

REQUEST FOR TECHNICAL CHANGE

AGENCY: Office of the Commissioner of the Banks

RULE CITATION: 04 NCAC 03C .0101-.0112

DEADLINE FOR RECEIPT: Friday, September 12, 2014

NOTE WELL: This request when viewed on computer extends several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this rule prior to the Commission's next meeting. The Commission has not yet reviewed this rule and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

Rules .0101-.0104 may be combined in accordance with 26 NCAC 02C .0406(b). However, the remaining three rules must be filed on separate individual documents, as the rules are not consecutive numerically and the effective dates are not the same.

Also, for rules that are combined in accordance with 26 NCAC 02C .0406(b), the effective date and repeal dates should be the same. For the authority line and amended effective date line, please include all statutes and dates set forth in all combined rules.

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Abigail M. Hammond
Commission Counsel
Date submitted to agency: August 28, 2014

1 04 NCAC 03C .0101 - .0112 are repealed as published in 28:21 NCR 2567 as follows:

2

3 **04 NCAC 03C .0101 APPLICATION**

4 **04 NCAC 03C .0102 EXAMINATION BY COMMISSIONER**

5 **04 NCAC 03C .0103 REPORT TO BANKING COMMISSION**

6 **04 NCAC 03C .0104 REVIEW BY BANKING COMMISSION**

7 **04 NCAC 03C .0107 BANK CERTIFICATE**

8 **04 NCAC 03C .0111 NATIONAL BANK CONVERSION**

9 **04 NCAC 03C .0112 ELIMINATION OF DIRECTOR LIABILITY**

10

11 *History Note: Authority G.S. 53C-2-5; 53C-3-1(a); 53-137; 53-333;*

12 *Eff. February 1, 1976;*

13 *Amended Eff. January 1, 2013; September 1, 2006; September 1, 1990; November 1,*
14 *1982; July 24, 1979; August 1, 1978.*

15 *Repealed Eff. October 1, 2014.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Office of the Commissioner of the Banks

RULE CITATION: 04 NCAC 03C .0201

DEADLINE FOR RECEIPT: Friday, September 12, 2014

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In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

Add a line space between lines 3 and 4

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Abigail M. Hammond
Commission Counsel
Date submitted to agency: August 28, 2014

1 04 NCAC 03C .0201 is repealed as published in 28:21 NCR 2568 as follows:

2

3 **04 NCAC 03C .0201 ESTABLISHMENT OF BRANCHES**

4 *History Note: Authority G.S. 53C-2-5; 53C-6-15;*

5 *Eff. February 1, 1976;*

6 *Amended Eff. January 1, 2013; September 1, 2006; June 1, 1995; July 1, 1991; October*
7 *1, 1990; November 1, 1982.*

8 *Repealed Eff. October 1, 2014.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Office of the Commissioner of the Banks

RULE CITATION: 04 NCAC 03C .0403-.0407

DEADLINE FOR RECEIPT: Friday, September 12, 2014

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The Rules Review Commission staff has completed its review of this rule prior to the Commission's next meeting. The Commission has not yet reviewed this rule and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

Rules .0403- .0405 may be combined in accordance with 26 NCAC 02C .0406(b). However, the remaining rule must be filed on a separate individual document, as the rule is not consecutive numerically.

Also, for rules that are combined in accordance with 26 NCAC 02C .0406(b), the effective date and repeal dates should be the same. For the authority line and amended effective date line, please include all statutes and dates set forth in all combined rules.

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Abigail M. Hammond
Commission Counsel
Date submitted to agency: August 28, 2014

1 04 NCAC 03C .0403 - .0407 are repealed as published in 28:21 NCR 2569 as follows:

2

3 **04 NCAC 03C .0403 INVESTIGATION**

4 **04 NCAC 03C .0404 ORDER**

5 **04 NCAC 03C .0405 REVIEW BY THE BANKING COMMISSION**

6 **04 NCAC 03C .0407 WAIVER BY COMMISSIONER**

7

8 *History Note: Authority G.S. 53C-2-5; 53C-7-202;*

9 *Repealed Eff. October 1, 2014.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Office of the Commissioner of the Banks

RULE CITATION: ALL ADOPTED OR AMENDED Permanent Rules

DEADLINE FOR RECEIPT: Friday, September 12, 2014

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The Rules Review Commission staff has completed its review of this rule prior to the Commission's next meeting. The Commission has not yet reviewed this rule and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

Please correct box 2 on the Submission for Permanent Rule form to reflect the full citation. It is currently missing the subchapter.

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Abigail M. Hammond
Commission Counsel
Date submitted to agency: August 28, 2014

REQUEST FOR TECHNICAL CHANGE

AGENCY: Office of the Commissioner of the Banks

RULE CITATION: 04 NCAC 03C .0901

DEADLINE FOR RECEIPT: Friday, September 12, 2014

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The Rules Review Commission staff has completed its review of this rule prior to the Commission's next meeting. The Commission has not yet reviewed this rule and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

Line 10, replace "are required" with "shall"

Line 31; page 2, lines 4 and 18; page 3, lines 15 thru 20; and page 4, lines 12 and 13, text should not be both struck through and underlined. Please review 26 NCAC 02C .0406(b)(2) for proper formatting. Please note that brackets should be used and not parentheses when reflecting text deleted after publication.

Page 4, line 7, please correct the citation from "Item (1)" to "Subparagraph (a)(1)"

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Abigail M. Hammond
Commission Counsel
Date submitted to agency: August 28, 2014

1 04 NCAC 03C .0901 is amended with changes as published in 28:21 NCR 2569 as follows:

2
3 **04 NCAC 03C .0901 BOOKS AND RECORDS**

4 (a) Each bank, ~~or its~~ each affiliate of the bank, and the bank's parent holding company, shall keep ~~in~~
5 ~~permanent form,~~ and make available for examination by the representatives of the Commissioner of Banks,
6 books and records which that reflect all the transactions of the bank in its true financial condition. Such
7 records shall be ~~so~~ kept so as to permit and facilitate a speedy examination, ~~which will, in turn, reflect such~~
8 ~~financial condition to~~ by the representatives of the Commissioner of Banks. Without implying that these
9 are the only books and records to be kept, ~~but, on the contrary, that these are necessary~~ the following books
10 and records, ~~records as well as other books and records usually kept, the following (books and records)~~ are
11 required to be kept at the bank, or at its parent holding company, unless another storage site is approved by
12 the Commissioner of Banks:

