

## SUBCHAPTER 3C - BANKS

### SECTION .0100 - ORGANIZATION AND CHARTERING

#### **04 NCAC 03C .0101 APPLICATION**

A new bank, industrial bank or trust company shall be incorporated and chartered in the manner prescribed in G.S.53-2 through G.S. 53-8 and in no other way. A charter application, on a form provided by the Office of the Commissioner of Banks, together with a copy of the proposed Articles of Incorporation and payment of the prescribed fee, must be filed with:

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

*History Note:* Authority G.S. 53-2; 53-92; 53-122(3);  
Eff. February 1, 1976;  
Amended Eff. September 1, 2006; September 1, 1990; November 1, 1982; July 24, 1979; August 1, 1978.

#### **04 NCAC 03C .0102 EXAMINATION BY COMMISSIONER**

Upon receipt of a copy of the application and articles of incorporation, the Commissioner of Banks will make an examination into all the facts connected with the formation of the proposed bank or trust company. The examination will take into account all statutory requirements and criteria.

*History Note:* Authority G.S. 53-4; 53-92;  
Eff. February 1, 1976;  
Amended Eff. September 1, 1990.

#### **04 NCAC 03C .0103 REPORT TO BANKING COMMISSION**

Following the completion of that examination the Commissioner of Banks shall prepare a report covering the results of that examination along with his decision for approval or disapproval of the application.

*History Note:* Authority G.S. 53-4; 53-92;  
Eff. February 1, 1976.

#### **04 NCAC 03C .0104 REVIEW BY BANKING COMMISSION**

The report of the Commissioner of Banks will be submitted to the Banking Commission at a regular or called meeting. Following a public hearing the Banking Commission will issue its final order approving or disapproving the application.

*History Note:* Authority G.S. 53-4; 53-92;  
Eff. February 1, 1976;  
Amended Eff. September 1, 1990.

#### **04 NCAC 03C .0105 STATEMENT FILED BEFORE BEGINNING BUSINESS**

#### **04 NCAC 03C .0106 CERTIFICATION TO THE SECRETARY OF STATE**

*History Note:* Authority G.S. 53-4; 53-5; 53-7; 53-92; 150A-11(1);

*Eff. February 1, 1976;*  
*Repealed Eff. January 1, 1985.*

**04 NCAC 03C .0107      BANK CERTIFICATE**

Upon final action approving an application for a new bank the Commissioner of Banks shall issue to the bank a Bank Certificate. Form 45 is used for that purpose and contains a certification that all statutory requirements have been satisfied and is an authorization to begin business.

*History Note:      Authority G.S. 53-8; 53-92;*  
*Eff. February 1, 1976.*

**04 NCAC 03C .0108      JUDICIAL REVIEW**

*History Note:      Authority G.S. 53-92; 150A-11(1); 150A-43;*  
*Eff. February 1, 1976;*  
*Repealed Eff. January 1, 1985.*

**04 NCAC 03C .0109      APPLICATION TO ESTABLISH BANK: CONDITIONAL APPROVAL**

*History Note:      Authority G.S. 53-5; 53-92; 53-104; 150A-11(1);*  
*Eff. February 1, 1976;*  
*Repealed Eff. November 1, 1982.*

**04 NCAC 03C .0110      ORGANIZATIONAL EXPENSES**

(a) Upon subscribing to the stock of a proposed state bank, each subscriber must pay in cash a sum at least equal to the aggregate of five and one-half percent of the par value and surplus of such stock into a fund to be used to defray the expenses of organization. No organizational expenses may be paid out of any other funds of the bank. Upon the grant of a charter and authorization by the Commissioner to commence business, any unexpended balance must be transferred to the permanent surplus account. If the charter has been voided for failure to open for business within the time set out in the statute after filing of the articles of incorporation with the Secretary of State or any additional period allowed by the Commissioner, or if the application has been finally denied, any unexpended balance must be distributed pro rata to the contributors in proportion to their respective payments. The Commissioner may require an accounting of any disbursements from the fund and may order the incorporators to restore any sum which has been expended for other than proper organizational expenses.

(b) If commissions or fees are to be paid to any person, partnership, or corporation for securing subscriptions to shares of stock of the proposed bank, the agreement setting forth the amount and terms of such payment and the nature of services to be performed must be submitted to the Commissioner of Banks in advance for review and approval.

(c) Certain organizational expenses may be capitalized and amortized where consistent and in accordance with generally accepted accounting principals as defined by the Financial Accounting Standards Board of the American Institute of Certified Public Accountants, where such standards do not otherwise conflict with the Banking Laws of North Carolina, and provided further that such treatment is subject to the prior review by and consent of the Commissioner of Banks.

*History Note:* Authority G.S. 53-2; 53-92; 53-104;  
Eff. February 1, 1976;  
Amended Eff. July 1, 1991; September 1, 1990.

**04 NCAC 03C .0111 NATIONAL BANK CONVERSION**

(a) A national bank may apply for authority to convert to a state bank. An application for conversion must be made on a form provided by the Office of the Commissioner of Banks. The application for conversion, together with a copy of the proposed articles of incorporation and payment of the prescribed fee, must be filed with:

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

(b) Upon receipt of a copy of the articles of incorporation and the completed application for conversion, the Commissioner shall make an examination into all the facts connected with the conversion. Following the completion of that examination, the Commissioner shall issue a written decision approving or disapproving the application pursuant to G.S. 53-14.

(c) Upon approval by the Commissioner of Banks, he shall forward to the Secretary of State for appropriate filing the articles of incorporation along with the certification of approval. The Commissioner shall issue to the bank a Bank Certificate (Form 45) and any Branch Certificate (Form 47) as needed.

*History Note:* Authority G.S. 53-2; 53-3; 53-4; 53-5; 53-14; 53-104; 53-122(3);  
Eff. September 26, 1979;  
Amended Eff. September 1, 2006; September 1, 1990; August 1, 1988.

**04 NCAC 03C .0112 ELIMINATION OF DIRECTOR LIABILITY**

(a) Bank charter amendments limiting director liability pursuant to G.S. 55-2-02(b)(3) must provide that director liability is not eliminated or limited with regards to acts or omissions where the elimination of personal liability of directors would be contrary to the provisions of G.S. 53.

(b) A new bank, industrial bank, or trust company may submit proposed bank charter amendments to the Commissioner for review prior to an approval and giving the required notice to shareholders.

*History Note:* Authority G.S. 53-104; 53-115; 55-2-02;  
Eff. June 1, 1995.

**SECTION .0200 - BRANCHES AND LIMITED SERVICE FACILITIES**

**04 NCAC 03C .0201 ESTABLISHMENT OF BRANCHES AND LIMITED SERVICE FACILITIES**

Banks may establish branches or limited service facilities upon written approval of the Commissioner of Banks pursuant to G.S. 53-62 and as set out in this rule.

- (1) Application. An application to establish a branch bank or limited service facility must be submitted in writing on a form provided by the Office of the Commissioner of Banks. The application, together with the fee prescribed in 04 NCAC 03C .1601, must be filed with:

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

- (2) Notice of filing of an application. Upon acceptance of an application for filing, the applicant shall publish a notice of the filing of the application in a newspaper published in the city, town or county where the branch or limited service facility is proposed to be located. The required public notice must be approved by the Commissioner of Banks prior to publication. The Commissioner of Banks shall mail a notice of the filing of the application to each state-chartered bank operating a banking office in the community to be served by the proposed branch or limited service facility. A copy of the notice shall be mailed to the Regional Administrator of National Banks for the National Bank Region for North Carolina. The publication shall include:
  - (a) the name and location of the main office of the bank making the application;
  - (b) the name and location of the branch or limited service facility being opened;
  - (c) a statement that the public may submit written comments on the application to the Commissioner of Banks;
  - (d) a statement that the comment period shall end 14 days from the date of publication.
- (3) Written comments. Any interested person may submit to the Commissioner of Banks written comments and information on an application within 14 days after the notice has been published as provided in Item (2) of this Rule. All written comments received during the comment period shall become part of the official record compiled with respect to the application.
- (4) Examination by Commissioner. Upon receipt of a completed application, the Commissioner of Banks shall conduct an examination into all the facts connected with the establishment of a branch or limited service facility.
- (5) Action by Commissioner. No final decision may be made by the Commissioner of Banks until the comment period has expired. The final decision of the Commissioner of Banks on an application shall be in writing and include findings of fact and conclusions of law.
- (6) Notification of Commissioner's action. The applicant and all persons who have made written requests for such notice shall be given notice of the Commissioner of Banks' final decision on each application.
- (7) Request for review by Banking Commission. The applicant or any interested person may request the State Banking Commission to review the decision of the Commissioner of Banks with respect to an application to establish a branch or limited service facility within 14 days from the time the Commissioner of Banks issues his written decision. The request for review must be in writing and must be sent to the address shown in Item (1) of this Rule.
- (8) Review by Banking Commission. When requested by the applicant or any interested person, the decision of the Commissioner of Banks shall be reviewed at a public hearing by the State Banking Commission at its next regular or called meeting. Following the public hearing, the State Banking Commission shall issue its final order approving, modifying or disapproving the decision of the Commissioner of Banks. Notice of the public hearing shall be published in a newspaper published in the city, town or county where the proposed branch or limited service facility is to be located at least 10 days prior to the scheduled hearing.
- (9) Decision by Commissioner final. If there has been no written request for review within the 14-day period as provided in Item (7) of this Rule, the decision issued by the Commissioner of Banks shall become final with respect to the application.
- (10) Commissioner to set requirements. When a bank acquires one or more branches or limited service facilities in connection with a reorganization in which the Commissioner of Banks or other depository financial institution regulator has found one or more depository financial institutions to be in an insolvent, unsafe or unsound condition, the Commissioner of Banks shall set all requirements pertaining to notice and publication, time limitations, and any comment period pursuant to GS.53-104.

*History Note:* Authority G.S. 53-4; 53-14; 53-62; 53-92; 53-104;  
 Eff. February 1, 1976;  
 Amended Eff. September 1, 2006; June 1, 1995; July 1, 1991; October 1, 1990; November 1, 1982.

