank	Fayetteville	26,100	71	0.03%	
Carolina State Bank	Shelby	25,594	72	0.03%	
Old North State Bank	King	22,740	73	0.03%	
* RHN Bank of N.C.	Charlotte	20,719	74	0.03%	
New East Bank of the Albemarle	Elizabeth City	19,409	75	0.02%	
Bank of Pine Level	Pine Level	17,584	76	0.02%	
* Greensboro National Bank	Greensboro	17,338	77	0.02%	
The Bank of Bladenboro	Bladenboro	17,047	78	0.02%	
Park Meridian Bank	Charlotte	14,514	79	0.02%	
New East Bank of New Bern	New Bern	13,507	80	0.02%	
Bank of North Carolina	Thomasville	6,327	81	0.01%	
* National Charter	Total	\$79,610,580	81	100.00%	

BANKS IN NORTH CAROLINA RANKED BY TOTAL DEPOSITS  
(National and State-Chartered)

December 31, 1991

BANK NAME	CITY	TOTAL DEPOSITS (000)	RANK	PERCENTAGE OF TOTAL
* First Union National Bank	Charlotte	13,389,339	1	22.44%
* Wachovia Bank of N.C., N.A.	Winston-Salem	11,511,883	2	19.29%
* NationsBank of N.C., N.A.	Charlotte	10,441,418	3	17.50%
* First-Citizens Bank and Trust	Raleigh	4,831,801	4	8.10%
Branch Banking and Trust	Wilson	4,601,891	5	7.71%
* Southern National Bank	Lumberton	2,593,186	6	4.35%
Centura Bank	Rocky Mount	2,192,863	7	3.67%
United Carolina Bank	Whiteville	2,150,862	8	3.60%
Central Carolina Bank	Durham	1,710,667	9	2.87%
High Point Bank and Trust	High Point	388,144	10	0.65%
Security Bank and Trust	Salisbury	308,624	11	0.52%
Bank of Granite	Granite Falls	288,106	12	0.48%
Lexington State Bank	Lexington	273,783	13	0.46%
Southern Bank and Trust	Mount Olive	235,087	14	0.39%
The Fidelity Bank	Fuquay-Varina	217,814	15	0.37%
* First National Bank and Trust	Asheboro	208,384	16	0.35%
* First Charter National Bank	Concord	207,034	17	0.35%
First Bank	Troy	206,095	18	0.35%
Republic Bank and Trust	Charlotte	181,165	19	0.30%
Yadkin Valley Bank	Elkin	169,041	20	0.28%
* The First National Bank	Shelby	164,225	21	0.28%
Lincoln Bank of N.C.	Lincolnton	153,890	22	0.26%
Mid-South Bank	Sanford	143,876	23	0.24%
First Charlotte Bank	Charlotte	140,923	24	0.24%
The East Carolina Bank	Engelhard	134,889	25	0.23%
* First National Bank	Reidsville	130,296	26	0.22%
Peoples Bank	Newton	127,789	27	0.21%
First Commercial Bank	Asheville	126,526	28	0.21%
Unity Bank and Trust	Rocky Mount	117,058	29	0.20%
Farmers & Merchants Bank	Granite Quarry	106,144	30	0.18%
Triangle Bank	Raleigh	104,846	31	0.18%
Triad Bank	Greensboro	95,125	32	0.16%
Mechanics and Farmers Bank	Durham	89,885	33	0.15%
Bank of Union	Monroe	85,119	34	0.14%
The Heritage Bank	Lucama	83,835	35	0.14%
Bank of Stanly	Albemarle	82,971	36	0.14%
FirstSouth Bank	Burlington	80,249	37	0.13%
Barclays Bank of N.C.	Charlotte	77,401	38	0.13%
Four Oaks Bank and Trust	Four Oaks	73,989	39	0.12%
Salem Trust Bank	Winston-Salem	73,407	40	0.12%
Randolph Bank and Trust	Asheboro	67,196	41	0.11%
The Village Bank	Chapel Hill	61,594	42	0.10%
Citizens Bank	Murphy	55,307	43	0.09%
First Community Bank	Gastonia	54,899	44	0.09%
Bankers Trust of N.C.	Greensboro	54,890	45	0.09%
The Community Bank	Pilot Mountain	54,629	46	0.09%
Guaranty State Bank	Durham	53,769	47	0.09%
* Southtrust Bank of N.C., N.A.	Raleigh	53,268	48	0.09%
Blue Ridge Bank	Sparta	53,046	49	0.09%
The Bank of Iredell	Statesville	52,679	50	0.09%
Bank of Mecklenburg	Charlotte	51,396	51	0.09%
The Bank of Currituck	Moyock	51,092	52	0.09%
* Columbus National Bank	Whiteville	46,911	53	0.08%
State Bank	Fayetteville	40,170	54	0.07%
First Carolina Bank	Sanford	39,851	55	0.07%
Community Bank and Trust	Rutherfordton	38,107	56	0.06%
Piedmont State Bank	Greensboro	35,158	57	0.06%
Topsail State Bank	Hampstead	34,966	58	0.06%
Avery County Bank	Newland	29,426	59	0.05%
Central State Bank	High Point	29,143	60	0.05%
Lumbee Guaranty Bank	Pembroke	28,194	61	0.05%
Granville United Bank	Oxford	27,936	62	0.05%
First Scotland Bank	Laurinburg	25,760	63	0.04%
* Crown National Bank	Charlotte	25,586	64	0.04%
* Enterprise National Bank	Winston-Salem	25,187	65	0.04%
New East Bank of Greenville	Greenville	25,054	66	0.04%
New East Bank of Goldsboro	Goldsboro	24,627	67	0.04%
Standard Bank	Dunn	24,381	68	0.04%
Morris Plan Industrial Bank	Burlington	24,104	69	0.04%
New East Bank of Fayetteville	Fayetteville	23,705	70	0.04%
* United National Bank	Fayetteville	22,477	71	0.04%
Carolina State Bank	Shelby	19,641	72	0.03%
Old North State Bank	King	19,258	73	0.03%
* RHNB National Bank of N.C.	Charlotte	19,038	74	0.03%
New East Bank of the Albemarle	Elizabeth City	16,116	75	0.03%
Bank of Pine Level	Pine Level	15,954	76	0.03%
* Greensboro National Bank	Greensboro	15,883	77	0.03%
The Bank of Bladenboro	Bladenboro	15,107	78	0.03%
New East Bank of New Bern	New Bern	9,700	79	0.02%
Park Meridian Bank	Charlotte	6,106	80	0.01%
Bank of North Carolina	Thomasville	2,027	81	0.00%
* National Charter	Total	\$59,672,968	81	100.00%

BANKS IN NORTH CAROLINA RANKED BY TOTAL ASSETS  
(National and State-Chartered)

