

Short Title: GSC Industrial Banks Update/Technical Amends.

A BILL TO BE ENTITLED

AN ACT TO UPDATE THE INDUSTRIAL BANKS ARTICLE, TO PROVIDE THAT A  
SETTLEMENT AGENT MAY DISBURSE SETTLEMENT PROCEEDS IN RELIANCE  
ON A CHECK DRAWN ON THE ACCOUNT OF OR ISSUED BY A LICENSED  
MORTGAGE LENDER, AND TO MAKE TECHNICAL AMENDMENTS TO THE  
BANKING LAWS.

The General Assembly of North Carolina enacts:

**PART I. UPDATE INDUSTRIAL BANKS ARTICLE**

**SECTION 1.** Article 11 of Chapter 53 of the General Statutes reads as rewritten:

"Article 11.

"Industrial Banks.

**"§ 53-136. ~~Industrial bank~~ "Industrial bank" defined.**

The term "industrial bank," as used in this ~~Article shall be construed to mean~~ Article, means  
any corporation organized or authorized under this Article ~~which~~ that is engaged in receiving,  
~~soliciting~~ soliciting, or accepting money or its equivalent on deposit and in lending money to be  
repaid in weekly, monthly, or other periodical installments or principal sums as a ~~business~~:  
~~Provided, however, this definition shall not be construed to~~ business. This term, however, does  
not include building and loan associations, commercial banks, or credit unions.

*[Staff Note: The NC Commissioner of Banks (NCCOB) did not suggest any changes to this section.]*

**"§ 53-137. Manner of organization.**

Any number of persons, not less than five, may organize an industrial bank by setting forth  
in a certificate of incorporation, under their hands and seals, the following:

- (1) The name of the industrial bank.

(2) The location of its principal office in this State.

(3) The nature of its business.

(4) The amount of its authorized capital stock which shall be divided into shares of ten (\$10.00), twenty (\$20.00), twenty-five (\$25.00), fifty (\$50.00) or one hundred dollars (\$100.00) each: ~~Provided, fractional shares may be issued for the purpose of complying with the requirements of G.S. 53-88, each.~~

(5) The names and post-office addresses of subscribers for stock, and the number of shares subscribed by each. The aggregate of ~~such~~ this subscription shall be the amount of the capital with which the industrial bank will begin business.

(6) ~~Period, if any, limited for the~~ The duration of the industrial bank.

~~This section shall not apply to banks organized and doing business prior to the adoption of this section.~~

*[Staff Note: NCCOB suggested the following changes to this section:*

**§ 53-137. Manner of organization.**

*Any number of persons, not less than five, may organize an industrial bank by setting forth in a certificate of incorporation, under their hands and seals, the following:*

(1) *The name of the industrial bank.*

(2) *The location of its principal office in this State.*

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(4) *The amount of its authorized capital stock which shall be divided into shares of ten (\$10.00), twenty (\$20.00), twenty-five (\$25.00), fifty (\$50.00) or one hundred dollars (\$100.00) each: ~~Provided, fractional shares may be issued for the purpose of complying with the requirements of G.S. 53-88.~~*

(5) *The names and post-office addresses of subscribers for stock, and the number of shares subscribed by each. The aggregate of such subscription shall be the amount of the capital with which the industrial bank will begin business.*

(6) ~~Period, if any, limited for the~~ The duration of the industrial bank.

~~This section shall not apply to banks organized and doing business prior to the adoption of this section.]~~

**"§ 53-138. Corporate title.**

Every corporation incorporated or reorganized pursuant to the provisions of this Article shall be known as an industrial ~~bank,~~ bank and may use the word "bank" as part of its corporate title.