**04 NCAC 03C .0202 DISCONTINUANCE**

No bank may close a branch without the written approval of the Commissioner of Banks pursuant to G.S. 53-62.

- (1) Procedure. The procedures provided in G.S. 53-62(e) must be followed in connection with any closing of a branch or limited service facility not subject to Rule .0203 of this Section. The applicant shall give

public notice as required by G.S. 53-62(e) in connection with the conversion of a branch to a limited service facility. The required public notice to be published must be approved by the Commissioner of Banks prior to publication pursuant to G.S. 53-62(e). As set out in this Rule, the public notice shall include:

- (a) the name and location of the main office of the bank making the application;
  - (b) the name and location of the branch or limited service facility being closed;
  - (c) a statement that the public may submit written comments on the application to the Commissioner of Banks and may request a hearing;
  - (d) a statement that the comment period will end 14 days from the date of the publication.
- (2) **Written comments.** Any interested person may submit to the Commissioner of Banks written comments and information on an application to discontinue within 14 days after the last notice has been published as required by G.S. 53-62(e). All written comments received during the comment period shall become part of the official record compiled with respect to the application.
  - (3) **Examination by Commissioner.** Upon receipt of an application, the Commissioner of Banks shall conduct an examination into all the facts connected with the request to close a branch. The Commissioner of Banks will hold a public hearing as provided in G.S. 53-62(e) if there has been a request by an interested person.
  - (4) **Action by Commissioner.** No final decision may be made by the Commissioner of Banks until the comment period has expired. The final decision of the Commissioner of Banks on an application to discontinue shall be issued in writing and include findings of fact and conclusions of law.
  - (5) **Notification of Commissioner's action.** The applicant and all persons who have made written requests for notice shall be given notice of the Commissioner of Banks' final decision on each application.
  - (6) **Request for review by Banking Commission.** The applicant or any other interested person may request the State Banking Commission to review the decision of the Commissioner of Banks with respect to an application to discontinue a branch within 14 days from the time the Commissioner of Banks issues his written decision. The request must be in writing and sent to:  
Office of the Commissioner of Banks  
4309 Mail Service Center  
Raleigh, North Carolina 27699-4309.
  - (7) **Review by Banking Commission.** When requested by the applicant or by any interested person, the decision of the Commissioner of Banks shall be reviewed at a public hearing by the State Banking Commission at its next regular or called meeting. Following the public hearing, the State Banking Commission shall issue its final order approving, modifying or disapproving the decision of the Commissioner of Banks. Notice of the public hearing shall be published in a newspaper published in the city, town or county where the branch is to be discontinued at least 10 days prior to the scheduled hearing.
  - (8) **Decision by Commissioner final.** If there has been no written request for review within the 14-day period as provided in Item (6) of this Rule, the decision issued by the Commissioner of Banks shall become final with respect to the application to discontinue.
  - (9) **Commissioner to set requirements.** Where a bank discontinues one or more branches in connection with a reorganization in which the Commissioner of Banks or other bank regulator has found one or more banks to be in an insolvent, unsafe, or unsound condition, the Commissioner of Banks shall set all requirements pertaining to notice and publication, time limitations, and any comment period pursuant to G.S. 53-104.

*History Note: Authority G.S. 53-4; 53-62; 53-92; 53-104;  
Eff. February 1, 1976;  
Amended Eff. September 1, 2006; June 1, 1995; October 1, 1990; November 1, 1982.*

**04 NCAC 03C .0203 DISCONTINUANCE OF A LIMITED SERVICE FACILITY**

(a) A bank may close a limited service facility upon 30 days written notice to the Commissioner of Banks at the address set forth in Item (1) of Rule .0201 of this Section, provided that the facility has not within a five year period immediately preceding the proposed date of closing operated as a branch bank. If the limited service

facility which the bank proposes to close has operated as a branch bank within a five year period immediately preceding the proposed closing date, then the procedure set forth in 4 NCAC 3C .0202 must be followed.

(b) For the purpose of this Rule, any bank and office approved as a "teller's window" prior to July 1, 1989, is considered and shall be treated as a limited service facility.

*History Note:* Authority G.S. 53-62; 53-104;  
Eff. September 1, 1990;  
Amended Eff. June 1, 1995.

#### **04 NCAC 03C .0204 CONVERSION OF BRANCH TO LIMITED SERVICE FACILITY**

(a) A bank may convert a branch to a limited service facility upon written approval of the Commissioner of Banks pursuant to G.S. 53-62 and as set out in this Rule.

(b) Procedure. Any bank desiring to convert an existing branch to a limited service facility must apply in writing for authority to do so from the Commissioner of Banks and pay the fee set out in 04 NCAC 03C .1601. The letter must identify the name and location of the branch to be converted, the reason for the conversion, the services presently offered at the branch, and the services that will be discontinued upon conversion.

(c) Publication. The applicant shall give public notice as required by G.S. 53-62(e) in connection with the conversion of a branch to a limited service facility. The required public notice to be published must be approved by the Commissioner of Banks prior to publication pursuant to G.S. 53-62. As set out in this Rule, the publication shall include:

- (1) the name and location of the branch to be converted;
- (2) the services presently offered at the branch that will be discontinued upon conversion.

(d) Written comments. Any interested person may submit to the Commissioner of Banks written comments and information on an application to convert a branch to a limited service facility within 14 days after the last notice has been published pursuant to Paragraph (2) of this Rule. All written comments received during the comment period shall become part of the official record compiled with respect to the application.

(e) Examination by Commissioner. Upon receipt of an application to convert, the Commissioner of Banks shall conduct an examination into all the facts connected with the conversion of a branch. The Commissioner of Banks shall hold a public hearing if there has been a request by an interested person.

(f) Action by Commissioner. No final decision may be made by the Commissioner of Banks until the comment period has expired. The final decision of the Commissioner of Banks on a request to convert a branch to a limited service facility shall be issued in writing and include findings of fact and conclusions of law.

(g) Notification of Commissioner's Action. The applicant and all persons who have made written requests for notice shall be given notice of the Commissioner of Banks' final decision on each application.

(h) Request for Review by Banking Commission. The applicant or any other interested person may request the State Banking Commission to review the decision of the Commissioner of Banks with respect to an application to convert a branch to a limited service facility within 14 days from the time the Commissioner of Banks issues his written decision. The request must be in writing and sent to:

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

(i) Decision by Commissioner Final. If there has been no written request for review within the 14-day period as provided in Paragraph (7) of this Rule, the decision issued by the Commissioner of Banks shall become final with respect to the request to convert.

*History Note:* Authority G.S. 53-62; 53-92; 53-104; 53-122(3);  
Eff. September 1, 1990;  
Amended Eff. September 1, 2006; June 1, 1995.

#### **SECTION .0300 - CHANGE OF LOCATION**

##### **04 NCAC 03C .0301 CHANGE OF LOCATION OF MAIN OFFICE, BRANCH OR LTD SVC FACILITY**

No bank may change the location of a branch, limited service facility or main office without the written approval of the Commissioner of Banks pursuant to G.S. 53-62 and as set out in this Rule.

- (1) Application. Applications on a form provided by the Commissioner, together with the fee prescribed in 04 NCAC 03C .1601, shall be filed with:
  - Office of the Commissioner of Banks
  - 4309 Mail Service Center
  - Raleigh, North Carolina 27699-4309.
- (2) Notice of filing of an application. Upon acceptance of an application for filing, the Commissioner of Banks applicant shall publish a notice of the filing of the application in a newspaper published in the city, town or county where the branch, limited service facility or main office is to be located. The required public notice must be approved by the Commissioner of Banks prior to publication pursuant to G.S. 53-62. The Commissioner of Banks shall mail a notice of the filing of the application to each state-chartered bank operating a banking office in the community served by the branch, limited service facility or main office. A copy of the notice shall be mailed to the Regional Administrator of National Banks for the National Bank Region for North Carolina. As set out in this rule, the public notice shall include:
  - (a) the name and location of the main office of the bank making the application;
  - (b) the name and location of the branch, limited service facility, or main office being relocated;
  - (c) the location where the branch, limited service facility, or main office is being located;
  - (d) a statement that the public may submit written comments on the application to the Commissioner of Banks any may request a hearing;
  - (e) a statement that the comment period will end 14 days from the date of the publication.
- (3) Written comments. Any interested person may submit to the Commissioner of Banks written comments and information on an application within 14 days after the notice has been published as provided in Item (2) of this Rule. All written comments received during the comment period shall become part of the official record compiled with respect to the application.
- (4) Examination by Commissioner. Upon receipt of a completed application for relocation the Commissioner of Banks shall conduct an examination into all the facts connected with the change of location.
- (5) Action by Commissioner. No final decision may be made by the Commissioner of Banks until the comment period has expired. The final decision of the Commissioner of Banks on an application shall be issued in writing and shall include findings of fact and conclusions of law.
- (6) Notification of Commissioner's action. The applicant and all persons who have made written request for notice, shall be given notice of the Commissioner of Banks' final decision on each application.
- (7) Request for review by Banking Commission. The applicant or any interested person may request the State Banking Commission to review the decision of the Commissioner of Banks with respect to an application to relocate a branch, limited service facility or main office within 14 days from the time the Commissioner of Banks issues his written decision. The request for review must be in writing and must be sent to the address shown in Item (1) of this Rule.
- (8) Review by Banking Commission. When requested by the applicant or any interested person, the decision of the Commissioner of Banks shall be reviewed at a public hearing by the State Banking Commission at its next regular or called meeting. Following the public hearing, the State Banking Commission shall issue its final order approving, modifying or disapproving the decision of the Commissioner of Banks. Notice of the public hearing shall be published in a newspaper published in the city, town or county where the branch, limited service facility or main office is to be located at least 10 days prior to the scheduled hearing.
- (9) Decision by Commissioner final. If there has not been a written request for review within the 14-day period as provided in Item (7) of this Rule, the decision issued by the Commissioner of Banks shall become final with respect to the application.