December 31, 1990

BANK NAME	CITY	TOTAL ASSETS (000)	RANK	PERCENTAGE OF TOTAL
* NCNB National Bank of N.C.	Charlotte	19,070,326	1	23.76%
* First Union National Bank	Charlotte	18,738,779	2	23.35%
* Wachovia Bank and Trust, N.A.	Winston-Salem	16,844,993	3	20.99%
First-Citizens Bank and Trust	Raleigh	4,795,181	4	5.98%
Branch Banking and Trust	Wilson	4,450,626	5	5.55%
* Southern National Bank	Lumberton	2,690,407	6	3.35%
United Carolina Bank	Whiteville	2,366,541	7	2.95%
Centura Bank	Rocky Mount	2,340,343	8	2.92%
Central Carolina Bank	Durham	1,887,415	9	2.35%
High Point Bank and Trust	High Point	413,065	10	0.51%
Barclays Bank of N.C.	Charlotte	402,458	11	0.50%
Security Bank and Trust	Salisbury	358,754	12	0.45%
Bank of Granite	Granite Falls	326,349	13	0.41%
Lexington State Bank	Lexington	305,387	14	0.38%
Southern Bank and Trust	Mount Olive	246,571	15	0.31%
* First Charter National Bank	Concord	245,348	16	0.31%
The Fidelity Bank	Fuquay-Varina	238,264	17	0.30%
First Bank	Troy	219,193	18	0.27%
* The First National Bank	Shelby	215,291	19	0.27%
Republic Bank and Trust	Charlotte	209,141	20	0.26%
* The First National Bank	Asheboro	196,933	21	0.25%
Yadkin Valley Bank	Elkin	175,518	22	0.22%
First Charlotte Bank	Charlotte	170,191	23	0.21%
Mid-South Bank	Sanford	169,329	24	0.21%
Peoples Bank	Newton	152,372	25	0.19%
The East Carolina Bank	Engelhard	146,712	26	0.18%
Lincoln Bank of N.C.	Lincolnton	142,476	27	0.18%
* First National Bank	Reidsville	139,694	28	0.17%
Unity Bank and Trust	Rocky Mount	136,686	29	0.17%
Farmers & Merchants Bank	Granite Quarry	113,863	30	0.14%
First Commercial Bank	Asheville	105,282	31	0.13%
Triad Bank	Greensboro	101,395	32	0.13%
Mechanics and Farmers Bank	Durham	97,895	33	0.12%
Bank of Stanly	Albemarle	90,662	34	0.11%
The Heritage Bank	Lucama	86,586	35	0.11%
Triangle Bank	Raleigh	85,324	36	0.11%
Bank of Union	Monroe	77,460	37	0.10%
The Village Bank	Chapel Hill	76,724	38	0.10%
FirstSouth Bank	Burlington	76,329	39	0.10%
Four Oaks Bank and Trust	Four Oaks	74,962	40	0.09%
First Hanover Bank	Wilmington	68,608	41	0.09%
Bankers Trust of N.C.	Greensboro	66,690	42	0.08%
Randolph Bank and Trust	Asheboro	65,017	43	0.08%
Salem Trust Bank	Winston-Salem	63,848	44	0.08%
The Bank of Iredell	Statesville	60,323	45	0.08%
* Greensboro National Bank	Greensboro	57,873	46	0.07%
The Community Bank	Pilot Mountain	57,807	47	0.07%
Guaranty State Bank	Durham	57,158	48	0.07%
The Bank of Currituck	Moyock	56,270	49	0.07%
Citizens Bank	Murphy	55,929	50	0.07%
First Community Bank	Gastonia	53,428	51	0.07%
Community Bank	Rutherfordton	52,040	52	0.06%
Bank of Mecklenburg	Charlotte	51,870	53	0.06%
* Columbus National Bank	Whiteville	48,963	54	0.06%
Piedmont State Bank	Greensboro	48,412	55	0.06%
Blue Ridge Bank	Sparta	48,078	56	0.06%
State Bank	Fayetteville	38,465	57	0.05%
* Enterprise Bank, N.A.	Raleigh	38,412	58	0.05%
First Carolina Bank	Sanford	38,308	59	0.05%
Avery County Bank	Newland	35,841	60	0.04%
Topsail State Bank	Hampstead	33,382	61	0.04%
* Crown National Bank	Charlotte	30,792	62	0.04%
* RHNB National Bank of N.C.	Charlotte	29,552	63	0.04%
Central State Bank	High Point	29,016	64	0.04%
Standard Bank	Dunn	27,819	65	0.03%
New East Bank of Greenville	Greenville	25,021	66	0.03%
First Scotland Bank	Laurinburg	24,902	67	0.03%
New East Bank of Goldsboro	Goldsboro	23,502	68	0.03%
Lumbee Bank	Pembroke	23,404	69	0.03%
* United National Bank	Fayetteville	23,228	70	0.03%
New East Bank of Fayetteville	Fayetteville	19,317	71	0.02%
* Enterprise National Bank	Winston-Salem	18,790	72	0.02%
Morris Plan Industrial Bank	Burlington	18,305	73	0.02%
Bank of Pine Level	Pine Level	17,544	74	0.02%
Old North State Bank	King	17,123	75	0.02%
Granville United Bank	Oxford	15,818	76	0.02%
The Bank of Bladenboro	Bladenboro	15,274	77	0.02%
New East Bank of the Albemarle	Elizabeth City	10,738	78	0.01%
* National Charter	Total	\$80,247,692	78	100.00%



BANKS IN NORTH CAROLINA RANKED BY TOTAL DEPOSITS  
(National and State-Chartered)

December 31, 1990

BANK NAME	CITY	TOTAL DEPOSITS (000)	RANK	PERCENTAGE OF TOTAL
* First Union National Bank	Charlotte	12,076,946	1	20.69%
* Wachovia Bank and Trust, N.A.	Winston-Salem	11,889,754	2	20.37%
* NCNB National Bank of N.C.	Charlotte	11,802,446	3	20.22%
First-Citizens Bank and Trust	Raleigh	4,286,669	4	7.35%
Branch Banking & Trust	Wilson	3,935,319	5	6.74%
* Southern National Bank	Lumberton	2,229,419	6	3.82%
United Carolina Bank	Whiteville	2,164,203	7	3.71%
Centura Bank	Rocky Mount	2,071,879	8	3.55%
Central Carolina Bank	Durham	1,676,392	9	2.87%
High Point Bank and Trust	High Point	372,449	10	0.64%
Barclays Bank of N.C.	Charlotte	369,160	11	0.63%
Security Bank and Trust	Salisbury	310,977	12	0.53%
Bank of Granite	Granite Falls	282,541	13	0.48%
Lexington State Bank	Lexington	266,828	14	0.46%
Southern Bank and Trust	Mount Olive	224,465	15	0.38%
* First Charter National Bank	Concord	208,828	16	0.36%
The Fidelity Bank	Fuquay-Varina	205,680	17	0.35%
First Bank	Troy	194,567	18	0.33%
* The First National Bank	Asheboro	178,721	19	0.31%
Republic Bank and Trust	Charlotte	177,602	20	0.30%
* The First National Bank	Shelby	176,551	21	0.30%
Yadkin Valley Bank	Elkin	160,120	22	0.27%
First Charlotte Bank	Charlotte	155,248	23	0.27%
Mid-South Bank	Sanford	153,232	24	0.26%
The East Carolina Bank	Engelhard	135,758	25	0.23%
Peoples Bank	Newton	132,025	26	0.23%
Lincoln Bank of N.C.	Lincolnton	128,794	27	0.22%
* First National Bank	Reidsville	125,871	28	0.22%
Unity Bank and Trust	Rocky Mount	119,095	29	0.20%
Farmers & Merchants Bank	Granite Quarry	101,554	30	0.17%
First Commercial Bank	Asheville	95,030	31	0.16%
Triad Bank	Greensboro	93,672	32	0.16%
Mechanics and Farmers Bank	Durham	86,629	33	0.15%
Bank of Stanly	Albemarle	82,919	34	0.14%
The Heritage Bank	Lucama	76,410	35	0.13%
The Village Bank	Chapel Hill	70,576	36	0.12%
Bank of Union	Monroe	70,240	37	0.12%
Triangle Bank	Raleigh	70,049	38	0.12%
Four Oaks Bank and Trust	Four Oaks	64,932	39	0.11%
FirstSouth Bank	Burlington	64,776	40	0.11%
First Hanover Bank	Wilmington	63,708	41	0.11%
Randolph Bank and Trust	Asheboro	59,335	42	0.10%
Bankers Trust of N.C.	Greensboro	58,530	43	0.10%
Salem Trust Bank	Winston-Salem	57,567	44	0.10%
* Greensboro National Bank	Greensboro	56,414	45	0.10%
The Bank of Iredell	Statesville	54,635	46	0.09%
The Community Bank	Pilot Mountain	51,400	47	0.09%
Citizens Bank	Murphy	50,168	48	0.09%
Guaranty State Bank	Durham	49,818	49	0.09%
The Bank of Currituck	Moyock	47,608	50	0.08%
First Community Bank	Gastonia	45,665	51	0.08%
Community Bank	Rutherfordton	45,664	52	0.08%
Piedmont State Bank	Greensboro	44,787	53	0.08%
* Columbus National Bank	Whiteville	43,375	54	0.07%
Blue Ridge Bank	Sparta	42,496	55	0.07%
Bank of Mecklenburg	Charlotte	36,300	56	0.06%
First Carolina Bank	Sanford	33,723	57	0.06%
State Bank	Fayetteville	32,830	58	0.06%
* Enterprise Bank, N.A.	Raleigh	32,169	59	0.06%
Topsall State Bank	Hampstead	29,444	60	0.05%
Avery County Bank	Newland	27,044	61	0.05%
* RHNB National Bank of N.C.	Charlotte	25,895	62	0.04%
Central State Bank	High Point	25,777	63	0.04%
* Crown National Bank	Charlotte	25,773	64	0.04%
First Scotland Bank	Laurinburg	22,801	65	0.04%
Standard Bank	Dunn	22,619	66	0.04%
Lumbee Bank	Pembroke	20,481	67	0.04%
New East Bank of Greenville	Greenville	20,430	68	0.04%
New East Bank of Goldsboro	Goldsboro	19,995	69	0.03%
* United National Bank	Fayetteville	19,667	70	0.03%
Bank of Pine Level	Pine Level	16,012	71	0.03%
Morris Plan Industrial Bank	Burlington	15,613	72	0.03%
New East Bank of Fayetteville	Fayetteville	14,603	73	0.03%
Old North State Bank	King	13,624	74	0.02%
The Bank of Bladenboro	Bladenboro	13,365	75	0.02%
* Enterprise National Bank	Winston-Salem	12,744	76	0.02%
Granville United Bank	Oxford	12,349	77	0.02%
New East Bank of the Albemarle	Elizabeth City	7,709	78	0.01%
* National Charter	Total	\$58,360,463	78	100.00%



APPENDIX F

North Carolina  
Savings Institutions Division

James G. Martin  
Governor

Robert A. Jacobsen  
Administrator

To the Honorable James G. Martin  
Governor of North Carolina

February 24, 1992

Submitted herein is the report of this Division regarding the savings associations in North Carolina for the year ending December 31, 1991.

As previously indicated in the prior year's annual report, The Financial Institutions Reform, Recovery and Enforcement Act ("FIRREA") was signed into law on August 9, 1989. The result was a drastically changed federal regulatory structure for thrifts including higher capital requirements and rather severe restrictions on activities that both federal and state chartered associations could undertake. While debate continues in Congress, it would appear that any further restrictions will be minimal.

