

# **BANKS AND BANKING**

## **CHAPTER 93**

### **HOUSE BILL NO. 1154**

(Industry, Business and Labor Committee)  
(At the request of the Department of Financial Institutions)

AN ACT to create and enact a new subsection to section 6-01-02 of the North Dakota Century Code, relating to definitions for the department of financial institutions.

#### **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

**SECTION 1.** A new subsection to section 6-01-02 of the North Dakota Century Code is created and enacted as follows:

"Tier 1, tier 2, and tier 3 capital" means those terms as set under title 12, Code of Federal Regulations, part 325, in effect on August 1, 2009.

Approved April 16, 2009  
Filed April 17, 2009

**CHAPTER 94****HOUSE BILL NO. 1152**

(Industry, Business and Labor Committee)

(At the request of the Department of Financial Institutions)

AN ACT to amend and reenact section 6-01-04.1 of the North Dakota Century Code, relating to the removal of officers, directors, and employees of financial corporations or institutions.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

**SECTION 1. AMENDMENT.** Section 6-01-04.1 of the North Dakota Century Code is amended and reenacted as follows:

**6-01-04.1. Removal of officers, directors, and employees of financial corporations or institutions.**

1. The department of financial institutions or the board may issue and serve, upon any current or former officer, director, or employee of a financial corporation or institution subject to its jurisdiction and upon ~~the~~ a financial corporation or institution involved, a complaint stating the basis for the board's or the department's belief that the current or former officer, director, or employee is engaging, or has engaged, in any of the following conduct:
  - a. Violating any law, regulation, board order, or written agreement with the board;
  - b. Engaging or participating in any unsafe or unsound practice; or
  - c. Performing any act of commission or omission or practice which is a breach of trust or a breach of fiduciary duty.
2. The complaint must contain a notice of opportunity for hearing pursuant to chapter 28-32. The date for the hearing must be set not less than thirty days after the date the complaint is served upon the current or former officer, director, or employee of ~~the~~ a financial corporation or institution. The current or former officer, director, or employee may waive the thirty-day notice requirement.
3. If no hearing is requested within twenty days of the date the complaint is served upon the current or former officer, director, or employee, or if a hearing is held and the board finds that the record so warrants, and if the board finds that ~~the~~ a financial corporation or institution has suffered or will probably suffer significant loss or other significant damage or that the interest of its depositors, shareholders, members, or creditors could be seriously prejudiced, it may enter an order suspending or removing the current or former officer, director, or employee.
4. A contested or default suspension or removal order is effective immediately upon service on the current or former officer, director, or

employee and upon ~~the~~ a financial corporation or institution. A consent order is effective as agreed.

5. Any current or former officer or director, or employee suspended or removed from office any position pursuant to this section is not eligible, while under suspension or removal, ~~for reelection~~ to occupy any official position within a financial corporation or institution in North Dakota ~~for a period not exceeding three years from the effective date of the suspension or removal until the suspension or removal is terminated by the department of financial institutions or board.~~
6. When any current or former officer, director, employee, or other person participating in the conduct of the affairs of a financial corporation or institution is charged with a felony in state or federal court, involving dishonesty or breach of trust, the commissioner may immediately suspend the person from office or prohibit the person from any further participation in ~~the~~ a financial corporation's or institution's affairs. The order is effective immediately upon service of the order on ~~the~~ a financial corporation or institution and the person charged, and remains in effect until the criminal charge is finally disposed of or until modified by the board. If a judgment of conviction, a federal pretrial diversion, or similar state order or judgment is entered, the board may order that the suspension or prohibition be made permanent. A finding of not guilty or other disposition of the charge does not preclude the commissioner or the board from pursuing administrative or civil remedies.

