November 9, 2004

Hon. Joseph A. Smith, Jr.
North Carolina Banking Commission
316 W. Edenton Street
Raleigh, NC 27603

Re:  In re Advance America, Banking Commission docket no. 04:128:CF

Dear Mr. Smith:

We are writing concerning the Banking Commission’s investigation of Advance America, the largest payday lender operating in North Carolina.

Please accept this letter, with its arguments and authorities, as a statement in support of the Kucan plaintiffs’ contention that the North Carolina business operations of Advance America (and other “rent-a-charter” payday lenders) are illegal under North Carolina law.

We respectfully request that you conduct a formal, public, APA contested case proceeding; and that you render a ruling that Advance America’s payday operations in North Carolina are unlawful.

ADVANCE AMERICA IS VIOLATING NORTH CAROLINA LAW

Advance America is using a manipulative self-serving device to claim the right to avoid North Carolina law. It reacted to the expiration of the payday lending law on August 31, 2001 by allying itself with various banks, saying the banks really “made” the loans and that Advance America was merely the banks’ “agent.”

Advance America did not seek the Banking Commission’s approval of this arrangement. Seeking approval (via the Commission’s declaratory ruling process) would have been a logical step for a party that really wanted to understand and comply with North Carolina law: the Banking Commission administers the Consumer Finance Act and the check-cashing laws, and the Banking Commission has a well-understood declaratory ruling practice. Advance America did not ask for the Commission’s approval, however, because they knew the Commission would disapprove: former Commissioner Hal D. Lingerfelt had issued a memo to all payday lenders specifically stating that payday lenders must cease doing business in North Carolina, and could not continue in business by converting their role to that of an agent for a bank.2
Moreover, federal banking regulators have concluded that Advance America’s “agency model” arrangement is simply an effort to evade state law:

We have been greatly concerned with arrangements in which national banks essentially rent out their charters to third parties who want to evade state and local consumer protection laws,” said Comptroller of the Currency John D. Hawke, Jr. “The preemption privileges of national banks derive from the Constitution and are not a commodity that can be transferred for a fee to nonbank lenders.3

In January of 2003, the Office of the Comptroller of the Currency (“OCC”) prohibited Advance America from doing business with any national bank.4 On March 1, 2003, the OCC’s final deadline, Advance America changed its paperwork in North Carolina to provide that Republic Bank (a state-chartered bank) would henceforth be the bank for which Advance America would purportedly act as North Carolina agent.

Advance America devised and implemented the so-called “agency business model” as a common strategy with other major payday lenders. The leading payday lenders’ executives were founders and in control of the Consumer Financial Services Association (“CFSA”), with Advance America’s CEO William Webster acting as CFSA’s president.5 Under Mr. Webster’s leadership, the CFSA created “agent-assisted lending” materials and circulated them to its members, encouraging them to participate in “agent” arrangements.6

In these “agent” arrangements, Advance America has essentially duplicated the financial effect of its normal payday lending through fee payments from the banks.7

HOW ADVANCE AMERICA VIOLATES NORTH CAROLINA LAW

The issue presented is extraordinarily simple: is Advance America “a bank”? Plainly, it is not, and an agreement by which Advance America says it is an agent of a bank does not transform Advance America itself into a bank.

The company named “Advance America” is doing business at 118 offices in North Carolina. The name on the door is “Advance America.” The employees are employed by Advance America. The North Carolina stores are an integrated part of a national operation, providing a uniform product through a uniform delivery mechanism at a standard price.
Advance America is violating the following North Carolina laws:

A. The Consumer Finance Act and its Anti-Avoidance Rule.

The North Carolina Consumer Finance Act ("CFA") requires a license and limits the charges and terms on small loans. Advance America has no license and ignores the limits on charges. Advance America contends that its purported "agent" relationship with an out-of-state bank enables it to avoid the consumer protections contained in the CFA.

However one of the introductory sections of the CFA specifically prohibits arrangements designed to avoid the application of the Act. G.S. §53-166(b) reads as follows:

(b) Evasions.- The provisions of [the CFA] shall apply to any person who seeks to avoid its application by any device, subterfuge or pretense whatsoever.

