

Article 11.

Industrial Banks.

§ 53-136. Industrial bank defined.

The term "industrial bank," as used in this Article shall be construed to mean any corporation organized or authorized under this Article which is engaged in receiving, soliciting or accepting money or its equivalent on deposit and in lending money to be repaid in weekly, monthly, or other periodical installments or principal sums as a business: Provided, however, this definition shall not be construed to include building and loan associations, commercial banks, or credit unions. (1923, c. 225, s. 1; C.S., s. 225(a); 1945, c. 743, s. 1.)

§ 53-137. Manner of organization.

Any number of persons, not less than five, may organize an industrial bank by setting forth in a certificate of incorporation, under their hands and seals, the following:

- (1) The name of the industrial bank.
- (2) The location of its principal office in this State.
- (3) The nature of its business.
- (4) The amount of its authorized capital stock which shall be divided into shares of ten (\$10.00), twenty (\$20.00), twenty-five (\$25.00), fifty (\$50.00) or one hundred dollars (\$100.00) each: Provided, fractional shares may be issued for the purpose of complying with the requirements of G.S. 53-88.
- (5) The names and post-office addresses of subscribers for stock, and the number of shares subscribed by each. The aggregate of such subscription shall be the amount of the capital with which the industrial bank will begin business.
- (6) Period, if any, limited for the duration of the industrial bank.

This section shall not apply to banks organized and doing business prior to the adoption of this section. (1923, c. 225, s. 2; C.S., s. 225(b); 1945, c. 743, s. 1.)

§ 53-138. Corporate title.

Every corporation incorporated or reorganized pursuant to the provisions of this Article shall be known as an industrial bank, and may use the word "bank" as part of its corporate title. (1923, c. 225, s. 3; C.S., s. 225(c).)

§ 53-139. Capital stock.

The amount of capital stock with which any industrial bank shall commence business shall not be less than fifty percent (50%) of that which would be required of a commercial bank under the provisions of G.S. 53-2. (1923, c. 225, s. 4; C.S., s. 225(d); 1967, c. 789, s. 18.)

§ 53-140. Sales of capital stock; accounting; fees.

The capital stock sold by any industrial bank in process of organization, or for an increase of the capital stock, shall be accounted for to the bank in the full amount paid for the same. No commission or fee shall be paid to any person, association, or corporation for selling such stock. The Commissioner of Banks shall refuse authority to commence business to any industrial bank where commissions or fees have been paid, or have been contracted to be paid by it, or by anyone in its behalf to any person, association, or corporation for securing subscriptions for or selling stock in such bank. (1923, c. 225, s. 5; C.S., s. 225(e); 1931, c. 243, s. 5.)

§ 53-141. Powers.

Industrial banks shall have perpetual duration and succession in their corporate name unless a limited period of duration is stated in their certificate of incorporation. They shall have the powers conferred by subdivisions (1), (2), and (3) of subsection (a) of G.S. 55-3-02, and subdivision (3) of G.S. 53-43, such additional powers as may be necessary or incidental for the carrying out of their corporate purposes, and in addition thereto the following powers:

- (1) To discount and negotiate promissory notes, drafts, bills of exchange and other evidences of indebtedness, and to loan money on real or personal security, and to purchase notes, bills of exchange, acceptances or other choses in action, and to take and receive interest or discounts subject to G.S. 53-43(1).
- (2) To make loans and charge and receive interest at rates not exceeding the rates of interest provided in G.S. 24-1.1.
- (3) To establish branch offices or places of business within the county in which its principal office is located, and elsewhere in the State, after having first obtained the written approval of the Commissioner of Banks, which approval may be given or withheld by the Commissioner of Banks in his discretion. The Commissioner of Banks, in exercising such discretion, shall take into account, but not by way of limitation, such factors as the financial history and condition of the applicant bank, the adequacy of its capital structure, its future earnings prospects, and the general character of its management. Such approval shall not be given until he shall find
 - a. That the establishment of such branch or limited service facility will meet the needs and promote the convenience of the community to be served by the bank, and
 - b. That the probable volume of business and reasonable public demand in such community are sufficient to assure and maintain the solvency of said branch or limited service facility and of the existing bank or banks in said community.

Provided, that the Commissioner of Banks shall not authorize the establishment of any branch the paid-in capital of whose parent bank is not sufficient in amount to provide for capital in an amount equal to that required with respect to the establishment of branches of commercial banks under the provisions of G.S. 53-62. For the purposes of this paragraph, the provisions of G.S. 53-62 as to the meaning of the word "capital" shall be applicable.

A bank may discontinue a branch office upon resolution of its board of directors. Upon the adoption of such a resolution, the bank shall follow the procedures for closing a branch as set forth at G.S. 53-62(e). No branch shall be closed until approved by the Commissioner of Banks.

- (4) Subject to the approval of the Commissioner of Banks and on the authority of its board of directors, or a majority thereof, to enter into such contract, incur such obligations and generally to do and perform any and all such acts and things whatsoever as may be necessary or appropriate in order to take advantage of any and all memberships, loans, subscriptions, contracts, grants, rights or privileges, which may at any time be available or inure to banking institutions, or to their depositors, creditors, stockholders, conservators, receivers or liquidators, by virtue of those provisions of section eight of the Federal Banking Act of 1933

(section twelve B of the Federal Reserve Act as amended) which establish the Federal Deposit Insurance Corporation and provide for the insurance of deposits, or of any other provisions of that or any other act or resolution of Congress to aid, regulate or safeguard banking institutions and their depositors, including any amendments of the same or any substitutions therefor; also, to subscribe for and acquire any stock, debentures, bonds or other types of securities of the Federal Deposit Insurance Corporation and to comply with the lawful regulations and requirements from time to time issued or made by such corporations.