- 13 (1) Alphabetical direct and indirect liability ledgers. Each ~~commercial bank or branch~~
14 ~~thereof in which notes or other forms of similar obligations are retained must~~ shall keep
15 an alphabetical direct and indirect liability ledger. ~~The direct liability ledger must be kept~~
16 ~~in balance with the general ledger control. In a commercial bank whose automated~~
17 ~~record system is not able to produce an alphabetical liability ledger the bank shall be able~~
18 ~~to produce an alphabetical listing of borrowers showing all of a customer's loan or~~
19 ~~customer account numbers and the amount outstanding under each number when called~~
20 ~~upon by the Commissioner of Banks or his duly authorized agent. In addition to the~~
21 ~~direct liability ledger, each commercial bank or branch thereof in which notes or other~~
22 ~~forms of similar obligations are retained must keep an alphabetical indirect liability~~
23 ~~ledger showing a customer's indirect obligations by loan name or account number and the~~
24 ~~balance outstanding under each account. Where the total of the direct and indirect lines~~
25 ~~do not exceed twenty thousand dollars (\$20,000), the indirect line may be omitted from~~
26 ~~the indirect liability ledger. The indirect liability ledger must be updated at least~~
27 ~~monthly. Each commercial bank shall have the ability to produce both the direct and~~
28 ~~indirect liability ledgers in hard copy form upon call by the Commissioner of Banks or~~
29 ~~his duly authorized agent. The alphabetical direct liability ledger shall show a~~
30 ~~customer's direct obligations owed to the bank by loan name or account number and the~~
31 ~~balance outstanding under each~~ (account, and the) account. The alphabetical indirect
32 liability ledger shall show a customer's indirect obligations owed to the bank by loan
33 name or account number and the balance outstanding under each account. The
34 alphabetical direct liability ledger shall be kept in balance with the general ledger control.
35 The alphabetical indirect liability ledger shall be updated at least monthly. Where the
36 aggregate total of a customer's direct and indirect obligations to the bank do not exceed
37 twenty thousand dollars (\$20,000), the indirect obligations of that customer may be
38 omitted from the alphabetical indirect liability ledger. In a bank whose automated record

1 system is not able to produce an alphabetical liability ledger, the bank shall produce an
2 alphabetical listing of borrowers showing all of a customer's loan or account numbers and
3 the amount outstanding under each number when called upon by representatives of the
4 Commissioner of ~~(Banks or his duly authorized agent.)~~ Banks. Each bank shall have the
5 ability to produce both the direct and indirect liability ledgers in hard copy form upon
6 request by representatives of the Commissioner of ~~(Banks or his duly authorized agent.)~~
7 Banks.

8 (2) Monthly reconciliation of accounts with correspondent banks. ~~Records must~~ A record
9 shall be kept, showing the monthly reconciliation of each account with correspondent
10 banks. A signed review of such reconciliations ~~must shall~~ be made by ~~some~~ an officer or
11 employee of the bank other than the person ~~composing same.~~ responsible for preparing
12 the reconciliation.

13 (3) Purchases and sales of securities. A ~~permanent~~ record ~~must shall~~ be kept of ~~all stocks~~
14 ~~and bonds bought or sold.~~ Also, ~~there must be retained for review by examiners all~~
15 ~~original invoices of purchases and sales of securities.~~ The record ~~must shall~~ show include
16 the following: ~~dates of purchases and sales, interest rates, maturities, par value, cost~~
17 ~~value, all write-ups or write-downs, a full description of the security, from whom~~
18 ~~purchased, to whom sold, (purchase price,) selling price, and when, where and why~~
19 ~~pledged or deposited.~~

20 (a) dates of purchases and sales;

21 (b) interest rates;

22 (c) maturities;

23 (d) par value;

24 (e) cost value;

25 (f) all write-ups or write-downs;

26 (g) a full description of the security;

27 (h) from whom purchased;

28 (i) to whom sold;

29 (j) purchase price;

30 (k) selling price; and

31 (l) when, where, and why pledged or deposited.

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

33 (4) ~~A permanent record must be kept of all articles deposited for safekeeping. Receipts must~~
34 ~~be given and taken for all articles deposited or delivered. An inventory of parcels is not~~
35 ~~required.~~

36 (5) (4) Charge-offs. A ~~permanent~~ record ~~must shall~~ be kept of all items charged ~~off.~~ off and of
37 all recoveries. All ~~chargeoffs must~~ charge-offs shall be authorized or approved by the

1 executive committee or by the board of directors and such action recorded in their
2 minutes. ~~This~~ The charge-off record, among other things, must record shall show the
3 date of the ~~chargeoff,~~ charge-off, a description of the ~~asset~~ asset, and the ~~amount.~~ amount
4 of the charge-off. The record ~~must shall~~ be supported by the actual ~~charged-off~~ charged-
5 off items, or the final disposition of any charged-off item. ~~In this record must also be~~
6 ~~recorded all recoveries, giving dates and amounts.~~ The record of recoveries shall show
7 the date and amount of each recovery.

8 ~~(6)~~ (5) Records of real estate. A ~~real estate~~ record ~~must shall~~ be kept on all parcels owned,
9 including the banking house. ~~This~~ The record must shall show ~~when, from whom, and~~
10 ~~how~~ when the property was acquired; ~~date, cost price, book value, detailed income and~~
11 ~~detailed expenses.~~ acquired, how the property was acquired, the cost of the property, the
12 book value of the property, and detailed income and expense reports relating to the
13 property. This record shall be supported by appraisals, title certificates showing assessed
14 value, tax receipts, and ~~hazard~~ insurance policies. policies relating to the property.

15 ~~(7)~~ (6) Meeting minutes and consent to action. ~~Proper minutes, Minutes of all~~ ~~((meetings and~~
16 ~~each consent to action without a meeting) of the)~~ board of directors ~~meetings, ((or board~~
17 ~~of managers))~~, each committee of the) board committee meetings, and stockholders
18 ~~(meetings.)~~ meetings (including each consent to action without a meeting.) shall be kept
19 showing clearly ~~its action,~~ must (shall) be kept for each committee, board of directors,
20 board of managers, and stockholders' meetings. ~~(kept.)~~ any action resulting from the
21 meeting. All minutes ~~must shall~~ be signed by the chairman and the secretary of ~~this~~ such
22 meeting.

23 ~~(8)~~ (7) Cash items held over. A ~~permanent~~ daily record ~~must shall~~ be kept of all cash items held
24 over from the day's business, including all checks that would cause an overdraft if
25 handled in the regular way. This record ~~must show the name of~~ shall be kept in balance
26 with the general ledger control and shall identify the account on ~~whom~~ which the item is
27 drawn or is obligated for payment, the reason the item is being held, the date the item was
28 placed in the cash items account, and the amount of the item. ~~This record must be a daily~~
29 ~~record showing only those items held over at the end of each day's business and be kept~~
30 ~~in balance with the general ledger or control figure.~~

31 ~~(9)~~ (8) Record of income and expenses. A detailed record of income and expenses ~~must shall~~ be
32 ~~kept,~~ kept and balanced ~~monthly, and a~~ monthly. A report thereof of this record shall be
33 made to the executive committee or board of directors, and the receipt of same noted in
34 their minutes.

35 ~~(10)~~ In the discretion of the Commissioner of Banks, he may require the preparation or
36 maintenance of further books or records by specific banks or branches thereof.