*History Note:* Authority G.S. 53-62; 53-92; 53-104; 53-122(3);  
Eff. February 1, 1976;  
Amended Eff. September 1, 2006; June 1, 1995; September 1, 1990; November 1, 1982; August 1, 1978.

<b>04 NCAC 03C .0302</b>	<b>EXAMINATION BY COMMISSIONER</b>
<b>04 NCAC 03C .0303</b>	<b>REPORT</b>
<b>04 NCAC 03C .0304</b>	<b>REVIEW BY BANKING COMMISSION</b>
<b>04 NCAC 03C .0305</b>	<b>FINAL ORDER BY COMMISSIONER</b>
<b>04 NCAC 03C .0306</b>	<b>CERTIFICATE</b>

*History Note:* Authority G.S. 53-62; 53-92; 150A-11(1);  
 Eff. February 1, 1976;  
 Amended Eff. March 15, 1978;  
 Repealed Eff. November 1, 1982.

### **SECTION .0400 - CONSOLIDATION OF BANKS**

#### **04 NCAC 03C .0401 APPLICATION**

- (a) Before a bank may consolidate with or transfer its assets and liabilities to another bank it must first obtain the consent of the Commissioner of Banks. This Rule does not apply where the consolidation or merger is with a national bank and the surviving corporation is to be a national bank.
- (b) Application for consent to consolidate must be accomplished by filing with the Commissioner of Banks the following:
- (1) certified copies of all the proceedings by the banks' directors and stockholders;
  - (2) a copy of the agreement to consolidate; and
  - (3) FDIC Form 102.

The latter form incorporates all statutory requirements and criteria and contains marketing data, various financial schedules and appropriate consideration of competitive factors. The form may be obtained from:

Regional Director  
 Federal Deposit Insurance Corporation  
 Marquis One Tower  
 245 Peachtree Center Avenue, N.E., Suite 1200  
 Atlanta, Georgia 30303

and shall be filed, together with the prescribed fee, with:

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

*History Note:* Authority G.S. 53-12; 53-92;  
 Eff. February 1, 1976;  
 Amended Eff. September 1, 2006; September 1, 1990; July 24, 1979.

#### **04 NCAC 03C .0402 PUBLICATION**

*History Note:* Authority G.S. 53-12; 53-92; 150B-11(1);  
 Eff. February 1, 1976;  
 Repealed Eff. August 1, 1988.

#### **04 NCAC 03C .0403 INVESTIGATION**

Upon receipt of a completed application for consolidation the Commissioner of Banks shall make an investigation into all the facts connected with the proposed consolidation. The investigation will take into account all statutory requirements and criteria.

*History Note:* Authority G.S. 53-12; 53-92;  
Eff. February 1, 1976;  
Amended Eff. September 1, 1990.

**04 NCAC 03C .0404 REPORT**

Following the completion of the investigation, the Commissioner of Banks shall issue a written report including his decision for approval or disapproval of the application.

*History Note:* Authority G.S. 53-12; 53-92;  
Eff. February 1, 1976;  
Amended Eff. September 1, 1990.

**04 NCAC 03C .0405 REVIEW BY THE BANKING COMMISSION**

The Commissioner's report will be submitted to the Banking Commission at a regular or called meeting. Following a public hearing, the Banking Commission will issue its final order approving or disapproving the application.

*History Note:* Authority G.S. 53-12; 53-92;  
Eff. February 1, 1976;  
Amended Eff. September 1, 1990.

**04 NCAC 03C .0406 FILING WITH SECRETARY OF STATE**

Upon the consummation of the consolidation, the agreement of consolidation, together with a certified copy of the approval by the Commissioner of Banks, shall be filed with the Secretary of State.

*History Note:* Authority G.S. 53-13; 53-92;  
Eff. February 1, 1976;  
Amended Eff. September 1, 1990.

**04 NCAC 03C .0407 WAIVER BY COMMISSIONER**

When the Commissioner of Banks finds that he must act immediately to approve a merger, consolidation or transfer of assets and liabilities due to an insolvent, unsafe or unsound condition in any bank, the requirements in this Section .0400 pertaining to publication, notice and public hearing may be waived by the Commissioner of Banks. When exercising waiver under this Rule, the Commissioner of Banks shall advise the members of the State Banking Commission of his actions with respect to the merger, consolidation or transfer of assets and liabilities.

*History Note:* Authority G.S. 53-12; 53-13; 53-92;  
Eff. November 1, 1982.

**SECTION .0500 - WORK WEEK**

**04 NCAC 03C .0501 OPERATION OF BANKS ON A FIVE-DAY WEEK BASIS**

**04 NCAC 03C .0502      BANKS REVERTING TO A SIX-DAY WEEK BASIS**

*History Note:*    Authority G.S. 53-77.1; 53-92; 150B-11(1);  
                          Eff. February 1, 1976;  
                          Repealed Eff. July 1, 1990.

**04 NCAC 03C .0503      DAYS AND HOURS OF REGULAR OPERATION**

On request state and national banks shall file with the Commissioner a schedule of the days and hours of regular operation for the bank and each of its branches and limited service facilities.

*History Note:*    Authority G.S. 53-77.1A(d); 53-92;  
                          Eff. July 1, 1990.

**SECTION .0600 - EXAMINATION OF BANKS**

**04 NCAC 03C .0601      EXAMINATION**

**04 NCAC 03C .0602      REPORT**

*History Note:*    Authority G.S. 53-92; 53-99; 53-109; 53-117; 53-123; 53-125; 150A-11(1);  
                          Eff. February 1, 1976;  
                          Repealed Eff. January 1, 1985.

**SECTION .0700 - REPORTS REQUIRED BY COMMISSIONER OF BANKS**

**04 NCAC 03C .0701      EXAMINING COMMITTEE REPORT**

**04 NCAC 03C .0702      REPORTS OF CONDITION AND INCOME**

**04 NCAC 03C .0703      PUBLISHER'S COPY, REPORT OF CONDITION AND INCOME**

*History Note:*    Authority G.S. 53-83; 53-92; 53-99; 53-105;  
                          Eff. February 1, 1976;  
                          Amended Eff. September 1, 2006; July 1, 1990; September 26, 1979;  
                          Repealed Eff. April 1, 2007.

**04 NCAC 03C .0704      CONSOLIDATED REPORT OF INCOME**

**04 NCAC 03C .0705      REPORT OF MANAGEMENT AND PERSONNEL**

*History Note:*    Authority G.S. 53-92; 53-106; 53-107; 150B-11(1);  
                          Eff. February 1, 1976;  
                          Amended Eff. September 26, 1979;  
                          Repealed Eff. July 1, 1990.

## SECTION .0800 - MISCELLANEOUS REPORTS AND APPROVALS

### **04 NCAC 03C .0801 OATH OF DIRECTORS**

Each director of a state bank, on a form provided by the Office of the Commissioner of Banks, shall execute a statutory oath. Each director shall provide his address and his signature under oath on the form. The form must be executed in duplicate annually within 30 days after the election of a director and 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.

*History Note:* Authority G.S. 53-80; 53-81; 53-92;  
Eff. February 1, 1976;  
Amended Eff. September 1, 2006; May 1, 1992; September 26, 1979.

### **04 NCAC 03C .0802 DEPOSITORY BANKS**

The board of directors of each state bank, on a form provided by the Office of the Commissioner of Banks, shall request the Commissioner of Banks to approve the proposed depositories of the bank pursuant to G.S. 53-84. The forms required to be filed in duplicate annually and 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.

*History Note:* Authority G.S. 53-84; 53-92;  
Eff. February 1, 1976;  
Amended Eff. September 1, 2006; May 1, 1992; September 26, 1979.

### **04 NCAC 03C .0803 OTHER REAL ESTATE**

The board of directors of each state bank, on a form provided by the Office of the Commissioner of Banks, shall request the Commissioner of Banks to approve holding for one year real estate acquired by foreclosure, etc., that had not been disposed of by the end of the previous year pursuant to G.S. 53-43(3)c. The form is required to be filed in duplicate annually and 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.

*History Note:* Authority G.S. 53-43(3)c; 53-92;  
Eff. February 1, 1976;  
Amended Eff. September 1, 2006; May 1, 1992; September 26, 1979.

### **04 NCAC 03C .0804 SUSPENSION OF INVESTMENT AND LOAN LIMITATION**

The board of directors of each state bank, on a form provided by the Office of the Commissioner of Banks, may request the Commissioner of Banks to suspend the bank's investment limitation or its loan limitation to a particular borrower for a period of 120 days pursuant to G.S. 53-49. The form incorporates the required resolution of the bank's board of directors and shall be accompanied by financial statements of the borrower(s) and shall be filed in triplicate. This report and the information contained therein is confidential and neither the report nor any of its contents shall be made available to the public. The form 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.

*History Note:* Authority G.S. 53-49; 53-92; 53-99;  
Eff. February 1, 1976;  
Amended Eff. September 1, 2006; May 1, 1992.

**04 NCAC 03C .0805 STOCKHOLDERS LIST**  
**04 NCAC 03C .0806 CHANGES IN OWNERSHIP AND MANAGEMENT**

*History Note:* Authority G.S. 53-42.1; 53-85; 53-92; 53-108; 150A-11(1);  
Eff. February 1, 1976;  
Amended Eff. September 26, 1979;  
Repealed Eff. January 1, 1985.

**04 NCAC 03C .0807 SUBSIDIARY INVESTMENT APPROVAL**

Banks that desire to create or invest in a corporation, partnership, firm, joint venture or other entity which will engage in a nonbanking function and which shall be either partially or wholly owned by the bank must first obtain the approval of the Commissioner of Banks, who shall take into account all relevant facts and circumstances, including, without limitation, the effect of approval upon the safety and soundness of the institution. The application for approval shall be by letter which must include the following:

- (1) A copy of the articles of incorporation, articles of partnership or other instrument creating or governing the business entity;
- (2) A description of the proposed activities and by whom these activities will be conducted;
- (3) The proposed investment in the enterprise expressed both in dollar amount and as a percentage of the bank's unimpaired capital funds;
- (4) The amount of the bank's investment in all existing subsidiaries, partnerships and companies as of the date of the letter of application;
- (5) The amount of the bank's unimpaired capital fund on the date of the letter of application as the same is defined at G.S. 53-1(9);
- (6) A copy of any contract or agreement for a lease, rental or other commitment by the enterprise that would create a contingent liability upon the business (or enterprise) or the bank;
- (7) Copies of any licenses or other permits which the enterprise or its employees are required to obtain prior to engaging in a regulated activity. If such licenses are not available on the date of the letter of application the same must be submitted prior to final approval; and
- (8) The application fee as determined by 04 NCAC 03C .1601(a)(7).

