

1997

**HOUSE
COMMERCE –
FINANCIAL
INSTITUTIONS**

MINUTES



Representative Bobby Ray Hall
Chairman



Rep. Andrew Dedmon



Rep. Jerry Dockham



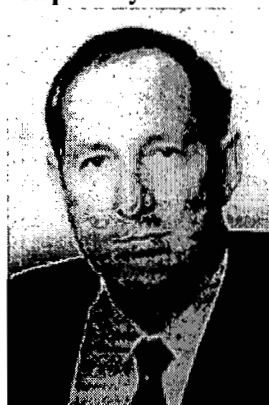
Rep. Thomas Hardaway



Rep. Edwin Hardy



Rep. Howard Hunter



Rep. Larry Justus



Rep. Mary McAllister



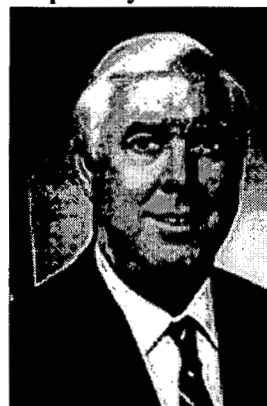
Rep. Edwin McMahan



Rep. John Nichols



Rep. Liston Ramsey



Rep. Ronald Smith



Rep. Gregory Thompson

COMMERCE/SUBCOMMITTEE FINANCIAL INSTITUTIONS

MEMBERSHIP LIST

Representative Bobby Ray Hall-Chairman

Representative Gregory Thompson

Representative Jerry Dockham

Representative Edwin Hardy

Representative Larry Justus

Representative W. Edwin McMahan

Representative John Nichols

Representative Liston Ramsey

Representative Andrew Dedmon

Representative Thomas Hardaway

Representative Howard Hunter

Representative Mary McAllister

Representative Ronald Smith

ATTENDANCE

Commerce/Subcommittee Financial Institutions

(Name of Committee)

[illegible]

06-04-97

Date _____

[illegible]**FIRM OR AGENCY AND ADDRESS**

B. P. R. L.

NC AGO

Check Cashing Headquarters

NC CHECK CASHERS ASSN.

Police & Comm. & Banks

Agents, Commissioners & Banks

NC Check Cashers presentation

NCJ CDC

CHECK CASINO HEADQUARTERS

DOJ

NC BANKERS ASSN

needs

NCRB

2D + 1A

MSC's (inflation)



North Carolina General Assembly
House of Representatives
State Legislative Building
Raleigh 27601-1096

REPRESENTATIVE BOBBY RAY HALL
19TH DISTRICT

OFFICE ADDRESS: ROOM 637
LEGISLATIVE OFFICE BUILDING
RALEIGH, N.C. 27601-1096
TELEPHONE: (919) 733-5906
(919) 829-0630 FAX

HOME ADDRESS: P. O. BOX 40
SANFORD, N.C. 27330
TELEPHONE: (919) 776-6590-HOME
(910) 892-4167-O-DUNN

COMMITTEES:

MEMBER:

APPROPRIATIONS
SUBCOMMITTEE ON NATURAL & ECONOMIC RESOURCES
SUBCOMMITTEE ON CAPITAL & BUDGET
COMMERCE
CHAIRMAN-SUBCOMMITTEE ON FINANCIAL INSTITUTIONS
EDUCATION
SUBCOMMITTEE ON PRESCHOOL, ELEMENTARY & SECONDARY
ENVIRONMENT
JUDICIARY I
WAYS & MEANS

September 9, 1997

Minutes of Commerce/Financial Institutions Committee Meeting on
April 9, 1997

Representative Bobby Ray Hall called meeting to order and welcomed everyone. Rep. Hall introduced the staff.

Billie Stevens - Clerk

Walker Reagan - Staff - Research Division

Karen Cochrane-Brown - Staff - Research Division

Cheryl Coats - Sergeant - At-Arms

Cid Sutton - Page - Rowan County

Chairman Hall introduced Representative Gamble to present his Bill - HB 325.

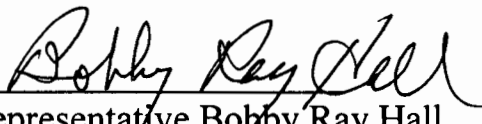
Dr. Gamble made remarks about Bill. He spoke to Chairman to hold Bill for several weeks for following reasons.

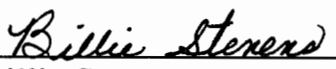
1. Cannot obtain Fiscal Note.
2. As in past years, he had looked at economic interest of committee.
3. Ethics of Committee
4. Financial Institutions is not a tax committee and this is a tax bill and he does know why the bill is in this committee.
5. Has letter to Attorney Generals asking for a Constitutional opinion on this bill.



Chairman agreed with Representative Gamble that the Committee would hold bill.

Meeting adjourned.

