

1999-2000

**HOUSE
FINANCIAL
INSTITUTIONS
COMMITTEE**

MINUTES

ATTENDANCE

HOUSE COMMITTEE ON FINANCIAL INSTITUTIONS

1999-2000 SESSION

DATES	1999-2000 SESSION				2000		2000					
	3/18/99	4/27/99	5/5/99	4/23/99	6/28/00	6/30/00						
CHURCH, Walter CHAIR	✓	✓	✓	✓		✓	✓					
RAMSEY, Liston CHAIR	✓	✓	✓	6/24/99		6/24/00	6/24/00					
WAINWRIGHT, William VC	✓											
WOOD, Steve VC		✓				✓	✓					
ALLRED, Cary		✓										
BRASWELL, Jerry (Ford)	✓	✓				✓						
BRIDGEMAN, John	✓	✓		✓		✓	✓					
BRUBAKER, Harold	✓	✓	✓			✓						
BUCHANAN, Monroe	✓	✓		✓		✓	✓					
COLE, Nelson	✓	✓		✓								
CULPEPPER, Bill		6/24/99										
DAVIS, Don	✓	✓	✓	✓		✓	✓					
DOCKHAM, Jerry	✓	✓					✓					
GARDNER, Charlotte	✓		✓			✓	✓					
GRADY, Robert	✓		✓	✓								
HARDAWAY, Thomas (HALL)	✓					✓						
HOWARD, Julia						✓	✓					
JUSTUS, Larry	6/24/99	✓	✓	✓		✓	✓					
McALLISTER, Mary	6/24/99		✓	✓								
McLAWHORN, Marian	✓			✓		✓	✓					
McMAHAN, Ed	✓						✓					
MELTON, Max	✓	✓	✓	✓		✓	✓					
MICHAUX, Mickey	✓		✓				✓					
SMITH, Ronnie	✓	✓	✓	✓		✓	✓					
STARNES, Edgar							✓					

HOUSE COMMITTEE ON FINANCIAL INSTITUTIONS
1999-2000 Session

MEMBER	ASSISTANT	PHONE	OFFICE	SEAT
CHURCH, Walter, Chair	Joyce Fuller	733-5805	1311	33
RAMSEY, Liston, Chair	Dot Barber	733-5606	2217	48
WAINWRIGHT, William Vice Chair	Denise Smith	733-5898	614	8
WOOD, Steve, Vice Chair	Sylvia Perkins	733-5807	2208	38
ALLRED, Cary	Jean Allred	733-5607	609	65
BRASWELL, Jerry	Blinda Edwards	715-3001	420	96
BRIDGEMAN, John	Joyce Langdon	733-4948	1204	94
BRUBAKER, Harold	Cindy Coley	715-4946	1229	27
BUCHANAN, Monroe	Glenda Jones	733-5825	536	41
COLE, Nelson	Suzanne Smith	733-5779	1218	45
CULPEPPER, Bill	Dot Crocker	715-3028	404	36
DAVIS, Don	Audrey Johnson	715-0959	504	99
DOCKHAM, Jerry	Joanna Mills	733-5822	1106	66
GARDNER, Charlotte	Barbara Hocutt	733-5802	604	39
GRADY, Robert	Peggy Murray	715-9644	616	42
HARDAWAY, Thomas	Rita Harris	715-2530	634	60
HOWARD, Julia	Gail Stewart	733-5988	1023	51
JUSTUS, Larry	Carolyn Justus	733-5958	640	13
McALLISTER, Mary	Annecia Norward	733-5959	638	34

MEMBER	ASSISTANT	PHONE	OFFICE	SEAT
McLAWHORN, Marian	Shelby Jeffreys	715-3017	417B	104
McMAHAN, Ed	Sharon Cram	733-5661	1019	102
MELTON, Max	Gerry Durant	733-5784	633	105
MICHAUX, Mickey	Anne Peele	733-5772	1325	57
SMITH, Ronnie	Jane Bass	733-5773	2223	2
STARNEs, Edgar	Pattie Fleming	715-9664	617	112
TALLENT, Tim	Joyce Bullock	733-5934	1104	26
TUCKER, Russell	Surena Henderson	715-3015	417C	106

EX. OFF. MEMBERS:

BADDOUR, Phil Majority Leader	Elizabeth Kirkland	715-0850	2301	31
CUNNINGHAM, Pete	Valerie Rustin	733-5778	541	7
DEDMON, Andy Majority Whip	Donna Abu Harb	733-5732	2213	12
EARLE, Beverly Majority Whip	Ann Raeford	733-5747	535	95
HACKNEY, Joe	Emily Reynolds	733-5752	2207	69

**FINANCIAL INSTITUTIONS COMMITTEE
MEMBERSHIP**



**Rep. Walter Church
Chairman**



**Rep. Liston Ramsey
Chairman**



**Rep. William Wainwright
Vice-Chairs**



**Rep. Stephen Wood
Vice-Chairs**



Rep. Cary Allred



Rep. Jerry Braswell



Rep. John Bridgeman



Rep. Harold Brubaker



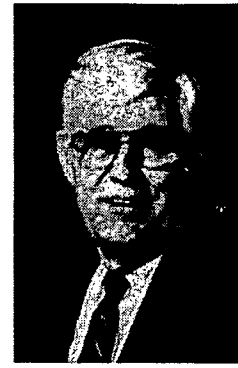
Rep. Monroe Buchanan



Rep. Nelson Cole



Rep. Bill Culpepper



Rep. Donald Davis



Rep. Jerry Dockham



Rep. Charlotte Gardner



Rep. Robert Grady



Rep. Thomas Hardaway



Rep. Julia Howard



Rep. Larry Justus



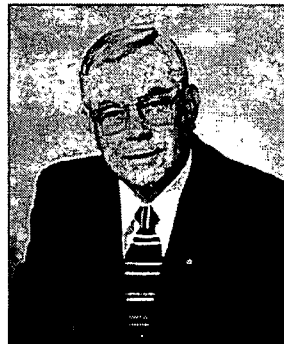
Rep. Mary McAllister



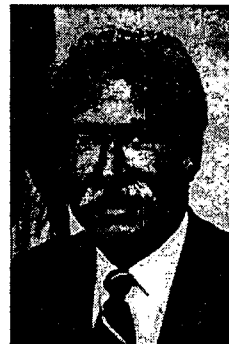
Rep. Marian McLawhorn



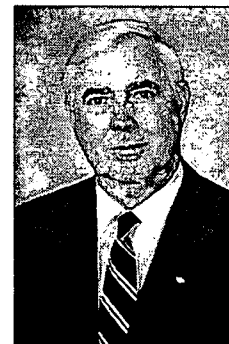
Rep. Edwin McMahan



Rep. Max Melton



Rep. Mickey Michaux



Rep. Ronnie Smith



Rep. Edgar Starnes



Rep. Tim Tallent



Rep. Russell Tucker

MINUTES
HOUSE COMMITTEE ON FINANCIAL INSTITUTIONS
June 28, 2000

The **House Committee on Financial Institutions** met on Wednesday, June 28, 2000, at 10:00 a.m. in Room 1425 of the State Legislative Building. The meeting was called to order by Co-Chairman Walter Church, Sr. Co-Chairman Church recognized the Sgt.-at-Arms and the Pages who were assigned to the meeting. The following Members of the Committee were present: Co-Chairman Church; Members: Reps. Wood, Vice-Chair; Bridgeman, Brubaker, Buchanan, Davis, Ford, Gardner, Hall, Howard, Justus, McLawhorn, Melton, Smith and Russell. Co-Chairman Liston Ramsey received an excused absence.

Co-Chairman Church recognized the two new Members of the Committee, Reps. Hall and Ford and welcomed them to the Committee.

Co-Chairman Church offered a **Proposed House Committee Substitute for H.B. 1518 – Credit Insurance Clarification (sponsored by Co-Chairman Walter Church)**, for discussion. The Chairman recognized Mr. Bill Hale with the N. C. Department of Insurance, who explained the bill to the Members. Mr. Mike Calhoun with the Self-help Credit Unions spoke in opposition to the bill. Mr. Paul Stock (NC Bankers Assoc.), Mr. Roney Lamm (CitiFinancial), Mr. Das Propes (NCDOT), and Mr. Dick Carlton (NCFSA) helped answer questions. After much discussion, the Co-Chairman stated that this bill would not be voted on at this meeting. It would be carried over until the next meeting. Rep. Ronnie Smith stated that he thought the Committee should go ahead and vote on the bill. The Co-Chair said that he had told several interested persons that the bill would not be voted on at this meeting.

There being no further business, Co-Chairman Church adjourned the meeting at approximately 10:45 a.m.


Co-Chairman Walter Church, Sr.


Dot H. Barber, Committee Assistant

FINANCIAL INSTITUTIONS

JUNE 28,2000
ROOM 1425
10:00 A.M.

AGENDA

OPENING STATEMENTS BY REP. CHURCH

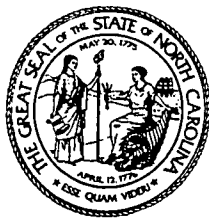
INTRODUCTIONS

RECOGNIZE MEMBERS AND ANY COMMENTS

RECOGNIZE STAFF – MS. KAREN COCHRANE-BROWN AND MR. WALKER
REAGAN, COMMITTEE COUNSELS; DOT BARBER AND JOYCE FULLER,
COMMITTEE ASSISTANTS
SGT. AT ARMS
PAGES

BILLS TO BE TAKEN UP:
HOUSE BILL #1518 – CREDIT INSURANCE CLARIFICATION

CLOSING REMARKS



HOUSE BILL 1518: Credit Insurance Clarification.

BILL ANALYSIS

Committee: House Financial Institutions
Date: June 28, 2000
Version: H1518-CSRU-001

Introduced by: Rep. Church
Summary by: O. Walker Reagan,
Committee Co-Counsel

SUMMARY: *The Proposed Committee Substitute for House Bill 1518 would amend the group accident and health insurance law to allow policies to be sold to creditors to insure debtors who owe money to the creditors on specific loans.*

CURRENT LAW: Credit insurance insuring the debtor against accidents or health risks is only permitted for loans of 15 years or less.

BILL ANALYSIS: The bill amends G.S. 58-51-80 by adding a new provision to permit a group accident, group health or group accident and health insurance policy to be issued to a creditor to insure the creditor's debtors, to provide indemnity for payments due on a specified loan, subject to the same terms and conditions as required for a group life insurance policy under G.S. 58-58-135. The effect of the bill is to permit creditors to purchase group accident, group health, or group accident and health credit insurance outside the restraints of regular credit insurance. One of the benefits is to allow the creditor to insure for loans of 15 years or more. Premium rates will have to be actuarially equivalent to similar credit insurance.

EFFECTIVE DATE: The bill would become effective July 1, 2000.

H1518-SMRU-001

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H

D

H1518-CSRU-002
PROPOSED COMMITTEE SUBSTITUTE
HOUSE BILL 1518
THIS IS A DRAFT 28-JUN-00 09:56:09
ATTENTION: LINE NUMBERS MAY CHANGE AFTER ADOPTION

Short Title: Credit Ins. Clarification.

(Public)

Sponsors:

Referred to:

May 15, 2000

1 A BILL TO BE ENTITLED
2 AN ACT TO CLARIFY THAT GROUP CREDIT ACCIDENT AND HEALTH INSURANCE
3 MAY BE ISSUED TO A CREDITOR TO INSURE DEBTORS OF THE CREDITOR.
4 The General Assembly of North Carolina enacts:
5 Section 1. G.S. 58-51-80(b) reads as rewritten:
6 "(b) No policy or contract of group accident, group health or
7 group accident and health insurance shall be delivered or issued
8 for delivery in this State unless the group of persons thereby
9 insured conforms to the requirements of the following
10 subdivisions:
11 (1) Under a policy issued to an employer, principal, or
12 to the trustee of a fund established by an employer
13 or two or more employers in the same industry or
14 kind of business, or by a principal or two or more
15 principals in the same industry or kind of
16 business, which employer, principal, or trustee
17 shall be deemed the policyholder, covering, except
18 as hereinafter provided, only employees, or agents,
19 of any class or classes thereof determined by
20 conditions pertaining to employment, or agency, for
21 amounts of insurance based upon some plan which

1 will preclude individual selection. The premium may
2 be paid by the employer, by the employer and the
3 employees jointly, or by the employee; and where
4 the relationship of principal and agent exists, the
5 premium may be paid by the principal, by the
6 principal and agents, jointly, or by the agents. If
7 the premium is paid by the employer and the
8 employees jointly, or by the principal and agents
9 jointly, or by the employees, or by the agents, the
10 group shall be structured on an actuarially sound
11 basis.

12 (1a) Under a policy issued to an association or to a
13 trust or to the trustee or trustees of a fund
14 established, created, or maintained for the benefit
15 of members of one or more associations. The
16 association or associations shall have at the
17 outset a minimum of 500 persons and shall have been
18 organized and maintained in good faith for purposes
19 other than that of obtaining insurance; shall have
20 been in active existence for at least five years;
21 and shall have a constitution and bylaws that
22 provide that (i) the association or associations
23 hold regular meetings not less than annually to
24 further purposes of the members; (ii) except for
25 credit unions, the association or associations
26 collect dues or solicit contributions from members;
27 and (iii) the members, other than associate
28 members, have voting privileges and representation
29 on the governing board and committees. The policy
30 is subject to the following requirements:

- 31 a. The policy may insure members of the
32 association or associations, employees of the
33 association or associations, or employees of
34 members, or one or more of the preceding or
35 all of any class or classes for the benefit of
36 persons other than the employee's employer.
37 b. The premium for the policy shall be paid from
38 funds contributed by the association or
39 associations, or by employer members, or by
40 both, or from funds contributed by the covered
41 persons or from both the covered persons and
42 the association, associations, or employer
43 members.
44 c. Repealed by Session Laws 1997-259, s. 8.

1 (1b) Under a policy issued to a creditor as defined in
2 G.S. 58-57-5 who shall be deemed the policyholder,
3 to insure debtors as defined in G.S. 58-57-5 of the
4 creditor to provide indemnity for payments becoming
5 due on a specific loan or other credit transaction
6 as defined in G.S. 58-51-100, with or without
7 insurance against death by accident, subject to the
8 following requirements:

9 a. The debtors eligible for insurance under the
10 policy shall be all of the debtors of the
11 creditor whose indebtedness is repayable in
12 installments, or all of any class or classes
13 thereof determined by conditions pertaining to
14 the indebtedness or to the purchase giving
15 rise to the indebtedness. The policy may
16 provide that the term "debtors" shall include
17 the debtors of one or more subsidiary
18 corporations, and the debtors of one or more
19 affiliated corporations, proprietors or
20 partnerships if the business of the
21 policyholder and of such affiliated
22 corporations, proprietors or partnerships is
23 under common control through stock ownership,
24 contract or otherwise.

25 b. The premium for the policy shall be paid from
26 the creditor's funds, from charges collected
27 from the insured debtors, or from both. A
28 policy on which part or all of the premium is
29 to be derived from the collection from the
30 insured debtors or identifiable charges not
31 required of uninsured debtors shall not
32 include, in the class or classes of debtors
33 eligible for insurance, debtors under
34 obligations outstanding at its date of issue
35 without evidence of individual insurability
36 unless the group is structured on an
37 actuarially sound basis. A policy on which no
38 part of the premium is to be derived from the
39 collection of such identifiable charges must
40 insure all eligible debtors, or all except any
41 as to whom evidence of individual insurability
42 is not satisfactory to the insurer.

43 c. The policy may be issued only if the group of
44 eligible debtors is then receiving new

1 entrants at the rate of at least 100 persons
2 yearly, or may reasonably be expected to
3 receive at least 100 new entrants during the
4 first policy year, and only if the policy
5 reserves to the insurer the right to require
6 evidence of individual insurability if less
7 than seventy-five percent (75%) of the new
8 entrants become insured.
9 d. Premiums for this coverage shall be
10 actuarially equivalent to the rates authorized
11 under Article 57 of Chapter 58 of the General
12 Statutes for credit accident and health
13 insurance.
14 (2), (3) Repealed by Session Laws 1997-259, s. 8."
15 Section 2. This act is effective on and after July 1,
16 2000.

(f) For policies for which monthly premiums are charged on a basis of the then-outstanding balances, a monthly premium per one thousand dollars (\$1,000) of outstanding balances is authorized, based on the following formula:

$$Op_n = \frac{20 SP_n}{n + 1}$$

where SP_n = Single premium rate per one hundred dollars (\$100.00) of initial insured indebtedness repayable in n equal monthly installments.

Op_n = Monthly outstanding balance premium rate per one thousand dollars (\$1,000).

n = Original repayment period in months.

(f1) Notwithstanding the premium rates otherwise set forth in this section for credit life insurance, the premium rates for such insurance written in connection with direct loans with contractual commitments of more than 10 years' duration shall be filed with and approved by the Commissioner. Such premium rates shall exhibit a reasonable relationship to the benefits provided.

(g) For credit life insurance on a basis other than the foregoing, premiums charged shall be actuarially equivalent.

(h) In addition to the premium rate authorized, a charge may also be made for a nonrefundable origination fee per credit life insurance transaction as set forth below:

<i>Insured Indebtedness</i>	<i>Fee Permitted</i>
less than \$250.00	none
\$250.00 or more but less than \$500.00	\$1.00
\$500.00 or more	\$3.00

No third or subsequent origination fee may be charged in connection with a third or subsequent refinancing within any twelve-month period. (1975, c. 660, s. 1; 1987, c. 826, ss. 4, 5, 13; 1991, c. 720, s. 91; 1993, c. 226, s. 7.)

§ 58-57-45. Credit accident and health insurance rate standards.

