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The **NORTH CAROLINA REGISTER**

IN THIS ISSUE.....

EXECUTIVE ORDER

PROPOSED RULES

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Development**

Education

**Environment, Health, and
Natural Resources**

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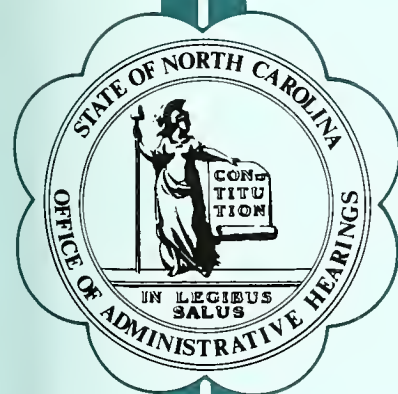
Labor

FINAL RULES

Correction

ISSUE DATE: MARCH 15, 1990

Volume 4 • Issue 24 • Pages 1163-1225



INFORMATION ABOUT THE NORTH CAROLINA REGISTER AND ADMINISTRATIVE CODE

NORTH CAROLINA REGISTER

The *North Carolina Register* is published bi-monthly and contains information relating to agency, executive, legislative and judicial actions required by or affecting Chapter 150B of the General Statutes. All proposed, administrative rules and amendments filed under Chapter 150B must be published in the Register. The Register will typically comprise approximately fifty pages per issue of legal text.

State law requires that a copy of each issue be provided free of charge to each county in the state and to various state officials and institutions. The *North Carolina Register* is available by yearly subscription at a cost of one hundred and five dollars (\$105.00) for 24 issues.

Requests for subscriptions to the *North Carolina Register* should be directed to the Office of Administrative Hearings, P. O. Drawer 11666, Raleigh, N. C. 27604, Attn: *Subscriptions*.

ADOPTION, AMENDMENT, AND REPEAL OF RULES

An agency intending to adopt, amend, or repeal a rule must first publish notice of the proposed action in the *North Carolina Register*. The notice must include the time and place of the public hearing; a statement of how public comments may be submitted to the agency either at the hearing or otherwise; the text of the proposed rule or amendment; a reference to the Statutory Authority for the action and the proposed effective date.

The Director of the Office of Administrative Hearings has authority to publish a summary, rather than the full text, of any **amendment** which is considered to be too lengthy. In such case, the full text of the rule containing the proposed amendment will be available for public inspection at the Rules Division of the Office of Administrative Hearings and at the office of the promulgating agency.

Unless a specific statute provides otherwise, at least 30 days must elapse following publication of the proposal in the *North Carolina Register* before the agency may conduct the required public hearing and take action on the proposed adoption, amendment or repeal.

When final action is taken, the promulgating agency must file any adopted or amended rule for approval by the Administrative Rules Review Commission. Upon approval of ARRC, the adopted or amended rule must be filed with the Office of Administrative Hearings. If it differs substantially from the proposed form published as part of the public notice, upon request by the agency, the adopted version will again be published in the *North Carolina Register*.

A rule, or amended rule cannot become effective earlier than the first day of the second calendar month after the adoption is filed with the Office of Administrative Hearings for publication in the NCAC.

Proposed action on rules may be withdrawn by the promulgating agency at any time before final action is taken by the agency.

TEMPORARY RULES

Under certain conditions of an emergency nature, some agencies may issue temporary rules. A temporary rule becomes effective when adopted and remains in

effect for the period specified in the rule or 180 days, whichever is less. An agency adopting a temporary rule must begin normal rule-making procedures on the permanent rule at the same time the temporary rule is adopted.

NORTH CAROLINA ADMINISTRATIVE CODE

The North Carolina Administrative Code (NCAC) is a compilation and index of the administrative rules of 25 state agencies and 38 occupational licensing boards. The NCAC comprises approximately 15,000 letter size, single spaced pages of material of which approximately 35% is changed annually. Compilation and publication of the NCAC is mandated by G.S. 150B-63(b).

The Code is divided into Titles and Chapters. Each state agency is assigned a separate title which is further broken down by chapters. Title 21 is designated for occupational licensing boards.

The NCAC is available in two formats.

- (1) Single pages may be obtained at a minimum cost of two dollars and 50 cents (\$2.50) for 10 pages or less, plus fifteen cents (\$0.15) per each additional page.
- (2) The full publication consists of 52 volumes, totaling in excess of 15,000 pages. It is supplemented monthly with replacement pages. A one year subscription to the full publication including supplements can be purchased for seven hundred and fifty dollars (\$750.00). Individual volumes may also be purchased with supplement service. Renewal subscriptions for supplements to the initial publication available.

Requests for pages of rules or volumes of the NCAC should be directed to the Office of Administrative Hearings.

NOTE

The foregoing is a generalized statement of the procedures to be followed. For specific statutory language, it is suggested that Articles 2 and 5 of Chapter 150B of the General Statutes be examined carefully.

CITATION TO THE NORTH CAROLINA REGISTER

The *North Carolina Register* is cited by volume, issue, page number and date. **1:1 NCR 101-201, April 1, 1986** refers to Volume 1, Issue 1, pages 101 through 201 of the *North Carolina Register* issued on April 1, 1986.

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NORTH CAROLINA REGISTER



*Office of Administrative Hearings
P. O. Drawer 11666
Raleigh, NC 27604
(919) 733 - 2678*

Julian Mann III,
Director
James R. Scarcella Sr.,
Deputy Director
Molly Masich,
Director APA Services

Staff:
Ruby Creech,
Publications Coordinator
Teresa Kilpatrick,
Editorial Assistant
Jean Shirley,
Editorial Assistant

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NORTH CAROLINA REGISTER
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 (January 1990- December 1991)

Issue Date	Last Day for Filing	Last Day for Electronic Filing	Earliest Date for Public Hearing & Adoption by Agency	* Earliest Effective Date
*****	*****	*****	*****	*****
01/02/90	12/07/89	12/14/89	02/01/90	05/01/90
01/16/90	12/20/89	12/29/89	02/15/90	05/01/90
02/01/90	01/10/90	01/18/90	03/03/90	06/01/90
02/15/90	01/25/90	02/01/90	03/17/90	06/01/90
03/01/90	02/08/90	02/15/90	03/31/90	07/01/90
03/15/90	02/22/90	03/01/90	04/14/90	07/01/90
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09/03/91	08/12/91	08/19/91	10/03/91	01/01/92
10/01/91	09/10/91	09/17/91	10/31/91	02/01/92
11/01/91	10/11/91	10/18/91	12/01/91	03/01/92
12/02/91	11/07/91	11/14/91	01/01/92	04/01/92

* The "Earliest Effective Date" is computed assuming that the public hearing and adoption occur in the calendar month immediately following the "Issue Date", that the agency files the rule with The Administrative Rules Review Commission by the 20th of the same calendar month and that ARRC approves the rule at the next calendar month meeting.

EXECUTIVE ORDER

**EXECUTIVE ORDER NUMBER 106
AMENDING EXECUTIVE ORDER NUMBER 66
EXTENDING EXPIRATION DATE OF
EXECUTIVE ORDER NUMBER 66**

By the authority vested in me as Governor by the Constitution and laws of North Carolina, IT IS ORDERED:

The State Employees Combined Campaign, established by Executive Order Number 66, on January 29, 1988, is hereby extended, effective January 29, 1990, through January 29, 1992.

Done in Raleigh, North Carolina, this the 22 day of February 1990.

TITLE 4 - DEPARTMENT OF ECONOMIC AND COMMUNITY DEVELOPMENT

Notice is hereby given in accordance with G.S. 150B-12 that the North Carolina Banking Commission intends to amend rule(s) cited as 4 NCAC 3C .0101 - .0102, .0104, .0110 - .0111, .0201 - .0202, .0301, .0401, .0403 - .0406, .1301, .1501 - .1502; and adopt rule(s) cited as 4 NCAC 3C .0203 - .0204, .0408.

The proposed effective date of this action is July 1, 1990.

The public hearing will be conducted at 8:30 a.m. on April 25, 1990 at North Carolina Banking Commission, Dobbs Building - 6th Floor (Room 6210), 430 North Salisbury Street, Raleigh, North Carolina.

Comment Procedures: Comments must be submitted in writing not later than Friday, April 20, 1990. Written comments should be directed to:

*L. McNeil Chestnut
General Counsel
North Carolina Banking Commission
Post Office Box 29512
Raleigh, North Carolina 27626-0512*

CHAPTER 3 - BANKING COMMISSION

SUBCHAPTER 3C - BANKS

SECTION .0100 - ORGANIZATION AND CHARTERING

.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. Applications must be in the format required and must be filed along with the proposed certificate of incorporation and prescribed fee with: A charter application, on an form approved, together with a copy of the proposed Articles of Incorporation and payment of the prescribed fee, must be filed with:

The Commissioner of Banks
P.O. Box 29512

Raleigh, North Carolina 27602 27626-0512.

Statutory Authority G.S. 53-2; 53-92; 150B-11(1).

.0102 EXAMINATION BY COMMISSIONER

Upon receipt of a copy of the certificate of incorporation and the application in proper form,

application and articles of incorporation, the Commissioner of Banks shall will make an examination into all the facts connected with the formation of such the proposed corporation, bank or trust company. Such The examination shall will take into account all statutory requirements and criteria.

Statutory Authority G.S. 53-4; 53-92; 150B-11(1).

.0104 REVIEW BY BANKING COMMISSION

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

Statutory Authority G.S. 53-4; 53-92; 150B-11(1).

.0110 ORGANIZATIONAL EXPENSES

(a) Each subscriber at the time he subscribes to the stock of a proposed state bank shall 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 shall 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 shall 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 certificate 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 shall 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) No payment shall be made from the organizational fund for securing subscriptions to shares of stock of the bank. 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.

Statutory Authority G.S. 53-2; 53-92; 53-104; 150B-11(1).

.0111 NATIONAL BANK CONVERSION

(a) ~~A national bank may convert to a state bank. A certificate of incorporation must be executed that can be obtained from and should be filed with: A national bank may apply for authority to convert to a state bank. An application for conversion must be made on Form 30. The application for conversion, together with a copy of the proposed articles of incorporation and payment of the prescribed fee, must be filed with:~~

The Secretary of State
State of North Carolina
Legislative Office Building
300 North Salisbury Street
Raleigh, North Carolina 27611.

The Commissioner of Banks
P.O. Box 29512

Raleigh, North Carolina 27626-0512.

The Secretary of State shall forthwith transmit a copy of said certificate of incorporation to the Commissioner of Banks.

(b) Application for a national bank to convert to a state bank is accomplished through the execution of Form 30. The form provides for the submission of required information and can be obtained from and filed with:

The Commissioner of Banks
P.O. Box 954

Raleigh, North Carolina 27602.

(b) (c) Upon receipt of a copy of the certificate articles of incorporation and the completed application for conversion, in proper form, the Commissioner shall will make an examination into all the facts connected with the conversion. Following the completion of that examination the Commissioner will shall prepare a report covering the results of the examination along with his decision for approval or disapproval of the application. The report shall be submitted to the Banking Commission at a regular or called meeting. Following a public hearing the Banking Commission shall issue its final order approving or disapproving the application. issue a written decision approving or disapproving the application.

(c) (d) Upon approval by the Banking Commission, the Commissioner of Banks, shall he will forward to the Secretary of State for appropriate filing the Certificate articles of incorporation along with a the certification of approval.

The Commissioner ~~shall~~ will issue to the bank a Bank Certificate (Form 45) and any Branch Certificate (Form 47) as needed.

Statutory Authority G.S. 53-2; 53-3; 53-4; 53-5; 53-14; 53-104; 150B-11(1).

SECTION .0200 - BRANCHES AND LIMITED SERVICE FACILITIES

.0201 ESTABLISHMENT OF BRANCHES AND LIMITED SERVICE FACILITIES

~~No bank shall~~ Banks may establish a branch branches or teller's window without the limited service facilities upon written approval of the Commissioner of Banks.

(1) Application. Applications must be in the format required and filed, together with prescribed fees, with: An application to establish a branch bank or limited service facility must be submitted in writing on Form 30. The application, together with the prescribed fee, must be filed with:

The Commissioner of Banks
P.O. Box 954 29512

Raleigh, North Carolina ~~27602~~, 27626-0512.

(2) Notice of filing of an application. Upon acceptance of an application for filing, the Commissioner of Banks shall will publish a notice of the filing of the application in a newspaper published in the city, town or county where the branch or teller's window limited service facility is proposed to be located. A copy of the notice shall will be mailed to each state-chartered bank operating a banking office in the community to be served by the proposed branch or teller's window. limited service facility. A copy of the notice shall will be mailed to the Regional Administrator of National Banks for the National Bank Region for North Carolina.

(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 Paragraph (2) of this Rule. All written comments received during the comment period shall will become part of the official record compiled with respect to the application. The Commissioner of Banks may extend the comment period if he shall determine determines that there are extenuating circumstances.

(4) Examination by Commissioner. Upon receipt of an a completed application, in proper form the Commissioner of Banks shall will conduct an examination into all

the facts connected with the establishment of ~~such a branch or teller's window.~~ 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 will~~ be 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 requests for such ~~shall~~ notice will 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 ~~teller's window~~ limited service facility within 14 days from the time the Commissioner of Banks issues his written decision. ~~Such~~ The request for review must be in writing and must be sent to the address shown in Paragraph (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 will~~ 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 will~~ issue its final order approving, modifying or disapproving the decision of the Commissioner of Banks. Notice of the public hearing ~~shall will~~ be published in a newspaper published in the city, town or county where the proposed branch or ~~teller's window~~ limited service facility is to be located at least ten 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 Paragraph (7) of this Rule, the decision issued by the Commissioner of Banks ~~shall will~~ become final with respect to the application.
- (10) Waiver by Commissioner. Where a bank acquires one or more branches or ~~tellers' windows~~ limited service facilities 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 requirements of this Rule pertaining to notice and publication, time

limitations, and comment may be waived by the Commissioner of Banks.

Statutory Authority G.S. 53-4; 53-62; 53-92; 150B-11(1).

.0202 BRANCH CLOSING

No bank ~~shall discontinue~~ may close a branch or ~~teller's window~~ without the written approval of the Commissioner of Banks.

- (1) Procedure. The procedures provided in G.S. 53-62(e) ~~shall must~~ be followed in connection with any branch or teller's window ~~discontinuance.~~ closing. The required public notice to be published ~~shall must~~ be approved by the Commissioner of Banks prior to 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 will~~ become part of the official record compiled with respect to the application. The Commissioner of Banks may extend the comment period if he ~~shall determine~~ determines that there are extenuating circumstances.
- (3) Examination by Commissioner. Upon receipt of a ~~certification an application,~~ the Commissioner of Banks ~~shall will~~ conduct an examination into all the facts connected with the ~~discontinuance of such request to~~ close a branch. or ~~teller's window.~~ The Commissioner of Banks ~~shall will~~ hold a public hearing as provided in G.S. 53-62(e) if there has been an appropriate 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 will~~ be issued in writing and ~~shall~~ 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 ~~such shall~~ notice will 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 ~~or teller's window~~ within 14 days from the time the Commissioner of Banks issues his written decision. ~~Such~~ The request must be in writing and sent to:

The Commissioner of Banks
P.O. Box ~~951~~ 29512

Raleigh, North Carolina ~~27602~~ 27626-0512.

- (7) Review by Banking Commission. When requested by the applicant or by any interested person, the decision of the Commissioner of Banks ~~shall will~~ 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 will~~ issue its final order approving, modifying or disapproving the decision of the Commissioner of Banks. Notice of the public hearing ~~shall will~~ be published in a newspaper published in the city, town or county where the branch ~~or teller's window~~ is to be discontinued at least ten 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 Paragraph (6) of this Rule, the decision issued by the Commissioner of Banks ~~shall will~~ become final with respect to the application to discontinue.
- (9) Waiver by commissioner. Where a bank discontinues one or more branches ~~or tellers' windows~~ 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 requirements of this Rule pertaining to notice and publication, time limitations, and comment may be waived by the Commissioner of Banks.

Statutory Authority G.S. 53-4; 53-62; 53-92; 150B-11(1).

.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 Paragraph (1), provided that the facility has not within a five year period immediately proceeding 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 proceeding 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 will be treated as a limited service facility.

Statutory Authority G.S. 53-62; 150B-11(1).

.0204 CONVERSION OF BRANCH TO LIMITED SERVICE FACILITY

A bank may convert a branch to a limited service facility upon written approval of the Commissioner of Banks.

- (1) 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 prescribed fee. 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.
- (2) Publication. Upon receipt of a written request for authority to convert a branch to a limited service facility, the Commissioner of Banks will publish once a week for two consecutive weeks in a newspaper published in the city, town or county in which the branch to be converted is located, a public notice of the request to convert. This publication must include the name and location of the branch to be converted, and must identify the services presently offered at the branch that will be discontinued upon conversion.
- (3) 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 will become part of the official record compiled with respect to the application. The Commissioner of Banks may extend the comment period if he determines that there are extenuating circumstances.
- (4) Examination by Commissioner. Upon receipt of an application to convert, the Commissioner of Banks will conduct an examination into all the facts connected with the conversion of a branch. The Commissioner of Banks will hold a public hearing if there has been an appropriate request by an interested person.
- (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 a request to convert a branch to a limited service facility will be issued 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 notice will be given notice of the Commissioner of Banks' final decision on each application.
- (7) 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:

The Commissioner of Banks
P.O. Box 29512

Raleigh, North Carolina 27626-0512

- (8) 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 will become final with respect to the request to convert.

Statutory Authority G.S. 53-62; 53-92; 150B-11(1).

SECTION .0300 - CHANGE OF LOCATION

.0301 CHANGE OF LOCATION/MAIN OFFICE, BRANCH OR LTD SVC FACILITY

No bank ~~shall~~ may change the location of a branch, ~~teller's window limited service facility~~ or main office without the written approval of the Commissioner of Banks.

- (1) Application. Applications must be in the format required and filed, together with the prescribed ~~fees, fee,~~ with:

The Commissioner of Banks
P.O. Box ~~951~~ 29512

Raleigh, North Carolina ~~27602~~ 27626-0512.

- (2) Notice of filing of an application. Upon acceptance of an application for filing, the Commissioner of Banks ~~shall~~ will publish a notice of the filing of the application in a newspaper published in the city, town or county where the branch, ~~teller's window limited service facility~~ or main office is to be located. A copy of the notice ~~shall~~ will be mailed to each state-chartered bank operat-

ing a banking office in the community served by the branch, ~~teller's window limited service facility~~ or main office. A copy of the notice ~~shall~~ will be mailed to the Regional Administrator of National Banks for the National Bank Region for North Carolina.

- (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 Paragraph (2) of this Rule. All written comments received during the comment period ~~shall~~ will become part of the official record compiled with respect to the application. The Commissioner of Banks may extend the comment period if he ~~shall determine~~ determines that there are extenuating circumstances.
- (4) Examination by Commissioner. Upon receipt of ~~an~~ a completed application ~~in proper form for relocation~~ the Commissioner of Banks ~~shall~~ will conduct an examination into all the facts connected with the change of location. ~~of such branch, teller's window or main office.~~
- (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~~ will be issued in writing and ~~shall~~ will 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 ~~such~~ shall ~~notice,~~ will 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, ~~teller's window limited service facility~~ or main office within 14 days from the time the Commissioner of Banks issues his written decision. ~~Such~~ The request for review must be in writing and must be sent to the address shown in Paragraph (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~~ will 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~~ will issue its final order approving, modifying or disapproving the

decision of the Commissioner of Banks. Notice of the public hearing ~~shall~~ will be published in a newspaper published in the city, town or county where the branch, ~~teller's window~~ limited service facility or main office is to be located at least ten days prior to the scheduled hearing.

- (9) Decision by Commissioner final. If there has ~~not~~ been ~~no~~ a 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~~ will become final with respect to the application.

Statutory Authority G.S. 53-62; 53-92.

SECTION .0400 - CONSOLIDATION OF BANKS

.0401 APPLICATION

(a) Before a bank ~~shall~~ may consolidate with or transfer its assets and liabilities to another bank it ~~shall~~ must first obtain the consent of the Commissioner of Banks. This Rule ~~shall~~ does not apply where ~~such~~ the consolidation or merger is with a national bank and the surviving corporation is to be a national bank.

(b) ~~Application for such consent shall be accomplished by the filing with the Commissioner of Banks certified copies of all proceedings had by the banks' directors and stockholders as well as a complete copy of the agreement made and entered into between the banks, with reference to such consolidation or transfer and the execution of FDIC Form 102. That 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:~~

(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
707 E. Main Street, Suite 2000
Richmond, Virginia 23219
Marquis One Tower

245 Peachtree Center Avenue, N.E., Suite 1200
Atlanta, Georgia 30303

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

The Commissioner of Banks
P.O. Box ~~954~~ 29512
Raleigh, North Carolina ~~27602~~ 27626-0512.

Statutory Authority G.S. 53-12; 53-92; 150B-11(1).

.0403 INVESTIGATION

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

Statutory Authority G.S. 53-12; 53-92; 150B-11(1).

.0404 REPORT

Following the completion of ~~that~~ the investigation, the Commissioner of Banks shall ~~prepare~~ prepare ~~a~~ issue a written report ~~covering the results of that investigation along with including~~ his decision for approval or disapproval of the application.

Statutory Authority G.S. 53-12; 53-92; 150B-11(1).

.0405 REVIEW BY THE BANKING COMMISSION

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

Statutory Authority G.S. 53-12; 53-92; 150B-11(1).

.0406 FILING WITH SECRETARY OF STATE

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

Statutory Authority G.S. 53-13; 53-92; 150B-11(1).

.0408 PUBLICATION

Notice of the consolidation or transfer must be published for four weeks before or after the same

is to become effective, at the discretion of the Commissioner of Banks, in a newspaper published in a city, town, or county in which each said bank for consolidation is located. A certified copy of the affidavit of publication must be filed with the Commissioner of Banks.

Statutory Authority G.S. 53-12; 53-92; 150B-11(1).

SECTION .1300 - BANK PERSONNEL

.1301 ANNUAL VACATION

(a) Every bank or branch thereof, under the supervision of the Commissioner of Banks, ~~shall~~ must grant to each officer and ~~to each~~ employee an annual vacation period of at least six working days. ~~Such~~ The annual vacation period must be granted on consecutive working days and each officer and ~~each~~ employee ~~shall~~ must remain absent from his duties continuously ~~for the said number of working days~~ throughout the vacation period. Provided, however, that any bank or branch that remains closed on Saturdays ~~and Sundays~~ must or otherwise operates on a five day week, as provided by law, shall grant to each officer and ~~to each~~ employee an annual vacation period of at least five consecutive working days. Upon request of any bank or branch thereof, the Commissioner of Banks, in his discretion, may waive the provisions of this regulation so far as it pertains to any individual officer or employee, or group or class of officers or employees, when, in the Commissioner's opinion, ~~such~~ the waiver would not be inconsistent with the general purposes of this regulation.

(b) This Regulation ~~shall apply only~~ does not apply to those officers and employees who have been in a bank's employment for a period of ~~more~~ less than one year. Neither does this Regulation apply to employees of a bank's incorporated subsidiary when the employee does not perform any banking services or duties for the parent bank.

Statutory Authority G.S. 53-92; 53-104; 150B-11(1).

SECTION .1500 - AUTOMATION AND DATA PROCESSING

.1501 CUSTOMER-BANK COMMUNICATION TERMINALS

(a) A state bank may make available for use by its customers one or more electronic devices or machines through which the customer may communicate to the bank a request to withdraw money either from his account or from a previ-

ously authorized line of credit, or an instruction to receive or transfer funds for the customers' benefit. The device may receive or dispense cash in accordance with such a request or instruction, subject to verification by the bank. ~~Such~~ These devices may be unmanned or manned by a bona fide third party under contract to the bank. The bank for a reasonable period of time may provide one of its employees to instruct and assist customers in the operation of the device. Any transactions initiated by such a device shall be subject to verification by the bank either by direct wire transmission or otherwise.