1 ~~(11)~~ (9) Industrial bank reports of condition. Each industrial bank, when preparing a report of
2 condition and income, ~~must~~ shall include and make a part of ~~this~~ its report a list of those
3 whose aggregate direct and indirect obligations to the bank, ~~whether the obligations are~~
4 ~~direct or indirect, and~~ including paper purchased by the bank, are in excess of ten percent
5 of the industrial bank's capital, surplus and undivided profits. In lieu of this list, the
6 industrial bank ~~must~~ may maintain a direct and indirect liability ledger in accordance
7 with Item (1) of this Rule. ~~Any commercial bank making installment loans may, with~~
8 ~~reference to such installment loans, make the report specified in this section in lieu of the~~
9 ~~liability ledger required under Item (1) of this Rule.~~

10 (b) Unless another storage site is approved by the Commissioner of Banks in writing by letter or other
11 written agreement, a bank's books and records and the books and records of the bank's parent holding
12 company ~~(are required to)~~ shall be kept at the bank or at the bank's parent holding company; and the books
13 and records of an affiliate of the bank ~~(are required to)~~ shall be kept at the affiliate, the bank, or the bank's
14 parent holding company.

15 (c) Based upon the condition of a bank as determined by examination or otherwise, the Commissioner of
16 Banks may require a bank to prepare or maintain different or additional books, records, and reports.

17
18 *History Note:* Authority G.S. 53C-8-6;
19 Eff. February 1, 1976;
20 Amended Eff. October 1, 2014; June 1, 1995; May 1, 1992; October 1, 1990; September
21 1, 1983.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Office of the Commissioner of the Banks

RULE CITATION: 04 NCAC 03C .0902

DEADLINE FOR RECEIPT: Friday, September 12, 2014

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In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

Line 7, delete "thereto"

Line 16, delete "(3)"

Line 29, replace "(4)" with "(3)"

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Abigail M. Hammond
Commission Counsel
Date submitted to agency: August 28, 2014

1 04 NCAC 03C .0902 is amended with changes as published in 28:21 NCR 2571 as follows:

2
3 **04 NCAC 03C .0902 REQUIRED ACCOUNTS**

4 ~~In order~~ **To ensure** that the books and records of the bank ~~may~~ properly reflect all of its liabilities, the
5 following reserve accounts ~~must shall~~ be set up and be ~~properly~~ maintained by all banks:

- 6 (1) Reserve for Interest Due Depositors. This reserve ~~must shall~~ be set up and proper entries
7 made thereto at least once each month. As interest is paid to depositors, payments ~~must~~
8 ~~shall~~ be charged to this account. Each month, as credits are made to this reserve, the
9 amount ~~should shall~~ be charged to interest paid to depositors' accounts.
- 10 (2) Reserve for Unearned Interest on Loans. All interest collected on notes ~~must shall~~ be
11 credited to this account on the day it is collected. At least once each ~~month month.~~
12 earned interest ~~must shall~~ be computed, be charged to this account, and be credited to
13 earned interest account. ~~Provided however, this~~ **This** Subparagraph ~~does shall~~ not apply
14 to loans where interest is accounted for through an ~~income earned not collected~~ **income-**
15 **earned-not-collected** account.
- 16 (3) ~~Reserve for Taxes, Insurance, Etc. Based upon available information, including past~~
17 ~~experience, the approximate sum to be required for taxes of all kinds and for insurance,~~
18 ~~including surety bond premiums, for all purposes for the year, must be estimated and this~~
19 ~~account must be credited at least once each month, and debits made to expense accounts,~~
20 ~~for one twelfth of the total. All payments for taxes and insurance, when made, must be~~
21 ~~charged to this reserve account. Provided, however, in lieu of using a reserve account, a~~
22 ~~prepayment account may be established for insurance, and monthly charges made to the~~
23 ~~account to expense the appropriate amount.~~
- 24 (4) ~~Reserve for Depreciation. In order that the values carried on the books of the bank~~
25 ~~representing fixed assets may be as nearly correct as possible, each bank must set up and~~
26 ~~properly maintain a reserve for depreciation. Credits must be made to this account at~~
27 ~~least once each month for one twelfth of the annual rate permitted for that particular asset~~
28 ~~by the United States Internal Revenue Service.~~
- 29 (5) (4) Bond Income Earned; Not Collected. At least once each month, the income on bonds
30 earned during the month shall be charged to this account and credited to the bond income
31 account. As coupons are collected, they shall be credited to this account.

32
33 *History Note: Authority G.S. 53C-8-1; 53C-8-6;*
34 *Eff. February 1, 1976;*
35 *Amended Eff. October 1, 2014; September 1, 1990.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Office of the Commissioner of the Banks

RULE CITATION: 04 NCAC 03C .0903

DEADLINE FOR RECEIPT: Friday, September 12, 2014

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In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

Line 5, please define or delete "safe and secure place"

Line 6, delete "hereinafter"

Page 4, lines 5, 16, and 21, replace the "and/or" with "and" or "or"

Page 6, line 25, underline the duration of "1 year" as it is new text

Page 6, line 36, is the formatting on this line incorrect?

Page 7, line 5, add a comma after "authorization"

Page 7, line 14, is there a reason why "resolutions" is not contained within this line when it is contained within line 5?

Page 7, line 23, define or delete "specifically"

Page 7, line 23, is "a commercially reasonable period" defined in another rule or by statute? Please include a cross-reference. Otherwise, define or delete.

Page 7, line 25, delete "thereof"

Page 7, line 26, "than" is deleted, but should be left in the text of the rule

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Abigail M. Hammond
Commission Counsel
Date submitted to agency: August 28, 2014

04 NCAC 03C .0903 is amended with changes as published in 28:21 NCR 2572 as follows:

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

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

<u>Bank Records to be Retained</u>	<u>Minimum Retention Period</u>
--	-------------------------------------

ACCOUNTING

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

ADMINISTRATIVE

- | | |
|--|-----------|
| 1. Documentation of Charged-off Assets | 10 years |
| 2. Escheat Reports and Records | 10 years |
| 3. Minute Books <u>Minutes</u> of Meetings of Stockholders, Directors, and Executive Committee <u>Board Committees</u> | Permanent |

AUDIT

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

BANK PROPERTIES

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

CAPITAL

- | | |
|---|-----------|
| 1. Capital Stock Certificate Books, Stubs, or Interleaves | Permanent |
|---|-----------|

1	2.	Capital Stock Ledger	Permanent
2	3.	Capital Stock Transfer Register	Permanent
3	4.	Proxies	3 years
4			
5		<u>COLLECTIONS</u>	
6			
7	1.	Collection Registers (Incoming and Outgoing)	3 years after item paid or returned
8	2.	Receipts and Advices (After Closed)	1 year
9			
10		<u>CREDIT CARDS</u>	
11			
12	1.	Borrowing Authority Resolutions (After Closed)	3 years
13	2.	Customer Application (After Closed)	1 year
14	3.	Disclosure and Compliance Documents	25 months
15	4.	Merchants' Agreement (After Closed)	2 years
16	5.	Posting or Transaction Journal	2 years
17	6.	Sales Tickets or Drafts	3 years
18	7.	Statement of Account	5 years
19			
20		<u>DEMAND DEPOSIT AND TRANSACTION ACCOUNTS</u>	
21			
22	1.	Checks and Debits	5 years
23	2.	Daily Report on Overdrafts	2 years
24	3.	Deposit Resolutions (After Closed)	3 years
25	4.	Deposit Tickets and Credits	5 years
26	5.	Ledgers, Statements, or Stubs	5 years
27	6.	Letters of Administration	5 years
28	7.	Posting or Transaction Journals	2 5 years
29	8.	Powers of Attorney	5 years <u>after closing</u>
30	9.	Return Item Records	1 year
31	10.	Signature Cards (After Closed)	5 years
32	11.	Stop Payment Orders	1 year
33	12.	Tax Waivers	1 year
34	13. <u>12.</u>	Undelivered Statements	1 year
35	14. <u>13.</u>	Unidentified or Unclaimed Deposit Records	Until escheated
36			
37		<u>DUE FROM BANKS</u>	

