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I. INTRODUCTION

As we enter the final year of this millennium, North Carolina’s position as a leader in American finance is stronger than ever. Charlotte, North Carolina’s largest feather in its financial institution cap, rose above San Francisco to become the second-largest banking center in the United States in 1997, now trailing only New York City in total assets held by financial institutions headquartered in these cities. Enormous transactions such as First Union Corp.’s (First Union) acquisition of CoreStates Financial Corporation fueled the growth in 1997, and the 1998 merger of NationsBank and Bank of America creating the nation’s first coast-to-coast bank will add to North Carolina’s influence in the banking industry. Although headline-grabbers like the NationsBank—Bank of America merger accent North Carolina’s impressive growth, strategic moves by smaller banks and innovation by community banks throughout the state have also contributed to the strengthening of North Carolina’s position as a

1. See Debora Vrana, Charlotte: A New U.S. Behemoth of Banking, L.A. TIMES, May 28, 1998, at A1, available in 1998 WL 2431476. At the end of 1997, the total assets held by institutions in Charlotte was $845 billion, falling well short of New York’s assets, which totaled $1.8 trillion. See id. Nevertheless, Charlotte is ahead of the next group of financial centers. Columbus, Ohio, totaled $267 billion, San Francisco had $240 billion, Boston had $220 billion, and Cleveland had $210 billion. See id. Moreover, North Carolina is home to seven of the top 100 banking corporations in terms of market capitalization. See Top 100 Banking Companies in Market Capitalization AM. BANKER, Jan. 11, 1999, at 31. Only New York state and Ohio have more top 100 banking companies headquartered in their states: New York has ten, and Ohio has nine. See id.

2. See Paul Nowell, Charlotte Banks on Its Attitude, PIT. POST-GAZETTE, Sept. 27, 1998, at F11, available in 1998 WL 14505011. First Union’s acquisition of CoreStates was a $17.1 billion deal, which pole-vaulted First Union into position as the nation’s sixth largest bank with $220 billion in total assets. See id. For a discussion on the NationsBank—Bank of America merger, see infra notes 10-38 and accompanying text.
North Carolina financial institutions of all sizes and types generally experienced a healthy and prosperous 1998, building on what has already been a prosperous decade for banking in this state. This review discusses the major developments in the North Carolina banking industry during 1998. It surveys the activities of large- and medium-sized banks in their quest for growth and development, first considering the mergers and acquisitions, followed by a discussion of banks' continued expansion into securities and insurance activities. Next, this review surveys the novelty and creativity occurring in North Carolina community banks. This review then briefly discusses the activities of credit unions. Finally, this review considers developments in banking on the Internet. As has been said with similar emphasis in previous volumes of this publication, the activities surveyed here may reflect only the activities of North Carolina financial institutions, but the types of activities and patterns discussed generally are occurring in comparable forms across the country.

II. GROWTH CONTINUES FOR LARGE- AND MEDIUM-SIZED BANKS

A. Mergers and Acquisitions

A review of North Carolina banking issues could not begin anywhere except with NationsBank's merger with BankAmerica. The

3. See infra notes 78-117 and accompanying text.
4. See GAO Study Shows Positive Growth For North Carolina Credit Unions, Banks, 70 Banking Rep. (BNA) 315 (Feb. 23, 1998) (citing North Carolina Banks, Savings Institutions, Credit Unions, and AT&T Family Federal Credit Union (GAO/GGD-98-55R)). During the period from December 31, 1991, through December 31, 1996, North Carolina depository institutions, except savings institutions, experienced increases in net income, assets, and deposits. See id. During the five-year stretch, North Carolina banks saw a 141% growth in income, an 82% increase in assets (not including NationsBank), and a 42% jump in deposits (excluding NationsBank). See id.
5. See infra notes 10-77 and accompanying text.
6. See infra notes 78-117 and accompanying text.
7. See infra notes 118-47 and accompanying text.
8. See infra notes 148-68 and accompanying text.
merger, which was announced in April and consummated in October, created a banking giant with more than $570 billion in assets, franchises in twenty-two states and the District of Columbia, and 14,000 automated teller machines. The merger temporarily produced the largest bank in the United States, and the third largest bank in the world. The resulting holding company and bank will eventually bear the name of the West Coast operations, Bank of America, but the nationwide transition to the new corporate name will be gradual, lasting into the year 2000. Although the San Francisco name was retained, the new megabank is headquartered in Charlotte.

The new Bank of America has already tackled some difficult dilemmas regarding the merger, but more questions lie directly ahead. In June, Texas banking regulators accused NationsBank executives of transferring deposits from Dallas branches to corporate headquarters in Charlotte. The regulators believed that NationsBank, the largest lender in Texas, attempted to bypass a Texas law that prevents one bank from controlling a particular market through acquisition of another bank by artificially decreasing its deposit levels in Dallas. Although the Texas regulators intended to raise the concentration issue with the Federal Reserve Board (FRB) and request that the new bank

15. See Elkins, Search Traveled Familiar Road, supra note 14, at 1.
16. See Bank Merger Receives Final Approval, supra note 13, at 4D.
18. See id.
divest some of its branches, the FRB apparently did not find the Texas issue to be cause for halting the merger.