*[Staff Note: The NCCOB did not suggest any changes to this section.]*

**~~"§ 53-139. Capital stock.~~**

~~The amount of capital stock with which any industrial bank shall commence business shall not be less than fifty percent (50%) of that which would be required of a commercial bank under the provisions of G.S. 53-2.~~

*[Staff Note: Please see row on G.S. 53-2 in comparison chart. The NCCOB suggested the following change to this section:]*

**§ 53-139. Capital stock.**

*The amount of capital stock with which any industrial bank shall commence business shall not be less than fifty percent (50%) of that which would be required of a commercial bank under the provisions of G.S. ~~53-2~~53C-3-4.*

**"§ 53-140. Sales of capital stock; accounting; fees.**

The capital stock sold by any industrial bank in process of organization, or for an increase of the capital stock, shall be accounted for to the industrial bank in the full amount paid for the ~~same stock~~. No commission or fee shall be paid to any person, association, or corporation for selling ~~such the~~ stock. The Commissioner of Banks shall refuse authority to commence business to any industrial bank where commissions or fees have been paid, or have been contracted to be paid by it, or by anyone in its behalf to any person, association, or corporation for securing subscriptions for or selling stock in ~~such the~~ industrial bank.

*[Staff Note: The NCCOB did not suggest any changes to this section.]*

**"§ 53-141. Powers.**

Industrial banks ~~shall~~ have perpetual duration and succession in their corporate name unless a limited period of duration is stated in their certificate of incorporation. They ~~shall~~ have the powers conferred by ~~subdivisions (1), (2), and (3) of subsection (a) of G.S. 55-3-02, and subdivision (3) of G.S. 53-43, G.S. 55-3-02(a)(1), (2), and (3) and G.S. 53C-5-2(i), such any~~ additional powers ~~as may be~~ that are necessary or incidental for the carrying out of their corporate purposes, and ~~in addition thereto~~ the following powers:

- (1) To discount and negotiate promissory notes, drafts, bills of exchange and other evidences of indebtedness, and to loan money on real or personal security, and

to purchase notes, bills of exchange, acceptances or other choses in action,  
and to take and receive interest or ~~discounts subject to G.S. 53-43(1).~~  
discounts.

(2) To make loans and charge and receive interest at rates not exceeding the rates  
of interest provided in G.S. 24-1.1.

(3) To establish branch offices or places of business within the county in which  
its principal office is located, and elsewhere in the State, after having first  
obtained the written approval of the Commissioner of Banks, which approval  
may be given or withheld by the Commissioner of Banks in ~~his~~ the  
Commissioner's discretion. The Commissioner of Banks, in exercising ~~such~~  
this discretion, shall take into account, but not by way of limitation, such  
factors as the financial history and condition of the applicant industrial bank,  
the adequacy of its capital structure, its future earnings prospects, and the  
general character of its management. ~~Such approval~~ Approval shall not be  
given until ~~he shall find~~ the Commissioner finds all of the following:

a. That the establishment of ~~such the~~ branch or limited service facility  
will meet the needs and promote the convenience of the community to  
be served by the ~~bank, and~~ industrial bank.

b. That the probable volume of business and reasonable public demand  
in ~~such the~~ community are sufficient to assure and maintain the  
solvency of ~~said the~~ branch or limited service facility and of the  
existing bank or banks in ~~said the~~ community.

~~Provided, that the~~ The Commissioner of Banks shall not authorize the  
establishment of any branch ~~the paid in capital of whose parent bank is not~~  
~~sufficient in amount to provide for capital in an amount equal to that required~~

1                   ~~with respect to the establishment of branches of commercial banks under the~~  
2                   ~~provisions of G.S. 53-62. For the purposes of this paragraph, the provisions of~~  
3                   ~~G.S. 53-62 as to the meaning of the word "capital" shall be applicable. that~~  
4                   ~~would not be permitted under G.S. 53C-6-15.~~

5                   ~~A~~An industrial bank may discontinue a branch office upon resolution of  
6                   its board of directors. Upon the adoption of ~~such a~~the resolution, the industrial  
7                   bank shall follow the procedures for closing a branch as set forth ~~at~~  
8                   ~~G.S. 53-62(e).~~in G.S. 53C-6-17. No branch shall be closed until approved by  
9                   the Commissioner of Banks.

