

GENERAL ASSEMBLY OF NORTH CAROLINA
1997 SESSION

S.L. 1997-285
HOUSE BILL 400

AN ACT TO REWRITE THE AUTHORITY OF THE STATE BANKING COMMISSION TO ASSESS BANKS AND CONSUMER FINANCE LICENSEES FOR THE MAINTENANCE AND OPERATION OF THE OFFICE OF THE COMMISSIONER OF BANKS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 53-122 reads as rewritten:

"§ 53-122. Fees for examinations and other services and assessments.

(a) For the purpose of paying the salaries and necessary traveling expenses operating and maintaining the office of the Commissioner of Banks, State bank examiners, assistant State bank examiners, clerks, stenographers and other employees of the Commissioner of Banks, banks and consumer finance licensees doing business under the authority of Chapter 53 of the General Statutes shall pay the following fees and assessments shall be paid into the office of the Commissioner of Banks: Banks within 10 days after the assessment:

- (1) ~~Each bank and each branch and each limited service facility of any bank which under the laws of the State of North Carolina is subject to supervision and examination by the Commissioner of Banks and is authorized to do business or is in process of voluntary liquidation, shall, within 10 days after the assessment has been made, pay into the office of the Commissioner of Banks according to its total resources as shown by its report of condition made to the Commissioner of Banks at the close of business December 31, 1978, and on the thirty first day of December, or the date most nearly approximating same of each year thereafter on which a report of condition is made to the Commissioner of Banks not in excess of the following fees for its annual examination: eighty five dollars (\$85.00) for the first one hundred thousand dollars (\$100,000) of assets or less, twelve dollars (\$12.00) for each one hundred thousand dollars (\$100,000) or fraction in excess thereof, and three dollars and fifty cents (\$3.50) for each one hundred thousand dollars (\$100,000) or fraction thereof of trust assets, which said trust assets shall not include real estate carried as such; provided, however, with respect to loan agencies or brokers subject to the provisions of Article 15 of Chapter 53 of the General Statutes, the fee shall be one hundred seventy dollars (\$170.00) for the first one~~

~~hundred thousand dollars (\$100,000) of assets or less, and twelve dollars (\$12.00) for each one hundred thousand dollars (\$100,000) or fraction in excess thereof.~~

- (2) ~~All examinations made other than those provided for in subdivision (1) hereof shall be deemed special examinations and for such special examination the bank shall pay into the office of the Commissioner of Banks the following fees for each special examination: eighty five dollars (\$85.00) for the first one hundred thousand dollars (\$100,000) of assets or less, twelve dollars (\$12.00) for each one hundred thousand dollars (\$100,000) or fraction in excess thereof, and three dollars and fifty cents (\$3.50) for each one hundred thousand dollars (\$100,000) or fraction thereof of trust assets, which said trust assets shall not include real estate carried as such; provided, however, with respect to loan agencies or brokers subject to the provisions of Article 15 of Chapter 53 of the General Statutes, the fee shall be one hundred seventy dollars (\$170.00) for the first one hundred thousand dollars (\$100,000) of assets or less, and twelve dollars (\$12.00) for each one hundred thousand dollars (\$100,000) or fraction in excess thereof. The fees paid for special examination shall be based on the assets of the bank examined as of the date of such examination.~~

- (1) Banks. – Each bank shall pay a cumulative assessment based on its total assets, as shown on its report of condition made to the Commissioner of Banks as of December 31 each year or the date most nearly approximating the same, not to exceed the amount determined by applying the following schedule: (i) on the first fifty million dollars (\$50,000,000) of assets, or fraction thereof, six thousand dollars (\$6,000); (ii) on assets over fifty million dollars (\$50,000,000), but not more than two hundred fifty million dollars (\$250,000,000), twelve dollars (\$12.00) per one hundred thousand dollars (\$100,000), or fraction thereof; (iii) on assets over two hundred fifty million dollars (\$250,000,000), but not more than five hundred million dollars (\$500,000,000), nine dollars (\$9.00) per one hundred thousand dollars (\$100,000), or fraction thereof; (iv) on assets over five hundred million dollars (\$500,000,000), but not more than one billion dollars (\$1,000,000,000), seven dollars (\$7.00) per one hundred thousand dollars (\$100,000), or fraction thereof; (v) on assets over one billion dollars (\$1,000,000,000), but not more than ten billion dollars (\$10,000,000,000), five dollars (\$5.00) per one hundred thousand dollars (\$100,000), or fraction thereof; and (vi) on assets over ten billion dollars (\$10,000,000,000), three dollars (\$3.00) per one hundred thousand dollars (\$100,000), or fraction thereof. Additionally, each bank shall pay an assessment on trust assets held by it in the amount of one dollar (\$1.00) per one hundred thousand dollars

(\$100,000) of the assets, or fraction thereof; except that banks are not required to pay assessments on real estate held as trust assets.