More recently, the effect of Bank of America’s workforce reduction has caused concern in California over the Charlotte regime’s commitment both to California and to promoting diversity in the banking business. First, the president of the new Bank of America, David Coulter, who was formerly the chief executive officer (CEO) and chairman of the California-based BankAmerica, and who appeared to be NationsBank CEO Hugh McColl’s heir-apparent, resigned just weeks after the merger was announced. The ax continued to fall on California executives: eleven of the top thirteen left the new Bank of America before 1998 ended. McColl had promised Californians a merger of equals, but the systematic removal of California executives and replacement with NationsBank insiders gave Californians a different view.

19. See id.
McColl's image as "a businessman with an iron fist and a heart of stone" also raised questions about the new bank's business practices, particularly lending practices, in California.\(^{27}\) Especially concerned were community groups seeking firm commitments from Bank of America to allocate resources to low-income and minority communities on the West Coast.\(^{28}\) McColl refused to sign specific community lending agreements, which went against the common practices of California banks following mergers.\(^{29}\) Community groups feared that the progressive approach taken by the California bank executives on diversity in lending would be replaced with NationsBank's conservative approach.\(^{30}\) Although Bank of America community banking executives have expressed their firm commitment to California,\(^{31}\) community groups believe that California will get the short end of the deal unless state political leaders act quickly to preserve what remains of the California-based operations.\(^{32}\)

Questions about the megabank's commitment to diversity inside the company have arisen as well. The new bank replaced or demoted the ten highest-ranking female executives at the old BankAmerica with NationsBank personnel.\(^{33}\) Shortly thereafter, the old BankAmerica's director of corporate diversity, Valerie Crane, departed as well. Ms. Crane was well recognized for her aggressive programs to eliminate workplace discrimination.\(^{34}\) Male executives have also resigned or been demoted, but women have seemingly been

\(^{27}\) Id.

\(^{28}\) See Sam Zuckerman, New B of A Confronts Critics at State Hearing, S.F. CHRON., Dec. 1, 1998, at C2, available in 1998 WL 3929162. One community group leader expressed his concern that Coulter's departure is an indication that the new Bank of America may not be willing to recognize the aggressive community reinvestment strategy followed by the old BankAmerica. See id. Some San Francisco community leaders see NationsBank's previous actions, especially the Barnett Banks merger, as an indication of things to come, and the potential of the new Bank of America eliminating the community programs of the old BankAmerica is cause for alarm. See id.

\(^{29}\) See Zuckerman, McColl Wins Points in State, supra note 26, at D1.

\(^{30}\) See id.

\(^{31}\) See Seiberg, Capital Briefs: B of A is Challenged on Calif. Commitment, supra note 21, at 3.


hit disproportionately hard.\textsuperscript{35} In response, Bank of America stated that the number of women leaving the company does not reflect a pattern of bias; rather, each woman made her decision personally, perhaps taking advantage of the opportunity to receive a large severance package.\textsuperscript{36} Furthermore, bank executives stress that the values important to the old BankAmerica remain important to the new group of executives, asserting that Bank of America will be an "inclusive meritocracy."\textsuperscript{37} The marriage of these megabanks with very different leadership styles has already been a bumpy ride for some, particularly community groups in California and female executives, and whether any of the old BankAmerica's style survives is an investigation left for future volumes.\textsuperscript{38} 

NationsBank, however, was not the only bank to make headline news. First Union also made a substantial acquisition in 1998, although its purchase was slightly more unusual than NationsBank's merger with Bank of America.\textsuperscript{39} First Union purchased The Money Store, the largest small-business and home mortgage lender in the United States, for $2.1 billion.\textsuperscript{40} The acquisition will allow First Union, which currently does not extend large quantities of credit to those who do not qualify for traditional bank loans,\textsuperscript{41} to broaden its customer base by offering banking products from the Money Store to customers whose credit-risk would otherwise be out of serviceable range for First Union.\textsuperscript{42} The move is the latest in a series of acquisitions demonstrating First Union's strategy of becoming a


\textsuperscript{36} See Zuckerman, \textit{B of A Loses Diversity Champion}, supra note 34, at B1.


\textsuperscript{39} See Peter Pae, \textit{1st Union to Buy Money Store}, WASH. POST, Mar. 5, 1998, at E03. Because of the unique nature of First Union's acquisition of the Money Store, the acquisition and the risks involved are treated in depth in a student article appearing later in this volume. See Evan Gilreath, Note, \textit{The Entrance of Banks Into Subprime Lending: First Union and The Money Store}, 3 N.C. BANKING INST. 149 (1998).

\textsuperscript{40} See id.


“one-stop financial supermarket,” offering more than just what a bank could offer. First Union’s aggressive expansion into “subprime lending” exposes the bank to higher risk, but recent developments in finance, such as securitization of the loans, have created ways for banks to minimize their exposure to that risk.

The largest banks were not the only ones to expand during 1998. Winston-Salem-based BB&T continued its expansion into Virginia with the purchase of MainStreet Financial (MainStreet), the third largest bank based in Virginia. The deal added $2 billion in assets and 46 branches to BB&T’s $32.1 billion in assets and 512 offices throughout the Southeast. The acquisition of MainStreet is BB&T’s fifth acquisition in Virginia since 1995. BB&T has focused its acquisitions on banks that are larger but still focus on customer service and loyalty, a recipe that BB&T feels has worked for it all along. Purchases like MainStreet are part of BB&T’s overall plan to raise its presence in Virginia to the same size and strength as it maintains in North and South Carolina.