Approved April 16, 2009  
Filed April 17, 2009

**CHAPTER 95****SENATE BILL NO. 2281**

(Senators Olafson, Nodland)  
(Representatives Kingsbury, Wald)

AN ACT to amend and reenact subsection 7 of section 6-03-02 of the North Dakota Century Code, relating to banks serving as custodian for health savings accounts; and to declare an emergency.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

**SECTION 1. AMENDMENT.** Subsection 7 of section 6-03-02 of the North Dakota Century Code is amended and reenacted as follows:

7. Exercise, as determined by the board by order or rule, all the incidental powers as are necessary to carry on the business of banking, including discounting and negotiating promissory notes, bills of exchange, drafts, and other evidences of debt; receiving deposits; buying and selling exchange, coin, and bullion; loaning money upon real or personal security, or both; soliciting and receiving ~~deposit deposits~~ in the nature of custodial accounts ~~funded only in savings accounts or certificates of deposit~~ for the purpose of health savings or similar health care cost funding accounts, retirement fund contracts, or pension programs, and such custodial accounts are exempt from chapter 6-05; and providing services to its customers involving electronic transfer of funds to the same extent that other financial institutions chartered and regulated by an agency of the federal government are permitted to provide those services within this state. A bank that provides electronic funds transfer equipment and service to its customers, at premises separate from its main banking house or duly authorized facility approved by the state banking board, must make the equipment and service available for use by customers of any other bank upon the request of the other bank to share its use and the agreement of the other bank to share pro rata all costs incurred in connection with its installation and operation, and the electronic operations are not deemed to be the establishment of a branch, nor of a separate facility. The electronic operations at premises separate from its banking house or duly authorized facility must be considered a customer electronic funds transfer center and may be established subject to rules that the state banking board adopts.

**SECTION 2. EMERGENCY.** This Act is declared to be an emergency measure.

Approved April 8, 2009  
Filed April 9, 2009

**CHAPTER 96****HOUSE BILL NO. 1155**

(Industry, Business and Labor Committee)  
(At the request of the Department of Financial Institutions)

AN ACT to amend and reenact section 6-03-06 of the North Dakota Century Code, relating to the sale of real estate loans; and to declare an emergency.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

**SECTION 1. AMENDMENT.** Section 6-03-06 of the North Dakota Century Code is amended and reenacted as follows:

**6-03-06. Sale of real estate loans.** In selling or disposing of loans made upon real estate security, no association has power to guaranty the payment or collection thereof except as necessary to sell residential mortgage loans on the secondary market, and any such guaranty made in violation of this provision is not binding on the association but is upon the officer or other person making the same.

**SECTION 2. EMERGENCY.** This Act is declared to be an emergency measure.

Approved April 16, 2009

Filed April 17, 2009

**CHAPTER 97****HOUSE BILL NO. 1096**

(Industry, Business and Labor Committee)

(At the request of the Department of Financial Institutions)

AN ACT to amend and reenact section 6-03-13.1 of the North Dakota Century Code, relating to separate banking facilities.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

**SECTION 1. AMENDMENT.** Section 6-03-13.1 of the North Dakota Century Code is amended and reenacted as follows:

**6-03-13.1. Separate facilities authorized.** Upon compliance with section 6-03-13.3, any bank organized under chapter 6-02 and under the supervision of the state banking board, and any national bank doing business in this state, may maintain and operate separate and apart from its banking house facilities, in addition to such service at its main banking house. Any activity incidental to the business of banking may be transacted at a separate facility, including receiving deposits of every kind and nature, cashing checks or orders to pay, issuing exchange, making loans, renting safe deposit boxes, exercising fiduciary powers if authorized by the board, and receiving payments payable at the bank. Whenever any banking institution that has been granted approval to establish and maintain a facility deems it advisable to discontinue the maintenance of the facility, the banking institution may apply to the commissioner or state banking board for cancellation and the commissioner or board may order the cancellation approval within the time the board specifies. The banking institution shall ~~publish~~ provide notice of the application as required by the board by rule.

