



HOUSE BILL 144: Credit Union/Trust Institution Changes.

2017-2018 General Assembly

Committee:		Date:	September 27, 2017
Introduced by:		Prepared by:	Amy Darden Staff Attorney
Analysis of:	S.L. 2017-25		

OVERVIEW: *S. L. 2017-25 does the following:*

- *Includes credit unions and trust institutions among the financial institutions that are permitted to hold funds in escrow or on deposit in various statutes.*
- *Extends from annually to 18 months the period between the examinations of credit unions by the Administrator.*
- *Corrects a citation.*

This act became effective June 2, 2017.

CURRENT LAW: There are a variety of statutes that require funds in certain situations to be held in escrow or otherwise on deposit with a bank, a savings and loan, or a trust company. There are also situations where a bank may be required to execute an assignment of a savings account or certificate of deposit when the account holder is seeking to use the assignment as an alternative to a guaranty bond. These situations include the following:

- In an interpleader action, where funds are subject to competing claims by parties to the action, the court may order the party in possession of the funds to deposit those funds in a bank.
- In an auctioneer's handling of client funds.
- When a person exercises the alternative to providing a guaranty bond by assigning a savings account or CD, which must be executed by the bank. There are certain professions or entities, listed below, that are required to provide a guaranty bond in order to main licensure or accreditation or otherwise engage in the profession. If the person is unable to secure a guaranty bond, an acceptable alternative is the assignment of a savings account or a certificate of deposit duly executed by both the applicant and the bank.
 - Commission contractors (*Section 1(b)*)
 - Barber schools (*Section 1(f)*)
 - Cosmetic art schools (*Section 1(g)*)
 - Nurse's aide training programs¹ (*Section 1(h)*)
- The Board of Funeral Service requires mutual burial associations to invest excess funds over and above their operating capital in certain investment instruments.

¹ This requirement does not apply to nurse's aide training programs operated by the UNC System, institutions of the NC Community College System, public high schools, or hospital authorities acting under G.S. 131E-23(31).

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- There are several real estate transactions requiring certain funds or payments to be deposited into a trust account:
 - The Real Estate Commission is authorized to set aside an expense reserve and may deposit funds in accounts, CDs, or time deposits. *(Section 1(j))*
 - Purchaser payments for time shares. *(Section 1(k) and (l))*
 - Security deposits from a tenant for a residential dwelling. *(Section 2(a))*
 - Security deposits or other advance payments for a vacation rental. *(Section 1(c) and 2(b))*
 - Deposits made in connection with the purchase or reservation of a condominium. *(Section 2(c))*

Under current law, credit unions are not identified as permissible depository institutions for these transactions because they are not considered a "bank, savings and loan, or a trust company." Credit unions are nonprofit organizations and are structured differently than banks. However, both banks and credit unions are insured up to \$250,000 by the full faith and credit of the United States through the Federal Deposit Insurance Corporation and the National Credit Union Administration. Prior to December 2014, funds in escrow accounts at credit unions were not considered insured unless both parties were members of the credit union. Federal law was changed in December 2014 in the Credit Union Share Insurance Fund Parity Act to extend insurance coverage to escrow accounts.

BILL ANALYSIS:

Section 1 makes the same amendment to various statutes, as described above, that list the institutions in which funds are required to be deposited. Specifically, it changes the phrase "*bank, savings and loan, or trust company*" to "*federally insured depository institution or a trust institution authorized to do business in this State,*" which has the effect of including credit unions. The statutes being amended cover interpleader actions, Division of Motor Vehicle contractors, vacation rentals and timeshares, auctions, Real Estate Commission deposits, certain occupational licensing and proprietary schools, and mutual burial associations.

Section 2 amends three different statutes, involving tenant deposits and first-time condominium purchaser deposits, to include trust institutions. S.L. 2015-93 added the phrase "*federally insured depository institution lawfully doing business in this State*" to these statutes but did not include trust institutions at that time.

Section 3 corrects an incorrect statutory citation regarding inoperative trusts.

Section 4 allows the Administrator of Credit Unions to examine credit unions every 18 months instead of the current annual examination requirement. This change is at the request of the North Carolina Credit Union Division's Administrator. The Administrator may still review any credit union at any time, but this changes the minimum frequency to 18 months. This requirement mirrors the time frame for banks.

EFFECTIVE DATE: This act became effective June 2, 2017.