Centura Banks (Centura), North Carolina’s eighth largest

43. Pae, supra note 39, at E03. First Union recently purchased CoreStates Financial Group for $16 billion, making First Union the largest bank on the eastern seaboard. See id. In addition, First Union completed its purchase of Wheat First Butcher Singer (Wheat), an investment bank, for $491 million. See id. The acquisition of Wheat propelled First Union into the top ten largest brokerage firms in the United States. See id.

44. Subprime lending is the term used to describe the riskier activity of lending to those with less-than-perfect credit records. See, e.g., Pae, supra note 39, at E03; Brooks & Frank, supra note 42, at A3.

45. See Pae, supra note 39, at E03.


47. See id.


49. See Bickley, BB&T Buys in Virginia, supra note 46, at D6.

50. See BB&T to Purchase Virginia Bank, supra note 48, at B5. See also BB&T, BB&T to Acquire MainStreet of Martinsville, Va., Press Release (August 27, 1998) (visited Jan. 13, 1999) <http://www.bbandt.com/UserASP>. BB&T has focused on banks with assets ranging from $250 million to $2 billion, and still sees opportunity in Virginia within this range. See Bickley, BB&T Buys in Virginia, supra note 47, at D6.

51. See Bickley, BB&T Buys in Virginia, supra note 46, at D6. BB&T was first in deposits in North Carolina until recently. See id. The Federal Deposit Insurance Corporation reported in January of this year that NationsBank (Bank of America) maintains the biggest market share in North Carolina, a ranking that NationsBank never before held in the 1990s. See Kelly Greene, With a Little Help, NationsBank is No. 1 at Home, WALL ST. J., Jan. 13, 1999, at S2.
made two notable acquisitions last year. Early in 1998, Centura announced its plans to purchase Pee Dee State Bank (Pee Dee), a very small bank based in Timmonsville, South Carolina. Pee Dee has six branches and assets of $141 million. Centura plans to keep all branches open and continue with business as usual. This move is Centura’s first into South Carolina, but the move is consistent with Centura’s overall strategy of expanding into adjoining markets. Like BB&T, Centura strengthened its presence in Virginia. In its second major acquisition of 1998, Centura agreed to purchase First Coastal Bankshares, a community bank based in Virginia Beach, for $117 million in stock. The acquisition added 17 branches to Centura’s 210 branches and $578 million in assets.

In sum, North Carolina banks are changing the shape of the industry with their acquisitions of other financial institutions. The largest banks continue to expand into far-reaching markets and customer bases. The regional banks, refusing to be overshadowed by the biggest banks, are maintaining a strong position in the Southeast. While such expansion into traditional banking business exploits the provisions of Riegle-Neal, North Carolina banks are also exploring the opportunities available in nonbanking activities.


53. See Kane, supra note 52, at D1.

54. See id.

55. See id.

56. See id.

57. Centura entered the Virginia market in 1996 through a deal to open branches in Hannaford supermarkets. See id.


59. See Bickley, BB&T Buys in Virginia, supra note 46, at D6.

B. Expansion into Securities and Insurance Activities

To survive in the competitive Southeastern banking marketplace, small- and medium-sized banks must provide unique services to keep their customers from looking elsewhere for financial services. Faced with increasing competition from the Charlotte megabanks that are able to provide virtually any financial service that their customers request, including raising capital and accessing equity markets, BB&T decided to follow the old adage, "if you can’t beat ‘em, join ‘em." Last year, BB&T joined the club of full-service financial institutions by acquiring Virginia brokerage house Scott & Stringfellow.\(^6\) BB&T’s product line now includes stock underwriting and corporate finance,\(^6\) two sophisticated investment products aimed at business customers that BB&T could not offer before the acquisition.\(^6\) BB&T’s purchase of Scott & Stringfellow is an example of a trend that has accelerated over the last two years: banks are beginning to purchase brokerage houses to enhance their investment banking services.\(^6\) Typically, only the megabanks had a strong enough customer base to participate in the trend.\(^6\) Nevertheless, medium-sized BB&T determined that its steady growth over the past year presented a grand opportunity to join in, combining BB&T’s commercial business with Scott & Stringfellow’s investment banking activities.\(^6\) BB&T closed the deal for $131 million in August, assuming more than $10 billion in assets that Scott & Stringfellow managed.\(^6\)

Wachovia also joined in the trend. In late October, Wachovia


\(^{62}\) See Campbell, supra note 61, at B5.


\(^{64}\) See id.

\(^{65}\) See Campbell, supra note 61, at B5. Both First Union and NationsBank (Bank of America) purchased brokerage houses recently. See Bickley, BB&T Goes For Brokerage, supra note 63, at D1.

\(^{66}\) See Campbell, supra note 61, at B5.