(a) The rate standards set forth below shall be applicable for contracts which contain a provision excluding or denying claim for disability resulting from preexisting illness, disease or physical condition, for which the debtor received medical advice, consultation, or treatment within the six-month period immediately preceding the effective date of the debtor's coverage and if said disability occurs within the six-month period immediately following such date, but contain no other provision which excludes or restricts liability in the event of disability caused in a certain specified manner, except that they may contain provisions excluding or restricting coverage in the event of normal pregnancy; intentionally self-inflicted injuries; sickness resulting from intoxication, addiction to alcohol or narcotics, or from the use thereof unless administered on the advice of a physician; flight in nonscheduled aircraft; war; military service; and may contain the same age restrictions as those mentioned for credit life insurance in G.S. 58-57-40. Provided, if the indebtedness is paid by renewal or refinancing prior to the scheduled maturity date, the effective date of the coverage with respect to any policy provision shall be deemed to be the first date on which the debtor became insured under the policy covering the original prior indebtedness that was renewed or refinanced, at least to the extent of the amount and term of the coverage outstanding at the time of renewal and refinancing of the debt.

(b) A policy of credit accident and health insurance shall include a definition of "disability" providing that during the first 12 months of disability the

insured shall be unable to perform the duties of his occupation at the time the disability occurred (or his previous occupation if the person is unemployed or retired at the time the disability occurs), and thereafter the duties of any occupation for which the insured is reasonably fitted by education, training, or experience.

(c) Any policy to which the rates below apply may require the debtor to be gainfully employed on the effective date of the insurance. Provided, however, that unless the insured writes the name of his employer on the application and signs a statement that he is employed, there shall be no denial of claims grounded on the insured's failure to be employed on the effective date of the insurance.

(d) If premiums are payable in one sum in advance for the entire duration of the indebtedness, for insurance with a preexisting exclusion as defined above, the following premiums are authorized:

*Single Premium Rates per \$100.00 of
Initial Insured Indebtedness*

No. of Months in which Indebtedness is Repayable	Nonretroactive Benefits		Retroactive Benefits		
	14-Day	30-Day	7-Day	14-Day	30-Day
12	1.40	.95	2.60	2.10	1.40
24	1.90	1.40	3.50	2.85	1.90
36	2.40	1.90	4.35	3.65	2.40
48	2.85	2.40	5.25	4.40	2.85
60	3.35	2.85	6.10	5.20	3.35
72	3.85	3.35		5.95	3.85
84	4.30	3.85		6.70	4.30
96	4.80	4.30		7.50	4.80
108	5.25	4.80		8.25	5.25
120	5.75	5.25		9.00	5.75

For terms other than the above, premiums shall be prorated.
 (e) For policies for which monthly premiums are charged on a basis of the then-outstanding balances, a monthly premium per one thousand dollars (\$1,000) of outstanding balances is authorized, based on the following formula:

$$Op_n = \frac{20 SP_n}{n + 1}$$

where SP_n = Single premium rate per one hundred dollars (\$100.00) of initial indebtedness repayable in n equal monthly installments.

Op_n = Monthly outstanding balance premium rate per one thousand dollars (\$1,000).

n = Original repayment period, in months.

(e1) Notwithstanding the premium rates otherwise set forth in this section for credit accident and health insurance, the premium rates for such insurance written in connection with direct loans with contractual commitments of more than 10 years' duration shall be filed with and approved by the Commissioner. Such premium rates shall exhibit a reasonable relationship to the benefits provided.

(f) Premium rate standards for other benefit plans and for indebtedness repayable in installments other than as indicated above shall be actuarially consistent with the above rate standards.

(g) In addition to the premium rate authorized, a charge may also be made for a nonrefundable origination fee per credit accident and health insurance transaction as set forth below:

<i>Insured Indebtedness</i>	<i>Fee Permitted</i>
less than \$250.00	none
\$250.00 or more but less than \$500.00	\$1.00
\$500.00 or more	\$3.00

No third or subsequent origination fee may be charged in connection with a third or subsequent refinancing within any twelve-month period.

(h) The premium rates for joint accident and health coverage shall not exceed one and two-thirds ($1\frac{2}{3}$) times the permitted single accident and health rate. (1975, c. 660, s. 1; 1981, c. 759, ss. 2, 4-6, 9; 1987, c. 826, ss. 6, 7, 14; 1993, c. 226, s. 8.)

§ 58-57-50. Premium refunds or credits.

(a) Each individual policy or group certificate shall provide that in the event of termination of the insurance prior to the scheduled maturity date of indebtedness; any refund of an amount paid by the debtor for insurance shall be paid or credited promptly to the person entitled thereto.

(b) The refund of premiums for decreasing term credit life insurance in transactions of 60 months duration or less and the refund of premiums for single interest credit property insurance and single interest physical damage insurance shall be equal to the amount computed by the sum of digits formula known as the "Rule of 78." The refund of premiums for decreasing term credit life insurance in transactions of more than 60 months duration shall be equal to the premium that would be charged for the remaining term and amount of coverage in the policy. The refund of premiums for level term credit life insurance and dual interest credit property insurance and dual interest physical damage insurance shall be equal to the pro rata unearned gross premiums.

(c) The refund of premiums in the case of credit accident and health insurance shall be equal to one-half the amount computed by the sum-of-digits formula commonly known as the "Rule of 78" plus one-half the amount of the pro rata unearned gross premium.

In lieu thereof the refund may be computed by the "Pure Premium" method. The refund is computed from the schedule of credit accident and health premiums and is equal to the premium from that schedule which would be charged for such insurance in the amount of the total remaining benefits for the remaining term of the indebtedness outstanding on the date of termination.

(d) No refund need be made if the amount thereof is less than one dollar (\$1.00).

(e) If a creditor requires a debtor to make any payment for credit life insurance or credit accident and health insurance and an individual policy or group certificate of insurance is not issued, the creditor shall immediately give written notice to such debtor and shall promptly make an appropriate credit to the account. (1975, c. 660, s. 1; 1981, c. 759, s. 8; 1989, c. 485, s. 7.)

*(Original Bill
HB 1518)*

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H

1

HOUSE BILL 1518

Short Title: Credit Ins. Clarification.

(Public)

Sponsors: Representatives Church; and Buchanan.

Referred to: Financial Institutions.

May 15, 2000

1 A BILL TO BE ENTITLED
2 AN ACT TO CLARIFY THAT CREDIT INSURANCE MAY BE PAID ON A
3 LEVEL CHARGE MONTHLY BASIS WITHOUT VIOLATING THE LAW
4 RELATING TO CONSUMER PROTECTIONS IN CERTAIN HOME LOANS.
5 The General Assembly of North Carolina enacts:
6 Section 1. G.S. 24-10.2(b) reads as rewritten:
7 "(b) Notwithstanding the provisions of G.S. 58-57-35(b), it shall be unlawful for
8 any lender in a consumer home loan to finance, directly or indirectly, any credit life,
9 disability, or unemployment insurance, or any other life or health insurance
10 ~~premiums; premiums. provided, that insurance premiums calculated and paid on a~~
11 ~~monthly basis shall not be considered financed by the lender. Premiums for credit~~
12 life, disability, or unemployment insurance, or any other life or health insurance in a
13 consumer home loan shall be charged, collected, and paid only on a monthly basis
14 and only for the term of the insurance coverage. Notwithstanding G.S. 58-57-40(g) or
15 G.S. 58-57-45(f), a credit insurance company may charge the same level premium
16 each month over the term of the insurance coverage under this subsection."
17 Section 2. This act becomes effective July 1, 2000.

Dot Barber (Rep. Ramsey)

From: Dot Barber (Rep. Ramsey)
Sent: Wednesday, June 21, 2000 4:10 PM
To: @House/Financial Institutions/LAs; Anne Cole; Cynthia Giles; HCALENDAR HCALENDAR; House Sgt of Arms; Karen Cochrane-Brown; Legislative Press; Valerie Rustin; Walker Reagan
Subject: Notice of House Financial Committee Meeting 6/28/00

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE

You are hereby notified that the Committee on **FINANCIAL INSTITUTIONS** will meet as follows:

DAY & DATE: WEDNESDAY, JUNE 28, 2000

TIME: 10:00 AM

LOCATION: ROOM 1425 LEGISLATIVE BUILDING

The following bill will be considered:

H.B. 1518 - Credit Ins. Clarification - Reps. Church and Buchanan

Respectfully,

Representatives Church and Ramsey
Co-Chairs

I hereby certify this notice was filed by the committee clerk at the following offices at 4:15 pm on Wednesday, June 21, 2000.

____ Principal
____ Reading Clerk - House Chamber

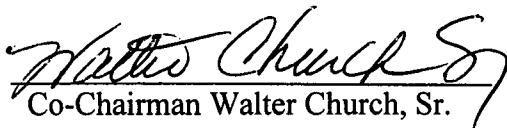
Dot Barber, L.A.

MINUTES
HOUSE COMMITTEE ON FINANCIAL INSTITUTIONS
June 30, 2000

The **House Committee on Financial Institutions** met on Friday, June 30, 2000, at 8:00 a.m. in Room 1426 of the State Legislative Building. The meeting was called to order by Co-Chairman Walter Church, Sr. The following Members of the Committee were present: Co-Chairman Church; Members: Reps. Wood, Vice Chair, Bridgeman, Buchanan, Davis, Dockham, Gardner, Howard, Justus, McLawhorn, McMahan, Melton, Michaux, Smith, Starnes and Tucker. Co-Chairman, Liston Ramsey, received an excused absence.

Co-Chairman Church offered the **Proposed House Committee Substitute for H. B. 1518 – Credit Insurance Clarification sponsored by Co-Chairman Walter Church for discussion.** The Proposed Committee Substitute for House Bill 1518 would amend the group accident and health insurance law to allow policies to be sold to creditors to insure debtors who owe money to the creditors on specific loans.(see attached). Rep, Buchanan made a motion that the **committee substitute bill be given a favorable report and unfavorable as to original bill . The motion was seconded by Rep. Justus and the motion carried. H.B. 1518 – favorable report as to committee substitute which changes the title, unfavorable as to original bill.**

There being no further business, Co-Chairman Church adjourned the meeting at approximately 8:05 a.m.


Co-Chairman Walter Church, Sr.


Joyce Fuller, Committee Assistant

FINANCIAL INSTITUTIONS

JUNE 30, 2000
ROOM 1425
8:00 A.M.

OPENING STATEMENTS BY REP. CHURCH

INTRODUCTIONS

RECOGNIZE MEMBERS AND ANY COMMENTS

RECOGNIZE STAFF – MS. KAREN COCHRANE –BROWN AND MR. WALKER
REAGAN, COMMITTEE COUNSELS; DOT BARBER AND JOYCE FULLER,
COMMITTEE ASSISTANTS
SGT. AT ARMS

BILL TO BE TAKEN UP::
PROPOSED COMMITTEE SUBSTITUTE FOR HOUSE BILL #1518 – CREDIT
INSURANCE CLARIFICATION

CLOSING REMARKS

1 agents. If the premium is paid by the employer and the employees
2 jointly, or by the principal and agents jointly, or by the employees,
3 or by the agents, the group shall be structured on an actuarially
4 sound basis.

5 (1a) Under a policy issued to an association or to a trust or to the
6 trustee or trustees of a fund established, created, or maintained for
7 the benefit of members of one or more associations. The
8 association or associations shall have at the outset a minimum of
9 500 persons and shall have been organized and maintained in good
10 faith for purposes other than that of obtaining insurance; shall have
11 been in active existence for at least five years; and shall have a
12 constitution and bylaws that provide that (i) the association or
13 associations hold regular meetings not less than annually to further
14 purposes of the members; (ii) except for credit unions, the
15 association or associations collect dues or solicit contributions from
16 members; and (iii) the members, other than associate members,
17 have voting privileges and representation on the governing board
18 and committees. The policy is subject to the following
19 requirements:

20 a. The policy may insure members of the association or
21 associations, employees of the association or associations, or
22 employees of members, or one or more of the preceding or
23 all of any class or classes for the benefit of persons other
24 than the employee's employer.

25 b. The premium for the policy shall be paid from funds
26 contributed by the association or associations, or by
27 employer members, or by both, or from funds contributed
28 by the covered persons or from both the covered persons
29 and the association, associations, or employer members.

30 c. Repealed by Session Laws 1997-259, s. 8.

31 (1b) Under a policy issued to a creditor as defined in G.S. 58-57-5 who
32 shall be deemed the policyholder, to insure debtors as defined in
33 G.S. 58-57-5 of the creditor to provide indemnity for payments
34 becoming due on a specific loan or other credit transaction as
35 defined in G.S. 58-51-100, with or without insurance against death
36 by accident, subject to the following requirements:

37 a. The debtors eligible for insurance under the policy shall be
38 all of the debtors of the creditor whose indebtedness is
39 repayable in installments, or all of any class or classes
40 thereof determined by conditions pertaining to the
41 indebtedness or to the purchase giving rise to the
42 indebtedness. The policy may provide that the term
43 "debtors" shall include the debtors of one or more
44 subsidiary corporations, and the debtors of one or more

1 affiliated corporations, proprietors or partnerships if the
2 business of the policyholder and of such affiliated
3 corporations, proprietors or partnerships is under common
4 control through stock ownership, contract or otherwise.

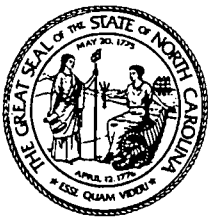
5 b. The premium for the policy shall be paid from the creditor's
6 funds, from charges collected from the insured debtors, or
7 from both. A policy on which part or all of the premium is
8 to be derived from the collection from the insured debtors
9 or identifiable charges not required of uninsured debtors
10 shall not include, in the class or classes of debtors eligible
11 for insurance, debtors under obligations outstanding at its
12 date of issue without evidence of individual insurability
13 unless the group is structured on an actuarially sound basis.
14 A policy on which no part of the premium is to be derived
15 from the collection of such identifiable charges must insure
16 all eligible debtors, or all except any as to whom evidence of
17 individual insurability is not satisfactory to the insurer.

18 c. The policy may be issued only if the group of eligible
19 debtors is then receiving new entrants at the rate of at least
20 100 persons yearly, or may reasonably be expected to
21 receive at least 100 new entrants during the first policy year,
22 and only if the policy reserves to the insurer the right to
23 require evidence of individual insurability if less than
24 seventy-five percent (75%) of the new entrants become
25 insured.

26 d. Premiums for this coverage shall be actuarially equivalent to
27 the rates authorized under Article 57 of Chapter 58 of the
28 General Statutes for credit accident and health insurance.

29 (2), (3) Repealed by Session Laws 1997-259, s. 8."

30 Section 2. This act is effective on and after July 1, 2000.



HOUSE BILL 1518: Credit Insurance Clarification.

BILL ANALYSIS

Committee: House Financial Institutions
Date: June 28, 2000
Version: H1518-CSRU-001

Introduced by: Rep. Church
Summary by: O. Walker Reagan,
Committee Co-Counsel

SUMMARY: *The Proposed Committee Substitute for House Bill 1518 would amend the group accident and health insurance law to allow policies to be sold to creditors to insure debtors who owe money to the creditors on specific loans.*

CURRENT LAW: Credit insurance insuring the debtor against accidents or health risks is only permitted for loans of 15 years or less.

BILL ANALYSIS: The bill amends G.S. 58-51-80 by adding a new provision to permit a group accident, group health or group accident and health insurance policy to be issued to a creditor to insure the creditor's debtors, to provide indemnity for payments due on a specified loan, subject to the same terms and conditions as required for a group life insurance policy under G.S. 58-58-135. The effect of the bill is to permit creditors to purchase group accident, group health, or group accident and health credit insurance outside the restraints of regular credit insurance. One of the benefits is to allow the creditor to insure for loans of 15 years or more. Premium rates will have to be actuarially equivalent to similar credit insurance.

EFFECTIVE DATE: The bill would become effective July 1, 2000.

H1518-SMRU-001

**2000 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES**

The following report(s) from standing committee(s) is/are presented:

By Representative(s) **CHURCH AND RAMSEY** for the Committee on **FINANCIAL INSTITUTIONS**.

Committee Substitute for

H.B. 1518 A BILL TO BE ENTITLED AN ACT TO CLARIFY THAT CREDIT INSURANCE MAY BE PAID ON A LEVEL CHARGE MONTHLY BASIS WITHOUT VIOLATING THE LAW RELATING TO CONSUMER PROTECTIONS IN CERTAIN HOME LOANS.

With a favorable report.

With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations Finance .

With a favorable report, as amended.

With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations Finance .

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 re-referred to the Committee on ~~).~~

With a favorable report as to House committee substitute bill (#), which changes the title, unfavorable as to Senate committee substitute bill.

With an unfavorable report.

With recommendation that the House concur.

With recommendation that the House do not concur.

With recommendation that the House do not concur; request conferees.

With recommendation that the House concur; committee believes bill to be material.

With an unfavorable report, with a Minority Report attached.

Without prejudice.

With an indefinite postponement report.

With an indefinite postponement report, with a Minority Report attached.

With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

5/25/00

MINUTES
HOUSE COMMITTEE ON FINANCIAL INSTITUTIONS
March 24, 1999

The **House Committee on Financial Institutions** met on Wednesday, March 24, 1999, at 10:00 a.m. in Room 1425 of the State Legislative Building. The meeting was called to order by Co-Chairman Walter Church, Sr. Co-Chairman Church recognized the following Staff: Mrs. Karen Cochrane-Brown and Mr. Walker Reagan, Committee Counsels; Mrs. Dot Barber and Mrs. Joyce Fuller, Committee Assistants; Mr. Thomas Wilder and Mr. Bob Fowler, Sgt.-at-Arms; and the two pages assigned to the meeting. The following Members of the Committee were present: Co-Chairmen Church and Liston B. Ramsey; Vice Chairman Wainwright; Members: Reps. Braswell, Bridgeman, Brubaker, Buchanan, Cole, Davis, Dockham, Gardner, Grady, Hardaway, McLawhorn, McMahan, Melton, Michaux, Smith, and Tucker; Excused Absence: Reps. Justus and McAllister.

