

SUBCHAPTER 16E - OPERATION OF SAVINGS INSTITUTIONS

SECTION .0100 - DIRECTORS, BYLAWS AND CHARTER

04 NCAC 16E .0101 TAX FORMS: COLLECTION **04 NCAC 16E .0102 INTERNAL REVENUE SERVICE FORM 1099**

History Note: Authority G.S. 54B-55; 105-228.27;
Eff. August 31, 1981;
Amended Eff. January 1, 1983;
Repealed Eff. January 1, 1984.

04 NCAC 16E .0103 BOARD OF DIRECTORS

- (a) A director shall not vote on any matter in which they have a personal or financial interest.
- (b) When a savings institution takes action establishing a new chief executive officer or director, the savings institution shall notify the Commissioner of Banks within 14 calendar days of such change, and shall provide the name of the new chief executive officer or director, the effective date of the appointment, and a statement of the person's past and current business and professional affiliations. The name of any departing chief executive officer or director shall also be provided to the Commissioner of Banks in writing.
- (c) Any of the following shall be deemed to be significant ownership interests for G.S. 54C-101(c):
- (1) For stock savings banks under fifty million dollars (\$50,000,000) in assets, stock ownership in the institution or its holding company of two thousand five hundred dollars (\$2,500.00) in market value at time of purchase;
 - (2) For mutual savings banks under fifty million dollars (\$50,000,000) in assets, a two thousand five hundred dollar (\$2,500) deposit relationship;
 - (3) For stock savings banks over fifty million dollars (\$50,000,000) in assets, stock ownership in the institution or its holding company of five thousand dollars (\$5,000) in market value at time of purchase; or
 - (4) For mutual savings banks over fifty million dollars (\$50,000,000) in assets, a five thousand dollar (\$5,000.00) deposit relationship.

For savings institutions that cross the fifty million dollar (\$50,000,000) threshold, the Commissioner of Banks shall allow up to one year for the Directors to comply with the ownership interest requirement.

History Note: Authority G.S. 54B-55; 54C-53; 54C-101;
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Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. November 22, 2018.

04 NCAC 16E .0104 BYLAWS

The Commissioner of Banks shall be deemed to have approved any amendments to bylaws that the Commissioner has not objected within 25 days after the date that the bylaws are filed with the Commissioner of Banks.

History Note: Authority G.S. 54B-9; 54B-52; 54C-9; 54C-52; 54C-53; 54C-102;
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04 NCAC 16E .0105 AMENDMENT OF CONVERTED SAVINGS BANK'S CHARTER

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Statutory Authority G.S. 54C-33; 54C-53;

Eff. February 15, 1992;
Repealed Eff. April 15, 1993.

SECTION .0200 - PROXIES

04 NCAC 16E .0201	VOTING BY PROXY
04 NCAC 16E .0202	FORM OF PROXY
04 NCAC 16E .0203	HOLDERS OF PROXIES
04 NCAC 16E .0204	PROXY SOLICITATION

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Authority G.S. 54C-53; 54C-105;
Eff. February 15, 1992;
Repealed Eff. November 1, 2017.

SECTION .0300 - RECORDS AND POLICIES

04 NCAC 16E .0301 GENERAL POLICIES

(a) Records to be Kept at Principal Office. Each savings institution, each affiliate, and the institution's parent company shall keep and make available for examination by the representatives of the Commissioner of Banks at the principal office, books and records of all the transactions of the institution in its true financial condition. Records shall be kept to permit and facilitate a speedy examination by the representatives of the Commissioner of Banks.

(b) Maintenance of Membership and Stockholder Records. Every savings institution shall maintain membership or stockholder records. When a savings institution has reason to believe 10 percent or more of the outstanding capital stock of the savings institution is controlled by one owner, the institution shall notify the Commissioner in writing and shall include the residential address and the number of shares held by the shareholder.