(b) Use of such devices at locations other than the main office or a branch office of the bank does not constitute branch banking. A bank shall provide insurance protection under its bonding program for transactions involving such devices.

(c) No device for which notice must be given under this Rule may be established or used by a state bank at a distance greater than 50 miles from the bank's main office or closest branch, whichever is nearer, unless such device or machine is available to be shared at a reasonable cost by one or more local (i.e., within the trade area of the device or machine) financial institutions authorized to receive deposits, such as a commercial bank, a savings and loan association, or a credit union.

(d) Written notice must be given to the Commissioner's office 30 days before changing any of the operations described in a notice previously given pursuant to this Paragraph. One or more state banks sharing one or more devices or machines may give a single notice to the Commissioner's office, provided that the notice includes the information listed in Paragraph (1) of Rule .1502 of this Section for each shared device or machine. The Commissioner reserves the right to adopt different reporting procedures as warranted by the circumstances of a particular network of devices or machines.

(e) No notice need be given for any device or machine which is used only to transfer funds for goods or services received, and through which neither cash is dispensed nor cash or checks left for subsequent deposit; is used solely to verify a customer's credit for purposes of check cashing or of a credit card transaction; or is a part of a bank's authorized main office or branch.

Statutory Authority G.S. 53-62; 53-92; 53-104; 150B-11(1).

.1502 LIMITATIONS

The establishment and use of these devices is subject to the following limitations:

(1) Contents of Notice. Written notice must be given to the Commissioner of Banks' office 30 days before any such device is put into operation. ~~Such~~ The notice ~~shall~~ must describe with regard to the device or machine:

- (a) the location;
 - (b) a general description of the area where it is located--e.g., shopping center, gasoline station, supermarket--and the manner of installation--e.g., free standing, exterior wall, separate interior booth;
 - (c) the manner of operation, including whether the device is on-line;
 - (d) the kinds of transactions which will be performed;
 - (e) whether the device will be manned, and, if so, by whose employees;
 - (f) whether the device will be shared, and, if so, under what terms and with what other institutions and their locations;
 - (g) the manufacturer and, if owned, the purchase price or, if leased, the lease payments and the name of the lessor;
 - (h) the distance from the nearest banking office and from the nearest similar device of the reporting bank;
 - (i) the distance from the nearest banking office and nearest similar device of another commercial bank, which will not share the facility, and the name of such other bank or banks; and
 - (j) consumer protection procedures, including the disclosure of rights and liabilities of consumers and protection against wrongful or accidental disclosure of confidential information.
- (2) To the extent consistent with the antitrust laws, state banks are permitted, but not required, to share such devices with one or more financial institutions.

Statutory Authority G.S. 53-62; 53-92; 53-104; 150B-11(1).

* * * * *

Notice is hereby given in accordance with G.S. 150B-12 that the Savings Institutions Division intends to amend rule(s) cited as 4 NCAC 16A .0103 - .0105; 16B .0001 - .0002; 16C .0101, .0201, .0401 - .0403, .0501, .0503; 16D .0101, .0202, .0301, .0403 - .0405, .0407, .0806 - .0807, .0901; 16F .0001 - .0002, .0005; 16H .0001, .0007; 16I .0702 - .0703, .0801 - .0803, .0901 - .0902, .1001, .1003, .1101 - .1102, .1104 - .1106; 16J .0001 - .0002; repeal rule(s) cited as 4 NCAC

16D .0102, .0104, .0406, .0408, .0503, .0505, .0601 - .0602; 16F .0004; 16I .0701, .0903 - .0904; and adopt rule(s) cited as 4 NCAC 16A .0201 - .0203, .0301 - .0302, .0401 - .0409; 16C .0304 - .0305; 16D .0902; 16I .0704, .1201 - .1203, .1301 - .1302.

The proposed effective date of this action is July 1, 1990.

The public hearing will be conducted at 10:00 a.m. on April 17, 1990 at Room 2160, Dobbs Building, Raleigh, N.C.

Comment Procedures: Written comments must be received at the agency address by 5:00 p.m., April 16, 1990. Oral presentations of up to ten minutes may be made at the Hearing. Any questions concerning rules or the Hearing may be directed to Ronald Raxter at (919) 733-3525.

CHAPTER 16 - SAVINGS INSTITUTIONS DIVISION: SAVINGS INSTITUTIONS COMMISSION

SUBCHAPTER 16A - GENERAL PROVISIONS

SECTION .0100 - GENERAL

.0103 DEFINITIONS

When used in this Chapter, the following words and phrases shall have the following meanings, except to the extent that any such word or phrase is specifically qualified by its context:

- (1) "Administrator" means the Administrator of the Savings and Loan Division.
- (2) "Association" means a savings and loan association subject to the provisions of this Chapter.
- (3) "Commission" means the Savings and Loan Commission.
- (4) "Immediate family" means a person's spouse, father, mother, children, brothers, sisters and grandchildren; the father, mother, brothers and sisters of such person's spouse; and the spouse of a child, brother or sister of such person.

Unless otherwise indicated, words and phrases defined by G.S. 54B-4 shall have the same meaning in this Chapter.

Statutory Authority G.S. 54B-55.

.0104 SUPERVISORY FEE

The annual supervisory fee for associations and holding companies shall be collected in the month of July. This fee shall be non-refundable, unless an application to convert to a federal charter or an application to merge has been filed

with the Savings and Loan Division prior to the beginning of July. A refund of the fee shall be made on a pro-rata basis for the period remaining in the year after the effective date of the conversion to federal charter or the effective date of the merger under state law.

Statutory Authority G.S. 54B-55; 54B-57.

.0105 RESTRICTIONS: PAYMENT OF DIVIDENDS AND REPURCHASE OF STOCK

(a) ~~Notwithstanding the provisions of Paragraphs (b) and (d) of this Rule, a stock association shall not declare or pay any form of dividend on its capital stock unless the association has the prior written approval of the Administrator.~~

(a) ~~(b)~~ A stock association shall not declare or pay a cash dividend on, or repurchase any of, its capital stock if the effect thereof would be to reduce the net worth of the association to an amount which is less than five percent of the association's total outstanding withdrawable accounts. For the purposes of this Paragraph, "net worth" means capital stock plus additional paid-in capital, undivided profits and general reserve accounts for unspecified losses. the minimum required by the federal regulatory authority.

(b) ~~(c)~~ Without the prior written approval of the Administrator, a stock association which has been in operation or converted from mutual form for less than ~~40~~ five years shall not repurchase any of its capital stock.

(c) ~~(d)~~ A stock association which has been in operation or converted from mutual form for less than ~~40~~ five years shall obtain the written approval of the Administrator before declaring or paying a cash dividend on its capital stock in an amount in excess of one-half of the greater of:

- (1) the association's net income for the most recent fiscal year end; or
- (2) the average of the association's net income after dividends for the most recent fiscal year end and not more than two of the immediately preceding fiscal year ends, if applicable.

(d) ~~(e)~~ For a period of three years following the date of completion of a conversion from mutual to stock form, no person shall, directly or indirectly, offer to acquire or acquire the beneficial ownership of more than ten percent of any class of an equity security of the converted association without the prior written approval of the Administrator. Securities beneficially owed in violation of this Paragraph in excess of ten percent shall not be counted as shares entitled to vote and shall not be voted by any person or counted

as voting shares in connection with any matters submitted to the stockholders for a vote. Unless made applicable by the Administrator by prior advice in writing, the restriction contained in this Paragraph shall not apply to any offer or announcement of an offer which if consummated would result in the acquisition by a person, together with all other acquisitions by that person of the same class of securities during the preceding 12-month period, of not more than one percent of the class of securities. Nor shall this Paragraph apply to:

- (1) any offer with a view toward public resale made exclusively to the association or its underwriters or the selling group acting on its behalf; or
- (2) any offer to acquire or acquisition of beneficial ownership of more than ten percent of the common stock of an association by a corporation whose ownership is or will be substantially the same as the ownership of the association, provided that the offer or acquisition is made more than one year following the date of completion of the conversion.

Statutory Authority G.S. 54B-43; 54B-55.

SECTION .0200 - RULE-MAKING HEARINGS

.0201 PETITION FOR ADOPTION: AMENDMENT OR REPEAL OF RULES

(a) Right to Petition. Any interested person may petition the Administrator to promulgate, amend, or repeal an administrative rule.

(b) Form of Petition. The petition shall be in writing, signed by the petitioning party or parties and must include the address of the petitioning party. In addition, the petition shall contain the following information:

- (1) a draft of the proposed rule, amendment or repeal or a summary thereof;
- (2) the reason(s) for the proposal;
- (3) the effect on existing rules or orders or both;
- (4) any data showing the probable effect of the proposal on existing practices in the area involved, including cost; and
- (5) the names of those most likely to be affected by the proposal with addresses if reasonably known.

(c) Address for Petition. Petitions shall be addressed to the Division at its mailing address.

(d) Disposition of Petition. Upon receipt of a petition, the Administrator will make a study of the facts stated in the petition and any additional information he deems relevant. The Administrator's disposition of the petition will be made

in one of the following forms within 30 days of receipt of the petition:

- (1) a written denial of the proposal setting forth the reasons for such denial, or
- (2) a written communication to the petitioner indicating the Administrator's plan to initiate rulemaking procedures pursuant to G.S. 150B-12.

Statutory Authority G.S. 54B-55; 150B-12.

.0202 NOTICE OF RULE-MAKING HEARINGS

Any person or agency desiring to be placed on the mailing list for the Administrator's rule-making notices may file such request by furnishing a name and mailing address in writing to the Division at its mailing address. The request must state the subject areas within the authority of the Administrator's office for which the notice is requested. The Administrator may require reasonable postage and stationery costs to be paid by persons receiving such notices.

Statutory Authority G.S. 150B-12.

.0203 RULE-MAKING HEARINGS: GENERAL INFORMATION

The hearing officer shall have complete control of the proceedings, including extensions of any time requirements, order of presentations, time allotments for presentations, direction of the flow of the discussion and the management of the hearing. Each person participating in the hearing shall be given a fair opportunity to present views, data and comments.

Statutory Authority G.S. 150B-12.

SECTION .0300 - DECLARATORY RULINGS

.0301 PETITION FOR DECLARATORY RULING

(a) **Petitioner Must Possess Interest.** The petitioner must possess such an interest in the question to be ruled on that the petitioner's need to have such a ruling in order to comply with statutory requirements, Division rules, or Division policy shall be apparent from the petition and shall be fully explained therein.

(b) **Form and Content of Petition.** The petition shall be typewritten and shall contain the name and address of the petitioner, the specific factual situation involved, the question or questions sought to be answered, and the identification of the rules, statutes, or orders applicable to the question presented.

(c) **Written Brief May Be Submitted.** The petitioner may submit a written brief, but oral

argument shall not be allowed unless deemed necessary by the Administrator.

(d) **Mailing Address.** All requests for declaratory rulings shall be mailed to the Division at its mailing address.

Statutory Authority G.S. 150B-17.

.0302 RESPONSE OF ADMINISTRATOR TO PETITION

(a) **Written Response.** A written response to the petition for a declaratory ruling, whether in the form of a declaratory ruling or a refusal to issue a declaratory ruling, shall be signed by the Administrator or his designated representative within 60 days following the date on which the petition was received by the Division.

(b) **Refusal to Issue Declaratory Ruling.** The Administrator may refuse to issue a declaratory ruling if one of the following circumstances exists:

- (1) The subject matter is one in which the Administrator has no authority to issue a binding decision;
- (2) The situation is one in which the amount of work that would be required by the Administrator and staff to issue the declaratory ruling would be the same as or greater than the work required to process the request through normal procedures or a contested case proceeding;
- (3) The petition does not state with enough specificity the factual situation involved, or the question is presented in such a manner that the Administrator cannot determine what the question is, or that the Administrator cannot respond with a specific ruling that will be binding on all parties;
- (4) The petitioner does not, in the opinion of the Administrator, possess sufficient interest in the question to be ruled on; or
- (5) For any other reason the Administrator finds the issuance of a declaratory ruling to be undesirable.

Statutory Authority G.S. 150B-17.

SECTION .0400 - ADMINISTRATIVE HEARINGS

.0401 RIGHT TO HEARING

Whenever the Administrator acts in such a way as to affect the rights, duties or privileges of a specific identified party, the party may appeal for a final decision by the Administrator in accordance with Article 3A of G.S. 150B.

Statutory Authority G.S. 150B-38.

.0402 INFORMAL SETTLEMENT

(a) Attendance at Settlement Conference. Before a hearing request can be acted upon, a person must first make an effort to resolve the matter with the Division informally and must attend and participate in any scheduled meetings or conferences.

(b) Settlement Statement. A proposed settlement, including a stipulated statement of facts, shall be set forth in writing by the Division. If the proposed settlement is agreed to by all parties to the matter, it shall represent the final disposition of the matter and shall be signed by all parties to the matter or their legal representatives. If the proposed settlement is not agreed to and signed by all parties, then the matter shall proceed as provided in this Section.

Statutory Authority G.S. 58-9.

.0403 REQUEST FOR HEARING

(a) Form of Request. A request for an administrative hearing must be in writing and must contain the following information:

- (1) name and address of the person requesting the hearing,
- (2) a concise statement of the action by the Administrator that is being challenged,
- (3) a concise statement of the manner in which the petitioner is aggrieved, and
- (4) a clear and specific demand for a public hearing.

(b) Address For Request. The request for hearing shall be filed with the Division at its mailing address.

Statutory Authority G.S. 58-9; 150B-38.

.0404 NOTICE OF HEARING

Notice of a public hearing shall be given in writing to the appropriate parties in advance of the hearing date as required by the law applicable to the hearing being held.

Statutory Authority G.S. 150B-23.

.0405 INTERVENTION IN AN ADMINISTRATIVE HEARING

(a) Petition to Intervene. A petition to intervene may be permitted if timely and if the petition meets the criteria set forth in G.S. 1A-1, Rule 24(b).

(b) Intervention Criteria. In addition, the Administrator, in his discretion, may allow intervention or limited intervention when:

- (1) Similar rights will be affected;
- (2) Intervention will not confuse issues;

(3) Issues are the same or similar to the issue in question;

(4) Intervention is in the public interest; and

(5) Intervention will not prejudice the rights of parties.

(c) Form of Petition. A petition to intervene shall contain the name of the petitioner, the title of the hearing, the date and time of the hearing, if known, and the grounds for intervention. The petition for intervention shall be addressed to all parties affected thereby and to the Division at its mailing address.

(d) Notice of Intervention. If the Administrator allows intervention, notice of that decision shall be issued promptly to all parties and to the petitioner. Notification will include a statement of any limitation of time, subject matter, evidence, or other limitations imposed on the intervenor. If the Administrator's decision is to deny intervention, the petitioner will be notified promptly.

Statutory Authority G.S. 1A-1; 150B-38.

.0406 DEPOSITIONS

The use of depositions may be allowed only when attendance at a hearing would work a hardship on a person otherwise available to be subpoenaed as a witness, and such hardship is so great as to be unreasonable in light of the testimony that person may be expected to give. In such a case, a deposition will be taken in accordance with the North Carolina Rules of Civil Procedure. All necessary rulings as to whether a deposition will be allowed or as to methods of securing a deposition are within the power and discretion of the hearing officer.

Statutory Authority G.S. 1A-1; 150B-28.

.0407 SUBPOENAS

(a) Hearing Officer May Issue Subpoena. Any hearing officer may issue subpoenas in the name of the Administrator.

(b) Request for Subpoena. Subpoenas requiring the attendance of witnesses, or the production of documents, evidence or things will be issued promptly by a hearing officer after receipt of a written request from a party to a contested case for such subpoena.

Statutory Authority G.S. 150B-38; 150B-39.

.0408 SERVICE OF SUBPOENAS

(a) Methods of Service. Subpoenas shall be served as the officer issuing the subpoena shall direct. Subpoenas may be directed to be served by any of the following methods:

- (1) by an employee of the Division; or
- (2) by the sheriff of the county in which the person subpoenaed resides, when the party requesting such subpoena pre-pays the sheriff's service fee.

(b) Form of Subpoena. Subpoenas will be issued in duplicate with a "Return of Service" form attached to each copy. The person serving the subpoena shall fill out the "Return of Service" form for each copy and promptly return one copy of the subpoena, with the attached "Return of Service" form completed.

Statutory Authority G.S. 150B-38; 150B-39.

.0409 OBJECTION TO A SUBPOENA

(a) Form of Objection. Except as may be otherwise stated in a particular subpoena, a party or person receiving a subpoena from the Division may object thereto by filing a written objection to the subpoena with the Division at its mailing address. An objection to a subpoena must include a concise but complete statement of reasons why the subpoena should be revoked or modified. These reasons may include any reason in law for holding the subpoena invalid.

(b) Service of Objection. The objection shall be served upon the Administrator and the party who requested the subpoena. Service shall be in accordance with the North Carolina Rules of Civil Procedure.

(c) Response to Objection. The party requesting the subpoena may file a written response to the objection. The response shall be served in like manner as the objection.

(d) Hearing on Subpoena. After receipt of the objection and response thereto, the hearing officer may issue a notice to the party who requested the subpoena and the party challenging the subpoena, and may notify all other parties of a hearing, to be scheduled as soon as practicable, at which time evidence and testimony regarding the objection and response may be presented.

Statutory Authority G.S. 150B-38; 150B-40.

SUBCHAPTER 16B - SAVINGS INSTITUTIONS COMMISSION

.0001 OFFICERS

At the first meeting of each fiscal year, the ~~Savings and Loan~~ Commission shall elect one of its members to serve as chairman and one of its members to serve as vice-chairman. The chairman shall designate a staff member of the ~~Savings and Loan~~ Division to serve as secretary. If a meeting of the Commission is called and the chairman ~~and~~ or vice-chairman cannot attend,

the members of the Commission may elect one of their membership to preside over the meeting.

Statutory Authority G.S. 54B-53; 54B-55.

.0002 MEETINGS

(a) Regular Meetings. The ~~Savings and Loan~~ Commission shall hold regular meetings in Raleigh every second Thursday in the second month of each quarter. ~~with the meetings being held in the months of February, May, August and November.~~ By a majority vote of the Commission, the date and location of a regular meeting may be changed.

(b) Special Meetings. Special meetings of the Commission may be called as needed by the chairman, three members of the Commission, or the Administrator, provided actual notice of each meeting is given to every member of the Commission prior to the date of the meeting.

(c) Quorum. A quorum shall consist of four members of the Commission.

(d) Voting. The vote of a majority of those members of the Commission present and voting shall be sufficient to decide any matter before the Commission, provided a quorum is present. A member of the Commission shall not vote on any matter in which he has a personal or financial interest.

Statutory Authority G.S. 54B-53; 54B-55.

SUBCHAPTER 16C - APPLICATIONS

SECTION .0100 - CHARTER APPLICATION

.0101 FORMS

(a) Application for a mutual association is accomplished through the execution of Form MC.

(b) Application for a stock association is accomplished through the execution of Form SC.

(c) Forms MC and SC incorporate all statutory requirements and criteria and provide for the submission of required information. These forms can be obtained from and filed with the ~~Savings and Loan~~ Division, P.O. Box M-27045, Raleigh, North Carolina 27611, at its mailing address.

Statutory Authority G.S. 54B-9; 54B-55.

SECTION .0200 - BRANCH OFFICE APPLICATION

.0201 FORM

Application for a branch office of a ~~mutual association or a stock~~ an association is accomplished through the execution of Form AB. Form AB incorporates all statutory requirements

and criteria and provides for the submission of required information. The form can be obtained from and filed with the ~~Savings and Loan Division, P.O. Box M-27045, Raleigh, North Carolina 27611.~~ at its mailing address.

Statutory Authority G.S. 54B-22; 54B-55.

SECTION .0300 - APPLICATION TO CHANGE LOCATION OF BRANCH OFFICE OR PRINCIPAL OFFICE

.0304 TEMPORARY CLOSING OF OFFICE

The Administrator shall be notified if an office is closed temporarily for any reason other than observance of a holiday.

Statutory Authority G.S. 54B-55.

.0305 PURCHASE OF BRANCH

No association shall purchase a branch office without first obtaining the written approval of the administration. The association shall furnish such information as to the purchase as the Administrator may prescribe.

Statutory Authority G.S. 54B-22; 54B-55.

SECTION .0400 - REMOTE SERVICE UNITS

.0401 DEFINITIONS

As used in this Section, unless the context otherwise requires, the term:

- (1) "Generic data" means statistical information which does not identify any individual account holder.
- (2) "Personal security identifier" means any word, number, or other security identifier essential for an account holder to gain access to an account through use of an unmanned remote service unit.
- (3) "Remote service unit" means a customer communications terminal, point-of-sale terminal, automated teller machine, cash-dispensing machine, automated or other direct or remote information processing device or machine, whether manned or unmanned, through or by means of which funds or information relating to any financial service or transaction rendered to the public is stored and transmitted, instantaneously or otherwise to or from an association terminal or terminals controlled or used by or with other parties.
- (4) ~~"Remote service unit account" means a savings or loan account that may be accessed through use of a remote service unit.~~

Statutory Authority G.S. 54B-77.

.0402 APPLICATION: GUIDELINES FOR APPROVAL BY ADMINISTRATOR

(a) An association may apply to the Administrator for permission to establish or use remote service units and participate with other parties in remote service unit operations, on an unrestricted geographic basis. An association may share a remote service unit controlled by a third party or an institution not subject to examination by a State regulatory agency only if such third party or institution has agreed in writing that the remote service unit is subject to such examination by the Administrator as he deems necessary.

(b) Application for a remote service unit is accomplished through the execution of Form RSU. Form RSU incorporates all regulatory requirements and guidelines for the establishment of a remote service unit and provides for the submission of required information. This form can be obtained from and filed with the ~~Savings and Loan Division, P.O. Box M-27045, Raleigh, North Carolina 27611.~~ at its mailing address.

(c) The Administrator shall consider the following guidelines when reviewing an application to establish a remote service unit:

- (1) The policies, financial condition, and operation of the applicant afford no basis for supervisory objection.
- (2) The proposed remote service unit will be established within six months of approval; provided, for good cause shown, the Administrator, upon written application from the association may grant the association a six-month extension within which to establish the remote service unit.

Statutory Authority G.S. 54B-77.

.0403 GENERAL POLICIES

~~(a) Applicability of Regulation E. Transactions made under this Section are subject to the Electronic Fund Transfer Act (15 U.S.C. 1603 et seq.) and Regulation E of the Federal Reserve Board (12 C.F.R. 205.2).~~

(a) ~~(b)~~ Prohibited uses. A remote service unit shall not be used to open savings accounts or establish loan accounts.

(b) ~~(c)~~ Service charges. An association may impose service charges for remote service unit financial services.

(c) ~~(d)~~ Bonding. An association shall take all steps necessary to protect its interest in financial services processed at each remote service unit, including obtaining available fidelity, forgery, and other appropriate insurance.

(d) ~~(e)~~ Security. An association shall protect electronic data against fraudulent alterations or disclosure.

Statutory Authority G.S. 54B-77.

SECTION .0500 - INTERSTATE RECIPROCAL ACQUISITIONS

.0501 FORM

Application for approval to acquire a North Carolina association is accomplished through the execution of Form AQ. The form can be obtained from and must be filed with the Savings and Loan Division, P. O. Box M-27945, Raleigh, North Carolina 27611, at its mailing address.

Statutory Authority G.S. 54B-48.6; 54B-55.

.0503 FEES

(a) The acquisition application fee is the same as for a savings and loan holding company application.

(b) The administration fee for an association acquired by a Southern region savings and loan association or holding company shall be the same as the supervisory fee for a North Carolina association of similar asset size.

(c) The Southern region savings and loan association or holding company that has acquired an association shall pay the same supervisory fee as a North Carolina holding company.

(d) If comparable fees in the home state of the parent association or holding company are higher than the applicable North Carolina fee, then the higher fee shall be applicable.

Statutory Authority G.S. 54B-48.6; 54B-55.