Co-Chairman Church requested that Co-Chairman Ramsey preside so that he could explain **SJR 78 – CONFIRMATION OF THE APPOINTMENT OF HAL D. LINGERFELT AS COMMISSIONER OF BANKS** in the absence of Sen. Soles. Co-Chairman Ramsey recognized Rep. Church who recognized Mr. Lingerfelt and introduced him to the members. Rep. Church stated that Mr. Lingerfelt has the endorsement of the NC Banking Association and the NC Banking Commission, and that there is no opposition to this legislation. (A copy of Rep. Church's comments are attached to the minutes.) After some discussion, Rep. Harold Brubaker moved that **SJR 78 BE GIVEN A FAVORABLE REPORT. This motion was seconded and carried. SJR 78 – FAVORABLE REPORT.**

Co-Chairman Ramsey recognized Co-Chairman Church who explained **H.B. 219 – SAVINGS INSTITUTIONS CHANGES/AB.** He stated that there was no opposition to this bill. After brief discussion, Rep. Brubaker moved that **H.B. 219 BE GIVEN A FAVORABLE REPORT. This motion was seconded by Rep. Buchanan and the motion carried. H.B. 219 – FAVORABLE REPORT.**

Co-Chairman Church recognized Rep. Mickey Michaux who explained **H.B. 95 – SMALL LOAN REVISIONS.** Mr. Charles (Chuck) Barbour, Governmental Relations with the Resident Lenders of N. C., Inc., spoke briefly in support of this legislation and answered questions. Ms. Anne Winner with the NC Justice & Community Development Center asked to be heard in opposition to sections of this bill (copy of her handout is attached to minutes). Rep. Thomas Hardaway asked what was the position of the Attorney General's Office and the Commissioner of Banks. Mr. Lingerfelt, Commissioner of Banks, stated that he had no position on this legislation. Mr. Alan Hirsch with the Attorney General's Office stated that they also have no position on this bill. After further discussion, Rep. Don Davis moved that **H.B. 95 BE GIVEN A FAVORABLE REPORT AND RE-REFERRED TO THE COMMITTEE ON FINANCE. This motion was seconded by Rep. Nelson Cole and the motion carried. H.B. 95 – FAVORABLE AND RE-REFERRED TO FINANCE.**

Page 2

**Minutes of House Financial Institutions Committee Meeting
March 24, 1999**

There being no further business, Rep. Michaux moved that the meeting be adjourned.
The meeting adjourned at approximately 10:40 a.m.

Walter Church Sr

Co-Chairman Walter Church, Sr.

Liston B. Ramsey

Co-Chairman Liston B. Ramsey

Dot H. Barber

Dot H. Barber, Committee Assistant

FINANCIAL INSTITUTIONS

MARCH 24, 1999
ROOM 1425
10:00 A.M.

AGENDA

OPENING STATEMENTS BY CHURCH AND RAMSEY

INTRODUCTIONS

RECOGNIZE MEMBERS AND ANY COMMENTS

RECOGNIZE STAFF – MS. KAREN COCHRANE-BROWN AND MR. WALKER REAGAN, COMMITTEE COUNSELS; DOT BARBER AND JOYCE FULLER, COMMITTEE ASSISTANTS; BOB FOWLER AND THOMAS WILDER: SGT.-AT ARMS; PAGE

BILLS TO BE TAKEN UP:

SENATE JOINT RESOLUTION #78 – CONFIRMATION OF THE APPOINTMENT OF HAL D. LINGERFELT AS COMMISSIONER OF BANKS – SEN. SOLES

HOUSE BILL 219 – SAVINGS INSTITUTIONS CHANGES/AB – REP. CHURCH

HOUSE BILL #95 – SMALL LOAN REVISIONS – REP. MICHAUX

CLOSING REMARKS

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 1999

S

1

SENATE JOINT RESOLUTION 78

Sponsors: Senator Soles.

Referred to: Commerce.

February 15, 1999

1 A JOINT RESOLUTION PROVIDING FOR CONFIRMATION OF THE
2 APPOINTMENT OF HAL D. LINGERFELT AS COMMISSIONER OF BANKS.

3 Whereas, under the provisions of G.S. 53-92, appointment by the
4 Governor of the Commissioner of Banks is subject to confirmation by the General
5 Assembly by joint resolution; and

6 Whereas, the term of the present Commissioner of Banks will end on
7 March 31, 1999; and

8 Whereas, the Governor has submitted to the presiding officers of the
9 House of Representatives and the Senate the name of his appointee to fill the term of
10 Commissioner of Banks which will begin April 1, 1999, and expire March 31, 2003;

11 Now, therefore,

12 Be it resolved by the Senate, the House of Representatives concurring:

13 Section 1. The appointment of Hal D. Lingerfelt as Commissioner of
14 Banks for a term to expire March 31, 2003, is confirmed.

15 Section 2. This resolution is effective upon ratification.

THANK YOU MR. CHAIRMAN, MEMBERS OF THE
COMMITTEE. THE SENATE JOINT RESOLUTIONS #78 A
JOINT RESOLUTION PROVIDING FOR CONFIRMATION OF
THE APPOINTMENT OF MR. HAL D. LINGERFELT AS
COMMISSIONER OF BANKS. HAL STARTED HIS
BANKING CAREER IN 1968 AS A BANK EXAMINER. HE
GRADUATED FROM APPALACHIAN STATE UNIVERSITY
IN 1967. HE IS A GRADUATE OF SOUTH EASTERN TRUST
SCHOOL (CAMPBELL UNIVERSITY) AND THE
GOVERNMENT EXECUTIVE INSTITUTE AT UNC CHAPEL
HILL. HE SERVED AS DEPUTY COMMISSIONER OF
BANKS FROM 1979 TO FEBRUARY 1995 WHEN HE WAS
APPOINTED "COMMISSIONER OF BANKS" (THE TOP)-
QUITE AN ACCOMPLISHMENT I ASSURE YOU.

MR. LINGERFELT REGULATES AND SUPERVISES THE
FOLLOWING WITH A STAFF OF 60:

- (1) BANKS AND BANK HOLDING COMPANIES

(2) CONSUMER FINANCE (SMALL LOAN COMPANIES)

(3) REFUND ANTICIPATION LOANS (TAX REFUND LOANS)

(4) REGISTRATION OF MORTGAGE BANKERS AND BROKERS (FINANCIAL INSTITUTIONS PRESENTLY REGULATED BY STATE AND FEDERAL ARE EXEMPT.

(5) MONEY TRANSMITTERS (COMPANIES THAT SELL OR ISSUE CHECKS, DRAFTS, OR MONEY ORDERS.

(6) REVERSE MORTGAGES (AVAILABLE TO HOME OWNERS OVER 62 – PROVIDES MONTHLY LOAN ADVANTAGES).

(7) TRUST LICENSES (BANKS WISHING TO ACT IN A FIDUCIARY CAPACITY).

(8) CHECK CASHING BUSINESS (PERSONS PROVIDING CHECK CASHING SERVICES FOR A FEE).

MR. LINGERFELT IS WELL QUALIFIED FOR THIS HIGH

POSITION AND I STRONGLY RECOMMEND YOU
CONFIRM THE GOVERNOR'S NOMINEE AS
COMMISSIONER OF BANKS FOR A TERM TO EXPIRE
MARCH 31, 2003.

NO GENERAL FUND MONEY IS APPROPRIATED EITHER
DIRECT OR INDIRECT TOTAL SELF SUSTAINING.



**North Carolina General Assembly
Legislative Services Office**

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

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

Gerry F. Cohen, Director
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Suite 401, LOB
300 N. Salisbury St.
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Thomas L. Covington, Director
Fiscal Research Division
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Terrence D. Sullivan, Director
Research Division
Suite 545, LOB
300 N. Salisbury St.
Raleigh, NC 27603-5925
(919) 733-2578

March 10, 1999

MEMORANDUM

To: Members of the House Financial Institutions Committee

From: O. Walker Reagan, Committee Co-Counsel

Re: Senate Joint Resolution 78 – Confirmation of the Appointment of Hal D. Lingerfelt as Commissioner of Banks – Senator Soles

Senate Joint Resolution 78 confirms the appointment of Mr. Hal D. Lingerfelt as Commissioner of Banks. The resolution is effective upon ratification.

Mr. Lingerfelt served as acting Commissioner of Banks from and April 1, 1987, to May 31, 1987. In addition, he is currently serving a term as Commissioner of Banks that began February 14, 1995. Mr. Lingerfelt has been appointed by the Governor to again serve as the Commissioner of Banks. The term will begin April 1, 1999, and expire March 31, 2003. The Commissioner of Banks is paid \$97,389 per year.

The Commissioner of Banks regulates and supervises banking activities under Chapter 53 of the North Carolina General Statutes. The primary responsibilities of this office are to insure safe and conservative management of the banks under its supervision taking into consideration the interest of the banks' depositors, creditors, shareholders, and the public in their relations with such banks. The North Carolina Banking Commission adopts rules to provide direction and supervision of the Commissioner of Banks as he enforces the rules of the Commission and the banking laws of North Carolina. The Banking Commission may review the actions of the Commissioner of Banks.

The Office of the Commissioner of Banks, together with the North Carolina Banking Commission, is responsible for the regulation of every state chartered bank or corporation transacting the business of banking in North Carolina, as well as registration/licensing of various financial institutions operating in North Carolina. These financial institutions include:

1. Check-cashers,
2. Consumer finance companies,
3. Mortgage bankers and mortgage brokers,
4. Money transmitters,
5. Refund anticipation lenders,
6. Bank holding companies, and
7. Reverse mortgage lenders.

S78-SMRU-001

STATE OF NORTH CAROLINA

BEFORE THE
NORTH CAROLINA STATE BANKING COMMISSION

RESOLUTION ADOPTED BY THE BANKING)
COMMISSION OF THE STATE OF NORTH)
CAROLINA, AT ITS REGULAR MEETING)
ON WEDNESDAY, MARCH 17, 1999, IN)
RALEIGH, NORTH CAROLINA)

WHEREAS, Hal D. Lingerfelt is now Commissioner of Banks for the State of North Carolina, having been previously duly appointed and confirmed by vote of both the House and the Senate of the General Assembly of North Carolina, pursuant to North Carolina General Statute § 53-92 and Article 8 of Chapter 53 of the General Statutes; and

WHEREAS, Hal D. Lingerfelt has now served admirably as Commissioner of Banks for the State of North Carolina, for nearly a complete term of four years; and

WHEREAS, pursuant to North Carolina General Statute § 53-92, the term of any Commissioner of Banks expires automatically on March 31 of the quadrennial year, apart from action on an appointment by the Governor and joint resolution by the General Assembly; and

WHEREAS, Hal D. Lingerfelt has now been nominated and appointed by the Governor of the State of North Carolina, the Honorable James B. Hunt, Jr., to serve an additional term of four years, until March 31, 2003, subject to a vote of confirmation by both houses of the North Carolina General Assembly;

WHEREAS, the members of the State Banking Commission enthusiastically support the re-appointment of Hal D. Lingerfelt as Commissioner of Banks for an additional term;

NOW, THEREFORE, BE IT RESOLVED, that the State Banking Commission express to each member of the General Assembly for the State of North Carolina its unqualified and enthusiastic endorsement of the reappointment of Hal D. Lingerfelt; and be it

FURTHER RESOLVED, that the State Banking Commission urge prompt action in confirming this reappointment by our General Assembly, now convened in its regular session at the Legislative Building in Raleigh.

THIS MATTER having come on for hearing and having been duly moved, seconded, and passed unanimously by all Commission members present at its meeting on March 17, 1999.



Harlan E. Boyles, Chairman

Commissioner of Banks 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 12/31/98 we had:

- 40 Bank Holding Companies registered
- 19 Bank Holding Companies registered and regulated
- 5 Trust Representative Offices registered
- 10 Loan Production Offices registered

As of 12/31/98 we regulated:

- 57 banks 1,499 branches
- 4 limited purpose banks

As of 12/31/98 57 state-chartered banks had:

- Total Deposits \$45,559,825,000
- Total Assets \$60,769,944,000

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 12/31/98 we had licensed:

- 39 General Lenders (lend \$3,000 or less)
- 627 Optional Rate Lenders (lend \$10,000 or less)
- 666 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 12/31/98 we had registered:

- 413 Refund Anticipation Lenders
- 806 Offices

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 supervised and non-supervised lenders with the department of Housing and Urban Development.

As of 12/31/98 we had:

- 428 Mortgage Bankers 1,152 branches
- 579 Mortgage Brokers 540 branches

Totals: Registrants-1007 Branches-1692 Offices-2699

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 or transmission of money unless licensed by the Commissioner of Banks

As of 12/31/98 we had:

- 30 Money Transmitter 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 12/31/98 we had approved:

- 7 Reverse Mortgage Lenders
- 1 Exempt Lender

Trust Licenses

Pursuant to N.C.G.S. 53-159.1, *et seq.*, banks wishing to act in a fiduciary capacity must make application to the Commissioner of Banks for a license, and renew the license annually thereafter. Licenses are granted or renewed upon a determination of applicant's solvency and receipt of a fee.

As of 12/31/98 we had:

- 24 Trust Licensees

Check-Cashing Businesses

Under N.C.G.S. 53-275 *et seq.*, persons or other entities providing check-cashing services for a fee, service charge, or other consideration must be licensed by the Commissioner of Banks. The law sets maximum fees for the check-cashing service. It also permits a licensee to accept a personal check up to \$300 and upon written agreement, defer the deposit of the check for up to 31 days.

As of 12/31/98 we had:

- 158 Licensees 730 locations



STATE OF NORTH CAROLINA
OFFICE OF THE GOVERNOR
RALEIGH 27603-8001

JAMES B. HUNT JR.
GOVERNOR

January 29, 1999

The Honorable Marc Basnight
Senate President Pro Tempore
Legislative Building
Raleigh, North Carolina 27603

Dear Mr. President Pro Tem:

Pursuant to General Statute 53-92, I hereby appoint Hal D. Lingerfelt as Commissioner of Banks and submit his name for confirmation by the North Carolina General Assembly by joint resolution. Mr. Lingerfelt's term will begin on April 1, 1999 and will expire on March 31, 2003.

Enclosed is a copy of Mr. Lingerfelt's resume. Please feel free to contact him directly should you require additional information.

My warmest personal regards.

Sincerely,

A handwritten signature in black ink, appearing to read "James B. Hunt Jr.", written over a large, stylized initial "J".

James B. Hunt Jr.

cc: The Honorable Dennis Wicker
The Honorable Jim Black
Ms. Janet Pruitt
Ms. Denise Weeks



HAL D. LINGERFELT

Hal D. Lingerfelt was appointed North Carolina Commissioner of Banks in February, 1995, after serving as Deputy Commissioner of Banks since 1979. He joined the Office of the Commissioner of Banks in 1968 as a bank examiner. A native of Vale, Lincoln County, he is a graduate of Appalachian State University, Boone, where he received a B.S. degree in Economics, Business and Psychology in 1967. He is also a graduate of The Southeastern Trust School at Campbell University, Buies Creek, and the Government Executives Institute at the University of North Carolina at Chapel Hill. He served as Acting Commissioner of Banks from April 1, 1987, to May 31, 1987.

Commissioner Lingerfelt was presented with the Governor's Award of Excellence in 1988. He was a recipient of the 1995 Distinguished Alumni Award from Appalachian State University, and in 1998 was elected to the Board of Directors of the Appalachian State University Foundation.

Presently Commissioner Lingerfelt serves as Chairman of the Technology Committee of the Conference of State Bank Supervisors (CSBS), a position he has held since the committee was created in 1985. He was elected Treasurer of CSBS for the 1996-97 term, is currently a member of its Education Committee, and serves as an ex-officio member of its Board of Directors.



NORTH CAROLINA BOARD OF ETHICS

116 WEST JONES STREET
RALEIGH, NC 27603-8003
(919) 733-2780

GEORGE F. BASON
CHAIRMAN

November 6, 1998

Secretary Rick Carlisle
Department of Commerce
Raleigh, North Carolina

Regarding: Evaluation of Statement of Economic Interest filed by
Hal D. Lingerfelt, Banking Commissioner

Dear Secretary Carlisle:

In accordance with Section 4 of Executive Order 127, we have completed our evaluation of the statement of economic interest mentioned above.

We did not find an actual conflict of interest or a potential for conflict of interest.

Section 5 of Executive Order 127 addresses duties of the heads of state agencies. Section 7 of Executive Order 127 addresses rules of conduct for public officials. We recommend that all public officials become familiar with these provisions.

Sincerely,

George F. Bason/md

George F. Bason
Chairman

cc: Mr. Lingerfelt
Governor Hunt

NORTH CAROLINA BOARD OF ETHICS
116 WEST JONES STREET
RALEIGH 27603-8003
(919) 733-2780 FAX (919) 733-2785

FILE COPY

STATEMENT OF ECONOMIC INTEREST FOR EXECUTIVE ORDER NUMBER 127 AS
AMENDED BY EXECUTIVE ORDER NUMBER 131 BY GOVERNOR JAMES B. HUNT JR.

