

Article 7.

Loans.

**§ 54B-150. Manner of making loans.**

(a) The board of directors shall establish procedures by which loans are to be considered, approved, and made by the association.

(b) All actions on loan applications to the association shall be reported to the board of directors at its next meeting. (1981, c. 282, s. 3; 1983, c. 144, s. 18.)

**§ 54B-151. Permitted loans.**

(a) An association may lend funds on the sole security of pledged withdrawable accounts, but no loan so made shall exceed the withdrawal value of the pledged account. However, no such loan shall be made when an association has applications for withdrawals or maturities which have not been paid.

(b) An association may lend funds on the security of real property:

- (1) Of such value, determined in accordance with the provisions of this Chapter and the rules and regulations concerning appraisals, sufficient to provide good and ample security for the loan; and
- (2) Which has a fee simple title, totally free from encumbrances except as permitted within this Article; or
- (3) Which has a leasehold title extending or renewable automatically or at the option of the holder or at the option of the association for a period of at least 10 years beyond the maturity of the loan; and
- (4) Which has a clear title established by such evidence of title as is consistent with sound lending practices; and
- (5) Where the security interest in such real property is evidenced by an appropriate written instrument creating or constituting a first and prior lien on real property, and the loan is evidenced by a note, bond or similar written instrument; or
- (6) Where the security interest in such real property is evidenced by an appropriate written instrument creating or constituting a second or junior lien on real property which is subject only to a mortgage or deed of trust securing a commercial loan or a residential loan made by the association or another lender; and
- (7) Where the security property may be subject also to taxes and special assessments not yet due and payable.

(c) An association may lend funds on the security of the whole of the beneficial interest in a trust in which the trust property consists of real property of the type upon which a loan would be permitted under G.S. 54B-151(b).

(d) An association may lend funds on the security of bonds issued as general obligations of or guaranteed by the United States, bonds issued as general obligations of this State, and bonds issued as general obligations of any county, city, town, village, school district, sanitation or park district, or other political subdivision or municipal corporation of this State. The amount of such loan made under the authority of this subsection shall not exceed ninety percent (90%) of the face value of the bonds which serve as security.

(e) An association may invest in construction loans, the proceeds of which, under the terms of a written contract between a lender and a borrower, are to be disbursed periodically as such construction work progresses. Such loans may include advances for the purchase price of the real

property upon which such improvements are to be constructed. Any construction loan may be converted into a loan with permanent financing, and the term of the permanent financing shall be considered to begin at the end of the term allowed for construction.

(f) An association may lend funds without requiring security. No unsecured loan shall exceed the maximum amount authorized by regulation by the Commissioner of Banks.

(g) An association may invest in loans secured by a lien on unimproved real property.

(h) An association may invest in loans secured by the cash surrender value of any life insurance policy on the life of the borrower. However, the amount of such loan shall in no event exceed ninety percent (90%) of the cash surrender value of such life insurance policy.

(i) An association may invest in loans, obligations and advances of credit made for the payment of expenses of college or university education. Such loans may be secured, partly secured or unsecured, and the association may require a comaker or comakers, an insurance guarantee under a governmental student loan guarantee plan, or other protection against contingencies. The borrower shall certify to the association that the proceeds of the loan are to be used by a full-time student solely for the payment of expenses of college or university education or community college education.

(j) An association may lend funds on any collateral deemed sufficient by the board of directors to properly secure loans. Loans made solely upon security of collateral consisting of stock or equity securities which are not listed on a national stock exchange or regularly quoted and offered for trade on an over-the-counter market, shall be considered loans without security.

(k) An association may lend funds on the security of a mobile home subject to such rules and regulations governing such loans as may be promulgated by the Commissioner of Banks. (1981, c. 282, s. 3; 1983, c. 144, s. 19; 1987, c. 564, s. 14; 2001-193, s. 16.)

#### **§ 54B-152. Real property encumbrances.**

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

(b) Notwithstanding the provisions of the immediately preceding subsection, real property is not deemed encumbered within the meaning of this Chapter merely by reason of the existence of:

- (1) An instrument reserving a right-of-way, sewer rights, or rights in wells; or
- (2) Building restrictions or other restrictive covenants; or
- (3) A lease under which rents or profits are reserved by the owner; or
- (4) Current taxes or assessments not yet payable; or
- (5) Other encumbrances which, in accordance with sound lending practices in the locality, are not regarded as constituting defects in title to real property. (1981, c. 282, s. 3; 1999-179, s. 1.)

#### **§ 54B-153. Prohibited security.**

No association may accept its own capital stock or its own mutual capital certificates as security for any loan made by such association. (1981, c. 282, s. 3.)

#### **§ 54B-154. Insider loans.**

The Commissioner of Banks may promulgate rules and regulations no less stringent than the requirements of the appropriate federal regulatory authority, and as he deems necessary, to govern the making of loans to officers and directors, and their associates, and companies or other business

entities controlled by them. (1981, c. 282, s. 3; 1983, c. 144, s. 20; 1989 (Reg. Sess., 1990), c. 806, s. 10; 2001-193, s. 16.)

