

#### **04 NCAC 16K .0109 SELF-DEALING**

(a) Unless authorized by the instrument creating the relationship or by court order, property held by a savings institution as fiduciary shall not be sold or transferred, by loan or otherwise, to the savings institution or its affiliates; or the directors, executive officers, or employees of either of them; or to individuals with whom there exists a connection or organizations in which there exists an interest as might affect the exercise of the best judgment of the savings institution in selling or transferring the property, except:

- (1) in cases in which the savings institution has been advised by its counsel in writing that it has incurred as fiduciary a contingent or potential liability, and it desires to relieve itself from the liability, a sale or transfer may be made with the approval of the board of directors and the Commissioner of Banks, provided that, in all such cases, the savings institution, upon the consummation of the sale or transfer, shall make reimbursement in cash at no loss to the account;
- (2) as provided G.S. 53-163.5, et seq. governing collective investment; or
- (3) when required by the Commissioner of Banks.

(b) If the purchase or retention of stock or obligations of the savings institution is authorized by the instrument creating the relationship or by court order, it may exercise rights to purchase its own stock, or securities convertible into its own stock, when offered pro rata to stockholders. When the exercise of rights or receipt of a stock dividend results in fractional share holdings, additional fractional shares may be purchased to complement the fractional shares so acquired. In elections of directors, a savings institution's share held by the savings institution as sole trustee, whether in its own name as trustee or in the name of its nominee, shall not be voted by the registered owner unless, under the terms of the trust, the manner in which such shares shall be voted may be determined by a donor or beneficiary of the trust and the donor or beneficiary directs how the shares will be voted.

*History Note: Authority G.S. 54B-55; 54B-77; 54C-53; 54C-146;  
Eff. November 1, 1982;  
Temporary Amendment Eff. October 2, 1991 for a period of 180 days to expire on March 31, 1992;  
Amended Eff. November 1, 2017; February 15, 1992;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. November 22, 2018.*