*History Note:* Authority G.S. 53-47; 53-93; 53-95; 53-104;  
Eff. May 1, 1992;  
Amended Eff. December 1, 2011; June 1, 1995.

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**SECTION .0900 - OPERATIONS**

**04 NCAC 03C .0901 BOOKS AND RECORDS**

Each bank, or its parent holding company, shall keep in permanent form, and available for examination by the representatives of the Commissioner of Banks, books and records which reflect all the transactions of the bank in its true financial condition. Such records shall be so kept as to permit and facilitate a speedy examination, which will, in turn, reflect such financial condition to the representatives of the Commissioner of Banks. Without implying that these are the only books and records to be kept, but, on the contrary, that these are necessary books

and records, as well as other books and records usually kept, the following are required to be kept at the bank, or at its parent holding company, unless another storage site is approved by the Commissioner of Banks:

- (1) Each commercial bank or branch thereof in which notes or other forms of similar obligations are retained must keep an alphabetical liability ledger. The direct liability ledger must be kept in balance with the general ledger control. In a commercial bank whose automated record system is not able to produce an alphabetical liability ledger the bank must be able to produce an alphabetical listing of borrowers showing all of a customer's loan or customer account numbers and the amount outstanding under each number when called upon by the Commissioner of Banks or his duly authorized agent. In addition to the direct liability ledger, each commercial bank or branch thereof in which notes or other forms of similar obligations are retained must keep an alphabetical indirect liability ledger showing a customer's indirect obligations by loan name or account number and the balance outstanding under each account. Where the total of the direct and indirect lines do not exceed twenty thousand dollars (\$20,000), the indirect line may be omitted from the indirect liability ledger. The indirect liability ledger must be updated at least monthly. Each commercial bank shall have the ability to produce both the direct and indirect liability ledgers in hard copy form upon call by the Commissioner of Banks or his duly authorized agent.
- (2) Records must be kept, showing the monthly reconciliation of each account with correspondent banks. A signed review of such reconciliations must be made by some officer or employee of the bank other than the person composing same.
- (3) A permanent record must be kept of all stocks and bonds bought or sold. Also, there must be retained for review by examiners all original invoices of purchases and sales of securities. The record must show dates of purchases and sales, interest rates, maturities, par value, cost value, all write-ups or write-downs, a full description of the security, from whom purchased, to whom sold, selling price, and when, where and why pledged or deposited. This record must be maintained in balance with the general ledger control.
- (4) A permanent record must be kept of all articles deposited for safekeeping. Receipts must be given and taken for all articles deposited or delivered. An inventory of parcels is not required.
- (5) A permanent record must be kept of all items charged off. All chargeoffs must be authorized or approved by the executive committee or by the board of directors and such action recorded in their minutes. This record, among other things, must show the date of the chargeoff, a description of the asset and the amount. The record must be supported by the actual charged off items, or the final disposition of any item. In this record must also be recorded all recoveries, giving dates and amounts.
- (6) A real estate record must be kept on all parcels owned, including the banking house. This record must show when, from whom, and how the property was acquired; date, cost price, book value, detailed income and detailed expenses. This record shall be supported by appraisals, title certificates showing assessed value, tax receipts, and insurance policies.
- (7) Proper minutes, showing clearly its action, must be kept for each committee, board of directors, board of managers, and stockholders' meetings. All minutes must be signed by the chairman and the secretary of this meeting.
- (8) A permanent daily record must be kept of all cash items held over from the day's business, including all checks that would cause an overdraft if handled in the regular way. This record must show the name of the account on whom the item is drawn or is obligated for payment, the reason the item is being held, the date the item was placed in the cash items account, and the amount of the item. This record must be a daily record showing only those items held over at the end of each day's business and be kept in balance with the general ledger or control figure.
- (9) A detailed record of income and expenses must be kept, balanced monthly, and a report thereof made to the executive committee or board of directors, and the receipt of same noted in their minutes.

- (10) In the discretion of the Commissioner of Banks, he may require the preparation or maintenance of further books or records by specific banks or branches thereof.
- (11) Each industrial bank, when preparing a report of condition and income, must include and make a part of this report a list of those whose obligations to the bank, whether the obligations are direct or indirect, and including paper purchased by the bank, are in excess of ten percent of capital, surplus and undivided profits. In lieu of this list, the bank must maintain a liability ledger in accordance with Item (1) of this Rule. Any commercial bank making installment loans may, with reference to such installment loans, make the report specified in this section in lieu of the liability ledger required under Item (1) of this Rule.

*History Note: Authority G.S. 53-92; 53-105; 53-106; 53-110;  
Eff. February 1, 1976;  
Amended Eff. June 1, 1995; May 1, 1992; October 1, 1990; September 1, 1983.*

#### **04 NCAC 03C .0902 REQUIRED ACCOUNTS**

In order that the books and records of the bank may properly reflect all of its liabilities, the following reserve accounts must be set up and be properly maintained by all banks:

- (1) Reserve for Interest Due Depositors. This reserve must be set up and proper entries made thereto at least once each month. As interest is paid to depositors, payments must be charged to this account. Each month, as credits are made to this reserve, the amount should be charged to interest paid to depositors' accounts.
- (2) Reserve for Unearned Interest on Loans. All interest collected on notes must be credited to this account on the day it is collected. At least once each month earned interest must be computed, be charged to this account, and be credited to earned interest account. Provided however, this Subparagraph does not apply to loans where interest is accounted for through an income earned not collected account.
- (3) Reserve for Taxes, Insurance, Etc. Based upon available information, including past experience, the approximate sum to be required for taxes of all kinds and for insurance, including surety bond premiums, for all purposes for the year, must be estimated and this account must be credited at least once each month, and debits made to expense accounts, for one-twelfth of the total. All payments for taxes and insurance, when made, must be charged to this reserve account. Provided, however, in lieu of using a reserve account, a prepayment account may be established for insurance, and monthly charges made to the account to expense the appropriate amount.
- (4) Reserve for Depreciation. In order that the values carried on the books of the bank representing fixed assets may be as nearly correct as possible, each bank must set up and properly maintain a reserve for depreciation. Credits must be made to this account at least once each month for one-twelfth of the annual rate permitted for that particular asset by the United States Internal Revenue Service.
- (5) Bond Income Earned; Not Collected. At least once each month, the income on bonds earned during the month shall be charged to this account and credited to the bond income account. As coupons are collected, they shall be credited to this account.

*History Note: Authority G.S. 53-92; 53-110;  
Eff. February 1, 1976;  
Amended Eff. September 1, 1990.*

**04 NCAC 03C .0903      RETENTION: REPRODUCTION AND DISPOSITION OF BANK RECORDS**

(a) Each bank or branch thereof shall keep and retain in some safe and secure place the books, ledgers, records, and documents hereinafter set forth for the periods specified.

Bank Records to Minimum  
be Retained

Retention Period

ACCOUNTING

- |    |   |         |
|----|---|---------|
| 1. | Daily Reserve Calculation and Averages                              | 3 years |
| 2. | Difference Records (Over/Short)                                     | 2 years |
| 3. | Paid Bills and Invoices   | 3 years |
| 4. | Quarterly Report of Condition and Income and Supporting Work Papers | 5 years |

ADMINISTRATIVE

- |    |  |           |
|----|--|-----------|
| 1. | Documentation of Charged-off Assets  | 10 years  |
| 2. | Escheat Reports and Records  | 10 years  |
| 3. | Minute Books of Meetings of Stockholders, Directors, and Executive Committee | Permanent |

AUDIT

- |    |   |         |
|----|---|---------|
| 1. | Audit Reports (Internal and External) and Directors' Examinations | 3 years |
| 2. | Audit Work Papers (Internal)                                      | 3 years |

BANK PROPERTIES

- |    |  |                |
|----|--|----------------|
| 1. | Fixed Assets-Evidence of Ownership (After Acquisition) | 5 years        |
| 2. | Fixed Assets-Leases (After Termination)                | 5 years        |
| 3. | Real Estate-Construction Records                       | 5 years        |
| 4. | Real Estate-Deeds                                      | Until conveyed |
| 5. | Real Estate-Leases (After Termination)                 | 5 years        |

CAPITAL

- |    |  |           |
|----|--|-----------|
| 1. | Capital Stock Certificate Books, Stubs, or Interleaves | Permanent |
| 2. | Capital Stock Ledger                                   | Permanent |
| 3. | Capital Stock Transfer Register                        | Permanent |
| 4. | Proxies  | 3 years   |

COLLECTIONS

- |    |  |   |
|----|--|---|
| 1. | Collection Registers (Incoming and Outgoing) | 3 years after<br>item paid or<br>returned |
| 2. | Receipts and Advices (After Closed)          | 1 year                                    |

CREDIT CARDS

- |    |  |           |
|----|--|-----------|
| 1. | Borrowing Authority Resolutions (After Closed) | 3 years   |
| 2. | Customer Application (After Closed)            | 1 year    |
| 3. | Disclosure and Compliance Documents            | 25 months |
| 4. | Merchants' Agreement (After Closed)            | 2 years   |
| 5. | Posting or Transaction Journal                 | 2 years   |