SUBCHAPTER 16D - OPERATION OF SAVINGS ASSOCIATIONS

SECTION .0100 - DIRECTORS: OFFICERS AND EMPLOYEES

.0101 COMPOSITION OF BOARD OF DIRECTORS

(a) The number of directors constituting the initial board of directors shall be not less than seven. Thereafter, the provisions of Chapter 55 of the General Statutes shall govern the numerical composition of boards of directors for both stock and mutual associations. Other guidelines for the composition of a board of directors are as follows:

- (1) No more than one-third of the board of directors shall be salaried officers or employees of the association, or of any subsidiary or (except in the case of an

association having 80 percent or more of any class of voting shares owned by a holding company or controlling person) any holding company or controlling person affiliate thereof.

- (2) No more than two directors shall be members of the same immediate family.

- (3) No two directors who are attorneys may be members of the same law firm.

- (4) No more than one-third of the board of directors shall be directors, officers or employees of a competing financial institution.

- (5) The chief executive officer of the association shall be a member of the board of directors.

~~(b) Each association shall be in compliance with Paragraph (a) of this Rule at the first annual meeting of the association held after the effective date of this Rule.~~

~~(b) (e)~~ A director shall not vote on any matter in which he has a personal or financial interest.

~~(c) (d)~~ When an association takes action resulting in the establishment of a new chief executive officer or director, the association shall notify the Administrator in writing 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.

Statutory Authority G.S. 54B-55.

.0102 PROHIBITED TRANSACTIONS (REPEALED)

Statutory Authority G.S. 54B-55.

.0104 INSIDER LOAN LIMITATIONS (REPEALED)

Statutory Authority G.S. 54B-154.

SECTION .0200 - PROXIES

.0202 FORM OF PROXY

(a) Every form of proxy solicited by an association shall conform to the following requirements:

- (1) The proxy shall be revocable at will, with the power to revoke not being conditioned on any event or occurrence or otherwise limited; however, a proxy may be made irrevocable to the extent permitted by the applicable provisions of G.S. 55-68 and only when the proxy clearly indicates that it is to be irrevocable.

- (2) The proxy shall be clearly labeled "Revocable Proxy" in at least 18-point, boldface type.
- (3) The proxy shall not be part of any other document or instrument. Provided, however, that ~~the a~~ carbox signature card (a two-part form consisting of a signature card and proxy card) ~~of the United States League of Savings Associations~~ is specifically permitted. The account holder must sign both the signature card and the proxy card in order to validate them.

(b) The proxy may include provisions permitting both permanent revocation and revocation of the proxy as to any particular meeting or meetings, and a provision that the proxy will remain valid until "cancelled by a writing delivered to the secretary of the association".

Statutory Authority G.S. 54B-55; 54B-105.

SECTION .0300 - RECORDS

.0301 GENERAL POLICIES

(a) Records to be Kept at Principal Office. Every association shall keep at the principal office correct and complete books of account and minutes of the proceedings of members, shareholders, directors and committees. Complete records of all business transacted at the principal office shall be maintained at the principal office. Everything relating to the business of an association shall be examined and investigated by the Administrator on a regular and periodic basis. Every association and service corporation thereof shall be audited at least once in each calendar year by independent auditors. The audit shall be done on the basis of generally accepted accounting principles, unless otherwise provided by this Chapter. The association shall file with the Administrator ~~two copies~~ one copy of the audit report along with one copy of the auditor's management letter and any other letters regarding the audit within 90 days after the end of its fiscal year, unless extended in writing by the Administrator. The association shall also submit to the Administrator a copy of the association's written response to the auditor's management letter at the time such response is provided to the appropriate federal regulatory authority.

Statutory Authority G.S. 54B-21; 54B-55.

SECTION .0400 - LOANS

.0403 RECORDS WITH RESPECT TO LOANS

(a) Mortgage Loans. Each association shall maintain records with respect to each loan on the security of real estate which shall include:

- (1) An application signed by the borrower or his agent, containing adequate information which shall include the purpose of the loan, the identity of the property or properties securing the loan, and the purchase price of the property paid by or agreed to be paid by the applicant where the purpose of the loan is for the purchase of the real estate securing such loan;
- (2) The credit ability of the applicant shall be ascertained in the application or by a credit report, a financial report or by others at the request of the association;
- (3) A written appraisal report conforming to the written appraisal policy of the association, signed and dated prior to the approval of the application;
- (4) Evidence to show:
 - (A) proper approval of the loan and the terms and conditions of such approval;
 - (B) a loan settlement statement, signed by the borrower, showing the distribution of the loan proceeds;
 - (C) the association's approved attorney's title opinion or a valid title insurance policy from a title insurance company authorized to do business in North Carolina;
 - (D) hazard insurance coverage;
 - (E) release or releases of any portion of the collateral, with a revised appraisal of the remaining security retained; and
 - (F) the loan agreement, inspection reports, owner's and contractor's affidavits and other necessary procedures on construction loans, where applicable;
- (5) All loan modifications, properly recorded in the minutes;
- (6) Record of insurance expirations unless a master mortgagee insurance policy is held in full force and effect;
- (7) Tax records;
- (8) A mortgage loan register to show:
 - (A) account number;
 - (B) borrower's name;
 - (C) date of deed of trust;
 - (D) appraisal;
 - (E) interest rate;
 - (F) monthly payment and date of first payment;
 - (G) purpose of the loan and purchase price if for purchase of property securing the loan and the contract price if for purposes of construction; and
- (II) hypothecation, if any, designating hypothecator, amount, and type of pledge collateral; all to be incorporated in the hypothecation agreement;

(9) Records on acquisition of mortgaged security to include:

(A) a detailed record of the acquisition, whether through foreclosure or otherwise, and a description of the property or properties including the name of the former owner;

(B) maintenance of subsidiary ledger ~~cards~~ accounts for each separate acquisition, to record all items subject to capitalization or to income and expense during the period such property is owned by the association;

(C) designation of all fees, charges and commissions and to whom such were paid;

(D) a copy of the trustee's report relating to foreclosure, when applicable;

~~(10) A specific reserve in an amount sufficient to cover uncollected capitalized mortgage loan interest as prescribed in Rule .0408 of this Subchapter;~~

(10) ~~(11)~~ A review of 60 days or over delinquent mortgage loans by the association's board of directors or executive committee at least once a month and such review to be recorded in the minutes of the board of directors or executive committee meeting; and

(11) ~~(12)~~ A "loans in process account" to support the undisbursed portion of the proceeds of each mortgage loan or unsecured construction loans.

(b) Withdrawable Account Loans. Each association shall maintain records with respect to each loan secured by withdrawable accounts which shall include a withdrawable account loan register. Such loan register or registers shall include:

- (1) account number,
- (2) borrower's name,
- (3) date of loan,
- (4) interest rate,
- (5) payment schedule, and
- (6) date of first payment.

(c) Other Loan Register. Each association shall maintain adequate and appropriate records with respect to all other types of loans made by the association which shall include a loan register. Separate registers shall be maintained with respect to consumer loans and with respect to commercial loans. Such loan register or registers shall include:

- (1) account number,
- (2) borrower's name,
- (3) date of loan,
- (4) interest rate,
- (5) payment schedule,

(6) date of first payment, ~~and~~

(7) purpose of loan, ~~if applicable.~~ and

(8) type of collateral, if secured.

Statutory Authority G.S. 54B-55.

.0404 ALTERNATIVE MORTGAGE INSTRUMENTS

(a) An association may use any alternative mortgage instrument agreed upon by the association and the borrower. The term "alternative mortgage instrument" shall include any type of mortgage instrument other than a conventional mortgage instrument with a fixed interest rate and fixed payments. An association is deemed to have complied with this Rule if it complies with similar requirements enforced by the federal ~~insurer of accounts.~~ regulatory authority. Paragraphs (b) and (c) of this Rule apply only to credit transactions where the borrower is a natural person and the intended use of the loan proceeds is for personal, family, or household purposes.

(b) An association using an alternative mortgage instrument shall maintain in the mortgage loan file a certification signed by the borrower indicating that the borrower has received the disclosure material specified in Paragraph (c) of this Rule before closing the loan.

(c) Prior to closing, the borrower shall be furnished disclosure material which shall include:

- (1) an explanation of the alternative mortgage instrument; and
- (2) an example of the operation of the alternative mortgage instrument.

(d) The borrower shall not be charged any costs or fees in connection with regularly scheduled adjustments to the interest rate, the payment, the outstanding principal loan balance, or the loan term.

Statutory Authority G.S. 54B-55; 54B-163.

.0405 UNSECURED LOANS LIMIT

The aggregate amount of unsecured loans outstanding which may be made by an association to any one borrower shall not exceed the ~~lesser of 0.25 percent of the association's assets or five percent of its net worth;~~ provided, that an association may, in any event, make up to three thousand dollars (\$3,000) in unsecured loans to any one borrower. amount established by the appropriate federal regulatory authority.

Statutory Authority G.S. 54B-55; 54B-151.

.0406 ACCOUNTING FOR GAINS AND LOSSES (REPEALED)

Statutory Authority G.S. 54B-55.

.0407 LOANS TO ONE BORROWER

(a) Upon a written determination by the Administrator that an association is operating with unsafe and unsound lending practices, the Administrator may establish such limits on loans to any one borrower that he deems appropriate to protect the public. At no time shall the aggregate amount of loans of any type outstanding, granted by an association to any one borrower, exceed the lesser of the amount established by G.S. 54B-164 or by the federal regulatory authority.

(b) For purposes of applying the limitations set forth in Paragraph (a) of this Rule, any loan to a person or entity that is, or upon the making of the loan will become, an obligor on the loan will be attributed also to:

- (1) nominees of such obligor;
- (2) all persons, trusts, syndicates, partnerships, and corporations of which such obligor is a nominee, a beneficiary, a member, a general partner, a limited partner owning an interest of 10 percent or more (based on the value of his contribution), or a record or beneficial stockholder owning 10 percent or more of the capital stock;
- (3) if such obligor is a trust, syndicate, partnership, or corporation, all trusts, syndicates, partnerships, and corporations of which any beneficiary, member, general partner, limited partner owning an interest of 10 percent or more, or record or beneficial stockholder owning ten percent or more of the capital stock, is also a beneficiary, member, general partner, limited partner owning an interest of 10 percent or more of the capital stock of such obligor; and
- (4) notwithstanding the foregoing, loans to partnerships in which the service corporation of the lending association is a partner will not be aggregated against the service corporation unless the security for one of the loans is also security for another loan to the service corporation, or to a partnership of which the service corporation is a partner, in which case those loans having common security will be aggregated against the service corporation; provided, that the association and service corporation maintain books and records in an adequate manner to evidence that each partnership is financially independent, without any commingling of funds, or diversion of funds from one partnership to another.

(c) For the purposes of this Section the term "total balances of all outstanding loans" means the original amounts loaned by an association plus any additional advances and interest due and unpaid, less repayments and participating interests sold and exclusive of any loan on the security of such association's savings accounts or real estate the title to which has been conveyed to a bona fide purchaser who assumes the loan.

Statutory Authority G.S. 54B-55; 54B-164.

.0408 ACCOUNTING FOR UNCOLLECTIBLE INCOME (REPEALED)

Statutory Authority G.S. 54B-55.

SECTION .0500 - WITHDRAWABLE ACCOUNTS

.0503 NONNEGOTIABLE ORDERS OF WITHDRAWAL (REPEALED)

Statutory Authority G.S. 54B-55; 54B-128.

.0505 NON-INTEREST-BEARING NEGOTIABLE ORDER OF WITHDRAWAL ACCTS (REPEALED)

Statutory Authority G.S. 54B-55; 54B-127.

SECTION .0600 - LIQUIDITY FUND (REPEALED)

**.0601 LIQUIDITY FUND REQUIREMENT
.0602 AMOUNT OF LIQUIDITY FUND**

Statutory Authority G.S. 54B-55; 54B-210; 54B-211.

SECTION .0800 - TRUST POWERS

.0806 AUDIT OF TRUST DEPARTMENT

At least once during each calendar year, the association's trust department shall be audited by independent auditors. in a manner prescribed by the Administrator. A copy of the report of the audit shall be promptly filed with the Administrator.

Statutory Authority G.S. 54B-77.

.0807 FUNDS AWAITING INVESTMENT OR DISTRIBUTION

(a) Funds held in a fiduciary capacity by an association awaiting investment or distribution shall not be held uninvested or undistributed any longer that is reasonable for the proper management of the account.

(b) Funds held in trust by an association, including managing agency accounts, awaiting investment or distribution may, unless prohibited by the instrument creating the trust, be deposited in other departments of the association, provided the association shall first set aside under control of the trust department collateral security of a kind and in an amount as specified in G.S. 36A-63(b) for funds held in trust by a bank, except that no such collateral shall be required to the extent that such funds are insured by the ~~Federal Savings and Loan Insurance Corporation or a mutual deposit guaranty association, or their successors.~~ an agency of the United States government.

(c) Any funds held by an association as fiduciary awaiting investment or distribution and deposited in other departments of the association shall be made productive.

Statutory Authority G.S. 54B-77.

SECTION .0900 - INVESTMENTS

.0901 SECURITIES

An association may invest in any security that has been rated at least BAA or equivalent by a nationally recognized rating service. In no case may investments in BAA or equivalent securities exceed in the aggregate twenty five percent of net worth without the express written permission of the Administrator.

Statutory Authority G.S. 54B-55; 54B-193.

.0902 STOCK IN OTHER ASSOCIATIONS

(a) No association shall invest in the stock of another association without giving prior written notice to the Administrator.

(b) No association shall invest in the aggregate more than five percent of its net worth in the stock of other associations without the prior written approval of the Administrator.

Statutory Authority G.S. 54B-55; 54B-193.

SUBCHAPTER 16F - SERVICE CORPORATIONS AND FINANCE SUBSIDIARIES

.0001 PERMITTED ACTIVITIES

The service corporation of an association may engage in those activities which are approved by the federal ~~insurer of accounts regulatory authority~~ for service corporations owned solely by federal savings and loan associations which have principal offices in this State, and any investment authorized for state-chartered ~~savings and loan~~ associations and approved in advance in writing by the Administrator.

Statutory Authority G.S. 54B-194.

.0002 INVESTMENT LIMITATION

~~The aggregate investment by an association in service corporations shall not exceed ten percent of the association's total assets. Such investment includes Investments in a service corporation include not only stock and other securities of a service corporation, such as notes, bonds and debentures, but also any loans, secured or unsecured, to the service corporation. The ten percent investment limitation established by G.S. 54B-194 applies to the total investment that an association can make in one or in any number of service corporations, except an association may make a secured loan to a state-wide multi-owned service corporation without affecting its ten percent of assets investment.~~

Statutory Authority G.S. 54B-55; 54B-194.

.0004 STOCK IN A SERVICE CORPORATION (REPEALED)

Statutory Authority G.S. 54B-55; 54B-194.

.0005 AMENDMENTS TO ARTICLES OF INCORPORATION OR BYLAWS

(a) Prior to filing with the Secretary of State of North Carolina, a service corporation shall not amend file with the Administrator copies of any proposed amendment to its articles of incorporation. or bylaws until the proposed amendments have been approved by the Administrator. The Administrator shall be deemed to have approved any such amendments to which he has not objected within 25 days after the date on which the amendments are filed. The Administrator must give his approval to the form and content of such proposed amendment.

(b) Before the bylaws or any amendments to the bylaws of a service corporation can become effective, a certified copy of the bylaws or amendments shall be filed with and approved by the Administrator. In the event of the failure of the Administrator to act upon the bylaws or amendment within 25 days of receipt, the bylaws or amendment shall be deemed approved.

Statutory Authority G.S. 54B-55; 54B-194.

SUBCHAPTER 16H - SUPERVISORY ACTIONS

.0001 DEFINITIONS

As used in this Subchapter, unless the context otherwise requires, the term:

(1) "Association" means all ~~savings and loan~~ associations converting, merging or consol-

idating pursuant to G.S. 54B-44 and this Subchapter.

- (2) "Consolidation" means a supervisory consolidation pursuant to G.S. 54B-44 and this Subchapter.
- (3) "Merger" means a supervisory merger pursuant to G.S. 54B-44 and this Subchapter.
- (4) "Plan of conversion" means a detailed outline of the terms, conditions and procedure of the short form conversion of an association from mutual to stock form of ownership.
- (5) "Plan of merger" or "plan of consolidation" means a detailed outline of the terms, conditions and procedure of combining one association, by merger or consolidation, with another association.
- (6) "Short form conversion" means a supervisory conversion of an association from mutual to stock form of ownership, pursuant to G.S. 54B-44 and this Subchapter.
- (7) "Combination merger and conversion" mean a supervisory conversion of an association from mutual to stock form of ownership combined with a supervisory merger, pursuant to G.S. 54B-44 and this Subchapter.
- (8) "Plan of combination merger and conversion" means a detailed outline of the terms, conditions and procedures of the short form conversion of an association from mutual to stock form of ownership and combining the association, by merger, with another association.

Statutory Authority G.S. 54B-44.

.0007 LIQUIDATION ACCOUNT

The Administrator may require that a plan of conversion, merger, consolidation or any other action provide for a liquidation account for the benefit of the withdrawable account holders of a converting mutual association or a mutual association which will not be the surviving association pursuant to a merger or consolidation or any other action. ~~The establishment of such liquidation account and the rights of withdrawable account holders pursuant thereto, shall be as set forth in Rule .0305 of Subchapter G of this Chapter, with such alterations as the Administrator shall deem appropriate.~~

Statutory Authority G.S. 54B-44.

SUBCHAPTER 16I - ACQUISITION OF CONTROL

SECTION .0700 - GENERAL

.0701 GENERAL (REPEALED)

Statutory Authority G.S. 54B-55; 54B-261; 54B-262.

.0702 DEFINITIONS AND OTHER TERMS

~~(a)~~ As used in this Subchapter, unless the context otherwise requires, the term:

- (1) "Acquisition" means a transaction in which a person or savings and loan holding company acquires control of a stock association by means of an exchange of its capital stock for the capital stock of the stock association, or by means of a purchase of the capital stock of the stock association.
- (2) "Applicant" means a person or savings and loan holding company which has filed with the Administrator any application under this Subchapter.
- (3) "Control" means the power, directly or indirectly, to direct the management or policies of an association or to vote 25 percent or more of any class of voting securities for an association.
- (4) "Person" means an individual or group of individuals acting in concert, a corporation, trust, joint venture, pool, syndicate, sole proprietorship, unincorporated organization, or any other form of entity not specifically listed in this Subdivision.
- (5) "Plan of Conversion" means a plan duly adopted in accordance with the requirements of G.S. 54B-261 and this Subchapter that, to the satisfaction of the Administrator, sets out all relevant terms and conditions pertaining to a mutual association's reorganization of its ownership to provide for ownership by a savings and loan holding company.
- (6) ~~(5)~~ "Plan of Reorganization" means a plan duly adopted in accordance with the requirements of G.S. 54B-261 and this Subchapter that, to the satisfaction of the Administrator, sets out all relevant terms and conditions pertaining to a stock association's reorganization of its ownership to provide for ownership by a savings and loan holding company.
- (7) ~~(6)~~ "Registrant" means any savings and loan holding company which has filed a registration statement with the Administrator under this Subchapter.
- (8) ~~(7)~~ "Savings and Loan Holding Company" means any company which directly or indirectly controls an association or controls any other company which is a savings and loan holding company.

(8) "Stock Association" means any corporation or company owned by holders of capital stock and organized under the provisions of Chapter 54B of the North Carolina General Statutes for the primary purpose of promoting thrift and home financing.

(9) "Tax Free Exchange" means an exchange of stock which would result in no tax consequences to the savings and loan holding company, the stock association and its stockholders under state or federal law.

(b) Unless the context otherwise requires, terms defined in Chapter 54B of the North Carolina General Statutes and this Chapter, when used in this Subchapter, shall have the meanings given in such definitions, to the extent such definitions are not inconsistent with the definitions contained in this Rule.

Statutory Authority G.S. 54B-55; 54B-261; 54B-262.

.0703 STANDARDS FOR APPROVAL OF ACQUISITION: DUTIES AND CONDUCT

(a) When it is proposed that an applicant shall control a stock association, the Administrator shall take into consideration factors additional to those enumerated in Rule .0701 of this Subchapter. An association may be controlled by a person or a savings and loan holding company. The Administrator shall determine that the person or savings and loan holding company is qualified by character, experience, and financial responsibility to control the association in a legal and responsible manner. The Administrator shall consider the applicant's financial and managerial resources, and the organizational structure and future prospects and plans of both the applicant and the stock association. The Administrator will consider whether the business and activities of the applicant, or its officers and directors, or any other person controlling, controlled by, or associated with the applicant by having a common controller, would create a material deterioration of confidence in the safety, soundness, and financial integrity of the stock association proposed to be controlled. When reference is made to the word "control" in this Rule, the word "control" has the meaning given in Rule .0702 of this Subchapter, and additionally shall have the meaning given by any other law or regulation under which the applicant is required to report and register as a holding company, parent corporation, or other similar entity.

(b) An applicant shall be solvent, and shall have a debt-to-equity ratio which compares fa-

vorably with the ratios of other persons in the same line of business.

(c) The approval of an application to acquire control of a stock an association shall in no way diminish the authority of the Administrator to regulate the activities of the subject controlled association. Controlled associations shall not pay dividends without the prior written approval of the Administrator, as required by law. Controlled associations will continue to meet statutory reserve and net worth requirements, and will continue to meet the requirements of the agency insuring the accounts of its depositors.

(d) A savings and loan holding company must exercise good faith in its relationships and transactions with the controlled association. A controlled association shall not enter into contracts, agreements, leases, or other business arrangements, whether formal or informal, with its holding company or any other person controlling or controlled by the holding company, unless the terms are fair and reasonable to the association. A controlled association shall not lend to, or invest in, its holding company or its affiliates, without the prior written approval of the Administrator.

Statutory Authority G.S. 54B-43; 54B-55; 54B-261; 54B-262.

.0704 INVESTMENT ACTIVITIES OF HOLDING COMPANIES

A savings and loan holding company may invest only in the stock of one or more stock associations, deposits in financial institutions the principal offices of which are located in North Carolina, investments permitted by G.S. 54B-181 through -184, and -187 through -190, and such other investments approved in advance in writing by the Administrator. In no event shall a savings and loan holding company make any investment not specified by this Section or not permitted for an association under the supervision of the Administrator.

Statutory Authority G.S. 54B-55; 54B-261; 54B-262.

SECTION .0800 - ACQUISITIONS

.0801 PRIOR WRITTEN APPROVAL REQUIRED FOR ACQUISITIONS

(a) A person or savings and loan holding company shall not acquire control of any stock association without having filed with the Administrator an Acquisition Application as prescribed by the Administrator, and without the written approval of the Administrator after con-

sideration of the application and any amendments thereto.

(b) In addition to the filing of the Acquisition Application, the applicant shall file any other information requested by the Administrator, including copies of any filings, documents or reports mentioned in Rule .1105 of this Subchapter.

Statutory Authority G.S. 54B-55; 54B-261; 54B-262.

.0802 APPLICATION FEES: FILINGS

Any Acquisition Application prescribed by the Administrator under this Subchapter can may be obtained from the Savings and Loan Division Post Office Box M-27045, Raleigh, NC 27611, at its mailing address. Applications will shall be accompanied by an application fee in the amount prescribed by the fee schedule, adopted by the Administrator, and approved by the Savings and Loan Commission. Such fee will be paid by check and is non-refundable. Any filings required under this Subchapter can also be made with the Savings and Loan Division at the address given in this Rule. Filings, applications, or other communications shall be deemed filed when received at the address in this Rule.

Statutory Authority G.S. 54B-55; 54B-57; 54B-261; 54B-262.

.0803 CONFIDENTIAL INFORMATION

Should an applicant desire to submit any information it deems to be of a confidential nature regarding the answer to any item or a part of an exhibit included in any application for filing under this Subchapter, such information pertaining to such item or exhibit shall be separately bound and labeled "confidential", and a statement shall be submitted therewith briefly setting forth the grounds on which such information should be treated as confidential. Only general reference thereto need be made in that portion of the application which the applicant deems not to be confidential. Applications for filings under this Subchapter shall be made available for inspection by the public, except for portions which are bound and labeled "confidential" and which the Administrator determines to withhold from public availability because of their confidential nature and except for portions which would, if made public, have the effect of prematurely commencing a process which, by state or federal law or regulation, commences upon its public disclosure. The Administrator shall not permit public inspection or copying of any material that is, or

would be, deemed confidential under the provisions of G.S. 54B-63.