This language came into North Carolina law because of the small loan practices in the 1940's and 1950's. After a State Banking Commission order was issued prohibiting excessive fees, lenders had avoided the order by "requir[ing] that life insurance be purchased on each loan; later accident and health was added; and some agencies required borrowers to purchase mortgage non-filing insurance." The language in the CFA prohibiting any "device, subterfuge or pretense whatsoever" was enacted with the evasions of the small loan companies fresh in mind. Advance America's "agency model" is simply a new arrangement designed to avoid the CFA and its interest rate limits.

Advance America's intent is shown by the history of its use of the agent arrangement in North Carolina. Advance America began doing business in an "agent" capacity in North Carolina at the same time as the North Carolina law authorizing payday lending expired, in conscious reaction to the expiration of that law. Advance America changed over to a new banking partner on March 1, 2003, because of the deadline imposed by the OCC and in an effort to continue to avoid the effect of North Carolina law. Advance America uses the agency model where the company wishes to avoid state laws, and essentially concedes that the purpose of the arrangement is to avoid the effect of state laws prohibiting or limiting payday lending. Also see SEC Filing, p. 51, concerning the circumstances under which Advance America ceases using its agency business model: "During 2003, an enabling payday cash advance law was passed in Alabama and 65 payday cash advance centers in Alabama were converted to the standard business model."

The "agent" program is, obviously, an arrangement intended to avoid state law.
B. "Engaged in the Business" of Lending and Cashing Checks.

Statutes express themselves through words, and those words are often chosen carefully. The Consumer Finance Act does not regulate only "lenders," it regulates persons who "engage in the business" of lending. Advance America "engages in the business" of lending. The Advance America sign is on the door of the Advance America offices in North Carolina. Advance America's national website routes a visitor to the North Carolina office closest to his North Carolina home. The Advance America website tells a visitor what Advance America offers: small loans. Advance America begins its SEC Filing with a section titled "Our Company--Overview," and these words: "We are the largest provider of payday cash advance services in the United States . . ." Advance America's explanation reveals that it is indeed engaged in the business of lending:

In most states in which we conduct business we make payday cash advances directly to our customers (which we refer to as the standard business model). In other states in which we conduct business we act as a processing, marketing and servicing agent through our payday cash advance centers for FDIC insured, state-chartered banks . . .

Not only are the "processing, marketing and servicing" functions that Advance America describes done as part of the business of lending, Advance America receives over 80% of the fees paid by the borrowers. See page 7, below.

A contention that Advance America is not "engaged in the business of lending" is simply bizarre: Advance America is obviously "engaged" in this "business" in some way. If it is engaged in this business, it must comply with the CFA.

Similarly, the check-cashing statutes (G.S. §§53-275 to -289, titled "Check-Cashing Businesses") cover persons who "engage in the business" of cashing checks. "Cashing" is defined broadly, and involves "providing currency for payment instruments." Obviously, Advance America is also "engaged" in this business: it advertises on its uniform national web page what customers do to obtain an Advance America loan: they write a check. Advance America's activities are done as part of a check-cashing business. Advance America is "engaged" in that business.
C. Using Uncovered Checks.

There is an entirely separate reason that Advance America’s business is illegal under North Carolina law, a reason that has nothing to do with how much is charged or whether Advance America is licensed. Advance America requires that its customers write bad checks.

Advance America’s entire payday lending business is based on a uniform practice of getting borrowers to write checks that Advance America has reasonable grounds to believe are not covered, at the time of the making of the check, by adequate funds in the maker’s checking account. Under G.S. §14-107(b):

> It is unlawful for any person, firm or corporation to solicit or to aid and abet any other person ... to draw, make, utter or issue and deliver to any person, firm or corporation, any check or draft on any bank or depository for the payment of money or its equivalent, being informed, knowing or having reasonable grounds for believing at the time of the soliciting or the aiding and abetting that the maker or the drawer of the check or draft has not sufficient funds on deposit in, or credit with, the bank or depository with which to pay the check or draft upon presentation.

(emphasis added). The reason why the borrower writes the check to the payday lender is precisely to get the “instant cash” that the payday lender lends at exorbitant rates. If the consumer already had the money in the bank to cover the check, the consumer would not need to go to Advance America and pay the 400% annual interest rate. “Payday loans are based on a fraudulent premise because both the borrower and lender know that at the time the check is written, the borrower does not have sufficient funds on deposit to cover the check.” Lisa Moss, “Modern Day Loan Sharking: Deferred Presentment Transactions and the Need for Regulations.” This knowledge on the part of the lender squarely implicates G.S. §14-107(b).