Signed 
Representative Bobby Ray Hall
Chairman - Sub-Committee-Financial Institutions

Signed 
Billie Stevens
Clerk



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House of Representatives
State Legislative Building
Raleigh 27601-1096

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JUDICIARY I
WAYS & MEANS

September 9, 1997

Minutes of Commerce/Financial Institutions Committee Meeting on
June 4, 1997

Representative Bobby Ray Hall - Chairman of Committee called meeting to order. Introduced Staff.

HB-1125

Chairman read a request from the Chairman of Commerce, Representative David Miner that this bill be re-referred to Rules Committee.

Motion Passed.

SB-312

Representative Thompson presented bill. Representative Nichols moved that the Committee give the Bill a favorable report.
Representative Ramsey spoke in favor of bill.

vote to give bill favorable report.



SB-329

Senator Dalton presented bill. Committee substitute passed out. Requested by Chairman of Commerce Representative David Miner.

Adds new Section - 2-1 – on line 19, Page 1

Amends NC Banking act.

Representative Nichols asked if Banks were in favor. Paul Stock, Bankers Association stated that the Banks have no problem with the bill

Motion by Rep. Nichols for favorable report to Committee Substitute, unfavorable to original.

Motion passed

SB-330

Senator Dalton explained his bill.

Representative Nichols made motion for favorable report.

Motion carried.

No other business, meeting adjourned.

Signed Bobby Ray Hall
Representative Bobby Ray Hall
Chairman- Sub-Committee - Financial Institutions

Signed Billie Stevens
Billie Stevens
Clerk

**1997 PERMANENT SUBCOMMITTEE REPORT
HOUSE OF REPRESENTATIVES**

FOR RECOMMENDING BILLS TO STANDING COMMITTEE OR TO THE FLOOR OF THE HOUSE
The following report(s) from permanent sub committee(s) is/are presented:

By Representative(s) Bobby Ray Hall for the Permanent Subcommittee on Financial Institutions of
the Standing Committee on COMMERCE.

- ☐ Committee Substitute for
H.B. 1125 ☐ A BILL TO BE ENTITLED AN ACT TO REVISE THE
CLASSIFICATION OF LENDERS WHO MAY CONTRACT FOR THE PAYMENT OF CHARGES
IN CERTAIN CIRCUMSTANCES.

REPORTED TO THE STANDING COMMITTEE ON **COMMERCE**

RECOMMENDED ACTION:

- ☐ With a favorable recommendation.
- ☒ With a favorable recommendation and recommend that the bill be re-referred to the Committee on
RULES.
- ☐ With a favorable recommendation, as amended.
- ☐ With a favorable recommendation, as amended, and recommend that the bill be re-referred to the
Committee on _____
- ☐ With an unfavorable recommendation.
- ☐ With a favorable recommendation as to proposed committee substitute bill _____ which changes the
title, unfavorable as to original bill.
- ☐ With a favorable recommendation as to proposed House committee substitute bill, _____ which
changes the title, unfavorable as to Senate committee substitute bill.
- ☐ Without prejudice.
- ☐ Other recommended action: _____

WITH APPROVAL OF STANDING COMMITTEE CHAIR FOR REPORT TO BE MADE DIRECTLY
TO THE FLOOR OF THE HOUSE:

Rep. _____ for the Standing Committee on _____

s/ _____

- ☐ With a favorable report.
- ☐ With a favorable report, as amended.
- ☐ With a favorable report as to committee substitute bill (# _____), ☐ which changes the title,
unfavorable as to original bill (Committee Substitute Bill # _____). (and recommendation that the
committee substitute bill (# _____) be referred to the Committee on _____ .)
- ☐ And having received a unanimous vote in committee, be placed on the Consent Calendar.
(PUBLIC BILLS ONLY)

4/24/97

**1997 PERMANENT SUBCOMMITTEE REPORT
HOUSE OF REPRESENTATIVES**

FOR RECOMMENDING BILLS TO STANDING COMMITTEE OR TO THE FLOOR OF THE HOUSE
The following report(s) from permanent sub committee(s) is/are presented:

By Representative(s) **Bobby Ray Hall** for the Permanent Subcommittee on **Financial Institutions** of
the Standing Committee on **COMMERCE**.

- ☐ Committee Substitute for
S.B. 330 ☐ A BILL TO BE ENTITLED AN ACT TO AMEND THE LAW
GOVERNING SAFE-DEPOSIT BOXES.

REPORTED TO THE STANDING COMMITTEE ON COMMERCE

RECOMMENDED ACTION:

- ☒ With a favorable recommendation.
- ☐ With a favorable recommendation and recommend that the bill be re-referred to the Committee on
- ☐ With a favorable recommendation, as amended.
- ☐ With a favorable recommendation, as amended, and recommend that the bill be re-referred to the
Committee on
- ☐ With an unfavorable recommendation.
- ☐ With a favorable recommendation as to proposed committee substitute bill which changes the
title, unfavorable as to original bill.
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- ☐ Without prejudice.
- ☐ Other recommended action: _____

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(PUBLIC BILLS ONLY)

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HOUSE OF REPRESENTATIVES**

FOR RECOMMENDING BILLS TO STANDING COMMITTEE OR TO THE FLOOR OF THE HOUSE
The following report(s) from permanent sub committee(s) is/are presented:

By Representative(s) Bobby Ray Hall for the Permanent Subcommittee on Financial Institutions of
the Standing Committee on COMMERCE.