MAIL FORM TO — BOARD OF ETHICS, 116 WEST JONES STREET, RALEIGH, NC 27603
OR INTEROFFICE MAIL TO THE ADMINISTRATION BUILDING, ROOM 2009Q
COURIER 51-01-00 FOR ASSISTANCE, CALL MILLIE DONAVANT, 919-733-2780

Name of Person Filing Hal D. Lingerfelt
Name of Spouse N/A
Home Address 115 Brooks Avenue
Raleigh, North Carolina 27607
Home Telephone (919) 833-6221

STATE GOVERNMENT EMPLOYEES

Agency, Division, Position Department of Commerce - Banking Commission
Commissioner of Banks
Address (Include Building & Courier) 702 Oberlin Road
Raleigh, North Carolina 27605-0709
Telephone Number _____

APPOINTEES TO BOARDS, COMMISSIONS, OR COUNCILS

Your Employer, Your Position Title N/A
Business Activity of Your Employer _____
Your Office Address _____
Your Telephone Number _____
Name of Board on which you are serving _____

Are you, or your employer, licensed or regulated by the Board on which you are serving, or have business relationships with the same area of State Government with which you are associated? Yes No If so, please explain N/A

USE ATTACHMENTS IF NEEDED

1. List all parcels of real estate located in North Carolina in which you, or your spouse, have an ownership interest valued more than \$10,000. Give street address or other description adequate to determine the location of each parcel. State the specific interest held in each identified parcel. Identify real estate that is currently leased or rented to a State Government Agency, and identify the Agency. If persons other than your spouse have an ownership interest in the property, state the type of ownership and name of the person having the interest. If any parcels are located in an area over which the Board you are serving on has regulatory authority or could otherwise be affected by Board decisions, please explain.

1. 115 Brooks Avenue - Home (100% owned)
Raleigh, North Carolina 27607

2. 346 Rockdale Road - 2nd Home (100% owned)
Vale, North Carolina 28168

2. Identify personal property sold to or bought from the State within the preceding two years and personal property currently leased or rented to the State by you or your spouse. Indicate whether the transactions are in accordance with the provisions of the Division of Purchase and Contract. If not, please explain.

None

3. List the name of each publicly-owned company in which the value of securities held by you or your spouse exceeds \$10,000. You may attach a list from your broker.

None

4. List the name and business activity of each non-publicly-owned company or business entity in which the value of securities or other equity interests held by you or your spouse exceeds \$10,000, including but not limited to, interests held in partnerships, limited partnerships, joint ventures, limited liability companies or partnerships, and closely held corporations.

NONE

With respect to the entities listed, should any of the entities own securities or equity interests exceeding \$10,000 in other companies or business entities, list the name of the company or business entity and a brief description of the business activity of each.

N/A

Are you, your spouse, or any of the entities listed licensed by, regulated by, or have business relationships with the same area of State Government with which you are associated? If so, please explain.

N/A

5. You are required to make a good faith effort to list any individual or business entity with which you or your spouse have a financial or professional relationship provided:

- (1) The nature of the relationship presents a conflict of interest or the appearance of a conflict of interest for you while performing your official duties, or
- (2) Any separate financial or professional interest of such individual or business entity would present a conflict of interest or appearance of a conflict of interest for you while performing your official duties. For each individual or business entity listed, generally describe the financial or professional relationship and provide a brief explanation of why the individual or business entity has been listed.

NONE

6. List all directorships on all boards on which you are serving. Please explain any situations which could appear to be a conflict of interest with your official duties.

NONE

7. Are you an elected official at the local government level? If so, please explain.

N/A

8. If you, your spouse, or your dependent children are the beneficiary of a trust created, established or controlled by you, list the name and address of the trustee and a description of the trust. To the extent such information is available to you, include a list of businesses in which the trust has an ownership interest exceeding \$10,000.

N/A

9. List assets with a valuation of at least \$10,000 each held by you or your spouse which have not been listed elsewhere. Some examples are mutual funds, certificates of deposit, bank accounts and retirement accounts. It is not necessary to list household furniture, jewelry, automobiles, and other personal effects.

IRA
401K - (State Plan)
Deferred Comp (State plan)
NC State Government Retirement

10. List liabilities with a valuation of at least \$10,000 each for you and your spouse. Give the name of the creditor, and describe the nature of the liability. It is not necessary to list credit card debts, mortgage for personal residence, and automobile loans.

N/A

11. List sources of income for you and your spouse where \$10,000 or more was received from each source as shown. For each source listed, describe the type of income received, and state the name of the business entity or individual from which the income was received. Some examples of income are salary or wages, professional fees, honoraria, interest, stock dividends, capital gains, and business profits.

NONE

Please explain if any of the sources of income are regulated by, receive permits from, or otherwise are connected with the same area of State Government with which you are connected.

N/A

12. If you are a practicing attorney, check each category of legal representation in which you and/or the law firm with which you are associated has during any single year of the past five years earned legal fees in excess of \$10,000 from any of the following categories of legal representation:

- Admiralty Taxation Decedent's estates Corporation law Real property
- Negligence (representing plaintiffs) Negligence (representing defendants)
- Criminal law Labor law Insurance law Administrative law
- Utilities regulation or representation of regulated utilities Representation of local governments

13. If the information has not been included in previous questions, list all non-publicly owned businesses you have been associated with during the past five years as an employee, officer, director, partner, or owner. For each business listed, state your association, and the time period of your association. To the best of your knowledge, state whether any of the businesses listed does business with the same area of State Government with which you are associated. State the nature of the business, and whether you or the business is licensed by, regulated by, receive permits, grants or other funding from the same area of State Government with which you are associated.

NONE

List your associations with civic organizations if the organizations receive grants or other funding from State Government. Include the type of funding and the name of the State Agency from which the funding is received.

NONE

14. List all gifts received with a value exceeding \$200 during the twelve months preceding the date of this statement from sources other than your spouse or relatives.

NONE

List all gifts received with a value exceeding \$100 from any source having business with or regulated by the State.

NONE

15. Within the preceding five years have you or your spouse filed voluntarily or been placed involuntarily under the protection of the bankruptcy laws of these United States or receivership, assignment for the benefit of creditors, or other insolvency proceeding under the various laws of the various states of these United States? Within the preceding five years have you or your spouse owned 5% or more of any corporation that has filed voluntarily or been placed involuntarily under the protection of the bankruptcy laws of these United States or receivership, assignment for the benefit of creditors, or other insolvency proceedings under the various laws of the various states of these United States? Within the preceding five years have you or your spouse been a general partner in any partnership or owned 5% of any corporation which was a general partner in any partnership that has filed voluntarily or been placed involuntarily under the protection of the bankruptcy laws of these United States or receivership, assignment for the benefit of creditors, or other insolvency proceedings under the various laws of the various states of these United States? If so, provide a brief summary of facts and circumstances regarding each listed bankruptcy.

N/A

16. Having read Executive Order Number 127, as amended by Executive Order 131, state any problems or conflicts of interest you may have which are not fully covered in previous questions. Include an explanation of how you would propose to resolve the matter.

None

VERIFICATION

I hereby do certify that I have read this Statement of Economic Interest, and all attachments, and to the best of my knowledge and belief it is true, correct and complete. I hereby do certify that I have not transferred, and will not transfer, any asset, interest or property for the purpose of concealing it from disclosure while retaining an equitable interest therein. I acknowledge that I am under a continuing obligation to avoid conflicts of interest and the appearance of conflicts of interest. If I believe a potential for conflict exists, I will inquire of the Board of Ethics as to that potential conflict.

May 5, 1998
Date

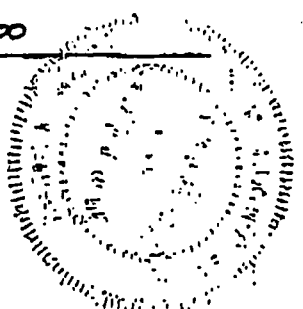
[Signature]
Signature of Person Filing

STATE OF NORTH CAROLINA
COUNTY OF Wake

Subscribed and sworn to before me this the 5th day of May, 1998

My Commission Expires:
10/12/2000

[Signature]
Notary Public



Dot Barber (Rep. Ramsey)

From: Vickie Bowers [staff@ncbankers.org]
Sent: Tuesday, March 23, 1999 9:01 AM
To: Rep. Liston B. Ramsey
Subject: Tomorrows Committee Meeting

Memorandum

TO: Members of the House Financial Institutions Committee

FROM: Paul H. Stock, Executive Vice President & Counsel
North Carolina Bankers Association

DATE: March 23, 1999

RE: House Bill 219 and Senate Bill 78

The two bills referenced above appear on the calendar for consideration during tomorrow's meeting of the House Financial Institutions Committee. On behalf of the North Carolina Bankers Association, and the 128 banks and savings institutions that comprise its membership, please allow me to urge your support of both measures.

Senate Bill 78 would confirm State Banking Commissioner Hal Lingerfelt for a second term in that office. With over 30 years of experience in the Office of the Commissioner of Banks, Mr. Lingerfelt has served admirably during his four years as Commissioner. He has cultivated a staff of seasoned professionals who, like Hal himself, work diligently to assure that the banks they supervise are operated in a safe and sound manner and according to the banking laws passed by the legislature. He is accessible to those institutions to answer questions and to resolve concerns. In addition, Hal is a national leader in pioneering the use of technology in the supervision of banks.

House Bill 219 was introduced at the request of the Administrator of Savings Institutions, Mr. Stephen Eubanks. The three matters addressed in the bill include two technical provisions and one substantive provision. The technical matters are (1) the revision of a definition which was improperly worded and (2) repeal of G.S. § 54C-18 which was originally adopted to conform with a federal tax statute that no longer exists. The substantive provision would allow the Administrator to permit a savings bank to exceed the current statutory limit of 15% of assets invested in commercial loans upon a showing that a higher limit is appropriate based on the commercial lending expertise and overall risk profile of the savings bank. Many small businesses feel that fewer large commercial banks are interested in their business than was previously the case. This change will permit savings banks to help fill that gap. Commercial banks have no limitation on the amount of their assets that may be invested in commercial loans.

Thank you for your consideration of these two items.

**1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES**

The following report(s) from standing committee(s) is/are presented:

By Representative(s) **CHURCH AND RAMSEY** for the Committee on **FINANCIAL INSTITUTIONS**.

- Committee Substitute for
S.J.R. 78 A JOINT RESOLUTION PROVIDING FOR CONFIRMATION OF THE
APPOINTMENT OF HAL D. LINGERFELT AS COMMISSIONER OF BANKS.
- With a favorable report.
- With a favorable report and recommendation that the bill be re-referred to the Committee on
Appropriations Finance .
- With a favorable report, as amended.
- With a favorable report, as amended, and recommendation that the bill be re-referred to the
Committee on Appropriations Finance .
- 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 re-referred to the Committee on .)
- With a favorable report as to House committee substitute bill (#), which changes
the title, unfavorable as to Senate committee substitute bill.
- With an unfavorable report.
- With recommendation that the House concur.
- With recommendation that the House do not concur.
- With recommendation that the House do not concur; request conferees.
- With recommendation that the House concur; committee believes bill to be material.
- With an unfavorable report, with a Minority Report attached.
- Without prejudice.
- With an indefinite postponement report.
- With an indefinite postponement report, with a Minority Report attached.
- With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/24/99

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H

1

HOUSE BILL 219

Short Title: Savings Institution Changes/AB.

(Public)

Sponsors: Representatives Church, Ramsey (Primary Sponsors); and Buchanan.

Referred to: Financial Institutions.

March 3, 1999

1 A BILL TO BE ENTITLED
2 AN ACT TO AMEND CHAPTERS 54B AND 54C OF THE GENERAL
3 STATUTES TO MAKE TECHNICAL CHANGES TO THE LAW GOVERNING
4 STATE-CHARTERED SAVINGS AND LOAN ASSOCIATIONS AND
5 SAVINGS BANKS AND TO INCREASE THE PERMITTED PERCENTAGE OF
6 COMMERCIAL LOANS.

7 The General Assembly of North Carolina enacts:

8 Section 1. G.S. 54B-152(a) reads as rewritten:

9 "(a) Real property is deemed ~~encumbered~~ unencumbered within the meaning of
10 this Chapter unless the security instrument thereon establishes a first lien upon such
11 real property or interest therein."

12 Section 2. G.S. 54C-18 is repealed.

13 Section 3. G.S. 54C-143 reads as rewritten:

14 "**§ 54C-143. Commercial lending.**

15 ~~Subject to any rules that the Administrator deems appropriate, a savings bank may~~
16 ~~lend and invest no more than fifteen percent (15%) of its total assets in commercial~~
17 ~~loans. A commercial loan is for business, commercial, corporate, and agricultural~~
18 ~~purposes.~~

19 A savings bank may lend and invest in commercial loans in an aggregate amount
20 that either (i) does not exceed fifteen percent (15%) of its total assets; or (ii) equals a
21 percentage of its total assets greater than fifteen percent (15%), if approved by the
22 Administrator upon written request of the savings bank. In considering a request for
23 an increased limit, the Administrator shall take into consideration the commercial
24 lending expertise of the management and the overall risk profile of the savings bank

1 making the request. For the purposes of this section, 'commercial loan' means a loan
2 for business, commercial, corporate, or agricultural purposes."

3 Section 4. This act is effective when it becomes law.

Remarks by Rep. Church

THANK YOU MR. CHAIRMAN AND MEMBERS OF THE
COMMITTEE – HOUSE BILL #219 – SHORT TITLE – SAVINGS
INSTITUTION CHANGES.

HOUSE BILL #219 IS AN ACT TO AMEND CHAPTERS 54B AND 54C
AND TO MAKE TECHNICAL CHANGES TO THE LAW GOVERNING
STATE CHARTERED S & L's AND SAVINGS BANKS AND TO
INCREASE THE PERMITTED PERCENTAGE OF COMMERCIAL
LOANS – LINE 9 TECHNICAL CORRECTION – TYPOGRAPHICAL
ERROR WAS MADE – REAL PROPERTY IS DEEMED
UNENCUMBERED INSTEAD OF ENCUMBERED – LINE 12 GS54-
C-18 IS REPEALED (HAS BEEN REPEALED BY THE FEDS YEARS
AGO). LINE 19 THRU 24, PAGE 1 AND 1 THRU 3 PAGE 2 – A
SAVINGS BANK MAY LEND AND INVEST IN COMMERCIAL
LOANS IN THE AGGREGATE AMOUNT THAT EITHER (1) DOES
NOT EXCEED 15% OF ITS TOTAL ASSETS; OR (2) EQUALS A
PERCENTAGE OF ITS ASSETS IN AN AGGREGATE AMOUNT
GREATER THAN 15% IF APPROVED BY THE ADMINISTRATOR
UPON WRITTEN REQUEST OF THE SAVINGS BANK. SIMPLY
STATES THE ADMINISTRATOR MAY AUTHORIZE A SAVINGS
BANK TO MAKE COMMERCIAL LOANS IN AN AGGREGATE

AMOUNT GREATER THAN 15% OF ITS TOTAL ASSETS. ALL
COMMERCIAL BANKS HAVE THIS AUTHORITY NOW.

I RECOMMEND WE ADOPT THESE CHANGES – THANK YOU

I WILL ATTEMPT TO ANSWER ANY QUESTIONS.

**1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES**

The following report(s) from standing committee(s) is/are presented:

By Representative(s) **CHURCH AND RAMSEY** for the Committee on **FINANCIAL INSTITUTIONS**.

Committee Substitute for

H.B. 219 A BILL TO BE ENTITLED AN ACT TO AMEND CHAPTERS 54B AND 54C OF THE GENERAL STATUTES TO MAKE TECHNICAL CHANGES TO THE LAW GOVERNING STATE-CHARTERED SAVINGS AND LOAN ASSOCIATIONS AND SAVINGS BANKS AND TO INCREASE THE PERMITTED PERCENTAGE OF COMMERCIAL LOANS.

With a favorable report.

With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations Finance .

With a favorable report, as amended.

With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations Finance .

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 re-referred to the Committee on .)

With a favorable report as to House committee substitute bill (#), which changes the title, unfavorable as to Senate committee substitute bill.

With an unfavorable report.

With recommendation that the House concur.

With recommendation that the House do not concur.

With recommendation that the House do not concur; request conferees.

With recommendation that the House concur; committee believes bill to be material.

With an unfavorable report, with a Minority Report attached.

Without prejudice.

With an indefinite postponement report.

With an indefinite postponement report, with a Minority Report attached.

With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/24/99

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H

1

HOUSE BILL 95

Short Title: Small Loan Revisions.

(Public)

Sponsors: Representatives Michaux; and Luebke.

Referred to: Financial Institutions, if favorable, Finance.

February 17, 1999

1 A BILL TO BE ENTITLED
2 AN ACT TO MODIFY THE CONSUMER FINANCE ACT TO INCREASE THE
3 AMOUNT OF LOANABLE ASSETS REQUIRED BEFORE AN ENTITY IS
4 LICENSED TO ENGAGE IN BUSINESS IN THE STATE, TO REVISE THE
5 AMOUNT OF, AND MAXIMUM RATE OF INTEREST FOR, SMALL LOANS,
6 TO ESTABLISH A LOAN PROCESSING FEE FOR CERTAIN LOANS, TO
7 REPEAL OBSOLETE PROVISIONS OF LAW, AND TO MAKE
8 CONFORMING CHANGES.

9 The General Assembly of North Carolina enacts:

10 Section 1. G.S. 53-168 reads as rewritten:

11 "§ 53-168. License required; showing of convenience, advantage and financial
12 responsibility; investigation of applicants; hearings; existing businesses; contents of
13 license; transfer; posting.

14 (a) Necessity for License; Prerequisites to Issuance. -- No person shall engage in or
15 offer to engage in the business regulated by this Article unless and until a license has
16 been issued by the Commissioner of Banks, and the Commissioner shall not issue any
17 such license unless and until he the Commissioner finds:

- 18 (1) That authorizing the applicant to engage in such business will
19 promote the convenience and advantage of the community in
20 which the applicant proposes to engage in business; and
21 (2) That the financial responsibility, experience, character and general
22 fitness of the applicant are such as to command the confidence of
23 the public and to warrant the belief that the business will be

1 operated lawfully and fairly, within the purposes of this Article;
2 and

3 (3) That the applicant has available for the operation of such business
4 at the specified location loanable assets of at least ~~twenty-five~~
5 ~~thousand dollars (\$25,000)~~ fifty thousand dollars (\$50,000).