Approved March 5, 2009

Filed March 5, 2009

**CHAPTER 98****SENATE BILL NO. 2220**

(Senator Lyson)

(Representatives Dahl, Vigesaa, Wald)

AN ACT to amend and reenact section 6-03-64 of the North Dakota Century Code, relating to payment orders against minors' bank accounts.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

**SECTION 1. AMENDMENT.** Section 6-03-64 of the North Dakota Century Code is amended and reenacted as follows:

**6-03-64. Payment of deposits made by fiduciaries, officers, minors, and associations.** Deposits made by a person as executor, administrator, guardian, conservator, or in any other representative capacity or official position, with ~~any banking association or a bank~~, are payable to that person ~~as in such officer capacity~~, or if made ~~personally by~~ to an account upon which a minor may order payments as an account owner, ~~must~~ may be paid to the minor although the minor has no guardian or conservator or if the minor has a guardian or conservator, it is not necessary to obtain the consent of the guardian or conservator to such payment, but a ~~check payment order~~ or receipt or acquittance ~~signed~~ authorized by such the minor ~~therefor~~ is valid and binding. Deposits made by ~~any~~ a corporation, association, or society are payable to any person authorized by its board of directors or trustees to receive the same.

Approved April 8, 2009

Filed April 9, 2009

**CHAPTER 99****HOUSE BILL NO. 1143**

(Industry, Business and Labor Committee)

(At the request of the Department of Financial Institutions)

AN ACT to amend and reenact subsection 1 of section 6-06-08 of the North Dakota Century Code, relating to reports of examination and late fees of state-chartered credit unions set by the state credit union board.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

**SECTION 1. AMENDMENT.** Subsection 1 of section 6-06-08 of the North Dakota Century Code is amended and reenacted as follows:

1. Credit unions and the permanent loan funds of credit unions, if any, are under the supervision of the commissioner. Credit unions shall report to the commissioner when called by the commissioner and at least four times each year. The commissioner shall prescribe the forms for the reports. ~~The reports must be received by the commissioner within thirty days of the call.~~ At the discretion of the commissioner, a call may be complied with by submission of a copy of the call report e-mailed directly to the department of financial institutions or by other electronic means of transmission. The call reports are due within thirty days of the call, or according to the deadlines published on the form NCUA 5300, whichever comes first. The commissioner may call for special reports from any credit union whenever in the commissioner's judgment it is necessary to obtain complete knowledge of the condition of the credit union. Every credit union that fails to make and transmit any report required in pursuance of this section shall forfeit and pay to the state a penalty of ~~two hundred up to five hundred~~ up to five hundred dollars for each day of delinquency, not to exceed two thousand five hundred dollars. ~~The commissioner may waive the penalty for reports filed late, not exceeding three business days beyond the due date required by this section. At the discretion of the commissioner, all or part of this penalty may be waived if the reports are submitted within three days after the due date required by this section.~~

Approved March 5, 2009

Filed March 5, 2009



**CHAPTER 100****SENATE BILL NO. 2328**

(Senators Wanzek, Klein, Potter)  
(Representatives N. Johnson, Ruby, Vigesaa)

AN ACT to create and enact a new section to chapter 6-08 of the North Dakota Century Code, relating to assessment of automated teller machine access fees for foreign cardholder transactions.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

**SECTION 1.** A new section to chapter 6-08 of the North Dakota Century Code is created and enacted as follows:

**Automated teller machines - Definitions - International charges - Application.**

1. In this section:
  - a. "Automated teller machine" means any electronic information processing device or electronic funds transfer facility located in this state that accepts or disposes cash in connection with a credit, deposit, or other account. "Automated teller machine" does not include a device that is used solely to facilitate check guarantees or check authorizations, or that is used in connection with the acceptance or dispensing of cash on a person-to-person basis.
  - b. "Foreign account" means an account with a financial institution located outside the United States.
2. An agreement to operate or share an automated teller machine may not prohibit an owner or operator of the automated teller machine from imposing on an individual who conducts a transaction using a foreign account an access fee or surcharge that is not otherwise prohibited under federal or state law.
3. This Act first applies to agreements entered into, modified, or renewed after the effective date of this section.