10               (4)   Subject to the approval of the Commissioner of Banks and on the authority of  
11               its board of directors, or a majority thereof, to enter into ~~such~~any contract,  
12               incur ~~such obligations~~any obligations, and generally ~~to do and~~ perform any  
13               ~~and all such acts and things whatsoever as may be necessary or appropriate in~~  
14               ~~order~~ to take advantage of any and all memberships, loans, subscriptions,  
15               contracts, grants, ~~rights~~rights, or ~~privileges, which~~privileges that may at any  
16               time be available or inure to banking institutions, or to their depositors,  
17               creditors, stockholders, conservators, ~~receivers~~receivers, or liquidators, ~~by~~  
18               ~~virtue of those provisions of section eight of the Federal Banking Act of 1933~~  
19               ~~(section twelve B of the Federal Reserve Act as amended) which establish the~~  
20               ~~Federal Deposit Insurance Corporation and provide for the insurance of~~  
21               ~~deposits, or of any other provisions of that or any other act or resolution of~~  
22               ~~Congress to aid, regulate or safeguard banking institutions and their~~  
23               ~~depositors, including any amendments of the same or any substitutions~~  
24               ~~therefor;~~including obtaining deposit insurance from the Federal Deposit  
25               Insurance Corporation or becoming a member of the Federal Reserve System.

- (4a) ~~also, to~~ To subscribe for and acquire any stock, debentures, ~~bonds~~ bonds, or other types of securities of the Federal Deposit Insurance Corporation and to comply with the lawful regulations and requirements from time to time issued or made by ~~such corporations~~ the Federal Deposit Insurance Corporation.
- (5) To solicit, ~~receive~~ receive, and accept money or its equivalent on deposit both in savings accounts and upon certificates of deposit.
- (6) Subject to the approval of the State Banking Commission, to solicit, ~~receive~~ receive, and accept money or its equivalent on deposit subject to ~~check~~ provided, however, no check. ~~No such approval~~ approval, however, shall be given unless and until ~~such~~ the industrial bank meets the capital requirements of a commercial bank as set forth in ~~G.S. 53-2~~ G.S. 53C-1-4(62).
- (7) To transact any lawful business in aid of the United States in time of war or engagement of the Armed Forces of the United States in hostile military operations.

*[Staff Note: The term "limited service facility" appears nowhere in Chapter 53C of the General Statutes. The NCCOB suggested the following changes to this section:*

**§ 53-141. Powers.**

*Industrial banks shall have perpetual duration and succession in their corporate name unless a limited period of duration is stated in their certificate of incorporation. They shall have the powers conferred by subdivisions (1), (2), and (3) of subsection (a) of G.S. 55-3-02, and ~~subdivision (3) of G.S. 53-43~~ 53C-5-2(i), such additional powers as may be necessary or incidental for the carrying out of their corporate purposes, and in addition thereto the following powers:*

- (1) *To discount and negotiate promissory notes, drafts, bills of exchange and other evidences of indebtedness, and to loan money on real or personal security, and to purchase notes, bills of exchange, acceptances or other choses in action, and to take and receive interest or discounts* ~~subject to G.S. 53-43(1)~~.
- (2) *To make loans and charge and receive interest at rates not exceeding the rates of interest provided in G.S. 24-1.1 and* ~~G.S. 24-1.2~~.
- (3) *To establish branch offices or places of business within the county in which its principal office is located, and elsewhere in the State, after having first obtained the written approval of the Commissioner of Banks, which approval may be given or withheld by the Commissioner of Banks in his discretion. The Commissioner of Banks, in exercising such discretion, shall take into account, but not by way of limitation, such factors as the financial history and condition*

of the applicant bank, the adequacy of its capital structure, its future earnings prospects, and the general character of its management. Such approval shall not be given until he shall find

a. That the establishment of such branch or limited service facility will meet the needs and promote the convenience of the community to be served by the bank, and

b. That the probable volume of business and reasonable public demand in such community are sufficient to assure and maintain the solvency of said branch or limited service facility and of the existing bank or banks in said community.