- ☐ Committee Substitute for
S.B. 312. ☐ A BILL TO BE ENTITLED AN ACT TO REGULATE CHECK-
CASHING BUSINESSES.

REPORTED TO THE STANDING COMMITTEE ON COMMERCE

RECOMMENDED ACTION:

- ☒ With a favorable recommendation.
- ☐ With a favorable recommendation and recommend that the bill be re-referred to the Committee on
- ☐ With a favorable recommendation, as amended.
- ☐ With a favorable recommendation, as amended, and recommend that the bill be re-referred to the
Committee on
- ☐ With an unfavorable recommendation.
- ☐ With a favorable recommendation as to proposed committee substitute bill which changes the
title, unfavorable as to original bill.
- ☐ With a favorable recommendation as to proposed House committee substitute bill, which
changes the title, unfavorable as to Senate committee substitute bill.
- ☐ Without prejudice.
- ☐ Other recommended action: _____

WITH APPROVAL OF STANDING COMMITTEE CHAIR FOR REPORT TO BE MADE DIRECTLY
TO THE FLOOR OF THE HOUSE:

Rep. _____ for the Standing Committee on _____.

s/ _____

- ☐ With a favorable report.
- ☐ With a favorable report, as amended.
- ☐ With a favorable report as to committee substitute bill (# _____), ☐ which changes the title,
unfavorable as to original bill (Committee Substitute Bill # _____). (and recommendation that the
committee substitute bill (# _____) be referred to the Committee on _____ .)
- ☐ And having received a unanimous vote in committee, be placed on the Consent Calendar.
(PUBLIC BILLS ONLY)

4/24/97

**1997 PERMANENT SUBCOMMITTEE REPORT
HOUSE OF REPRESENTATIVES**

FOR RECOMMENDING BILLS TO STANDING COMMITTEE OR TO THE FLOOR OF THE HOUSE
The following report(s) from permanent sub committee(s) is/are presented:

By Representative(s) **Bobby Ray Hall** for the Permanent Subcommittee on **Financial Institutions** of
the Standing Committee on **COMMERCE**.

☐ Committee Substitute for

S.B. 329

☐ A BILL TO BE ENTITLED AN ACT TO REPEAL THE
REQUIREMENT THAT STATE SAVINGS BANKS USE THE LETTERS "SSB" OR THE WORDS
"SAVINGS BANK" IN THEIR LEGAL NAME IN ORDER TO CONFORM WITH THE
REQUIREMENTS APPLICABLE TO FEDERAL SAVINGS BANKS.

REPORTED TO THE STANDING COMMITTEE ON **COMMERCE**

RECOMMENDED ACTION:

- ☐ With a favorable recommendation.
- ☐ With a favorable recommendation and recommend that the bill be re-referred to the Committee on
- ☐ With a favorable recommendation, as amended.
- ☐ With a favorable recommendation, as amended, and recommend that the bill be re-referred to the
Committee on
- ☐ With an unfavorable recommendation.
- ☐ With a favorable recommendation as to proposed committee substitute bill which changes the
title, unfavorable as to original bill.
- ☒ With a favorable recommendation as to proposed House committee substitute bill, X which changes
the title, unfavorable as to Senate committee substitute bill.
- ☐ Without prejudice.
- ☐ Other recommended action: _____

WITH APPROVAL OF STANDING COMMITTEE CHAIR FOR REPORT TO BE MADE DIRECTLY
TO THE FLOOR OF THE HOUSE:

Rep. _____ for the Standing Committee on _____

s/ _____

- ☐ With a favorable report.
- ☐ With a favorable report, as amended.
- ☐ With a favorable report as to committee substitute bill (# _____), ☐ which changes the title,
unfavorable as to original bill (Committee Substitute Bill # _____). (and recommendation that the
committee substitute bill (# _____) be referred to the Committee on _____ .)
- ☐ And having received a unanimous vote in committee, be placed on the Consent Calendar.
(PUBLIC BILLS ONLY)

4/24/97

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H

1

HOUSE BILL 1125

Short Title: Mortgage Lenders.

(Public)

Sponsors: Representatives Miner; Barbee, Church, Culpepper, Hardaway, Hardy, Justus, and Nichols.

Referred to: Commerce, if favorable, Finance.

April 21, 1997

1 A BILL TO BE ENTITLED
2 AN ACT TO REVISE THE CLASSIFICATION OF LENDERS WHO MAY
3 CONTRACT FOR THE PAYMENT OF CHARGES IN CERTAIN
4 CIRCUMSTANCES.