Statutory Authority G.S. 54B-55; 54B-63; 54B-261; 54B-262.

SECTION .0900 - REORGANIZING STOCK ASSOCIATION INTO HOLDING COMPANY

.0901 REQUIRED ACQUISITION APPLICATION

When it is proposed that A stock association shall may be controlled by a savings and loan holding company by means of a plan of reorganization, the savings and loan holding company shall file This may be accomplished by filing with the Administrator one manually signed and two one conformed copies copy of an Acquisition Application. HC. For the purposes of filing the application, the applicant shall be considered a holding company, even though it may not yet control a stock association.

Statutory Authority G.S. 54B-55; 54B-261; 54B-262.

.0902 ACQUISITION PROCEDURE

The Administrator shall not approve any acquisition unless the plan of reorganization shall provide that the resulting ownership shall be vested in a North Carolina corporation; all stockholders of the stock association shall have the right to exchange shares; the exchange of stock shall not be subject to state or federal income taxation; stockholders not wishing to exchange shares shall be entitled to dissenters' rights as provided under G.S. 55-113; and the plan of reorganization is fair and equitable to all stockholders.

(a) Upon determining that an Acquisition Application is properly executed and is not materially incomplete, the Administrator shall consider the application filed. If the Plan of Reorganization is not approved, the Administrator shall notify the applicant of such, and state the reasons for its disapproval. The Administrator may include advice to the applicant as to what may be required by way of amendment or other requirement to cause approval of the Plan of Reorganization.

(b) If the Administrator approves the Plan of Reorganization, the applicant shall be notified. Thereafter, a regular or special meeting of the stockholders of the subject association shall be called after advance written notice to the stockholders of not less than 20 days specifying the time, place, and purpose for calling of the meeting. Notice shall be published in one or more newspapers of general circulation in the county

or counties where the association has its principal office and branch office(s). The applicant shall file publisher's affidavits with the Administrator to confirm the publication of notice.

(c) The results of the stockholder's meeting shall be confirmed to the Administrator by filing attested minutes of the meeting. If the stockholders approve reorganization of ownership of the association to provide for ownership by a savings and loan holding company, the Administrator shall enter his final order approving the reorganization.

(d) The Administrator may waive or alter, for good cause, any requirements set forth in this Rule.

Statutory Authority G.S. 54B-55; 54B-261; 54B-262.

**.0903 INVESTMENT ACTIVITIES
(REPEALED)**

**.0904 NOTICE OF FILING: HEARINGS
(REPEALED)**

Statutory Authority G.S. 54B-54; 54B-55; 54B-261; 54B-262.

**SECTION .1000 - ACQUISITIONS OF STOCK
ASSOCIATIONS**

**.1001 REQUIRED ACQUISITION
APPLICATIONS**

~~(a)~~ A person seeking to acquire control of any stock association shall file with the Administrator one manually signed and ~~two~~ one conformed ~~copies~~ copy of an Acquisition Application. ~~CP.~~

~~(b) In addition to the filing of the Acquisition Application CP, the applicant shall file copies of any filings, documents or reports mentioned in Rule .1105 of this Subchapter.~~

Statutory Authority G.S. 54B-55.

.1003 APPROVAL OF ACQUISITION

(a) Upon determining that an Acquisition Application CP is properly executed and is not materially incomplete, the Administrator ~~will~~ shall consider its approval. If the application is not approved, the Administrator will notify the applicant of such, and state the reasons for its disapproval. The Administrator may include advice to the applicant as to what may be required by way of amendment or other requirement, to cause approval of the application.

(b) If the Administrator approves the application, the applicant shall be notified. Such notice shall include any requirements or stipulations the Administrator may make as conditions of approval.

(c) The Administrator may waive or alter, for good cause, any requirements set forth in this Rule.

~~(d) Pursuant to the requirements of G.S. 54B-53, the commission may review, approve, disapprove, or modify any action taken by the Administrator pursuant to this Subchapter.~~

~~(e) The final decision of the commission may be appealed in accordance with Article 4 of Chapter 150B of the North Carolina General Statutes.~~

Statutory Authority G.S. 54B-54; 54B-55; 54B-261; 54B-262.

**SECTION .1100 - REGISTRATION:
SUPERVISION; REPORTS; FILINGS; BOOKS
AND RECORDS**

.1101 REGISTRATION

(a) Not later than 10 business days after becoming a savings and loan holding company, each savings and loan holding company shall register with the Administrator by filing a Registration Statement. ~~RS. Filings and other communications shall be considered filed when received by the Division.~~

~~(b) Upon receipt of a registration statement, the Administrator will assign to the registrant a holding company number. Such number shall be referred to in the registrant's subsequent communications with the Administrator.~~

~~(b) (c)~~ The Administrator may at any time, upon his own motion or otherwise, release a holding company from registration, if the Administrator determines that such company or person no longer controls a stock association.

Statutory Authority G.S. 54B-55; 54B-261; 54B-262.

.1102 SUPERVISION

(a) Savings and loan holding companies shall be supervised by the Administrator. The Administrator shall exercise all powers and responsibilities with respect to supervision, regulation and examination of such companies as the Administrator exercises with respect to associations, as detailed in Chapter 54B of the North Carolina General Statutes and this Chapter. Officers, directors, and employees of savings and loan holding companies have the same duties and responsibilities, express or implied, as officers, directors, and employees of associations.

(b) Each registrant shall be subject to such examinations as the Administrator may prescribe. The cost of such examinations shall be assessed against and paid by such registrant.

Statutory Authority G.S. 54B-55; 54B-57; 54B-261; 54B-262.

**.1104 FILING AND APPROVAL:
AMENDMENTS TO ARTICLES AND
BYLAWS**

(a) Prior to any filing with the Secretary of State of the State of North Carolina, a holding company will file with the Administrator copies of any proposed amendment to its articles of incorporation. ~~or bylaws.~~ The Administrator must give his approval to the content and form of such proposed amendments. ~~but in the event of the failure of the Administrator to act upon the filing within 25 days of receipt of it, the amended articles of incorporation or bylaws will be approved.~~

(b) Before any amendments to the bylaws of a savings and loan holding company can become effective, a certified copy of such amendments shall be filed with and approved by the Administrator. In the event of the failure of the Administrator to act upon the amendment within 25 days of receipt, the bylaws shall be deemed approved.

Statutory Authority G.S. 54B-55; 54B-261; 54B-262.

.1105 REPORTS

(a) Each registrant shall file simultaneously with the Administrator copies of any filings, documents, statements or reports required to be filed with the Federal Savings and Loan Insurance Corporation pursuant to Section 408 of the National Housing Act or regulations promulgated thereunder and the Securities and Exchange Commission pursuant to the Securities Exchange Act of 1934 (15 U.S.C. Section 78a et. seq.) and the Securities Exchange Act of 1933 (15 U.S.C. Section 77a et. seq.) or regulations promulgated thereunder. Such material will be filed under cover of a General Form HC-4. appropriate federal regulatory authority.

(b) Each registrant shall file with the Administrator such reports or other filings as the Administrator may prescribe, to be made under oath or otherwise, and to be in such form and for such periods as the Administrator may prescribe. Each such report of filing shall contain such information concerning the operations of the savings and loan holding company, and any related persons, as the Administrator may require.

Statutory Authority G.S. 54B-55; 54B-261; 54B-262.

.1106 BOOKS AND RECORDS

In addition to general corporate records maintained in the ordinary course of business as required by Section 16D .0300 of this Chapter, each registrant shall maintain such books and records in such form as may be prescribed by the Administrator. The books and records of a controlled association or its holding company shall not be removed from this State without the prior written approval of the Administrator.

Statutory Authority G.S. 54B-55; 54B-261; 54B-262.

**SECTION .1200 - CONVERSION OF MUTUAL
ASSOCIATION INTO HOLDING COMPANY**

**.1201 REQUIRED ACQUISITION
APPLICATION**

When it is proposed that a mutual association shall convert to a savings and loan holding company by means of a plan of conversion, the mutual association shall file with the Administrator one manually signed and one conformed copy of an Acquisition Application.

Statutory Authority G.S. 54B-55; 54B-261; 54B-262.

.1202 CONVERSION PROCEDURE

(a) Upon determining that an Acquisition Application is properly executed and is not materially incomplete, the Administrator shall consider the application filed. If the Plan of Conversion is not approved, the Administrator shall notify the applicant of such, and state the reasons for its disapproval. The Administrator may include advice to the applicant as to what may be required by way of amendment or other requirement, to cause approval of the Plan of Conversion.

(b) If the Administrator approves the Plan of Conversion, the applicant shall be notified. Thereafter, a regular or special meeting of the members of the subject association shall be called after advance written notice to the members of not less than 20 days specifying the time, place and purpose for calling of the meeting. Notice shall be published in one or more newspapers of general circulation in the county or counties where the association has its principal office and branch office(s). The applicant shall file publisher's affidavits with the Administrator to confirm publication of notice.

(c) The results of the member's meeting shall be confirmed to the Administrator by filing attested minutes of the meeting. If the members approve conversion of the association to a mutual holding company, the Administrator shall enter his final order approving the conversion.

(d) The Administrator may waive or alter, for good cause, any requirements set forth in this Rule.

Statutory Authority G.S. 54B-54; 54B-55; 54B-261; 54B-262.

**.1203 PLAN OF CONVERSION
REQUIREMENTS**

(a) The plan of conversion to a mutual holding company shall require the chartering of a stock subsidiary. At least 51 percent of the stock of this subsidiary shall be owned by the mutual holding company.

(b) Share of the stock subsidiary may be issued to the holding company only after sufficient assets to match transferred deposit liabilities are transferred by the holding company to the stock subsidiary and only after written confirmation of continuation of insurance of accounts for the stock subsidiary is received from the federal insurer of accounts.

(c) Upon completion of the conversion, the mutual association shall become a mutual holding company and shall cease to be an association or depository institution of any type.

Statutory Authority G.S. 54B-55; 54B-262.

**SECTION .1300 - HOLDING COMPANY
ACQUISITIONS**

**.1301 REQUIRED ACQUISITION
APPLICATION**

A person seeking to acquire control of any holding company shall file with the Administrator on manually signed and one conformed copy of an Acquisition Application.

Statutory Authority G.S. 54B-55; 54B-262.

.1302 ACQUISITION PROCEDURE

(a) Upon determining that an Acquisition Application is properly executed and is not materially incomplete, the Administrator shall consider the application filed. If the application is not approved, the Administrator shall notify the applicant of such, and state the reasons for its disapproval. The Administrator may include advice to the applicant as to what may be required by way of amendment or other requirement to cause approval of the application.

(b) If the Administrator approves the application, the applicant shall be notified. Such notice shall include any requirements or stipulations the Administrator may make as conditions of approval.

(c) The Administrator may waive or alter, for good cause, any requirements set forth in this Rule.

Statutory Authority G.S. 54B-55; 54B-262.

**SUBCHAPTER 16J - MERGER OF STATE AND
FEDERAL ASSOCIATIONS**

**.0001 MERGER OF A STATE ASSOCIATION
INTO A FEDERAL ASSOCIATION**

The procedure to effect a merger where a state association is merged into a federal association shall be as follows:

- (1) The state association or associations shall comply with subsections (1), (2), (3) and (4) of G.S. 54B-35 relative to the merger agreement, the special meeting of members or stockholders to consider the merger agreement, the notice requirements of the special meeting, the requisite vote for member or stockholder approval, and the proper filings with the Administrator of the results of the special meeting. The notice as required by G.S. 54B-35(3) in addition to specifying the time, place and purpose for the special meeting shall also state that if the merger is approved by the members or stockholders and the proper regulatory authorities then the surviving association will be a federally chartered association subject to federal law and ~~the rules and regulations of the Federal Home Loan Bank Board~~ regulation.
- (2) The state association or associations involved shall also comply with any applicable provisions of federal law and ~~the rules and regulations of the Federal Home Loan Bank Board~~ regulation regarding mergers.
- (3) The federal association or associations involved shall comply with the provisions of federal law and ~~the rules and regulations of the Federal Home Loan Bank Board~~ regulation regarding mergers.

Statutory Authority G.S. 54B-39.

**.0002 MERGER OF A FEDERAL ASSOCIATION
INTO A STATE ASSOCIATION**

The procedure to effect a merger when a federal association is merging into a state association shall be as follows:

- (1) The federal association or associations involved shall comply with the provisions of federal law and ~~the rules and regulations of the Federal Home Loan Bank Board~~ regulation regarding mergers. ~~Provided, however, that where a federal association is merging into a state association the accounts of which are not insured by the Federal~~

Savings and Loan Insurance Corporation, Subparagraph (3) of this Rule shall apply.

- (2) The state association or associations involved shall comply with the provisions of G.S. 54B-35 for the merger of state associations.
- (3) ~~Where a federal association is merging into a state association whose accounts are not insured by the Federal Savings and Loan Insurance Corporation, the federal association or associations involved shall comply with the provisions of state and federal law for conversion of federal savings and loan charters to state savings and loan charters and for termination of Federal Savings and Loan Insurance Corporation insurance. All associations involved shall comply with the provisions of G.S. 54B-35. The shareholders of the federal association may consider the charter conversion, the termination of insurance and the merger agreement at a single special shareholders meeting.~~

Statutory Authority G.S. 54B-39.

TITLE 10 - DEPARTMENT OF HUMAN RESOURCES

Notice is hereby given in accordance with G.S. 150B-12 that the Child Day Care Commission intends to amend rule(s) cited as 10 NCAC 3U .0102, .0202, .0303, .0401, .0511, .0601 - .0603, .0705, .0707, .0712 - .0713, .1606, .1615, .1701 - .1702, .1716 - .1717, .1904, .2008, .2011, .2101, .2501 - .2506, .2508 - .2510, .2601 - .2602, .2606 - .2608, .2611; repeal rule(s) cited as 10 NCAC 3U .0203; and adopt rule(s) cited as 10 NCAC 3U .0206, .0604, .2511.

The proposed effective date of this action is August 1, 1990.

The public hearing will be conducted at 1:00 - 9:00 p.m. on April 26, 1990 at Holiday Inn North (2815 Capital Blvd.), U.S. 1 North Boulevard, Raleigh, N.C.

Comment Procedures: Any interested person may present his or her views and comments either in writing prior to or at the hearing or orally at the hearing. Any person may request permission to be heard or information about the proposed rules by writing or calling Dolores Whittemore, Child Day Care Section, 701 Barbour Drive, Raleigh, N.C. 27603; (919) 733-4801.

CHAPTER 3 - FACILITY SERVICES

SUBCHAPTER 3U - CHILD DAY CARE STANDARDS

SECTION .0100 - PURPOSE AND DEFINITIONS

.0102 DEFINITIONS

The terms and phrases used in this Subchapter shall be defined as follows except when the content of the rule clearly requires a different meaning. The definitions prescribed in G.S. 110-86 also apply to these Rules.

- (14) "Large child day care home" or "large home" means any day care facility as defined in G.S. 110-86(3) which is authorized to routinely provide care to a maximum of 12 children when any child present is preschool-aged or, when all children present are school-aged, to a maximum of 15 children. The large home may exceed these maximum capacities, under the following conditions, provided the appropriate child/staff ratios are not exceeded:
- (a) by no more than five school-aged children for no more than one hour per day, immediately after school; and
- (b) by no more than two children for a maximum of two weeks provided a sufficient number of children are scheduled to be deleted from the rolls of the large home within such time to comply with the routinely required maximum capacities.

Statutory Authority G.S. 110-88; 143B-168.3.

SECTION .0200 - GENERAL PROVISIONS RELATED TO LICENSING

.0202 CENTERS SUBJECT TO LICENSURE

Any day care center or large day care home as previously defined in Rule .0102 of this Subchapter which provides care on a regular basis of at least once per week, for more than four hours but less than 24 hours per day, regardless of the time of day and regardless of whether the same or different children attend regularly, must be licensed. These arrangements include, but are not limited to:

- (4) preschool programs housed in a public school building, whether operated by the public school system or a private provider;
- (5) large day care homes.
- (6) ~~summer day camps.~~

Statutory Authority G.S. 110-86(3); 143B-168.3.

.0203 CENTERS NOT REQUIRED TO OBTAIN A LICENSE (REPEALED)

Statutory Authority G.S. 110-86(3); 110-106; 143B-168.3.

.0206 CAPACITY OF THE FACILITY

(a) The licensed capacity shall be no greater than the number of children that the total primary space, as defined in Rule .1401, used by children can accommodate at 25 square feet per child.

(b) The number of children present at the facility shall not exceed the licensed capacity of the facility.

(c) The number of children occupying any room of the facility shall not exceed the number that the primary space in that room will accommodate at 25 square feet per child except as provided in Rule .1401 of this Subchapter.

Statutory Authority G.S. 110-86(3); 110-91(6); 143B-168.3.

SECTION .0300 - PROCEDURES FOR OBTAINING A LICENSE

.0303 RENEWAL OF A LICENSE

(c) When the Section's representative documents noncompliance on the announced renewal visit, based on the severity and extent of noncompliance, the representative may return to the ~~center~~ facility at a later date, but prior to the license expiration date, to determine if compliance has been achieved; advise the licensee to submit written verification that the noncompliance has been corrected; recommend issuance of a provisional license in accordance with Section .0400 of this Subchapter; or recommend denial of the application for renewal. Final disposition of the recommendation to deny is the decision of the Section Chief. When the application for renewal of a license has been denied, the letter of denial shall be posted prominently in the facility immediately upon receipt. The stipulations of Rule .0302(h) shall apply.

Statutory Authority G.S. 110-88(5); 110-93; 143B-168.3; 150B-3.

SECTION .0400 - ISSUANCE OF PROVISIONAL AND TEMPORARY LICENSES

.0401 PROVISIONAL LICENSES

(a) A provisional license may be issued in accordance with the provisions of G.S. 110-88(6) for any period of time not to exceed twelve consecutive months for any of the following reasons:

- (4) To allow an applicant to open a facility even though a license has not been issued, provided the applicant made initial appli-

cation for a day care license at least four weeks prior to the scheduled opening date, has complied with the Section's requests for information to demonstrate potential compliance with the General Statutes and the rules of this Subchapter, and the Section has not determined that the applicant is ineligible for a license.

Statutory Authority G.S. 110-88(6); 143B-168.3.

SECTION .0500 - AGE APPROPRIATE ACTIVITIES FOR CENTERS

.0511 ACTIVITIES FOR INFANTS AND TODDLERS

(d) Infants shall have their positions and locations changed throughout the day and shall have frequent opportunities each day to be outside the crib or playpen in addition to the time spent attending to their physical care. A safe, clean, uncluttered area shall be available to infants to crawl or creep.

Statutory Authority G.S. 110-91(2).(12); 143B-168.3.

SECTION .0600 - SAFETY REQUIREMENTS FOR DAY CARE CENTERS

.0601 SAFE ENVIRONMENT

(a) A safe indoor and outdoor environment shall be provided for the children in care.

(b) All hazardous items, materials and equipment shall be used by children only when adult supervision is provided.

(c) Each day care center shall provide equipment and furnishings that are child-size or which can be adapted for safe and effective use by children. Chairs and tables shall be of proper height for the children who will be using them.

Statutory Authority G.S. 110-91(6); 143B-168.3.

.0602 CONDITION OF EQUIPMENT AND FURNISHINGS

(a) All equipment and furnishings shall be in good repair and ~~will~~ shall be maintained in useable condition.

(b) Equipment and furnishings shall be sturdy, stable, free of sharp edges, lead based paint, loose nails, splinters and other hazards that may injure children.

Statutory Authority G.S. 110-91(6); 143B-168.3.

.0603 OVERNIGHT FURNISHINGS

A safe and comfortable bed, crib, or cot, equipped with a firm waterproof mattress at least

four inches thick will be provided for each child who remains in the center after midnight.

Statutory Authority G.S. 110-91(6); 143B-168.3.

.0604 GENERAL SAFETY REQUIREMENTS

(a) Potentially hazardous items, such as firearms and ammunition, hand and power tools, nails, chemicals, lawn mowers, gasoline or kerosene, archery equipment, propane stoves, whether or not intended for use by children, shall be stored in locked areas or with other appropriate safeguards, or shall be removed from the premises.

(b) Electrical outlets not in use which are located in space used by the children shall be covered with safety plugs unless located behind furniture or equipment that cannot be moved by a child.

(c) Electric fans shall be mounted out of the reach of children or shall be fitted with an appropriate mesh guard to prevent access by children.

(d) All small electrical appliances shall be used only in accordance with the manufacturer's instructions.

(e) Electrical cords shall not be accessible to infants and toddlers and extension cords shall not be used. Frayed or cracked electrical cords shall be replaced.

(f) All materials used for starting fires, such as matches and lighters, shall be kept in locked storage or shall be stored out of the reach of children.

(g) Smoking shall not be permitted in space used by children when children are present. All smoking materials must be kept in locked storage or out of the reach of children.

(h) Fuel burning heaters, fireplaces and floor furnaces shall be provided with a protective screen attached securely to substantial supports to prevent access by children and to prevent objects from being thrown into them.

(i) Plants that are toxic shall not be in indoor or outdoor space that is used by or is accessible to children.

(j) Children shall play inside the fenced outdoor play area. Gates to the outdoor play area shall remain securely closed while children occupy the outdoor play area.

(k) Air conditioning units shall be located so that they are not accessible to children or shall be fitted with a mesh guard to prevent objects from being thrown into them.

(l) Gas tanks shall be located so they are not accessible to the children or shall be in a protective enclosure or surrounded by a protective guard.

(m) Cribs and playpens shall be placed so that the children occupying them shall not have access to cords or ropes, such as venetian blind cords.

Statutory Authority G.S. 110-85(2); 110-91(3), (6); 143B-168.3.

SECTION .0700 - HEALTH AND OTHER STANDARDS FOR CENTER STAFF

.0705 SPECIAL TRAINING REQUIREMENTS

(e) Each day care facility shall have at least one person on the premises at all times who is certified by either the American Heart Association or the American Red Cross to perform child cardiopulmonary resuscitation.

Statutory Authority G.S. 110-91; 143B-168.3.

.0707 IN-SERVICE TRAINING REQUIREMENTS

(b) The center director and any staff who have responsibility for planning and supervising a day care program, as well as staff who work directly with children, shall participate in in-service training activities annually, according to the individual's assessed needs. An individual with more than five years documented, professional child care experience and more than 100 hours of cumulative, approved in-service training shall complete six hours of in-service training annually; all others shall attend 20 hours of in-service training annually. Staff may choose one of the following options for meeting the in-service requirement:

(1) The staff person shall complete 20 clock hours of in-service training activities which are related to child care or to the person's job responsibilities; or

(2) If the staff person has completed six quarter hours or 66 clock hours of early childhood education or child development and is enrolled in an early childhood or child development curriculum program, completion of or enrollment in a course which is required or approved for completion of that curriculum program will fulfill the annual in-service requirement.

Statutory Authority G.S. 110-91(11); 143B-168.3.

.0712 STAFF/CHILD RATIOS FOR SMALL CENTERS

(a) The staff/child ratios and group sizes for a small day care center are as follows:

(1) Effective December 1, 1988:

Age of Children No. Children

PROPOSED RULES

0 to 5 years	7
2 to 5 years	10
3 to 5 years	15
5 years and older	20

No. Staff	Group Size
1	14
1	20
1	25
1	25

(2) Effective July 1, 1989:

Age of Children	No. Children
0 to 5 years	6
2 to 5 years	10
3 to 5 years	15
5 years and older	20

No. Staff	Group Size
1	12
1	20
1	25
1	25

Statutory Authority G.S. 110-91(7); 143B-168.3.