6 (b) Investigation of Applicants. -- Upon the receipt of an application, the
7 Commissioner shall investigate the facts. If the Commissioner determines from such
8 preliminary investigation that the applicant does not satisfy the conditions set forth in
9 subsection (a), ~~he~~ the Commissioner shall so notify the applicant who shall then be
10 entitled to an informal hearing thereon provided he so requests in writing within 30
11 days after the Commissioner has caused the above-referred to notification to be
12 mailed to the applicant. In the event of a hearing, to be held in the offices of the
13 Commissioner of Banks in Raleigh, the Commissioner shall reconsider the application
14 and, after the hearing, issue a written order granting or denying such application. At
15 the time of making such application, the applicant shall pay the Banking Department
16 the sum of two hundred fifty dollars (\$250.00) as a fee for investigating the
17 application, which shall be retained irrespective of whether or not a license is granted
18 the applicant.

19 ~~(c) Existing Business. -- Notwithstanding the provisions of this section, any person,~~
20 ~~firm or corporation which, on December 31, 1973, was a licensee under this Article~~
21 ~~either as a licensee to make loans under the provisions of G.S. 53-173 or as a motor~~
22 ~~vehicle lender under G.S. 53-176.1, may surrender such license to the Commissioner~~
23 ~~within 90 days after May 25, 1974, and elect to become a licensee to make loans~~
24 ~~under either G.S. 53-173 or 53-176.1 but not both. Such license shall be issued by the~~
25 ~~Commissioner without further application or investigation and the licensee shall be~~
26 ~~deemed a licensee under the category that it elects upon the surrender of its current~~
27 ~~license and the election.~~

28 (d) Required Assets Available. -- Each licensee shall continue at all times to have
29 available for the operation of the business at the specified location loanable assets of
30 at least ~~twenty-five thousand dollars (\$25,000)~~ fifty thousand dollars (\$50,000). The
31 requirements and standards of this subsection and subsection (a)(2) of this section
32 shall be maintained throughout the period of the license and failure to maintain such
33 requirements or standards shall be grounds for the revocation of a license under the
34 provisions of G.S. 53-171 of this Article.

35 (e) License, Posting, Continuing. -- Each license shall state the address at which
36 the business is to be conducted and shall state fully the name of the licensee, and if
37 the licensee is a copartnership, or association, the names of the members thereof, and
38 if a corporation, the date and place of its incorporation. Transfer or assignment of a
39 license by one person to another by sale or otherwise is prohibited without the prior
40 approval of the Commissioner. Each license shall be kept posted in the licensed place
41 of business. Each license shall remain in full force and effect until surrendered,
42 revoked, or suspended as hereinafter provided."

43 Section 2. G.S. 53-173 reads as rewritten:

1 "§ 53-173. Maximum rate of charge; interest and fee; computation of charges; interest;
2 limitation on interest after judgment; limitation on interest after maturity of the loan.

3 (a) Maximum Rate of Charge. Interest. -- Every licensee hereunder may contract
4 for, compute, and receive on any loan of money, not exceeding ~~three thousand~~
5 ~~dollars (\$3,000)~~ six thousand dollars (\$6,000) in amount, ~~charges interest~~ at rates not
6 exceeding ~~thirty-six percent (36%)~~ thirty percent (30%) per annum on that part of
7 the unpaid principal balance of any loan not in excess of ~~six hundred dollars~~
8 ~~(\$600.00)~~ and ~~fifteen percent (15%)~~ one thousand eight hundred dollars (\$1,800) and
9 eighteen percent (18%) per annum on any remainder of such unpaid principal
10 balance. Interest shall be contracted for and collected at the single simple interest
11 rate applied to the outstanding balance that would earn the same amount of interest
12 as the above rates for payment according to schedule.

13 (a1) Maximum Fee. -- In addition to the interest authorized in subsection (a) of
14 this section, a licensee making loans under this section may collect from the borrower
15 a fee for processing the loan equal to five percent (5%) of the cash advance, not to
16 exceed twenty-five dollars (\$25.00).

17 (b) Computation of Charges. Interest. -- ~~Charges Interest~~ on loans made pursuant
18 to this section shall not be paid, deducted, or received in advance. Such ~~charges~~
19 interest shall not be compounded but ~~charges interest~~ on loans shall (i) be computed
20 and paid only as a percentage of the unpaid principal balance or portion thereof and
21 (ii) computed on the basis of the number of days actually elapsed; provided, however,
22 if part or all of the consideration for a loan contract is the unpaid principal balance
23 of a prior loan, then the principal amount payable under the loan contract may
24 include any unpaid ~~charges interest~~ on the prior loan which have accrued within 90
25 days before the making of the new loan contract. For the purpose of computing
26 ~~charges, interest,~~ a day shall equal 1/365th of a year. Any payment made on a loan
27 shall be applied first to any accrued interest and then to principal, and any portion or
28 all of the principal balance may be prepaid at any time without penalty.

29 (c) Limitation on Interest after Judgment. -- If judgment be obtained against any
30 party on any loan made under the provisions of this section neither the judgment nor
31 the loan shall carry, from the date of the judgment, any interest in excess of eight
32 percent (8%) per annum.

33 (d) Limitation of Interest after Maturity of Loan. -- After the maturity date of any
34 loan contract made under the provisions of this section and until the loan contract is
35 paid in full by cash, new loan, refinancing or otherwise, no charges other than
36 interest at eight percent (8%) per annum shall be computed or collected from any
37 party to the loan upon the unpaid principal balance of the loan.

38 (e) Repealed by Session Laws 1989, c. 17, s. 3.

39 ~~(f) Subject to the limitations contained in this Article as to maximum rates, the~~
40 ~~Commission may from time to time, upon the basis of changed conditions or facts,~~
41 ~~redetermine and refix any such maximum rates of charge, but, before determining or~~
42 ~~redetermining any such maximum rates, the Commission shall give reasonable notice~~
43 ~~of its intention to consider doing so to all licensees and a reasonable opportunity to~~
44 ~~be heard and introduce evidence with respect thereto. The notice herein required~~

~~1 may be given by mailing such notice to the offices of the licensees as shown in the
2 records of the Commissioner of Banks. Any such changed maximum rates of charge
3 shall not affect preexisting loan contracts lawfully entered into between any licensee
4 and any borrower."~~

5 Section 3. G.S. 53-165(a) reads as rewritten:

6 "(a) 'Amount of the loan' shall mean the aggregate of the cash advance and the
7 ~~charges~~ interest authorized by G.S. 53-173."

8 Section 4. This act becomes effective October 1, 1999, and applies to
9 loans made on or after that date.



HOUSE BILL 95: Small Loan Revisions

BILL ANALYSIS

Committee: House Financial Institutions
Date: March 24, 1999
Version: 1st Edition

Introduced by: Rep. Michaux
Summary by: Karen Cochrane Brown
Committee Counsel

SUMMARY:

House Bill 95 makes several changes to the North Carolina Consumer Finance Act, including increasing the amount of loanable assets required before an applicant can be licensed to operate a consumer finance business in the state, revising the rate of interest and the maximum amounts of small loans, and establishing a loan processing fee for small loans.

CURRENT LAW:

The North Carolina Consumer Finance Act authorizes the Commissioner of Banks to license and to supervise loan companies, which make direct consumer loans of \$10,000 or less. A licensee must meet several statutory requirements including, maintaining loanable assets of not less than \$25,000. Lenders that do not charge interest rates higher than those permitted by Chapter 24 are exempt for this Act. Also exempted are banks, trust companies, savings and loan associations, cooperative credit unions, agricultural credit corporations, production credit associations, pawn brokers, and installment paper dealers.

The statute creates two tiers of lenders. G.S. 53-173 allows interest charges of 36% per year on that part of the unpaid principal balance, which does not exceed \$600.00, and 15% per year on that portion which is more than \$600 but not more than \$3,000. This creates a blended rate for most loans in this category.

G.S. 53-176 authorizes optional rates for those lenders who elect to make loans of \$10,000 or less and who so notify the Commissioner. These lenders may charge interest at the rate of 30% per year on that part of the unpaid principal balance, which does not exceed \$1,000, and 18% per year on the remainder, which does not exceed \$7,500. If the principal balance is more than \$7,500, the maximum rate is 18% per year on the entire loan.

BILL ANALYSIS:

This bill makes the following changes to the current law:

- Increases the amount of loanable assets which a licensee must possess from \$25,000 to \$50,000.
- Raises the maximum amount for small loans, (those made under G.S. 53-173) from \$3,000 to \$6,000
- Changes the interest rate that may be charged on small loans from 36% per year on the first \$600 to 30% per year on the first \$1,800, and from 15% per year on the remaining balance up to \$3,000 to 18% on the amount between \$1,800 and \$6,000.

HOUSE BILL 95

Page 2

- Creates a loan processing fee equal to 5% of the cash advance not to exceed \$25.
- Deletes a provision authorizing the Banking Commission to redetermine the maximum rates upon notice to and an opportunity to be heard by the regulated community.

BACKGROUND:

According to the most recent Consumer Finance Annual Report issued by the Commissioner of Banks, as of December 31, 1997, there were 704 licensed offices in North Carolina consisting of 33 companies with 47 offices making loans under G.S. 53-173, and 74 companies with 657 offices lending under G.S. 53-176. Attached is chart taken from the 1997 Annual Report which classifies loans by various categories, including by loan size, type of security, and type of borrower.

This act would become effective October 1, 1999, and would apply to loans made on or after that date.

Reconciliation Of Loan Balances

January 1, 1997 - December 31, 1997

	Number	Amount
Loans Receivable, Beginning of Year	597,831	\$ 1,309,078,610
Loans Made During the Year	595,266	1,424,936,704
Loan Balances Purchased During the Year	10,106	20,159,776
Loan Balances Sold During the Year	741	(3,843,407)
Loan Balances Charged Off During the Year	45,224	(79,626,817)
Collections of Principal During the Year	—	(1,275,425,403)
Loans Receivable Outstanding at End of Period	606,309	\$ 1,395,279,463

Classification Of Loans By Size

January 1, 1997 - December 31, 1997

	Number	Amount
Loans Made During the Year:		
(a) \$600.00 or less	46,595	\$ 22,679,240
(b) Over \$600.01 to \$1,000.00	79,162	64,507,337
(c) Over \$1,000.01 to \$3,000.00	304,150	556,916,705
(d) Over \$3,000.01 to \$5,000.00	108,350	407,147,977
(e) Over \$5,000.01 to \$7,500.00	43,293	256,882,493
(f) Over \$7,500.01 to \$10,000.00	13,716	116,802,952
Total Loans Made	595,266	\$ 1,424,936,704

Classification Of Loans By Type Of Security

January 1, 1997 - December 31, 1997

	Number	Amount
Loans Made During the Year Based in Whole or in Larger Part on:		
(a) Personal property	324,424	\$ 641,630,733
(b) Signature or endorsement	52,988	94,551,012
(c) Motor vehicles	109,665	300,613,267
(d) Other considerations	108,189	388,141,692
Total Loans Made During the Period	595,266	\$1,424,936,704

Classification Of Loans By Type Of Borrower

January 1, 1997 - December 31, 1997

	Number	Amount
Loans Made During the Year:		
(a) Which renewed existing accounts	383,643	\$ 1,003,946,647
(b) To former borrowers	72,440	132,394,656
(c) To new borrowers	139,183	288,595,401
Total Loans Made During the Period	595,266	\$ 1,424,936,704

By Anne Wixner

	<u>CURRENT LAW</u> <u>G.S. 53-173</u>	<u>OPTIONAL RATE</u> <u>53-176</u>	<u>UNDER HB 95</u> <u>53-173 Proposed</u>
Loan Amount	\$750	\$750	\$750
Term	12 months	12 months	12 months
Int. Rate	34.7%	30%	30%
Int. Rate (allowable fee included *)	34.7%	36.54%	36.54%
Loan Cost	\$148.32	\$156.60	\$156.60
<hr/>			
Loan Amount	\$1,800	\$1,800	\$1,800
Term	24 months	24 months	24 months
Int. Rate	25.65%	27.08%	30%
Int. Rate (allowable fee included *)	25.65%	28.22%	31.5%
Loan Cost	\$519.84	\$576.04	\$648.96
<hr/>			
Loan Amount	\$3,000	\$3,000	\$3,000
Term	36 months	36 months	36 months
Int. Rate	21.59%	23.9%	28.66%
Int. Rate (allowable fee included *)	21.59%	24.35%	28.69%
Loan Cost	\$1,101.84	\$1,256.44	\$1,507.56

* HB 95 would permit a \$25 fee per loan. G.S. 53-173 does not currently permit such a fee. G.S. 53-176 permits an unspecified credit history fee, for which many lenders charge as much as \$25. This number was used in calculating the charges in column 2.



Resident Lenders of N.C., Inc.

Charles D. (Chuck) Barbour, Governmental Relations

Called 3/5/99 ✓

February 16, 1999

NB 95

OFFICERS

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Jim Crawford

First-Vice President
W.L. Pryor

Second Vice President
Jesse Baker

Secretary
John Renfrow

Treasurer
Al J. Pridgen

Chaplain
Larry Shive

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Harris Greene, Chairman
Ed Rankin
Dave Darby
Tim Jenkins
Council Renfrow
Jim Crawford
Bruce Baker
Bill Blanton
Royce E. Eveette, Jr.
Charles D. Barbour

GOVERNMENTAL RELATIONS

Charles D. Barbour

Rep. Liston Ramsey
Room 2217
State Legislative Bldg
Raleigh, NC 27601

Dear Speaker:

Congratulations on your appointment as Co-Chairman of Financial Institutions. It's good to know someone who knows what is going on in the Committee is at the helm...and I have told Jim Black so.

Soon now, possibly by the time you receive this letter, Rep. Mickey Michaux will introduce legislation which will do away with the 36% interest rate which has been charged on loans up to \$600 since 1983 by the Resident Lenders of North Carolina

Rep Michaux, as you probably know, put the 36% simple interest rate on the books in 1973 to abolish an old "ad-on rate" which could generate an APR as much as 248%. Now these small lenders, are willing to reduce the rate in a trade similar to that granted the big, out-of-state lenders 17 years ago.

The big lenders have been charging 30% on the first \$1,000 of the unpaid balance and 18% on the unpaid balance from \$1,000 to \$7,500 since 1983. An annual rate of 18% was allowed from \$7,500 to a new ceiling of \$10,000. Further, in 1995, these lenders were allowed a fee as agreed upon by parties to the loan.

Through the years, these small lenders have worked with a 15% maximum interest rate for loans over \$600 to a ceiling of \$3,000. This year, in giving up the 36%, we hope to have the 30% rate on the first \$1,800 and 18% on the outstanding balance to a new ceiling of \$6,000, still \$4,000 less than the chains.

The large lenders also plan to introduce new legislation this session. Please don't let the two Bills be consolidated into one. Let each stand or fall on its own merits.

Chuck Barbour

FEB 17 1999

**1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES**

The following report(s) from standing committee(s) is/are presented:

By Representative(s) **CHURCH AND RAMSEY** for the Committee on **FINANCIAL INSTITUTIONS**.

Committee Substitute for

H.B. 95, A BILL TO BE ENTITLED AN ACT TO MODIFY THE CONSUMER FINANCE ACT TO INCREASE THE AMOUNT OF LOANABLE ASSETS REQUIRED BEFORE AN ENTITY IS LICENSED TO ENGAGE IN BUSINESS IN THE STATE, TO REVISE THE AMOUNT OF, AND MAXIMUM RATE OF INTEREST FOR, SMALL LOANS, TO ESTABLISH A LOAN PROCESSING FEE FOR CERTAIN LOANS, TO REPEAL OBSOLETE PROVISIONS OF LAW, AND TO MAKE CONFORMING CHANGES.

With a favorable report.

With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations Finance .

With a favorable report, as amended.

With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations Finance .

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 re-referred to the Committee on .)

With a favorable report as to House committee substitute bill (#), which changes the title, unfavorable as to Senate committee substitute bill.

With an unfavorable report.

With recommendation that the House concur.

With recommendation that the House do not concur.

With recommendation that the House do not concur; request conferees.

With recommendation that the House concur; committee believes bill to be material.

With an unfavorable report, with a Minority Report attached.

Without prejudice.

With an indefinite postponement report.

With an indefinite postponement report, with a Minority Report attached.

With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/24/99

MINUTES
HOUSE COMMITTEE ON FINANCIAL INSTITUTIONS
April 27, 1999

The **House Committee on Financial Institutions** met on Tuesday, April 27, 1999, at 1:00 p.m. in Room 415 of the Legislative Office Building. The meeting was called to order by Co-Chairman Walter Church. Co-Chairman Church recognized the following Staff: Mr. Shannon Batten and Ms. Martha Parrish, Sgt.-at-Arms; and Victoria Johnson and Bradford Jones, the pages that were assigned to the meeting. The following members of the committee were present: Co-Chairmen Church and Ramsey, Vice Chairman Wood; members: Reps. Allred, Braswell, Bridgeman, Brubaker, Buchanan, Cole, Davis, Dockham, Justus, Melton, Smith, Tallent, and Tucker.

H.B. 1166 – PROHIBIT ATM SURCHARGES. Co-Chairman Church recognized Rep. Paul Luebke to present the bill. (The Bill Analysis is attached to the minutes.) Rep. Luebke presented a Proposed Committee Substitute for this bill . (A copy of this Committee Substitute is attached to the minutes.) After much discussion, Rep. Buchanan made a motion that this Committee Substitute be sent to a Subcommittee. Co-Chairman Church appointed the following to serve on this Committee: Rep. Smith, Chairman and Reps. Dockham, Cole and Braswell.

Being there was no further business, Co-Chairman Church adjourned the meeting at 1:25 p.m.



Co-Chairman Walter Church, Sr.



Co-Chairman Liston B. Ramsey



Joyce A. Fuller, Committee Assistant



HOUSE BILL 1166: Study Impact of ATM Surcharges.