Despite the changes that FIRREA imposed on the national thrift industry, I am pleased to report that the vast majority of our savings associations have successfully made the transition and are in compliance with the new capital standards and have been able to make the required changes in their operations as a result of FIRREA. With a few serious exceptions involving several of our state institutions (including one that had to be placed under RTC control during 1991), the balance of our institutions have remained conservative in their investments, have adhered to sound operations and policies and are therefore continuing to be profitable.

Moreover, to take advantage of the regulatory restructuring of FIRREA, this office, together with other state savings and loan regulators, worked with the FDIC to construct a savings bank charter. This new depository institution charter reduces the burdens and cost of duplicative federal regulation of our state thrift industry, without sacrificing safety and soundness oversight. This new charter was a recommendation of the two year long Depository Institutions Study Commission and was enacted by the 1991 General Assembly. The new Chapter 54C became effective October 1, 1991, and four applications for conversion to the savings bank charter were in process at year's end. There is substantial interest in the savings bank charter in the state's thrift industry, and, as of this writing, three additional institutions have filed for conversion and, interest has been expressed by several other institutions. Accordingly, we expect many of the savings and loans that converted to federal charters during the last decade to return to state charters as savings banks.

Total assets of North Carolina's state chartered savings and loan associations exceed \$5.5 billion. There were 116 chartered and operating savings and loan associations in North Carolina. State chartered mutual savings and loans totaled 36, state chartered stock savings and loans totaled 19 and federally chartered savings and loan associations totaled 61.

This report is based upon information contained in the Annual Statement of Condition filed by every state chartered savings and loan association in accordance with North Carolina General Statute 54B-75. Additional information was obtained from financial statements filed voluntarily by 26 federally chartered savings and loan associations.

The following pages contain statistical data relative to the savings and loan industry and excerpts from the annual statements submitted.

Respectfully submitted,

Robert A. Jacobsen  
Administrator

1110 Navaho Drive - Suite 301 • Raleigh, North Carolina 27609  
Telephone 919-850-2888 Telefax 919-850-2853

STATE CHARTERED SAVINGS INSTITUTIONS  
CONSOLIDATED INCOME AND EXPENSE STATEMENT  
YEAR ENDING DECEMBER 31, 1991

55 Associations

Income

Interest Income	\$ 507,742,783	
Other Operating Income	30,778,425	
Nonoperating Income	<u>6,794,000</u>	
Gross Income		\$ 545,315,208

Expenses

Salaries, Directors Fees and Retirement Contributions	\$ 51,880,861	
Expense Account of Officers, Directors, and Employees	2,375,644	
Office Building Expense	8,815,669	
Furniture, Fixtures, and Equipment Expense	11,150,080	
Advertising Expense	4,205,215	
Other Operating Expense	<u>50,060,011</u>	
Total Operating Expense		\$ 128,487,480
Interest Paid on Savings	\$ 330,134,000	
Interest Paid on Borrowings	<u>20,880,000</u>	
Total Interest Paid		\$ 351,014,000
Nonoperating Expense		19,823,000
Income Taxes		<u>22,507,699</u>
Current Net Income		<u>\$ 23,483,029</u>

STATE CHARTERED SAVINGS INSTITUTIONS  
CONSOLIDATED STATEMENT OF CONDITIONS  
YEAR ENDING DECEMBER 31, 1991

55 Associations

<u>Assets</u>		<u>% of Assets</u>
Mortgage Loans and Contracts	\$ 4,166,441,000	74.52%
Nonmortgage Loans	391,678,000	7.01
Real Estate Owned & Repossessed Assets	77,249,000	1.38
Cash & Investments	741,481,000	13.26
Fixed Assets (Net)	77,883,000	1.39
Investment in Subsidiary	30,629,000	0.55
Intangible Assets	30,673,000	0.55
Other Assets	<u>74,878,000</u>	<u>1.34</u>
<b>Total Assets</b>	<b><u>\$ 5,590,912,000</u></b>	<b><u>100.00%</u></b>
<u>Liabilities and Net Worth</u>		<u>% of Total Liab &amp; Net Worth</u>
Savings Deposits	\$ 4,878,546,000	86.26%
Federal Home Loan Bank Advances	223,760,000	4.97
Other Borrowed Money	11,534,000	0.41
Other Liabilities	59,361,000	1.07
Subordinated Debentures	<u>3,412,000</u>	<u>0.05</u>
<b>Total Liabilities</b>	<b>\$ 5,176,613,000</b>	<b>92.76%</b>
Capital Stock	\$ 22,381,000	0.39
Additional Paid-In-Capital	54,548,000	1.37
Unappropriated Retained Earnings	<u>337,370,000</u>	<u>5.47</u>
<b>Total Net Worth</b>	<b><u>\$ 414,299,000</u></b>	<b><u>7.24</u></b>
<b>Total Liabilities &amp; Net Worth</b>	<b><u>\$ 5,590,912,000</u></b>	<b><u>100.00 %</u></b>

ASSET GROWTH  
OF  
STATE CHARTERED SAVINGS AND LOAN ASSOCIATIONS

<u>YEAR</u>	<u>NO. OF ASSNS.</u>	<u>TOTAL ASSETS</u>
1910	98	\$ 6,791,619
1920	193	29,368,115
1930	235	921,192,373
1940	160	90,680,929
1950	147	212,253,512
1960	149	862,112,736
1970	141	2,097,927,333
1980	137	6,227,214,224
1981	108	5,225,553,445
1982	90	5,094,850,550
1983	82	5,491,614,899
1984	81	6,183,923,982
1985	76	6,382,412,000
1986	70	6,692,987,000
1987	67	6,622,875,000
1988	63	6,846,363,000
1989	62	6,831,979,872
1990	60	6,175,784,328
1991	55	5,590,912,000

SAVINGS AND LOAN OFFICES  
OF  
STATE CHARTERED ASSOCIATIONS  
DECEMBER 31, 1991

<u>TYPE CHARTER</u>	<u>ASSOCIATION</u>	<u>BRANCHES</u>	<u>ASSETS</u>
STOCK	19	91	\$2,704,620,000
MUTUAL	36	49	2,866,292,000
TOTALS	55	140	\$5,590,912,000

COMPARATIVE RATIOS  
STATE CHARTERED SAVINGS AND LOAN ASSOCIATIONS

	<u>1987</u>	<u>1988</u>	<u>1989</u>	<u>1990</u>	<u>1991</u>
First Mortgage Loans/ Savings and Borrowed Money	81.70%	83.15%	82.40%	81.51%	81.47%
Total Loans/ Savings and Borrowed Money	88.91%	90.99%	91.54%	90.46%	89.13%
Real Estate Owned/ Total Assets	0.54%	0.59%	0.42%	1.18%	1.38%
Advances from FHLB/ Total Savings Deposits	5.25%	6.48%	6.25%	5.77%	4.59%
Other Borrowed Money/ Total Savings Deposits	2.18%	3.48%	1.49%	0.47%	.24%
Net Worth/ Total Savings Deposits	8.24%	8.29%	7.81%	8.39%	8.49%
Net Worth/ Total Assets	7.03%	6.93%	6.68%	7.24%	7.41%
Cash & Investments/ Total Savings Deposits	11.77%	9.14%	10.24%	13.00%	15.20%

Recap 9/31/91 Total Assets and Net Income  
 State & Federal S&L's (000 omitted)

<u>Number</u>	<u>Total Assets</u>	<u>Profit</u>	<u>Loss</u>	<u>Net</u>
<u>Federal</u>				
55	\$10,178,929	\$ 21,562		
4	1,695,574		(-) 10,083	
—	—	—	—	—
<u>59</u>	<u>\$11,874,503</u>	<u>\$ 21,562</u>	<u>(-) \$10,083</u>	<u>\$ 11,479</u>
<u>State</u>				
52	\$ 5,501,241	\$ 11,838		
4	207,948		(-) 731	
—	—	—	—	—
<u>56</u>	<u>\$ 5,709,189</u>	<u>\$ 11,838</u>	<u>(-) \$ 731</u>	<u>\$ 10,107</u>
<u>Grand Total</u>				
107	\$15,680,170	\$ 33,400		
8	1,903,522		(-) 10,814	
—	—	—	—	—
<u>115</u>	<u>\$17,583,692</u>	<u>\$ 33,400</u>	<u>(-) \$10,814</u>	<u>\$ 22,586</u>

March 16, 1992

Chart of Saving and Loans Conversion  
to Savings Banks

Charter

Name of Institution	North Carolina			OTS		N.C. Sec. of State
	Date Application filed /nc/ots	Date Plan Approved	Date Conversion Approved	Date Deemed Complete	Date Approved	Date Charter Issued
First Investors SB, Inc. Whiteville, NC	11/06/91	11/26/91	03/05/92	12/24/91	02/27/92	03/11/92
American Commercial SB, Inc. Monroe, NC	11/06/91	11/26/91	01/28/92	01/09/92	03/06/92	
Roanoke Rapids S & L Asn. Roanoke Rapids, NC	11/07/91 02/11/92	12/17/91				
Summit SB Sanford, NC	12/13/91	12/31/91	03/03/92	1/13/92	03/10/92	03/16/92
Mutual SB of Rockingham County Reidsville, NC	01/17/92	02/06/92		02/14/92		
Edgecombe Homestead & Loan Assn., Inc. Tarboro, NC	2/4/92	2/11/92		02/28/92		
Home S & L Assn. Washington, NC	2/11/92	2/18/92		03/10/92		

March 16, 1992

Chart of Saving and Loans Conversion  
to Savings Banks

Charter.wp

Name of Institution	Date Application filed /nc/ots	North Carolina		OTS		N.C. Sec. of State
		Date Plan Approved	Date Conversion Approved	Date Deemed Complete	Date Approved	Date Charter Issued
Tarboro S & L Assn. Tarboro, NC	02/27/92	03/05/92				
Graham Savings Bank Graham, NC	02/28/92	03/06/92				
Shelby Federal S.B. Shelby, NC	03/02/92	03/09/92				
Clyde Savings Bank Clyde, NC	03/05/92	03/12/92				
First Financial Savings Bank, Inc. Kinston, NC	03/06/92					
First Fed. S.B. of Rockingham Co. Reidsville, NC	03/16/92					



APPENDIX G

Remarks by William C. Deal, Jr.

