

## GLANDERED ANIMALS

### CHAPTER 125.

[S. B. No. 108—Drown.]

#### APPRAISEMENT OF GLANDERED ANIMALS KILLED.

An Act to Amend and Re-enact Section 2728 of the Compiled Laws of North Dakota for the year 1913 Relating to the Appraisement of Animals Killed or Destroyed According to Law for Being Affected with the Disease Known as Glanders.

*Be it Enacted by the Legislative Assembly of the State of North Dakota:*

§ 1. AMENDMENT.] That Section 2728 of the Compiled Laws of North Dakota for the year 1913 is hereby amended and re-enacted so as to read as follows:

§ 2728. MAXIMUM VALUATION.] In making the appraisement the value put upon the animal or animals shall be the amount that such animal or animals would be worth had they not been affected with glanders; provided, however, that in no case shall the appraised value of any one animal exceed \$150.00 to be paid by the state as hereinafter provided.

Approved March 8, 1917.

## GUARANTY FUND

### CHAPTER 126.

[S. B. No. 217—Drown.]

#### DEPOSITORS' GUARANTY FUND.

An Act Entitled an Act Providing for the Establishment of a Depositors' Guaranty fund to guarantee payment of General Deposits, and the Establishment of a Commission to Supervise and Control such Fund, and Providing for the Liquidation of Insolvent Banks.

*Be it Enacted by the Legislative Assembly of the State of North Dakota:*

§ 1. DEPOSITORS' GUARANTY FUND COMMISSION. ESTABLISHED. COMPENSATION. EXPENSES.] There is hereby established a Depositors' Guaranty Fund Commission of the State of North Dakota to be composed of five (5) members, viz.: the governor of the State of North Dakota, the State Examiner and three members to be appointed by the Governor of the State, from a list of nine men, to be selected by the banks directly affected by the provisions of this act, said banks to be members of the corporation

known as the North Dakota Bankers' association. All succeeding appointments to membership of said commission, whether to fill a vacancy or otherwise, shall be made by the Governor of the State of North Dakota from a list of nine men furnished by the banks directly affected by the provisions of this act. All members of this commission shall be residents of the State of North Dakota and all members except the Governor and the State Examiner shall have had at least five years' experience in the management of some bank or banks located within the State of North Dakota. One of such members shall be appointed for a term of one year, one for a term of two years and one for a period of three years, and each succeeding appointment except to fill a vacancy caused by death, resignation or removal of a member shall be for a period of three years. The Governor shall be the chairman of said board and the attorney-general shall be ex-officio the attorney for the board and the State Examiner shall be its secretary. The Commission at its first meeting shall select one of its members as treasurer. The members of the Commission other than the Governor and the State Examiner shall receive for their services five (\$5.00) dollars per day for the time actually served and their actual expenses incurred in the performance of their duties, the same to be paid out of the general fund of the state. Said commission shall have the supervision and control of the Depositors' Guaranty Fund and shall have the power to adopt all necessary rules and regulations, not inconsistent with law, for the management and administration of said fund.

§ 2. COMMISSIONERS. QUALIFICATIONS. BONDS. OATHS AND FILING THEREOF.] Within fifteen (15) days from the date of the passage and approval and taking effect of this Act the members of the Depositors' Guaranty Fund Commission, other than the Governor and State Examiner, shall take and subscribe the oath of office prescribed by the Constitution, and shall take oath to keep secret all the facts and information obtained in the performance of their duties in like manner as is provided for the State Examiner in the State Banking laws, and subject to like penalties, and each shall give the State of North Dakota a surety company bond in the amount of ten thousand (\$10,000) dollars, except such Commissioner as shall be elected treasurer of the Depositors' Guaranty Fund Commission, who shall give a bond in the amount of twenty-five thousand (\$25,000) dollars, and in all cases when bonds are required from the members of the Depositors' Guaranty Fund Commission for the faithful performance of their respective duties the premium thereon shall be paid by the State Treasurer from the general fund of the state. All such bonds shall be subject to the approval of the Attorney General as to form and to the Governor as to sufficiency, and together with the oath of office of each of said Commissioners shall be filed with the Secretary of State.