**§ 54B-155. Rule-making power of Commissioner of Banks.**

The Commissioner of Banks shall, from time to time, promulgate such rules and regulations in respect to loans permitted to be made by State associations as may be reasonably necessary to assure that such loans are in keeping with sound lending practices and to promote the purposes of this Chapter; provided, that such rules and regulations shall not prohibit an association from making any loan which is a permitted loan for federal associations under federal regulatory authority. (1981, c. 282, s. 3; 2001-193, s. 16.)

**§ 54B-156. Loan expenses and fees.**

(a) Subject to the provisions of N.C.G.S. Chapter 24, an association may require borrowers to pay all reasonable expenses incurred by the association in connection with making, closing, disbursing, extending, adjusting or renewing loans. Such charges may be collected by the association from the borrower and paid to any persons, including any director, officer or employee of the association who may render services in connection with the loan, or such charges may be paid directly by the borrower.

(b) An association may require a borrower to pay a reasonable charge for late payments made during the course of repayment of a loan. Subject to the provisions of G.S. 24-10.1, such payments may be levied only upon such terms and conditions as shall be fixed by the association's board of directors and agreed to by the borrower in the loan contract. (1981, c. 282, s. 3; 1989 (Reg. Sess., 1990), c. 806, s. 16.)

**§ 54B-157. Loans conditioned on certain transactions prohibited.**

No association or service corporation thereof shall require as a condition of making a loan that the borrower contract with any specific person or organization for particular services. (1981, c. 282, s. 3.)

**§ 54B-158. Insured or guaranteed loans.**

An association may make insured or guaranteed loans in accordance with the provisions of G.S. 53C-5-3. (1981, c. 282, s. 3; 2012-56, s. 41.)

**§ 54B-159. Purchase of loans.**

An association may invest any funds on hand in the purchase of loans of a type which the association could make in accordance with the provisions of this Chapter. (1981, c. 282, s. 3.)

**§ 54B-160. Participation in loans.**

An association may invest in a participating interest in loans of a type which the association would be authorized to originate. (1981, c. 282, s. 3; 1981 (Reg. Sess., 1982), c. 1238, s. 15.)

**§ 54B-161. Sale of loans.**

An association may sell any loan, including any participating interest in a loan. (1981, c. 282, s. 3; 1981 (Reg. Sess., 1982), c. 1238, s. 16.)

**§ 54B-162. Power to borrow money.**

An association, in its certificate of incorporation or in its bylaws, may authorize the board of directors to borrow money and the board of directors may by resolution adopted by a vote of at least two thirds of the entire board duly recorded in the minutes may authorize the officers of the association to borrow money for the association on such terms and conditions as it may deem proper. (1981, c. 282, s. 3; 1981 (Reg. Sess., 1982), c. 1238, s. 17.)

**§ 54B-163. Methods of loan repayment.**

Subject to such rules and regulations as the Commissioner of Banks may prescribe, an association shall agree in writing with borrowers as to the method or plan by which an indebtedness shall be repaid. (1981, c. 282, s. 3; 2001-193, s. 16.)

**§ 54B-164. Loans to one borrower.**

(a) The aggregate amount of mortgage loans outstanding granted by an association to any one borrower shall not exceed ten percent (10%) of the net withdrawal value of such association's withdrawable accounts or an amount equal to the total net worth of such association, whichever amount is less.

(b) Notwithstanding any other provision of law, in order to protect the public, including members, depositors, and stockholders of a State association, the Commissioner of Banks may establish limits on loans to any one borrower if he finds that a State association is operating with unsafe and unsound lending practices. The Commissioner of Banks shall promulgate rules and regulations to govern the establishment of the limits authorized by this section. (1981, c. 282, s. 3; 1985, c. 659, s. 14; 2001-193, s. 16.)

**§ 54B-165. Professional services.**

(a) A State association or service corporation thereof must notify borrowers prior to the loan commitment of their right to select the attorney or law firm rendering legal services in connection with the loan, and the person or organization rendering insurance services in connection with the loan. Such persons or organizations must be approved by the association's board of directors, pursuant to such rules and regulations as the Commissioner of Banks may prescribe.

(b) A State association or service corporation thereof may require borrowers to reimburse such association for legal services rendered to it by its own attorney only when the fee is limited to legal services required by the making of such loan. (1981, c. 282, s. 3; 2001-193, s. 16.)

**§ 54B-166. Nonconforming investments.**

Unless otherwise provided, every loan or other investment made in violation of this Chapter shall be due and payable according to its terms and the obligation thereof shall not be impaired; provided, that such violation consists only of the lending of an excessive sum on authorized security or of investing in an unauthorized investment. (1981, c. 282, s. 3.)

**§ 54B-167. Scope of Article.**

Nothing in this Article shall be construed to modify Chapter 24 of the General Statutes, or other applicable law, or to allow fees, charges, or interest beyond that permitted by Chapter 24 or other applicable law. (1981, c. 282, s. 3.)

**§§ 54B-168 through 54B-179. Reserved for future codification purposes.**