Administrator of North Carolina Credit Union Division

to

Financial Institutions Study Commission

March 23, 1992

The Credit Union Division was established by the 1915 General Assembly for the purpose of organizing credit unions and supervising their operation. Credit unions are non-profit cooperatives which are member owned and operated. Board of Directors, Supervisory Committees, Credit Committees, and other operational committees are made up of member volunteers who receive no compensation for their work. Each credit union serves a specific field of membership. Currently there are nearly 1.3 million North Carolinians who are members of credit unions.

During the past decade we have seen a slow decline in the number of credit unions. The majority of these are the result of small credit unions merging into larger credit unions in order to offer their members more services. Services such as share draft accounts, credit cards, and home mortgages are in demand, and can only be offered economically by larger credit unions. While the number of credit unions has decreased (currently 154), assets grew 11.10% last year to \$4.6 billion, loans 6.66%, and savings 10.57%. Our net capital to asset ratio increased from 6.2% to 6.46%. Our credit unions remain sound and have proven they can operate successfully in changing economic times. You have before you a copy of our 1991 Annual Report which contains comprehensive financial information on state-chartered credit unions.

I realize that this committee has a number of items for consideration. Time permitting, I would like to respectively request that this committee address one additional item. Currently under G.S. 54-109.11(5), credit unions are required to have faithful performance coverage. In 1990 the Federal Insurer, NCUA, eliminated the requirement for faithful performance coverage for credit unions. Faithful performance coverage is difficult to obtain, and it is nearly impossible to collect a claim. Elimination of the requirement will not effect the safety and soundness of North Carolina chartered credit unions, and will eliminate an unnecessary expense. Currently, only one insurance carrier offers this type of coverage. This would not change the requirement that each credit union maintain blanket security bonds for each official, committee member, and employee which provides coverage against losses for acts of fraud, dishonesty including forgery, theft, embezzlement, and wrongful abstraction or misapplication.

I would like to thank the committee for its past support. I will be happy to answer any questions.

North Carolina  
**TRUST**

APPENDIX H

DEC 18 1991

STEPHEN C. HASSENFELT  
PRESIDENT

December 12, 1991

Mr. Edmund D. Aycock  
Vice President & General Counsel  
North Carolina Bankers Association  
P. O. Box 30609  
Raleigh, NC 27622-0609

Dear Ed:

Thank you very much for spending the time with me last month to discuss North Carolina Trust Company. Subsequent to our discussion, our Board of Directors met, and we have decided to pursue an amendment to G.S. 53-229(2) in order to enable us to form a holding company. Set out below is the text of the section with the desired changes marked. We assume this would be effective upon ratification.

§ 53-229. Acquisition and control of certain non-bank banking institutions.

Notwithstanding any other provision of this Article or any other provision of the General Statutes of this State, no bank holding company or any other company may acquire or control any banking institution that:

(1) Has offices located in this State; and

(2) Is not a bank as defined in G.S. 53-226(1) of this Article. For purposes of this section, "company" means any corporation, partnership, business trust, association, or similar organization, or any other trust unless by its terms it must terminate within 25 years or not later than 21 years and 10 months after the death of individuals living on the effective date of the trust, and "banking institution" means any institution organized under Article 2 of Chapter 53 (G.S. 53-2, et seq.) or Article 11 of Chapter 53 (G.S. 53-136, et seq.) of the General Statutes of this State or under Chapter 2 of Title 12 of the United States Code (12 U.S.C. § 21, et seq.). Provided, the provisions of G.S. 53-229 shall not

North Carolina  
**TRUST**

Mr. Edmund D. Aycock  
December 12, 1991  
Page 2

apply to applications by any company which is chartered by the Congress of the United States and which application is pending before the Commissioner on July 7, 1984; and provided further the provisions of G.S. 53-229 shall not apply to the acquisition or control by a bank holding company or any other company of a banking institution engaged in doing a trust and fiduciary business that does not receive, solicit, or accept money or its equivalent on deposit as a business if such acquisition-or-control occurs banking institution was chartered prior to November 1, 1987.

When G.S. 53-229 was enacted there were only two trust companies in existence in North Carolina and that is still the case today. Since we were formed in 1983, we could have formed the holding company prior to November 1, 1987. We did not form a holding company prior to that time and therefore have been excluded from the grandfather provision. The requested amendment would simply put us back in under the grandfather provision and I do not believe it would affect any other bank or trust company in North Carolina since the grandfather provision in the statute specifically applies only to a "banking institution engaged in doing a trust and fiduciary business that does not receive, solicit, or accept money or its equivalent."

The reason for requesting the amendment to the statute is that under the present statute we are in the unfortunate position of not being able to form a holding company unless we become a depository bank. We never intended or wanted to become a depository bank, yet we are currently restricted by the general banking statutes. Since 1987, we have learned the hard way that it is much more advantageous to operate, from a corporate standpoint, under a holding company.

As we discussed in our meeting, one of the major problems we have had is handling the disposition of stock in our closely held company, which has no public market for its stock. For example, recently an employee left and owned Company stock and exercisable stock options amounting to about \$30,000. In order for us to purchase the stock, we are

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North Carolina  
TRUST

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Mr. Edmund D. Aycock  
December 12, 1991  
Page 3

required to get shareholder approval and Banking Commission approval, which requires a significant amount of unnecessary "red tape." In addition, the flexibility of a holding company, and the businesses that it may operate, may be extremely important to us as we enter a more competitive environment. Having dealt with these issues for many years, I am sure you are very familiar with the significant advantages of a holding company format.

We would appreciate very much your advice and counsel on how to get this legislation enacted in the short session. I have discussed this with our Company attorney, Mike Abel, with the firm of Schell Bray Aycock Abel & Livingston, and you should feel free to contact him if you have any questions. I would be happy to come to Raleigh at your convenience and discuss any of these issues further.

Again, many thanks for meeting with me, and I look forward to hearing from you soon.

With kindest personal regards,

Very truly yours,



Stephen C. Hassenfelt

SCH:pam

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

D

92-RH-002(3.31)  
THIS IS A DRAFT 27-APR-92 11:13:25

Short Title: Bank to Thrift Mergers

(Public)

Sponsors:

Referred to:

A BILL TO BE ENTITLED

AN ACT TO ALLOW BANKS AND SAVINGS ASSOCIATIONS TO MERGE OR CONSOLIDATE AND TO TRANSFER ASSETS AND LIABILITIES TO ONE ANOTHER.

The General Assembly of North Carolina enacts:

Section 1. G.S. 53-1 is amended by adding a new subdivision to read:

"(2a) Commissioner. -- The term 'Commissioner' means the Commissioner of Banks."

Sec. 2. G.S. 53-1 is amended by adding a new subdivision to read:

"(5a) Savings association. -- The term 'savings association,' when used in Article 2A of this Chapter, means a savings and loan association as defined in G.S. 54B-4 or a savings bank as defined in G.S. 54C-4(27)."

Sec. 3. Chapter 53 of the General Statutes is amended by designating G.S. 53-12 through G.S. 53-17.2 as Article 2A with the heading "Corporate Changes."

Sec. 4. Article 2A of Chapter 53 of the General Statutes is amended by adding a new section to read:

"§ 53-12.1. Merger or consolidation of banks and savings associations.

(a) A bank and a savings association may merge or consolidate. A bank may transfer its assets and liabilities to a savings association; a savings association may transfer its assets and liabilities to a bank.

(b) Before a merger, consolidation, or transfer becomes effective, each institution concerned in the merger, consolidation, or transfer shall file with the Commissioner certified copies of all proceedings had by its directors and stockholders or, in the case of a mutual savings association, as defined in G.S. 54B-4, its members. In the case of banks, the proceedings shall set forth that holders of at least two-thirds of the stock of

1 the bank voted in the affirmative on the proposed merger, consolidation, or transfer.  
2 In the case of savings associations, the proceedings shall set forth that the percentage of  
3 stockholders or of members required by law also voted in the affirmative on the  
4 proposed merger, consolidation, or transfer. The proceedings shall also contain a copy  
5 of the entire agreement between the bank and savings association regarding the merger,  
6 consolidation, or transfer.