6.	Sales Tickets or Drafts	3 years
7.	Statement of Account	5 years

#### DEMAND DEPOSIT AND TRANSACTION ACCOUNTS

1.	Checks and Debits	5 years
2.	Daily Report on Overdrafts	2 years
3.	Deposit Resolutions (After Closed)	3 years
4.	Deposit Tickets and Credits	5 years
5.	Ledgers, Statements, or Stubs	5 years
6.	Letters of Administration	5 years
7.	Posting or Transaction Journals	2 years
8.	Powers of Attorney	5 years
9.	Return Item Records	1 year
10.	Signature Cards (After Closed)	5 years
11.	Stop Payment Orders	1 year
12.	Tax Waivers	1 year
13.	Undelivered Statements	1 year
14.	Unidentified or Unclaimed Deposit Records	Until escheated

#### DUE FROM BANKS

1.	Advise of Entry (After Cleared)	3 months
2.	Drafts (After Paid)	5 years
3.	Draft Register or Carbon Copy	Until paid
4.	Reconcilements	5 years
5.	Statements	3 years

#### GENERAL LEDGER

1.	Daily Statement of Condition	5 years
2.	General Journal (If Book of Original Entries, with Descriptions)	15 years
3.	General Ledgers	15 years
4.	General Ledger Tickets	5 years

#### INSURANCE

1.	Bankers Blanket Bond and Excess	5 years
2.	General Casualty Liability Policies Expired	5 years

#### INTERNATIONAL

1.	Bankers Acceptances	3 years
2.	Collection Records	3 years after item paid or returned
3.	Letters of Credit and Documents expiration	3 years after
4.	Transfer Orders (Wire or Written)	1 year

#### INVESTMENTS

1.	Accrual and Bond Amortization or Accretion Records (After Period Ends)	3 years
2.	Brokers' Confirmations, Invoices, Statements	3 years

3. Ledgers 3 years

LEASE RECEIVABLES (OTHER THAN REAL ESTATE)

1. Lease Agreements and Documents (After Termination) 5 years  
2. Rental Payment Records 5 years  
3. Record of Disposition of Property 5 years

LEGAL JUDICIAL AUTHORIZATION

1. Attachments and/or Garnishments 10 years  
2. Court Case Records (After Final Disposition) 10 years  
3. Probate Court Appointment (After Closed) 10 years

LOANS (COMMERCIAL, CONSUMER, MORTGAGE)

1. Appraisals, Financing Statements, and Title Opinions Pertaining to Collateral Until paid  
2. Borrowing Resolutions 3 years after  
payment of debt  
3. Credit Files (Financial Statements, Applications, Correspondence) (After Paid) 2 years  
4. Collateral Records (After Released) 5 years  
5. Interest Rebate Records 1 year  
6. Liability Cards and/or Ledgers (After Closed) 3 years  
7. Loan Ledger Cards or History Sheets (After Paid) 3 years  
8. Loan Proceeds Disbursement Records Until paid  
9. Loans Paid Record 3 years  
10. Mortgage Files and Supporting Documents (After Paid) 2 years  
11. Note and/or Loan Register (After Paid) 3 years  
12. Posting or Transaction Journal 2 years

MAIL

1. Insurance Records of Registered and Certified 1 year  
2. Registered and Certified Records (In and Out) 1 year  
3. Return Receipt Record 1 year

MISCELLANEOUS

1. Cash and Security Vault Records-Opening, Closing 6 months  
2. Taxes>Returns and Supporting Papers 3 years or until  
cleared by IRS  
and Dept. of  
Revenue  
3. Travelers Checks-Applications 1 year

MONEY TRANSFER

1. Copy of Incoming and Outgoing Transfers 1 year  
2. General Correspondence 1 year  
3. Receipts and Advices (After Closed) 1 year  
4. Transfer Request Records 1 year

NIGHT DEPOSITORY

- |    |                                   |        |
|----|-----------------------------------|--------|
| 1. | Customer Agreement (After Closed) | 1 year |
| 2. | Customer Receipt                  | 1 year |
| 3. | Daily Inventory                   | 1 year |

OFFICIAL CHECKS

- |    |   |                         |
|----|---|-------------------------|
| 1. | Official Checks (Dividend, Cashiers, Expense, Loan) and Money Orders (After Paid) | 5 years                 |
| 2. | Official Check Register or Carbon Copy  | Until paid or escheated |
| 3. | Certified Checks or Receipts (After Paid)   | 5 years                 |
| 4. | Certified Check Register or File Copy   | Until paid or escheated |
| 5. | Affidavits and Indemnity pertaining to Issuance of Duplicate Checks               | Permanent               |

PROOF AND TRANSIT

- |    |  |          |
|----|--|----------|
| 1. | Advice of Correction                                     | 6 months |
| 2. | Cash Tickets   | 6 months |
| 3. | Outgoing Cash Letters and Accompanying Items (Microfilm) | 2 years  |
| 4. | Proof Sheets, Tapes, and Listings                        | 2 years  |

SAFE DEPOSIT

- |    |   |           |
|----|---|-----------|
| 1. | Access Records (After Closed)           | 3 years   |
| 2. | Box History Card                        | Permanent |
| 3. | Contracts and Agreements (After Closed) | 3 years   |
| 4. | Forced Entry Records                    | 10 years  |

SAFEKEEPING AND CUSTOMER SECURITIES

- |    |  |         |
|----|--|---------|
| 1. | Broker Confirmations, Invoices, Statements       | 3 years |
| 2. | Buy and Sell Orders                              | 3 years |
| 3. | Customer Contracts and Agreements (After Closed) | 3 years |
| 4. | In and Out Records (Movement of Securities)      | 3 years |
| 5. | Safekeeping Receipts (After Closed)              | 3 years |

SAVINGS AND TIME DEPOSITS

- |     |   |                         |
|-----|---|-------------------------|
| 1.  | Certificates of Deposit Paid                              | 5 years                 |
| 2.  | Certificates of Deposit Records (Register, Ledger, Copy)  | Until paid or escheated |
| 3.  | Daily Report of Overdrafts                                | 2 years                 |
| 4.  | Debits and Withdrawals                                    | 5 years                 |
| 5.  | Deposit and Credit Tickets                                | 5 years                 |
| 6.  | Deposit Resolution (After Closed)                         | 3 years                 |
| 7.  | Ledgers or Statements                                     | 5 years                 |
| 8.  | Posting or Transaction Journal                            | 1 year                  |
| 9.  | Signature Cards, Contracts, and Agreements (After Closed) | 5 years                 |
| 10. | Undelivered Statements                                    | 1 year                  |
| 11. | Unidentified or Unclaimed Deposit Records                 | Until escheated         |

TELLERS

- |    |  |          |
|----|--|----------|
| 1. | Balance Sheets, Recaps, or Records                                 | 1 year   |
| 2. | Cash Item Report   | 1 year   |
| 3. | Machine Tapes, Cash Ticket Copies, Posting or Transaction Journals | 6 months |

TRUST (Corporate)

- |    |   |  |
|----|---|--|
| 1. | Account Ledger or Record<br>account closed                  | 7 years after  |
| 2. | Posting or Transaction Journal                              | 7 years  |
| 3. | Bonds of Indemnity  | Permanent  |
| 4. | Stock Certificates (Cancelled)                              | until returned   |
| to |   |  |
| 5. | Dividend Checks -- Paid                                     | corporation<br>5 years                                       |
| 6. | Dividend Check Register or Carbon Copy                      | Until paid   |
| 7. | Bonds and Coupons --<br>Cancelled or Cremation Certificates | 7 years after<br>paid or until<br>returned to<br>corporation |
| 8. | Resolutions and Authorizations                              | 7 years after<br>account                                     |

closed

TRUST (Employee Benefit)

- |             |  |                          |
|-------------|--|--------------------------|
| 1.          | Accountings                                | 6 years after<br>account |
| closed      |  |                          |
| 2.          | Agreements, Authorizations and Resolutions | 6<br>account             |
| years after |  |                          |
| closed      |  |                          |
| 3.          | Account Ledger or Record                   | 6 years after<br>account |
| closed      |  |                          |
| 4.          | Disbursement Checks                        | 6 years                  |
| 5.          | Check Register or Carbon Copy              | Until Paid               |
| 6.          | Bonds of Indemnity                         | Permanent                |

TRUST (Personal)

- |        |                               |                          |
|--------|-------------------------------|--------------------------|
| 1.     | Accountings                   | 3 years after<br>account |
| closed |                               |                          |
| 2.     | Agreements and Authorizations | 5 years after<br>account |
| closed |                               |                          |
| 3.     | Account Ledger or Record      | 7 years after<br>account |
| closed |                               |                          |
| 4.     | Minutes of Committee Meetings | Permanent                |
| 5.     | Receipts for Assets Delivered | 3 years after            |

		account
closed		
	6. Tax Return	10 years or until IRS
clears		
	7. Disbursement Checks	5 years
	8. Check Register or Carbon Copy	Until paid
	9. Bonds of Indemnity	Permanent

(b) Nothing in these Rules shall prohibit any bank or branch thereof from keeping and maintaining any and all of its records for a longer period of time than the minimum time set forth as the minimum retention period.

(c) Paragraph (a) of this Rule sets forth state minimum records retention requirements and does not necessarily include nor cover records required to be kept by federal agencies such as federal bank supervisory agencies, wage hour, and other federal agencies. Banks will also observe the requirements of such federal agencies in retention of records required by such agencies.

(d) Nothing in these Rules shall prohibit any bank or branch thereof from causing any or all of its records, whether permanent records or records designated to be retained for a minimum period of time, to be maintained pursuant to GS. 53-110(b)(4).

*History Note: Authority G.S. 53-92; 53-104; 53-110;  
Eff. February 1, 1976;  
Amended Eff. May 1, 1992; September 1, 1990; January 1, 1985.*

#### **04 NCAC 03C .0904 LETTERS OF CREDIT**

In order that the books and records of the bank may properly reflect its contingent liabilities, the bank shall properly maintain subsidiary records on all letters of credit, except for letters of credit sold for cash, issued and outstanding showing the following information:

- (1) the name of the account party for whom the letter of credit is established,
- (2) the name of the beneficiary,
- (3) the amount,
- (4) the expiration date,
- (5) the terms under which payment is authorized.