1		
2	1. Advise <u>Advice</u> of Entry (After Cleared)	3 months
3	2. Drafts (After Paid)	5 years
4	3. Draft Register or Carbon Copy	Until paid
5	4. Reconcilements	5 years
6	5. Statements	3 years
7		
8	<u>GENERAL LEDGER</u>	
9		
10	1. Daily Statement of Condition	5 years
11	2. General Journal (If Book of Original Entries, with Descriptions)	15 years
12	3. General Ledgers	15 years
13	4. General Ledger Tickets	5 years
14		
15	<u>INSURANCE</u>	
16		
17	1. Bankers Blanket Bond and Excess	5 years
18	2. General Casualty Liability Policies Expired	5 years
19		
20	<u>INTERNATIONAL</u>	
21		
22	1. Bankers Acceptances	3 years
23	2. Collection Records	3 years after item paid or returned
24	3. Letters of Credit and Documents	3 years after expiration
25	4. Transfer Orders (Wire or Written)	1 year
26		
27	<u>INVESTMENTS</u>	
28		
29	1. Accrual and Bond Amortization or Accretion Records (After Period Ends)	3 years
30	2. Brokers' Confirmations, Invoices, Statements	3 years
31	3. Ledgers	3 years
32	4. <u>Records of Purchases and Sales of Securities</u>	<u>5 years</u>
33		
34	<u>LEASE RECEIVABLES (OTHER THAN REAL ESTATE)</u>	
35		
36	1. Lease Agreements and Documents (After Termination)	5 years
37	2. Rental Payment Records	5 years

1	3.	Record of Disposition of Property	5 years
2			
3		<u>LEGAL JUDICIAL AUTHORIZATION</u>	
4			
5	1.	Attachments and/or Garnishments	10 years
6	2.	Court Case Records (After Final Disposition)	10 years
7	3.	Probate Court Appointment (After Closed)	10 years
8			
9		<u>LOANS (COMMERCIAL, CONSUMER, MORTGAGE)</u>	
10			
11	1.	Appraisals, Financing Statements, and Title Opinions Pertaining to Collateral	Until paid
12	2.	Borrowing Resolutions	3 years after payment of debt
13	3.	Credit Files (Financial Statements, Applications, Correspondence) (After Paid)	2 years
14	4.	Collateral Records (After Released)	5 years
15	5.	Interest Rebate Records	1 year
16	6.	Liability Cards and/or Ledgers (After Closed)	3 years
17	7.	Loan Ledger Cards or History Sheets (After Paid)	3 years
18	8.	Loan Proceeds Disbursement Records	Until paid
19	9.	Loans Paid Record	3 years
20	10.	Mortgage Files and Supporting Documents (After Paid)	2 years
21	11.	Note and/or Loan Register (After Paid)	3 years
22	12.	Posting or Transaction Journal	2 years
23			
24		<u>MAIL</u>	
25			
26	1.	Insurance Records of Registered and Certified	1 year
27	2.	Registered and Certified Records (In and Out)	1 year
28	3.	Return Receipt Record	1 year
29			
30		<u>MISCELLANEOUS</u>	
31			
32	1.	Cash and Security Vault Records-Opening, Closing	6 months
33	2.	Taxes>Returns and Supporting Papers	3 years or until cleared by IRS and Dept. of
34			Revenue
35	3.	Travelers Checks-Applications	1 year
36			
37		<u>MONEY TRANSFER</u>	

1			
2	1.	Copy of Incoming and Outgoing Transfers	1 year
3	2.	General Correspondence	1 year
4	3.	Receipts and Advices (After Closed)	1 year
5	4.	Transfer Request Records	1 year
6			
7		<u>NIGHT DEPOSITORY</u>	
8			
9	1.	Customer Agreement (After Closed)	1 year
10	2.	Customer Receipt	1 year
11	3.	Daily Inventory	1 year
12			
13		<u>OFFICIAL CHECKS</u>	
14			
15	1.	Official Checks (Dividend, Cashiers, Expense, Loan) and Money Orders	
16		(After Paid)	5 years
17	2.	Official Check Register or Carbon Copy	Until paid or escheated
18	3.	Certified Checks or Receipts (After Paid)	5 years
19	4.	Certified Check Register or File Copy	Until paid or escheated
20	5.	Affidavits and Indemnity pertaining to Issuance of Duplicate Checks	Permanent
21			
22		<u>PROOF AND TRANSIT</u>	
23			
24	1.	Advice of Correction	6 months
25	2.	Cash Tickets	6 months
26	3.	Outgoing Cash Letters and Accompanying Items (Microfilm)	2 years
27	4.	Proof Sheets, Tapes, and Listings	2 years
28			
29		<u>SAFE DEPOSIT</u>	
30			
31	1.	Access Records (After Closed)	3 years
32	2.	Box History Card	Permanent
33	3.	Contracts and Agreements (After Closed)	3 years
34	4.	Forced Entry Records	10 years
35			
36		<u>SAFEKEEPING AND CUSTOMER SECURITIES</u>	
37	1.	Broker Confirmations, Invoices, Statements	3 years

1	2.	Buy and Sell Orders	3 years
2	3.	Customer Contracts and Agreements (After Closed)	3 years
3	4.	In and Out Records (Movement of Securities)	3 years
4	5.	Safekeeping Receipts (After Closed)	3 years

5

6 SAVINGS AND TIME DEPOSITS

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

19

20 TELLERS

21

22	1.	Balance Sheets, Recaps, or Records	1 year
23	2.	Cash Item Report	1 year
24	3.	Machine Tapes, Cash Ticket Copies, Posting or Transaction Journals	6 months
25	4.	<u>Daily Record of Cash Items Held Over</u>	1 year

26

27 TRUST (Corporate)

28

29	1.	Account Ledger or Record	7 years after account closed
30	2.	Posting or Transaction Journal	7 years
31	3.	Bonds of Indemnity	Permanent
32	4.	Stock Certificates (Cancelled)	until returned to corporation
33	5.	Dividend Checks – Paid	5 years
34	6.	Dividend Check Register or Carbon Copy	Until paid
35	7.	Bonds and Coupons –	7 years after Cancelled or Cremation Certificates
36			paid or until returned to corporation
37	8.	Resolutions and Authorizations	7 years after account closed

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TRUST (Employee Benefit)

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

TRUST (Personal)

- 1. Accountings 3 years after account closed
- 2. Agreements and Authorizations 5 years after account closed
- 3. Account Ledger or Record 7 years after account closed
- 4. Minutes of Committee Meetings Permanent
- 5. Receipts for Assets Delivered 3 years after account closed
- 6. Tax Return 10 years or until IRS clears
- 7. Disbursement Checks 5 years
- 8. Check Register or Carbon Copy Until paid
- 9. Bonds of Indemnity Permanent

(b) Records not specifically identified in Paragraph (a) shall be kept for a commercially reasonable period of time.