BILL ANALYSIS

Committee: Financial Institutions
Date: April 27, 1999
Version: PCS to 1st Edition
H1166-CSRO-001

Introduced by: Rep. Luebke
Summary by: Karen Cochrane Brown
Committee Co-Counsel

SUMMARY:

The proposed committee substitute for House Bill 1166 directs the Commissioner of Banks to study the practice of imposing surcharges on the use of automated teller machines.

BILL ANALYSIS:

The proposed committee substitute directs the Commissioner of Banks, in consultation with the Attorney General, to coordinate a study and obtain information on several topics, including:

- The numbers and locations of bank branches and the availability of tellers'
- The number and location of bank operated ATMs;
- The relationship between the surcharge fees assessed to bank customers and nonbank customers and the cost of maintaining the ATM;
- The relationship between the surcharge fee and the amount of the transaction; and
- The feasibility of establishing cooperative networks among banks to reduce costs and eliminate redundant fees.

The Commissioner is instructed to seek equal input from the banking industry and the consuming public, and to the extent practicable, to seek input from diverse segments of the consuming public.

The Commissioner is directed to report to the 2000 Session of the 1999 General Assembly.

The act would become effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H

D

HOUSE BILL 1166
Proposed Committee Substitute
H1166-CSRO-001

ATTENTION: LINE NUMBERS MAY CHANGE AFTER ADOPTION.

Short Title: Study Impact of ATM Surcharges.

(Public)

Sponsors:

Referred to:

April 15, 1999

- 1 A BILL TO BE ENTITLED
2 AN ACT TO DIRECT THE COMMISSIONER OF BANKS TO STUDY THE PRACTICE
3 OF IMPOSING SURCHARGES ON THE USE OF AUTOMATED TELLER MACHINES.
4 The General Assembly of North Carolina enacts:
5 Section 1. The Commissioner of Banks, in consultation
6 with the Attorney General, shall coordinate a study of the
7 increased use of surcharge fees on automatic teller machines by
8 banks. In conducting the study, the Commissioner shall obtain
9 information on the following topics:
10 1. The numbers and locations of bank branches and the
11 availability of tellers;
12 2. The number and location of bank operated ATMs;
13 3. The relationship between the surcharge fees
14 assessed to bank customers and nonbank customers
15 and the cost of maintaining the ATM;
16 4. The relationship between the surcharge fee and the
17 amount of the transaction;
18 5. The feasibility of establishing cooperative
19 networks among banks to reduce costs and eliminate
20 redundant fees.

1 The Commissioner shall seek equal input regarding the topics
2 contained in this study from the banking industry and the
3 consuming public. In addition, to the extent practicable, the
4 Commissioner shall seek input from varying segments of the
5 consuming public, including members from various economic,
6 social, geographic, racial and age groups.

7 The Commissioner shall report his findings and recommendations
8 to the 2000 Session of the 1999 General Assembly on or before its
9 convening date.

10 Section 2. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H

1

HOUSE BILL 1166

Short Title: Prohibit ATM Surcharges.

(Public)

Sponsors: Representatives Luebke; and Hardaway.

Referred to: Financial Institutions.

April 15, 1999

1 A BILL TO BE ENTITLED
2 AN ACT TO PROHIBIT FINANCIAL INSTITUTIONS FROM CHARGING
3 CERTAIN FEES FOR THE USE OF AUTOMATED TELLER MACHINES.
4 The General Assembly of North Carolina enacts:
5 Section 1. G.S. 53-62 is amended by adding a new subsection to read:
6 "(d2) A bank, savings and loan association, savings bank, credit union, or other
7 financial institution that owns, operates, or leases an off-premises terminal, device, or
8 machine authorized by subsection (d1) of this section shall not charge fees to
9 consumers for transactions conducted at the terminal, device, or machine when the
10 transactions are not related to or do not affect accounts held by the financial
11 institution. A violation of this subsection is an unfair and deceptive trade practice in
12 violation of G.S. 75-1.1."
13 Section 2. G.S. 54B-77(a)(1) reads as rewritten:
14 "(1) Establish off the premises of any principal office or branch a
15 customer communications terminal, point-of-sale terminal,
16 automated teller machine, automated or other direct or remote
17 information-processing device or ~~machine, whether manned or~~
18 ~~unmanned,~~ machine through or by means of which funds or
19 information relating to any financial service or transaction
20 rendered to the public is stored and transmitted, instantaneously or
21 otherwise to or from an association terminal or terminals
22 controlled or used by or with other ~~parties;~~ parties. The device or
23 machine may be manned or unmanned and the establishment and
24 use of such a device or machine shall not be deemed to constitute

1 a branch office and the capital requirements and standards for
2 approval of a branch office as set forth in the statutes and
3 ~~regulations, rules and~~ shall not be applicable to the establishment
4 of any ~~such~~ off-premises terminal, device or ~~machine, and~~
5 ~~associations~~ machine. Associations may through mutual consent
6 share on-premises unmanned automated teller machines and cash
7 dispensers. The Administrator may ~~prescribe~~ adopt rules and
8 ~~regulations~~ with regard to the application for permission for use,
9 maintenance and supervision of ~~said~~ terminals, devices and
10 ~~machines; machines, except that no association that owns, operates,~~
11 ~~or leases an off-premises terminal, device, or machine may charge~~
12 ~~a fee to consumers for transactions conducted at off-premises~~
13 ~~terminals, devices, or machines when the transactions are not~~
14 ~~related to or do not affect accounts held by the association and any~~
15 ~~association that charges such a fee is in violation of the Unfair and~~
16 ~~Deceptive Trade Practice Act, G.S. 75-1.1."~~

17 Section 3. G.S. 54C-146(a)(1) reads as rewritten:

18 "(1) Establish off the premises of any principal office or branch a
19 customer communications terminal, point of sale terminal,
20 automated teller machine, automated or other direct or remote
21 information processing device or machine, whether manned or
22 unmanned, through or by means of which funds or information
23 relating to any financial service or transaction rendered to the
24 public is stored and transmitted, instantaneously or otherwise to or
25 from a savings bank terminal or terminals controlled or used by or
26 with other parties. The establishment and use of a device or
27 machine is not deemed to constitute a branch office, and the
28 capital requirements and standards for approval of a branch office
29 as set forth in the statutes and regulations are not applicable to the
30 establishment of any off-premises terminal, device or machine.
31 Savings banks may, through mutual consent, share on-premises,
32 unmanned, automated teller machines and cash dispensers. No
33 savings bank that owns, operates, or leases an off-premises
34 terminal, device, or machine may charge a fee to consumers for
35 transactions conducted at off-premises terminals, devices, or
36 machines when the transactions are not related to or do not affect
37 accounts held by the bank and any bank that charges such a fee is
38 in violation of the Unfair and Deceptive Trade Practice Act, G.S.
39 75-1.1."

40 Section 4. G.S. 53-180 is amended by adding a new subsection to read:

41 "(k) A bank, savings and loan association, savings bank, credit union, or other
42 financial institution that owns, operates, or leases an off-premises terminal, device, or
43 machine authorized by G.S. 53-62, 54B-77, or 54C-146 shall not charge fees to
44 consumers for transactions conducted at the terminal, device, or machine when the

1 transactions are not related to or do not affect accounts held by the financial
2 institution. A violation of this subsection is an unfair and deceptive trade practice in
3 violation of G.S. 75-1.1."

4 Section 5. This act becomes effective October 1, 1999.

MINUTES
HOUSE COMMITTEE ON FINANCIAL INSTITUTIONS
May 5, 1999

The **House Committee on Financial Institutions** met on Wednesday, May 5, 1999, at 10:00 a.m. in Room 1425 of the State Legislative Building. The meeting was called to order by Co-Chairman Walter Church, Sr. Co-Chairman Church recognized the Sgt.-at-Arms and the pages who were assigned to the meeting. The following Members of the Committee were present: Co-Chairmen Church and Liston Ramsey; Members: Reps. Brubaker, Davis, Gardner, Grady, Justus, McAllister, Melton, Michaux, Smith and Tucker.

Co-Chairman Church requested that Co-Chairman Ramsey preside so that he could explain **S.B. 417 – Letters of Credit Collateral** in the absence of Senator Charles Carter. After some discussion, Rep. Don Davis moved that **S.B. 417 be given a FAVORABLE REPORT. The motion was seconded and carried. S.B. 417 – FAVORABLE.**

Co-Chairman Church recognized Mr. McNeill Chestnut with the Attorney General's Office/Commissioner of Banks who explained **S.B. 790 – Clarify Certain Contract Loan Fees** in the absence of Senator Ed Warren. Discussion followed. Rep. Ronnie Smith moved that **S.B. 790 be given a FAVORABLE REPORT. The motion was seconded by Rep. Harold Brubaker and carried. S.B. 790 – FAVORABLE.**

Co-Chairman Ramsey recognized Co-Chairman Church who explained **S.B. 939 – Banking Law Revisions** in the absence of Senator R. C. Soles. Rep. Smith moved that **S.B. 939 be given a FAVORABLE REPORT. The motion was seconded by Rep. Brubaker and carried. S.B. 939 – FAVORABLE.**

There being no further business, Co-Chairman Church adjourned the meeting at approximately 10:25 a.m.


Co-Chairman Walter Church, Sr.


Co-Chairman Liston B. Ramsey


Dot H. Barber, Committee Assistant

FINANCIAL INSTITUTIONS

MAY 5, 1999

ROOM 1425

10:00 A.M..

CALL TO ORDER

INTRODUCTION OF PAGES

BILLS TO BE CONSIDERED:

SENATE BILL #417 – LETTERS OF CREDIT COLLATERAL

SENATE BILL #939 – BANKING LAW REVISIONS

SENATE BILL #790 – CLARIFY CERTAIN CONTRACT LOAN FEES

ADJOURNMENT

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S

1

SENATE BILL 417

Short Title: Letters of Credit Collateral.

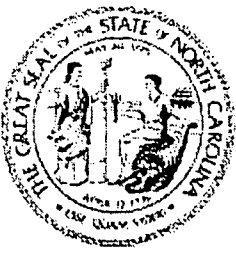
(Public)

Sponsors: Senators Carter, Soles; Ballance, Clodfelter, Dalton, Dannelly, Garrou, Hagan, Lucas, Metcalf, Odom, Plyler, Purcell, Weinstein, and Wellons.

Referred to: Commerce.

March 18, 1999

1 A BILL TO BE ENTITLED
2 AN ACT TO AUTHORIZE THE USE OF LETTERS OF CREDIT FROM A
3 FEDERAL HOME LOAN BANK AS COLLATERAL FOR DEPOSITS OF
4 LOCAL GOVERNMENTS AND PUBLIC AUTHORITIES.
5 The General Assembly of North Carolina enacts:
6 Section 1. G.S. 159-31(b) reads as rewritten:
7 "(b) The amount of funds on deposit in an official depository or deposited at
8 interest pursuant to G.S. 159-30(b) shall be secured by deposit insurance, surety
9 bonds, letters of credit issued by a Federal Home Loan Bank, or investment securities
10 of such nature, in a sufficient amount to protect the local government or public
11 authority on account of deposit of funds made therein, and in such manner, as may
12 be prescribed by rule or regulation of the Local Government Commission. When
13 deposits are secured in accordance with this subsection, no public officer or employee
14 may be held liable for any losses sustained by a local government or public authority
15 because of the default or insolvency of the depository. No security is required for the
16 protection of funds remitted to and received by a bank, savings and loan association,
17 or trust company acting as fiscal agent for the payment of principal and interest on
18 bonds or notes, when the funds are remitted no more than 60 days prior to the
19 maturity date."
20 Section 2. This act is effective when it becomes law.



SENATE BIL 417: Letters of Credit Collateral

BILL ANALYSIS

Committee: House Financial Institutions
Date: May 5, 1999
Version: First Edition

Introduced by: Sen. Carter
Summary by: O. Walker Reagan,
Committee Co-Counsel

SUMMARY: *Senate Bill 417 would permit the Local Government Commission to allow letters of credit issued by a Federal Home Loan Bank to serve as collateral for local government funds on deposit with banks and other financial institutions.*

CURRENT LAW: Current law permits local government funds to be deposited in banks, savings and loan associations, or trust companies in this State, or national banks in another state under certain circumstances, where the accounts are secured by deposit insurance, surety bonds or investment securities of such nature and in sufficient amount to protect the local government on account of the funds deposited. No local government official is liable for any loss of funds deposited into an account secured as provided for in this statute. The Local Government Commission has the authority to adopt rules to establish what types and amounts of collateral are proper under this statute.

BILL ANALYSIS: Senate Bill 417 would expand the types of acceptable collateral for local government deposits to include letters of credit issued by Federal Home Loan Banks.

BACKGROUND: Federal Home Loan Banks (FHLB's) are privately capitalized, cooperative government-sponsored enterprises created by Congress in 1932. See 12 USC 1421 et. seq. They are self-supporting, profit-making organizations that do not receive any taxpayer assistance. The Federal Home Loan Banks are the largest suppliers of home mortgage credit in the United States. The member-stockholders of a FHLB are commercial banks, savings institutions, credit unions, and insurance companies. The FHLB's raise funds by issuing debt instruments in the capital markets. The consolidated debt of the FHLB is triple A according to Moody's and Standard and Poor's. (Source: Federal Home Loan Banks System, 1998).

EFFECTIVE DATE: The bill becomes effective when it becomes law.

S417-SMRU-002

NORTH CAROLINA BANKERS ASSOCIATION



ESTABLISHED 1897

P. O. BOX 19999 / RALEIGH, NC 27619-1999

e-mail: staff@ncbankers.org

(919) 781-7979 / FAX: (919) 881-9909

TOLLFREE: (800) 662-7044

EXPLANATION OF SENATE BILL 417

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE USE OF LETTERS OF CREDIT FROM A FEDERAL HOME LOAN BANK AS COLLATERAL FOR PUBLIC UNIT DEPOSITS.

State law requires that deposits made by the state or local units of government be collateralized to the extent they are not covered by federal deposit insurance (generally, amounts over \$100,000). Under current law (G.S. § 59-31(b)), only investment securities and surety bonds may be used as collateral. The Office of the State Treasurer administers this program.

For most banks and savings institutions, using securities presents a substantial administrative burden. Changes in the market often force them to buy and sell the securities. When this happens, the securities sold from the collateral pool must be replaced with those bought. The Federal Home Loan Bank (FHLB) System was established by Congress to support financial institutions in their home-lending efforts. Originally only savings institutions participated in the FHLB System. In 1989, FHLB membership was opened to banks and credit unions as well.

Authorizing use of FHLB letters of credit as collateral for public deposits would (1) maintain the security of public funds; (2) provide an alternative method of providing collateral that is less burdensome administratively; and (3) encourage more lenders to compete for public funds. Senate Bill 417 has the full support of the North Carolina Bankers Association and we respectfully urge your favorable vote on the bill.

The State Treasurer's Office has indicated that it has no problem with this proposal.

**1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES**

The following report(s) from standing committee(s) is/are presented:

By Representative(s) **Church and Ramsey** for the Committee on **Financial Institutions**.

- Committee Substitute for
S.B. 417 A BILL TO BE ENTITLED AN ACT TO AUTHORIZE THE USE OF LETTERS
OF CREDIT FROM A FEDERAL HOME LOAN BANK AS COLLATERAL FOR
DEPOSITS OF LOCAL GOVERNMENTS AND PUBLIC AUTHORITIES.
- With a favorable report.
- With a favorable report and recommendation that the bill be re-referred to the Committee on
Appropriations Finance .
- With a favorable report, as amended.
- With a favorable report, as amended, and recommendation that the bill be re-referred to the
Committee on Appropriations Finance .
- 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 re-referred to the Committee on .)
- With a favorable report as to House committee substitute bill (#), which changes
the title, unfavorable as to Senate committee substitute bill.
- With an unfavorable report.
- With recommendation that the House concur.
- With recommendation that the House do not concur.
- With recommendation that the House do not concur; request conferees.
- With recommendation that the House concur; committee believes bill to be material.
- With an unfavorable report, with a Minority Report attached.
- Without prejudice.
- With an indefinite postponement report.
- With an indefinite postponement report, with a Minority Report attached.
- With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/24/99

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S

1

SENATE BILL 790

Short Title: Clarify Certain Contract Loan Fees.

(Public)

Sponsors: Senator Soles.

Referred to: Commerce.

April 7, 1999

1 A BILL TO BE ENTITLED
2 AN ACT TO CLARIFY WHICH LENDERS MAY CHARGE CERTAIN FEES
3 UNDER THE GENERAL CONTRACT LOAN PROVISION OF CHAPTER 24
4 OF THE GENERAL STATUTES.

5 The General Assembly of North Carolina enacts:

6 Section 1. G.S. 24-1.1 reads as rewritten:

7 "**§ 24-1.1. Contract rates and fees.**

8 (a) Except as otherwise provided in this Chapter or other applicable law, the
9 parties to a loan, purchase money loan, advance, commitment for a loan or
10 forbearance other than a credit card, open-end, or similar loan may contract in
11 writing for the payment of interest not in excess of:

12 (1) Where the principal amount is twenty-five thousand dollars
13 (\$25,000) or less, the rate set under subsection (c) of this section;
14 or

15 (2) Any rate agreed upon by the parties where the principal amount is
16 more than twenty-five thousand dollars (\$25,000).

17 (b) As used in this section, interest shall not be deemed in excess of the rates
18 provided where interest is computed monthly on the outstanding principal balance
19 and is collected not more than 31 days in advance of its due date. Nothing in this
20 section shall be construed to authorize the charging of interest on committed funds
21 prior to the disbursement of said funds.