§ 3. DEPOSITORS' GUARANTY FUND COMMISSION. REGULAR MEETINGS. DATES FIXED. SPECIAL MEETINGS. HOW CALLED. WHERE HELD.] The Depositors' Guaranty Fund Commission

created by the provisions of this Act shall hold at least four meetings during each calendar year at stated intervals as follows, to-wit: On the second Tuesday in January, April, July and October, provided that other meetings of the Commission may be convened upon written request by any two members of the Commission served upon the chairman of such Commission, who shall upon receipt of such request give notice to the Secretary of the date when a meeting shall be held in accordance with such request, and the Secretary shall in turn give notice thereof to all members of the Commission of the date of such meetings so to be held, as hereinafter provided; and provided further, that whenever a condition exists affecting the general banking business within the state, or when there is sufficient matter in the office of the Secretary entitled to receive consideration and disposition by the Depositors' Guaranty Fund Commission, as contemplated herein, or when in the opinion of the Secretary it is advisable to convene such Commission for counsel and direction on contingencies that may arise that would tend to prevent best results from being obtained hereunder as contemplated herein, it shall be within his power to convene the Commission and to that end forthwith give notice of the date of such meeting to all members of the Commission. All meetings of the Depositors' Guaranty Fund Commission shall be held in the office of the State Examiner.

§ 4. DEPOSITORS' GUARANTY FUND COMMISSION. SPECIFIC DUTIES.] It shall be the specific duty of the Depositors' Guaranty Fund Commission to pass upon the qualifications of each and every bank for admission under the depositors' guaranty fund and their actions shall be final, both as to immediate admission or what shall be further required of any bank in order to place it in a condition satisfactory to the Commission so that it may be admitted later. When the condition of any bank heretofore admitted under the Depositors' Guaranty Fund becomes such as to cause the State Examiner to doubt the advisability of permitting it to continue in business, it shall be within his power to require the advice and opinion of the Commission and for that purpose a meeting of the Commission may be called.

Any regular or called meeting of the Depositors' Guaranty Fund Commission as herein provided, at which there is not a full attendance of the membership, it shall be optional with a quorum whether or not any business shall be transacted, and such quorum may adjourn from time to time until such time as there shall be a full attendance.

§ 5. GUARANTY FUND. ASSESSMENT.] For the purpose of providing a Depositors' Guaranty Fund for the protection of depositors in banks, every bank engaged in the business of banking under the laws of this state, shall be subject to assessment to be levied, kept, collected and applied as hereinafter provided.

§ 6. EXAMINATION OF BANKS. APPROVAL OR LIQUIDATION.] It shall be the duty of the State Examiner and his deputies or any

qualified examiner or examiners to be elected and appointed by the Depositors' Guaranty Fund Commission to examine every State Bank and Trust Company doing business in this state within six months from the passage and approval and taking effect of this Act. Said Depositors' Guaranty Fund Commission shall have power to fix the compensation and expense allowance of such examiner or examiners employed by them, other than the State Examiner and his deputies.

All compensation and expenses of such examination shall be paid from the general fund of the state and no assessment shall be levied upon any bank by the Depositors' Guaranty Fund Commission until its condition shall be approved by the Depositors' Guaranty Fund Commission. Every bank whose condition is not approved by said Commission and which does not comply with the conditions and requirements imposed by said Commission within three months after notice of disapproval shall be immediately liquidated, as provided for the liquidation of insolvent banks; provided, however, that the Depositors' Guaranty Fund Commission shall have discretionary powers to extend the time not to exceed an additional six months.