Advance America’s SEC Filing makes the violation of G.S. § 14-107(b) apparent: on those occasions when Advance America presented its customers’ checks for payments, “approximately 79.0% were returned due to non-sufficient funds in the customers’ accounts or other reasons.” SEC Filing, p. 74.

Advance America makes the payday loan under the pretext of holding the check as a “deferred deposit transaction.” However North Carolina law is clear that the use of arrangements to defer presentation does not change the analysis. State v. Jackson, 243 N.C. 216 (1955) (G.S. §14-107 applies even if payor and payee had arrangement that payee would not present check for payment). The North Carolina Attorney General issued a formal written opinion confirming that this practice is unlawful. In
1992 the N.C. Attorney General was asked to issue a formal written opinion on two questions:

(1) May a check-cashing company be subject to the provisions of the Consumer Finance Act if it cashes a check, and for a fee, agrees to defer presentment of the check until sufficient funds are deposited in the customer’s bank account to cover the amount of the check?

(2) May check-cashing companies that engage in such transactions be subject to criminal penalties?

United States District Judge Lacy Thornburg, then acting as Attorney General, answered both of these questions “yes,” concluding “it also appears these transactions violate G.S. §14-107.”

Furthermore the effect of the consumer not having funds in the checking account to keep the check from bouncing if deposited gives rise to one of the worst evils of payday lending—rollovers. Payday lenders make most of their profits through particular borrowers’ repeated borrowings. Consumers become trapped into a rollover debt cycle when they must continue renewing or repeating the loan transaction. It is a perversion and misuse of trade and commerce to allow payday lenders like Advance America to engage in a routine practice of encouraging consumers to write bad checks to secure payday loans. G.S. §14-107 was enacted precisely to protect the public from such a “disturbance of business integrity.” Jackson, supra, 243 N.C. at 218.

Advance America’s practice of requiring its borrowers to write checks “knowing or having reasonable grounds for believing” there are insufficient funds to cover the checks has additional negative and perverse effects. Failure to repay the loan (or roll over the loan) leads to bounced check fees from the consumer’s bank, negative credit ratings on specialized databases, possible loss of a bank account, and difficulty in opening a new bank account if the borrower has a record of bouncing checks. Taking the borrower’s personal check in connection with the payday loan deprives the customer of any effective opportunity to present defenses to the loan. These social evils flow directly from Advance America’s violations of section 14-107(b).

D. Usury: Identifying the “Bona Fide Lender.”

North Carolina law has long held that the laws governing loan charges imposed on borrowers require an analysis of the substance of a transaction rather than its form. The substance of the transactions between Advance America and its borrowers is that Advance America is in fact the true lender.
The notion that the law will look to the substance of loan transactions rather than the manner in which the paperwork reads is fundamental in North Carolina law. As the North Carolina Supreme Court has stated, “[t]he courts of this state regard the substance of a transaction, rather than its outward appearance, as controlling.” *Western Auto Supply Co. v. Vick*, 303 N.C. 30, 37 (1981). The federal court in Georgia, in its 2004 opinion upholding the new Georgia law against a legal challenge by the payday industry, noted that “courts and legislatures often ignore the parties’ own characterization of a transaction, especially where that characterization is at odds with reality and is nothing more than a subterfuge designed to avoid otherwise applicable legal requirements. This is particularly true where usury is concerned.”

Advance America’s contracts with its banks are written to ensure that Advance America receives the lion’s share of the proceeds. The split of fees between Advance America and its “agent model” partner BankWest, was publicly revealed recently in a document filed in connection with the Georgia litigation. This filing reveals the following charges:

<table>
<thead>
<tr>
<th>Loan fees per $100</th>
<th>$17.00</th>
</tr>
</thead>
<tbody>
<tr>
<td>To Advance America</td>
<td>13.80 (81.2%)</td>
</tr>
<tr>
<td>To Bank</td>
<td>3.20 (18.8%)</td>
</tr>
</tbody>
</table>

This sort of split is consistent with Advance America’s loss-sharing relationship with its bank partners, as reflected in its SEC Filing and in the BankWest Contract. Advance America is responsible for 80% to 92% of loan losses, depending on the bank.

According to Advance America’s SEC Filing, Advance America’s per-store revenues from the five states in which it uses the “agent model” are actually higher than the per-store revenues in the remaining 29 states in which it uses the “standard model.”