Provided, that the Commissioner of Banks shall not authorize the establishment of any branch which would not be permitted under G.S. 53C-6-15~~the paid-in capital of whose parent bank is not sufficient in amount to provide for capital in an amount equal to that required with respect to the establishment of branches of commercial banks under the provisions of G.S. 53-62. For the purposes of this paragraph, the provisions of G.S. 53-62 as to the meaning of the word "capital" shall be applicable.~~

A bank may discontinue a branch office upon resolution of its board of directors. Upon the adoption of such a resolution, the bank shall follow the procedures for closing a branch as set forth at G.S. ~~53-62(e)~~53C-6-17. No branch shall be closed until approved by the Commissioner of Banks.

(4) Subject to the approval of the Commissioner of Banks and on the authority of its board of directors, or a majority thereof, to enter into such contract, incur such obligations and generally to do and perform any and all such acts and things whatsoever as may be necessary or appropriate in order to take advantage of any and all memberships, loans, subscriptions, contracts, grants, rights or privileges, which may at any time be available or inure to banking institutions, or to their depositors, creditors, stockholders, conservators, receivers or liquidators, to obtain deposit insurance from the Federal Deposit Insurance Corporation or become a member of the Federal Reserve~~by virtue of those provisions of section eight of the Federal Banking Act of 1933 (section twelve B of the Federal Reserve Act as amended) which establish the Federal Deposit Insurance Corporation and provide for the insurance of deposits, or of any other provisions of that or any other act or resolution of Congress to aid, regulate or safeguard banking institutions and their depositors, including any amendments of the same or any substitutions therefor;~~ also, to subscribe for and acquire any stock, debentures, bonds or other types of securities of the Federal Deposit Insurance Corporation and to comply with the lawful regulations and requirements from time to time issued or made by such corporations.

(5) To solicit, receive and accept money or its equivalent on deposit both in savings accounts and upon certificates of deposit.

(6) Subject to the approval of the State Banking Commission, to solicit, receive and accept money or its equivalent on deposit subject to check; provided, however, no such approval shall be given unless and until such industrial bank meets the capital requirements of a commercial bank as set forth in G.S. ~~53-253C-1-4(62).~~53-253C-1-4(62).

(7) To transact any lawful business in aid of the United States in time of war or engagement of the Armed Forces of the United States in hostile military operations.

*Please note that S.L. 2018-142, s. 6(c), deleted the reference to G.S. 24-1.2 in subdivision (2).]*

**"§ 53-142. Restriction on powers.**

No industrial bank shall deposit any of its funds in any banking corporation unless ~~such the~~ corporation has been designated as ~~such a~~ depository by a vote of a majority of the directors, or of the executive committee, exclusive of any director who is an officer, director, or trustee of the depository so designated, present at any meeting duly called at which a quorum is in attendance, and approved by the Commissioner of Banks.

*[Staff Note: The NCCOB did not suggest any changes to this section.]*

**"§ 53-143. Investments; securities; loans; limitations.**

~~The provisions of G.S. 53-46, 53-48 and 53-49, G.S. 53C-5-2(j) and G.S. 53C-6-1, with reference to the limitations of investments in securities, limitations of loans—loans, and suspensions of investment and loan limitations, shall be applicable—apply~~ to industrial banks.