5 The General Assembly of North Carolina enacts:

6 Section 1. G.S. 24-1.1A(a) reads as rewritten:

7 "(a) Notwithstanding any other provision of this Chapter, parties to a home loan
8 may contract in writing as follows:

- 9 (1) Where the principal amount is ten thousand dollars (\$10,000) or
10 more the parties may contract for the payment of interest as agreed
11 upon by the parties;
- 12 (2) Where the principal amount is less than ten thousand dollars
13 (\$10,000) the parties may contract for the payment of interest as
14 agreed upon by the parties, if the lender is either (i) approved as a
15 mortgagee by the Secretary of Housing and Urban Development,
16 the Federal Housing Administration, the Veterans Administration,
17 a national mortgage association or any federal agency; or (ii) a
18 local or foreign bank, savings and loan association or service
19 corporation wholly owned by one or more savings and loan
20 associations and permitted by law to make home loans, credit
21 union or insurance company; company or a mortgage banker
22 registered pursuant to G.S. 53-233 who is under the common

1 control with a bank, savings and loan association, or insurance
2 company; or (iii) a State or federal agency;

3 (3) Where the principal amount is less than ten thousand dollars
4 (\$10,000) and the lender is not a lender described in the preceding
5 subdivision (2) the parties may contract for the payment of interest
6 not in excess of sixteen percent (16%) per annum.

7 (4) Notwithstanding any other provision of law, except as provided in
8 subdivision (2) of this subsection, where the lender is an affiliate
9 operating in the same office or subsidiary operating in the same
10 office of a licensee under the North Carolina Consumer Finance
11 Act, the lender may charge interest to be computed only on the
12 following basis: monthly on the outstanding principal balance at a
13 rate not to exceed the rate provided in this subdivision.

14 On the fifteenth day of each month, the Commissioner of
15 Banks shall announce and publish the maximum rate of
16 interest permitted by this subdivision. Such rate shall be the
17 latest published noncompetitive rate for U.S. Treasury bills
18 with a six-month maturity as of the fifteenth day of the
19 month plus six percent (6%), rounded upward or
20 downward, as the case may be, to the nearest one-half of
21 one percent (1/2 of 1%) or fifteen percent (15%), whichever
22 is greater. If there is no nearest one-half of one percent (1/2
23 of 1%), the Commissioner shall round downward to the
24 lower one-half of one percent (1/2 of 1%). The rate so
25 announced shall be the maximum rate permitted for the
26 term of loans made under this section during the following
27 calendar month when the parties to such loans have agreed
28 that the rate of interest to be charged by the lender and paid
29 by the borrower shall not vary or be adjusted during the
30 term of the loan. The parties to a loan made under this
31 section may agree to a rate of interest which shall vary or be
32 adjusted during the term of the loan in which case the
33 maximum rate of interest permitted on such loans during a
34 month during the term of the loan shall be the rate
35 announced by the Commissioner in the preceding calendar
36 month.

37 An affiliate operating in the same office or subsidiary
38 operating in the same office of a licensee under the North
39 Carolina Consumer Finance Act may not make a home loan
40 for a term in excess of six (6) months which provides for a
41 balloon payment. For purposes of this subdivision, a
42 balloon payment means any scheduled payment that is more
43 than twice as large as the average of earlier scheduled

1 payments. This subsection does not apply to equity lines of
2 credit as defined in G.S. 45-81."

3 Section 2. G.S. 24-10(h) reads as rewritten:

4 "(h) ~~A bank, savings and loan association, savings bank, or credit union, lender~~
5 described in G.S. 24-1.1A(a)(2), or any subsidiary or affiliate thereof organized under
6 the laws of this State or the United States, may charge a party to a loan secured by
7 real property a reasonable fee as may be agreed upon by the parties for an appraisal
8 performed by an employee of the bank, savings and loan association, savings bank, or
9 credit union, or any subsidiary or affiliate thereof. Upon the request of the borrower,
10 the lender shall provide at no additional charge to the borrower a copy of any
11 appraisal for which the lender has collected a fee under this subsection. Provision of
12 the copy of an appraisal shall not be construed to create or imply any warranty which
13 does not otherwise exist by the lender as to the accuracy of the appraisal."

14 Section 3. This act becomes effective October 1, 1997, and applies to
15 contracts entered into on or after that date.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S

2

SENATE BILL 330
Commerce Committee Substitute Adopted 3/26/97

Short Title: Safe-Deposit Boxes.

(Public)

Sponsors:

Referred to:

March 10, 1997

- 1 A BILL TO BE ENTITLED
2 AN ACT TO AMEND THE LAW GOVERNING SAFE-DEPOSIT BOXES.
3 The General Assembly of North Carolina enacts:
4 Section 1. G.S. 53-43.7 reads as rewritten:
5 "§ 53-43.7. Safe-deposit boxes; unpaid rentals; procedure; escheats.
6 (a) If the rental due on a safe-deposit box has not been paid for ~~one year~~, 90 days,
7 the lessor may send a notice by registered mail or certified mail, return receipt
8 requested, to the last known address of the lessee stating that the safe-deposit box will
9 be opened and its contents stored at the expense of the lessee unless payment of the
10 rental is made within 30 days. If the rental is not paid within 30 days from the
11 mailing of the notice, the box may be opened in the presence of an officer of the
12 lessor and of a notary public who is not a director, officer, employee or stockholder
13 of the lessor. The contents shall be sealed in a package by the notary public who
14 shall write on the outside the name of the lessee and the date of the opening. The
15 notary public shall execute a certificate reciting the name of the lessee, the date of
16 the opening of the box and a list of its contents. The certificate shall be included in
17 the package and a copy of the certificate shall be sent by registered mail or certified
18 mail, return receipt requested, to the last known address of the lessee. The package
19 shall then be placed in the general vaults of the lessor at a rental not exceeding the
20 rental previously charged for the box.
21 (b) Any property, including documents or writings of a private nature, which has
22 little or no apparent value, need not be sold but may be destroyed by the Treasurer

1 or by the lessor, if retained by the lessor pursuant to a determination by the Treasurer
2 under G.S. 116B-31(c).