§ 7. FILING STATEMENTS. ASSESSMENTS.] Within thirty days after the passage, approval and taking effect of this Act and annually thereafter every bank engaged in the business of banking in this state shall make and file with the Depositors' Guaranty Fund Commission, a statement in writing, verified by the oath of its president, vice-president or cashier, showing the average daily deposits in its bank for the preceding twelve (12) months.

Immediately after the date fixed for the making and filing of the first statement and annually thereafter the Depositors' Guaranty Fund Commission shall levy assessments against the assets of each of said banks as follows:

One-twentieth of one per cent on the average daily deposits as shown by the first statement of such average daily deposits required to be made and filed by the provisions of this section.

For each and every year thereafter, one-twentieth of one per cent of the average daily deposits as shown by the statement required to be made and filed under the provisions of this act in each year, until the total amount of money in the Guaranty Fund reaches one per cent of the average daily deposits; provided, however, that said Depositors' Guaranty Fund Commission shall have power to make and levy additional assessments of one-twentieth of one per cent, but not to exceed four such additional assessments shall be made in any one year.

Due and legal notice of such assessment or assessments shall be deemed to have been given when such notice as shall be prepared by the Secretary of the Commission has been placed in an envelope, securely sealed, registered and postage prepaid, directed to each of said banks and deposited in the United States mail.

Provided that when the Depositors Guaranty Fund reaches the total sum of one per cent of the average daily deposits, said assessment against the assets of said bank shall cease until such time as Guaranty Fund is depleted below three-fourths of one per cent of the average daily deposits, when the necessary assessment may be again levied at one-twentieth of one per cent per annum until said fund again reaches one per cent of the average daily deposits.

Provided further, that no bank which has complied in full with the provisions of this act shall be required to give any further security or bond for the purpose of becoming a depository for any public funds, but public funds shall be secured in the same manner as private funds are secured.

All deposits not otherwise secured shall be guaranteed by this Act. The Guaranty as provided for in this Act shall not apply to a bank's obligation as endorser upon bills re-discounted nor to bills payable, or to money borrowed from its correspondents or others. Each Guaranteed Bank shall certify under oath to the Depositors' Guaranty Fund Commission at the date of statements as hereinbefore provided, the amount of money it has on deposit not eligible to guaranty under the provisions of this Act, and in assessing such bank this amount shall be deducted from the total deposits.

§ 8. INTEREST ON DEPOSITS.] No bank transacting a banking business under this Act shall pay interest on deposits, directly or indirectly at a greater rate than five per cent per annum, unless authorized by the Depositors Guaranty Fund Commission to pay a greater rate in which no case shall exceed six (6) per cent per annum, and said Depositors' Guaranty Fund Commission is hereby authorized and empowered to grant permission to pay such higher rate; provided, that the rate so granted shall be uniform within any county.

Any officer, director or employee of any bank violating the provisions of this section, directly or indirectly, shall be deemed guilty of a felony and on conviction thereof shall be punished by a fine of not less than one hundred (\$100) dollars or more than five hundred (\$500) dollars or by imprisonment in the state penitentiary for a term of not less than one year or more than three years or both, in the discretion of the Court.

§ 9. AVERAGED ANNUAL STATEMENT. FALSE STATEMENTS. PENALTY.] Any bank commencing business and receiving deposits less than twelve months prior to the date when the statement referred to in section seven is required to be made and filed shall show the average daily deposits for that portion of said annual period during which it has been engaged in business and receiving deposits.

Any person making oath to any of the statements herein required, knowing the same to be false, shall be deemed guilty of a felony and be punished by a fine of not less than three hundred (\$300.00) dollars nor more than one thousand (\$1,000.00) dollars, or by imprisonment in the state penitentiary for a term of not less

than one year nor more than five years, or both, in the discretion of the Court.

§ 10. VOLUNTARY LIQUIDATION OR CHANGE TO A NATIONAL BANK.] If any bank desires to go into voluntary liquidation or change to a National bank before the assessment provided for in the last section becomes due and payable, the provisions of this act shall not relieve said bank from the payment of any assessments then due from it to the Depositors' Guaranty Fund.