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

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

~~(d)~~ (e) Nothing in these Rules shall prohibit any bank or branch thereof from causing any or all of its records, whether permanent records or records designated to be retained for a minimum period of time, to be maintained pursuant to G.S. 53C-6-14.

History Note: Authority G.S. 53C-2-5; 53C-6-14; 53C-8-1; Eff. February 1, 1976;

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2

*Amended Eff. October 1, 2014; January 1, 2013; May 1, 1992; September 1, 1990;
January 1, 1985.*

1 04 NCAC 03C .0904 is amended with changes as published in 28:21 NCR 2576 as follows:

2

3 **04 NCAC 03C .0904 LETTERS OF CREDIT**

4 In order ~~(So)~~ that the books and records of the bank may properly reflect its contingent liabilities, the ~~The~~
5 bank shall properly maintain ~~subsidiary~~ supporting records on all letters of ~~credit, credit issued and~~
6 ~~outstanding,~~ except for letters of credit sold for cash, ~~issued~~ and ~~outstanding showing~~ shall show the
7 following information:

- 8 (1) the name of the account party for whom the letter of credit is ~~established,~~ established;
- 9 (2) the name of the ~~beneficiary,~~ beneficiary;
- 10 (3) the ~~amount,~~ amount;
- 11 (4) the expiration ~~date,~~ date; and
- 12 (5) the terms under which payment is authorized.

13

14 *History Note: Authority 53C-8-1;*
15 *Eff. April 21, 1979; 1979;*
16 *Amended Eff. October 1, 2014.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Office of the Commissioner of the Banks

RULE CITATION: 04 NCAC 03C .0905

DEADLINE FOR RECEIPT: Friday, September 12, 2014

NOTE WELL: This request when viewed on computer extends several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this rule prior to the Commission's next meeting. The Commission has not yet reviewed this rule and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

Line 6, incorporate the handbook in accordance with G.S. 150B-21.6:

In incorporating material by reference, the agency must designate in the rule whether or not the incorporation includes subsequent amendments and editions of the referenced material. The agency can change this designation only by a subsequent rule-making proceeding. The agency must have copies of the incorporated material available for inspection and must specify in the rule both where copies of the material can be obtained and the cost on the date the rule is adopted of a copy of the material.

If the information is accessible for free on a website, please provide that website.

Lines 7 thru 8, what are the conditions or the factors considered by the Commissioner to alter the investment limitations? How is this determination requested, in writing? Please clarify.

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Abigail M. Hammond
Commission Counsel
Date submitted to agency: August 28, 2014

1 04 NCAC 03C .0905 is adopted with changes as published in 28:21 NCR 2576 as follows:

2

3 **04 NCAC 03C .0905** **INVESTMENT AUTHORITY**

4 A bank may invest in mutual funds to the same extent and within the same limitation as permitted for
5 national banks by statute, regulation, or interpretation of the applicable federal regulator, as reflected in the
6 U.S. Office of the Comptroller of Currency “Investment Securities: Comptroller’s Handbook (Section 203)
7 or their written interpretations and subsequent changes, unless otherwise determined by the Commissioner
8 of Banks based on safety and soundness.

9

10 *History Note:* Authority G.S. 53C-5-2;

11 Eff. October 1, 2014.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Office of the Commissioner of the Banks

RULE CITATION: 04 NCAC 03C .1001

DEADLINE FOR RECEIPT: Friday, September 12, 2014

NOTE WELL: This request when viewed on computer extends several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this rule prior to the Commission's next meeting. The Commission has not yet reviewed this rule and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

Line 16, delete "such" and "as will"

Line 16, replace "reflect" with "reflecting"

Line 17, add a comma after "worth"

Page 2, line 23, is the statement "fully paid" correct? Should it be "paid in full"?

Page 3, line 8, delete "any"

Page 3, line 17, add a comma after "appraiser"

Page 3, line 28, define or delete "accurately"

Page 3, line 37, replace "which" with "that"

Page 4, line 18, please provide the following information for the incorporated material, in accordance with G.S. 150B-21.6:

The agency must have copies of the incorporated material available for inspection and must specify in the rule both where copies of the material can be obtained and the cost on the date the rule is adopted of a copy of the material.

Page 4, lines 27 thru 32, text should not be both struck through and underlines. Please review 26 NCAC 02C .0406(b)(2) for proper formatting. Please note that brackets should be used and not parentheses when reflecting text deleted after publication.

Page 4, can the backslash between "Stock certificate" and "Powers" be changed to an "or"?

Abigail M. Hammond
Commission Counsel
Date submitted to agency: August 28, 2014

Page 4, line 37, what is a “stock power”? Is this a commonly known term?

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Abigail M. Hammond
Commission Counsel
Date submitted to agency: August 28, 2014

1 04 NCAC 03C .1001 is amended with changes as published in 28:21 NCR 2576 as follows:

2
3 **04 NCAC 03C .1001 LOAN DOCUMENTATION**

4 Unless otherwise provided, each ~~bank, or any branch thereof, where notes are held~~ must ~~bank shall~~
5 maintain on file the ~~appropriate supporting documents as follows:~~ following loan documentation:

6 (1) Financial Statements. Financial statements shall be required from any ~~borrower~~ person
7 who is a maker, co-maker, guarantor, ~~endorser~~ endorser, or surety on any unsecured loans
8 or other unsecured extensions of credit in an amount of fifty thousand dollars (\$50,000)
9 or more in the aggregate. Financial statements required by this Item shall:

- 10 (a) be signed or otherwise properly executed;
- 11 (b) be dated within 18 months preceding the origination date of the credit
12 obligation;
- 13 (c) be renewed within 18 months after the date of the last financial statement on
14 file;
- 15 (d) be addressed to, or made specifically for, the lending bank; and
- 16 (e) include such information as will ~~adequately~~ adequately reflect the assets, liabilities, net
17 worth and income of the borrower.

18 (2) Financial Statement Exceptions. A bank may waive the financial statement required by
19 Item (1) of this Rule for credit granted under a credit card. ~~Additionally, a bank may~~
20 ~~elect to substitute in the place of a current financial statement a current credit bureau~~
21 ~~report for consumer loans scheduled to be repaid in at least quarterly installments. For an~~
22 individual whose unsecured obligations consist of consumer loans scheduled to be repaid
23 in at least quarterly installments, a bank may substitute a current credit bureau report for
24 the financial statement required by Item (1) of this Rule. A credit bureau report shall be
25 current if not more than 18 months have passed from its date of issue.

26 (3) Personal Property Appraisals. Appraisals on personal property used as collateral for a
27 loan shall be obtained and shall be completed as follows:

28 (a) ~~Generally.~~ Except as otherwise provided below, a written appraisal of personal
29 property used to collateralize any loan ~~must~~ shall be made or approved by the
30 executive committee or loan committee of the ~~bank,~~ bank or any branch thereof,
31 or other reliable persons familiar with the value of the property. Except as
32 provided, all appraisals ~~must~~ shall be renewed every 24 months.