3 (c) If the contents of the safe-deposit box have not been claimed within two years
4 of the mailing of the certificate, the lessor may send a further notice to the last known
5 address of the lessee stating that, unless the accumulated charges are paid within 30
6 days, the contents of the box will be delivered to the State Treasurer as abandoned
7 property under the provisions of Chapter 116B.

8 (d) The lessor shall submit to the Treasurer a verified inventory of all of the
9 contents of the safe-deposit box upon delivery of the contents of the box or such part
10 thereof as shall be required by the Treasurer under G.S. 116B-31(c); but the lessor
11 may deduct from any cash of the lessee in the safe-deposit box an amount equal to
12 accumulated charges for rental and shall submit to the Treasurer a verified statement
13 of such charges and deduction. If there is no cash, or insufficient cash to pay
14 accumulated charges, in the safe-deposit box, the lessor may submit to the Treasurer
15 a verified statement of accumulated charges or balance of accumulated charges due,
16 and the Treasurer shall remit to the lessor the charges or balance due, up to the value
17 of the property in the safe-deposit box delivered to him, less any costs or expenses of
18 sale; but if the charges or balance due exceeds the value of such property, the
19 Treasurer shall remit only the value of the property, less costs or expenses of sale.
20 Any accumulated charges for safe-deposit box rental paid by the Treasurer to the
21 lessor shall be deducted from the value of the property of the lessee delivered to the
22 Treasurer.

23 (e) Repealed by Session Laws 1979, 2nd Session, c. 1311, s. 5.

24 (f) ~~A copy of~~ An explanation of the contractual provisions pertaining to default,
25 together with reference to this section shall be printed on every contract for rental of
26 a safe-deposit box."

27 Section 2. This act becomes effective July 1, 1997.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S

2

SENATE BILL 312
Commerce Committee Substitute Adopted 4/2/97

Short Title: Regulate Check Cashing/AB.

(Public)

Sponsors:

Referred to: Finance.

March 5, 1997

A BILL TO BE ENTITLED

AN ACT TO REGULATE CHECK-CASHING BUSINESSES.

The General Assembly of North Carolina enacts:

Section 1. Chapter 53 of the General Statutes is amended by adding the following new Article to read:

"ARTICLE 22.

"Check-Cashing Businesses.

"§ 53-275. Definitions.

As used in this Article, unless the context clearly requires otherwise, the term:

(1) 'Cashing' means providing currency for payment instruments, but does not include the bona fide sale or exchange of travelers checks and foreign denomination payment instruments.

(2) 'Check-cashing service' means any person or entity engaged in the business of cashing checks, drafts, or money orders for a fee, service charge, or other consideration.

(3) 'Commissioner' means the State Banking Commissioner.

(4) 'Commissioner' means the Commissioner of Banks.

(5) 'Licensee' means a person or entity licensed to engage in a check-cashing business under this Article.

(6) 'Person' means an individual, partnership, association, or corporation.

"§ 53-276. License required.

No person or other entity may engage in the business of cashing checks, drafts, or money orders for consideration without first obtaining a license under this Article. No person or other entity providing a check-cashing service may avoid the requirements of this Article by providing a check or other currency equivalent instead of currency when cashing payment instruments.

"§ 53-277. Exemptions.

(a) This Article shall not apply to:

(1) A bank, savings institution, credit union, or farm credit system organized under the laws of the United States or any state; and

(2) Any person or entity principally engaged in the bona fide retail sale of goods or services, who either as an incident to or independently of a retail sale or service and not holding itself out to be a check-cashing service, from time to time cashes checks, drafts, or money orders for a fee or other consideration, where not more than two dollars (\$2.00) is charged for the service.

(b) A person licensed under Article 16 of this Chapter (Money Transmitters Act) is exempt from G.S. 53-276, 53-278, 53-279, and 53-284, but is deemed a licensee for purposes of the remaining provisions of this Article. This exemption does not apply to an agent of a person licensed under Article 16 of this Chapter.

"§ 53-278. Application for license; investigation; application fee.

(a) An application for licensure under this Article shall be in writing, under oath, and on a form prescribed by the Commissioner. The application shall set forth all of the following:

(1) The name and address of the applicant.

(2) If the applicant is a firm or partnership, the name and address of each member of the firm or partnership.

(3) If the applicant is a corporation, the name and address of each officer, director, registered agent, and principal.

(4) The addresses of the locations of the business to be licensed.