Approved April 8, 2009  
Filed April 9, 2009

**CHAPTER 101****SENATE BILL NO. 2240**

(Senators Klein, Dever)

(Representatives Belter, Boe, Wald)

AN ACT to create and enact a new section to chapter 6-08.4 of the North Dakota Century Code, relating to the powers of an industrial bank; and to declare an emergency.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

**SECTION 1.** A new section to chapter 6-08.4 of the North Dakota Century Code is created and enacted as follows:

**Powers of industrial bank.** An industrial bank may not accept deposits or make loans at a commercial location unless the industrial bank is owned by a financial holding company as defined in 12 U.S.C. 1841(p). For purposes of this section, "commercial location" means a location owned, operated, leased, or otherwise controlled by an entity that derives fifteen percent or more of its annual gross revenues, on a consolidated basis, including all affiliates of the entity, from engaging, on an ongoing basis, in activities that are not financial in nature or incidental to a financial activity during at least three of the prior four calendar quarters, as determined by the department of financial institutions.

**SECTION 2. EMERGENCY.** This Act is declared to be an emergency measure.

Approved April 8, 2009

Filed April 9, 2009

## CHAPTER 102

### SENATE BILL NO. 2103

(Industry, Business and Labor Committee)  
(At the request of the Bank of North Dakota)

AN ACT to amend and reenact section 6-09-15 of the North Dakota Century Code, relating to the powers of the Bank of North Dakota.

#### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

<sup>64</sup> **SECTION 1. AMENDMENT.** Section 6-09-15 of the North Dakota Century Code is amended and reenacted as follows:

**6-09-15. (~~Effective through July 31, 2009~~) Powers.** The Bank of North Dakota may:

1. Make, purchase, guarantee, or hold loans:
  - a. To state-chartered or federally chartered lending agencies or institutions or any other financial institutions.
  - b. To holders of Bank of North Dakota certificates of deposit and savings accounts up to ninety percent of the value of the certificates and savings accounts offered as security.
  - c. To actual farmers who are residents of this state, if the loans are secured by recorded mortgages giving the Bank of North Dakota a first lien on real estate in North Dakota in amounts not to exceed eighty percent of the value of the security.
  - d. That are insured or guaranteed in whole or in part by the United States, its agencies, or instrumentalities.
  - e. That are eligible to be guaranteed under chapter 15-62.1. Loans made pursuant to this subdivision may provide for interest that remains unpaid at the end of any period specified in the loan to be added to the principal amount of the debt and thereafter accumulate interest.
  - f. To individuals or bank holding companies for the purpose of purchasing or refinancing the purchase of bank stock of a bank located in the state.
  - g. To nonprofit organizations that are exempt from federal taxation under section 501(c)(3) of the Internal Revenue Code [26 U.S.C. 501(c)(3)], the proceeds of the loans to be used for construction,

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<sup>64</sup> Section 6-09-15 was also amended by section 1 of House Bill No. 1202, chapter 109.

- reconstruction, repair, renovation, maintenance, and associated costs on property under the control of the parks and recreation department.
- h. Under Public Law No. 99-198 [99 Stat. 1534; 7 U.S.C. 1932 et seq.], as amended through December 31, 1996, to nonprofit corporations for the purpose of relending loan funds to rural businesses.
  - i. Under title 7, Code of Federal Regulations, part 1948, subpart C; part 1951, subparts F and R; and part 1955, subparts A, B, and C, as amended through December 31, 1996, to finance businesses and community development projects in rural areas.
  - j. Obtained as security pledged for or originated in the restructuring of any other loan properly originated or participated in by the Bank.
  - k. To instrumentalities of this state.
  - l. As otherwise provided by this chapter or other statutes.
  - m. If the Bank is participating in the loan and the Bank deems it is in the best interests of the Bank to do so, it may purchase the remaining portion of the loan from a participating lender that is closed by regulatory action or from the receiver of the participating lender's assets.
  - n. To an investment company created for completing a trust preferred securities transaction for the benefit of a financial institution located in this state.
2. Make agricultural real estate loans in order to participate in the agricultural mortgage secondary market program established pursuant to the Agricultural Credit Act [Pub. L. 100-233; 101 Stat. 1686; 12 U.S.C. 2279aa-2279aa-14], as amended through December 31, 1996.
  3. Purchase participation interests in loans made or held by banks, bank holding companies, state-chartered or federally chartered lending agencies or institutions, any other financial institutions, or any other entity that provides financial services and that meets underwriting standards that are generally accepted by state or federal financial regulatory agencies.
  4. Invest its funds:
    - a. In conformity with policies of the industrial commission.
    - b. In a public venture capital corporation organized and doing business in this state through the purchase of shares of stock.
    - c. In North Dakota alternative and venture capital investments and early-stage capital funds, including the North Dakota development fund, incorporated, not to exceed ten million dollars, for the purpose of providing funds for investment in North Dakota alternative and venture capital investments and early-stage capital funds. The Bank may invest a maximum of two hundred thousand