7 (c) No merger, consolidation, or transfer where the surviving institution or transferor  
8 is a State chartered bank may be made without the consent of the Commissioner. In  
9 these cases and upon filing the proceedings, the Commissioner shall investigate each  
10 bank and savings association to determine whether (i) the interests of their depositors,  
11 creditors, and stockholders or members are protected, (ii) the merger, consolidation, or  
12 transfer is in the public interest, and (iii) the merger, consolidation, or transfer is made  
13 for legitimate purposes. The Commissioner shall consent to or reject the merger,  
14 consolidation, or transfer based upon the investigation. The expense of the investigation  
15 shall be paid by the bank and savings association involved in the proposed merger,  
16 consolidation, or transfer. The Commissioner shall publish notice of the merger,  
17 consolidation, or transfer for four weeks before or after the same is to become effective,  
18 at the discretion of the Commissioner, in a newspaper published in a city, town, or  
19 county in which each bank and savings association is located, and a certified copy of  
20 the notice shall be filed with the Commissioner.

21 (d) After the effective date of the merger, consolidation, or transfer, each institution  
22 is considered to continue in existence for the next three years in order to preserve the  
23 rights of the creditors of each institution."

24 Sec. 5. G.S. 53-13 reads as rewritten:

25 **"§ 53-13. Merged or consolidated banks ~~deemed one bank.~~ and savings associations**  
26 **deemed one bank or savings association.**

27 In case of merger or consolidation when the agreement of merger or consolidation is  
28 made, and a duly certified copy ~~thereof~~ of the agreement is filed with the Secretary of  
29 State, together with a certified copy of the approval of the Commissioner ~~of Banks~~ to  
30 such ~~the~~ merger or consolidation, the banks, parties thereto, parties to the merger or  
31 consolidation shall be held to be one company, possessed of the rights, privileges,  
32 powers, and franchises of the several companies, but subject to all the provisions of law  
33 under which it is created. The directors and other officers named in the agreement of  
34 consolidation shall serve until the first annual meeting for election of officers and  
35 directors, the date for which shall be named in the agreement. On filing ~~such the~~  
36 agreement, ~~all and singular,~~ the property and rights of every kind of the several  
37 companies shall ~~thereby~~ be transferred and vested in ~~such the~~ surviving company in the  
38 case of merger or in ~~such the~~ new company in the case of consolidation, and be as fully  
39 its property as they were of the companies parties to the agreement."

40 Sec. 6. G.S. 53-17 reads as rewritten:

41 **"§ 53-17. Fiduciary powers and liabilities of ~~banks or trust companies~~ banks, trust**  
42 **companies, or savings associations merging or transferring assets and liabilities.**

43 Whenever any ~~bank or trust company,~~ bank, trust company, or savings association,  
44 organized under ~~the laws of North Carolina or the acts of Congress,~~ State or federal

1 law, and doing business in this State, ~~shall consolidate or merge~~ consolidates or  
2 merges with or ~~shall sell~~ sells to and ~~transfer~~ transfers its assets and liabilities to any  
3 other ~~bank or trust company~~ bank, trust company, or savings association doing business  
4 in this State, as provided by ~~the laws of North Carolina or the acts of Congress, State~~  
5 or federal law, all the then existing fiduciary rights, powers, duties and liabilities of  
6 ~~such the consolidating or merging or transferring bank or banks and/or trust companies,~~  
7 institutions, including the rights, powers, duties and liabilities as executor,  
8 administrator, guardian, or trustee, and/or ~~or~~ in any other fiduciary capacity, whether  
9 under appointment by order of court, will, deed, or other instrument, shall, upon the  
10 effective date of ~~such the consolidation or merger or sale and transfer, vest in, devolve~~  
11 ~~upon, and thereafter be performed by, in~~ the transferee ~~bank institution~~ or the  
12 consolidated or merged ~~bank or trust company, institution, and such latter bank or trust~~  
13 ~~company shall be deemed~~ that institution is substituted for and shall have all the rights  
14 and powers of the transferring ~~bank or trust company, institution."~~

15           Sec. 7.     This act is effective upon ratification.



April 15, 1992

MEMORANDUM

**TO:** Members of the LRC's Committee on Financial Institutions

**FROM:** Robin S. Johnson, Committee Counsel

**RE:** Summary of A BILL TO BE ENTITLED AN ACT TO ALLOW BANKS AND SAVINGS ASSOCIATIONS TO MERGE OR CONSOLIDATE AND TO TRANSFER ASSETS AND LIABILITIES TO ONE ANOTHER

Sections 1 and 2 of this proposed legislation would add the definitions of 'Commissioner' and 'savings association' to the first section in Chapter 53 of the General Statutes.

Section 3 of the proposal redesignates G.S. 53-12 through G.S. 53-17.2 as a new Article 2A, with the heading "Corporate Changes."

Section 4 of the proposal would add a new section G.S. 53-12.1 to Chapter 53 of the General Statutes to allow banks and savings associations to merge or consolidate and to allow them to transfer assets and liabilities to one another. Sections 4 through 6 of the proposed bill set out the procedure for accomplishing and the effect of a merger, consolidation, or transfer.

Section 7 of the proposed legislation would make the act effective upon ratification.

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GENERAL ASSEMBLY OF NORTH CAROLINA SESSION 1991

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GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

D

92-RH-003

THIS IS A DRAFT 27-APR-92 11:13:28

Short Title: Amend Refund Anticipation Loan Act (Public)

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Sponsors:

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Referred to:

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1 A BILL TO BE ENTITLED  
2 AN ACT TO MAKE AMENDMENTS TO THE REFUND ANTICIPATION LOAN  
3 ACT.

4 The General Assembly of North Carolina enacts:

5 Section 1. G.S. 53-247 is amended by adding a new subsection to read:

6 "(d) A person registered as a facilitator under this Article is, for the purpose of  
7 facilitating refund anticipation loans, exempt from Article 20 of Chapter 66."

8 Sec. 2. G.S. 53-248 reads as rewritten:

9 "§ 53-248. Registration procedure, procedure; informal hearing.

10 (a) Initial Registration. An application to become registered as a facilitator shall be  
11 in writing, under oath, and in a form prescribed by the Commissioner. The application  
12 shall contain all information prescribed by the Commissioner. Each application for  
13 registration shall be accompanied by a nonrefundable application fee, payable to the  
14 Commissioner, of two hundred fifty dollars (\$250.00) together with a fee of one  
15 hundred dollars (\$100.00) for each office where the registrant intends to facilitate  
16 refund anticipation loans.

17 Upon the filing of an application for registration, if the Commissioner finds that the  
18 responsibility and general fitness of the applicant are such as to command the  
19 confidence of the community and to warrant belief that the business of facilitating  
20 refund anticipation loans will be operated within the purposes of this Article, the  
21 Commissioner shall register the applicant as a facilitator of refund anticipation loans  
22 and shall issue and transmit to the applicant a certificate attesting to the registration. If

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1 the Commissioner does not so find, ~~he~~ the Commissioner shall not register the  
2 applicant and shall notify the applicant of the reasons for the ~~denial~~, denial by certified  
3 mail, return receipt requested.

4 Upon receipt of a certificate of registration, the applicant is registered under this  
5 Article and may engage in the business of facilitating refund anticipation loans at the  
6 offices identified on the application for registration.

7 (b) Renewal. Each registration as a facilitator of refund anticipation loans shall  
8 expire on December 31 following the date it was issued, unless it is renewed for the  
9 succeeding year. Before the registration expires, the registrant may renew the  
10 registration by filing with the Commissioner an application for renewal in the form and  
11 containing all information prescribed by the Commissioner. Each application for  
12 renewal of registration shall be filed on or before November 30 in the year issued and  
13 shall be accompanied by a nonrefundable fee of one hundred dollars (\$100.00) for each  
14 office where the registrant intends to facilitate refund anticipation loans during the  
15 succeeding year.

16 Upon the filing of an application for renewal of registration under this Article, the  
17 Commissioner shall renew the registration unless the Commissioner determines that the  
18 fitness of the registrant or the operations of the registrant would not support an initial  
19 registration of the registrant under subsection (a), (a) of this section. ~~If the~~  
20 ~~Commissioner makes such a determination, he shall so~~ this determination is made, the  
21 Commissioner shall notify the registrant, by certified mail, return receipt requested,  
22 stating the reasons for the determination.

23 (c) Display of Certificate. Each registrant shall prominently display a certificate  
24 issued under this Article in each place of business in the State where the registrant  
25 facilitates the making of refund anticipation loans, loans.

26 (d) Within five days of receipt of the Commissioner's notice, as required by  
27 subsections (a) and (b) of this section, the applicant may make written demand of the  
28 Commissioner for a hearing. The hearing before the Commissioner shall be an  
29 informal hearing and shall be held with reasonable promptness."