§ 11. NEW BANKS.] Any bank organized subsequent to the passage, approval and taking effect of this act shall pay into the Depositors' Guaranty Fund an amount equal to two per cent of its capital stock, when such bank opens for business, which amount shall constitute a credit fund, subject to adjustment on the basis of said bank's average daily deposits, as shown by the first annual statement required by section seven of this article.

The Depositors' Guaranty Fund Commission is authorized and empowered to make an adjustment of the rates of assessment to be paid by any bank which engages in the banking business subsequent to the passage, approval and taking effect of this Act, and shall require such bank to contribute to the Depositors' Guaranty Fund, a just and equitable sum, and the Depositors' Guaranty Fund Commission shall adjust assessments of such bank so that the first two assessments, together with the credit fund of two per cent of the capital stock paid by said bank when it begins business, shall at least equal one-half of one per cent of the average daily deposits of said bank as shown by the first annual statement required by section seven of this article.

Provided, however, that said two per cent will not be required of new banks formed by the re-organization or consolidation of banks that have previously complied with the terms of this Act with reference to the payment of assessments.

§ 12. NOTICE OF ASSESSMENTS. DISPOSITION. PAYABLE ON DEMAND.] As soon as said assessments are respectively levied, the banks against which the same are levied shall be notified of the amount of such assessment levied against them respectively, by the Secretary of the Depositors' Guaranty Fund Commission, and said banks shall thereupon set apart, keep and maintain in their said banks the amounts thus levied against them and the amounts thus levied, kept and maintained shall be and constitute what shall be designated as the Depositors' Guaranty Fund payable to the Depositors' Guaranty Fund Commission on demand, for the uses and purposes provided.

§ 13. ASSESSMENT. FAILURE TO CREDIT.] Whenever any bank after due notice from the Secretary of the Depositors' Guaranty Fund Commission shall fail to pay over or credit on its books to the Depositors' Guaranty Fund any assessment as herein provided, for a period of twenty days, such bank shall be subject to a penalty of ten (\$10.00) per day for each day it so refuses or fails to pay over or credit to such Depositors' Guaranty Fund such

assessment and penalty, and the State Examiner shall at the expiration of thirty days from the date of notice of assessment herein provided, if said assessment and penalty still remains unpaid, take possession of the affairs of such bank and liquidate its business as provided by the State Banking Laws for making final disposition of insolvent banks.

§ 14. DEPOSITORS' GUARANTY FUND. FIRST LIEN. EXCEPTION.] Whenever any bank doing business in this State under the provisions of this Act shall suspend payment or become insolvent, the amount of money standing to the credit of the Depositors' Guaranty Fund on deposit in such bank shall be first lien upon the assets of such institution; save and except funds deposited in such institution by the State Examiner and belonging to the estate of any insolvent institution, which shall have preference over all other claims.

§ 15. DEPOSITS. PAYMENT.] When any bank doing business under the provisions of this Act suspends or becomes insolvent, the State Examiner shall forthwith proceed to determine the pro-rata amount due from each bank necessary to pay the unsecured depositors in full, and cause the same to be certified to the Depositors' Guaranty Fund Commission, and at the same time he shall certify to said Depositors' Guaranty Fund Commission the amounts due to the several depositors of such insolvent bank and also, at the same time, certify any amounts that may be owing by said depositors to said bank, and the treasurer of said Commission shall thereupon draw against the Depositors' Guaranty Fund on Deposit in the several banks in the amount thus certified, and shall immediately transmit to such depositors the amounts due them, less any amounts that may be owing by said depositors to said bank. Provided, however, that if there should not be sufficient funds in the Depositors' Guaranty Fund to pay said claims, then the Depositors' Guaranty Fund Commission shall issue certificate of indebtedness, negotiable in form, against the Depositors' Guaranty Fund and in favor of such bank, drawing interest at the rate of five per cent per annum, which said certificate of indebtedness shall become due and payable on the first day of March next succeeding the date of issue thereof, and shall be paid out of the first money accruing to the Depositors' Guaranty Fund. Such drafts against the Depositors' Guaranty Fund shall be pro-rated, as nearly as may be, among the several solvent banks wherein the same is as aforesaid kept and maintained, in accordance with the amounts thereof held by such banks respectively. All moneys collected or received from time to time by the Depositors' Guaranty Fund Commission under the provisions of this Act shall be deposited in one or more banks or trust companies operating under the provisions of this Act.