dollars per biennium in North Dakota-based venture capital entities that make investments in companies located outside North Dakota. The Bank may allow for third-party management of the funds invested under this subdivision if the management is provided by the North Dakota development fund, incorporated, or a third party that is located in the state and that has demonstrated fund management experience.

5. Buy and sell federal funds.
6. Lease, assign, sell, exchange, transfer, convey, grant, pledge, or mortgage all real and personal property, title to which has been acquired in any manner.
7. Acquire real or personal property or property rights by purchase, lease, or, subject to chapter 32-15, the exercise of the right of eminent domain and may construct, remodel, and repair buildings.
8. Receive deposits from any source and deposit its funds in any bank or other financial institution.
9. Perform all acts and do all things necessary, convenient, advisable, or desirable to carry out the powers expressly granted or necessarily implied in this chapter through or by means of its president, officers, agents, or employees or by contracts with any person, firm, or corporation.
10. Purchase mortgage loans on residential real property originated by financial institutions.

**(Effective after July 31, 2009) Powers.** The Bank of North Dakota may:

4. Make, purchase, or hold loans:
  - a. To state-chartered or federally chartered lending agencies or institutions or any other financial institutions.
  - b. To holders of Bank of North Dakota certificates of deposit and savings accounts up to ninety percent of the value of the certificates and savings accounts offered as security.
  - c. To actual farmers who are residents of this state, if the loans are secured by recorded mortgages giving the Bank of North Dakota a first lien on real estate in North Dakota in amounts not to exceed eighty percent of the value of the security.
  - d. That are insured or guaranteed in whole or in part by the United States, its agencies, or instrumentalities.
  - e. That are eligible to be guaranteed under chapter 15-62.1. Loans made pursuant to this subdivision may provide for interest that remains unpaid at the end of any period specified in the loan to be added to the principal amount of the debt and thereafter accumulate interest.

- f. To individuals or bank holding companies for the purpose of purchasing or refinancing the purchase of bank stock of a bank located in the state.
  - g. To nonprofit organizations that are exempt from federal taxation under section 501(c)(3) of the Internal Revenue Code [26 U.S.C. 501(c)(3)], the proceeds of the loans to be used for construction, reconstruction, repair, renovation, maintenance, and associated costs on property under the control of the parks and recreation department.
  - h. Under Public Law No. 99-198 [99 Stat. 1534; 7 U.S.C. 1932 et seq.], as amended through December 31, 1996, to nonprofit corporations for the purpose of relending loan funds to rural businesses.
  - i. Under title 7, Code of Federal Regulations, part 1948, subpart G; part 1954, subparts F and R; and part 1955, subparts A, B, and C, as amended through December 31, 1996, to finance businesses and community development projects in rural areas.
  - j. Obtained as security pledged for or originated in the restructuring of any other loan properly originated or participated in by the Bank.
  - k. To instrumentalities of this state.
  - l. As otherwise provided by this chapter or other statutes.
  - m. If the Bank is participating in the loan and the Bank deems it is in the best interests of the Bank to do so, it may purchase the remaining portion of the loan from a participating lender that is closed by regulatory action or from the receiver of the participating lender's assets.
  - n. To an investment company created for completing a trust preferred securities transaction for the benefit of a financial institution located in this state.
2. Make agricultural real estate loans in order to participate in the agricultural mortgage secondary market program established pursuant to the Agricultural Credit Act [Pub. L. 100-233; 104 Stat. 1686; 12 U.S.C. 2279aa-2279aa-14], as amended through December 31, 1996.
3. Purchase participation interests in loans made or held by banks, bank holding companies, state-chartered or federally chartered lending agencies or institutions, any other financial institutions, or any other entity that provides financial services and that meets underwriting standards that are generally accepted by state or federal financial regulatory agencies.
4. Invest its funds:
- a. In conformity with policies of the industrial commission.
  - b. In a public venture capital corporation organized and doing business in this state through the purchase of shares of stock.