30 Sec. 3. G.S. 53-252 reads as rewritten:

31 "**§ 53-252. Appeal of Commissioner's decision.**

32 Notwithstanding any other provision of law, ~~an aggrieved party may, within 30 days~~  
33 ~~after a final decision of the Commissioner and with written notice to the Commissioner,~~  
34 ~~appeal the decision directly to the North Carolina Court of Appeals for judicial review~~  
35 ~~on the record. In the event of an appeal, the Commissioner shall certify the record to~~  
36 ~~the Clerk of the Court of Appeals within 30 days after receipt of notice of appeal. The~~  
37 ~~record shall include all memoranda and briefs, and any other documents, data,~~  
38 ~~information, or evidence submitted by any party to the proceeding except for material~~  
39 ~~such as trade secrets normally not available through commercial publication for which a~~  
40 ~~party has made a claim of confidentiality and requested exclusion from the record. All~~  
41 ~~factual information contained in any report submitted to or obtained by the~~  
42 ~~Commissioner's staff shall also be made a part of the record unless deemed confidential~~  
43 ~~by the Commissioner.~~ the Commission may review any rule, order, or act of the

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- 1 Commissioner made under this Article. An aggrieved person may appeal to the
- 2 Commission as provided in Article 3A of Chapter 150B."

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1           Sec. 4.     G.S. 53-253 reads as rewritten:

2   "§ 53-253. Rules; enforcement.

3   ~~Notwithstanding the provisions of G.S. 53-95, the Commissioner may promulgate~~  
4 ~~reasonable rules as necessary to effectuate the purpose of this Article, The~~  
5 Commissioner may adopt rules to implement this Article, to provide for the protection  
6 of the borrowing public, and to assist registrants in interpreting this Article. In order  
7 to enforce this Article, the Commissioner may make investigations, subpoena witnesses,  
8 require audits and reports, and conduct hearings regarding possible violations of its  
9 provisions."

10           Sec. 5.     This act becomes effective July 1, 1992.

April 15, 1992

MEMORANDUM

**TO:** Members of the LRC's Committee on Financial Institutions  
**FROM:** Robin S. Johnson, Committee Counsel  
**RE:** A Summary of A BILL TO BE ENTITLED AN ACT TO MAKE AMENDMENTS TO THE REFUND ANTICIPATION LOAN ACT.

Section 1 of the proposed bill would add a new subsection (d) to G.S. 53-247 to clarify that a facilitator under the Refund Anticipation Act is exempt from Article 20 of Chapter 66 of the General Statutes, "Loan Brokers," for the purpose of facilitating refund anticipation loans.

Section 2 of the proposal would amend G.S. 53-248 (1) to make the initial application fee of \$250.00 for facilitators be nonrefundable; (2) to clarify that each application must be accompanied by a \$250.00 fee PLUS a \$100.00 fee for each office where the registrant intends to facilitate these loans. (Under current law, the registrant must pay \$250.00 for each office); (3) to specify that each application for renewal of registration be filed on or before November 30 and that the accompanying fee is nonrefundable; and (4) to add a new subsection (d) that would allow the applicant to ask, in writing, for an informal hearing.

Section 3 of the proposed legislation would amend G.S. 53-252 to make the appeal process of the Commissioner's decisions to the Commission conform to the process established under the Administrative Procedure Act.

Section 4 of the proposed bill would make a technical change to G.S. 53-253 to permit the Commissioner of Banks to adopt rules to implement the Refund Anticipation Loan Act.

Section 5 of the proposal would make the act effective on July 1, 1992.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

D

92-RH-005(4.1)  
THIS IS A DRAFT 27-APR-92 11:13:31

Short Title: Bank Holding Company Amendment

(Public)

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Sponsors:

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Referred to:

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1 A BILL TO BE ENTITLED  
2 AN ACT TO PERMIT A TRUST COMPANY TO BE ACQUIRED BY A BANK  
3 HOLDING COMPANY.  
4 The General Assembly of North Carolina enacts:  
5 Section 1. G.S. 53-229 reads as rewritten:  
6 "**§ 53-229. Acquisition and control of certain nonbank banking institutions.**  
7 (a) Notwithstanding any other provision of this Article or any other provision of the  
8 General Statutes law of this State, no bank holding company or any other company  
9 may acquire or control any banking institution that:  
10 (1) Has offices located in this State; and  
11 (2) Is not a bank as defined in G.S. 53-226(1) of this Article.  
12 For purposes of this section, "company" means any corporation, partnership, business  
13 trust, association, or similar organization, or any other trust unless by its terms it must  
14 terminate within 25 years or not later than 21 years and 10 months after the death of  
15 individuals living on the effective date of the trust, and "banking institution" means any  
16 institution organized under Article 2 of Chapter 53 (G.S. 53-2, et seq.) or Article 11  
17 of Chapter 53 (G.S. 53-136, et seq.) of the General Statutes of this State this Chapter  
18 or under Chapter 2 of Title 12 of the United States Code (12 U.S.C. § 21, et seq.).  
19 Provided, the provisions of G.S. 53-229 (12 U.S.C. § 21, et seq.).  
20 (b) This section shall not apply to: (1) applications by any company which is  
21 chartered by the Congress of the United States and which application is pending before  
22 the Commissioner on July 7, 1984; and provided further the provisions of G.S. 53-229  
23 shall not apply to the 1984; and (2) acquisition or control by a bank holding company  
24 or any other company of a banking institution that is engaged in doing a trust and  
25 fiduciary business that does not receive, solicit, or accept money or its equivalent on  
26 deposit as a business if such acquisition or control occurs prior to November 1, 1987,  
27 and that does not accept demand deposits as a business."

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



April 15, 1992

MEMORANDUM

**TO:** Members of the LRC's Committee on Financial Institutions

**FROM:** Robin S. Johnson, Committee Counsel

**RE:** A Summary of A BILL TO BE ENTITLED AN ACT TO PERMIT A TRUST COMPANY TO BE ACQUIRED BY A BANK HOLDING COMPANY.

The proposed bill would amend G.S. 53-229 to allow a bank holding company to acquire a trust company. Under current law, the general rule is that a bank holding company is not allowed to acquire or control any banking institution that has offices in this State and is not an insured bank that (1) accepts deposits that the depositor has a legal right to withdraw on demand and (2) engages in the business of making commercial loans. There is an exception for bank holding companies that acquired or controlled a trust company before November 1, 1987.

Section 2 of the proposal would make the act effective upon ratification.

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 1991

D

92-RH-004  
THIS IS A DRAFT 27-APR-92 11:13:34

Short Title: Trustee Investment in Mutual Funds

(Public)

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Sponsors:

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Referred to:

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1                                   A BILL TO BE ENTITLED  
2 AN ACT TO PERMIT INVESTMENT OF TRUST ASSETS IN MUTUAL FUNDS  
3 ADVISED BY A CORPORATE TRUSTEE.  
4 The General Assembly of North Carolina enacts:  
5           Section 1. Article 5 of Chapter 36A of the General Statutes is amended by  
6 adding a new section to read:  
7 "§ 36A-66.2. Trustee investment in mutual funds advised by trustee.  
8 Unless prohibited or otherwise limited by an instrument governing a fiduciary  
9 relationship, a corporate trustee may invest in the securities of, or any other interest in,  
10 any open end or closed end management type investment company or investment trust  
11 registered under the 'Investment Company Act of 1940,' 15 U.S.C. 80a-1 et seq.,  
12 notwithstanding that the corporate trustee or affiliate of the corporate trustee provides  
13 services to the investment company or investment trust such as that of investment  
14 advisor, custodian, transfer agent, registrar, sponsor, distributor, manager, or otherwise  
15 and receives or has received remuneration for those services. With respect to any funds  
16 so invested, the corporate trustee shall disclose by statement, prospectus, or otherwise  
17 to all current income beneficiaries of an account the rate, formula, or other method by  
18 which the remuneration for those services is determined."  
19           Sec. 2. This act is effective upon ratification.

**SUMMARY OF  
AN ACT TO PERMIT INVESTMENT OF TRUST ASSETS IN MUTUAL FUNDS  
ADVISED BY A CORPORATE TRUSTEE**

The act provides explicit authority for a trustee to utilize a mutual fund managed by the trustee for the investment of assets managed by the trustee.

Clarification of a trustee's authority to utilize mutual funds managed by it (unless prohibited by the trust instrument) will, in many instances, provide benefits to trust beneficiaries.

\* Trust funds invested in mutual funds have daily valuations and liquidity. Many pooled funds that are currently used to pool and invest trust assets can only be valued and redeemed on a monthly basis.

\* Principal distributions from pooled trust funds require redemption, and capital gains tax liability is immediately incurred. Such distribution of trust funds invested in a mutual fund can be made in fund shares. The beneficiary then has control over when and whether to liquidate and pay capital gains tax.

\* In many instances, federal law (ERISA) requires that several pooled trust funds must be maintained separately. Such funds can be combined into a mutual fund, resulting in lower administrative costs and enabling lower charges to trust customers. Additionally, a wider range of investment options can be offered through a mutual fund series.

Mutual fund management would be the same as management of the corporate trustee's pooled trust funds and individually managed assets. It is the benefit of the mutual fund vehicle that is sought to be enabled by this act. This legislative clarification is needed to ensure that the corporate trustee can properly allocate a portion of its management fee to expenses associated with operation of the fund. All existing statutory and regulatory restrictions on corporate trustees would continue to apply.

