

**04 NCAC 03B .0105      DECLARATORY RULINGS**

(a) Any person substantially affected by a statute administered or rule promulgated by the Commissioner of Banks or the Banking Commission may request a declaratory ruling as to:

- (1) whether, and if so how, the statute or rule applies to a given factual situation, or
- (2) whether a particular agency rule is valid.

All decisions of the Commissioner of Banks relative to declaratory rulings shall be subject to review by the Banking Commission upon written application of any aggrieved party.

(b) The Commissioner of Banks shall have the sole power to make such declaratory rulings. All requests for declaratory rulings shall be written and mailed to:

Office of The Commissioner of Banks  
4309 Mail Service Center  
Raleigh, North Carolina 27699-4309.  
Attention: Legal Division

(c) All requests for a declaratory ruling must include the following information:

- (1) name and address of petitioner;
- (2) statute or rule to which petition relates;
- (3) concise statement of the manner in which petitioner is aggrieved by the rule or statute or its potential application to him;
- (4) a statement of whether an oral hearing is desired, and if so the reasons for such an oral hearing.

(d) Whenever the Commissioner of Banks believes for good cause that the issuance of a declaratory ruling is undesirable, he may refuse to do so. When good cause for refusing to issue a declaratory ruling is deemed to exist, the Commissioner of Banks shall notify the petitioner of his decision in writing, stating reasons for the denial of a declaratory ruling.

(e) Where a declaratory ruling is deemed appropriate, the Commissioner of Banks shall issue the ruling within 60 days of receipt of the petition.

(f) A declaratory ruling procedure may consist of written submissions, oral hearings, or such other procedures as may be appropriate in a particular case.

*History Note: Authority G.S. 53-92; 150B-17;  
Eff. February 1, 1976;  
Amended Eff. August 1, 2004.*