5. Buy and sell federal funds.
6. Lease, assign, sell, exchange, transfer, convey, grant, pledge, or mortgage all real and personal property, title to which has been acquired in any manner.
7. Acquire real or personal property or property rights by purchase, lease, or, subject to chapter 32-15, the exercise of the right of eminent domain and may construct, remodel, and repair buildings.
8. Receive deposits from any source and deposit its funds in any bank or other financial institution.
9. Perform all acts and do all things necessary, convenient, advisable, or desirable to carry out the powers expressly granted or necessarily implied in this chapter through or by means of its president, officers, agents, or employees or by contracts with any person, firm, or corporation.
10. Purchase mortgage loans on residential real property originated by financial institutions.

Approved April 8, 2009  
Filed April 9, 2009

**CHAPTER 103****SENATE BILL NO. 2136**

(Government and Veterans Affairs Committee)  
(At the request of the Public Finance Authority)

AN ACT to amend and reenact section 6-09.4-06 of the North Dakota Century Code, relating to lending and borrowing powers of the public finance authority.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

**SECTION 1. AMENDMENT.** Section 6-09.4-06 of the North Dakota Century Code is amended and reenacted as follows:

**6-09.4-06. Lending and borrowing powers generally.** The public finance authority may lend money to political subdivisions or other contracting parties through the purchase or holding of municipal securities which, in the opinion of the attorney general, are properly eligible for purchase or holding by the public finance authority under this chapter or chapter 40-57 and for ~~which purposes of the public finance authority's capital financing program~~ the principal amount of any one issue does not exceed ~~two~~ five hundred thousand dollars. However, the public finance authority may lend money to political subdivisions ~~or other contracting parties,~~ through the purchase ~~or holding~~ of securities issued by the political subdivisions ~~or other contracting parties~~ through the capital financing program without regard to the principal amount of the bonds issued, if the industrial commission approves a resolution that authorizes the public finance authority to purchase ~~or hold~~ the securities. The capital financing program authorizing resolution must state that the industrial commission has determined that private bond markets will not be responsive to the needs of the issuing political subdivision ~~or other contracting party~~ concerning the securities or, if it appears that the securities can be sold through private bond markets without the involvement of the public finance authority, the authorizing resolution must state reasons for the public finance authority's involvement in the bond issue. The public finance authority may hold such municipal securities for any length of time it finds to be necessary. The public finance authority, for the purposes authorized by this chapter or chapter 40-57, may issue its bonds payable solely from the revenues available to the public finance authority which are authorized or pledged for payment of public finance authority obligations, and to otherwise assist political subdivisions or other contracting parties as provided in this chapter or chapter 40-57.

The public finance authority may lend money to the Bank of North Dakota under terms and conditions requiring the Bank to use the proceeds to make loans for agricultural improvements that qualify for assistance under the revolving loan fund program established by chapter 61-28.2.

Bonds of the public finance authority issued under this chapter or chapter 40-57 are not in any way a debt or liability of the state and do not constitute a loan of the credit of the state or create any debt or debts, liability or liabilities, on behalf of the state, or constitute a pledge of the faith and credit of the state, but all such bonds are payable solely from revenues pledged or available for their payment as authorized in this chapter. Each bond must contain on its face a statement to the effect that the public finance authority is obligated to pay such principal or interest, and redemption premium, if any, and that neither the faith and credit nor the taxing



power of the state is pledged to the payment of the principal of or the interest on such bonds. Specific funds pledged to fulfill the public finance authority's obligations are obligations of the public finance authority.

All expenses incurred in carrying out the purposes of this chapter or chapter 40-57 are payable solely from revenues or funds provided or to be provided under this chapter or chapter 40-57 and nothing in this chapter may be construed to authorize the public finance authority to incur any indebtedness or liability on behalf of or payable by the state.