*History Note: Authority G.S. 53-92; 53-104; 53-110;  
Eff. April 21, 1979.*

### **SECTION .1000 - LOAN ADMINISTRATION AND LEASING**

#### **04 NCAC 03C .1001 LOAN DOCUMENTATION**

Unless otherwise provided, each bank, or any branch thereof, where notes are held must maintain on file the appropriate supporting documents as follows:

- (1) Financial Statements. Financial statements shall be required from any borrower who is a maker, co-maker, guarantor, endorser or surety on any unsecured loans or other unsecured extensions of credit in an amount of fifty thousand dollars (\$50,000) or more in the aggregate. Financial statements required by this Item shall:
  - (a) be signed or otherwise properly executed;
  - (b) be dated within 18 months preceding the origination date of the credit obligation;
  - (c) be renewed within 18 months after the date of the last financial statement on file;
  - (d) be addressed to, or made specifically for, the lending bank; and

- (e) include such information as will adequately reflect the assets, liabilities, net worth and income of the borrower.
- (2) Financial Statement Exceptions. A bank may waive the financial statement required by Item (1) of this Rule for credit granted under a credit card. Additionally, a bank may elect to substitute in the place of a current financial statement a current credit bureau report for consumer loans scheduled to be repaid in at least quarterly installments.
- (3) Personal Property Appraisals. Appraisals on personal property used as collateral for a loan shall be obtained and shall be completed as follows:
  - (a) Generally. Except as otherwise provided below, a written appraisal of personal property used to collateralize any loan must be made by the executive committee or loan committee of the bank, or any branch thereof, or other reliable persons familiar with the value of the property. Except as provided, all appraisals must be renewed every 24 months.
  - (b) Requirements. The appraisal required by this Item must include:
    - (i) the name of the borrower;
    - (ii) the date the appraisal was made;
    - (iii) the value of the collateral;
    - (iv) the signatures of at least two persons making the appraisal;
    - (v) a brief description of the property;
    - (vi) the amount of any prior lien and holder of the lien, if any; and
    - (vii) the original amount or outstanding balance of the loan which the property is used to secure.
  - (c) Appraisal Exceptions. No appraisal shall be required under the following circumstances:
    - (i) on collateral to notes of less than fifty thousand dollars (\$50,000);
    - (ii) on loans fully secured by obligations of the United States or the State of North Carolina;
    - (iii) on loans fully secured by deposits in the bank maintaining the loan account;
    - (iv) on loans fully secured by the cash surrender or loan value of life insurance policies;
    - (v) on loans fully secured by bonded warehouse receipts;
    - (vi) on floor plan loans to dealers fully secured by new automobiles, station wagons, vans, and trucks;
    - (vii) on discounted notes for a dealer where the note is given as the purchase price of an automobile or other consumer goods; or
    - (viii) on loans fully secured by listed securities, unless such loans are within the provisions of the Securities Exchange Act of 1934 as defined by Regulation "U," as amended from time to time by the Board of Governors of the Federal Reserve System. On loans secured by such collateral, appraisal must be made and kept on file until the loan is fully paid.
  - (d) Renewal Exceptions. Appraisals need not be renewed annually where an automobile, station wagon, mobile home, or a truck or van not exceeding 8,000 pounds empty weight, is the sole or partial collateral for a loan.
  - (e) Single Signature Exception. An appraisal may be signed by only one person where an automobile, station wagon, mobile home, or a truck or van not exceeding 8,000 pounds empty weight, is the sole collateral for a loan.
- (4) Real Estate Appraisals. Unless otherwise provided, all real estate taken as security for loans shall be appraised in the form and manner set forth in Sub-item (4)(a) through (4)(c) of this Rule. In addition, the appraisal must be independent in that the appraiser is not involved in the loan transaction secured by the property being appraised and has no interest, financial or otherwise, in the property;
  - (a) The bank may elect to waive the requirement for an appraisal of real estate given as security for loans of fifty thousand dollars (\$50,000) or less. Appraisals of real estate given as security for loans over fifty thousand dollars (\$50,000), but not exceeding two hundred fifty thousand dollars (\$250,000), whether directly or indirectly pledged shall be prepared by any one of the following methods:
    - (i) Two members of the executive or loan committee who are familiar with real estate values in the community where the property is located;

- (ii) Two bank employees who are familiar with real estate values in the community where the property is located, provided that one of the two employees must not be involved in the loan transaction secured by the property being appraised;
    - (iii) A state-licensed real estate appraiser or state-certified real estate appraiser or a person certified as a real estate appraiser by an appraisal trade organization approved by the bank to perform the appraisal; or
    - (iv) In lieu of an appraisal as provided by Sub-items (4)(a)(i) through (iii) of this Rule, for loans less than two hundred fifty thousand dollars (\$250,000), a bank may elect to accept a copy of the most recent real property tax notice from the tax administrator's office in the county in which the property is located provided that such notice states the assessed ad valorem tax value of the real estate, and any improvements thereon, separate from the personal property; and provided further, the loan officer shall include with the tax notice a memorandum to file that he or she has obtained the notice from the county tax administrator and is of the opinion that such notice accurately reflects the real property values.
  - (b) Except as noted, appraisals required by Sub-item (4)(a)(i), (ii), and (iii) of this Rule shall be in writing, and signed and dated by the person or persons making the appraisal. Additionally, the appraisal must identify the loan transaction for which it was made; identify the current balance of prior lien and holder of the lien, if any, disclosed by the attorney's title certificate; segregate values of improvements from values of the land; and describe the property so as to make it easily identifiable. If a professional appraisal form is used which does not include this information, the bank must complete and attach to such appraisal its own appraisal form disclosing the required information. The appraisal must state the basis or approach used to determine the value of the property. Acceptable approaches to determining the value of real property are:
    - (i) The current cost of replacing a property, less depreciation relating to deterioration from functional or economic obsolescence;
    - (ii) The value indicated by recent sales of comparable properties in the market and other market factors such as listings and offers to sell; or
    - (iii) The value that the property's net earning power will support, based on a capitalization of net income.
  - (c) All real estate given as security to loans in an amount over two hundred fifty thousand dollars (\$250,000), whether directly or indirectly pledged shall be appraised and such appraisal shall be subject to the provisions of 12 C.F.R. 323.1 through 12 C.F.R. 323.7, which are herein incorporated by reference. Pursuant to G.S. 150B-21.6, any reference to 12 C.F.R. 323.1 through 12 C.F.R. 323.7 shall automatically include any later amendments or additions to those rules.
- (5) Certificate of Title. For loans secured primarily by real property and only secondarily by the borrower's general credit worthiness and projected income, a certificate of title furnished by an attorney at law, or title insurance issued by a company licensed by the Commissioner of Insurance, or other insurance coverage that provides to the bank substantially similar protection against loss from title defects or errors/omissions at closing or other loan-related risks, must accompany each deed of trust or mortgage given as security on loans of fifty thousand dollars (\$50,000) or more.
  - (6) Stock Certificate/Powers. Where stock certificates, or similar securities, are accepted as collateral to loans, each certificate must be endorsed and witnessed in ink, or accompanied by a stock power signed and witnessed in ink. Where such collateral is in the name of another, other than the maker or endorser of the note, there must be on file in the bank written authority from the owner permitting the hypothecation of the collateral.
  - (7) Corporate Resolutions. Loans made directly to corporations must be supported by certified copies of resolutions of the board of directors of the corporation, authorizing the making of such loans.
  - (8) Partnership Declaration. Loans made directly to partnerships must be supported by a declaration by the partners showing the composition of the partnership and unless all partners sign the note, the authority of the partner(s) executing the note to bind the partnership.

- (9) Limited Liability Company Certification. Loans made directly to limited liability companies must be supported by a certification of a manager thereof that the loan is authorized and is obtained for the carrying on in the usual way the business of the limited liability company.
- (10) Unlisted Securities. Full credit information on all unlisted securities, now owned or hereafter purchased or acquired, must be secured and kept on file in the bank.

*History Note:* Authority G.S. 53-93; 53-95; 53-104; 53-110; 53-115; 12 U.S.C. §§ 3331, et seq.;  
 Eff. February 1, 1976;  
 Amended Eff. December 1, 2011; April 1, 2007; June 1, 1995; May 1, 1992; September 1, 1990;  
 September 1, 1983.

#### **04 NCAC 03C .1002 LEASING OF PERSONAL PROPERTY**

Each bank or branch thereof acquiring and leasing personal property or personal property subject to an existing lease together with the lessor's interest therein and incurring such additional obligations as may be incident to becoming an owner and lessor of such property may do so only when subject to the following restrictions:

- (1) Before the acquisition thereof upon the specific request and for the use of the customer the prospective lessee shall execute an agreement to lease such property;
- (2) During the minimum period of the lease, terms require payment to the bank rentals which in the aggregate will exceed the total expenditures by the bank for or in connection with the ownership, maintenance, and protection of the property. In determining the total expenditures under this Rule, a bank may deduct a realistic residual value in determining the rentals to be charged during the term of a lease agreement. Any unguaranteed portion of the estimated residual value relied upon by the bank to calculate total expenditures under this Regulation may not exceed 25 percent of the original cost of the property to the lessor. The amount of any estimated residual value guaranteed by a manufacturer, the lessee, or a third party, which is not an affiliate of the bank, may exceed 25 percent of the original cost of the property where the bank has determined, and can provide full, supporting documentation, that the guarantor has the resources to meet the guarantee;
- (3) The total leasing obligations or rentals to any bank of any person, partnership, association, corporation; or limited liability company shall at no time exceed the legal limit permitted by G.S. 53-48;
- (4) The overall investment of the bank in such property leased to all lessees shall at no time exceed 200 percent of its unimpaired capital fund as defined in G.S. 53-1(9);
- (5) The bank shall at all times maintain adequate protection by way of insurance or indemnity provided by the lessee;
- (6) No such lease or other agreement shall obligate the bank to maintain, repair, or service personal property in connection with any lease held by it;
- (7) No personal property acquired pursuant to the ownership or lease of personal property shall be included in the computable investment in fixed assets under G.S. 53-43(3);
- (8) Rental payments collected by the bank under lease arrangements shall be rent and shall not be deemed to be interest or compensation for the use of money loaned;
- (9) Upon expiration of any lease whether by virtue of the lease agreement or by virtue of the retaking of possession by the bank, such personal property shall be re-let, sold, or otherwise disposed of, or charged off within one year from the time of expiration of such lease; and
- (10) Upon written request the Commissioner may waive or modify any of the foregoing restrictions. In evaluating such a request, the Commissioner shall consider such factors as:
  - (a) the bank's size, profitability, capital sufficiency, risk profile, market, and operational capabilities, especially with a view towards the bank's involvement in lease financing;
  - (b) current best practices of financial institutions engaged in lease financing;
  - (c) the nature, size, duration, aggregate amount, and other risks attendant to the bank's lease financing transactions;
  - (d) the risk of significant loss to the bank if the Commissioner does not grant the request.