§ 16. SUBROGATION.] To the extent of the amount paid from the said Depositors' Guaranty Fund to satisfy the claims of depositors, said Depositors' Guaranty Fund Commission, for the

use and benefit of said funds, shall be subrogated to all the rights of the depositors thus paid, to participate in the assets of such bank and the same shall be enforced and collected by the State Examiner accordingly and when collected shall be placed in said fund and deposited by the Depositors Guaranty Fund Commission in the solvent banks subject to the provisions of the Depositors Guaranty Fund, proportionate as to the several deposits to the assessments levied against each of said banks.

§ 17. SAME REPORTS.] The State Examiner or Examiner in charge of any suspended or insolvent bank, possession of which has been taken under the provisions of this Act, shall make to the Depositors Guaranty Fund Commission not less than one report quarterly, according to such form as may be prescribed, such report to be verified by his oath.

§ 18. NOTICES NOT OTHERWISE PROVIDED FOR.] Whenever notice is required by the provisions of this act, and such notice is not otherwise provided for as to form or manner of service thereof, the same may be served in the manner now provided for the service of summons in civil action, or by registered mail, and an affidavit of such mailing of such notice by the person giving or serving same, shall be prima facie evidence of the service of such notice.

§ 19. NOTIFICATION OF ADMISSION CERTIFICATE.] Immediately after being passed upon favorably by the Depositors' Guaranty Fund Commission, the Secretary shall notify each and every bank showing such admission, the same to be signed by the chairman and attested by the Secretary of the Commission and bear the seal of the State Examiner. Such certificate shall be carefully preserved by the bank receiving same by being framed or otherwise properly protected, and shall at all times be displayed in a conspicuous position in the lobby of the bank.

§ 20. FORMS. APPROVAL.] The Depositors' Guaranty Fund Commission shall prescribe all such forms as may be useful, or necessary in carrying out the provisions of this act.

§ 21. PUNISHMENT. WHERE NOT OTHERWISE PROVIDED.] Where no other punishment is provided herein any person violating any of the provisions of this act shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than fifty dollars nor more than three hundred dollars or by imprisonment in the county jail for not less than thirty nor more than ninety days or both in the discretion of the court.

§ 22. SAVING CLAUSE.] Nothing in this act contained repealing any act for the regulation or conduct of banking, shall be construed, to release any person from punishment for any acts heretofore committed violating said act or acts nor effect in any manner any existing indictment or prosecution by reason of such repeal; and for that purpose such acts shall continue in force and effect notwithstanding such repeal.

§ 23. NATIONAL BANKS RE-ORGANIZED MAY QUALIFY. REQUIREMENTS.] Any national bank that has re-organized as a state

bank as provided herein, shall before engaging in business under the provisions of this act set apart and credit to the Depositors' Guaranty Fund such an amount as will place them on an equal basis in such respect, with other state banks heretofore admitted, computed on the average daily deposits of such banks during the prior calendar year.