.0713 STAFF/CHILD RATIOS FOR MEDIUM AND LARGE CENTERS

(a) The staff/child ratios and group sizes for single-age groups of children in medium and large day care centers are as follows:

(1) Effective December 1, 1988:

Age of Children	No. Children
0 to 2 years	7
2 to 3 years	12
3 to 4 years	15
4 to 5 years	20
5 years and older	25

No. Staff	Group Size
1	14
1	24
1	25
1	25
1	25

(2) Effective July 1, 1989:

Age of Children	No. Children
0 to 2 years	6
2 to 3 years	11
3 to 4 years	14
4 to 5 years	19
5 years and older	24

No. Staff	Group Size
1	12
1	22
1	25

1	25
1	25

(i) Except as provided in Paragraph (g) of this Rule, staff members who are counted in meeting the staff/child ratios as stated in this Rule shall not concurrently have responsibility for food preparation or other duties which are not direct child care responsibilities.

Statutory Authority G.S. 110-91(7); 143B-168.3.

SECTION .1600 - AA REQUIREMENTS

.1606 STAFF/CHILD RATIOS IN AA CENTERS

(a) The center shall comply with the staff-child ratios and group sizes set in this Rule.

(1) Effective July 1, 1988:

AGE	STAFF
Birth to 12 months	1
1 to 2 years	1
2 to 3 years	1
3 to 4 years	1
4 to 5 years	1
5 to 6 years	1
6 and older	1

NUMBER OF CHILDREN	GROUP SIZE	STAFF
6	12	2
7	14	2
9	18	2
10	20	2
13	25	2
15	25	2
20	25	2

(2) Effective July 1, 1989:

AGE	STAFF
Birth to 12 months	1
1 to 2 years	1
2 to 3 years	1
3 to 4 years	1
4 to 5 years	1
5 to 6 years	1
6 and older	1

NUMBER OF CHILDREN	GROUP SIZE	STAFF
5	10	2
6	12	2
9	18	2
10	20	2
13	25	2
15	25	2
20	25	2

Statutory Authority G.S. 110-88(7); 143B-168.3.

.1615 NIGHT CARE

~~(d) The staff must not be employed on another full-time shift at the day care center or another business.~~

Statutory Authority G.S. 110-88(7); 143B-168.3.

SECTION .1700 - DAY CARE HOME STANDARDS

.1701 GENERAL PROVISIONS RELATED TO REGISTRATION OF HOMES

(b) At the beginning of each fiscal year, the Section shall prepare a written plan explaining the guidelines for making randomly-selected unannounced compliance visits to registered day care homes. Recognizing day care homes usually have only one caregiver present, unannounced compliance visits will be reasonably unobtrusive and not distract the caregiver from the usual routines and responsibilities. The plan shall be dated and signed by the Section Chief and shall be kept in a confidential file by the Section Chief.

(c) When a day care home exists, all preschool-aged children shall be counted in the registered capacity. This includes the caregiver's own preschool-aged children. The preschool-aged child of an emergency caregiver need not be counted in the registered capacity for the first day of the emergency caregiver's service.

History Note: Statutory Authority G.S. 110-85; 110-86(4); 110-88(3); 110-90.1; 110-101; 110-105.1; 110-106.1; 143B-168.3.

.1702 INITIAL REGISTRATION

(c) Upon receipt of an acceptable application, the Section ~~shall~~ may issue written permission to operate on a temporary basis. A person is not able to operate legally until he or she has received ~~that permission.~~ either temporary permission to operate or a registration certificate.

Statutory Authority G.S. 110-88(3); 110-101; 143B-168.3.

.1716 FAILURE TO MEET AND MAINTAIN REQUIREMENTS

(c) The Section may recommend imposition of a civil penalty in accordance with the procedures set forth in Rules .2201 through .2205 of this Subchapter and according to the following schedules:

- (1) A civil penalty in an amount up to one thousand dollars (\$1,000.00) may be imposed when the Section has substantiation

that a child was abused or neglected while in the care of the day care home.

- (2) A civil penalty in an amount up to two hundred dollars (\$200.00) may be imposed for the following violations:

- (A) A history of exceeding the number of children allowed in a registered day care home;

- (B) Repeated incidences where there has been a lack of supervision of the children;
or

- (C) Willful, repeated pattern of noncompliance with any requirement contained in this Subchapter or in the General Statutes.

- (3) A civil penalty in an amount up to one hundred dollars (\$100.00) may be imposed for the following violations:

- (A) Denial of entry to an authorized representative of the Department or Section;

- (B) Documented noncompliance with the number of children allowed in a registered day care home;

- (C) Lack of supervision of the children in care; or

- (D) Failure to comply with a corrective action plan designed by the Section to correct noncompliance with any applicable requirement in this Subchapter or in the General Statutes.

Statutory Authority G.S. 110-88 (3),(5),(6a); 110-98; 110-101; 143B-168.3.

.1717 HEALTH, SAFETY AND SANITATION REQUIREMENTS

(a) Each day care home shall comply with the following standards in order to maintain a safe, healthy and sanitary environment for children:

- (1) To assure a healthy environment, the operator shall:

- (A) have on file, for each child who attends on a regular basis, a health and emergency information form completed and signed by the child's parents or guardian. The completed form must be on file on the first day the child attends. A recommended form is available from the Section. However, the operator may use another form provided that form includes the following information:

- (viii) notarized authorization for the operator to seek emergency medical care in the parent's absence.

- (D) provide adequate and individual space for each child to rest comfortably.

- (F) provide a quiet, separate area which can be easily supervised for children too sick to remain with other children. Parents

- must be notified immediately if their child becomes too sick to remain in care.
- (G) visually supervise all children who are awake and be able to hear and respond quickly to those children who are sleeping or napping. The operator must be able to respond to the children immediately.
- (H) be able to provide successfully complete basic multimedia first aid course prior to registration.
- (I) be certified by the American Heart Association or the American Red Cross to perform child CPR prior to registration.
- (3) To assure a safe environment, the home operator shall:
- (A) keep all areas used by the children, indoors and outdoors, reasonably clean and orderly and free of items which are potentially hazardous to children. This includes the removal of small items that a child can swallow. In addition, loose nails or screws and splinters must be removed on inside and outside equipment.
- (E) cover all electrical outlets not in use and remove old, cracked or frayed cords in occupied outlets.
- (H) keep all medicines in locked storage. ~~or in a place completely inaccessible to children.~~
- (I) keep hazardous cleaning supplies and other ~~substances~~ items that might be poisonous out of reach or in locked storage when preschool-aged children are in care, e.g. toxic plants.
- (P) enclose any in-ground swimming pools 18 inches or deeper by a fence not less than 5 feet high to prevent chance access by children. The swimming pool shall be separate from the play area. Access to the water in above ground swimming pools must be prevented by locking and securing the ladder in place or storing the ladder in a place inaccessible to the children.
- (R) practice fire drill procedures with the children at least monthly, and maintain records of monthly fire drills giving the date each drill is held, the time of day, and the length of time taken to evacuate the home.
- (S) make all necessary efforts to provide a safe indoor and outdoor environment for the children in care. Animals that are potentially dangerous to children, such as pit bulldogs and rottweilers or other animals determined by the Section to be dangerous, are not permitted on the premises of a day care home.
- (4) To assure the safety of children whenever they are transported, the operator, or any other transportation provider, shall:
- (A) have written permission from a parent or guardian to transport his or her child and notify the parent when and where the child is to be transported.
- (5) To assure a sanitary environment, the operator shall:
- (A) have a well or water system that complies with the requirements of the local health department and the Division of Health Services, Department of Human Resources. Written verification of well approval is required.
- (G) refrigerate all perishable food and beverages. The refrigerator shall be in good repair and maintain a temperature of 45 degrees Fahrenheit or below. A refrigerator thermometer is required to monitor the temperature.
- (b) The operator shall assure that the structure in which the day care home is located complies with the following requirements:
- (1) Comply with Section 509.2 of the North Carolina Building Code or have written approval for use as a day care home by the local building inspector as follows:
- (A) Meet Volume I-B Uniform Residential Building Code or be a manufactured home bearing a third party inspection label certifying compliance with the Federal Manufactured Home Construction and Safety Standards or certifying compliance with construction standards adopted and enforced by the State of North Carolina. Homes shall be installed in accordance with North Carolina Manufactured/ Mobile Home Regulations published by the NC Department of Insurance.
- Exception: Single wide manufactured homes will be limited to a maximum of three preschool-aged children (not more than two may be two years of age or less) and two school-aged children.
- (B) All children shall be kept on the ground level with an exit at grade.
- (C) All homes shall be equipped with an electrically operated (with a battery backup) smoke detector, or one electrically operated and one battery operated smoke detector located next to each other.
- (D) All homes shall be provided with at least one five lb. 2-A:10-B:C type extinguisher readily accessible for every 2,500 square feet of floor area.
- (E) Fuel burning space heaters, fireplaces and floor furnaces which are listed and

approved for that installation and are provided with a protective screen attached securely to substantial supports will be allowed. However, unvented fuel burning heaters and portable electric space heaters of all types are prohibited.

- (2) ~~Have at least one smoke detector and one fire extinguisher placed in appropriate locations.~~
- (2) ~~(3)~~ Assure that all indoor areas used by children are adequately heated in cool weather and ventilated in warm weather.
- (4) ~~Assure that fuel burning heaters are properly vented to the outside. Fuel burning heaters, fireplaces, stoves, and portable electric space heaters shall have a securely attached guard.~~
- (3) Cover or insulate hot pipes or radiators which are accessible to the children.

Statutory Authority G.S. 110-88(3); 110-101; 143B-168.3.

SECTION .1900 - SPECIAL PROCEDURES CONCERNING ABUSE/NEGLECT IN DAY CARE

.1904 ADMINISTRATIVE SANCTIONS

(a) A special provisional license or registration may be issued for a six-month period when the Section determines that abuse or neglect occurred in a child day care center or home. The following provisions shall apply:

- (1) the special provisional license or registration and the reasons for its issuance shall be posted in a prominent place in the center or home as soon as they are received by the licensee or registrant.

(c) A civil penalty, in accordance with the schedules listed in Rules .1716 and .2206 of this Subchapter, may be levied against the operator of a day care home or center when the Section determines that child abuse or neglect has occurred while the child was in the care of the home or center. In addition, any ~~Any~~ violation of the terms of a special provisional license or registration may result in the assessment of a civil penalty as provided in Rule .1716 and Rules .2202 through .2206 ~~Section .2200~~ of this Subchapter.

Statutory Authority G.S. 110-88(5); 110-88(6a); 143B-168.3; 150B-3; 150B-23.

SECTION .2000 - RULEMAKING AND CONTESTED CASE PROCEDURES

.2008 WRITTEN REPRIMANDS

(e) ~~The reprimand shall be posted in a prominent place in the center or home for a period of one month from its date of issue.~~

Statutory Authority G.S. 110-102.2; 143B-168.3.

.2011 REVOCATION

(c) The revocation order shall specify the reasons for its issuance and the effective date of revocation and shall be posted prominently in the center or home immediately upon receipt. The licensee or registrant shall surrender the license or registration on the effective date of the revocation order and shall refrain from operating the center or home thereafter.

(d) ~~If revocation is stayed pending appeal, the revocation order shall be posted in a prominent place in the center or home pending final action.~~

(d) ~~(e)~~ Failure to comply with the revocation order shall result in civil action in accordance with G.S. 110-103.1 or a criminal penalty in accordance with G.S. 110-103, or both. The Section may also seek injunctive relief in accordance with G.S. 110-104.

(e) ~~(f)~~ The operator may not apply for a new license or registration for that facility or home for at least 90 days from the effective date of the revocation order or, when administrative or judicial review is requested, from the date the final agency decision or judicial determination is rendered, whichever is later.

Statutory Authority G.S. 110-102.2; 143B-168.3; 150B-3.

SECTION .2100 - CHURCH DAY CARE CENTER REQUIREMENTS

.2101 CENTERS OPERATING UNDER G.S. 110-106

(b) Church day care centers shall comply with all day care center requirements in this Subchapter except for the rules regarding age-appropriate activities in Rules .0505 - .0511(a) ~~Section .0500~~ and Rules .0704, .0707 - .0711 and Paragraphs (a) through (d) of Rule .0714 regarding staff qualifications and training requirements. Compliance shall be documented at least annually using the same forms and in the same manner as for all other centers.

Statutory Authority G.S. 110-106; 143B-168.3.

SECTION .2500 - DAY CARE FOR SCHOOL-AGE CHILDREN

.2501 SCOPE

The regulations in this Section apply to ~~large day care homes and all child day care centers fa-~~

cilities offering care to six or more school-age children exclusively or as a component of any other program. All regulations in this Subchapter pertaining to full-time, part-time, or seasonal child day care shall apply to programs for school-age children except as provided in this Section.

Statutory Authority G.S. 110-86(3); 110-91; 143B-168.3.

.2502 SPECIAL PROVISIONS FOR LICENSURE

(a) A center facility providing care for school-age children exclusively shall be issued a license restricting care to school-age children as defined in Rule .0102 of this Subchapter. The license shall be issued for the time period the facility will operate, not to exceed a maximum of 12 months. A center facility providing care for school-age children exclusively on a seasonal basis between May 15 and September 15 shall be licensed as a summer day camp.

~~(b) A center which provides care for preschool children and for more than ten school-age children shall be issued a license with a rider authorizing care for school-age children.~~

Statutory Authority G.S. 110-88(1); 110-91; 143B-168.3.

.2503 BUILDING CODE REQUIREMENTS

(a) Building code requirements adopted by reference in Section .1300 of this Subchapter shall apply for a center facility providing care to school-age children when any preschool-age child is also in care.

(b) Any building which is currently approved for school occupancy and which houses a public or private school during the school year shall be considered an approved building to house a center facility serving school-age children exclusively. The operator shall be responsible for obtaining and submitting copies of all applicable inspection reports.

(c) For the purpose of carrying out the provisions of G.S. 110-91(4) for school-age care arrangements summer day camps not covered by Paragraphs (a) or (b) of this Rule, the following North Carolina Building Codes shall apply to the structure described in Rule .2504(b):

- (1) When the authorized capacity of the facility is less than 30 children, the structure shall, at the minimum, meet the requirements for residential occupancy as prescribed in Volume 1B of the North Carolina Building Code. Children may

use only those floors which leave at least one grade level exit.

- (2) When the authorized capacity of the facility is more than 29 children, but less than 100 children, the structure shall, at the minimum, meet the North Carolina Building Code requirements for business occupancy.
- (3) When the authorized capacity of the facility is more than 99 children, the structure shall, at the minimum, meet the North Carolina Building Code requirements for assembly occupancy, or educational occupancy or institutional occupancy.

(d) A copy of the North Carolina Building Code is on file at the Child Day Care Section at the address given in Rule .0102 of this Subchapter and shall be available for public inspection during regular business hours.

Statutory Authority G.S. 110-88(2); 110-91(4); 143B-168.3.

.2504 SPACE REQUIREMENTS

(a) All space requirements specified in Section .1400 apply when a center facility provides care for school-age children and any preschool child is also in care, or when a program which provides care exclusively for school-age children routinely operates indoors in a permanent structure for more than 25 percent of each day. A gymnasium or other single use room may be included in the space measured for licensed capacity when used as primary space.

(b) A center facility licensed as a summer day camp shall have a permanent structure ~~that serves as its home base where parents deliver and pick up their children each day and may choose~~ located at the home base which is the primary site of the day camp activities. The permanent structure may be a building or permanent roofed shelter with overhang. The day camp shall meet one of the following space requirements:

- (1) When activities for children are routinely conducted outdoors or off the premises for at least 75 percent of each day, a minimum of ten square feet per child of indoor space, exclusive of kitchens, hallways, restrooms, closets, and storage areas, shall be provided.
- (2) When the camp's home base does not provide ten square feet of primary space indoors, the camp shall provide notarized copies of all letters, agreements, or contracts with other facilities which guarantee that children will be accommodated comfortably indoors in the event of inclement weather.

Statutory Authority G.S. 110-91(3),(6); 143B-168.3.

.2505 HEALTH REQUIREMENTS FOR CHILDREN

(a) All requirements of Section .0800 of this Subchapter apply to school-age child care arrangements with the following exceptions:

- (1) A medical examination report shall not be required for any child enrolled in an accredited public or private school.
- (2) ~~A statement signed by the public or private school principal or his designee attesting to the presence of a complete immunization record in the school files may be substituted for a record of immunizations.~~

(2) ~~(3)~~ Rule .0806 does not apply.

- (3) If the day camp maintains its master records for children and staff in a central location, emergency information for each staff person and child shall always be on site. The emergency information on site shall include the name and telephone numbers of the child's parent or other responsible person, the child's or staff person's physician or preferred hospital, any chronic illnesses and medication taken for that illness, any allergy and recommended treatment for that allergy, and any other information that has a direct bearing on medical treatment and safe care. The parent's signed permission to obtain medical attention must also be on site with the child.

(b) All requirements specified in Section .0900 of this Subchapter apply when any preschool child is in care or when food is provided by the ~~center or summer day camp~~ facility.

(c) If food is prepared at the summer day camp, the regulations regarding sanitary facilities, food preparation and service for summer camps as adopted by the Health Services Commission and codified in 10 NCAC 10A .1000 shall apply.

(d) If food is brought from home by children or catered, the following requirements apply:

- (1) Sanitary cold storage shall be provided for perishable snacks or lunches brought from home.
- (2) ~~Fresh~~ Safe drinking water shall be ~~made~~ available at all times regardless of where activities are provided.

Statutory Authority G.S. 110-91(1),(2); 143B-168.3.

.2506 GENERAL SAFETY REQUIREMENTS

(a) First aid equipment shall always be available regardless of where activities are provided.

(b) All regulations in Rule .1403 regarding swimming pools apply.

(c) ~~Archery equipment, power equipment and other potentially hazardous items shall be stored in a locked area when not in use or with other appropriate safeguards. These items shall be used by children only under the direction and supervision of staff. Potentially hazardous items, such as archery equipment, firearms and ammunition, hand and power tools, propane stoves, or chemicals shall be used by children only when adult supervision is provided. Such potentially hazardous items, whether or not intended for use by the children, shall be stored in locked areas or with other appropriate safeguards, or shall be removed from the premises.~~

(d) All equipment, materials and facilities used by children shall be in good repair, of safe design, and properly installed.

(e) Children shall wear life jackets whenever they participate in boating, rafting or canoeing activities.

Statutory Authority G.S. 110-91; 143B-168.3.

.2508 AGE-APPROPRIATE ACTIVITIES

(a) Child day care facilities which provide care to school-age children shall provide activities appropriate to the age and interests of the children.

(b) ~~(a)~~ The requirements for age appropriate activities and materials set forth in Rules .0506 - .0509 shall apply to school-age programs which operate for more than three hours per day and which routinely operate a program of care indoors for more than 25 percent of each day in space designated, and which has been approved by the Section, for that purpose.

(b) Child day care centers which provide care to school-age children for no more than three hours per day shall provide equipment, materials and opportunities for at least three of the types of activities listed in Rule .0510(e). Activity areas shall be used where feasible.

(c) When activities for children are routinely conducted outdoors or off the premises for at least 75 percent of each day, equipment and materials shall be provided to enable children to participate in at least three different activities each day.

(d) ~~(e)~~ All equipment and materials used by school-age children shall be appropriate for the age and size of the children using the items.

Statutory Authority G.S. 110-91(6),(12); 143B-168.3.

.2509 ACTIVITIES: OFF PREMISES

(b) The ~~center~~ facility shall develop a schedule of activities which is posted in a conspicuous place in the home base or given to the parents.

Statutory Authority G.S. 110-91(6),(12); 143B-168.3.

.2510 STAFF QUALIFICATIONS

(a) The staff requirements in Section .0700 shall apply to any school-age program which is operated on a full year basis as a unit of a ~~center~~ facility which also provides care to preschool-age children.

(b) Each day camp or before/after-school program shall have an administrator on site who is at least 21 years old and has at least one year of full-time experience or two summers' experience working with school-age children in a day care or ~~day~~ camp setting.

(c) There shall be at least one staff person who is at least 18 years old and literate for each group of 25 children present. ~~or when 16 and 17 year old persons are counted in the staff/child ratio, there shall be at least two 16 or 17 year old staff persons with each group of 25 children present.~~

(e) Whenever children participate in swimming or other aquatic activities, the following provisions shall apply:

(1) The children shall be supervised by persons having American National Red Cross Life saving Lifeguard certificates or equivalent certificates:

(A) One lifeguard is required for groups of 25 or fewer children.

(B) Two lifeguards are required for groups of 26 or more children.

~~The staff/child ratios required in this Subchapter for school aged children shall always be maintained. The required lifeguards shall not be counted in the number of staff required to meet the staff/child ratio.~~

(2) ~~In addition to the requirements of Subparagraph (c)(1), the staff/child ratio shall be one adult to each 12 children in bodies of water other than swimming pools.~~

(2) (3) A person with lifeguard certification is not required when there are no more than 12 children present and the body of water has no portion deeper than 30 inches and the total surface area is not more than 400 square feet. The children shall be supervised by at least one adult who is certified to perform cardiopulmonary ~~resuscitation~~ resuscitation.

(4) ~~Children shall wear life jackets whenever they participate in boating, rafting or canoeing activities.~~

Statutory Authority G.S. 110-91(8),(11); 143B-168.3.

.2511 OTHER STAFF REQUIREMENTS

(a) The staff/child ratios required in this Subchapter for school-age children shall always be maintained. The required lifeguards shall not be counted in the number of staff required to meet the staff/child ratio.

(b) In addition to the requirements of Rule .2510(e)(1) of this Subchapter, the staff/child ratio shall be one adult to each 12 children in bodies of water other than swimming pools.

Statutory Authority G.S. 110-91(8),(11); 143B-168.3.

SECTION .2600 - REQUIREMENTS FOR LARGE DAY CARE HOMES

.2601 SCOPE

The Rules in this Section apply to large child day care homes. A large child day care home or large home shall routinely provide care to no more than 12 children when any preschool-age child is in care, or when all children present are school-age, to no more than 15 children, except as allowed by Rule .0102 of this Subchapter. All children present, including except the operator's own school-age children, shall be included in the maximum number of children allowed to be present.

Statutory Authority G.S. 110-86(3); 143B-168.3.

.2602 GENERAL PROVISIONS FOR LICENSURE

(g) Announced and unannounced visits shall be conducted as quickly as possible to allow caregivers to give full attention to the children in care and to resume their routines and schedules.

Statutory Authority G.S. 110-88; 110-93; 143B-168.3.

.2606 STAFF REQUIREMENTS

(b) The operator shall be at least 21 years old and literate and shall have completed at least one year of full-time caregiving experience in a registered or licensed child day care home or center or have equivalent child care experience that can be verified.

(f) The operator of each large home shall comply with the special training requirements regarding recognition of infectious diseases and

PROPOSED RULES

~~first aid training prescribed by~~ in Rule .0705 in this Subchapter.

(g) The operator and each staff person required to meet the staff/child ratio shall participate in a ~~minimum of 20 hours of~~ inservice training annually ~~as required by Rule .0707 of this Subchapter.~~ The content of the training shall be directly related to the care of children and shall meet the criteria of Rule .0708 of this Subchapter.

Statutory Authority G.S. 110-86(3); 110-91(8),(11); 143B-168.3.

.2607 STAFF/CHILD RATIOS AND SUPERVISION

(a) The staff/child ratios and group sizes for a large child day care home are as follows:

<u>Age of Children</u>	<u>Number of Children</u>
0 to 4 years	6

<u>Number of Staff</u>	<u>Group Size</u>
1	12

<u>Age of Children</u>	<u>Number of Children</u>
0 to 13 years	8

<u>Number of Staff</u>	<u>Group Size</u>
1	12 16

(No more than three children may be less than 12 months old)

<u>Age of Children</u>	<u>Number of Children</u>
2 to 13 years	10

3 to 13 years	12
School-aged	15

<u>Number of Staff</u>	<u>Group Size</u>
1	12 20
1	12 24
1	15 25

Statutory Authority G.S. 110-86(3); 110-91(7); 143B-168.3.