There is no question that the payday loan product offered by Advance America was developed by Advance America rather than Republic Bank. There is also no serious question that other regulators have concluded that payday lenders such as Advance America are the bona fide lender on such loans. See below.

**ADVANCE AMERICA’S ANTICIPATED ARGUMENTS**

**A. Is Advance America Exempt as a “Bank”?**

The Consumer Finance Act provides that it does not apply to “any person . . . doing business under the authority of any law of this state or of the United States relating to
banks . . .” The check-cashing law has an exemption for “a bank.” North Carolina usury law allows out-of-state “banks” to charge what is permitted by their home state. Is Advance America “a bank”? Is Advance America doing business under the authority of North Carolina banking law?

There is no serious question that Advance America itself is not a bank. If it were, it would be subject to regulation as a bank. It would have a special form of charter, a special license and depositors. The word “bank” would appear in its name. The FDIC would guarantee its deposits.

To understand what “doing business under the authority of any law of this state relating to banks” means, one need only look at North Carolina banking law. Under North Carolina banking law, a bank can be chartered only after the Commissioner of Banks has approved the issuance of a charter. The Commissioner’s approval must be based on a “meets the needs of the community” discretionary standard. When a bank wishes to establish a branch, it also must get the Commissioner’s approval, and the Commissioner must find, among other things, that the branch will “meet the needs and promote the convenience of the community.” Out-of-state banks are subject to the same limits. Advance America has not done any of these things. It does not make use of the name “bank” in its charter or trade name. It does not receive deposits. It is not insured by the FDIC. It does not have tellers, and its operations are not conducted under the control of federal or state banking regulators. In other words, Advance America cannot credibly contend that it is acting under the authority of the North Carolina banking laws.

B. Federal Preemption.

Federal banking law is apparently the basis on which Advance America contends it is exempt from state regulation. In “agency” states such as North Carolina, Advance America says

“we act as a processing, marketing and servicing agent through our payday cash advance centers for FDIC insured, state-chartered banks that make payday cash advances to their customers pursuant to the authority of federal interstate banking laws, regulations and guidelines.”

This “interstate banking law” reference is nonsensical fluff. No federal banking law confers any authority whatsoever on Advance America. In fact, there is a clear consensus among courts, regulators and academics that the opposite is true: non-bank “agents” who participate in “rent-a-charter” arrangements are subject to state usury and consumer protection laws. Federal banking laws simply offer no protection to a non-bank which is the de facto lender of a payday loan. Numerous cases so hold.
Federal banking regulators have repeatedly stated that non-banks which partner with banks in an effort to avoid state usury laws are entitled to no protection under federal banking law. In November of 2000, the Comptroller of the Currency, John D. Hawke, Jr., issued Advisory Letter 2000-10, which stated:

Payday lenders entering into such arrangements with national banks should not assume that the benefits of a bank charter, particularly with respect to the application of state and local law, would be available to them.\(^30\)

In a joint news release dated November 27, 2000, Comptroller of the Currency John D. Hawke, Jr. and Director Ellen Seidman of the Office of Thrift Supervision stated:

[V]endors who have targeted national banks and federal thrifts as a means of marketing such products free from state and local consumer protection laws should not automatically assume that the benefits of the bank or thrift charter will accrue to them by virtue of such relationships, or that the OCC or OTS will defend their efforts to avoid state and local laws if challenges are raised.\(^31\)

Federal banking regulators have relied on the same “predominant economic interest” standard used in the National Banking Act to distinguish non-bank lenders from legitimate bank agents. In 2001, in opining that the National Banking Act would preempt a Michigan law that limited national banks’ ability to engage in motor vehicle sales financing through automobile dealers, the OCC noted:

This is not a situation where a loan product has been developed by a non-bank vendor that seeks to use a national bank as a delivery vehicle, and where the vendor, rather than the bank, has the preponderant economic interest in the loan.\(^32\)

The Comptroller of the Currency has further criticized attempts by banks to “rent” their charters to non-bank payday lenders in order to evade state consumer protection laws in a 2002 speech: “Typically, these arrangements are originated by the payday lender, which attempts to clothe itself with the status of an ‘agent’ of the national bank. Yet the predominant economic interest in the typical arrangement belongs to the payday lender, not the bank.” The Comptroller concluded that “these arrangements constitute an abuse of the national charter.”\(^33\)