(c) Savings institutions shall keep the following books and records at the institution, or at its parent holding company, unless another storage site is approved by the Commissioner of Banks in writing:

- (1) Alphabetical direct and indirect liability ledgers. Each institution shall keep an alphabetical direct and indirect liability ledger. The alphabetical direct liability ledger shall show each customer's direct obligations owed to the institution by loan name or account number and the balance outstanding under each account. The alphabetical indirect liability ledger shall show each customer's indirect obligations owed to the institution by loan name or account number and the balance outstanding under each account. The alphabetical direct liability ledger shall be kept in balance with the general ledger control. The alphabetical indirect liability ledger shall be updated at least monthly. Where the aggregate total of a customer's direct and indirect obligations to the institution do not exceed twenty thousand dollars (\$20,000), the indirect obligations of that customer may be omitted from the alphabetical indirect liability ledger. In an institution whose automated record system is not able to produce an alphabetical liability ledger, the institution shall produce an alphabetical listing of customers showing all of a customer's loan or account numbers and the amount outstanding under each account number when called upon by representatives of the Commissioner of Banks. Each institution shall produce both the direct and indirect liability ledgers in hard copy form upon request by representatives of the Commissioner of Banks.
- (2) Monthly reconciliation of accounts with correspondent banks. A record shall be kept, showing the monthly reconciliation of each account with correspondent banks. A signed review of such reconciliations shall be made by an officer or employee of the institution other than the person responsible for preparing the reconciliation.
- (3) Purchases and sales of securities. A record shall be kept of purchases and sales of securities. The record shall include the following:
 - (A) dates of purchases and sales;
 - (B) interest rates;
 - (C) maturities;
 - (D) par value;
 - (E) cost value;
 - (F) all write-ups or write-downs;

- (G) a full description of the security;
- (H) from whom purchased;
- (I) to whom sold;
- (J) purchase price;
- (K) selling price; and
- (L) when, where, and why pledged or deposited.

This record shall be maintained in balance with the general ledger control.

- (4) Charge-offs. A record shall be kept of all items charged-off and of all recoveries. All charge-offs shall be authorized or approved by the executive committee or by the board of directors, and the action shall be recorded in their minutes. The charge-off record shall show the date of the charge-off, a description of the asset, and the amount of the charge-off. The record shall be supported by the actual charged-off items or the final disposition of any charged-off item. The record of recoveries shall show the date and amount of each recovery.
- (5) Records of real estate. A record shall be kept of all parcels owned, including the banking house. The record shall show when the property was acquired, how the property was acquired, the cost of the property, the book value of the property, and detailed income and expense reports relating to the property. This record shall be supported by appraisals, title certificates showing assessed value, tax receipts, and hazard insurance policies relating to the property. Every savings institution shall appraise the value of each parcel of real estate taken in satisfaction of debts previously contracted at the time of acquisition. The report of each appraisal shall be submitted in writing to the Board of Directors and shall be kept in the records of the savings institution.
- (6) Meeting minutes. Minutes of all board of directors' meetings, board committee meetings, and members and stockholders meetings shall be kept showing any action resulting from the meeting. All minutes shall be signed by the chairman and the secretary of such meeting.
- (7) Cash items held over. A daily record shall be kept of all cash items held over from the day's business, including all checks that would cause an overdraft if handled according to the institution's check-posting policy. This record shall be kept in balance with the general ledger control and shall identify the account on which 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.
- (8) Record of income and expenses. A detailed record of income and expenses shall be kept and balanced monthly. A report of this record shall be made to the executive committee or board of directors, and the receipt of same shall be noted in the meeting minutes.

(d) Unless an institution requests approval of another storage site in writing, and receives approval from the Commissioner of Banks, the books and records of the institution's parent holding company shall be kept at the institution or at the institution's parent holding company; and the books and records of an affiliate of the institution shall be kept at the affiliate, the institution, or the institution's parent holding company.

(e) Based upon the safety and soundness of a savings institution as determined by examination or other information, the Commissioner of Banks may require a savings institution to prepare or maintain different or additional books, records, and reports.

History Note: Authority G.S. 54B-2; 54B-9; 54B-52; 54B-55; 54C-2; 54C-22; 54C-52; 54C-53; Temporary Adoption Eff. October 2, 1991 for a period of 180 days to expire on March 31, 1992; Eff. February 15, 1992; Amended Eff. November 1, 2017; December 1, 2011; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. November 22, 2018.