(5) Other information concerning the financial responsibility, background experience, and activities of the applicant and its members, officers, directors, and principals as the Commissioner requires.

(b) The Commissioner may make such investigations as the Commissioner deems necessary to determine if the applicant has complied with all applicable provisions of this Article and State and federal law.

(c) The application shall be accompanied by payment of a two hundred fifty dollar (\$250.00) application fee and a five hundred dollar (\$500.00) investigation fee. These fees are not refundable or abatable, but, if the license is granted, payment of the application fee shall satisfy the fee requirement for the first license year or remaining part thereof.

(d) Licenses shall expire annually and may be renewed upon payment of a license fee of two hundred fifty dollars (\$250.00) plus a fifty dollar (\$50.00) fee for each branch location certificate issued under a license.

1 "§ 53-279. Liquid assets required; other qualifications; denial of license; hearing.

2 (a) Every licensee and applicant shall have and maintain liquid assets of at least
3 fifty thousand dollars (\$50,000) per licensee.

4 (b) Upon the filing and investigation of an application, and compliance by the
5 applicant with G.S. 53-278, and this section, the Commissioner shall issue and deliver
6 to the applicant the license applied for to engage in business under this Article at the
7 locations specified in the application, provided that the Commissioner finds that the
8 financial responsibility, character, reputation, experience, and general fitness of the
9 applicant and its members, officers, directors, and principals are such as to warrant
10 belief that the business will be operated efficiently and fairly, in the public interest,
11 and in accordance with law. If the Commissioner fails to make such findings, no
12 license shall be issued, and the Commissioner shall notify the applicant of the denial
13 and the reasons therefor. The applicant shall be entitled to an informal hearing on
14 the denial provided the applicant requests the hearing in writing within 30 days after
15 the Commissioner has mailed the notice required under this subsection to the
16 applicant. In the event of a hearing, which shall be held in the offices of the
17 Commissioner of Banks in Raleigh, the Commissioner shall reconsider the application
18 and, after hearing, issue a written order granting or denying the application.

19 "§ 53-280. Maximum fees for service; fees posted; endorsement of checks cashed.

20 (a) Notwithstanding any other provision of law, no check-cashing business
21 licensed under this Article shall directly or indirectly charge or collect fees or other
22 consideration for check-cashing services in excess of the following:

23 (1) Three percent (3%) of the face amount of the check or five dollars
24 (\$5.00), whichever is greater, for checks issued by the federal
25 government, State government, or any agency of the State or
26 federal government, or any county or municipality of this State.

27 (2) Ten percent (10%) of the face amount of the check or five dollars
28 (\$5.00), whichever is greater, for personal checks.

29 (3) Five percent (5%) of the face amount of the check or five dollars
30 (\$5.00), whichever is greater, for all other checks, or for money
31 orders.

32 (b) A licensee may not advance monies on the security of any check unless the
33 account from which the check being presented is drawn is legitimate, open, and
34 active. Except as provided by G.S. 53-281(a), any licensee who cashes a check for a
35 fee shall deposit the check not later than three business days from the date the check
36 is cashed.

37 (c) A licensee shall ensure that in every location conducting business under a
38 license issued under this Article, there is conspicuously posted and at all times
39 displayed a notice stating the fees charged for cashing checks, drafts, and money
40 orders. A licensee shall further ensure that notice of the fees currently charged at
41 every location shall be filed with the Commissioner.

42 (d) A licensee shall endorse every check, draft, or money order presented by the
43 licensee for payment in the name of the licensee.

44 "§ 53-281. Postdated or delayed deposit checks.

1 (a) A licensee may defer the deposit of a personal check cashed for a customer for
2 up to 31 days pursuant to the provisions of this section.

3 (b) The face amount of any postdated or delayed deposit check cashed pursuant
4 to this section shall not exceed three hundred dollars (\$300.00).

5 (c) Each postdated or delayed deposit check cashed by a licensee shall be
6 documented by a written agreement that has been signed by the customer and the
7 licensee. The written agreement shall contain a statement of the total amount of any
8 fees charged, expressed both as a dollar amount and as an effective annual percentage
9 rate (APR). The written agreement shall authorize the licensee to defer deposit of
10 the personal check until a specific date not later than 31 days from the date the check
11 is cashed.

12 (d) A licensee shall not directly or indirectly charge any fee or other consideration
13 for cashing a postdated or delayed deposit check in excess of fifteen per cent (15%)
14 of the face amount of the check.

15 (e) No check cashed under the provisions of this section shall be repaid by the
16 proceeds of another check cashed by the same licensee or any affiliate of the licensee.
17 A licensee shall not, for any consideration, renew or otherwise extend any postdated
18 or delayed check or withhold such check from deposit for any period beyond the
19 time set forth in the written agreement with the customer.

20 "§ 53-282. Record keeping; receipt requirements.

21 (a) Every person required to be licensed under this Article shall maintain in its
22 offices such books, accounts, and records as the Commissioner may reasonably
23 require. The books, accounts, and records shall be maintained separate from any
24 other business in which the person is engaged, and shall be retained for a period
25 prescribed by the Commissioner.