*History Note:* Authority G.S. 53-92; 53-104;  
 Eff. February 1, 1976;  
 Amended Eff. April 1, 2007; September 1, 1990; September 1, 1983; May 1, 1982.

## SECTION .1100 - CAPITAL

### **04 NCAC 03C .1101      DEFINITIONS: ISSUANCE OF CAPITAL NOTES AND DEBENTURES** **04 NCAC 03C .1102      CAPITAL DEBENTURES AND NOTES**

*History Note:*      Authority G.S. 53-1; 53-43.4; 53-92; 53-104;  
                                 Eff. February 1, 1976;  
                                 Amended Eff. June 1, 1995; September 26, 1979;  
                                 Repealed Eff. April 1, 2007.

### **04 NCAC 03C .1103      CAPITAL STOCK**

- (a) Definition. For the purpose of this Section, the terms capital stock and common capital stock shall be considered one and the same and shall consist of the par value of all classes of common stock times the number of shares issued and outstanding.
- (b) Par Value. All classes of common stock issued by a bank shall have a stated par value.
- (c) Impairment. A bank's capital stock will be deemed impaired when the payment of expenses, losses or other charges to its capital accounts shall reduce the bank's total equity capital to an amount less than its capital stock.

*History Note:*      Authority G.S. 53-1(3)d; 53-2(4); 53-42; 53-104;  
                                 Eff. May 1, 1992.

### **04 NCAC 03C .1104      MAINTENANCE OF CAPITAL SURPLUS**

Each bank doing business under Chapter 53 shall at all times maintain a paid in surplus of not less than 50 percent of common capital stock as the same is defined at 4 NCAC 3C .1103(a).

*History Note:*      Authority G.S. 53-2(4); 53-104;  
                                 Eff. May 1, 1992.

### **04 NCAC 03C .1105      NOTICE OF IMPAIRMENT**

The Commissioner of Banks will notify by certified mail the Chairman of the Board of any bank whose capital has become impaired pursuant to 4 NCAC 3C .1103(c). The impairment must be made good within 60 days of receipt of the notice by assessment upon the shareholders and a special meeting of shareholders must be immediately called for that purpose. A copy of the notice of the shareholders' meeting must be provided to the Commissioner of Banks. Immediately following this special meeting, the secretary of the board shall provide the Commissioner with a copy of the minutes which must reflect the amount of assessments and time within which the same must be paid together with an indication of the steps which the board will take to collect any assessment which is not timely paid.

Pursuant to G.S. 53-42, the Commissioner of Banks may immediately take possession of a bank which has not paid in the deficiency in its capital stock.

*History Note:*      Authority G.S. 53-42; 53-104;  
                                 Eff. May 1, 1992.

## SECTION .1200 - DEPOSITS

### 04 NCAC 03C .1201 SCHOOL THRIFT OR SAVINGS PLAN

Prior to the initiation of any school savings plan in the area where the bank or a branch thereof now operates, a resume of the plan shall be approved by the Commissioner of Banks.

*History Note:* Authority G.S. 53-43.6; 53-92; 53-104;  
Eff. February 1, 1976.

### 04 NCAC 03C .1202 RESUME OF THE PLAN

The resume of the school saving plan shall include the following information unless the Commissioner shall desire additional information:

- (1) location of the school,
- (2) approved by the proper school authority,
- (3) person or persons responsible for operations of the plan and person or persons responsible for the collection and disbursement of deposits,
- (4) place where records will be maintained.

*History Note:* Authority G.S. 53-43.6; 53-92; 53-104;  
Eff. February 1, 1976.

## SECTION .1300 - BANK PERSONNEL

### 04 NCAC 03C .1301 ANNUAL VACATION

*History Note:* Authority G.S. 53-92; 53-104;  
Eff. February 1, 1976;  
Amended Eff. June 1, 1995; October 1, 1990;  
Repealed Eff. April 1, 2007.

### 04 NCAC 03C .1302 SHARE PURCHASE AND OPTION PLANS

(a) Officer and employee plans. A bank may establish a stock option or stock purchase plan for the benefit of its officers and employees, or any of these groups, provided that, in addition to the required approval of shareholders, the following conditions are met:

- (1) The plan shall be in writing.
- (2) The plan shall be administered by a committee from the board of directors, none of whose members may participate in the same.
- (3) In the case of a stock option plan, the number of shares subject to the plan is reasonable in relation to the bank's capital structure and anticipated growth. For the purposes of this Subparagraph, any plan to which there is allocated no more than 10% of the total of the bank's outstanding shares as the shares reserved for the plan, shall be deemed reasonable in relation to the bank's capital structure and anticipated growth.
- (4) The number of shares which may be allocated to any person under a plan is reasonable in relation to the purpose of the plan and the needs of the bank. For the purposes of this Subparagraph, any plan which provides that no more than 40% of the shares which have been set aside for option may be allocated to any one participant shall be deemed reasonable in relation to the purpose of the plan and needs of the bank.

(b) Directors stock option plans. A bank may establish a stock option plan for the benefit of its directors provided that the following conditions are met:

- (1) The plan shall be in writing.
- (2) The number of shares allocated to the plan is reasonable in relation to the bank's capital structure and anticipated growth. For the purposes of this Subparagraph, any plan to which there is allocated no more than 10% of the bank's outstanding shares as the shares reserved for the plan shall be deemed reasonable in relation to the bank's capital structure and anticipated growth.
- (3) The number of shares allocable to any person under the plan is reasonable in relation to the purpose of the plan and the needs of the bank. For the purposes of this Subparagraph, any plan which provides that no more than 40% of the shares which have been set aside for option may be allocated to any one participant shall be deemed reasonable in relation to the purpose of the plan and the needs of the bank.

(c) Shares issued to employees, officers and directors under this Rule may be authorized but unissued stock which has been authorized by stockholders in accordance with state law and in accordance with the notice to the shareholders.

(d) Stock allocated or reserved for a stock option plan or a stock purchase plan may not be included in computing the bank's investment limitation, loan limitation, fixed asset limitation, or any other limitation based on capital, until the stock has been paid for in full.

(e) Approval. Before a bank may establish any plan set forth in Paragraphs (a) and (b) of this Rule, it shall submit a written request to the Commissioner which includes or incorporates by reference the following information:

- (1) A draft of the proposed plan document;
- (2) A copy of the proposed notice of shareholders' meeting, proxy, and proxy statement;
- (3) The number of authorized but unissued shares that shall be allocated to the plan;
- (4) A copy of any proposed amendments to the Articles of Incorporation creating authorized but unissued stock and eliminating pre-emptive rights as to shares reserved under a stock option or stock purchase plan; and
- (5) The number of shares of stock outstanding at the time the request is made and the number of shares which have previously been allocated to any stock option or stock purchase plan.

If a proposed plan complies with the applicable conditions of Paragraph (a) or (b) of this Rule, it shall be approved subject to the required vote of shareholders and submission of a final plan document. Final approval shall be given by the Commissioner of Banks upon submission of a final plan document approved by the required vote of shareholders.

(f) Maximum limitation. Notwithstanding any of the provisions of this Section, a bank shall not:

- (1) Allocate in the aggregate more than 20% of its outstanding shares to stock purchase plans; nor,
- (2) Allocate to any one participant more than 40% in the aggregate of all the shares reserved for option.

*History Note:* Authority G.S. 53-10; 53-43; 53-43.3; 53-104;  
Eff. February 1, 1976;  
Amended Eff. October 1, 2011; June 1, 1995; July 1, 1990.

#### **04 NCAC 03C .1303 INSIDER TRANSACTIONS**

*History Note:* Authority G.S. 53-92; 53-95; 53-104; 53-106; 53-110;  
Eff. April 21, 1979;  
Repealed Eff. January 1, 1984.

### **SECTION .1400 - LEGAL RESERVE**

#### **04 NCAC 03C .1401 REQUIREMENT OF RESERVE FUND**

(a) The amount of the reserve fund which shall be established and maintained shall at all times equal the reserves required by the Federal Reserve System for non-member banks.

(b) In the event the reservable liabilities of any bank are such that no reserve is required of that bank by the Federal Reserve System, such bank shall maintain a reserve fund equal to three percent of its total deposits of every kind which

are not secured by a deposit of bonds, notes, bills, and certificates of indebtedness of the United States, or agency thereof, or other obligations guaranteed by the United States Government, or the bond obligations of the State of North Carolina, its counties, municipalities, and other political subdivisions thereof.

*History Note:* Authority G.S. 53-50; 53-92; 53-104;  
Eff. February 1, 1976;  
Amended Eff. July 1, 1990; August 6, 1981.

**04 NCAC 03C .1402 BASIS FOR COMPUTATION AND MAINTENANCE**

Required reserves shall be computed on the basis of the daily average deposit balance during a 14-day period ending every second Monday (the "computation period"). The method for determining the amount of reserve required is set forth in Rule .1401 of this Section. The reserves that are required to be maintained shall be maintained during a corresponding 14-day period (the "maintenance period") which begins on the second Thursday following the end of a given computation period and ends on the second Wednesday thereafter. For non-business days deposit figures of the prior banking day will be used.

*History Note:* Authority G.S. 53-51; 53-92; 53-104;  
Eff. February 1, 1976;  
Amended Eff. July 1, 1990; August 6, 1981.