33 (b) Requirements. The appraisal required by this Item ~~must~~ shall include:

- 34 (i) the name of the borrower;
- 35 (ii) the date the appraisal was made;
- 36 (iii) the value of the collateral;
- 37 (iv) the signatures of at least two persons making the appraisal;
- 38 (v) a brief description of the property;

- 1 (vi) the amount of any prior lien and holder of the lien, if any; and
2 (vii) the original amount or outstanding balance of the loan which the
3 property is used to secure.
- 4 (c) Appraisal Exceptions. No appraisal shall be required under the following
5 circumstances:
- 6 (i) on collateral to notes of less than fifty thousand dollars (\$50,000);
7 (ii) on loans fully secured by obligations of the United States or the State of
8 North Carolina;
9 (iii) on loans fully secured by deposits in the bank maintaining the loan
10 account;
11 (iv) on loans fully secured by the cash surrender or loan value of life
12 insurance policies;
13 (v) on loans fully secured by bonded warehouse receipts;
14 (vi) on floor plan loans to dealers fully secured by ~~new automobiles,~~
15 ~~station wagons, vans, and trucks;~~ motor vehicles;
16 (vii) on discounted notes for a dealer where the note is given as the purchase
17 price of ~~an automobile~~ a motor vehicle or other consumer goods; or
18 (viii) on loans fully secured by listed securities, unless such loans are within
19 the provisions of the Securities Exchange Act of 1934 as defined by
20 Regulation "U," as amended from time to time by the Board of
21 Governors of the Federal Reserve System. On loans secured by such
22 collateral, ~~the appraisal must~~ shall be made and kept on file until the
23 loan is fully paid.
- 24 (d) Renewal Exceptions. Appraisals need not be renewed ~~annually~~ biennially where
25 ~~an automobile, station wagon, a motor vehicle or mobile home, or a truck or van~~
26 ~~not exceeding 8,000 pounds empty weight,~~ home is the sole or partial collateral
27 for a loan.
- 28 (e) Single Signature Exception. An appraisal may be performed and signed by only
29 one person where ~~an a motor vehicle or automobile, station wagon, mobile home,~~
30 ~~or a truck or van not exceeding 8,000 pounds empty weight,~~ home is the sole
31 collateral for a loan.
- 32 (4) Real Estate Appraisals. Unless otherwise provided, all real estate taken as security for
33 loans shall be appraised in the form and manner set forth in Sub-item (4)(a) through
34 (4)(c) of this Rule. In addition, the appraisal ~~must~~ shall be independent in that the
35 appraiser ~~is~~ shall not ~~be~~ involved in the loan transaction secured by the property being
36 appraised and ~~has~~ shall have no interest, financial or otherwise, in the ~~property;~~ property.

- 1 (a) The bank may elect to waive the requirement for an appraisal of real estate given
 2 as security for loans of fifty thousand dollars (\$50,000) or less. ~~Appraisals of~~
 3 ~~real estate given as security for loans over fifty thousand dollars (\$50,000), but~~
 4 ~~not exceeding two hundred fifty thousand dollars (\$250,000), whether directly~~
 5 ~~or indirectly pledged shall be prepared by any one of the following methods:~~
- 6 (b) Appraisals of real estate given as security for loans over fifty thousand dollars
 7 (\$50,000), but not exceeding two hundred fifty thousand dollars (\$250,000),
 8 whether directly or indirectly pledged as collateral shall be prepared by any one
 9 of the following methods:
- 10 (i) Two members of the executive or loan committee who are familiar with
 11 real estate values in the community where the property is located;
- 12 (ii) Two bank employees who are familiar with real estate values in the
 13 community where the property is located, provided that one of the two
 14 employees ~~must~~ shall not be involved in the loan transaction secured by
 15 the property being appraised;
- 16 (iii) A state-licensed real estate appraiser or state-certified real estate
 17 appraiser or a person certified as a real estate appraiser by an appraisal
 18 trade organization approved by the bank to perform the appraisal; or
- 19 (iv) In lieu of an appraisal as provided by Sub-items ~~(4)(a)(i)~~ 4(b)(i)
 20 through (iii) of this Rule, for loans less than two hundred fifty thousand
 21 dollars (\$250,000), a bank may elect to accept a copy of the most recent
 22 real property tax notice from the tax administrator's office in the county
 23 in which the property is located provided that such notice states the
 24 assessed ad valorem tax value of the real estate, and any improvements
 25 thereon, separate from the personal property; and ~~provided further,~~ the
 26 loan officer shall include with the tax notice a memorandum to file that
 27 he or she has obtained the notice from the county tax administrator and
 28 is of the opinion that such notice accurately reflects the real property
 29 values.
- 30 ~~(b)~~ (c) Except as noted, appraisals required by Sub-items ~~(4)(a)(i), (4)(b)(i),~~ (ii), and
 31 (iii) of this Rule shall be in writing, and signed and dated by the person or
 32 persons making the appraisal. Additionally, the appraisal ~~must~~ shall identify the
 33 loan transaction for which it was made; identify the current balance of any prior
 34 lien and the identity of the holder of the lien, if ~~any, disclosed by the attorney's~~
 35 ~~title certificate;~~ any; segregate values of improvements from values of the land;
 36 and describe the property so as to make it easily identifiable. If a professional
 37 appraisal form is used which does not include this information, the bank ~~must~~

1 shall complete and attach to such appraisal its own appraisal summary form
2 disclosing the required information. The appraisal ~~must~~ shall state the basis or
3 approach used to determine the value of the property. Acceptable approaches to
4 determining the value of real property are:

- 5 (i) ~~The~~ the current cost of replacing a property, less depreciation relating
6 to deterioration from functional or economic obsolescence;
- 7 (ii) ~~The~~ the value indicated by recent sales of comparable properties in the
8 market and other market factors such as listings and offers to sell; or
- 9 (iii) ~~The~~ the value that the property's net earning power will support, based
10 on a capitalization of net income.

11 ~~(e)~~ (d) All real estate given as security ~~to~~ for loans in an amount over two hundred fifty
12 thousand dollars (\$250,000), whether directly or indirectly pledged as collateral
13 shall be appraised and such appraisal shall be subject to the provisions of 12
14 C.F.R. 323.1 through 12 C.F.R. 323.7, which are herein hereby incorporated by
15 reference. Pursuant to G.S. 150B-21.6, any reference and hereby incorporated
16 by reference and includes subsequent to 12 C.F.R. 323.1 through 12 C.F.R.
17 323.7 shall automatically include any later amendments or additions to those
18 rules. additions.