This act reflects the improved services that can now be offered by corporate trustees to their trust customers. Comparable legislation has recently been enacted in Alabama, Colorado, Delaware, Indiana, Kentucky, Louisiana, Maryland, Ohio, Oklahoma, Oregon, South Carolina, Tennessee, Texas, Virginia, and Wisconsin.

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 1991

D

92-RH-006  
THIS IS A DRAFT 27-APR-92 13:42:08

Short Title: Savings Institutions Omnibus Bill

(Public)

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Sponsors:

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Referred to:

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1 A BILL TO BE ENTITLED  
2 AN ACT TO MAKE OMNIBUS AND TECHNICAL CHANGES TO THE SAVINGS  
3 INSTITUTIONS LAWS.

4 The General Assembly of North Carolina enacts:

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

6 "(16a) 'Control' means the power, directly or indirectly, to direct the management or  
7 policies of an association or to vote twenty-five percent (25%) or more of any class of  
8 voting securities for an association."

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

10 **"§ 54B-25. Branch offices closed.**

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

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

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

- 18 (1) After conversion the association will be in sound financial condition  
19 and will be soundly managed;  
20 (2) The conversion will not impair the capital of the association nor  
21 adversely affect the association's operations;  
22 (3) The conversion will be fair and equitable to the members of the  
23 association and no person whether member, employee or otherwise,

1 will receive any inequitable gain or advantage by reason of the  
2 conversion;

3 (4) The savings and loan services provided to the public by the association  
4 will not be adversely affected by the conversion;

5 (5) The substance of the plan has been approved by a vote of two thirds  
6 of the board of directors of the association;

7 (6) All shares of stock issued in connection with the conversion are offered  
8 first to the members of the ~~association~~; association; except that any  
9 one or more tax qualified stock benefit plan may first purchase in the  
10 aggregate not more than ten percent (10%) of the total offering of  
11 shares;

12 (7) All stock shall be offered to members of the association and others in  
13 prescribed amounts and otherwise pursuant to a formula and  
14 procedure which is fair and equitable and will be fairly disclosed to all  
15 interested persons;

16 (8) The plan provides a statement as to whether stockholders shall have  
17 preemptive rights to acquire additional or treasury shares of the  
18 association and any provision limiting or denying said rights; and

19 (9) The conversion shall not be complete until all stock offered in  
20 connection with the conversion has been subscribed.

21 If he approves the plan, then the plan shall be submitted to the members as provided  
22 in the next subsection. If he refuses to approve the plan, he shall state his objections in  
23 writing and give the converting association an opportunity to amend the plan to obviate  
24 such objections or to appeal his decision to the commission."

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

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

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

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

33 (1) The original of the certificate of incorporation, which shall be signed  
34 by the original incorporators, or a majority of them, and shall be  
35 properly acknowledged by a person duly authorized by this State to  
36 take proof or acknowledgment of deeds; and two conformed copies;

37 (2) The names and addresses of the incorporators; and the names and  
38 addresses of the initial members of the board of directors;

39 (3) Statements of the anticipated receipts, expenditures, earnings, and  
40 financial condition of the savings bank for its first three years of  
41 operation, or any longer period as the Administrator may require;

42 (4) A showing satisfactory to the Commission that:

43 a. The public convenience and advantage will be served by the  
44 establishment of the proposed savings bank;

- 1           b.    There is a reasonable demand and necessity in the community  
2           that will be served by the establishment of the proposed savings  
3           bank;  
4           c.    The proposed savings bank will have a reasonable probability of  
5           sustaining profitable and beneficial operations within a  
6           reasonable time in the community in which the proposed savings  
7           bank intends to locate;  
8           d.    The proposed savings bank, if established, will promote healthy  
9           and effective competition in the community in the delivery to  
10          the public of savings institution services;

11          (5)   The proposed bylaws; and

12          (6)   Statements, exhibits, maps, and other data that may be prescribed or  
13          requested by the Administrator, which data shall be sufficiently  
14          detailed and comprehensive so as to enable the Administrator to pass  
15          upon the criteria set forth in this Article."

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

17       **"§ 54C-26. Branch offices closed.**

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

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

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

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

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

- 37          (1)   After conversion the savings bank will be in sound financial condition  
38          and will be soundly managed;  
39          (2)   The conversion will not impair the capital of the savings bank nor  
40          adversely affect the savings bank's operations;  
41          (3)   The conversion will be fair and equitable to the members of the  
42          savings bank and no person whether member, employee, or otherwise,  
43          will receive any inequitable gain or advantage by reason of the  
44          conversion;

- 1 (4) The savings bank services provided to the public by the savings bank  
2 will not be adversely affected by the conversion;
- 3 (5) The substance of the plan has been approved by a vote of two-thirds  
4 of the board of directors of the savings bank;
- 5 (6) All shares of stock issued in connection with the conversion are offered  
6 first to the members of the savings bank; ~~bank;~~ except that any one or  
7 more tax qualified employee stock benefit plans may first purchase in  
8 the aggregate not more than ten percent (10%) of the total offering of  
9 shares:
- 10 (7) All stock shall be offered to members of the savings bank and others  
11 in prescribed amounts and otherwise under a formula and procedure  
12 that is fair and equitable and will be fairly disclosed to all interested  
13 persons; and
- 14 (8) The plan provides a statement as to whether stockholders shall have  
15 preemptive rights to acquire additional or treasury shares of the  
16 savings bank.

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

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

23 "**§ 54C-63. Statement examined, approved, and published.**

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

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

30 "(a) A person, whether a director, officer, or employee, who is found to have violated  
31 this Article, whether willfully or as a result of gross negligence, gross incompetency, or  
32 recklessness, may be ordered to pay a civil penalty of up to five thousand dollars  
33 (\$5,000) per violation. A person who is found to have violated or failed to comply  
34 with any cease and desist order issued under the authority of this Article, may be  
35 ordered to pay a civil penalty of up to five thousand dollars (\$5,000) per violation for  
36 each day that the violation of ~~[or]~~ or failure to comply continues."

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

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

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

3 "§ 54C-179. Forced retirement of deposit accounts.

4 (a) A savings bank may, at any time that funds are on hand and available for this  
5 purpose, force the retirement of and redeem all or any portion of its deposit accounts  
6 that have not been pledged as security for loans. A savings bank may not redeem any  
7 fixed term deposit accounts that have not matured. The board of directors of the  
8 savings bank shall determine the number of and total amount of the deposit accounts to  
9 be retired.

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

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

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

25           Sec. 13. This act is effective upon ratification.



April 8, 1992

MEMORANDUM

**TO:** Members of the LRC's Committee on Financial Institutions  
**FROM:** Robin S. Johnson, Committee Counsel  
**RE:** A Summary of A BILL TO BE ENTITLED AN ACT TO MAKE OMNIBUS AND TECHNICAL CHANGES TO THE SAVINGS INSTITUTIONS LAW (information provided by Mr. Ron Raxter)

Section 1 of the proposed bill would amend G.S. 54B-4 to provide a definition of "control." This addition was requested by the Administrative Rules Review Commission.

Sections 2 and 6 would amend G.S. 54B-25 and 54C-26 to extend the notice period on a request to close a branch office from 30 to 90 days. This change is necessary to conform State law with the FDIC Improvement Act of 1991.

Sections 3 and 8 would amend G.S. 54B-33(c) and 54C-33(c) to allow up to 10% of the stock in a mutual to stock conversion to be sold to an Employee Stock Option Plan. These changes are necessary to conform State law with federal regulation.

Section 4 would clarify the definition of "savings and loan association" in the G.S. 54C-4(a) to specify that Chapter 54B applies to savings and loan associations and Chapter 54C governs savings banks.

Sections 5, 9, 10 and 11 would make technical changes. Section 5 would amend G.S. 54C-9(b) and Section 10 would amend G.S. 54C-78(a) to correct misspelled words. Section 9 would amend G.S. 54C-63 to correct an incorrect statutory reference. Section 11 would amend G.S. 54C-170(a) to place the phrase "or as a joint owner" in its correct position in the sentence, as requested by the revisor of statutes.

Section 7 would amend G.S. 54C-30(c) to make the voting procedure in a savings bank conversion conform to the procedure in a federal to State or a State to federal conversion.

Section 12 would add a new section, G.S. 54C-179, to Article 8 of Chapter 54C of the General Statutes. G.S. 54C-179 would allow and provide a procedure for a savings bank to force the retirement of any or all of its deposit accounts.

Section 13 would make the act effective upon ratification.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

D

92-RH-007

THIS IS A DRAFT 27-APR-92 13:40:21

Short Title: Credit Unions/Faithful Performance Bonds

(Public)

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Sponsors:

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Referred to:

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1                                   A BILL TO BE ENTITLED  
2 AN ACT TO ELIMINATE THE FAITHFUL PERFORMANCE COVERAGE  
3 REQUIREMENTS FOR CREDIT UNIONS.