§ 24. FEDERAL GUARANTY LAW.] Whenever by Act of Congress or by decision of the Federal court, or departmental construction of the National Banking Acts, National Banking Associations located and doing business within this State are permitted to avail their depositors of the protection of the Depositors Guaranty Fund, established by the law of this state for the re-paying of deposits in closed banks, such association, after examination at its expense by the State Examiner upon approval as to its financial condition, may participate in the assets and benefits of the Depositors Guaranty Fund upon terms and conditions in harmony with the banking law of this state to be fixed by the said Depositors Guaranty Fund Commission, provided that in the event national banking associations shall be required by federal enactment to pay assessments to any Depositors Guaranty Fund of the Federal Government and thereby the depositors in such association in this state shall be guaranteed by virtue of the Federal Laws, the association having availed themselves of the benefits of this act, may withdraw therefrom and have returned to them the unused portion of all assessments levied upon and paid by such associations.

§ 25. UNAPPROPRIATED ASSESSMENTS REFUNDED. WHEN.] If any bank organized under the laws of this state, having paid any assessment or assessments to the Depositors Guaranty Fund shall liquidate and go out of business, or shall desire to organize as a national bank and withdraw from the protection of the Depositors Guaranty Fund for its depositors, the portion of such assessment or assessments, which shall not have been used under the provisions of this act shall be refunded to any bank by the Depositors Guaranty Fund Commission. Provided, that no such bank shall be released from its proper proportion of all outstanding certificates of indebtedness of the Depositors Guaranty Fund, issued to the depositors of failed banks under the provisions of this act, nor until it shall have received permission in writing so to do from the Depositors Guaranty Fund Commission of this state after an examination of its condition.

§ 26. RESUME BUSINESS.] Such bank or trust company may upon repayment of any money advanced by the Depositors Guaranty Fund to such bank or trust company, with the consent of the Depositors Guaranty Fund Commission resume business upon such conditions as may be approved by said Commission.

§ 27. DEFINING BANKS AND BANKING FOR THE PURPOSES OF THIS ACT.] For the purpose of this act every corporation, except national banks whose business, in whole or in part, consists of the taking of deposits or buying and selling exchange shall be held to

be and is hereby declared to be a bank, and as thus defined shall be subject to the provisions of this act, provided further, that trust companies doing a general banking business as defined in this section separate and apart from the writing of surety bonds and other general business and building and loan association receiving savings deposits shall be declared to be a bank and shall also be subject to the provisions of this Act.

§ 28. NEW BANKS. ORGANIZING.] Any banks organized and authorized to do business under the provisions of the State Banking Laws, on and after the passage, approval and taking effect of this act shall sell the capital stock thereof at two (\$2.00) dollars per share above par and the amount received as a result of such advance shall be credited on the books of such bank to the Depositors Guaranty Fund as hereinbefore provided.

§ 29. REPEAL.] That part of sections 371, 1475 and 3317 of the Compiled Laws of North Dakota for the year 1913, and any and all other provisions of law requiring the giving of personal or surety bonds for deposits of public funds in so far as same applies to banks belonging to the Depositors Guaranty Fund, and all acts and parts of acts in so far as they conflict with the provisions of this act are hereby expressly repealed.

Approved March 10, 1917.

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## HIGHWAYS

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### CHAPTER 127.

[H. B. No. 32—Reishus.]

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#### HIGHWAY IMPROVEMENTS.

An Act to Amend and Re-enact Section 3, Chapter 110 of the Session Laws of the State of North Dakota for the year 1915, Relating to Highway Improvements.

*Be it Enacted by the Legislative Assembly of the State of North Dakota:*

§ 1. AMENDMENT.] That Section 3 of Chapter 110 of the Laws of North Dakota for 1915, Relating to Highway Improvements, be amended to read as follows:

§ 3. That said Board of Highway Improvements may meet on the second Tuesday in February of each year at the County seat, and it shall be their duty to formulate plans and methods for the uniform working and establishing of highways within their county; and such methods as they shall adopt shall be followed in each of the districts of said county, provided that no plan or resolution shall be adopted by said board that is in conflict with any law with reference to highways. A majority vote of all the members