\(^{67}\) See Bickley, BB&T Goes For Brokerage, supra note 63, at D1.
announced its purchase of Interstate/Johnson Lane, Inc. (IJL), a full-service securities brokerage and investment banking company based in Charlotte, for $230 million in stock.\(^6\) Wachovia acquired 63 brokerage offices in Virginia, the Carolinas, and Georgia, along with 457 brokers.\(^6\) Wachovia has been looking for opportunities to move into new markets and offer new investment products.\(^7\) Like BB&T, Wachovia felt pressured to diversify its business, and an acquisition of a firm such as IJL fills Wachovia’s investment banking skill gap.\(^7\) So long as banks like Wachovia and BB&T face competition for customers not only from Wall Street but also from regional commercial banks, more North Carolina banks are likely to follow Wachovia and BB&T by buying investment banking firms.\(^7\)

Expanding in a different direction was Centura Bank, which completed its purchase of one of the largest independent insurance agencies in the Triangle, Moore & Johnson Agency, Inc. (Moore & Johnson) last January.\(^7\) Centura is a newcomer to the insurance business, beginning operations in 1997 with its purchase of the Rocky Mount firm Betts & Company and following up with this acquisition of Moore & Johnson.\(^7\) Centura’s continued development of its insurance subsidiary is another example of large- and medium-sized banks diversifying their operations to remain competitive: BB&T, Wachovia, First Union, and Bank of America are all enlarging their insurance agency activities.\(^7\) Independent insurance agents like Moore & Johnson typically aggressively fought against banks entering the market as agents, but this agency saw an opportunity to make perpetuation of the business more certain.\(^7\) Centura needed to learn a


\(^7\) See Wachovia to Buy Brokerage, supra note 68, at B7.

\(^8\) See Wachovia to Buy Brokerage, supra note 68, at B7.


\(^10\) See id.

\(^11\) See id.

\(^12\) See Wachovia to Buy Brokerage, supra note 68, at B7.


\(^14\) See id.

\(^15\) See id.

\(^16\) See id. Independent agents argue that banks have substantial access to information about customers’ businesses and lifestyles, and will therefore have an unfair advantage
great deal about insurance in a short period of time, and it believed that acquiring a solid, knowledgeable insurance agency like Moore & Johnson would allow Centura to progress to the next level of business at a more rapid pace.77

In sum, the larger North Carolina banks diversified their businesses during 1998, using their subsidiaries to engage in frontier nonbanking activities like investment banking and insurance agency. These banks are subscribing to the philosophy that they must provide a supermarket of financial instruments to their customers. If they do not compete in the financial services marketplace, at a minimum they risk losing customers to competitors who offer more options, or at worst, they may potentially be acquisition targets. Thus, expansion and diversification were the buzzwords among larger North Carolina banks in 1998.

III. THE INNOVATION OF COMMUNITY BANKS

Small North Carolina banks found a variety of ways to spread their wings in 1998. Following the example set by its larger cousins, Raleigh-based Capital Bank (Capital) captured headlines when it joined the mergers and acquisitions club. The bank opened in 1997 as the first de novo bank to open in Wake County in over nine years after it raised a phenomenal $27.2 million in its initial public stock offering, double the amount raised by any other start-up bank in North Carolina.78 Only three months after its first anniversary, Capital made its first major acquisition of another bank, purchasing Siler City’s Home Savings Bank (Home Savings) for $15.1 million in stock.79 Home Savings will operate as a subsidiary until Capital can form a bank holding company which will be called Capital Bank Corporation.80 The acquisition will add more than $58 million to Capital’s assets, bringing Capital’s total assets to over $143 million, over traditional agents in marketing insurance products. See id.

77. See id.
78. See Brian Eckstrom, Bank Reeforestation, ABA BANKING J., Feb. 1, 1998, at 71..
79. See Rah Bickley, Capital Bank Makes a Buy, NEWS & OBSERVER (Raleigh), Sept. 30, 1998, at D1. Home Savings called off a merger with FNB Corp. in January 1998 after FNB’s stock jumped dramatically in price, which triggered an option in the merger contract that allowed Home Savings to end the deal. See id.
80. See id.
Another merger between community banks also made headlines, but not for reasons the boards of directors of the banks are proud to report. Carolina First Bancshares of Lincolnton (Carolina First), the parent of Lincolnton Bank, announced in April 1998 an agreement to purchase Community Bank & Trust of Marion (Community Bank) for $32 million. Later that month, the Secretary of State’s office began investigating Daniel Mark Boyd, III (Boyd), who formerly served as chair and CEO of Carolina First as well as a member of the North Carolina Banking Commission, for possible insider trading violations. The FRB postponed the purchase while the investigation continued. In September, a grand jury indicted Boyd on securities fraud charges, accusing him of buying stock in Community Bank while at the same time planning for Carolina First to purchase Community Bank. Despite the indictments, the state banking commission approved the merger in November, and following its investigation, the FRB granted its regulatory approval in December. The original deal expired in November, but each side agreed to extend it through December. Boyd stepped down from the banking commission in November and resigned his post at Carolina First in December but maintains that his actions violated no laws. The merger is cleared to proceed, but what will happen to Boyd’s

81. See id.
83. See id. The investigation started after a former shareholder of Community Bank alerted the Secretary’s office that he recently sold his stock in the bank to Boyd. See id.
85. See Speizer, supra note 82, at A1. According to investigators, the price of Community Bank’s stock before the merger announcement was $8.50 per share, which is the price at which Boyd alleged bought his stock, while the price after the announcement skyrocketed to over $25 per share. See id.
86. See Whiteman, supra note 84, at 6.
88. See id.
89. See id.
90. See Karin Schill, Banking Commission’s Boyd Resigns Amid Fraud Charges, NEWS & OBSERVER (Raleigh), Nov. 13, 1998, at D1. Boyd does not deny purchasing the stock, only that his attorney assured him that the purchases were legal. See id. He resigned to plan his defense. See id.
Another North Carolina bank is hoping to grow like Capital and Carolina First, but it is using a different approach. Salisbury's Citizens Bank (Citizens) has been operating there for over 90 years, most recently as a mutual savings bank. In July 1998, Citizens formed a bank holding company called Innes Street Financial Corporation (Innes), converting from mutual ownership to public ownership in the process. Mutual savings banks like Citizens can only increase capital by retaining earnings over time. Converting to a publicly owned bank is frequently done to raise new capital (for expansion and other purposes) in an expeditious manner. Innes sold more than 2.2 million shares of stock at $10 per share after completing its initial public offering (IPO) in early 1999. Innes may use the capital to open new Citizens branches, expand existing branches, and increase the number of ATMs.