04 NCAC 16E .0302 RETENTION, REPRODUCTION AND DISPOSITION OF RECORDS

- (a) Each savings institution shall take precautions to protect records from damage by fire, flood, or other hazards and to safeguard records from unnecessary deterioration as a result of excess heat, humidity, dryness, or lack of proper ventilation. Safeguards shall be maintained to protect records from access or removal by unauthorized persons.
- (b) Each savings institution or branch office shall retain all records set forth in this Paragraph for the periods specified.

RECORDS TO BE
RETAINED

MINIMUM RETENTION
PERIOD (YRS.)

ACCOUNTING - ASSOCIATION

Bank Statements and Reconcilements	5
Cancelled Checks	5
Check Vouchers or Stubs	5
Duplicate Deposit Slips	5
Expense and Paid Bills File	3
FHLB and State Reports	5
General and Subsidiary Ledgers	15
General and Other Journals	15
Original Entry Records	5
Pre-authorized Bank Forms	5
Tellers' Cash Proof Sheets	2
Trial Balances	3

CORPORATE

Annual Reports to Supervisors	5
Attachments, Executions, and Releases	3
Audit Reports	3
Ballots and Proxy Votes of Members and Stockholders	3
Blanket Bonds	T + 5
Certificate of Insurance	P
Charter, Bylaws, and Amendments	P
Claims, Court Orders, and Restraining Orders	10
Deeds, Leases, and Contracts; Titles to Vehicles	T + 5
Examination Reports and Supervisory Letters	5
FHLB Membership Certificate	P
Minute Books (Members, Stockholder, Directors, and Committees)	P
N.C. Corporate Tax Forms	15
Pension Trust (IRS Ruling, Bylaws, and Trust Agreements)	T + 5
Personal Property Tax Records	15
Social Security and Unemployment Tax Records	15
U.S. Corporate Income Tax Forms	15

DEPOSIT ACCOUNTS

Affidavits for Lost Passbook or Certificate	P
Cancelled Savings Certificates	5
Deposit	5
Deposit Account Assignment or Transfer Records	P
Deposit Account Loan Disclosures After Note "Paid"	2
Deposit Account Loan Notes	R
Inheritance Tax Releases	10
Lost Instrument Bonds for Passbooks or Certificates	P
No-Mail Notice	T + 4
Power of Attorney or Affidavits	P
Returned 1099 Forms	6
Savings Certificates Record of Issue	T + 5
Signature Card Files	T + 5
Withdrawal Slips or Checks	5

INSURANCE

Directors and Officers Liability	10
Fire and Extended Coverage, Auto Errors and Omissions	3
Public Liability - Workers Compensation	10

LOANS (Commercial, Consumer Credit, and Credit Cards)

Borrowers' Statement	T + 3
Charged-off Loan Records	10
Collateral Records	10
Customer Application	T + 1
Disclosure Document	2
Interest Rebate Record	T + 3
Liability Card or Ledger	T + 3
Loan Ledger Cards	T + 3
Loans Made Record	T + 3
Loans Paid Record	T + 3
Loan Proceeds Disbursement Records	T + 3
Merchant Agreement - Credit Card	T + 2
Note and/or Loan Register	P
Posting or Transaction Journal	3
Resolutions	T + 3
Sales Tickets or Drafts - Credit Card	3
Statement of Account - Credit Card	5
 MORTGAGE LOANS	
Additional Collateral Agreement	T + 3
Affidavits	T + 3
Applications	T + 3
Appraisals	T + 3
Collection Records	T + 3
Commitments	T + 3
Construction Loan Agreement	T + 3
Construction Loan Authorizations	T + 3
Correspondence	T + 3
Cost Estimates	T + 3
Credit Reports	T + 3
Disclosure and Recision	T + 3
Escrow Agreements and Records	T + 3
FHA Insurance Receipts	T + 3
Flood Insurance Documentation	T + 3
Inspection Reports	T + 3
Loan Register	P
Modifications	T + 3
Mortgage Loan Disclosure Statement (Form HMDA-1)	5
Paid Bills for Borrowers Construction	T + 3
Settlement Statement	T + 3
Signature Cards	T + 3
Title Opinions	T + 3
Waiver of Liens	T + 3
 MISCELLANEOUS	
All Retirement Plan Accounts	
All Related Forms and Documents	T + 7
General Correspondence	3
Investments	
Purchase and Sale Register	T + 3
	P