.2608 AGE-APPROPRIATE ACTIVITIES AND EQUIPMENT

(a) Each large home shall have a written schedule ~~posted~~ available for easy reference by parents and caregivers.

Statutory Authority G.S. 110-86(3); 110-91(6),(12); 143B-168.3.

.2611 PHYSICAL FACILITY AND SPACE REQUIREMENTS

(d) ~~Large homes shall not be required to have commercial kitchen equipment.~~

(e) ~~Large homes shall not be required to have separate handwashing facilities for staff or separate flush areas for diapers. However, the diapering area shall be located close to a handwashing lavatory which is not in the kitchen.~~

(d) ~~(f)~~ The home shall have at least two remotely located exits directly to the outside.

(e) ~~(g)~~ Firearms and other weapons on the premises shall be secured so that they are inaccessible to the children.

(f) ~~(h)~~ Each large home shall have at least 25 square feet of indoor space for each child for which the home is licensed. The indoor space shall be measured by a representative of the Section and shall include only those areas of the home which are routinely made available to the children. The indoor space shall not include closets, bathrooms, storage areas, utility rooms, kitchens or space occupied by furniture or equipment that is not used by the children. The dining area of a kitchen may be counted if it is routinely used for children's activities in addition to eating.

(g) ~~(i)~~ Each large home shall have an outdoor play area which provides at least 75 square feet of play area for each child present. The play area shall be fenced or afford adequate protection by some other means as determined by the Section.

(h) ~~(j)~~ The outdoor play area shall be free of equipment, litter, animals and other objects which may be hazardous to children.

(i) ~~(k)~~ The requirements set forth in Rule .1403 for the use of swimming pools on or off the premises shall apply to large homes.

Statutory Authority G.S. 110-86(3); 110-91(3),(4),(5),(6); 143B-168.3.

* * * * *

Notice is hereby given in accordance with G.S. 150B-12 that the Department of Human Resources - Division of Social Services intends to amend rule(s) cited as 10 NCAC 49B .0308.

The proposed effective date of this action is September 1, 1990.

The public hearing will be conducted at 10:00 a.m. on June 6, 1990 at Disability Determination Building, 321 Chapanoke Drive, Raleigh, NC 27603.

Comment Procedures: Interested persons may present their views and comments in writing before or at the hearing or orally at the hearing. Time limits may be imposed as deemed necessary by the Commissioner Chairman. A fiscal note has been prepared. Any person may request information, or copies of the proposed regulations by writing or calling Donna A. Creech, Special Assistant, Social Services, 325 N. Salisbury St., Raleigh, NC 27611 919/733-3055.

CHAPTER 49 - AFDC

SUBCHAPTER 49B - ELIGIBILITY DETERMINATION

SECTION .0300 - ELIGIBILITY FACTORS

.0308 INCOME

(c) Earned income exclusions are found in 45 CFR 233.20 and this provision is hereby adopted by reference under G.S. 150B-14(c). In addition, the following items of earned income shall be excluded in determining eligibility:

- (1) Foster Care and State Foster Home Payments equal to or below the state maximum rates to AFDC recipients who serve as foster parents;
- (2) Earned income from the 185 percent limitation for up to six months in a calendar year of a child applicant/recipient who is a full-time student;
- (3) Earned income from census employment under Section 1115 Demonstration Project Approved by the DHHS contingent on receipt of federal regulations in sufficient time for implementation.

Authority G.S. 108A-25; 108A-33; 143B-153; 45 C.F.R. 233; Section 1115 of the Social Security Act.

TITLE 11 - DEPARTMENT OF INSURANCE

Notice is hereby given in accordance with G.S. 150B-12 that the N.C. Department of Insurance intends to amend rule(s) cited as 11 NCAC 8 .0702, .0705, .0706, and .0709.

The proposed effective date of this action is July 1, 1990.

The public hearing will be conducted at 10:00 a.m. on April 26, 1990 at N.C. Department of Insurance, Qualifications Board, 410 Boylan Avenue, Raleigh, N.C. 27611.

Comment Procedures: Written comments may be sent to Grover Sawyer, c/o Qualifications Board, P.O. Box 26387, Raleigh, N.C. 27611. Oral presentations may be made at the public hearing. Anyone having questions should call Grover Sawyer at (919) 733-3901 or Ellen Sprenkel at (919) 733-4700.

CHAPTER 8 - ENGINEERING AND BUILDING CODES

SECTION .0700 - QUALIFICATION BOARD-STANDARD CERTIFICATE

.0702 NATURE OF STANDARD CERTIFICATE

(a) The Board will issue one or more standard certificates to each code enforcement official demonstrating the qualifications set forth in Rules .0706 and/or .0707. 11 NCAC 8.0706 and/or .0707. Standard certificates are available for each of the following types of qualified code enforcement officials:

- (1) code administrator;
- (2) building inspector;
- (3) ~~plumbing inspector;~~
- (4) ~~mechanical inspector;~~
- (5) ~~electrical inspector.~~
- (3) electrical inspector;
- (4) mechanical inspector;
- (5) plumbing inspector; and
- (6) fire inspector.

(b) For each type of enforcement official other than code administrator, the Board has established three levels of qualifications. Level I for each type of official represents generally the skill level required for inspection of one-family and two-family dwellings and relatively small structures designed for other purposes. Level II for each type represents the skill level required for inspection of intermediate-sized or more complex buildings. Level III for each type represents the skill level required for inspection of buildings of any size or degree of complexity. [For details, see Rule .0706(a) 11 NCAC 8 .0706(a)].

(c) The holder of a standard certificate is authorized to practice code enforcement only within the inspection area and level described upon the certificate issued by the Board. A code enforcement official may qualify and hold one or more certificates. These certificates may be for different levels in different types of positions.

(d) A code enforcement official holding a certificate indicating a specified level of proficiency in a particular type of position is authorized to hold a position calling for that type of qualification anywhere in the State of North Carolina. A standard certificate must be renewed annually in order to remain valid.

Statutory Authority G.S. 143-151.13; 143-151.16.

**.0705 APPLICATION: WHERE MADE
AND FEE**

The completed application and all required supplementary information shall be returned to the Board at P.O. Box 26387, Raleigh, North Carolina 27611. Each application (whether for one or several standard certificates for a single individual) shall be accompanied by payment of a ~~ten~~ twenty dollar ~~(\$10.00)~~ (\$20.00) fee, either in cash or by a check made payable to the North Carolina Code Officials Qualification Board.

Statutory Authority G.S. 143-151.16.

**.0706 REQUIRED QUALIFICATIONS:
TYPES AND LEVELS**

(a) Qualification Levels

(1) With respect to all types of code enforcement officials other than code administrator, those with Level I, Level II, and Level III certificates shall be qualified to inspect and approve only those types and sizes of buildings specified in the table.

(2) Limitation on ~~Maximum~~ maximum size of buildings for Building, Electrical, Mechanical, and Plumbing inspectors, Levels I, II and III: **NO CHANGE IN TABLE**

(b) In all cases where these regulations require a supporting letter, said letter shall be notarized, shall state the author's qualifications (i.e., what type and level of certificate or license he holds), shall state that the applicant has worked under his direct supervision for a specified period of time, and shall recommend certification of the applicant as a specified type and level of inspector upon satisfaction of other required qualifications.

(c) Code Administrator. A standard certificate, code administrator, shall be issued to any applicant who meets all of the criteria (1); (2); (3); (4) and (5) of this Paragraph:

(1) provides certification by a city or county manager or clerk that the applicant is the administrative head of "code enforcement" as defined by G.S. 143-151.8(a)(3) as an employee of that local government or certification by the head of the Engineering and Building Codes Division of the North Carolina Department of Insurance that the applicant is performing "code enforcement" for a state department or agency;

(2) completes short courses specified by the Board or equivalent courses approved by the Board [those exempted from exam-

ination by G.S. 143-151.13(f) must have passing grade on short courses];

(3) makes a passing grade on a written examination administered by the Board [not required of those exempted from examination by G.S. 143-151.13(f)];

(4) possesses a standard certificate as a building inspector; a plumbing inspector; a mechanical inspector; or an electrical inspector; and

(5) provides documentation that he possesses a minimum of a high school education (or equivalent approved by the Board) and has had at least one continuous year's experience supervising inspections for the state, a city, or a county inspection department.

(d) Building Inspector, Level I. A standard certificate, building inspector, Level I, shall be issued to any applicant who meets all of the criteria (1); (2); (3) and (4) in this Paragraph:

(1) provides certification by a city or county manager or clerk that the applicant is performing "code enforcement" as defined by G.S. 143-151.8(a)(3) as an employee of that local government or certification by the head of the Engineering and Building Codes Division of the North Carolina Department of Insurance that he is performing "code enforcement" for a state department or agency;

(2) completes short courses specified by the Board or equivalent courses approved by the Board [those exempted from examination by G.S. 143-151.13(f) must have passing grade on short courses];

(3) makes a passing grade on a written examination administered by the Board [not required of those exempted from examination by G.S. 143-151.13(f)]; and

(4) provides documentation that he possesses a minimum of a high school education (or equivalent approved by the Board) and one of the alternative education and experience qualifications (or an equivalent approved by the Board) listed below:

(A) have completed at least one year of technical or trade school training or an apprenticeship program in building construction; or

(B) have had at least one-half years' work under direct supervision of a standard certified building inspector, Level I, II or III with a supporting letter from such supervisor; or

(C) have a North Carolina license as a building contractor with limited license (individuals whose license is on inactive

status shall provide documentation from the contractors' Board); or

- (D) have had at least one year of building construction or general inspection experience working under a building contractor with limited license in North Carolina; or
- (E) have been certified under this act as an electrical inspector I; a mechanical inspector I; or a plumbing inspector I; have had at least one year as such inspector; and have completed at least 60 contact hours of instruction in building construction and North Carolina building code courses approved by the Board; or
- (F) have had at least two years' experience as an active principal in a home building firm; or
- (G) have had at least two continuous years' experience inspecting construction of dwellings and similar sized structures for a city or county; or
- (H) have had at least two years' experience as a subcontractor in the building trades or work in building construction under the supervision of a home builder who has at least three years' experience in the building business.

(e) Building Inspector, Level II. A standard certificate, building inspector, Level II, shall be issued to any applicant who meets all of the criteria (1), (2), (3) and (4) in this Paragraph:

- (1) provides certification by a city or county manager or clerk that the applicant is performing "code enforcement" as defined by G.S. 143-151.8(a)(3) as an employee of that local government or certification by the head of the Engineering and Building Codes Division of the North Carolina Department of Insurance that he is performing "code enforcement" for a state department or agency;
- (2) completes short courses specified by the Board or equivalent courses approved by the Board [those exempted from examination by G.S. 143-151.13(f) must have passing grade on short courses];
- (3) makes a passing grade on written examination administered by the Board [not required of those exempted from examination by G.S. 143-151.13(f)]; and
- (4) provides documentation that he possesses a minimum of a high school education (or equivalent approved by the Board) and one of the alternative education and experience qualifications (or an equivalent approved by the Board) listed below:

(A) be a North Carolina licensed engineer whose experience has not been in the design or inspection of buildings; or

(B) have completed at least two years of technical or university training in the field of civil engineering or building construction technology or an approved four-year non technical degree and had at least two years of design, installation or inspection experience working under a certified building inspector II or III; a licensed engineer; or a licensed building contractor having at least intermediate license; or

(C) have been certified under this act as a plumbing inspector II; a mechanical inspector II; or an electrical inspector II; have had at least three years as such inspector; and have completed at least one-half year of building construction technology and North Carolina building code courses approved by the Board; or

(D) have a license as a building contractor with experience in medium size buildings with limited or intermediate license (Individuals whose license is on inactive status shall provide documentation from the contractors' Board); or

(E) have had at least three years of installation or inspection experience working under direct supervision of a certified building inspector II or III or a building contractor with intermediate license in North Carolina with a supporting letter from such supervisor; or

(F) have had at least four years' experience inspecting construction of medium sized buildings for a city or county in North Carolina under a job description which contains education and experience requirements equivalent to any of those above; or

(G) have been certified under this act as a building inspector I; have had at least three years' experience approving plans and making inspections as such inspector; and have completed at least one-half year of building construction technology courses approved by the Board.

(f) Building Inspector, Level III. A standard certificate, building inspector, Level III shall be issued to any applicant who meets all of the criteria (1), (2), (3) and (4) in this Paragraph:

- (1) provides certification by a city or county manager or clerk that the applicant is performing "code enforcement" as defined by G.S. 143-151.8(a)(3) as an employee of that local government or certification

by the head of the Engineering and Building Codes Division of the North Carolina Department of Insurance that applicant is performing "code enforcement" for a state department or agency;

- (2) completes short courses specified by the Board or equivalent courses approved by the Board [those exempted from examination by G.S. 143-151.13(f) must have passing grade on short courses];
- (3) makes a passing grade on a written examination administered by the Board [not required of those exempted from examination by G.S. 143-151.13(f)]; and
- (4) provides documentation that he possesses a minimum of a high school education (or equivalent approved by the Board) and one of the alternative education and experience qualifications (or an equivalent approved by the Board) listed below:
 - (A) be a North Carolina licensed engineer or architect whose pre-professional qualification experience and professional practice was in the architectural, structural, or fire protection design or inspection of buildings and who currently is specializing in architecture or civil or fire protection engineering; or
 - (B) have completed at least four years of technical or university training in the field of civil or architectural engineering and have had at least one year of building construction or inspection experience working under a certified building inspector, level III, a North Carolina licensed unlimited building contractor, at least at the level of supervisor or journeyman building trades craftsman level and in responsible charge of a wide variety of types and larger sizes of building projects; or
 - (C) have completed at least two years of technical or university training in the field of civil or architectural engineering and have had at least three years of building construction, design, or inspection experience working under a certified building inspector III, a licensed civil or fire protection engineer, or an unlimited licensed building contractor, with at least one year in responsible charge of a wide variety of types and larger sizes of buildings; or
 - (D) have been certified under this act as a mechanical inspector III, a plumbing inspector III, or an electrical inspector III, have had at least four years as such certified inspector, and have completed at least one year of building construction tech-

nology courses approved by the Board; or

- (E) have a current license as a building contractor with experience in construction of large size buildings with unlimited license in North Carolina (Individuals whose license is on inactive status shall provide documentation from the contractors' Board); or
 - (F) have had at least four years of construction or inspection experience working under direct supervision of a certified building inspector III or a building contractor with unlimited license in North Carolina, at least two years of which have been performed in responsible charge of a variety of types and larger sizes of buildings with a supporting letter from such supervisor; or
 - (G) have been certified under this act as building inspector II, have had at least four years' experience approving plans and making inspections, and have completed at least one year building construction technology courses approved by the Board; or
 - (H) have had at least five continuous years' experience inspecting the construction of a wide variety and types of larger sizes of buildings working for a city or county in North Carolina under a job description which contains education and experience requirements equivalent to any of those above.
- (g) Plumbing Inspector, Level I. A standard certificate, plumbing inspector, Level I, shall be issued to any applicant who meets all of the criteria (1), (2), (3) and (4) in this Paragraph:
- (1) provides certification by a city or county manager or clerk that the applicant is performing "code enforcement" as defined by G.S. 143-151.8(a)(3) as an employee of that local government or certification by the head of the Engineering and Building Codes Division of the North Carolina Department of Insurance that the applicant is performing "code enforcement" for a state department or agency;
 - (2) completes short courses specified by the board or equivalent courses approved by the board [those exempted from examination by G.S. 143-151.13(f) must have passing grade on short courses];
 - (3) makes a passing grade on a written examination administered by the board [not required of those exempted from examination by G.S. 143-151.13(f)]; and

- (4) provides documentation that he possesses a minimum of a high school education experience qualifications (or an equivalent approved by the board) listed below:
 - (A) have completed at least one year of technical or trade school training or apprenticeship program in plumbing; or
 - (B) have at least one-half year's work under direct supervision of standard certified plumbing inspector, Level I, II or III with a supporting letter from such supervisor; or
 - (C) have a North Carolina license as a plumbing contractor (individuals whose license is on inactive status shall provide documentation from the contractors' board); or
 - (D) have had at least one year of plumbing installation or plumbing inspection experience working under a plumbing contractor in North Carolina; or
 - (E) have been certified under this act as a building inspector I, an electrical inspector I, or a mechanical inspector I, have had at least one year as such inspector; and have completed at least 60 contact hours of instruction in plumbing construction and North Carolina building code courses approved by the board; or
 - (F) have had at least two years' experience in plumbing installation; or
 - (G) have had at least two continuous years' experience inspecting plumbing installations of dwellings and similar sized structures for a city or county.
- (h) Plumbing Inspector, Level II. A standard certificate, plumbing inspector, Level II shall be issued to any applicant who meets all of the criteria (1), (2), (3) and (4) in this Paragraph:
 - (1) provides certification by a city or county manager or clerk that the applicant is performing "code enforcement" as defined by G.S. 143-151.8(a)(3) as an employee of that local government or certification by the head of the Engineering and Building Codes Division of the North Carolina Department of Insurance that the applicant is performing "code enforcement" for a state department or agency;
 - (2) completes short courses specified by the board or equivalent courses approved by the board [those exempted from examination by G.S. 143-151.13(f) must have passing grade on short courses];
 - (3) makes a passing grade on a written examination administered by the board [not

- required of those exempted from examination by G.S. 143-151.13(f); and
- (4) provides documentation that he possesses a minimum of a high school education (or equivalent approved by the board) and one of the alternative education and experience qualifications (or an equivalent approved by the board) listed below:
 - (A) be a North Carolina licensed engineer whose experience has not been in the design or inspection of buildings; or
 - (B) have completed at least two years of technical or university training in the field of mechanical engineering or an approved four-year non-technical degree and have had at least two years of design, installation, or inspection experience working under a certified plumbing inspector II or III, a licensed engineer, or a licensed plumbing contractor; or
 - (C) have been certified under this act as a building inspector II, a mechanical inspector II, or an electrical inspector II; have had at least three years' experience as such inspector; and have completed at least one-half year of plumbing construction technology and North Carolina building code courses approved by the board; or
 - (D) have a license as a plumbing contractor with experience in medium sized buildings (individuals whose license is on inactive status shall provide documentation from the contractors' board); or
 - (E) have had at least three years of installation or inspection experience working under direct supervision of a certified plumbing inspector II or III or a plumbing contractor in North Carolina with a supporting letter from such supervisor; or
 - (F) have had at least four years' experience inspecting plumbing installations of medium sized buildings for a city or county in North Carolina under a job description which contains education and experience requirements equivalent to any of those above; or
 - (G) have been certified under this act as plumbing inspector I; have had at least three years' experience approving plans and making inspections as such inspector; and have completed at least one-half year of plumbing construction courses approved by the board.
- (i) Plumbing Inspector, Level III. A standard certificate, plumbing inspector, Level III, shall be issued to any applicant who meets all of the criteria (1), (2), (3) and (4) in this Paragraph:

- (1) provides certification by a city or county manager or clerk that the applicant is performing "code enforcement" as defined by G.S. 143-151.8(a)(3) as an employee of that local government or certification by the head of the Engineering and Building Codes Division of the North Carolina Department of Insurance that the applicant is performing "code enforcement" for a state department or agency;
- (2) completes short courses specified by the board or equivalent courses approved by the board [those exempted from examination by G.S. 143-151.13(f) must have passing grade on short courses];
- (3) makes a passing grade on a written examination administered by the board [not required of those exempted from examination by G.S. 143-151.13(f)]; and
- (4) provides documentation that he possesses a minimum of a high school education (or equivalent approved by the board) and one of the alternative education and experience qualifications (or an equivalent approved by the board) listed below:
 - (A) be a North Carolina licensed engineer whose pre-professional qualification experience and professional practice was in the plumbing design or inspection of buildings and who currently is specializing in mechanical engineering; or
 - (B) have completed at least four years of technical or university training in the field of mechanical engineering and have had at least one year of plumbing construction or inspection experience working under a certified plumbing inspector, Level III, a North Carolina licensed mechanical engineer, or a North Carolina licensed plumbing contractor, installing plumbing in larger sized buildings; at least at the level of supervisor or journeyman building trades craftsman level and in responsible charge of a wide variety of types and larger sizes of building projects; or
 - (C) have completed at least two years of technical or university training in the field of mechanical engineering and have had at least three years of plumbing construction, design, installation, or inspection experience working under a certified plumbing inspector III, a licensed mechanical engineer, or a licensed plumbing contractor, installing plumbing in larger sized buildings; with at least one year in responsible charge of a wide variety of types and larger sizes of building projects; or
 - (D) have been certified under this act as a mechanical inspector III, a building inspector III, or an electrical inspector III; have had at least four years as such certified inspector; and have completed at least one year of plumbing construction technology courses approved by the board; or
 - (E) have a current license as a plumbing contractor with license in North Carolina with experience in plumbing systems of large buildings (Individuals whose license is on inactive status shall provide documentation from the contractors' board); or
 - (F) have had at least four years of construction or inspection experience working under direct supervision of a certified plumbing inspector III or a plumbing contractor with a license in North Carolina; two years of which have been performed in responsible charge of a variety of types and larger sizes of building projects with a supporting letter from such supervisor; or
 - (G) have been certified under this act as plumbing inspector II; have had at least four years' experience approving plans and making inspections; and have completed at least one year plumbing construction technology courses approved by the board; or
 - (H) have had at least five continuous years' experience inspecting the plumbing systems of a wide variety and types of larger sizes of buildings working for a city or county in North Carolina under a job description which contains education and experience requirements equivalent to any of those above.
- (j) Mechanical Inspector, Level I. A standard certificate, mechanical inspector, Level I, shall be issued to any applicant who meets all of the criteria (1), (2), (3) and (4) in this Paragraph:
 - (1) provides certification by a city or county manager or clerk that the applicant is performing "code enforcement" as defined by G.S. 143-151.8(a)(3) as an employee of that local government or certification by the head of the Engineering and Building Codes Division of the North Carolina Department of Insurance that the applicant is performing "code enforcement" for a state department or agency;
 - (2) completes short courses specified by the board or equivalent courses approved by

the board [those exempted from examination by G.S. 143-151.13(f) must have passing grade on short courses];

(3) makes a passing grade on a written examination administered by the board [not required of those exempted from examination by G.S. 143-151.13(f)]; and

(4) provides documentation that he possesses a minimum of a high school education (or equivalent approved by the board) and one of the alternative education and experience qualifications (or an equivalent approved by the board) listed below:

(A) have completed at least one year of technical or trade school training or apprenticeship program in building mechanical equipment; or

(B) have at least one-half years' work under direct supervision of standard certified mechanical inspector, Level I, II or III with a supporting letter from such supervisor; or

(C) have a North Carolina license as a mechanical installation or inspection experience working under a mechanical contractor with a H3 license in North Carolina; or

(D) have been certified under this act as a building inspector I, a plumbing inspector I, or an electrical inspector I; have had at least one year as such inspector; and have completed at least 60 contact hours of instruction in mechanical construction and North Carolina building code courses approved by the board; or

(E) have had at least two years' experience in mechanical installation; or

(F) have had at least two continuous year's experience inspecting mechanical installations of dwellings and similar sized structures for a city or county inspection department.