While Citizens Bank in Salisbury is starting over, several North Carolina community banks are just plain starting, and they are starting with unique ideas about how to serve their customers. Small banks pride themselves on providing personal service at competitive prices to both consumers and small businesses, a philosophy that has encouraged entrepreneurs to take risks and start new banks. This

91. See generally Speizer, supra note 82, at A1.
94. See Macey & Miller, supra note 92, at 328.
95. See id.
96. See Innes Completes Initial Stock Offering, supra note 93. The IPO concluded on January 6. See id.
97. See id.
entrepreneurial spirit is thriving in North Carolina.

An example of the kind of innovation found among North Carolina banking entrepreneurs is the Scottish Bank (Scottish) in Charlotte. Scottish received regulatory approval early in 1998, and opened its doors last summer after raising $11.6 million in its initial public stock offering. Scottish’s focus is on serving particular target groups who may benefit from the personal care that a community bank can provide: senior citizens who can furnish deposit funds, families wishing to borrow from a bank, and small businesses who will both provide deposits and borrow money. What makes Scottish different is its theme. The theme relies on the stereotype that Scots are cautious with money, implying that the Scottish Bank is reliable and sound. The theme runs throughout the business, from banking products like the Edinburgh premium savings account and the Scottie Kids Club account to the fictional mascot of the business, Sagacious McThrift. The bank combines traditional, personal services for which customers flock to community banks while also integrating telephone banking and the Internet to attract customers looking for the convenience of modern technology. A marketing strategy such as the one employed by Scottish is unique in the conservative banking industry, but Scottish’s strategy could pay big dividends in terms of publicity and advertising.

Another bank hoping to capitalize on a unique theme is Trinity Bank (Trinity) of Monroe. Trinity received permission from the North Carolina Banking Commission in June to raise $7 to $10 million in initial capital and began selling stock in July. Stock sales were slow through the fall, but the bank’s organizers felt that they would be

banks started in just nine Southeastern states. See Kline, supra, at 8.
102. See Bloom, supra note 101, at 4.
103. See id.
104. See id.
105. See id.
able to raise the minimum $8.25 million needed to open the doors.\textsuperscript{108} The bank expected to open in January,\textsuperscript{109} perhaps with up to three branches located in Union County.\textsuperscript{110} The bank’s religious name and its triangular logo stand for the Father, the Son, and the Holy Spirit, according to Trinity’s organizers.\textsuperscript{111} Trinity’s organizers feel that a relationship between religion and banking makes good sense: this country was founded on the principle of “In God We Trust,” which still appears today on United States currency, so the same principle should work for a bank.\textsuperscript{112} The bank hopes to appeal to churchgoers,\textsuperscript{113} but Trinity will target both individuals and small businesses and will not exclude anyone from service.\textsuperscript{114} Trinity also wants to focus on lending funds to churches, which are borrowers many banks frequently ignore.\textsuperscript{115} Trinity’s organizers are looking to God to guide them through the business of banking.\textsuperscript{116} Even with God on their side, Trinity’s organizers will have to vie for customers and deposits against the other community bank that opened in Monroe in 1998, American Community Bank & Trust.\textsuperscript{117} Perhaps Trinity’s innovative concept will give it a “heavenly” advantage over the competition.

In sum, community banks in North Carolina are filling a void for banking customers and are thriving in the process. Community banks are expanding through acquisitions and are retooling their definitions of themselves to serve their customers better. Novel marketing strategies among community banks demonstrate the best of

\textsuperscript{110} See Louis Whiteman, Claiming Divine Inspiration, N.C. Planners Forming Bank with Church Lending Focus, AM. BANKER, June 17, 1998, at 8 [hereinafter Divine Inspiration]. No other banks are headquartered in Union county, which is a suburban area adjacent to Charlotte. See id.
\textsuperscript{111} See Elkins, Bank Start-up is Devine [sic], supra note 106, at 1.
\textsuperscript{112} See id.
\textsuperscript{113} See Whiteman, Divine Inspiration, supra note 110, at 8.
\textsuperscript{114} See Elkins, Bank Start-up is Devine [sic], supra note 106, at 1.
\textsuperscript{115} See Whiteman, Divine Inspiration, supra note 110, at 8. Banks risk poor publicity if they are forced to foreclose on church property and as well as the difficulty of selling such a specialized property. See id.
\textsuperscript{116} See Elkins, Bank Start-up is Devine [sic], supra note 106, at 1.
\textsuperscript{117} See id.
the entrepreneurial spirit among North Carolina bankers. Community banks are forging the path in many ways, a trend that seems likely to continue in 1999.