**04 NCAC 03C .1403 RESERVE FUND DEFINED**

The reserve fund required to be established and maintained shall consist of the following:

- (1) cash on hand;
- (2) balances payable on demand, due from other approved solvent banks, which have been designated depositories as provided in G.S. 53-84; and
- (3) not more than 20 percent of the following prescribed, unencumbered, interest-bearing obligations, which shall not have more than 120 days to final maturity:
  - (a) obligations of the United States Treasury and of any agency of the United States which are guaranteed by the United States government, and
  - (b) general obligation of the State of North Carolina and of any political subdivision thereof which has received an investment rating of "A" or higher by a nationally recognized rating service;
- (4) balances maintained at a Federal Reserve Bank either directly or on a pass-through basis to meet the reserve requirements of the Federal Reserve System.

*History Note:* Authority G.S. 53-51; 53-92; 53-104;  
Eff. September 26, 1979;  
Amended Eff. August 6, 1981.

**SECTION .1500 - AUTOMATION AND DATA PROCESSING**

**04 NCAC 03C .1501 CUSTOMER-BANK COMMUNICATION TERMINALS**  
**04 NCAC 03C .1502 LIMITATIONS**

*History Note:* Authority G.S. 53-62; 53-92; 53-104;  
Eff. February 1, 1976;

*Amended Eff. May 1, 1992; September 1, 1990;  
Repealed Eff. April 1, 2001.*

#### **SECTION .1600 – FEES**

##### **04 NCAC 03C .1601 FEES, COPIES AND PUBLICATION COSTS**

(a) For applications, petitions, and other proceedings which must be filed with the Commissioner of Banks the following fees shall be paid to the Commissioner at the time of filing:

- |     |   |            |
|-----|---|------------|
| (1) | Application for the Formation of a New Bank or State Trust Institution                                  | \$8,000.00 |
| (2) | Application to Merge or Consolidate Banks or State Trust Institutions<br>(fee is per institution)       | \$3,000.00 |
| (3) | Application for Reorganization Into a Bank Holding Company Through<br>an Interim Bank (fee is per bank) | \$3,000.00 |
| (4) | Application for Reorganization  | \$3,000.00 |
| (5) | Application for Conversion of a National Bank to State Charter  | \$2,500.00 |
| (6) | Application for Voluntary Liquidation   | \$3,000.00 |
| (7) | Application for Authority to Invest in a Subsidiary   | \$750.00   |
| (8) | Application for Conversion of a Savings and Loan Association or a Savings<br>Bank to a State Bank       | \$2,500.00 |

(b) The fees set forth in Paragraph (a) of this Rule are for standard applications, petitions, and other proceedings filed and considered in the ordinary course of business. Any application, petition or other proceeding which in the opinion of the Commissioner of Banks requires extraordinary review, investigation or special examination shall be subject to the actual costs of additional expenses and the hourly rate for the staff's time to be determined annually by the Banking Commission. The Commissioner of Banks shall advise an applicant or petitioner in advance of any additional work required and the hourly rate for the same. The hourly rate shall be:

- |     |                                 |         |
|-----|---------------------------------|---------|
| (1) | For Senior Administrative staff | \$75.00 |
| (2) | For an Examiner II              | \$50.00 |
| (3) | For an Examiner I               | \$35.00 |
| (4) | For an Examiner Trainee         | \$25.00 |

(c) Unless otherwise stated, publications externally printed may be obtained at a cost equal to the actual cost of printing plus shipping and handling. All other publications or public record copies may be purchased at a price of two dollars (\$2.00) for the first page and twenty-five cents (\$0.25) for each additional page.

*History Note: Authority G.S. 53-92; 53-122(3);  
Eff. July 1, 1990;  
Amended Eff. June 1, 2004; June 1, 1995; May 1, 1992; July 1, 1991.*

#### **SECTION .1700 - NONRESIDENT BANKS**

##### **04 NCAC 03C .1701 DEFINITIONS**

For the purposes of this Section, the following definitions shall apply:

- (1) Loan Production Office. A loan production office (hereinafter "LPO") is defined as an office in North Carolina of a nonresident bank established solely for the purposes of soliciting loans.
- (2) Lockbox Service. A lockbox service is an arrangement by which a nonresident bank uses a designated post office box and a remittance processing center to timely receive and collect payments due customers of the bank.
- (3) Trust Representative Office. A trust representative office (hereinafter "TRO") is defined as an office in North Carolina of a nonresident trust company or bank exercising trust powers established for the purpose of soliciting new fiduciary accounts for the nonresident trust

company or bank and providing information to and facilitating communications with its customers in North Carolina.

*History Note:* Authority G.S. 53-104; 53-115; 53-127;  
Eff. June 1, 1995.

#### **04 NCAC 03C .1702 ESTABLISHMENT OF A LOAN PRODUCTION OFFICE (LPO)**

A nonresident bank may establish a LPO in North Carolina under written agreement with the Commissioner which provides that:

- (1) The LPO may be used to solicit loans, assemble credit information, make property inspections and appraisals, complete loan applications, and perform other preliminary paper work in preparation for the making of loans;
- (2) Loans may not be approved nor loan proceeds disbursed through the LPO;
- (3) The LPO may not be used to solicit or accept deposits;
- (4) The LPO may be inspected by the Commissioner of Banks for compliance with the written agreement, the cost of which inspection shall be borne by the nonresident bank;
- (5) The nonresident bank will complete and keep current a Loan Production Office Registration with the Commissioner of Banks; and
- (6) If required by the Secretary of State, the LPO will obtain a certificate of authority to do business in North Carolina.

*History Note:* Authority G.S. 53-104; 53-115; 53-127;  
Eff. June 1, 1995.

#### **04 NCAC 03C .1703 ESTABLISHMENT OF LOCKBOX SERVICES**

(a) Generally. A nonresident bank may establish a lockbox service within North Carolina through a subsidiary service corporation of the bank or parent bank holding company provided the following criteria are met:

- (1) The nonresident bank must first notify the Commissioner of Banks in writing of their intent to operate such a service; and
- (2) Such banks must disclose to the Commissioner the proposed location of the remittance processing center and the designated manager of the same.

(b) Permissible Activity. A lockbox service may collect remittances daily from designated post office boxes and process them for deposit in a North Carolina bank for the benefit of the lockbox customer. The customer may repossess its funds deposited in the North Carolina bank at any time while these funds remain in such accounts, or the customer may transmit or arrange for the transmission of its funds deposited in the North Carolina bank to a location it so designates.

(c) Annual Report. Nonresident banks operating lockbox services in North Carolina must report annually in writing to the Commissioner summarizing its operations in North Carolina. Any additional services or changes in services must be consistent with North Carolina banking laws and rules.

*History Note:* Authority G.S. 53-104; 53-127;  
Eff. June 1, 1995.

#### **04 NCAC 03C .1704 ESTABLISHMENT OF A TRUST REPRESENTATIVE OFFICE (TRO)**

(a) A nonresident trust company or bank exercising trust powers may establish a TRO in North Carolina under written agreement with the Commissioner which provides that:

- (1) The TRO may be used to solicit new fiduciary accounts, assemble customer information, prepare applications and other forms, transfer documents from customers to the nonresident trust company or bank, provide information to customers about their accounts, and generally respond to inquiries;
- (2) Fiduciary accounts may not be approved nor accepted through the TRO;
- (3) The TRO may not be used to solicit or accept deposits;
- (4) The TRO may be inspected by the Commissioner for compliance with the written agreement, the cost of which inspection shall be borne by the nonresident trust company or bank;
- (5) The nonresident trust company or bank will complete and keep current a Trust Representative Office Registration with the Commissioner of Banks; and
- (6) If required by the Secretary of State, the TRO will obtain a Certificate of Authority to do business in North Carolina.

(b) Before operating a TRO in North Carolina, a nonresident trust company or bank, in addition to complying with Paragraph (a) of this Rule, shall complete a TRO Registration which provides the following information:

- (1) The name of the nonresident trust company or bank;
- (2) The business address of the nonresident trust company's or bank's corporate office;
- (3) The state in which the nonresident trust company or bank is chartered, or if federally chartered, the state in which the nonresident trust company or bank is authorized to engage in a banking and trust business;
- (4) If the nonresident trust company or bank is a subsidiary of a bank holding company, the name of such holding company and the state in which the same is incorporated;
- (5) The business location of the North Carolina TRO and the mailing address, if different;
- (6) The telephone number of the North Carolina TRO;
- (7) The person in charge of the North Carolina TRO;
- (8) The number of people who will be present soliciting fiduciary accounts in North Carolina; and
- (9) If required to be registered as a foreign corporation by the Secretary of State, the name and address of the North Carolina agent for service of process.

*History Note:* Authority G.S. 53-104; 53-115; 53-127;  
Eff. June 1, 1995.

## **SECTION .1800 - COURIER SERVICE**

### **04 NCAC 03C .1801 ESTABLISHMENT OF COURIER SERVICES**

(a) Generally. A state bank may provide a courier or messenger service to its customers provided that a written agreement between the bank and the customers contains the items in Paragraph (b) of this Rule.

(b) The written agreement referred to in Paragraph (a) of this Rule must contain the following:

- (1) A statement that the courier is the agent of the customer and not the agent of the bank.
- (2) A statement that deposits collected by the courier or messenger are received by the bank when the deposits have actually been delivered to a teller at the bank's premises.
- (3) A statement which indicates that negotiable instruments collected by the courier or messenger are paid at the bank when delivered to the courier or messenger.

*History Note:* Authority G.S. 53-43; 53-104; 53-115;  
Eff. June 1, 1995.

**04 NCAC 03C .1802 COMPLIANCE AND DISCLOSURE REQUIREMENTS**

- (a) A state bank shall disclose to its customers that transactions conducted by a courier service are in no way insured by the FDIC.
- (b) A state bank must also comply with requirements imposed by the Private Protective Services Act, G.S. 74C-1 et. seq.

*History Note:* Authority G.S. 53-43; 53-104; 53-115;  
Eff. June 1, 1995.