(k) Mechanical Inspector, Level II. A standard certificate, mechanical inspector, Level II, shall be issued to any applicant who meets all of the criteria (1), (2), (3) and (4) in this Paragraph:

(1) provides certification by a city or county manager or clerk that the applicant is performing "code enforcement" as defined by G.S. 143-151.8(a)(3) as an employee of that local government or certification by the head of the Engineering and Building Codes Division of the North Carolina Department of Insurance that the applicant is performing "code enforcement" for a state department or agency;

(2) completes short courses specified by the board or equivalent courses approved by the board [those exempted from examination by G.S. 143-151.13(f) must have passing grade on short courses];

(3) makes a passing grade on a written examination administered by the board [not required of those exempted from examination by G.S. 143-151.13(f)]; and

(4) provides documentation that he possesses a minimum of a high school education (or equivalent approved by the board) and one of the alternative education and experience qualifications (or an equivalent approved by the board) listed below:

(A) be a North Carolina registered engineer or architect whose experience has not been in the design or inspection of buildings; or

(B) have completed at least two years of technical or university training in the field of mechanical engineering or an approved four-year non-technical degree and have had at least two years of design, installation, inspection experience working under a certified mechanical inspector II or III, a licensed engineer, or a licensed mechanical contractor having at least a H2 or H3 license; or

(C) have been certified under this act as a building inspector II, a plumbing inspector II, or an electrical inspector II; have had at least three years' experience as such inspector; and have completed at least one-half year of mechanical construction technology and North Carolina building code courses approved by the board; or

(D) have a license as a mechanical contractor with experience in medium size buildings with a H2 and H3 license (Individuals whose license is on inactive status shall provide documentation from the contractors' board); or

(E) have had at least three years of installation or inspection experience working under direct supervision of a certified mechanical inspector II or III or a mechanical contractor with H2 and H3 license in North Carolina with a supporting letter from such supervisor; or

(F) have been certified under this act as mechanical inspector I; have had at least three years' experience approving plans and making inspections as such inspector; and have completed at least one-half year of mechanical construction technology courses approved by the board; or

- (G) have had at least four years' experience inspecting mechanical installations of medium sized buildings for a city or county in North Carolina under a job description which contains equivalent education and experience requirements equivalent education and experience requirements equivalent to any of those above.
- (4) Mechanical Inspector, Level III: A standard certificate, mechanical inspector, Level III shall be issued to any applicant who meets all of the criteria (1), (2), (3) and (4) in this Paragraph:
 - (1) provides certification by a city or county manager or clerk that the applicant is performing "code enforcement" as defined by G.S. 143-151.8(a)(3) as an employee of that local government or certification by the head of the Engineering and Building Codes Division of the North Carolina Department of Insurance that the applicant is performing "code enforcement" for a state department or agency;
 - (2) completes short courses specified by the board or equivalent courses approved by the board [those exempted from examination by G.S. 143-151.13(f) must have passing grade on short courses];
 - (3) makes a passing grade on a written examination administered by the board [not required of those exempted from examination by G.S. 143-151.13(f)]; and
 - (4) provides documentation that he possesses a minimum of a high school education (or equivalent approved by the board) and one of the alternative education and experience qualifications (or an equivalent approved by the board) listed below:
 - (A) be a North Carolina licensed engineer whose pre-professional qualifications, experience and professional practice was in the mechanical design or inspection of buildings and who currently is specializing in mechanical engineering; or
 - (B) have completed at least four years of technical or university training in the field of mechanical construction engineering and have had at least one year of mechanical construction or inspection experience working under a certified mechanical inspector, Level III; a North Carolina licensed mechanical engineer, or a North Carolina licensed mechanical contractor with H1, H2, H3 license, at least at the level of supervisor or journeyman building trades craftsman level and in responsible charge of wide variety of types and larger sizes of building projects; or
 - (C) have completed at least two years of technical or university training in the field of mechanical construction engineering and have had at least three years of mechanical construction, design, or inspection experience working under a certified mechanical inspector H1; a licensed mechanical engineer, or a H1, H2, H3 licensed mechanical contractor, with at least one year in responsible charge of a wide variety of types and larger sizes of buildings; or
 - (D) have been certified under this act as a building inspector III; a plumbing inspector III; or an electrical inspector III; have had at least four years' experience as such certified inspector; and have completed at least one year of mechanical construction technology courses approved by the board; or
 - (E) have a current license as a mechanical contractor with experience in construction of large size buildings with H1, H2, and H3 license in North Carolina (Individuals whose license is on inactive status shall provide documentation from the contractors' board); or
 - (F) have had at least four years' construction or inspection experience working under direct supervision of a certified mechanical inspector H1 or a mechanical contractor with H1, H2, and H3 license in North Carolina, at least two years of which have been performed in responsible charge of a variety of types and larger sizes of buildings with a supporting letter from such supervisor; or
 - (G) have been certified under this act as mechanical inspector II; have had at least four years' experience approving plans and making inspections; and have completed at least one year mechanical construction technology courses approved by the board; or
 - (H) have had at least five continuous years' experience inspecting the mechanical systems of a wide variety and types of larger sizes of buildings working for a city or county under a job description which contains education and experience requirements equivalent to any of those above.
 - (m) Electrical Inspector, Level I: A standard certificate, electrical inspector, Level I, shall be issued to any applicant who meets all of the criteria (1), (2), (3) and (4) in this Paragraph:

- (1) provides certification by a city or county manager or clerk that the applicant is performing "code enforcement" as defined by G.S. 143-151.8(a)(3) as an employee of that local government or certification by the head of the Engineering and Building Codes Division of the North Carolina Department of Insurance that the applicant is performing "code enforcement" for a state department or agency;
- (2) completes short courses specified by the board or equivalent courses approved by the board [those exempted from examination by G.S. 143-151.13(f) must have passing grade on short courses];
- (3) makes a passing grade on a written examination administered by the board [not required of those exempted from examination by G.S. 143-151.13(f)]; and
- (4) provides documentation that he possesses a minimum of a high school education (or equivalent approved by the board) and one of the alternative education and experience qualifications (or an equivalent approved by the board) listed below:
 - (A) have completed at least one year of technical or trade school training or apprenticeship program in electrical installation and codes; or
 - (B) shall have at least one-half year's work under direct supervision of standard certified electrical inspector, Level I, II or III with a supporting letter from such supervisor; or
 - (C) have a North Carolina license as an electrical contractor with limited restricted (one family dwelling) or limited license (Individuals whose license is on inactive status shall provide documentation from the contractors' board); or
 - (D) have had at least one year of electrical installation or inspection experience working under an electrical contractor with limited license in North Carolina; or
 - (E) have been certified under this act as a building inspector I, a plumbing inspector I or a mechanical inspector I; have had at least one year as such inspector; and have completed at least 60 contact hours of instruction in electrical installation and codes and North Carolina building courses approved by the board; or
 - (F) have at least two years' experience in electrical installations; or
 - (G) have a current license (3q) as a county electrical inspector issued by the Com-

missioner of Insurance pursuant to G.S. 153A-351; or

- (H) have at least two continuous year's experience inspecting electrical installations of dwellings and similar sized structures for a city or county.

(n) Electrical Inspector, Level II. A standard certificate, electrical inspector, Level II, shall be issued to any applicant who meets all of the criteria (1), (2), (3) and (4) in this Paragraph:

- (1) provides certification by a city or county manager or clerk that the applicant is performing "code enforcement" as defined by G.S. 143-151.8(a)(3) as an employee of that local government or certification by the head of the Engineering and Building Codes Division of the North Carolina Department of Insurance that the applicant is performing "code enforcement" for a state department or agency;
- (2) completes short courses specified by the board or equivalent courses approved by the board [those exempted from examination by G.S. 143-151.13(f) must have passing grade on short courses];
- (3) makes a passing grade on a written examination administered by the board [not required of those exempted from examination by G.S. 143-151.13(f)]; and
- (4) provides documentation that he possesses a minimum of a high school education (or equivalent approved by the board) and one of the alternative education and experience qualifications (or an equivalent approved by the board) listed below:
 - (A) be a North Carolina licensed engineer whose experience has not been in the design or inspection of buildings; or
 - (B) have completed at least two years of technical or university training in the field of electrical engineering or an approved four-year non-technical degree and have had at least two years of design, installation, or inspection experience working under a certified electrical inspector II or III, a licensed engineer, or a licensed electrical contractor having at least an intermediate license; or
 - (C) have been certified under this act as a building inspector II, a plumbing inspector II, or a mechanical inspector II; have had at least three years' experience as such inspector; and have completed at least one-half year of electrical construction technology courses and North Carolina building code courses approved by the board; or

- (D) have a license as an electrical contractor with experience in medium size buildings with limited or intermediate license (Individuals whose license is on inactive status shall provide documentation from the contractor's board); or
 - (E) have had at least three years of installation or inspection experience working under direct supervision of a certified electrical inspector II or III or an electrical contractor with intermediate license in North Carolina with a supporting letter from such supervisor; or
 - (F) have had at least four years' experience inspecting electrical installations of medium sized buildings for a city or county in North Carolina under a job description which contains education and experience requirements equivalent to any of those above; or
 - (G) have been certified under this act as electrical inspector I; have had at least three years' experience approving plans and making inspections as such inspector; and have completed at least one-half year of electrical construction technology courses approved by the board; or
 - (H) have a current license (2q) as a county electrical inspector pursuant to G.S. 153A-251.
- (o) Electrical inspector, Level III. A standard certificate, electrical inspector, Level III, shall be issued to any applicant who meets all of the criteria (1), (2), (3) and (4) in this Paragraph:
- (1) provides certification by a city or county manager or clerk that the applicant is performing "code enforcement" as defined by G.S. 143-151.8(a)(3) as an employee of that local government or certification by the head of the Engineering and Building Codes Division of the North Carolina Department of Insurance that the applicant is performing "code enforcement" for a state department or agency;
 - (2) completes short courses specified by the board or equivalent courses approved by the board [those exempted from examination by G.S. 143-151.13(f) must have passing grade on short courses];
 - (3) makes a passing grade on a written examination administered by the board [not required of those exempted from examination by G.S. 143-151.13(f)]; and
 - (4) provides documentation that he possesses a minimum of a high school education (or equivalent approved by the board) and one of the alternative education and experience qualifications (or an equivalent approved by the board) listed below:
- (A) be a North Carolina licensed engineer whose pre-professional qualification experience and professional practice was in the electrical design or inspection of buildings and who currently is specializing in electrical engineering; or
 - (B) have completed at least four years of technical or university training in the field of electrical engineering and have had at least one year of electrical construction or inspection experience working under a certified electrical inspector, Level III; a North Carolina licensed electrical engineer; a North Carolina licensed unlimited electrical contractor; at least at the level of a supervisor or journeyman building trades craftsman level and in responsible charge of a wide variety of types and larger sizes of buildings; or
 - (C) have been certified under this act as a mechanical inspector III; a plumbing inspector III; or a building inspector III; have had at least four years' experience as such certified inspector; and have completed at least one year of electrical construction technology courses approved by the board; or
 - (D) have a current license as an electrical contractor with unlimited license in North Carolina (Individuals whose license is on inactive status shall provide documentation from the contractor's board); or
 - (E) have had at least four years of construction or inspection experience working under direct supervision of a certified electrical inspector III or an electrical contractor with unlimited license in North Carolina; at least two years of which have been performed in responsible charge of a variety of types and larger sizes of buildings with a supporting letter from such supervisor; or
 - (F) have been certified under this act as an electrical inspector II; have had at least four years' experience approving plans and making inspections; and have completed at least one year electrical construction technology courses approved by the board; or
 - (G) have had at least five continuous years' experience inspecting the electrical systems of a wide variety and types of larger sizes of buildings working for a city or county under a job description which contains education and experience re-

requirements equivalent to any of the above; or

(H) have a current license (1g) as a county electrical inspector pursuant to G.S. 153A 351.

(3) Limitation on occupancy classifications of buildings for Fire Inspectors, Levels I, II and III:

CERTIFICATION LEVELS
FOR FIRE INSPECTORS

LEVEL I:

OCCUPANCY:

Business
Small Assembly
Mercantile
Residential
Storage
Excluding Highrise *
No Plan Review

LEVEL II:

OCCUPANCY:

Everything in Level I
Large Assembly
Educational
Industrial
Plan Review of all
Occupancies in Level II
Excluding Highrise *

LEVEL III:

OCCUPANCY:

Everything in Levels I and II
Hazardous
Institutional
Highrise
Plan Review of all Occupancies
(Unlimited Occupancies)

* The term "excluding highrise" is listed because some of the acceptable occupancies for the levels could be located in a highrise building.

(b) Whenever a provision of this Rule requires a supporting letter, the letter shall be notarized, shall state the author's qualifications (i.e., what type and level of certificate or license he holds), shall state that the applicant has worked under his direct supervision for a specified period of time, and shall recommend certification of the applicant as a specified type and level of inspector upon satisfaction of other required qualifications. Whenever a provision of this Rule requires the possession of a license other than those certificates that are issued by the Board, if the status of the license is inactive, the applicant must provide documentation from the appropriate licensing board. Whenever a provision of this Rule requires a high school education or other education and experience qualifications, the Board may

in its discretion approve equivalent requirements. Every applicant for certification as a code administrator or a building, electrical, mechanical, plumbing, or fire inspector shall, in addition to satisfying the appropriate education and experience qualifications prescribed by this Rule:

(1) provide documentation that the applicant possesses a minimum of a high school education; and

(2) provide certification by a city or county manager or clerk that the applicant is the administrative head of or is performing "code enforcement", as defined in G.S. 143-151.8(a)(3), as an employee of that city or county; or provide certification by the head of the Engineering and Building Codes Division of the North Carolina Department of Insurance that the applicant is performing "code enforcement", as defined in G.S. 143-151.8(a)(3), for a state department or agency; and

(3) make a passing grade on short courses specified by the Board or equivalent courses approved by the Board; and

(4) and make a passing grade on the written examination administered by the Board.

(c) Code Administrator. A standard certificate, code administrator, shall be issued to any applicant who:

(1) possesses a standard certificate as a building inspector, electrical inspector, mechanical inspector, plumbing inspector, or fire inspector; and

(2) has had at least one year of experience supervising inspections for the state or a city or county inspection department.

(d) Building Inspector, Level I. A standard certificate, building inspector, Level I, shall be issued to any applicant who complies with Paragraph (b) of this Rule and who provides documentation that the applicant possesses one of the following education and experience qualifications:

(1) completion of at least one year of technical or trade school training; an apprenticeship program in building construction; or an approved four-year nontechnical degree;

(2) at least six months of work under the direct supervision of a standard certified building inspector I, II, or III, licensed engineer, architect, or general contractor, with a supporting letter from such supervisor;

(3) a limited license as a building contractor;

(4) at least one year of building construction or inspection experience while working under a limited licensed building contractor;

- (5) certification by the Board as an electrical inspector I, mechanical inspector I, plumbing inspector I, or fire inspector I; at least one year of experience as such certified inspector; and completion of at least one year of building construction technology courses approved by the Board;
 - (6) at least two years of experience as an active principal in a home building firm;
 - (7) at least two years of experience as a subcontractor in the building trades or work in building construction under the supervision of a home builder who at that time had at least three years of experience; or
 - (8) at least two continuous years of experience inspecting construction of Level I buildings for a city or county inspection department.
- (e) Building Inspector, Level II. A standard certificate, building inspector, Level II, shall be issued to any applicant who complies with Paragraph (b) of this Rule and who provides documentation that the applicant possesses one of the following education and experience qualifications:
- (1) a license as an engineer or architect whose experience is outside of civil or architectural design or inspection of buildings;
 - (2) completion of at least two years of technical or university training in the field of civil or architectural engineering or building construction technology; or an approved four-year nontechnical degree with at least two years of design, installation, or inspection experience on Level II buildings while working under a certified building inspector II or III, licensed engineer, architect, or intermediate or unlimited licensed building contractor;
 - (3) certification by the Board as an electrical inspector II, mechanical inspector II, plumbing inspector II, or fire inspector II; at least three years of experience as such certified inspector; and completion of at least one year of building construction technology courses approved by the Board;
 - (4) a limited or intermediate license as a building contractor with experience on Level II buildings;
 - (5) at least three years of design, installation, or inspection experience on Level II buildings while working under the direct supervision of a certified building inspector II or III, licensed engineer, architect, or intermediate licensed building contrac-

tor, with a supporting letter from such supervisor;

- (6) certification by the Board as a building inspector I; at least three years of experience approving plans and making inspections as such certified inspector; and completion of at least one year of building construction technology courses approved by the Board; or
- (7) at least four continuous years of experience inspecting construction on Level II buildings for a city or county inspection department.

(f) Building Inspector, Level III. A standard certificate, building inspector, Level III, shall be issued to any applicant who complies with Paragraph (b) of this Rule and who provides documentation that the applicant possesses one of the following education and experience qualifications:

- (1) a license as an engineer or architect whose preprofessional qualifications, experience, and professional practice is in architectural, structural, or fire protection design or inspection of buildings and who currently is specializing in architectural, civil, or fire protection engineering;
- (2) completion of at least four years of technical or university training in the field of civil or architectural engineering; and at least one year of building construction or inspection experience while working under a certified building inspector III, licensed engineer, architect, or unlimited licensed building contractor, at least at the level of supervisor or journeyman building trades craftsman and in responsible charge of a wide variety of types of Level III buildings;
- (3) completion of at least two years of technical or university training in the field of civil or architectural engineering or building construction technology; and at least three years of building construction, design, or inspection experience while working under a certified building inspector III, licensed engineer, architect, or unlimited licensed building contractor, with at least one year in responsible charge of a wide variety of types of Level III buildings;
- (4) certification by the Board as an electrical inspector III, mechanical inspector III, plumbing inspector III, or fire inspector III; at least four years of experience as such certified inspector; and completion of at least one year of building con-

struction technology courses approved by the Board; or

- (5) an unlimited license as a building contractor with experience in construction of Level III buildings;
- (6) at least four years of construction or inspection experience while working under the direct supervision of a certified building inspector III, licensed engineer, architect, or unlimited licensed building contractor, two years of which have been performed in responsible charge of a wide variety of types of Level III buildings, with a supporting letter from such supervisor;
- (7) certification by the Board as a building inspector II; at least four years of experience approving plans and making inspections as such certified inspector; and completion of at least one year of building construction technology courses approved by the Board; or
- (8) at least five continuous years of experience inspecting the construction of a wide variety of types of Level III buildings for a city or county inspection department.

(g) Electrical Inspector, Level I. A standard certificate, electrical inspector, LEVEL I, shall be issued to any applicant who complies with Paragraph (b) of this Rule and who provides documentation that the applicant possesses one of the following education and experience qualifications:

- (1) completion of at least one year of technical or trade school training or an apprenticeship program in electrical construction; or an approved four-year nontechnical degree;
- (2) at least six months of work under the direct supervision of a standard certified electrical inspector I, II, or III, licensed engineer, or licensed electrical contractor, with a supporting letter from such supervisor;
- (3) a limited restricted (one family dwelling) or limited license as an electrical contractor;
- (4) at least one year of electrical installation or inspection experience while working under a limited licensed electrical contractor;
- (5) certification by the Board as a building inspector I, mechanical inspector I, plumbing inspector I, or fire inspector I; at least one year of experience as such certified inspector; and completion of at least one year of electrical construction

technology courses approved by the Board;

- (6) at least two years of experience in electrical installation; or
- (7) a current license (3q) as a county electrical inspector issued by the Commissioner of Insurance pursuant to G.S. 153A-351; or
- (8) at least two continuous years of experience inspecting electrical installations in Level I buildings for a city or county inspection department.

(h) Electrical Inspector, Level II. A standard certificate, electrical inspector, Level II, shall be issued to any applicant who complies with Paragraph (b) of this Rule and who provides documentation that the applicant possesses one of the following education and experience qualifications:

- (1) a license as an engineer with experience outside of electrical design or inspection of buildings;
- (2) completion of at least two years of technical or university training in the field of electrical engineering or electrical construction technology; or an approved four-year nontechnical degree and at least two years of design, installation, or inspection experience on Level II buildings while working under a certified electrical inspector II or III, a licensed engineer, or an intermediate or unlimited licensed electrical contractor;
- (3) certification by the Board as a building inspector II, mechanical inspector II, plumbing inspector II, or fire inspector II; at least three years of experience as such certified inspector; and completion of at least one year of electrical construction technology courses approved by the Board;
- (4) a limited or intermediate license as an electrical contractor with experience on Level II buildings;
- (5) at least three years of installation or inspection experience on Level II buildings while working under the direct supervision of a certified electrical inspector II or III, a licensed engineer, or an intermediate licensed electrical contractor, with a supporting letter from such supervisor;
- (6) certification by the Board as an electrical inspector I; at least three years of experience approving plans and making inspections as such certified inspector; and completion of at least one year of electrical construction technology courses approved by the Board;

- (7) a current license (2q) as a county electrical inspector issued by the Commissioner of Insurance pursuant to G.S. 153A-351; or
- (8) at least four continuous years of experience inspecting electrical installations in Level II buildings for a city or county inspection department.
- (i) Electrical Inspector, Level III. A standard certificate, electrical inspector, Level III, shall be issued to any applicant who complies with Paragraph (b) of this Rule and who provides documentation that the applicant possesses one of the following education and experience qualifications:
 - (1) a license as an engineer with preprofessional qualifications and experience, and professional practice is in electrical design or inspection of buildings and who is currently specializing in electrical engineering;
 - (2) completion of at least four years of technical or university training in the field of electrical engineering; and at least one year of electrical construction or inspection experience while working under a certified electrical inspector III, licensed engineer, or unlimited licensed electrical contractor, at least at the level of supervisor or journeyman building trades craftsman and in responsible charge of a wide variety of types of Level III buildings;
 - (3) completion of at least two years of technical or university training in the field of electrical engineering or electrical construction technology; and at least three years of electrical construction, design, or inspection experience while working under a certified electrical inspector III, licensed engineer, or unlimited licensed electrical contractor, with at least one year in responsible charge of a wide variety of types of Level III buildings;
 - (4) certification by the Board as a building inspector III, mechanical inspector III, plumbing inspector III, or fire inspector III; at least four years of experience as such certified inspector; and completion of at least one year of electrical construction technology courses approved by the Board;
 - (5) have an unlimited license as an electrical contractor with experience in construction of Level III buildings;
 - (6) at least four years of construction or inspection experience while working under the direct supervision of a certified electrical inspector III, licensed engineer, or unlimited licensed electrical contractor, two years of which have been performed

in responsible charge of a wide variety of types of Level III buildings, with a supporting letter from such supervisor;

- (7) certification by the Board as an electrical inspector II; at least four years of experience approving plans and making inspections as such certified inspector; and completion of at least one year of electrical construction technology courses approved by the Board;
- (8) a current license (1q) as a county electrical inspector issued by the Commissioner of Insurance pursuant to G.S. 153A-351; or
- (9) at least five continuous years of experience inspecting the electrical systems of a wide variety of types of Level III buildings for a city or county inspection department.
- (j) Mechanical Inspector, Level I. A standard certificate, mechanical inspector, Level I, shall be issued to any applicant who complies with Paragraph (b) of this Rule and who provides documentation that the applicant possesses one of the following education and experience qualifications:
 - (1) completion of at least one year of technical or trade school training or an apprenticeship program in mechanical construction; or an approved four year nontechnical degree;
 - (2) at least six months of work under the direct supervision of a standard certified mechanical inspector I, II, or III, licensed engineer, or licensed mechanical contractor, with a supporting letter from such supervisor;
 - (3) an II-2 or II-3 license as a mechanical contractor;
 - (4) at least one year of mechanical installation or mechanical inspection experience while working under an II-2 or II-3 licensed mechanical contractor;
 - (5) certification by the Board as a building inspector I, electrical inspector I, plumbing inspector I, or fire inspector I; at least one year of experience as such certified inspector; and completion of at least one year of mechanical construction technology courses approved by the Board;
 - (6) at least two years' experience in mechanical installation; or
 - (7) at least two continuous years of experience inspecting mechanical installations in Level I buildings for a city or county inspection department.
- (k) Mechanical Inspector, Level II. A standard certificate, mechanical inspector, Level II, shall be issued to any applicant who complies with Paragraph (b) of this Rule and who provides

documentation that the applicant possesses one of the following education and experience qualifications:

- (1) a license as an engineer with experience outside of mechanical design or inspection of buildings;
- (2) completion of at least two years of technical or university training in the field of mechanical engineering or mechanical construction technology; or an approved four-year nontechnical degree with at least two years of design, installation, or inspection experience on Level II buildings while working under a certified mechanical inspector II or III, licensed engineer, or licensed II-2 or II-3 mechanical contractor;
- (3) certification by the Board as a building inspector II, electrical inspector II, plumbing inspector II, or fire inspector II; at least three years of experience as such certified inspector; and completion of at least one year of mechanical construction technology courses approved by the Board;
- (4) an II-2 or II-3 license as a mechanical contractor with experience on Level II buildings;
- (5) at least three years of installation or inspection experience on Level II buildings while working under the direct supervision of a certified mechanical inspector II or III, licensed engineer, or licensed II-2 or II-3 mechanical contractor, with a supporting letter from such supervisor;
- (6) certification by the Board as a mechanical inspector I; at least three years of experience approving plans and making inspections as such certified inspector; and completion of at least one year of mechanical construction technology courses approved by the Board; or
- (7) at least four continuous years of experience inspecting mechanical installations in Level II buildings for a city or county inspection department.