19 (5) Certificate of Title. ~~For loans secured primarily by real property and only secondarily by~~
20 ~~the borrower's general credit worthiness and projected income, a certificate of title~~
21 ~~furnished by an attorney at law, or title insurance issued by a company licensed by the~~
22 ~~Commissioner of Insurance, or other insurance coverage that provides to the bank~~
23 ~~substantially similar protection against loss from title defects or errors/omissions at~~
24 ~~closing or other loan related risks, must accompany each deed of trust or mortgage given~~
25 ~~as security on loans of~~ A title opinion furnished by an attorney at law, a title report or title
26 insurance policy issued by a company licensed by the Commissioner of Insurance, or
27 other insurance coverage that provides the bank (substantially) similar protection against
28 loss from title defects, errors or omissions at closing, (and/or) or other loan-related risks,
29 shall be obtained in connection with each deed of trust or mortgage given as security on
30 each real estate-secured loan when:

31 (a) the loan is primarily secured by real property and only secondarily by the
32 borrower's general (credit-worthiness) credit-worthiness; and

33 (b) the amount of the loan secured by the real property is fifty thousand dollars
34 (\$50,000) or more.

35 (6) Stock Certificate/Powers. Where stock certificates, or similar negotiable securities, are
36 accepted as collateral ~~to loans, for a loan,~~ each certificate ~~must~~ shall be endorsed and
37 witnessed in ink, or accompanied by a stock power signed and witnessed in ink. Where

1 such collateral is in the name of ~~another~~, someone other than the maker or endorser of the
2 note, there ~~must~~ shall be on file in the bank written authority from the collateral owner
3 permitting the hypothecation of the collateral.

4 (7) Corporate Resolutions. ~~Loans~~ A loan made directly to ~~corporations~~ must a corporation
5 shall be supported by a certified ~~copies~~ copy of ~~resolutions~~ a resolution of the board of
6 directors of the corporation, authorizing the ~~making of such loans.~~ loan transaction.

7 (8) Partnership Declaration. ~~Loans~~ A loan made directly to ~~partnerships~~ must a partnership
8 shall be supported by a declaration ~~by~~ of the general partners showing the composition of
9 the partnership and unless all partners sign the note, the authority of the partner(s)
10 executing the note to bind the partnership.

11 (9) Limited Liability Company Certification. ~~Loans~~ A loan made directly to a limited
12 liability ~~companies~~ must company shall be supported by a certification of a manager
13 thereof that the loan is has been duly authorized ~~and is obtained for the carrying on in the~~
14 ~~usual way the business of the limited liability company.~~ by the limited liability company.

15 (10) Unlisted Securities. Full credit information on all unlisted securities, now owned or
16 hereafter purchased or acquired, ~~must~~ shall be ~~secured and~~ kept on file in the bank.

17
18 *History Note:* *Authority G.S. 53C-6-1; 53C-8-1; 12 U.S.C. §§ 3331, et seq.;*
19 *Eff. February 1, 1976;*
20 *Amended Eff. October 1, 2014; December 1, 2011; April 1, 2007; June 1, 1995; May 1,*
21 *1992; September 1, 1990; September 1, 1983.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Office of the Commissioner of the Banks

RULE CITATION: 04 NCAC 03C .1002

DEADLINE FOR RECEIPT: Friday, September 12, 2014

NOTE WELL: This request when viewed on computer extends several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this rule prior to the Commission's next meeting. The Commission has not yet reviewed this rule and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

Line 12, please properly track the publication and reflect the change accordingly. The publication was "~~which~~-which." Please review 26 NCAC 02C .0406(b)(2) for proper formatting. Please note that brackets should be used and not parentheses when reflecting text deleted after publication.

Lines 21 thru 22, consider re-writing as follows:

"where the bank determines and provides supporting documentation..."

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Abigail M. Hammond
Commission Counsel
Date submitted to agency: August 28, 2014

1 04 NCAC 03C .1002 is amended with changes as published in 28:21 NCR 2579 as follows:

2
3 **04 NCAC 03C .1002 LEASING OF PERSONAL PROPERTY**

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

- 8 (1) Before the acquisition thereof ~~upon the specific request and acquisition, upon the specific~~
9 request and for the use of the customer customer, the prospective lessee shall execute an
10 agreement to lease such property;
- 11 (2) During the minimum period of the lease, the terms of the lease shall require payment to
12 the bank by the lessee of rentals which that, in the aggregate will shall exceed the total
13 expenditures by the bank for or in connection with the ownership, maintenance, and
14 protection of the property. In determining the total expenditures under this Rule, a bank
15 may deduct a realistic residual value in determining the rentals to be charged during the
16 term of a lease agreement. Any unguaranteed portion of the estimated residual value
17 relied upon by the bank to calculate total expenditures under this ~~Regulation~~ Rule may
18 not exceed 25 percent of the original cost of the property to the lessor. The amount of
19 any estimated residual value guaranteed by a manufacturer, the lessee, or a third party,
20 which party that is not an affiliate of the bank, bank may exceed 25 percent of the
21 original cost of the property where the bank has determined, determined and can provide
22 full, full supporting documentation, documentation that the guarantor has the resources to
23 meet the guarantee;
- 24 (3) The total leasing obligations or rentals to any bank of any person, partnership,
25 association, ~~corporation, corporation~~, or limited liability company shall at no time exceed
26 the legal limit permitted by G.S. 53C-6-1;
- 27 (4) The overall investment of the bank in such property leased to all lessees shall at no time
28 exceed 200 percent of its capital;
- 29 (5) The bank shall at all times maintain adequate protection by way of insurance or
30 indemnity provided by the lessee;
- 31 (6) No such lease or other agreement shall obligate the bank to maintain, repair, or service
32 personal property in connection with any lease held by it;
- 33 (7) No personal property acquired pursuant to the ownership or lease of personal property
34 shall be included in the computable investment in fixed assets under G.S. 53C-5-2;
- 35 (8) Rental payments collected by the bank under lease arrangements shall be rent and shall
36 not be deemed to be interest or compensation for the use of money loaned;
- 37 (9) Upon expiration of any lease lease, whether by virtue of the lease agreement or by virtue
38 of the retaking of possession by the bank, such personal property shall be re-let, sold, ~~or~~

1 otherwise disposed of, or charged off within one year from the time of expiration of such
2 lease; and

3 (10) Upon written ~~request~~ request, the Commissioner of Banks may waive or modify any of
4 the foregoing restrictions. In evaluating such a request, the Commissioner of Banks shall
5 consider ~~such factors as:~~ the following factors:

6 (a) the bank's size, profitability, capital sufficiency, risk profile, market, and
7 operational capabilities, especially with a view towards the bank's involvement
8 in lease financing;

9 (b) current best practices of financial institutions engaged in lease financing;

10 (c) the nature, size, duration, aggregate amount, and other risks attendant to the
11 bank's lease financing ~~transactions;~~ transactions; and

12 (d) the risk of significant loss to the bank if the Commissioner of Banks does not
13 grant the request.