Safe-Keeping Receipts	T + 3
Mail Register	3
OSHA	
OSHA Records and Reports	6
Personnel Records	
Employment Applications	
1. Hired	T + 3
2. Not Hired	3
Group Insurance Records	T + 6
Payroll Records	10
Time Cards	3
Purchases, Sales and Participation	
Agreement	T + 3
Remittance Report	T + 3
Sale List	T + 3
Safe Deposit Boxes	
History Cards	P
Lease Contracts	T + 3
Rent Receipts	3
Savings Bonds	
Applications	2
Duplicate Stubs	2
Letter of Transmittal of Bonds Redeemed	2
Monthly Report of Sales and Holdings	2
Travelers Checks	
Applications	2
Consignment Receipts	2
REAL ESTATE OWNED	
Appraisal	T + 3
Contracts for Sale	T + 3
Deeds	T + 3
Notice of Intent to Foreclose	T + 3
Leases	T + 3
PMI Claims	T + 3
Tax Records	T + 3
Title Policies	T + 3
Trustee's Report	T + 3

KEY TO SYMBOLS USED

P	-	Permanent
R	-	Return to Customer After Termination of Contractual Relationship

T - Termination (Closed, Paid-off, or Settled)

History Note: Authority G.S. 54B-55; 54C-53;
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04 NCAC 16E .0303 REQUIRED POLICIES

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Authority G.S. 54C-53;
Eff. February 15, 1992;
Repealed Eff. November 1, 2017.

SECTION .0400 - LOANS

04 NCAC 16E .0401 SERVICING LOANS

A savings institution may service loans originated by the savings institution or by other lenders.

History Note: Authority G.S. 54B-55; 54B-161; 54C-53;
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04 NCAC 16E .0402 APPRAISALS

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Authority G.S. 54C-53; 54C-128;
Eff. February 15, 1992;
Repealed Eff. November 1, 2017.

04 NCAC 16E .0403 RECORDS WITH RESPECT TO LOANS

Each savings institution shall maintain the following loan documentation:

- (1) Financial Statements. Financial statements shall be required from any person 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 acknowledged by the maker;
 - (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 for the lending savings institution; and
 - (e) include information reflecting the assets, liabilities, net worth, and income of the borrower.
- (2) Financial Statement Exceptions. A savings institution may waive the financial statement required by Item (1) of this Rule for credit granted under a credit card. For an individual whose unsecured obligations consist of consumer loans scheduled to be repaid in at least quarterly installments, a savings institution may substitute a current credit bureau report for the financial statement required by Item (1) of this Rule. A credit bureau report shall be within 18 months from its date of issue.
- (3) Personal Property Appraisals. Appraisals on personal property used as collateral for a loan shall be obtained and shall be completed as follows:

- (a) Except as provided by Sub-item (3)(c) of this Rule, a written appraisal of personal property used to collateralize any loan shall be made or approved.
 - (b) Requirements. The appraisal required by this Item shall include:
 - (i) the name of the borrower;
 - (ii) the date the appraisal was made;
 - (iii) the value of the collateral;
 - (iv) the signatures of two people making the appraisal;
 - (v) a brief description of the property;
 - (vi) the amount of any senior lien and the holder of the lien, if any; and
 - (vii) the original amount or outstanding balance of the loan that 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 savings institution maintaining the loan account;
or
 - (iv) on loans fully secured by the cash surrender or loan value of life insurance policies.
 - (d) Renewal Exceptions. Appraisals need not be renewed biennially where a motor vehicle or mobile home is the sole or partial collateral for a loan.
 - (e) Single Signature Exception. An appraisal may be performed and signed by only one person where a motor vehicle or mobile home 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 shall be independent in that the appraiser shall not be involved in the loan transaction secured by the property being appraised and shall have no interest, financial or otherwise, in the property.
- (a) The savings institution 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.
 - (b) 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 as collateral, shall be prepared by:
 - (i) two members of the board of directors who are familiar with real estate values in the community where the property is located;
 - (ii) two savings institution employees who are familiar with real estate values in the community where the property is located, provided that one of the two employees shall not be involved in the loan transaction secured by the property being appraised; or
 - (iii) a state-licensed real estate appraiser, state-certified real estate appraiser, or a person certified as a real estate appraiser by an appraisal trade organization approved by the savings institution to perform an appraisal.
 - (c) Appraisals prepared pursuant to Sub-item (4)(b) of this Rule shall be in writing and shall be signed and dated by the person or persons making the appraisal. The appraisal shall identify the loan transaction for which it was made; identify the current balance of any senior lien and the identity of the holder of the lien, if any; segregate values of improvements from values of the land; and describe the property so as to make it identifiable. If a professional appraisal form is used that does not include this information, the savings institution shall complete and attach to the appraisal its own appraisal summary form disclosing the required information. The appraisal shall state the basis or approach used to determine the value of the property. Acceptable approaches to determining the value of real property shall be the following:
 - (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.
 - (d) All real estate given as security for loans in an amount over two hundred fifty thousand dollars (\$250,000), whether directly or indirectly pledged as collateral, 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

hereby incorporated by reference including subsequent amendments or additions. This information is available at the U.S. Printing Office website at <http://www.ecfr.gov/cgi-bin/text-idx?SID=cb59b820da3e668ebb333139d429ce0c&node=pt12.5.323&rgn=div5> at no cost.

- (5) Certificate of Title. A title opinion furnished by an attorney at law, a title report or title insurance policy issued by a company licensed by the Commissioner of Insurance, or other insurance coverage that provides the savings institution with similar protection against loss from title defects, errors, or omissions at closing or other loan-related risks shall be obtained in connection with each deed of trust or mortgage given as security on each real estate-secured loan when:
 - (a) the loan is primarily secured by real property and only secondarily by the borrower's general credit-worthiness; and
 - (b) the amount of the loan secured by the real property is fifty thousand dollars (\$50,000) or more.
- (6) Stock Certificate and Stock Powers. Where stock certificates or similar negotiable securities are accepted as collateral for a loan, each certificate shall be either endorsed and witnessed or accompanied by a stock power signed and witnessed. Where such collateral is in the name of someone other than the maker or endorser of the note, there shall be on file in the savings institution written authority from the collateral owner permitting the hypothecation of the collateral.
- (7) Corporate Resolutions. A loan made to a corporation shall be supported by a certified copy of a resolution of the board of directors of the corporation authorizing the loan transaction.
- (8) Partnership Declaration. A loan made to a partnership shall be supported by a declaration of the general 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. A loan made to a limited liability company shall be supported by a certification of a manager thereof that the loan has been duly authorized by the limited liability company.
- (10) Unlisted Securities. Full credit information on all unlisted securities, now owned or hereafter acquired, shall be kept on file in the savings institution.

History Note: Authority G.S. 54C-53; 54C-128;
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04 NCAC 16E .0404 UNSECURED LOANS LIMIT
04 NCAC 16E .0405 LOANS TO ONE BORROWER

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SECTION .0500 - DEPOSIT ACCOUNTS

04 NCAC 16E .0501 SIGNATURE CARDS

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Authority G.S. 54C-53; 54C-164;
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Repealed Eff. November 1, 2017.

04 NCAC 16E .0502 HOLDING OF CERTIFICATE OR PASSBOOK

An unpledged savings certificate or passbook shall not be held by a savings institution for the convenience of an account holder.

History Note: Authority G.S. 54B-55; 54B-121; 54C-53; 54C-164;
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SECTION .0600 - LIQUIDITY AND NET WORTH

04 NCAC 16E .0601 LIQUIDITY
04 NCAC 16E .0602 NET WORTH

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SECTION .0700 - INVESTMENTS

04 NCAC 16E .0701 SECURITIES
04 NCAC 16E .0702 STOCK IN OTHER DEPOSITORY INSTITUTIONS

History Note: Authority G.S. 54C-53; 54C-141;
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