(1) Mechanical Inspector, Level III. A standard certificate, mechanical inspector, Level III shall be issued to any applicant who complies with Paragraph (b) of this Rule and who provides documentation that the applicant possesses one of the following education and experience qualifications:

- (1) a license as an engineer with preprofessional qualifications and experience and professional practice in mechanical design or inspection of buildings and current specialization in mechanical engineering;

- (2) completion of at least four years of technical or university training in the field of mechanical engineering; and at least one year of mechanical construction or inspection experience while working under a certified mechanical inspector III, licensed engineer, or licensed II-1, II-2, and II-3 mechanical contractor, at least at the level of supervisor or journeyman building trades craftsman and in responsible charge of a wide variety of types of Level III buildings;
- (3) completion of at least two years of technical or university training in the field of mechanical engineering or mechanical construction technology and at least three years of mechanical construction, design, or inspection experience working under a mechanical inspector III, licensed mechanical engineer, or licensed II-1, II-2, and II-3 mechanical contractor, with at least one year in responsible charge of a wide variety of types of Level III buildings;
- (4) certification by the Board as a building inspector III, electrical inspector III, plumbing inspector III, or fire inspector III; at least four years of experience as such certified inspector, and completion of at least one year of mechanical construction technology courses approved by the Board;
- (5) II-1, II-2, and II-3 license as a mechanical contractor with experience in construction of Level III buildings;
- (6) at least four years of construction or inspection experience while working under the direct supervision of a certified mechanical inspector III, licensed engineer, or licensed II-1, II-2, and II-3 mechanical contractor, two years of which have been performed in responsible charge of a wide variety of types of Level III buildings, with a supporting letter from such supervisor;
- (7) certification by the Board as a mechanical inspector II; at least four years of experience approving plans and making inspections as such certified inspector; and completion of at least one year of mechanical construction technology courses approved by the Board;
- (8) at least five continuous years of experience inspecting the mechanical systems of a wide variety of types of Level III buildings for a city or county inspection department.

(m) Plumbing Inspector, Level I. A standard certificate, plumbing inspector, Level I, shall be issued to any applicant who complies with Paragraph (b) of this Rule and who provides documentation that the applicant possesses one of the following education and experience qualifications:

- (1) completion of at least one year of technical or trade school training or an apprenticeship program in plumbing construction; or an approved four-year nontechnical degree;
- (2) at least six months of work under the direct supervision of a standard certified plumbing inspector I, II, or III, licensed engineer, or licensed plumbing contractor, with a supporting letter from such supervisor;
- (3) a license as a plumbing contractor;
- (4) at least one year of plumbing installation or plumbing inspection experience while working under a licensed plumbing contractor;
- (5) certification by the Board as a building inspector I, electrical inspector I, mechanical inspector I, or fire inspector I; at least one year of experience as such certified inspector; and completion of at least one year of plumbing construction technology courses approved by the Board;
- (6) at least two years of experience in plumbing installation; or
- (7) at least two continuous years of experience inspecting plumbing installations in Level I buildings for a city or county inspection department.

(n) Plumbing Inspector, Level II. A standard certificate, plumbing inspector, Level II, shall be issued to any applicant who complies with Paragraph (b) of this Rule and who provides documentation that the applicant possesses one of the following education and experience qualifications:

- (1) a license as an engineer with experience outside of plumbing design or inspection of buildings;
- (2) completion of at least two years of technical or university training in the field of mechanical engineering or plumbing construction technology; or an approved four-year nontechnical degree and at least two years of design, installation, or inspection experience on Level II buildings while working under a certified plumbing inspector II or III, licensed engineer, or licensed plumbing contractor;
- (3) certification by the Board as a building inspector II, electrical inspector II, me-

chanical inspector II, or fire inspector II; at least three years of experience as such certified inspector; and completion of at least one year of plumbing construction technology courses approved by the Board;

- (4) a license as a plumbing contractor with experience on Level II buildings;
- (5) at least three years of installation or inspection experience on Level II buildings while working under the direct supervision of a certified plumbing inspector II or III, licensed engineer, or licensed plumbing contractor, with a supporting letter from such supervisor;
- (6) certification by the Board as a plumbing inspector I; at least three years of experience approving plans and making inspections as such certified inspector; and completion of at least one year of plumbing construction technology courses approved by the Board; or
- (7) at least four continuous years of experience inspecting plumbing installations on Level II buildings for a city or county inspection department.

(o) Plumbing Inspector, Level III. A standard certificate, plumbing inspector, Level III shall be issued to any applicant who complies with Paragraph (b) of this Rule and who provides documentation that the applicant possesses one of the following education and experience qualifications:

- (1) a license as an engineer with preprofessional qualifications and experience and professional practice in plumbing design or inspection of buildings and who is currently specializing in mechanical engineering;
- (2) completion of at least four years of technical or university training in the field of mechanical engineering and at least one year of plumbing construction or inspection experience while working under a certified plumbing inspector III, licensed engineer, or licensed plumbing contractor, at least at the level of supervisor or journeyman building trades craftsman and in responsible charge of a wide variety of types of Level III buildings;
- (3) completion of at least two years of technical or university training in the field of mechanical engineering or plumbing construction technology; and at least three years of plumbing construction, design, or inspection experience while working under a certified plumbing inspector III, licensed engineer, or licensed plumbing

contractor, with at least one year in responsible charge of a wide variety of types of Level III buildings;

- (4) certification by the Board as a building inspector III, electrical inspector III, mechanical inspector III, or fire inspector III; at least four years of experience as such certified inspector; and completion of at least one year of plumbing construction technology courses approved by the Board;
 - (5) a license as a plumbing contractor with experience in plumbing systems of Level III buildings;
 - (6) at least four years of construction or inspection experience working under the direct supervision of a certified plumbing inspector III, licensed engineer, or licensed plumbing contractor, two years of which have been performed in responsible charge of a wide variety of types of Level III buildings, with a supporting letter from such supervisor;
 - (7) certification by the Board as a plumbing inspector II; at least four years of experience approving plans and making inspections as such certified inspector; and completion of at least one year of plumbing construction technology courses approved by the Board; or
 - (8) at least five continuous years of experience inspecting the plumbing systems of a wide variety of types of Level III buildings while working for a city or county inspection department.
- (p) Fire Inspector, Level I. A standard certificate, fire inspector, Level I, shall be issued to any applicant who complies with Paragraph (b) of this Rule and who provides documentation that the applicant possesses one of the following education and experience qualifications:
- (1) completion of at least one year of technical or trade school training or an apprenticeship program in fire protection technology; or an approved four-year nontechnical degree;
 - (2) at least six months of work under the direct supervision of a standard certified fire inspector I, II, or III, licensed engineer, or architect, with a supporting letter from such supervisor;
 - (3) at least three years of construction, maintenance, or general inspection experience in fire protection systems while working under a limited licensed contractor with experience in fire protection systems;
 - (4) certification by the Board as a building inspector I, electrical inspector I, me-

chanical inspector I, or plumbing inspector I; at least one year of experience as such certified inspector; and completion of at least one year of fire protection technology courses approved by the Board;

- (5) at least two continuous years of fire inspection experience inspecting Level I Occupancy buildings for a city, county, or other governmental fire inspection department;
 - (6) at least four continuous years of experience in fire suppression activities for a city, county, volunteer, or other governmental fire department; or
 - (7) Firefighter Level III certification under the North Carolina State Fire and Rescue Commission with at least one year of fire protection experience in Level I Occupancy buildings.
- (q) Fire Inspector, Level II. A standard certificate, fire inspector, Level II, shall be issued to any applicant who complies with Paragraph (b) of this Rule and who provides documentation that the applicant possesses one of the following education and experience qualifications:
- (1) a license as an engineer or architect with experience outside of design or inspection of fire protection systems;
 - (2) completion of at least two years of technical or university training in the field of civil or architectural engineering, building construction technology, or fire protection technology; or an approved four-year nontechnical degree and at least two years of design and installation experience in fire protection systems or fire inspection experience on Level II Occupancy buildings while working under a certified fire inspector II or III, licensed engineer, or architect;
 - (3) certification by the Board as a building inspector II, electrical inspector II, mechanical inspector II, or plumbing inspector II; at least three years of experience as such certified inspector; and completion of at least one year of fire protection technology courses approved by the Board;
 - (4) at least three years of design, installation, or inspection experience in fire protection systems on Level II Occupancy buildings while working under the direct supervision of a certified fire inspector II or III, licensed engineer, or architect, with a supporting letter from such supervisor;
 - (5) certification by the Board as a fire inspector I; at least three years of experience

making inspections as such certified inspector; and completion of at least one year of fire protection technology courses approved by the Board;

(6) at least four continuous years of experience conducting fire inspections in Level II Occupancy buildings for a city, county, or other governmental fire inspection department; or

(7) completion of the basic, intermediate, and advanced classes of the North Carolina Fire Prevention School, with at least three years of fire protection experience in Level II Occupancy buildings.

(r) Fire Inspector, Level III. A standard certificate, fire inspector, Level III, shall be issued to any applicant who complies with Paragraph (b) of this Rule and who provides documentation that the applicant possesses one of the following education and experience qualifications:

(1) a license as an engineer or architect with preprofessional qualifications and experience and professional practice in architectural, structural, or fire protection design or inspection of buildings and who is currently specializing in architectural, civil, or fire protection engineering;

(2) completion of at least four years of technical or university training in the field of civil, architectural, or fire protection engineering; and at least one year of fire inspection experience while working under a certified fire inspector III, licensed engineer, or architect and in responsible charge of Level III Occupancy buildings;

(3) completion of at least two years of technical or university training in the field of civil, architectural, or fire protection engineering; and at least three years of construction, design, or inspection experience while working under a certified fire inspector III, licensed engineer, architect, or unlimited licensed contractor, with at least one year in responsible charge of Level III Occupancy buildings;

(4) certification by the Board as a building inspector III, electrical inspector III, mechanical inspector III, or plumbing inspector III; at least four years of experience as such certified inspector; and completion of at least one year of fire protection technology courses approved by the Board;

(5) at least four years of design and installation experience in fire protection systems or fire inspection experience while working under the direct supervision of a certified

fire inspector III, licensed engineer, or architect, two years of which have been performed in responsible charge of Level III Occupancy buildings, with a supporting letter from such supervisor;

(6) certification by the Board as a fire inspector II; at least four years of experience approving plans and making inspections as such certified inspector; and completion of at least one year of fire protection technology courses approved by the Board; or

(7) at least five continuous years of experience conducting fire inspections in Level III Occupancy buildings for a city, county, or other governmental fire inspection department.

Statutory Authority G.S. 143-151.12(1); 143-151.13.

.0709 RENEWAL

To remain effective, a standard certificate must be renewed annually on or before the first day of July. Applications for renewal shall be made in the same manner as the original application for the certificate, on forms furnished by the Division of Engineering and Building Codes of the Department of Insurance. A ~~five~~ ten dollar (\$5.00) (\$10.00) renewal fee shall accompany each such application. In the event that an application for renewal is not received by July 1, an additional late-renewal fee of two dollars (\$2.00) shall be charged. Any person who fails to renew his certificate for a period of two consecutive years shall be required by the Board to take and pass the same examination as unlicensed applicants for that type and level of certificate before allowing such person to renew his certificate.

Statutory Authority G.S. 143-151.16.

TITLE 13 - DEPARTMENT OF LABOR

Notice is hereby given in accordance with G.S. 150B-12 that the Department of Labor - Apprenticeship and Training Division intends to amend rule(s) cited as 13 NCAC 14 .0204 and .0404.

The proposed effective date of this action is July 1, 1990.

The public hearing will be conducted at 2:00 p.m. on April 18, 1990 at Third Floor Board Room, Education Building, 116 West Edenton Street, Raleigh, NC 27601.

Comment Procedures: People wanting to present oral testimony at the hearing or who want to have written testimony read at the hearing should provide a written summary of the proposed testimony to the Department by April 13, 1990. Oral presentations will be limited to 15 minutes each. Written statements not presented at the hearing will be accepted by the Department until April 18, 1990. All correspondence should be directed to Bobby Bryan, N.C. Department of Labor, 4 West Edenton Street, Raleigh, NC 27601. Interpreters for hearing impaired will be made available if requested, 24 hours in advance.

CHAPTER 14 - APPRENTICESHIP AND TRAINING DIVISION

SECTION .0200 - REQUIREMENTS AND QUALIFICATIONS FOR APPRENTICESHIP

.0204 REQUIREMENTS AND STANDARDS OF APPRENTICESHIP

(a) An apprenticeship program must conform to the following minimum requirements in order to obtain and maintain registration:

(5) The apprenticeship program must be set forth in a written document, signed by the sponsor, which includes the following provisions and is denominated the program standards of apprenticeship:

(J) A provision requiring that the ratio of apprentices to journeymen will not exceed ~~one~~ two to one at each job site, work force, department, or plant, except as follows:

(i) In the building and construction trades, the ratio of apprentices to journeymen in all occupations except electrician, shall not exceed one to one ~~for the first three journeymen and one to four thereafter~~ at each job site, work force, department, or plant;

(ii) In the building and construction trades, in the occupation of electrician, the ratio of apprentices to journeymen shall not exceed one to two at each job site, work force, department, or plant;

(iii) ~~(ii)~~ No such specific ratios are required where expressly prohibited or otherwise provided for by an applicable collective bargaining agreement;

Statutory Authority G.S. 94-1; 94-2; 94-4.

SECTION .0400 - APPROVAL/VETERANS' TRAINING ALLOWANCES

.0404 STANDARDS FOR OJT

(a) The OJT program must be set forth in a written document, signed by the sponsor, which includes the following provisions and is denominated the programs standards for OJT:

(9) A provision requiring that the ratio of trainees to fully qualified workers will not exceed ~~one~~ two to one at each job site, work force, department, or plant;

Statutory Authority G.S. 94-1; 94-2; 94-4.

TITLE 15A - DEPARTMENT OF ENVIRONMENT, HEALTH AND NATURAL RESOURCES

Notice is hereby given in accordance with G.S. 150B-12 that the Environmental Management Commission intends to amend rule(s) cited as 15A NCAC 2B .0303.

The proposed effective date of this action is November 1, 1990.

The public hearing will be conducted at 7:00 p.m. on May 14, 1990 at Courtroom A, Macon County Courthouse, 5 W. Main Street, Franklin, N.C.

Comment Procedures: All persons interested in this matter are invited to attend. Comments, statements, data and other information may be submitted in writing prior to, during, or within 30 days after the hearing or may be presented orally at the hearing. Oral statements may be limited at the discretion of the hearing officer. Submittal of written copies of oral statements is encouraged. For more information contact Suzanne H. Keen, Division of Environmental Management, P.O. Box 27687, Raleigh, NC 27611, (919) 733-5083.

CHAPTER 2 - ENVIRONMENTAL MANAGEMENT

SUBCHAPTER 2B - SURFACE WATER STANDARDS: MONITORING

SECTION .0300 - ASSIGNMENT OF STREAM CLASSIFICATIONS

.0303 LITTLE TENN RIVER BASIN AND SAVANNAH RIVER DRAINAGE AREA

(c) The Little Tennessee River Basin and Savannah River Drainage Area Schedule of Classifications and Water Quality Standards was amended effective:

- (1) February 16, 1977;
- (2) March 1, 1977;
- (3) July 13, 1980;

- (4) February 1, 1986;
- (5) October 1, 1987;
- (6) March 1, 1989;
- (7) January 1, 1990;
- (8) November 1, 1990.

(f) The Schedule of Classifications and Water Quality Standards for the Little Tennessee River Basin and Savannah River Drainage Area was amended effective November 1, 1990 as follows:

- (1) Cartoogechaye Creek [Index Nos. 2-19-(1) and 2-19-(16)] from the Town of Franklin water supply intake to bridge at U.S. Hwy. 23 and 441 and from the bridge at U.S. Hwy. 23 and 441 to the Little Tennessee River was reclassified from Classes WS-III Tr and C Tr to Classes WS-III&B Tr and B Tr respectively.
- (2) Coweeta Creek (Index No. 2-10) from its source to the Little Tennessee River including all tributaries except Dryman Fork (Index No. 2-10-3) and North Fork Coweeta Creek (Index No. 2-10-4) was reclassified from Classes C and C Tr to Classes B and B Tr.

Statutory Authority G.S. 143-214.1; 143-215.1; 143-215.3(a)(1).

* * * * *

Notice is hereby given in accordance with G.S. 150B-12 that the Environmental Management Commission intends to amend rule(s) cited as 15A NCAC 2B .0305.

The proposed effective date of this action is November 1, 1990.

The public hearing will be conducted at 7:00 p.m. on May 15, 1990 at Courtroom 1, Watauga County Courthouse, 403 W. King Street, Boone, N.C.

Comment Procedures: All persons interested in this matter are invited to attend. Comments, statements, data, and other information may be submitted in writing prior to, during, or within 30 days after the hearing or may be presented orally at the hearing. Oral statements may be limited at the discretion of the hearing officer. Submittal of written copies of oral statements is encouraged. For more information contact Suzanne H. Keen, Division of Environmental Management, P.O. Box 27687, Raleigh, NC 27611, (919) 733-5083.

.0305 WATAUGA RIVER BASIN

(c) The Watauga River Basin Schedule of Classifications and Water Quality Standards was amended effective:

- (1) August 12, 1979;
- (2) February 1, 1986;
- (3) October 1, 1987;
- (4) July 1, 1989;
- (5) November 1, 1990.

(e) The Schedule of Classifications and Water Quality Standards for the Watauga River Basin was amended effective November 1, 1990 with the reclassification of the Watauga River from the US Highway 321 bridge to the North Carolina/Tennessee state line from Class C to Class B.

Statutory Authority G.S. 143-214.1; 143-215.1; 143-215.3(a)(1).

TITLE 16 - DEPARTMENT OF PUBLIC EDUCATION

Notice is hereby given in accordance with G.S. 150B-12 that the State Board of Education intends to amend rule(s) cited as 16 NCAC 6D .0105.

The proposed effective date of this action is August 1, 1990.

The public hearing will be conducted at 9:30 a.m. on April 18, 1990 at Third Floor Board Room, Education Building 114 W. Edenton Street, Raleigh, NC 27603-1712.

Comment Procedures: Any interested person may present views and comments either in writing prior to or at the hearing or orally at the hearing.

CHAPTER 6 - ELEMENTARY AND SECONDARY EDUCATION

SUBCHAPTER 6D - INSTRUCTION

SECTION .0100 - CURRICULUM

.0105 USE OF SCHOOL DAY

(a) Local boards of education are obligated both to assure that materials presented to students during the school day are related to the curriculum, and to preserve their discretion and the discretion of administrators and teachers to determine, within the limits of the prescribed curriculum, the materials to be presented to students during the school day and the times during which materials selected will be presented. Therefore, no local board of education may enter

into a contract or agreement with any person, corporation, association or organization which:

- (1) limits or impairs its authority and responsibility, or the authority and responsibility of administrators and teachers, to determine the materials to be presented to students during the school day; or
 - (2) limits or impairs its authority and responsibility, or the authority and responsibility of administrators and teachers, to determine the times during the school day when materials will be presented to students.
- (b) Local boards of education are obligated to assure that students, as a consequence of the compulsory attendance laws, are not made a captive audience for required viewing, listening to, or reading commercial advertising. Therefore, no local board of education may enter into any contract or agreement with any person, corporation, association or organization pursuant to which students are regularly required to observe, listen to, or read commercial advertising. This

Rule does not prohibit local boards of education, teachers or administrators from requiring students from time to time to observe, listen to, or read educational materials that contain commercial advertising. This Rule also shall not prohibit the regular study of advertising as an academic subject.

~~(e) Any contract or agreement previously made by a local board of education in contravention of this Rule shall not be renewed by the local board. However, any contract or agreement previously made by a local board of education that results in a violation of the five and one-half hour instructional day is hereby declared void and unenforceable.~~

(c) This Rule shall apply both retroactively and prospectively. Any contract or agreement previously made in contravention of this Rule is declared void and unenforceable.

Authority N.C. Constitution, Article IX, Sec. 5; G.S. 115C-1; 115C-2; 115C-12(9)c.; 115C-81.

The List of Rules Codified is a listing of rules that were filed to be effective in the month indicated.

Rules filed for publication in the NCAC may not be identical to the proposed text published previously in the Register. Please contact this office if you have any questions.

Adopted rules filed by the Departments of Correction, Revenue and Transportation are published in this section. These departments are not subject to the provisions of G.S. 150B, Article 2 requiring publication in the N.C. Register of proposed rules.

Upon request from the adopting agency, the text of rules will be published in this section.

*Punctuation, typographical and technical changes to rules are incorporated into the List of Rules Codified and are noted as * Correction. These changes do not change the effective date of the rule.*

TITLE 5 - DEPARTMENT OF CORRECTION

CHAPTER 2 - DIVISION OF PRISONS

SUBCHAPTER 2H - RELIGIOUS PRACTICE

SECTION .0100 - ISLAMIC SERVICES AND PRACTICES

.0106 ADVISORY COMMITTEE ON RELIGIOUS MINISTRY IN PRISONS

(a) General. The Secretary of Correction hereby establishes the Advisory Committee on Religious Ministry in Prisons for the purpose of serving as a resource for the expansion and strengthening of chaplaincy services and religious activities within the Division of Prisons. Committee activities shall be governed by the rules and regulations promulgated by the Department of Correction. The Committee shall report to the Director of Prisons.

(b) Appointment.

- (1) Recommendation for appointment will be made by the appropriate person or agency responsible for prison ministry in each recognized judicatory and will be forwarded through the chain of command for review by the Director of Prisons. The list of nominees will be submitted to the Secretary for consideration.
- (2) The Secretary shall appoint committee members to staggered three-year terms. Committee appointments will be made annually, with appointments effective January 1 of each year. When unscheduled vacancies occur, new appointees will serve the unexpired term of the council member being replaced, and may be eligible for reappointment to a full term.
- (3) Committee membership is interfaith and interdenominational, comprised of representatives from each recognized religious judicatory.
- (4) The Secretary may remove any committee member for misfeasance, malfeasance, or nonfeasance.
- (c) Ex-Officio Members.
 - (1) The Chief of Program Services will serve as the liaison between the Advisory Committee and the Director of Prisons.
 - (2) A representative(s) from the Division of Prisons funded chaplains will attend all meetings of the Advisory Committee. The Chaplain representative(s) will be elected by the large body of funded chaplains to serve a two-year term.
 - (3) The Coordinator of Chaplaincy Services will attend all meetings and his office will be responsible for providing clerical assistance to the Committee. The coordinator will represent the Chief of Program Services in his absence. The Chaplaincy Secretary will attend all meetings to serve as recording secretary, and shall be responsible for distributing minutes to all appropriate individuals, including all state-funded chaplains.
 - (d) By-Laws. The Committee shall adopt standard by-laws. Issues not addressed by the standard by-laws are reserved to the discretion of the Committee to be resolved in accordance with state law and with agency rules and regulations.

*History Note: Statutory Authority G.S. 143B-10; 148-11;
Eff. April 1, 1990.*

NORTH CAROLINA ADMINISTRATIVE CODE CLASSIFICATION SYSTEM

The North Carolina Administrative Code (NCAC) has four major subdivisions of rules. Two of these, titles and chapters, are mandatory. The major subdivision of the NCAC is the title. Each major department in the North Carolina executive branch of government has been assigned a title number. Titles are further broken down into chapters which shall be numerical in order. The other two, subchapters and sections are optional subdivisions to be used by agencies when appropriate.

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