*[Staff Question: Should G.S. 53-143 be repealed as partially duplicative of G.S. 53-145? The NCCOB suggested the following change to this section:*

**§ 53-143. Investments; securities; loans; limitations.**

*The provisions of G.S. 53-46, 53-48 and 53-49, 53C-5-2(j), 53C-6-1, and 53C-6-1(e) with reference to the limitations of investments in securities, limitations of loans and suspensions of investment and loan limitations, shall be applicable to industrial banks.]*

**"§ 53-144. Supervision and examination.**

Every ~~industrial bank now or hereafter~~ person transacting the business of an industrial bank ~~as defined by this Article, bank,~~ whether as a separate business or in connection with any other business under the laws of ~~and within~~ this State, ~~shall be~~ is subject to the provisions of this ~~Article, Article~~ and shall be under the supervision of the Commissioner of Banks. The Commissioner of Banks shall exercise control of and supervision over the industrial banks doing business under this Article, and it shall be ~~his~~ the Commissioner's duty to execute and enforce, through the State bank examiners and ~~such any~~ other agents as ~~are now or may hereafter be~~ may be created or appointed, all laws ~~which are now or may hereafter be enacted~~ relating to industrial ~~banks as defined in this Article. banks.~~ For the more complete and thorough enforcement of the



provisions of this Article, the State Banking Commission is ~~hereby empowered to promulgate~~  
~~may adopt such rules, regulations, and instructions,~~ not inconsistent with the provisions of this  
Article, ~~as may, that,~~ in its opinion, ~~be~~ are necessary (i) to carry out the provisions of the laws  
relating to industrial ~~banks as in this Article defined, and as may be further necessary banks,~~ (ii)  
to ~~insure such~~ ensure the safe and conservative management of industrial banks under the  
supervision of the Commissioner of ~~Banks as may~~ Banks, and (iii) to provide adequate protection  
for the interest of creditors, stockholders, and the public, in their relations with ~~such these~~  
institutions. All industrial banks doing business under the provisions of this Article shall conduct  
their business in a manner consistent with all laws relating to industrial ~~banks, banks~~ and all ~~rules,~~  
~~regulations rules and instructions that may be promulgated or issued adopted~~ by the State  
Banking Commission.

*[Staff Note: The NCCOB did not suggest any changes to this section.]*

**"§ 53-145. Sections of general law applicable.**

~~Sections 53-1, 53-3, 53-4, 53-5, 53-6, 53-7, 53-8, 53-9, 53-10, 53-11, 53-12, 53-13, 53-18,~~  
~~53-20, 53-22, 53-23, 53-42, 53-42.1, 53-47, 53-50, 53-51, 53-54, 53-63, 53-64, 53-67, 53-68,~~  
~~53-70, 53-71, 53-73, 53-78, 53-79, 53-80, 53-81, 53-82, 53-83, 53-85, 53-87, 53-88, 53-90,~~  
~~53-91.2, 53-91.3, 53-105, 53-106, 53-107, 53-108, 53-109, 53-110, 53-111, 53-112, 53-117,~~  
~~53-118, 53-119, 53-120, 53-121, 53-122, 53-123, 53-124, 53-125, 53-126, 53-128, 53-129,~~  
~~53-132, 53-133, 53-134, relating to the supervision and examination of commercial banks, shall~~  
~~be construed to be applicable to industrial banks, insofar as they are not inconsistent with the~~  
~~provisions of this Article. Sections 53-19, 53-24, 53-37, 53-39, 53-40, 53-41, 53-44, 53-45,~~  
~~53-61, 53-75, 53-76, 53-77, 53-86, 53-113, 53-114, 53-115, 53-116, 53-135, 53-146, and 53-148~~  
~~through 53-158, relating to commercial banks, shall be construed to be applicable to industrial~~  
~~banks.~~

The following sections apply to industrial banks to the extent they are not inconsistent with the provisions of this Article: G.S. 53C-1-4, 53C-2-4, 53C-2-5, 53C-3-1, 53C-3-2, 53C-3-3, 53C-3-4, 53C-3-5, 53C-3-6, 53C-3-7, 53C-4-1, 53C-4-2, 53C-4-3, 53C-4-4, 53C-4-5, 53C-4-6, 53C-4-7, 53C-4-8, 53C-4-9, 53C-4-11, 53C-5-2 (except for subdivisions (a)(3), (a)(4), and (a)(6) of that section), 53C-5-3, 53C-6-1, 53C-6-12, 53C-6-14, 53C-7-101, 53C-7-102, 53C-7-104, 53C-7-105, 53C-7-201, 53C-7-202, 53C-7-203, 53C-7-209, 53C-8-2, 53C-8-3, 53C-8-4, 53C-8-6, 53C-8-7, 53C-8-8, 53C-8-9, 53C-8-10, 53C-8-11, 53C-8-14, 53C-8-15, 53C-9-101, 53C-9-102, 53C-9-103, 53C-9-201, 53C-9-202, 53C-9-203, 53C-9-301, 53C-9-401, and 53C-9-402."

