

SUBCHAPTER 03D - SUPERVISION OF STATE TRUST ENTITIES

SECTION .0100 - LICENSING

04 NCAC 03D .0101 APPLICATION

History Note: Authority G.S. 53-92; 53-160;
Eff. February 1, 1976.
Amended Eff. September 1, 2006;
Repealed Eff. October 1, 2012 pursuant to G.S. 150B-21.7.

04 NCAC 03D .0102 ISSUANCE 04 NCAC 03D .0103 CERTIFICATE OF SOLVENCY 04 NCAC 03D .0104 REVOCATION

History Note: Authority G.S. 53-92; 53-160; 53-161; 53-162; 53-163; 150A-11(1);
Eff. February 1, 1976;
Repealed Eff. January 1, 1985.

04 NCAC 03D .0105 DEFINITIONS

As used in this Subchapter:

- (1) "Board of Directors" shall have the same meaning as defined in G.S. 53-301(a)(6a).
- (2) "Collective investment fund" shall mean any fund established pursuant to 12 C.F.R. 9.18, which is incorporated by reference in Rule .0304 of this Subchapter.
- (3) "State trust entity" shall mean a "state bank" or "state trust company" as defined in G.S. 53-301(a)(43) and (45).
- (4) "Trust business" shall have the same meaning as defined in G.S. 53-301(a)(50).

History Note: Authority G.S. 53-366; 53C-2-5;
Eff. April 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 3, 2017.

SECTION .0200 - REPORTS REQUIRED BY COMMISSIONER OF BANKS

04 NCAC 03D .0201 REPORTS OF CONDITION OF STATE TRUST ENTITIES

Each state trust entity, on a form or forms provided by the Office of the Commissioner of Banks, shall submit reports of condition that shall include information on operations, statutory and regulatory requirements, supervisory standards, and assets under management. The form or forms shall be obtained from and filed with:

Office of the Commissioner of Banks
316 West Edenton Street
4309 Mail Service Center
Raleigh, North Carolina 27699-4309.

Forms 29TC, 29A, and TARS[®] may be submitted electronically at:
<http://www.nccob.gov/Public/financialinstitutions/banks/banksff.aspx>.

History Note: Authority G.S. 53-366; 53-367; 53C-2-5; 53C-8-3;
Eff. February 1, 1976;
Amended Eff. April 1, 2015; September 1, 2006; September 26, 1979;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 3, 2017.

04 NCAC 03D .0202 REPORT OF TRUST DEPARTMENT

History Note: Authority G.S. 53-92; 53-106;

Eff. February 1, 1976;
Amended Eff. September 1, 2006; September 26, 1979;
Repealed Eff. October 1, 2012 pursuant to G.S. 150B-21.7.

SECTION .0300 - TRUST DEPARTMENT

04 NCAC 03D .0301 DEFINITIONS

History Note: Authority G.S. 53-92; 53-104;
Eff. February 1, 1976;
Amended Eff. September 1, 1990;
Repealed Eff. October 1, 2012 pursuant to G.S. 150B-21.7.

04 NCAC 03D .0302 ADMINISTRATION OF TRUST BUSINESS

(a) A state trust entity shall conduct its trust business separate and apart from any other business it conducts. A state trust entity may, however, utilize personnel and facilities of other departments of the state trust entity and other departments of the state trust entity may utilize its trust personnel and facilities to the extent not prohibited by law.

(b) Board of Directors

(1) The trust business of a state trust entity shall be managed by or under the direction of its board of directors. In discharging this responsibility, the board of directors may assign, by action duly entered in the minutes, the administration of the state trust entity's trust business as it may consider proper to assign to such director(s), officer(s), or employee(s), who are qualified and competent to administer trust business, and it may designate and appoint such committees of director(s) or officer(s) as it deems advisable to supervise the trust business.

(2) No trust business shall be accepted without the prior approval of the board of directors, or of the director(s), officer(s), or committee(s) to whom the board of directors may have designated the performance of that responsibility. A written record shall be made of such acceptances and of the relinquishment or closing out of each account. Upon the acceptance of an account for which the state trust entity has investment responsibility, a review of the assets shall be made. The board of directors shall also ensure that at least once during every calendar year thereafter, and within 15 months of the last review, all the assets held in each account that the state trust entity has investment responsibilities for are reviewed to determine the advisability of retaining or disposing of such assets.

(c) All officers and employees taking part in the administration of trust business shall be adequately bonded.

(d) Every state trust entity shall designate, employ, or retain competent legal counsel who shall be readily available to advise on the trust business it conducts.

(e) Negotiable and tangible assets held by the state trust entity in its own vaults shall be placed in the joint custody of at least two or more bonded officers or employees designated by the board of directors.

(f) Funds held by a state trust entity in a fiduciary capacity awaiting investment or distribution shall be invested, pursuant to the provisions of G.S. 53-163.1.

(g) Trust business investments by a state trust entity in its own depository accounts shall be secured in the manner and to the extent required by G.S. 53-163.1 and G.S. 53-163.3.

History Note: Authority G.S. 53-163.1; 53-163.3; 53-356; 53-366; 53C-2-5; 53C-4-6;
Eff. February 1, 1976;
Amended Eff. April 1, 2015; May 1, 1992; September 26, 1979;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 3, 2017.

04 NCAC 03D .0303 BOOKS AND RECORDS

Books and Records. Each state trust entity shall keep the following:

- (1) a separate and distinct set of books and records showing all receipts and disbursements of funds, receipts, purchases and sales of assets, and other transactions engaged in, in connection with trust business; and showing at all times the ownership of all moneys, funds, investments and property in that connection held by the state trust entity;
- (2) files containing the original instruments creating each trust or authenticated copies; and

- (3) a permanent record of minutes for each committee, showing its actions. All minutes shall be signed by the committee's chairman and its secretary.

History Note: Authority G.S. 53-366; 53-367; 53C-2-5; 53-320(a);
Eff. February 1, 1976;
Amended Eff. April 1, 2015; May 1, 1992; September 26, 1979;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 3, 2017.

04 NCAC 03D .0304 COLLECTIVE INVESTMENT

(a) Funds held for trust business accounts by a state trust entity may be invested collectively in one or more collective investment funds to the extent permissible for the accounts. Such funds shall be organized and administered in accordance with the provisions of 12 C.F.R. 9.18.

(b) 12 C.F.R. 9.18 is herein incorporated by reference, including all subsequent amendments and editions, and may be accessed at the U.S. Printing Office website at http://www.ecfr.gov/cgi-bin/text-idx?SID=10db9d6d7ecd62689d768e1b0c9a2199&node=se12.1.9_118&rgn=div8 at no cost at the time of adoption of this Rule. However, any reference in the regulation to "Comptroller of Currency" shall, for the purpose of state trust entities, be deemed to refer to the "Commissioner of Banks."

History Note: Authority G.S. 53-163.7; 53-366; 53C-2-5;
Eff. February 1, 1976;
Amended Eff. April 1, 2015; May 1, 1992; November 1, 1982; September 26, 1979;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 3, 2017.

04 NCAC 03D .0305 USE OF SECURITIES CLEARING CORPORATIONS

History Note: Authority G.S. 53-92; 53-104; 53-110; 53-159.1;
Eff. February 1, 1976;
Repealed Eff. October 1, 2012 pursuant to G.S. 150B-21.7.