22 (c) On the fifteenth day of each month, the Commissioner of Banks shall
23 announce and publish the maximum rate of interest permitted by subdivision (1) of
24 subsection (a) of this section on that date. Such rate shall be the latest published

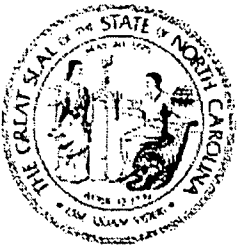
1 noncompetitive rate for U.S. Treasury bills with a six-month maturity as of the
2 fifteenth day of the month plus six percent (6%), rounded upward or downward, as
3 the case may be, to the nearest one-half of one percent (1/2 of 1%) or sixteen percent
4 (16%), whichever is greater. If there is no nearest one-half of one percent (1/2 of
5 1%), the Commissioner shall round downward to the lower one-half of one percent
6 (1/2 of 1%). The rate so announced shall be the maximum rate permitted for the
7 term of loans made under this section during the following calendar month when the
8 parties to such loans have agreed that the rate of interest to be charged by the lender
9 and paid by the borrower shall not vary or be adjusted during the term of the loan.
10 The parties to a loan made under this section may agree to a rate of interest which
11 shall vary or be adjusted during the term of the loan in which case the maximum rate
12 of interest permitted on such loans during a month during the term of the loan shall
13 be the greater of the rate announced by the Commissioner in (i) the preceding
14 calendar month or (ii) the calendar month preceding that in which the rate is varied
15 or adjusted.

16 (d) Any lender bank or savings institution organized under the law of North
17 Carolina or of the United States may charge a party to a loan or extension of credit
18 governed by this section a fee for the modification, renewal, extension, or amendment
19 of any terms of the loan or extension of credit, such fee not to exceed the greater of
20 one-quarter of one percent (1/4 of 1%) of the balance outstanding at the time of the
21 modification, renewal, extension, or amendment of terms, or fifty dollars (\$50.00).

22 (e) Any lender bank or savings institution organized under the law of North
23 Carolina or of the United States may charge a party to a loan or extension of credit
24 not secured by real property governed by this section an origination fee not to exceed
25 the greater of one-quarter of one percent (1/4 of 1%) of the outstanding balance or
26 fifty dollars (\$50.00).

27 (f) This section shall not be construed to limit fees on loans or extensions of credit
28 in excess of three hundred thousand dollars (\$300,000)."

29 Section 2. This act becomes effective October 1, 1999.



SENATE BILL 790: Clarify Certain Contract Loan Fees.

BILL ANALYSIS

Committee: House Financial Institutions
Date: May 5, 1999
Version: First Edition

Introduced by: Senator Soles
Summary by: O. Walker Reagan,
Committee Co-Counsel

SUMMARY: *Senate Bill 790 would limit to banks and savings institutions the types of lenders that are permitted to charge fees for loan modifications, renewals, extensions or amendments, and loan origination fees for non-real estate loans.*

CURRENT LAW: G.S. 24-1.1(d) currently permits any lender of loans not in excess of \$300,000 to charge a fee for a loan modification, renewal, extension, or amendment not to exceed the greater of 1/4% of the loan amount or \$50. G.S. 24-1.1(e) currently permits any lender of loans not in excess of \$300,000 not secured by real estate to charge a loan origination fee not to exceed the greater of 1/4% of the loan amount or \$50.

BILL ANALYSIS: Senate Bill 790 would limit the types of lending institution to banks and saving institutions that would be permitted to charge loan modification, renewal, extension or amendment fees, or loan origination fees on non-real estate loans, for loans not in excess of \$300,000.

EFFECTIVE DATE: The bill becomes effective October 1, 1999.

S790-SMRU-002

Summary of SB 790
Short Title: Clarify Certain Loan Contract Fees

SB 790 clarifies that the loan origination and modification fees allowed by G.S. § 24-1.1(d) and (e) are available to institutional lenders only and are not to be used by unlicensed lenders to evade the restrictions of the Consumer Finance Act and the Check Cashing Act.

G.S. § 24.1.1(d) and (e) were added to usury laws of North Carolina in the 1991 session in order to encourage banks to make smaller loans and to allow banks to offset the cost of setting up or modifying the terms of these loans. Subsection (d) authorizes a loan modification, renewal, extension or amendment fee in the amount of 1/4 of 1% of the loan balance, or \$50, whichever is greater; and subsection (e) authorizes an origination fee for loans not secured by real estate in the amount of 1/4 of 1% of the outstanding balance, or \$50, whichever is greater.

In the last year, certain unlicensed nonbank lenders have been offering small loans in the range of \$100 to \$300 which are repayable in 30 days and which are secured by possession of the borrower's motor vehicle title -- a practice known as "title pawning" or "title lending." The customer is charged a \$50 origination fee on the loan in addition to the maximum rate of interest of 16%. The loans may be renewed or "rolled over" at the end of the repayment period for yet another \$50 charge. A copy of an actual contract for a title loan of \$100 with an origination fee of \$50 and a disclosed annual percentage rate of 624% is attached.

SB 790 clarifies that the loan fees authorized in G.S. § 24-1.1(d) and (e) are intended for standard loan transactions entered into by banking institutions operating under state or federal law. This bill will close an unintended loophole that unlicensed lenders can exploit to evade our consumer finance laws and to impose oppressive rates and terms on North Carolina borrowers.

We urge your favorable consideration of the bill.

L. McNeil Chestnut
Assistant Attorney General
Counsel to the Commissioner of Banks

Philip A. Lehman
Assistant Attorney General
Consumer Protection Section

DISCLOSURE STATEMENT, NOTE, AND SECURITY AGREEMENT

BORROWER (Called "you" or "your") ADDRESS: [REDACTED] LENDER (Called "we" or "us")
 [REDACTED] CAROLINA TITLE LOANS, INC.
 1056 PATTON AVENUE
 ASHEVILLE, NC 28806

CO-BORROWER: [REDACTED] Asheville NC 28806

DATE OF LOAN: 12/4/98 ACCOUNT #: 1075D

LOAN AMOUNT: 100.00
 ORIGINATION FEE: \$50.00
 TOTAL AMOUNT FINANCED: 150.00
 INTEREST 16% PER YEAR: 2.00
 AMOUNT PAID TO YOU: 100.00

ANNUAL PERCENTAGE RATE The cost of your credit as a yearly rate	FINANCE CHARGE The dollar amount the credit will cost you.	Amount Financed The amount of credit provided to you or on your behalf.	Total of Payments The amount you will have paid after you have made all payments as scheduled.
6.24 %	\$ 52.00	\$ 150.00	\$ 152.00

PAYMENT SCHEDULE - Payments are payable weekly as follows:

1st Pmt. Date 12/11 at \$ 38.00 2nd Pmt. Date 12/18 at \$ 38.00 3rd Pmt. Date 12/25 at \$ 38.00 4th Pmt. Date 1/1 at \$ 38.00

PREPAYMENT: If you pay off early, you will not have to pay a penalty. You will not be entitled to a rebate of the prepaid finance charge.
 SECURITY: You are giving a security interest in your motor vehicle as described below.
 See below for additional information about non-payment, default, any required repayment of your indebtedness in full before the scheduled date, and security interests.

THIS LOAN IS FOR 30 DAYS OR LESS AND MAY NOT BE RENEWED.

The finance charge shown above is an estimated amount based on the assumption that the loan will be repaid according to the terms of the loan.
 The Principal Balance is the sum of the Amount Financed stated above plus an origination fee of \$50.00.

AGREED RATE OF INTEREST: Interest will be charged and collected at the rate of 16% per year.

REPAYMENT: Borrower(s) promises to pay to the above named Lender the principal balance, together with interest on the amount financed at the Agreed Rate of Interest stated above in consecutive weekly payments beginning on the first payment date stated above and continuing on the same day of each week until the last payment date stated above. Each payment shall be applied first to interest to date of actual payment and remainder to principal. Borrower(s) may pay this loan in whole or in part prior to its maturity. No portion of the origination fee will be refunded.

SECURITY FOR THIS LOAN: Borrower(s) hereby grants to Lender a security interest in property described below. This security interest is subject to the provisions in the sections concerning Insurance and Repossession below.

MOTOR VEHICLE: YEAR 85 MAKE Chevy MODEL Sportvan
 VIN: [REDACTED] TITLE #: [REDACTED]

FAILURE TO PAY: You will be in default if you fail to pay any payment or part of a payment on time or if you do not follow any of the terms of this agreement. If you default, we have the right to declare the entire balance of this agreement immediately due and payable. We can also repossess the automobile.

RETURNED CHECK FEE: Borrower(s) will be charged a \$25.00 fee for any check returned by a bank because of insufficient funds or because no account existed at the bank.

INSURANCE: The Borrower(s) will provide insurance against loss of or damage to the property as the Lender may reasonably require.

LATE CHARGES: If we receive any payment 15 days or more after the due date, you will be charged an additional 4% late fee of the payment.

Borrower(s) acknowledge receipt of a completely filled-in copy of this loan agreement as required by law.

[Signature] (CAROLINA TITLE LOANS, INC. - AGENT) [Signature] (BORROWER) [Signature] (BORROWER)

CAROLINA TITLE LOAN, INC.
 1056 PATTON AVE.
 ASHEVILLE, NC 28806 (3)

**1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES**

The following report(s) from standing committee(s) is/are presented:

By Representative(s) **Church and Ramsey** for the Committee on **Financial Institutions**.

Committee Substitute for

S.B. 790 A BILL TO BE ENTITLED AN ACT TO CLARIFY WHICH LENDERS MAY CHARGE CERTAIN FEES UNDER THE GENERAL CONTRACT LOAN PROVISION OF CHAPTER 24 OF THE GENERAL STATUTES.

With a favorable report.

With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations Finance .

With a favorable report, as amended.

With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations Finance .

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 re-referred to the Committee on .)

With a favorable report as to House committee substitute bill (#), which changes the title, unfavorable as to Senate committee substitute bill.

With an unfavorable report.

With recommendation that the House concur.

With recommendation that the House do not concur.

With recommendation that the House do not concur; request conferees.

With recommendation that the House concur; committee believes bill to be material.

With an unfavorable report, with a Minority Report attached.

Without prejudice.

With an indefinite postponement report.

With an indefinite postponement report, with a Minority Report attached.

With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/24/99

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S

1

SENATE BILL 939

Short Title: Banking Law Revisions.

(Public)

Sponsors: Senators Warren, Soles; Cooper, Gulley, Hoyle, Martin of Guilford, Perdue, and Rand.

Referred to: Commerce.

April 14, 1999

1 A BILL TO BE ENTITLED
2 AN ACT TO REVISE THE REQUIREMENTS OF BANK DIRECTORS, TO
3 CONFORM CERTAIN NORTH CAROLINA BANKING LAWS TO FEDERAL
4 BANKING REGULATIONS, AND TO REMOVE THE SUNSET PROVISION
5 WITH REGARD TO DE NOVO INTERSTATE BRANCH BANKING.
6 The General Assembly of North Carolina enacts:
7 Section 1. G.S. 53-80 reads as rewritten:
8 "**§ 53-80. Qualifications of directors.**
9 Every director of a bank doing business under this Chapter shall be the owner and
10 holder of shares of stock in the bank representing not less than one thousand dollars
11 (\$1,000) book value as of the last business day of the calendar year immediately prior
12 to the election of such director. For the purpose of this section, book value shall
13 consist of common capital stock, unimpaired surplus, undivided profits, and reserves
14 for contingencies if any such reserves are segregations of capital. Where directors are
15 appointed during the interval between stockholders' meetings pursuant to the
16 provisions of G.S. 53-67, such directors shall hold the required qualifying shares as of
17 the time of their appointment. Notwithstanding the proviso at the end of this section,
18 where the bank is a wholly owned subsidiary, the required qualifying shares shall be
19 shares in the parent corporation, whether or not the bank was doing business before
20 February 18, 1921. And every such director shall hold ~~such~~ the shares in ~~his~~ the
21 director's own name unpledged and unencumbered in any way. Provided, however,
22 shares of the bank or parent corporation stock held in an individual retirement
23 account or other retirement account of a bank director, over which the director has

1 investment authority, shall be considered qualifying shares for the purpose of this
2 section. The office of any director at any time violating any of the provisions of this
3 section shall immediately become vacant, and the remaining directors shall declare
4 his that director's office vacant and proceed to fill such vacancy forthwith. Not less
5 than ~~three-fourths~~ one-half of the directors of every bank doing business under this
6 Chapter shall be residents of the State of North Carolina: Provided, that as to banks
7 doing business before February 18, 1921, the requirements as to amount of stock
8 owned by a director shall not apply unless the Commissioner of Banks shall rule that
9 such the director is not bona fide discharging his the director's duties."

10 Section 2. G.S. 53-91.2 reads as rewritten:

11 "**§ 53-91.2. Loans to executive officers.**

12 No bank may extend credit to any of its executive officers nor a firm or
13 partnership of which such executive officer is a member, nor a company in which
14 such executive officer owns a controlling interest, unless the extension of credit is
15 made on substantially the same terms, including interest rates and collateral, as those
16 prevailing at the time for comparable transactions by the bank with persons who are
17 not employed by the bank, and provided further that the extension of credit does not
18 involve more than the normal risk of repayment. This general prohibition shall not
19 prevent an executive officer from obtaining loans on terms and conditions that are
20 available to all employees of the bank. For the purposes of this section, the term
21 "executive officer" shall mean an officer who has authority to participate in major
22 policy-making functions of the bank. Provided further, the maximum amount of such
23 loans shall be that as prescribed by applicable federal banking regulations."

24 Section 3. G.S. 53-224.14 reads as rewritten:

25 "**§ 53-224.14. Requirement of notice and other conditions.**

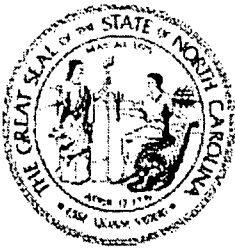
26 (a) An out-of-state bank desiring to establish and maintain a de novo branch or to
27 acquire a branch in this State shall provide written notice of the proposed transaction
28 to the Commissioner not later than the date on which the bank applies to the
29 responsible federal bank supervisory agency for approval to establish or acquire the
30 branch. The filing of such notice shall be accompanied by the filing fee prescribed by
31 the Commissioner by regulation.

32 (b) The out-of-state bank shall comply with the applicable requirements of Article
33 15 of Chapter 55 of the North Carolina General Statutes.

34 (c) ~~Prior to June 1, 1999, an~~ An out-of-state bank may establish and maintain a de
35 novo branch or may establish and maintain a branch through acquisition of a branch
36 if:

- 37 (1) In the case of a de novo branch, the laws of the home state of the
38 out-of-state bank permit North Carolina banks to establish and
39 maintain de novo branches in that state under substantially the
40 same terms and conditions as herein set forth; and
- 41 (2) In the case of a branch established through the acquisition of a
42 branch, the laws of the home state of the out-of-state bank permit
43 North Carolina banks to establish and maintain branches in that

1 state through the acquisition of branches under substantially the
2 same terms and conditions as herein set forth."
3 Section 4. This act is effective when it becomes law.



SENATE BILL 939: Banking Law Revisions.

BILL ANALYSIS

Committee: House Financial Institutions
Date: May 5, 1999
Version: First Edition

Introduced by: Senators Warren and Soles
Summary by: O. Walker Reagan,
Committee Co-Counsel

SUMMARY: *Senate Bill 939 makes several changes to the banking law applicable to State charter banks, including allowing bank stock held in an IRA or other retirement account to count towards bank ownership required for a bank director, decreasing the number of bank directors required to be North Carolina residents, allowing bank loans to be made to a bank executive officer the same as to other bank employees, and removing the sunset on the law which requires reciprocity between states in order for an out-of-state bank to establish a branch of the bank in North Carolina by the acquisition of a branch bank without first establishing a bank in the State.*

CURRENT LAW: Current law requires that each bank directors hold in his or her own name at least \$1000 in book value of a bank's stock, unpledged and unencumbered, in order to be qualified to serve on the bank's board of directors. Current law also requires that three-fourths of the bank directors be residents of the State. Current law only permits a bank to loan its own executive officers on the same terms and conditions that it makes loans to persons not employed by the bank. Current law allowing an out-of-state bank to establish a de novo branch bank (a branch bank with out a NC parent bank) in North Carolina through the acquisition of a branch bank requires reciprocity by the home state of the out-of-state bank. This reciprocity requirement expires June 1, 1999.

BILL ANALYSIS: Section 1 of the bill will allow the stock of a bank held by a bank director in an individual retirement account or other retirement account over which the director has investment authority to count towards the \$1000 of bank stock necessary to qualify as a director. This section would also lower the percentage of the bank board of directors required to be North Carolina residents from three-fourths to one-half.

Section 2 would provide that the restriction on banks making loans to their own executive officers not applicable to loans made on the same terms and conditions that are available to all employees of the bank.

Section 3 would repeal the June 1, 1999 sunset on the reciprocity requirement for permitting de novo branches of an out-of-state bank in North Carolina to be created by the acquisition of an existing branch bank in the State, thereby allowing reciprocity requirement to become permanent.

EFFECTIVE DATE: This bill becomes effective when it becomes law.

S939-SMRU-002

Senate Commerce Committee -- April 15, 1999
Explanation of Senate Bill 939
Short Title: Banking Law Revisions

This bill was requested by the Commissioner of Banks in cooperation with the North Carolina Bankers Association to revise and update a three sections of the North Carolina banking law.

- Section 1.** State banking law requires every director to own, in his or her name and unencumbered, \$1000 in book value of a bank's stock. G.S. § 53-80 has been rewritten to provide that shares held in an IRA, or other retirement account over which the director has investment discretion, will count toward the "qualified shares of stock." Also, this section has been amended to reduce from three-quarters to one-half the number of bank directors that must be North Carolina residents.
- Section 2.** G.S. § 53-91.2, the provision for loans to executive officers, has been amended to conform it to Regulation O, issued by the Federal Reserve Board and the FDIC. It provides that executive officers may obtain loans on the terms and conditions that are available to all employees of a bank without violating the law.
- Many banks offer loan programs on favorable terms and conditions to employees. This revision ensures that executive officers may participate in those employee programs.
- Section 3.** Currently, an out-of-state bank may not put a new branch in North Carolina unless banks here are permitted that privilege in a host state. The sunset on this reciprocity requirement will expire on June 1, 1999. Section three amend GS§ 53-224.14(c) to remove the sunset so as to place banks in our state on a level playing field with out-of-state banks.
- Section 4.** Sections four provides that the bill is effective upon ratification.