Approved March 19, 2009  
Filed March 19, 2009

**CHAPTER 104****SENATE BILL NO. 2126**

(Agriculture Committee)

(At the request of the Bank of North Dakota)

AN ACT to amend and reenact subsection 1 of section 6-09.9-02, subsection 2 of section 6-09.9-03, subsection 2 of section 6-09.11-03, subsection 4 of section 6-09.11-05, and subsection 1 of section 6-09.11-06 of the North Dakota Century Code, relating to definitions and operating loans for the Family Farm Survival Act and the family farm loan program.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

**SECTION 1. AMENDMENT.** Subsection 1 of section 6-09.9-02 of the North Dakota Century Code is amended and reenacted as follows:

1. "Farmer" means a resident of this state who owns or operates an existing farm or ranch operation, and has a debt-to-asset ratio of fifty percent or greater or a net worth of less than ~~three hundred thousand dollars~~ an amount determined by the Bank of North Dakota. The industrial commission may adopt additional eligibility criteria in determining who is a farmer eligible for loans under this chapter.

**SECTION 2. AMENDMENT.** Subsection 2 of section 6-09.9-03 of the North Dakota Century Code is amended and reenacted as follows:

2. The amount of a participation interest purchased by the Bank under this section may not be greater than sixty-five percent of the loan amount or ~~two hundred fifty thousand dollars~~ an amount determined by the Bank, whichever is less. The term of any participation interest purchased under this section may not exceed one year.

**SECTION 3. AMENDMENT.** Subsection 2 of section 6-09.11-03 of the North Dakota Century Code is amended and reenacted as follows:

2. The amount of a participation interest purchased by the Bank under this section may not be greater than the lesser of ~~two hundred fifty thousand dollars~~ an amount determined by the Bank or ninety percent of the loan amount.

**SECTION 4. AMENDMENT.** Subsection 4 of section 6-09.11-05 of the North Dakota Century Code is amended and reenacted as follows:

4. The net worth of the applicant does not exceed ~~three hundred thousand dollars~~ an amount determined by the Bank of North Dakota.

**SECTION 5. AMENDMENT.** Subsection 1 of section 6-09.11-06 of the North Dakota Century Code is amended and reenacted as follows:

1. A loan under this chapter may not be greater than the lesser of ~~two hundred fifty thousand dollars~~ an amount determined by the Bank of North Dakota or ninety percent of the appraised value of the security

given for the loan, with the actual percentage to be determined by the Bank of North Dakota. The Bank may do all things and acts, may require such security, and may establish additional terms and conditions as is determined necessary to purchase a participation interest in a loan under this chapter.

Approved April 8, 2009

Filed April 9, 2009

**CHAPTER 105****SENATE BILL NO. 2100**

(Senators Holmberg, Grindberg)

(At the request of the Bank of North Dakota)

AN ACT to amend and reenact section 6-09.15-03 of the North Dakota Century Code, relating to the beginning entrepreneur loan guarantee program by the Bank of North Dakota.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

**SECTION 1. AMENDMENT.** Section 6-09.15-03 of the North Dakota Century Code is amended and reenacted as follows:

**6-09.15-03. Application for guarantee - Term - Annual fee.** A lender may apply to the Bank of North Dakota for a loan guarantee for a loan of up to one hundred thousand dollars. The Bank may approve a guarantee of a loan of up to five thousand dollars to a beginning entrepreneur for use by the beginning entrepreneur for accounting, legal, and business planning and other consulting or advisory services in planning for the establishment of a qualified revenue-producing enterprise. The Bank may approve a guarantee of a loan of up to twenty-five thousand dollars to a beginning entrepreneur without requiring the beginning entrepreneur to provide collateral for the loan. The term of a loan guarantee may not exceed five years. The Bank may charge a lender an annual fee during the term of a loan guarantee. The Bank may not guarantee more than eight million dollars in loans outstanding under the beginning entrepreneur loan guarantee program. Total outstanding guarantees under this program at the time of issuance may not exceed five percent of the Bank's tier one capital as defined by the department of financial institutions.

Approved April 22, 2009  
Filed April 23, 2009