In a June 2002 letter, the Chairman of the FDIC chimed in, stating that “non-bank lenders should not assume that the same benefits provided to a bank when it makes a loan will be available to them, particularly with respect to the application of state and local law.”\(^34\)
On September 30, 2004, FDIC Commissioner Thomas J. Curry spoke extensively as to his views on payday lending. He first described the Massachusetts approach to payday lenders:

As a local public official, I grappled with the issue of how payday lending activities meshed with the Massachusetts Small Loan Act, a 100 year old civil and criminal statute from the “Progressive Era” designed to combat abusive consumer lending by small loan lenders and loan brokers. The Commonwealth’s response was clear and simple. Payday lenders were either de facto small loan lenders or brokers, regardless of any bank partnership arrangement. As such they were subject to the Act’s licensing and other substantive provisions. There was zero tolerance for Small Loan Act violators who faced the certain prospect of administrative as well as civil and criminal sanctions.35

In the course of discussing what tack the FDIC should take in its regulation of banks who partner with payday lenders, Commissioner Curry observed:

It should be noted that payday lenders are not highly regulated banks subject to supervision by federal bank regulatory agencies. The public policy rationale for deregulating interest rates for banks does not necessarily extend to fringe banking services providers. Ordinarily, federal law does not preempt state usury restrictions on nonbank lenders or their products.36

No federal law exempts Advance America itself from the licensure, fee limits and other consumer protections in North Carolina.

CONCLUSION

Advance America is in clear violation of North Carolina laws enforced by the Banking Commission. Advance America’s contention that it somehow receives immunity from state law by employing paperwork stating that it is an “agent” for an out-of-state bank is unsupported.

The Commission should commence a formal, public “contested case” administrative proceeding, and should rule that Advance America is violating North Carolina law. The Commission should further declare that the loan contracts are void ab initio.
November 9, 2004
Page 11

Thank you for considering these comments. If you would like us to provide print copies of the materials cited in this letter and the following notes, please advise.

Very truly yours,

Carlene McNulty
Attorney at Law

cc:  Johnny M. Loper,
     Counsel for Advance America
NOTES


2 See Banking Commissioner Hal D. Lingerfelt’s Memo of August 30, 2001, stating in part (with emphasis added):

   Consequently, N.C.G.S. § 53-281 will expire on August 31, 2001, and there is no lawful basis for “payday lending” without such a law, including “payday lending” transactions effected by “agents” or facilitators of out-of-state lending institutions.


4 Id.


6 These materials included “Agent-Assisted Payday Loans: A Growing Trend in Banking,” which is available from the CFSA’s web site at http://www.cfsa.net/govrelat/pdf/Agent Assisted%20Payday%20Loans.pdf. The CFSA also published a lengthy (65 page) publication titled “Agent-Assisted Bank Loan Programs: A Legal Analysis of Federal Banking Laws Affecting Relationships Between Financial Institutions and Payday Advance Industry With Suggested Guidelines For CFSA Members” and focusing on “agent” arrangements between payday lenders and national banks. A copy of this publication is attached to Defendants’ Reply To Amicus Brief of Community Financial Services Association, filed April 23, 2004 in Bankwest, Inc. v. Baker, case no. 1:04-CV0988 (N.D. Ga.)

7 See note 23, below.

8 William Hays Simpson, America’s Small Loan Problem With Special Reference to the South (1963) at 71.

9 Advance America’s most recent initial public offering filing with the SEC (Amendment No. 3 to Form S-1 Registration Statement, filed with the Securities and Exchange Commission on October 29, 2004 (the “SEC Filing”), and available at...
Under federal banking law, an FDIC insured, state-chartered bank located in one state can make loans to a consumer in another state and charge fees and/or interest allowed by the lending bank’s home state even if the fees and/or interest exceed what may be charged in the consumer’s state under that state’s usury law. This "export" lending law allows the lending banks for whom we act as processing, marketing and servicing agent to export the interest rates permitted by the states in which they are located into the states in which we act as their agent. As of September 30, 2004, pursuant to our processing, marketing and servicing agreements with the lending banks, we are an agent for payday cash advances offered, made and funded by BankWest, Inc., a South Dakota bank (BankWest), in Pennsylvania, First Fidelity Bank, a South Dakota bank, in Michigan, Republic Bank & Trust Company, a Kentucky bank (Republic), in North Carolina and Texas and Venture Bank, a Washington bank, in Arkansas. We also processed, marketed and serviced payday cash advances for BankWest in Georgia, but we recently suspended our operations in that state. Currently, only state-chartered banks can be lending banks for payday cash advances, because the federal regulators for national banks and federal savings associations have effectively prohibited such banks and associations from participating in the payday cash advance services industry with agents.