26 (b) The licensee shall ensure that each customer cashing a check shall be
27 provided a receipt showing the name or trade name of the licensee, the transaction
28 date, amount of the check, and the fee charged.

29 (c) The Commissioner may examine the books, accounts, and records in order to
30 determine whether the person is complying with this Article and rules adopted
31 pursuant thereto. The cost of the examination shall be paid by the licensee and shall
32 be determined by applying the hourly rate for special examinations adopted by the
33 State Banking Commission by regulation.

34 "§ 53-283. Prohibited practices.

35 No person required to be licensed under this Article shall do any of the following:

36 (1) Charge fees in excess of those authorized under this Article.

37 (2) Engage in the business of making loans of money, or extensions of
38 credit, or discounting notes, bills of exchange, items, or other
39 evidences of debt; or accepting deposits or bailments of money or
40 items, except as expressly provided by G.S. 53-281.

41 (3) Use or cause to be published or disseminated any advertising
42 communication which contains any false, misleading, or deceptive
43 statement or representation.

- 1 (4) Conduct business at premises or locations other than locations
2 licensed by the Commissioner.
3 (5) Engage in unfair, deceptive, or fraudulent practices.
4 (6) Cash a check, draft, or money order made payable to a payee
5 other than a natural person unless the licensee has previously
6 obtained appropriate documentation from the executive entity of
7 the payee clearly indicating the authority of the natural person or
8 persons cashing the check, draft, or money order on behalf of the
9 payee.

10 **"§ 53-284. Suspension and revocation of license; grounds; procedure.**

11 (a) The Commissioner may suspend or revoke any license or licenses issued
12 pursuant to this Article if, after notice and opportunity for hearing, the Commissioner
13 issues written findings that the licensee has engaged in any of the following conduct:

- 14 (1) Violated this Article or applicable State or federal law or rules.
15 (2) Made a false statement on the application for a license under this
16 Article.
17 (3) Refused to permit investigation by the Commissioner authorized
18 under this Article.
19 (4) Failed to comply with an order of the Commissioner.
20 (5) Demonstrated incompetency or untrustworthiness to engage in the
21 business of check cashing.
22 (6) Been convicted of a felony or misdemeanor involving fraud,
23 misrepresentation, or deceit.

24 (b) The Commissioner may not suspend or revoke any license issued under
25 Article unless the licensee has been given notice and opportunity for hearing in
26 accordance with Article 3A of Chapter 150B of the General Statutes.

27 **"§ 53-285. Cease and desist orders.**

28 If the Commissioner determines that a person required to be licensed under
29 Article has violated this Article or rules adopted pursuant to it, the
30 Commissioner may, upon notice and opportunity for hearing in accordance with
31 Article 3A of Chapter 150B of the General Statutes, order the person to cease and
32 desist from the violations and to comply with this Article. The Commissioner may
33 enforce compliance with an order issued pursuant to this section by the imposition
34 and collection of civil penalties authorized under this Article.

35 **"§ 53-286. Civil penalties and restitution.**

36 The Commissioner may order and impose civil penalties upon any person required
37 to be licensed under this Article for violations of this Article or rules adopted
38 thereunder. Civil penalties shall not exceed one thousand dollars (\$1,000) per
39 violation. All civil money penalties collected under this Article shall be paid to the
40 county school fund. The Commissioner may also order repayment of unlawful or
41 excessive fees charged to customers.

42 **"§ 53-287. Criminal penalties.**

1 A violation of G.S. 53-276 by a person required to obtain a license under this
2 Article is a Class I felony. Each transaction involving the unlawful cashing of a
3 check, draft, or money order constitutes a separate offense.

4 "§ 53-288. Commissioner to adopt rules.

5 The Commissioner may adopt rules necessary to carry out the purposes of this
6 Article, to provide for the protection of the public, and to assist licensees in
7 interpreting and complying with this Article.

8 "§ 53-289. Commission may review rules, orders, or acts by Commissioner.

9 The Commission shall have full authority to review any rule, regulation, order, or
10 act of the Commissioner done pursuant to or with respect to the provisions of this
11 Article, and any person aggrieved by any such rule, regulation, order, or act may
12 appeal to the Commission for review upon giving notice in writing within 26 days
13 after such rule, regulation, order, or act complained of is adopted, issued, or done."

14 Section 2. The Commissioner of Banks shall report to the 2001 General
15 Assembly on the practices of licensees with regard to checks cashed pursuant to the
16 provisions of G.S. 53-281, including any evidence as to consumer complaints, unfair
17 or deceptive trade practices, and the frequency of repeat use by individuals of
18 postdated or delayed deposit checks. It is the intent of the General Assembly that the
19 sunset contained in Section 3 of this act be repealed if there is no evidence of
20 excessive complaints or unfair and deceptive trade practices.

21 Section 3. This act becomes effective October 1, 1997, and the provisions
22 of G.S. 53-281 shall expire on July 31, 2001.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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1

SENATE BILL 329

Short Title: Savings Bank Name.