IV. CREDIT UNIONS: THE BATTLE CONTINUES

One of 1998's most notable events involving the banking industry was the Supreme Court decision and subsequent legislation regarding the common-bond membership requirement for credit unions. Since 1982, the National Credit Union Administration (NCUA) has permitted credit unions to include completely unrelated employer groups in their membership.118 The NCUA interpreted the common bond language of the Federal Credit Union Act (FCUA) to mean that each group of employees in a multi-employer credit union must have a common bond, rather than each member of the credit union.119 The NCUA required only that the employer group be located in an area reasonably served by the credit union.120 Unhappy with the loosening of the common bond for credit union membership, five North Carolina commercial banks and the American Bankers Association (ABA) challenged the NCUA's interpretation of the FCUA.121 The challengers feared competition from large credit unions that offer similar services to banks at lower prices because credit unions do not pay income taxes and are not subject to community reinvestment obligations.122 After seven years in the federal court system, the Supreme Court held last February that the North Carolina banks and the ABA were correct and that the NCUA's interpretation of the FCUA was too broad.123 The Court determined that the NCUA's interpretation of the FCUA was contrary to the clearly expressed intent of Congress.124 Thus, the

120. See id. (citing IRPS 89-1, 54 Fed. Reg. 31,170 (1989)).
121. See id. at 930.
124. See id. at 938-39. Specifically, the Court held that occupationally defined credit
NCUA's interpretation did not survive review under the *Chevron* analysis.\(^{125}\)

The ABA was quick to praise the Supreme Court for telling "credit unions . . . that they can't unilaterally decide which laws they want to obey and which they want to ignore."\(^{126}\) The banks' victory was short-lived, however. Strong support for credit unions among congressional leaders led to a quick response from Congress to restore access to credit union membership: within hours of the ruling, the House Banking Committee scheduled a hearing to begin consideration of legislation to reverse the effect of the Supreme Court's decision.\(^{127}\) In August, President Clinton signed the Credit Union Membership Access Act, overriding the banks' courtroom triumph.\(^{128}\)

Down, but certainly not out, the ABA is again challenging the credit unions in court, this time arguing that the NCUA regulations implementing the 1998 Act are also overbroad.\(^{129}\) Credit unions support the NCUA regulations as allowing millions to join lower-cost credit unions, while the ABA asserts that the regulations only assist large, multiple membership employer groups.\(^{130}\) The outcome of this case could have far-reaching effects for banks as well as for credit unions.

In the midst of the legislative battle last summer, North

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\(^{125}\) See id. at 938 (citing *Chevron U.S.A., Inc., v. Natural Resources Defense Council, Inc.*, 467 U.S. 837 (1984)). The principal lesson from *Chevron* in relation to this case is that an administrative agency must give effect to the intent expressed by Congress when Congress has "directly spoken to the precise question at issue" in the enacting legislation. *Id.* (quoting *Chevron*, 467 U.S. at 842-43).


\(^{127}\) See Seiberg, *Banks Win Supreme Court Victory over Credit Unions*, supra note 122, at 1.


\(^{129}\) See Banks Take on Credit Unions Again, NEWS & OBSERVER (Raleigh), Jan. 8, 1999, at D2.

\(^{130}\) See id. For more on the Supreme Court decision, the legislation, and the possibilities for the future, please see Amanda Massett, Note, *The Evolution of the Common Bond in Occupational Credit Unions: How Close Must the Tie that Binds Be?*, 3 N.C. BANKING INST. 387 (1999).
Carolina credit unions were busily demonstrating why financial service consumers like doing business with credit unions and why banks will continue to fight them. North Carolina credit unions pooled their resources and began offering customers surcharge-free access to roughly 650 automated teller machines (ATM), without regard to where the customers keep their accounts. The move was in response to the perceived public furor over increasing bank fees, and was perhaps a calculated strategy for attracting new customers. Bankers in North Carolina may have seen a different motive behind the fee-free transactions: the credit unions may have used this tactic as a method of mounting support for the legislation then moving through Congress. Regardless of the real motivation for announcing such an aggressive marketing technique, this action by the credit unions has done little to soften the hostility between banks and credit unions. North Carolina financial services customers will probably feel the aftershocks of the February Supreme Court decision for some time to come. In the case of removing ATM fees, however, customers may actually benefit from the rivalry that continues to boil hot.

Credit unions and banks are not always doing battle, however. Credit unions sometimes fill special needs in their communities, needs that banks do not or cannot meet. For example, the Center for Community Self-Help helps people and small businesses that banks are frequently unable to serve. Through the Self-Help Credit Union (Self-Help), this "community development bank" helps low-income families buy their first homes, families who do not fit the traditional

132. See id.
133. See id. (quoting Paul Stock, executive vice president of the North Carolina Bankers Association).
134. See id.
135. See Craig Whitlock, Clinton Selects Durham Credit Union to Serve as National Model, NEWS & OBSERVER (Raleigh), July 14, 1993, at A1. Martin Eakes and Bonnie Wright founded Self-Help in 1980 with the goal of helping women and minorities to raise their economic standing. See id. Self-Help is able to assist different customers than banks do because its lending officers have the time to dedicate to each loan application and more flexibility on the kinds of loans it makes. See Jack Scism, Credit Union Finds Way to Help Poor, GREENSBORO NEWS & REC., Dec. 7, 1993, at 2, available in 1993 WL 7754758.
136. See Whitlock, supra note 135, at A1. The credit union opened in 1984 with the proceeds of a bake sale, a total of $77. See id.
137. Rah Bickley, Self-Help Gets Grant Worth Millions, NEWS & OBSERVER (Raleigh),
economic profile of qualified homebuyers and who would otherwise be overlooked by many banks for home mortgage loans. One of Self-Help’s principle objectives is to help working poor families move into middle-class status by promoting home ownership among minority families. In addition to making mortgage loans, Self-Help also assists nonprofit enterprises, employee-owned businesses, and rural companies. Instead of viewing Self-Help as a competitor, banks have been generally supportive of the credit union’s mission, some depositing money to provide the credit union with additional funds to lend.