*[Staff Note: Please see the "G.S. 53-145 references table" document for a comparison of this rewrite and the following rewrite suggested by the NCCOB:*

***§ 53-145. Sections of general law applicable.***

~~*Sections 53-1, 53-3, 53-4, 53-5, 53-6, 53-7, 53-8, 53-9, 53-10, 53-11, 53-12, 53-13, 53-18, 53-20, 53-22, 53-23, 53-42, 53-42.1, 53-47, 53-50, 53-51, 53-54, 53-63, 53-64, 53-67, 53-68, 53-70, 53-71, 53-73, 53-78, 53-79, 53-80, 53-81, 53-82, 53-83, 53-85, 53-87, 53-88, 53-90, 53-91.2, 53-91.3, 53-105, 53-106, 53-107, 53-108, 53-109, 53-110, 53-111, 53-112, 53-117, 53-118, 53-119, 53-120, 53-121, 53-122, 53-123, 53-124, 53-125, 53-126, 53-128, 53-129, 53-132, 53-133, 53-134, relating to the supervision and examination of commercial banks, shall be construed to be applicable to industrial banks, insofar as they are not inconsistent with the provisions of this Article. Sections 53-19, 53-24, 53-37, 53-39, 53-40, 53-41, 53-44, 53-45, 53-61, 53-75, 53-76, 53-77, 53-86, 53-113, 53-114, 53-115, 53-116, 53-135, 53-146, and 53-148 through 53-158, relating to commercial banks, shall be construed to be applicable to industrial banks. (1923, c. 225, s. 13; C.S., s. 225(m); 1927, c. 141; 1939, c. 244, s. 3; 1945, c. 743, s. 1; 1981, c. 671, s. 14; 1995, c. 129, s. 27.)*~~

*Sections 53C-1-4, 53C-2-5, 53C-3-1, 53C-3-2, 53C-3-3, 53C-3-4, 53C-3-5, 53C-3-6, 53C-3-7, 53C-4-1, 53C-4-2, 53C-4-3, 53C-4-4, 53C-4-5, 53C-4-6, 53C-4-7, 53C-4-8, 53C-4-9, 53C-4-11, 53C-5-2, 53C-5-3, 53C-6-1, 53C-6-6, 53C-6-12, 53C-6-14, 53C-6-19, 53C-7-101, 53C-7-102, 53C-7-104, 53C-7-201, 53C-7-202, 53C-7-205, 53C-7-206, 53C-7-303, 53C-8-2, 53C-8-3, 53C-8-4, 53C-8-6, 53C-8-7, 53C-8-8, 53C-8-9, 53C-8-10, 53C-8-11, 53C-8-12, 53C-8-14, 53C-8-15, 53C-9-102, 53C-9-202, 53C-9-203, 53C-9-203, 53C-9-301, 53C-9-401, 53C-9-402, 53C-10-102, 53C-10-103, 53C-10-105, 53C-10-201, and 53C-10-202, shall be construed to be applicable to industrial banks, insofar as they are not inconsistent with this provisions of this Article.]*

**PART II. GOOD FUNDS SETTLEMENT ACT AMENDMENTS**

[Insert relevant amendments from "Banking Amendments" document.]

1     **PART III. TECHNICAL BANKING AMENDMENTS**

2     [Insert relevant amendments from "Banking Amendments" document.]

3

4     **PART IV. EFFECTIVE DATE**

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