(Public)

Sponsors: Senators Dalton, Soles; and Warren.

Referred to: Commerce.

March 10, 1997

1 A BILL TO BE ENTITLED
2 AN ACT TO REPEAL THE REQUIREMENT THAT STATE SAVINGS BANKS
3 USE THE LETTERS "SSB" OR THE WORDS "SAVINGS BANK" IN THEIR
4 LEGAL NAME IN ORDER TO CONFORM WITH THE REQUIREMENTS
5 APPLICABLE TO FEDERAL SAVINGS BANKS.

6 The General Assembly of North Carolina enacts:

7 Section 1. G.S. 54C-8(a) reads as rewritten:

8 "(a) Nothing in this Chapter shall be construed to invalidate any charter that was
9 valid before the enactment of this Chapter. Any savings banks so chartered on
10 October 1, 1991, may continue operation in accordance with the Chapter under
11 which it was chartered. However, after October 1, 1991, no depository institution
12 may be qualified as a savings bank except in accordance with this Chapter. ~~Any~~
13 ~~savings bank chartered under this Chapter shall use the letters 'SSB' in its legal~~
14 ~~name."~~

15 Section 2. G.S. 54C-64(3) is repealed.

16 Section 3. This act becomes effective July 1, 1997, and Section 2 applies
17 to acts committed on or after that date.



North Carolina General Assembly Legislative Services Office

George R. Hall, Legislative Services Officer
(919) 733-7044

Elaine W. Robinson, Director
Administrative Division
Room 5, Legislative Building
16 W. Jones Street
Raleigh, NC 27603-5925
(919) 733-7500

Gerry F. Cohen, Director
Bill Drafting Division
Suite 401, LOB
300 N. Salisbury St.
Raleigh, NC 27603-5925
(919) 733-6660

Thomas L. Covington, Director
Fiscal Research Division
Suite 619, LOB
300 N. Salisbury St.
Raleigh, NC 27603-5925
(919) 733-4910

Donald W. Fulford, Director
Information Systems Division
Suite 400, LOB
300 N. Salisbury St.
Raleigh, NC 27603-5925
(919) 733-6834

Terrence D. Sullivan, Director
Research Division
Suite 545, LOB
300 N. Salisbury St.
Raleigh, NC 27603-5925
(919) 733-2578

June 3, 1997

MEMORANDUM

TO: Representative Bobby Ray Hall, Chairman,
House Financial Institutions Subcommittee.

FROM: Karen Cochrane Brown, Committee Co-Counsel *KCB*

RE: Senate Bill 330 - Safe - Deposit Boxes. (2d Edition)

Senate Bill 330 amends G.S. 53-43.7 relating to unpaid rent on safe deposit boxes. Under present law, if the rent is one year past due, the lessor may send a notice by registered mail to the last known address of the lessee that the safe-deposit box will be opened and the contents stored at the lessee's expense unless the rent is paid within 30 days.

This bill changes the period of time a lessor must wait from one year to 90 days and changes the notice requirement from registered mail to certified mail, return receipt requested. This bill also changes the requirement that a copy of the law be printed on every contract for rental of a safe-deposit box. Under this amendment the contract need only contain an explanation of the contractual provisions pertaining to default, and make reference to this section of the law.

This act would become effective July 1, 1997.



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June 3, 1997

MEMORANDUM

TO: Representative Bobby Ray Hall, Chairman,
House Financial Institutions Subcommittee.

FROM: Karen Cochrane Brown, Committee Co-Counsel *KCB*

RE: Senate Bill 329 - Savings Bank Name.
(Proposed House Committee Substitute)

Senate Bill 329 amends G.S. 54C-8(a) by deleting the requirement that any savings bank chartered by the North Carolina Savings Institution Commission use the letters "SSB" in its legal name.

The present law was enacted in 1991 and authorized the creation of state chartered savings banks. At that time, federal savings banks chartered by the Office of Thrift Supervision, were required to use the letters "FSB" in their legal name. The state law was designed to track many of the provisions of the federal law. Since that time, the Office of Thrift Supervision has eliminated the "FSB" designation requirement for federal savings banks. This bill would similarly eliminate the requirement for state savings banks to keep these institutions on a par with their federal counterparts.

Section 2 of the bill is a conforming amendment which repeals G.S. 54C-64(3). That provision makes it a misdemeanor for a savings bank to advertise without using the "SSB" designation and the words "savings bank" in a type that is equally prominent with the other terms in the name of the savings bank.

The proposed committee substitute adds another section to the bill which amends the North Carolina Reciprocal Interstate Banking Act relating to banks acting as agents for depository institution affiliates. In 1996, the General Assembly added a new section to the Act to clarify that North Carolina banks which are subsidiaries of bank holding companies, may act as agents for other banks affiliated with the bank holding company, without becoming a branch of the affiliate bank. The provision in this bill adds a sentence stating that an "affiliate" for purposes of this section, includes an affiliate as defined in the federal Bank Holding Company Act.

Section 2.1 is effective when the act becomes law. The remainder of the act would become effective July 1, 1997, and Section 2 would apply to acts committed on or after that date.