4 The General Assembly of North Carolina enacts:

5                   Section 1. G.S. 54-109.11 reads as rewritten:

6 "**§ 54-109.11. Duties of Administrator.**

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

- 8                   (1) To organize and conduct in the State Department of Economic and  
9                   Community Development, a bureau of information in regard to  
10                   cooperative associations and rural and industrial credits.
- 11                   (2) Upon request, to furnish, without cost, ~~such any~~ printed information  
12                   and blank forms as, in ~~his~~ the Administrator's discretion, may be  
13                   necessary for the formation and establishment of any local credit union  
14                   in the State.
- 15                   (3) To maintain an educational campaign in the State looking to the  
16                   promotion and organization of credit unions. Upon the written request  
17                   of 12 bona fide residents of any particular locality in this State  
18                   expressing a desire to form a local credit union at or in ~~such that~~  
19                   locality, the Administrator of Credit Unions, or one of ~~his~~ the  
20                   Administrator's assistants, shall proceed as promptly as may be  
21                   convenient to ~~such that~~ locality and make an investigation in order that  
22                   the Administrator may determine whether or not a local credit union  
23                   should be established according to the standards set forth and provided  
24                   in this Article. The Administrator shall notify the applicants of ~~his~~ the

1 Administrator's decision within 30 days after receipt of the written  
2 request. Before refusing the establishment of a credit union, the  
3 Administrator shall afford give the applicants an opportunity to be  
4 heard therewith in person or by counsel and at counsel. At least 60  
5 days prior to before the date set for a hearing on any such matter the  
6 matter, the Administrator shall notify in writing the applicants of the  
7 date of said the hearing and assign therein the grounds for the action  
8 contemplated to be taken and as to which inquiry shall be made on the  
9 date of such the hearing. The determination of the Administrator shall  
10 be is subject to judicial review in all respects according to the  
11 provisions and procedures set forth in Chapter 150A of the General  
12 Statutes of North Carolina, as amended, Chapter 150A.

13 (4) To examine at least as often as necessary, but not less than once a  
14 year, and oftener if such examination be more often if deemed  
15 necessary by the Administrator or his the Administrator's assistant, the  
16 credit unions formed under this Article. A report of such the  
17 examination shall be filed with the State Department of Economic and  
18 Community Development, and a copy mailed to the credit union at its  
19 proper address.

20 (5) The Administrator of Credit Unions is authorized, empowered, and  
21 directed to To fix the amount of a blanket surety bond which shall be  
22 that is required of each credit union official, committee member and  
23 employee, irrespective of whether such the official, committee member  
24 and employee receives, pays or has custody of money or other  
25 personal property owned by a credit union or in the custody or control  
26 of the credit union as collateral or otherwise. The surety on the bond  
27 shall be a surety company authorized to do business in North  
28 Carolina. Any such bond or bonds The surety bond shall be in a form  
29 approved by the Administrator of Credit Unions with a view to  
30 providing surety coverage to the credit union with reference to loss by  
31 reason of acts of fraud or dishonesty including forgery, theft,  
32 embezzlement, wrongful abstraction or misapplication on the part of  
33 the person, directly or through connivance with others, and such any  
34 other surety coverages as the Administrator of Credit Unions may  
35 determine to be reasonably appropriate or as elsewhere required by  
36 the Chapter. Any such bond or bonds The surety bond shall be in an  
37 amount in relation to the money or other personal property involved  
38 or in relation to the assets of the credit union as the Administrator  
39 may from time to time prescribe by regulation for the purpose of  
40 requiring reasonable coverage. The Administrator may also approve  
41 the use of a form of excess coverage bond whereby a credit union may  
42 obtain an amount of coverage in excess of the basic surety coverage.  
43 No agreement, compromise or settlement of any claim or claims a  
44 claim filed by a credit union with any surety or any surety company

for less than the full amount of ~~said the claim or claims shall~~ may be entered into or made by the board of directors of any credit union unless ~~and until the said claim or claims shall have~~ the claim has been submitted to the Administrator of Credit Unions ~~and his advice thereon given or transmitted~~ Unions and the Administrator's advice has been given to the board of directors of ~~said the~~ credit union. The following schedule ~~shall be deemed~~ is considered as the minimum ~~fidelity and faithful performance~~ blanket security bond requirements only:

Assets		Minimum Coverage
\$ 0,000 to	\$ 5,000	\$ 1,000
5,001 to	10,000	2,000
10,001 to	20,000	4,000
20,001 to	30,000	6,000
30,001 to	40,000	8,000
40,001 to	50,000	10,000
50,001 to	75,000	15,000
75,001 to	100,000	20,000
100,001 to	200,000	30,000
200,001 to	300,000	40,000
300,001 to	400,000	50,000
400,001 to	500,000	70,000
500,001 to	750,000	85,000
750,001 to	1,000,000	100,000
1,000,001 to	50,000,000	\$100,000 plus
		\$50,000 for each million or
		fraction thereof of assets
		over \$1,000,000
\$50,000,001 to	\$150,000,000	\$ 2,500,000 plus
		\$25,000 for each million or
		fraction thereof of assets
		over \$50,000,000
Over	\$150,000,000	\$5,000,000

~~It shall be the duty of the board of directors of each credit union to~~ The board of directors of each credit union may provide proper protection to meet any circumstances ~~by obtaining adequate bond (an insurance)~~ coverage in excess of the above minimum schedule. ~~The treasurer and all other persons handling~~ No person, including the ~~treasurer, shall handle~~ credit union funds or records ~~before entering upon his or their~~

1 ~~duties shall give before giving~~ a proper bond with good and sufficient surety, in an  
2 amount and character to be determined by the board in compliance with regulations  
3 conditioned upon the faithful performance of his or their trust. surety.

4 The Administrator may require additional coverage for any credit union when, in his  
5 the Administrator's opinion, the surety bonds in force are insufficient to provide  
6 adequate surety coverage, and ~~it shall be the duty of~~ the board of directors of any  
7 credit union ~~to shall obtain such this~~ additional coverage within 60 days after the date  
8 of ~~the Administrator's written notice by the Administrator to such to that~~ board of  
9 directors. For good cause shown, the Administrator may extend the time to obtain  
10 additional coverage."

11 Sec. 2. G.S. 54-109.44 reads as rewritten:

12 "§ 54-109.44. Duties of directors.

13 ~~It shall be the duty of the directors to:~~ The directors shall:

14 (1) Act upon applications for membership or ~~to~~ appoint one or more membership  
15 officers to approve applications for membership under ~~such any~~ conditions as the board  
16 prescribes. A record of a membership officer's approval or denial of membership shall  
17 be available to the board of directors for inspection. A person denied membership by a  
18 membership officer may appeal the denial to the ~~board;~~ board.

19 (2) Purchase a blanket fidelity bond, in accordance with any rules ~~and regulations~~ of  
20 the Administrator, to protect the credit union against losses caused by occurrences  
21 covered therein such as fraud, dishonesty, forgery, embezzlement, ~~misappropriation,~~  
22 ~~misapplication, or unfaithful performance of duty~~ misappropriation, or misapplication  
23 by a director, officer, employee, member of an official committee, attorney-at-law or  
24 other ~~agent~~ agent.

25 (3) Determine from time to time the interest ~~rate or rates~~ rates, consistent with  
26 Articles 14A to 14L of this Chapter, ~~which shall be that are~~ charged on loans and ~~to~~  
27 authorize interest refunds, if any, to members from income earned and received in  
28 proportion to the interest paid by them on ~~such the~~ classes of loans and under ~~such the~~  
29 conditions as the board ~~prescribes;~~ prescribes.

30 (4) Fix from time to time the maximum amount which may be loaned to any one  
31 ~~member;~~ member.

32 (5) Declare dividends on shares in the manner and form as provided in the bylaws;  
33 and determine the interest ~~rate or rates which will be~~ rates that are paid on ~~deposits;~~  
34 deposits.

35 (6) Set the number of shares and the amount of deposits which may be owned by a  
36 ~~member, such~~ member. These limitations ~~to shall~~ apply alike the same to all ~~members;~~  
37 members.

38 (7) Have charge of the investment of surplus funds, except that the board of directors  
39 may designate an investment committee or any qualified individual to have charge of  
40 making investments under controls established by the board of ~~directors;~~ directors.

41 (8) Authorize the employment of ~~such~~ persons necessary to carry on the business of  
42 the credit ~~union;~~ union.

43 (9) Authorize the conveyance of ~~property;~~ property.

44 (10) Borrow or lend money to carry on the functions of the credit ~~union;~~ union.

- 1 (11) Designate a depository or depositories for the funds of the credit ~~union~~; union.  
2 (12) Suspend any or all members of the credit or supervisory committee for failure to  
3 perform their ~~duties~~; duties.  
4 (13) Appoint any special committees deemed ~~necessary~~; and necessary.  
5 (14) Perform ~~such~~ any other duties as the members from time to time direct, and  
6 perform or authorize any action not inconsistent with Articles 14A to 14L of this  
7 Chapter and not specifically reserved by the bylaws for the members."  
8 Sec. 3. This act is effective upon ratification.

April 8, 1992

MEMORANDUM

**TO:** Members of the LRC's Committee on Financial Institutions  
**FROM:** Robin S. Johnson, Committee Counsel  
**RE:** A Summary of A BILL TO BE ENTITLED AN ACT TO ELIMINATE THE FAITHFUL PERFORMANCE COVERAGE FOR CREDIT UNIONS.

This proposed legislation would eliminate the requirement for credit unions that they obtain faithful performance bonds.

The proposal would also make numerous technical changes to clarify the statutory language.

Section 3 of the proposed bill would make the act effective upon ratification.