Prepared By:
McNeil Chestnut
Assistant Attorney General

Requested By:
Rep. Church

**1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES**

The following report(s) from standing committee(s) is/are presented:

By Representative(s) **Church and Ramsey** for the Committee on **Financial Institutions**.

Committee Substitute for

S.B. 939 A BILL TO BE ENTITLED AN ACT TO REVISE THE REQUIREMENTS OF BANK DIRECTORS, TO CONFORM CERTAIN NORTH CAROLINA BANKING LAWS TO FEDERAL BANKING REGULATIONS, AND TO REMOVE THE SUNSET PROVISION WITH REGARD TO DE NOVO INTERSTATE BRANCH BANKING.

- With a favorable report.
- With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations Finance .
- With a favorable report, as amended.
- With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations Finance .
- 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 re-referred to the Committee on .)
- With a favorable report as to House committee substitute bill (#), which changes the title, unfavorable as to Senate committee substitute bill.
- With an unfavorable report.
- With recommendation that the House concur.
- With recommendation that the House do not concur.
- With recommendation that the House do not concur; request conferees.
- With recommendation that the House concur; committee believes bill to be material.
- With an unfavorable report, with a Minority Report attached.
- Without prejudice.
- With an indefinite postponement report.
- With an indefinite postponement report, with a Minority Report attached.
- With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/24/99

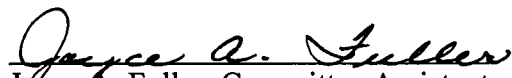
MINUTES
HOUSE COMMITTEE ON FINANCIAL INSTITUTIONS
JUNE 23, 1999

The **House Committee on Financial Institutions** met on Wednesday, June 23, 1999, at 10:00 a.m. in room 1425 of the State Legislative Building. The meeting was called to order by Co-Chairman Walter Church, Sr. Co-Chairman Church recognized the Sgt.-at-Arms and the pages who were assigned to the meeting. The following members of the committee were present: Co-Chairman Church; Reps. Bridgeman, Buchanan, Cole, Davis, Grady, Justus, McAllister, McLawhorn, Melton, Smith, Tallent, and Tucker.

Co-Chairman Church recognized Mr. Walker Reagan, Committee Co-Counsel, to explain **S. B. 1143 – Contracts Continued/European Union**. Rep. Monroe Buchanan presented an amendment to S.B. 1143. This amendment moves to amend the bill on page 2, lines 6 and 11, by deleting the word “council” and substituting the word “Council” (see attachment). Discussion followed. Rep. Ronnie Smith moved that **S.B. 1143 be given a favorable report for committee substitute bill and unfavorable to original bill**. The motion was seconded and carried. **S.B. 1143 – FAVORABLE REPORT AS TO HOUSE COMMITTEE SUBSTITUTE BILL, UNFAVORABLE AS TO ORIGINAL BILL.**

There being no further business, Co-Chairman Church adjourned the meeting at approximately 10:20 a.m.


Co-Chairman Walter Church, Sr.


Joyce A. Fuller, Committee Assistant

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S

2

SENATE BILL 1143
Second Edition Engrossed 4/28/99

Short Title: Contracts Continue/Euro. Union.

(Public)

Sponsors: Senators Warren; Carpenter, Carrington, Cochrane, Dalton, Forrester, Garrou, Garwood, Harris, Horton, Hoyle, Kerr, Kinnaird, Metcalf, Moore, Rand, Robinson, Soles, Weinstein, and Wellons.

Referred to: Commerce.

April 15, 1999

1 A BILL TO BE ENTITLED
2 AN ACT TO PROVIDE FOR THE CONTINUITY OF CONTRACTS UNDER
3 THE MONETARY UNION IN MEMBER STATES OF THE EUROPEAN
4 UNION.

5 The General Assembly of North Carolina enacts:

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

8 "ARTICLE 23.

9 "Continuity of Contract Under European Monetary Union.

10 "§ 53-295. Definitions.

11 The following definitions shall apply in this Article:

12 (1) Euro. -- The currency of participating member states of the
13 European Union that adopt a single currency in accordance with
14 the Treaty on European Union dated February 7, 1992.

15 (2) European Currency Unit (ECU). -- The currency as defined in the
16 European Council regulation number 3320/94.

17 (3) Introduction of the Euro. -- The implementation of economic and
18 monetary union of member states of the European Union in
19 accordance with the Treaty on European Union dated February 7,
20 1992.

21 "§ 53-296. Continuity of contract.

1 (a) If a subject of medium of payment of a contract, security, or instrument is a
2 currency that has been substituted or replaced by the euro, the euro shall be a
3 commercially reasonable substitute and substantial equivalent that may either be used
4 in determining the value of that currency, or tendered at the conversion rate specified
5 in and otherwise calculated in accordance with the regulations adopted by the
6 council of the European Union.

7 (b) If a subject or medium of payment of a contract, security, or instrument is the
8 ECU, the euro will be a commercially reasonable substitute and substantial equivalent
9 that may be either used in determining the value of that currency, or tendered at the
10 conversion rate specified in and otherwise calculated in accordance with the
11 regulations adopted by the council of the European Union.

12 (c) Performance of any of the obligations described in subsections (a) or (b) may
13 be made in the currencies originally designated in the contract, security, or
14 instrument, so long as the currencies remain legal tender, or in euro, but not in any
15 other currency, whether or not the currency has been substituted or replaced by the
16 euro, or is a currency that is considered a denomination of the euro and has a fixed
17 conversion rate with respect to the euro.

18 **"§ 53-297. Effect of currency substitution on performance.**

19 None of the following shall have the effect of discharging or excusing performance
20 under any contract, security, or instrument, or give a party the right unilaterally to
21 alter or terminate any contract, security, or instrument:

22 (1) Introduction of the euro.

23 (2) Tender of euros in connection with any obligation in compliance
24 with G.S. 53-296.

25 (3) Determination of the value of any obligation in compliance with
26 G.S. 53-296.

27 (4) Calculation or determination of the subject or medium of payment
28 of a contract, security, or instrument with reference to an interest
29 rate or other basis that has been substituted or replaced due to the
30 introduction of the euro and that is a commercially reasonable
31 substitute and substantial equivalent.

32 **"§ 53-298. References to ECU in contracts.**

33 (a) References to the ECU in a contract, security, or other instrument that also
34 refers in substance to the definition of the ECU as set forth in G.S. 53-295 shall be
35 replaced by references to the euro at a rate of one euro to one ECU.

36 (b) References to the ECU in a contract, security, or instrument without a
37 definition as set forth in G.S. 53-295 shall be presumed, rebuttable by proof of the
38 contrary intention of the parties, to be references to the currency basket that is from
39 time to time used as the unit of account of the European community.

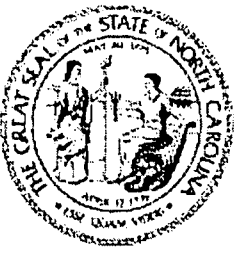
40 **"§ 53-299. Application.**

41 Notwithstanding any other law, this Article shall apply to all contracts, securities,
42 and instruments, including contracts with respect to commercial transactions.

43 **"§ 53-300. No application to other currency alteration.**

1 In circumstances of currency alteration other than the introduction of the euro, this
2 Article shall not be interpreted as creating any negative inference or negative
3 presumption regarding the validity or enforceability of contracts, securities, or
4 instruments denominated in whole or in part in a currency affected by that
5 alteration."

6 Section 2. This act is effective when it becomes law and applies to
7 contracts entered into or issued before, on, or after the effective date.



SENATE BILL 1143: Contracts Continued/European Union.

BILL ANALYSIS

Committee: House Financial Institutions
Date: June 23, 1999
Version: Second Edition

Introduced by: Senator Warren
Summary by: O. Walker Reagan,
Committee Co-Counsel

SUMMARY: *Senate Bill 1143 would add a new Article 23 to Chapter 53 - Banks, to provide that existing contracts which refer to European currencies that have now or in the future will be replaced with the currency of the European Union, the "euro", are still valid and enforceable despite the currency conversion.*

CURRENT LAW: Current law does not address the issue of conversion of foreign currency to a new form.

BILL ANALYSIS: Senate Bill 1143 will create a new Article 23 in Chapter 53 to provide that contracts that are based on a currency that is replaced by the "euro" dollar are still valid and enforceable. This bill sets forth the basis for the conversion of the value of the currencies under the contract.

G.S. 53-296 provides that where the currency in a contract is substituted or replaced by the euro, the euro, the currency adopted by the European Union, shall be considered a commercially reasonable substitute and the substantial equivalent in value at the conversion rate calculated in accordance with regulations of the European Union. Where the currency was the ECU, the euro may also be substituted as set forth in this section. This section also permits the original contract currency, if still legal currency, or the euro, to be tendered in compliance with the contract.

G.S. 53-297 provides that none of the following shall excuse performance under any contract:

1. Introduction of the euro.
2. Tender of euros in connection with an obligation under a contract.
3. Determination of the value of an obligation in accordance with G.S. 53-296.
4. Calculation of an interest rate based on a currency replaced by the euro.

G.S. 53-298 provides that references to ECU (European Currency Unit) in a contract refer to euro.

G.S. 53-299 provides that this Article applies to all contracts, securities, and instruments.

G.S. 53-300 makes it clear that the provisions of this Article do not apply to the conversion of any other currency other than to currencies converted to the euro.

EFFECTIVE DATE: The bill is effective when it becomes law and applies to contracts entered into before, on, or after the effective date.

S1143-SMRU-002



NORTH CAROLINA
ASSOCIATION OF FINANCIAL INSTITUTIONS

This bill passed the Senate on April 28, 1999

Reasons for Senate Bill 1143

- In recent years eleven of the major Western European Nations including Germany and France have established an economic alliance (European Monetary Union) to better compete with the world's financial superpowers.
- Major components of this alliance include elimination of tariffs and employment restrictions within the allied countries and the conversion of their existing currencies into one common currency.
- The common currency – generally called the Euro (but also know as the ECU-European Currency Unit) is designed to facilitate price competition within the alliance and to compete with the United States dollar particularly with the United States dollar in Europe.
- Facilitating legislation in the participating countries provide that contracts denominated in those countries existing currencies will be converted by formula into the Euro.
- These countries' laws do not govern contracts governed by the law of other affected countries, for example a contract made in North Carolina by a citizen of the state to sell goods over a period of years to an Indonesian company located in Indonesian which is a subsidiary of a Germany parent for a price denominated in Deutsche marks. German law (which has the conversion formula of the European Monetary Union) does not apply since it has no relevant connection. While Indonesian law may apply, the most likely result is that North Carolina law controls the contract. Since payment is specified to be in German Deutsche marks will payment no longer be required after July 2002 when the Deutsche mark expires? ... or will the courts have to establish their own conversions?
- The simple, efficient and fair method to avoid needless controversy and litigation – particularly by those wrongfully seeking to evade responsibility for their contractual duties – is to pass enabling legislation in North Carolina.
- Since the law of contacts is generally a state's rights issue; federal legislation on the issue would not be a traditional response in the United States.
- Several economically significant states in the United States have already adopted such enabling legislation, notably New York, California and Pennsylvania. These statutes vary insignificantly. The "Pennsylvania statute" is being presented for adoption in North Carolina as being marginally better in its explicitness.

- North Carolina is one of the most significant financial states in the country because of its banking industry and will be widely affected in that industry as well as many others including textiles and high tech. This is a relatively more significant issue for North Carolina companies than is the Asian economic concern. It is similarly more affected by this issue because of its heavy trade relations with Europe than it was by the Asian economic crisis because of its relatively small trade relations with the Pacific Rim countries compared with the West Coast industries.
- This enabling legislation has no opposition constituency or any basis for such.



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 1143

S1143-ARU-001

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)
Page 1 of ____

Date _____, 1999

Comm. Sub.
Amends Title
Second Edition

Representative

1 moves to amend the bill on page 2, lines 6 and 11,
2 by deleting the word "council" and substituting the word "Council".

SIGNED C. Buchanan
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

S

D

SENATE BILL 1143
Second Edition Engrossed 4/28/99
Proposed House Committee Substitute S1143-PCS3841-RU

Short Title: Contracts Continue/Euro. Union.

(Public)

Sponsors:

Referred to:

April 15, 1999

1 A BILL TO BE ENTITLED
2 AN ACT TO PROVIDE FOR THE CONTINUITY OF CONTRACTS UNDER
3 THE MONETARY UNION IN MEMBER STATES OF THE EUROPEAN
4 UNION.

5 The General Assembly of North Carolina enacts:

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

8 "ARTICLE 23.

9 "Continuity of Contract Under European Monetary Union.

10 "§ 53-295. Definitions.

11 The following definitions shall apply in this Article:

12 (1) Euro. -- The currency of participating member states of the
13 European Union that adopt a single currency in accordance with
14 the Treaty on European Union dated February 7, 1992.

15 (2) European Currency Unit (ECU). -- The currency as defined in the
16 European Council regulation number 3320/94.

17 (3) Introduction of the Euro. -- The implementation of economic and
18 monetary union of member states of the European Union in
19 accordance with the Treaty on European Union dated February 7,
20 1992.

21 "§ 53-296. Continuity of contract.

1 (a) If a subject or medium of payment of a contract, security, or instrument is a
2 currency that has been substituted or replaced by the euro, the euro shall be a
3 commercially reasonable substitute and substantial equivalent that may either be used
4 in determining the value of that currency, or tendered at the conversion rate specified
5 in and otherwise calculated in accordance with the regulations adopted by the
6 Council of the European Union.

7 (b) If a subject or medium of payment of a contract, security, or instrument is the
8 ECU, the euro will be a commercially reasonable substitute and substantial equivalent
9 that may be either used in determining the value of that currency, or tendered at the
10 conversion rate specified in and otherwise calculated in accordance with the
11 regulations adopted by the Council of the European Union.

12 (c) Performance of any of the obligations described in subsection (a) or (b) may
13 be made in the currencies originally designated in the contract, security, or
14 instrument, so long as the currencies remain legal tender, or in euro, but not in any
15 other currency, whether or not the currency has been substituted or replaced by the
16 euro, or is a currency that is considered a denomination of the euro and has a fixed
17 conversion rate with respect to the euro.

18 **"§ 53-297. Effect of currency substitution on performance.**

19 None of the following shall have the effect of discharging or excusing performance
20 under any contract, security, or instrument, or give a party the right unilaterally to
21 alter or terminate any contract, security, or instrument:

22 (1) Introduction of the euro.

23 (2) Tender of euros in connection with any obligation in compliance
24 with G.S. 53-296.

25 (3) Determination of the value of any obligation in compliance with
26 G.S. 53-296.

27 (4) Calculation or determination of the subject or medium of payment
28 of a contract, security, or instrument with reference to an interest
29 rate or other basis that has been substituted or replaced due to the
30 introduction of the euro and that is a commercially reasonable
31 substitute and substantial equivalent.

32 **"§ 53-298. References to ECU in contracts.**

33 (a) References to the ECU in a contract, security, or other instrument that also
34 refers in substance to the definition of the ECU as set forth in G.S. 53-295 shall be
35 replaced by references to the euro at a rate of one euro to one ECU.

36 (b) References to the ECU in a contract, security, or instrument without a
37 definition as set forth in G.S. 53-295 shall be presumed, rebuttable by proof of the
38 contrary intention of the parties, to be references to the currency basket that is from
39 time to time used as the unit of account of the European community.

40 **"§ 53-299. Application.**

41 Notwithstanding any other law, this Article shall apply to all contracts, securities,
42 and instruments, including contracts with respect to commercial transactions.

43 **"§ 53-300. No application to other currency alteration.**

1 In circumstances of currency alteration other than the introduction of the euro, this
2 Article shall not be interpreted as creating any negative inference or negative
3 presumption regarding the validity or enforceability of contracts, securities, or
4 instruments denominated in whole or in part in a currency affected by that
5 alteration."

6 Section 2. This act is effective when it becomes law and applies to
7 contracts entered into or issued before, on, or after the effective date.

**1999 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES**

The following report(s) from standing committee(s) is/are presented:

By Representative(s) **Church and Ramsey** for the Committee on **Financial Institutions**.

Committee Substitute for
S.B. 1143 A BILL TO BE ENTITLED AN ACT TO PROVIDE FOR THE CONTINUITY
OF CONTRACTS UNDER THE MONETARY UNION IN MEMBER STATES OF THE
EUROPEAN UNION.

- With a favorable report.
- With a favorable report and recommendation that the bill be re-referred to the Committee on
Appropriations Finance .
- With a favorable report, as amended.
- With a favorable report, as amended, and recommendation that the bill be re-referred to the
Committee on Appropriations Finance .
- With a favorable report as to ^{House} committee substitute bill (# _____), which changes the title,
unfavorable as to (original bill) (Committee Substitute Bill # _____), (and recommendation
that the committee substitute bill # _____) be re-referred to the Committee on _____.)
- With a favorable report as to House committee substitute bill (# _____), which changes
the title, unfavorable as to Senate committee substitute bill.
- With an unfavorable report.
- With recommendation that the House concur.
- With recommendation that the House do not concur.
- With recommendation that the House do not concur; request conferees.
- With recommendation that the House concur; committee believes bill to be material.
- With an unfavorable report, with a Minority Report attached.
- Without prejudice.
- With an indefinite postponement report.
- With an indefinite postponement report, with a Minority Report attached.
- With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/24/99