SEC Filing at 13 (emphasis added). The SEC Filing also addresses the effect of an adverse ruling concerning the legitimacy of the agent model:

If, as a result of changes in laws or regulations, an adverse result in litigation or regulatory proceedings or otherwise, we could no longer process, market and service payday cash advances made and funded by the lending banks in one or more of our present or future markets, our business, results of operations and financial condition could be materially adversely affected. In addition, any such changes in laws or regulations or adverse result in litigation or regulatory proceedings could deprive us of the agency business model as an alternative method for conducting our business in the event that statutory provisions or regulations specifically authorizing payday
cash advances changed or expired in any of the states in which we currently operate under the standard business model.

SEC Filing, p. 15 (emphasis added).

10 G.S. 53-166(a). The concluding language of G.S. 53-166(a) ("The word ‘lending’ as used in this section shall include . . . endorsing or otherwise securing loans or contracts for the repayment of loans") also makes it apparent that the "business of lending" is intended to be broad, and covers more than simply whoever the actual lender happens to be.


12 SEC Filing, p. 2 (emphasis added).

13 G.S. 53-276.

14 G.S. 53-275(1). It has a non-avoidance clause, providing that giving a customer a check in exchange for a check is also "cashing." G.S. 53-276, second sentence.


18 The Indiana Department of Financial Institutions 1999 study found a 77% rollover rate. See http://www.in.gov/dfi/legal/paydaylend/Payday.PDF. An Illinois study found that repeat business is the main source of revenue. See Short Term Lending Final Report, Illinois Department of Financial Institutions, Consumer Credit Division (1999). The business model encourages repeat borrowing. See Michael A. Stegman, "Payday Lending: A Business Model That Encourages Chronic Borrowing," 17 Econ. Dev. Qtrly. 8 (2003). While payday lenders seek to avoid the appearance of rollovers by calling the repeat transaction a “new loan,” the Advance America SEC Filing reveals that, on average, Advance America’s customers borrow at the rate of 10.8 times per year. SEC Filing at 2 (dividing number of transactions for 2004 by number of customers served, and annualizing result). This substantially understates the rollover problem, because it fails to take account of borrowers’ use of multiple payday lenders and rolling a debt from one payday lender to another.

20 Exhibit “A” to Marketing and Servicing Agreement between BankWest, Inc. and Advance America, Cash Advance Centers of Georgia, Inc. filed as an attachment to the Affidavit of Nancy J. Berg in BankWest, Inc. and Advance America, Cash Advance Centers of Georgia, Inc. v. Baker, case no. 1:04-CV-0988 (N.D. Ga.). The agreement with Republic Bank is apparently regarded as a “trade secret” and is not publicly available.

21 The agreement gives the bank the option to transfer loans to Advance America and, if this happens, Advance America receives 98.8% of the fee ($16.80 out of $17.00)

22 Advance America SEC Filing, p. 20, states:

Under our processing, marketing and servicing agreements with the lending banks, the lending banks are contractually obligated for the losses on payday cash advances in an amount established as a percentage of the fees and/or interest charged by the lending banks to their customers on their payday cash advances. Depending upon the lending bank, this percentage currently ranges from 8.0% to 20.0%. In aggregate, this percentage was... 10.1% for the year ended December 31, 2003 [and] 12.6% for the nine months ended September 30, 2004.

23 See Advance America SEC Filing, pp. 45-46. During the first nine months of 2004, revenues from the “agency business model” stores averaged $186,964. During the same period, revenue from the “standard business model” stores averaged $176,936.

24 G.S. 53-289 (Consumer Finance Act), 53-277(a)(1) (check-cashing business law), 24-2.3(b) (electing to have federal law about banks’ interest rates, codified at 12 U.S.C. § 1831d, apply in North Carolina).

25 G.S. 53-4, which provides in part:

Notwithstanding any other provisions of this section, the Commissioner of Banks shall not make the certification to the Secretary of State described above until he shall have ascertained that the establishment of such bank will meet the needs and promote the convenience of the community to be served by the bank.

26 G.S. 53-62(c)(2).

27 See G.S. 53-224.15 and 53-224.16 (part of the law dealing with interstate branch banking).