In recognition of Self-Help’s social entrepreneurial spirit, the Ford Foundation, one of the country’s largest philanthropic organizations, granted $50 million to the Durham-based program last year. A partnership comprised of the Ford Foundation, Fannie

138. See Partnership to Finance Low-Income Mortgages, GREENSBORO NEWS & REC., July 24, 1998, at B2, available in 1998 WL 2181988. Self-Help focuses on individuals who are “hard-working” and “bill-paying” but still do not meet conventional mortgage standards. See id. Typical candidates eligible to receive Self-Help’s assistance earn less than 80% of the median income in the neighborhood in which they want to purchase a home. See id. Self-Help has no minimum income-earned standard. See id. Since opening for business in 1980, Self-Help has financed mortgages on about 4,000 homes for low-income people in North Carolina, those mortgages totaling roughly $240 million. See Bickley, Self-Help Gets Grant Worth Millions, supra note 137, at B1. Self-Help either finances the mortgages directly or cooperates with local banks including BB&T, Centura, Wachovia, and First Union. See id. The default rate among Self-Help borrowers is about the same as traditional loans, which is less than 1%. See id.
139. See Bickley, Self-Help Gets Grant Worth Millions, supra note 137, at B1. Although banks may see a need and want to serve the low-income borrower, sometimes the banks are unable to find a way on their own to serve this group. See id. Self-Help works with banks to create financing programs that work for the bank and the borrower. See id. For example, Centura Bank has worked with Self-Help over the last two years to finance over $60 million in home mortgages to low-income families. See id. Centura’s general counsel, Joseph Smith, lauded Self-Help both for helping to create wealth among those who did not start with it and for showing Centura that it can be profitable to serve a market that truly needs to be served. See id.
141. See Tim Gray, Self-Help is Model for Community Lending, NEWS & OBSERVER (Raleigh), Sept. 24, 1994, at D1.
143. See Bickley, Self-Help Gets Grant Worth Millions, supra note 137, at B1. The grant is to be used nationwide, but a large portion of the money will stay in North Carolina. See id. For additional information on community lending groups, please see Calvin Cunningham, Note, How Banks Can Benefit from Partnership with Community Development Financial Institutions: The Bank Enterprise Awards Program, 3 N.C. BANKING INST. 261 (1999).
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Mae, and Self-Help will leverage the funds into about $2 billion of home mortgages, allowing 35,000 families to purchase their first homes. Self-Help will use the original grant amount to cover losses occurring after the mortgage loans are made. The grant from the Ford Foundation is the most recent of a string of accolades, demonstrating that creativity and innovation are as strong among credit unions in North Carolina as it is among community banks.

V. BANKING ON THE INTERNET

North Carolina banks are beginning to take advantage of the Internet to serve their customers, but even the big powerhouse banks have been slow to successfully exploit the opportunities available in cyberspace. NationsBank, for example, just brought its banking transaction website online last summer. Moreover, banks' Internet sites have not fully satisfied the needs of customers. First Union, which began to offer Internet banking in 1997, planned to give its web site a face-lift in 1998 to make the site more customer-friendly.

144. Fannie Mae funds more home mortgages than any other organization. See Partnership to Finance Low-Income Mortgages, supra note 138, at B2.

145. See Bickley, Self-Help Gets Grant Worth Millions, supra note 137, at B1.


147. See, e.g., Gray, supra note 141, at D1 (discussing President Clinton's commitment of $382 million to create community development financial institutions modeled after Self-Help); Dan Kane, Durham Loan Program Serves as Model, News & Observer (Raleigh), Oct. 15, 1997, at B5 (discussing U.S. Representative David Price's reference to Self-Help as the model for a $10 million federal pilot program to help low-income families purchase their first homes).

148. This portion of the review focuses on Internet banking, as opposed to on-line banking. On-line banking describes a customer's ability to log into her account information via personal computer, modem, and the bank's special software program. See Kimbrelly Kegler, Comment, Electronic Banking: Security, Privacy, and CRA Compliance, 2 N.C. BANKING INST. 426, 428 (1998). Banks often charge customers a fee for the software, and access to on-line banking is limited to the computer where the software is loaded. See id. at 429. Internet banking, on the other hand, provides services similar to on-line banking, but these services are available from any computer with access to the Internet. See id. at 430.

149. See Tech Bytes: NationsBank Offering Banking on the Net, AM. BANKER, May 7, 1998, at 23. NationsBank offered electronic banking to its customers prior to 1998, but customers needed NationsBank's personal financial management software to take advantage of this capability. See id. The web site is designed to compliment the existing electronic banking capacity. See id.

Smaller North Carolina banks also have Internet sites, but the utility of these web sites to consumers is apparently less than spectacular. Consequently, North Carolina banks did not feel the tidal wave of success that other cyberspace businesses experienced in 1998.