(2) Consumer Finance Licensees. – Each consumer finance licensee shall pay an assessment not to exceed eighteen dollars (\$18.00) per one hundred thousand dollars (\$100,000) of assets, or fraction thereof, plus a fee of three hundred dollars (\$300.00) per office; provided, however, a consumer finance licensee shall pay a minimum annual assessment of not less than five hundred dollars (\$500.00). The assessment shall be determined on a consumer finance licensee's total assets as shown on its report of condition made to the Commissioner of Banks as of December 31 each year, or the date most nearly approximating the same.

(3) Special Assessment. – If the Commissioner of Banks determines that the financial condition or manner of operation of a bank or consumer finance licensee warrants further examination or an increased level of supervision, or in the event of a merger or conversion of a savings institution organized under State or federal law into a bank, or conversion of a federally chartered bank into a State bank, the institutions may be subject to assessment not to exceed the amount determined in accordance with the schedule set forth in subdivision (1) of subsection (a) of this section for banks or subdivision (2) for consumer finance licensees.

~~(3)(b) The Commissioner of Banks State Banking Commission may by rule set the amount to be collected for processing any application or petition proceeding required by law to be filed with the Commissioner and for obtaining copies of any publication or public record of the Banking Commission.~~

~~(4)(c) In all civil and criminal cases tried in any of the courts of this State wherein any of the employees of the Commissioner of Banks are used as witnesses, a fee of ten dollars (\$10.00) per day, to be determined by the presiding judge, and actual expenses incurred shall be allowed such witnesses and the same shall be paid to the Commissioner of Banks by the clerk of the court of the county in which the case is tried and thereafter charged in bill of costs as are other costs incurred in the trial; and in all civil actions tried in any of the courts of this State, wherein any of the employees of the Commissioner of Banks are required as witnesses, the party requiring such employee as witness shall deposit with the Commissioner of Banks when the subpoena is served a sufficient sum to cover the witness fee of ten dollars (\$10.00) per day and expenses, and such sums as may thus be advanced shall thereafter be charged in the bill of costs as other costs are charged. All sums paid under this subdivision shall be paid to the Commissioner of Banks as are fees for examination and used in like manner. matter.~~

~~(5)(d) The total compensation and necessary traveling expenses of the employees office of the Commissioner of Banks shall not in any one year exceed the total fees collected under the provisions of this section, provided such the expenses and compensation may exceed the total fees collected in any year when surplus funds are available.~~

~~(6)(e)~~(e) In the first half of each calendar year, the State Banking Commission shall review the estimated cost of maintaining the office of the Commissioner of Banks for the next fiscal year. If the estimated fees and assessments provided for under subdivisions (1) and (2) this section shall exceed the estimated cost of maintaining the office of the Commissioner of Banks for the next fiscal year, then the State Banking Commission may reduce by uniform percentage the fees and assessments provided for in subdivisions (1) and (2) of this section but not in a percentage greater than fifty percent (50%) nor to an amount which will reduce the amount of the fees to be collected below the estimated cost of maintaining the office of the Commissioner of Banks for the next fiscal year. this section. If the estimated fees and assessments provided for under subdivisions (1) and (2) this section shall be less than the estimated cost of maintaining the office of the Commissioner of Banks for the next fiscal year, then the State Banking Commission may increase by uniform percentage the fees and assessments provided for in subdivisions (1) and (2) of this section to an amount which will increase the amount of the fees and assessments to be collected to an amount at least equal to the estimated cost of maintaining the office of the Commissioner of Banks for the next fiscal year. ~~Such fees shall be reduced whenever a surplus exists which exceeds the estimated cost of operating the office of the Commissioner of Banks for one year, even if such reduction shall result in the collection of a smaller sum than the estimated cost of maintaining the office of the Commissioner of Banks for that year. In no event shall any surplus at the end of any fiscal year resulting from the collection of fees and assessments pursuant to this section revert to the general fund.~~

(f) The Commissioner of Banks may collect the assessments provided for in subsection (a) of this section annually or in periodic installments as approved by the State Banking Commission."

Section 2. G.S. 53-184(b) reads as rewritten:

"(b) Each licensee shall file annually with the Commissioner of Banks on or before the thirty-first day of March for the 12 months' period ending the preceding December 31, reports on forms prescribed by the Commissioner. ~~Such reports~~ Reports shall disclose in detail and under appropriate headings the ~~resources,~~ assets and liabilities of ~~such licensee at the beginning and at the end of the period,~~ the licensee, the income, expense, gain, loss, ~~and a reconciliation of surplus or net worth with the balance sheets, the ratios of the profits to the assets reported, the monthly average number and amount of loans outstanding and a classification of loans made, by size and by security,~~ and ~~such~~ any other information as the Commissioner may require. ~~Such reports~~ Reports shall be verified by the oath or affirmation of the owner, manager, president, vice-president, cashier, secretary or treasurer of ~~such~~ the licensee."

Section 3. G.S. 53-184(d) is repealed.

Section 4. This act becomes effective January 1, 1998, and applies to assessments due for years beginning with 1998.

In the General Assembly read three times and ratified this the 1st day of July, 1997.

s/ Dennis A. Wicker
President of the Senate

s/ Harold J. Brubaker
Speaker of the House of Representatives

s/ James B. Hunt, Jr.
Governor

Approved 11:56 a.m. this 10th day of July, 1997