- (5) To solicit, receive and accept money or its equivalent on deposit both in savings accounts and upon certificates of deposit.
- (6) Subject to the approval of the State Banking Commission, to solicit, receive and accept money or its equivalent on deposit subject to check; provided, however, no such approval shall be given unless and until such industrial bank meets the capital requirements of a commercial bank as set forth in G.S. 53-2.
- (7) To transact any lawful business in aid of the United States in time of war or engagement of the Armed Forces of the United States in hostile military operations. (1923, c. 225, s. 6; C.S., s. 225(f); 1925, c. 199, s. 1; 1931, c. 243, s. 5; 1935, c. 81, s. 2; 1939, c. 244, ss. 1, 2; 1943, c. 233; 1945, c. 283; 1949, c. 952, ss. 1, 2; 1959, c. 365; 1967, c. 789, s. 19; 1969, c. 1303, ss. 10-12; 1995, c. 129, s. 26; 1995 (Reg. Sess., 1996), c. 742, s. 20; 2011-183, s. 41; 2018-142, s. 6(c).)

§ 53-142. Restriction on powers.

No industrial bank shall deposit any of its funds in any banking corporation unless such corporation has been designated as such depository by a vote of a majority of the directors, or of the executive committee, exclusive of any director who is an officer, director, or trustee of the depository so designated, present at any meeting duly called at which a quorum is in attendance, and approved by the Commissioner of Banks. (1923, c. 225, s. 7; C.S., s. 225(g); 1931, c. 243, s. 5; 1937, c. 220.)

§ 53-143. Investments; securities; loans; limitations.

The provisions of G.S. 53-46, 53-48 and 53-49, with reference to the limitations of investments in securities, limitations of loans and suspensions of investment and loan limitations, shall be applicable to industrial banks. (1923, c. 225, s. 8; C.S., s. 225(h); 1945, c. 127, s. 2.)

§ 53-144. Supervision and examination.

Every industrial bank now or hereafter transacting the business of an industrial bank as defined by this Article, whether as a separate business or in connection with any other business under the laws of and within this State, shall be subject to the provisions of this Article, and shall be under the supervision of the Commissioner of Banks. The Commissioner of Banks shall exercise control of and supervision over the industrial banks doing business under this Article, and it shall be his duty to execute and enforce, through the State bank examiners and such other agents as are now or may hereafter be created or appointed, all laws which are now or may hereafter be enacted relating to industrial banks as defined in this Article. For the more complete and thorough enforcement of the provisions of this Article, the State Banking Commission is hereby empowered to promulgate such rules, regulations, and instructions, not inconsistent with the provisions of this Article, as may, in

its opinion, be necessary to carry out the provisions of the laws relating to industrial banks as in this Article defined, and as may be further necessary to insure such safe and conservative management of industrial banks under the supervision of the Commissioner of Banks as may provide adequate protection for the interest of creditors, stockholders, and the public, in their relations with such institutions. All industrial banks doing business under the provisions of this Article shall conduct their business in a manner consistent with all laws relating to industrial banks, and all rules, regulations and instructions that may be promulgated or issued by the State Banking Commission. (1923, c. 225, s. 11; C.S., s. 225(k); 1931, c. 243, s. 5; 1939, c. 91, s. 2.)

§ 53-145. Sections of general law applicable.

Sections 53-1, 53-3, 53-4, 53-5, 53-6, 53-7, 53-8, 53-9, 53-10, 53-11, 53-12, 53-13, 53-18, 53-20, 53-22, 53-23, 53-42, 53-42.1, 53-47, 53-50, 53-51, 53-54, 53-63, 53-64, 53-67, 53-68, 53-70, 53-71, 53-73, 53-78, 53-79, 53-80, 53-81, 53-82, 53-83, 53-85, 53-87, 53-88, 53-90, 53-91.2, 53-91.3, 53-105, 53-106, 53-107, 53-108, 53-109, 53-110, 53-111, 53-112, 53-117, 53-118, 53-119, 53-120, 53-121, 53-122, 53-123, 53-124, 53-125, 53-126, 53-128, 53-129, 53-132, 53-133, 53-134, relating to the supervision and examination of commercial banks, shall be construed to be applicable to industrial banks, insofar as they are not inconsistent with the provisions of this Article. Sections 53-19, 53-24, 53-37, 53-39, 53-40, 53-41, 53-44, 53-45, 53-61, 53-75, 53-76, 53-77, 53-86, 53-113, 53-114, 53-115, 53-116, 53-135, 53-146, and 53-148 through 53-158, relating to commercial banks, shall be construed to be applicable to industrial banks. (1923, c. 225, s. 13; C.S., s. 225(m); 1927, c. 141; 1939, c. 244, s. 3; 1945, c. 743, s. 1; 1981, c. 671, s. 14; 1995, c. 129, s. 27.)