The modest reception to Internet banking sites in North Carolina parallels the trend experienced by banks nationwide. Although banks seem eager to tap into the pool of potential customers who surf the Internet in ever-increasing numbers, banks have not found the returns on Internet banking very encouraging thus far. Banks initially expected the volume of customers who would use online services would be quite high, but the exponential growth first predicted has not materialized. For example, First Union attempted to break into Internet transactions with two services, one to handle credit card transactions for Internet merchants and another that allowed customers to purchase documents or music with "cyberspace money." Although the credit card processing service has produced marginal success, the experiment with cyberspace money ended quickly, with no return anticipated. Without more customers to support the expense of creating and maintaining web sites and the accompanying services, the costs to many banks are exceeding the benefits.

Many reasons exist that explain the unenthusiastic response to

151. See id. The Charlotte Business Journal asked a number of web page designers to review and critique the web sites of some North Carolina's more prominent banks. See id. The panel reviewed NationsBank, First Union, Central Carolina Bank, and First Citizens Bank. See id. The general conclusion was that larger banks had more useful web sites, leading the reviewers to the conclusion that an increased amount of money spent on building the web page resulted in better quality. See id. The exception to the pattern was First Union, which ranked surprisingly low. See id. The reviewers felt that consumers were drawn through a maze of links and choices on the First Union site. See id. Perhaps First Union realized that its web site was somewhat disappointing, encouraging the megabank to improve its site.


154. See Costanzo, supra note 152, at 1.

155. See id. The second promotion was known as "micropayments." See id. Companies specializing in micropayments systems stormed onto the scene in the early 1990s, but the companies introduced them before the market was ready to accept this particular concept of "money." See id.

156. See id.

157. See id.
Internet banking. Technology-savvy consumers who use their computers to manage their finances actively consult established financial planning web sites, such as Intuit's Quicken.com, American Online's Personal Finance site, and Yahoo Finance, when making decisions about investing their money.\footnote{See Kutler, supra note 153, at 8.} Banks have not yet successfully discovered an effective way of attracting potential customers from these sites to visit their own sites.\footnote{See id.} In addition, brokerage houses moved onto the Internet quickly, and firms like Ameritrade and E-Trade have already carved out a dedicated sector of online financial product consumers.\footnote{See id.; Costanzo, supra note 152, at 1.} Banks lost the opportunity to gain an early marketing edge over the brokerage houses.\footnote{See id.; Costanzo, supra note 152, at 1.} Furthermore, perhaps the greatest hurdle for banks to overcome in attracting more customers to their web sites is ensuring security and privacy of information.\footnote{See Kutler, supra note 153, at 8.} One consumer opinion survey concluded that an overwhelming majority of consumers were concerned about their bank's ability to maintain confidentiality of account information on the Internet.\footnote{See id.; Costanzo, supra note 152, at 1.} With banks getting a late start in the Internet game and with consumer concerns still high, banks have not been able to capitalize on cyberspace in the volume that other Internet businesses have.

Rather than trying to be everything to everybody, banks are beginning to tailor their Internet services to customers who will use and benefit the most from an online connection. Industry observers have recommended that banks segment the market and serve only the customers who can be served in a cost efficient way in order to keep prices competitive.\footnote{Opinion Research Corporation conducted the study, and it found that 82% of consumers surveyed were concerned about privacy. See id. For a discussion on recent developments in the protection of consumers' privacy, please see Kristen Provenza, Note, Identity Theft: Prevention and Liability, 3 N.C. BANKING INST. 319 (1999). See generally John L. Douglas, Technology & Banking, 1 N.C. BANKING INST. 37, 40-45 (1997) (discussing the fears associated with technological advances in banking services and the advantages and disadvantages of banking from home); Kegler, supra note 143, at 434-438 (discussing the problems with electronic banking including security and privacy concerns).} One segment on which banks are focusing is
their corporate clientele. For instance, First Union is experimenting with an Internet-based cash management system, where the bank serves as the intermediary in a bill delivery and payment system between the corporate client and its customers. With accompanying improvements in digital signature technology, Internet banking for corporate clients will become both more secure and probably more routine. Other North Carolina banks took business-directed initiatives to improve online banking in 1998, and more are sure to follow in 1999 as banks try to find their niche in Internet commerce.

VI. CONCLUSION

Competition between other financial product providers and banks as well as between banks themselves produced an exciting year for North Carolina banks. Several North Carolina banks took full advantage of the legislative and regulatory freedom that has developed during the 1990s as a way of staying ahead of the competition. The largest banks are expanding well beyond the state boundaries and offering increasingly diverse financial products to their customers. Medium-sized banks are also enjoying the fruits of loosened interstate branching restrictions, reaching into neighboring states to find new customers, and adding subsidiaries with investment banking and insurance-selling capabilities.

Other North Carolina bankers have taken advantage of the void left by mergers and consolidation among banks, creating de novo community banks with unique ways of providing banking services.

165. See Costanzo, supra note 152, at 8.
166. See id.
167. See id.
168. See id. BankAmerica and seven other banks from around the globe formed a joint venture in 1998 to develop a certification of credentials system to facilitate the on-line business transactions of their customers. See id. As with First Union's plan, the concept is to ensure security of Internet deals. See id.
Credit unions, too, devised new ways to attract customers and maintain their market share, despite continued challenges from banks on their methods of doing business. Banks experimented with business on the Internet as yet another way to reach customers, meeting with mixed reviews. In short, North Carolina banks redefined and in some cases reinvented the conventional definition of a bank in 1998. The coming months will determine whether the banks currently basking in the glamour of the spotlight can survive the transformation to the sometimes mundane world of everyday business.

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