14

15 *History Note: Authority G.S. 53C-2-5; 53C-5-2; 53C-8-1;*

16 *Eff. February 1, 1976;*

17 *Amended Eff. October 1, 2014; January 1, 2013; April 1, 2007; September 1, 1990;*

18 *September 1, 1983; May 1, 1982.*

1 04 NCAC 03C .1402 is amended with changes as published in 28:21 NCR 2580 as follows:

2

3 **04 NCAC 03C .1402 BASIS FOR COMPUTATION AND MAINTENANCE**

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

11

12 *History Note: Authority 53C-4-11;*

13 *Eff. February 1, 1976;*

14 *Amended Eff. October 1, 2014; July 1, 1990; August 6, 1981.*

04 NCAC 03C .1601 is amended with changes as published in 28:21 NCR 2580 as follows:

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

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

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

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

- | | | |
|-----|---|---------|
| (1) | For Senior Administrative staff | \$75.00 |
| (2) | For an Examiner II <u>Senior Examination Staff</u> | \$50.00 |
| (3) | For an Examiner I <u>Financial Program Manager</u> | \$35.00 |
| (4) | For an Examiner Trainee <u>Financial Examiner</u> | \$25.00 |

(c) Unless otherwise stated, publications externally printed may be obtained at a cost equal to the actual cost of printing plus shipping and handling. All other publications or public record copies may be purchased at a price of two dollars (\$2.00) for the first page and twenty five cents (\$0.25) for each additional page. are available at the "actual cost" as defined in G.S. 132-6.2(b) for making the copy and mailing cost if applicable. The Office of the Commissioner of Banks shall provide its "actual cost" on the agency's website.

*History Note: Authority G.S.53C-3-1; 53C-5-2; 53C-7-101; ~~53C-7-102~~; 53C-7-201; 53C-7-207; 53C-7-301; 53C-10-102; 53C-10-103; 53C-10-201; 54B-34.2; 54C-47;
Eff. July 1, 1990;*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Office of the Commissioner of the Banks

RULE CITATION: 04 NCAC 03C .1702

DEADLINE FOR RECEIPT: Friday, September 12, 2014

NOTE WELL: This request when viewed on computer extends several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this rule prior to the Commission's next meeting. The Commission has not yet reviewed this rule and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

Line 17, the "and" seems out of place. Should it be deleted on this line and placed at the end of line 14?

Line 14, please review 26 NCAC 02C .0406(b)(2) for proper formatting. Please note that brackets should be used and not parentheses when reflecting text deleted after publication.

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Abigail M. Hammond
Commission Counsel
Date submitted to agency: August 28, 2014

1 04 NCAC 03C .1702 is amended with changes as published in 28:21 NCR 2581 as follows:

2
3 **04 NCAC 03C .1702 ESTABLISHMENT OF A ~~LOAN PRODUCTION OFFICE (LPO)~~ NON-**
4 **BRANCH BANK BUSINESS OFFICE (NBBO)**

5 (a) A ~~nonresident~~ bank may establish or relocate a ~~LPO~~ NBBO as defined in N.C. Gen. Stat. § 53C-1-
6 4(46) in North Carolina ~~under~~ upon giving written agreement with notice to the Commissioner which
7 provides that: Commissioner of Banks. The notice shall acknowledge:

- 8 (1) The ~~LPO~~ NBBO may be used to solicit loans, assemble credit information, make
9 property inspections and appraisals, complete loan applications, ~~and perform other~~
10 preliminary paper work in preparation for the making of ~~loans; loans, and provide~~
11 banking related services and products, other than the taking of deposits;
12 (2) Loans may not be approved ~~nor~~ and loan proceeds may not be disbursed through the
13 LPO; NBBO;
14 (3) The ~~LPO~~ NBBO may not be used to ~~solicit or~~ accept deposits;
15 (4) The ~~LPO~~ NBBO may be inspected by the Commissioner of Banks for compliance with
16 the written ~~agreement, notice, and~~ the cost of which the inspection shall be borne by the
17 ~~nonresident~~ bank; and
18 (5) ~~The nonresident bank will complete and keep current a Loan Production Office~~
19 ~~Registration with the Commissioner of Banks; and~~
20 (6) ~~If required by the Secretary of State, the LPO will obtain a certificate of authority to do~~
21 ~~business in North Carolina.~~

22 (b) The bank shall provide written notice to the Commissioner of Banks when relocating, or closing
23 any NBBO;

24 (c) If required by the Secretary of State, the NBBO ~~(will)~~ shall obtain a certificate of authority to do
25 business in North Carolina.

26
27 *History Note: Authority G.S. 53C-1-4(46); 53C-6-18; 53C-8-2(3);*

28 *Eff. June 1, 1995. 1995;*

29 *Amended Eff. October 1, 2014.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Office of the Commissioner of the Banks

RULE CITATION: 04 NCAC 03C .1801

DEADLINE FOR RECEIPT: Friday, September 12, 2014

NOTE WELL: This request when viewed on computer extends several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this rule prior to the Commission's next meeting. The Commission has not yet reviewed this rule and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

Lines 7, 9, 17, and 20, please review 26 NCAC 02C .0406(b)(2) for proper formatting. Please note that brackets should be used and not parentheses when reflecting text deleted after publication.

Line 7, replace the colon after "seq." with a semicolon

Line 7, please note that the term "et seq." should not be italicized OAH publication staff has informed RRC counsel that italicized text is not used in the NCAC.

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Abigail M. Hammond
Commission Counsel
Date submitted to agency: August 28, 2014

1 04 NCAC 03C .1801 is amended with changes as published in 28:21 NCR 2581 as follows:

2
3 **04 NCAC 03C .1801 ESTABLISHMENT OF COURIER SERVICES**

4 ~~(a) Generally.~~ A state bank may provide a courier or messenger service to its customers ~~provided that~~
5 only if:

6 (1) the bank complies with the requirements imposed by the Private Protective Services Act G.S.
7 74C-1. ~~(Et. Seq.)~~ *et seq.*; and

8 (2) a written agreement between the bank and the customers contains the ~~items in Paragraph (b) of~~
9 this Rule. following ~~(items.)~~ statements:

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

- 11 (a) A a statement that the courier is the agent of the customer and not the agent of the
12 ~~bank. bank;~~
- 13 (b) A statement that deposits collected by the courier or messenger are received by the
14 bank when the deposits have actually been delivered to a teller at the bank's
15 ~~premises. premises or a location that is eligible and designated by the bank to receive~~
16 deposits;
- 17 (c) (A statement which indicates that) that negotiable instruments collected by the
18 courier or messenger are paid at the bank when delivered to the courier or
19 ~~messenger. messenger; and~~
- 20 (d) (An) an acknowledgment by the customer that transactions conducted by a courier
21 service are not insured by the FDIC.

22
23 *History Note: Authority G.S. 53C-5-1; 53C-8-1;*
24 *Eff. June 1, 1995. 1995;*
25 *Amended Eff. October 1, 2014.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Office of the Commissioner of the Banks

RULE CITATION: 04 NCAC 03C .1802

DEADLINE FOR RECEIPT: Friday, September 12, 2014

NOTE WELL: This request when viewed on computer extends several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this rule prior to the Commission's next meeting. The Commission has not yet reviewed this rule and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

Add a space between lines 3 and 4.

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Abigail M. Hammond
Commission Counsel
Date submitted to agency: August 28, 2014

1 04 NCAC 03C .1802 is repealed as published in 28:21 NCR 2581 as follows:

2

3 **04 NCAC 03C .1802 COMPLIANCE AND DISCLOSURE REQUIREMENTS**

4 *History Note: Authority G.S. 53C-5-1; 53C-8-1;*

5 *Eff. June 1, 1995.*

6 *Repealed Eff. October 1, 2014.*