

tion, forfeit to the State of North Dakota the sum of \$500.00 which may be recovered by the Attorney General in the name of the State of North Dakota in the same manner as other penalties are by law recovered.

§ 15. Boxing, sparring matches or wrestling exhibitions as provided for hereunder shall not be held in municipalities in which such contests or exhibitions are declared illegal by ordinance, and all boxing, sparring matches or wrestling exhibitions held in any municipality in this state shall be held in conformity with the ordinance of said municipality.

§ 16. All boxing, sparring matches and wrestling exhibitions and those participating therein held in the high schools, the schools of higher learning, Young Men's Christian Associations, in the State of North Dakota, shall be exempted from the provisions of this act.

§ 17. All acts and parts of acts in conflict herewith are hereby repealed.

Approved March 8, 1935.

BANKS AND BANKING

CHAPTER 92

S. B. No. 133—(Peterson and Whelan , by request)

REGULATION ISSUE AND SALE OF CAPITAL NOTES, DEBENTURES, ETC.

BANKING INSTITUTIONS

An Act authorizing banking institutions to issue and sell capital notes or debentures and preferred stock; prescribing, defining and regulating the manner, terms, conditions, limitations and restrictions under and upon which the same may be issued and sold.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. CAPITAL DEBENTURE.] With the approval of the State Examiner any banking institution, as defined herein, may at any time through action of its board of directors and without requiring any action of its stockholders issue and sell its capital notes or debentures. Such capital notes or debentures shall be subordinate and subject to the claims of depositors and may be subordinated and subjected to the claims of other creditors.

The term "capital" as used in the laws of this state relating to banking shall be construed to embrace the amount of outstanding capital notes and debentures legally issued by any banking institution and sold by it to the Reconstruction Finance Corporation. The capital stock of any such banking institution may be deemed to be unim-

paired when the amount of such capital notes and debentures as represented by cash or sound assets exceeds the impairment as found by the State Examiner. Before any such capital notes or debentures are retired or paid by the bank any existing deficiency of its capital (disregarding the notes or debentures to be retired) must be paid in cash, to the end that the sound capital assets shall at least equal the capital stock of the bank.

Such capital notes or debentures shall in no case be subject to any assessment. The holders of such capital notes or debentures shall not be held individually responsible as such holders for any debts, contracts, or engagements of such institution, and shall not be held liable for assessments to restore impairments in the capital of such institution.

§ 2. PREFERRED STOCK.] Notwithstanding any other provisions of law of this state, any state bank, savings bank, or trust company organized and existing under and by virtue of the laws of North Dakota may, with the consent and approval of the State Examiner, upon written consent of all stockholders, or by a vote of stockholders owning a majority of the stock of such bank, upon not less than sixty days' notice, given by registered mail to the stockholders' last known post office address, pursuant to action taken by their board of directors, issue preferred stock of one or more classes, in such amount and upon such condition and limitations, and with such par value as shall be approved by the State Examiner, and upon such authorization the directors may make such amendments to their articles of incorporation as may be necessary for this purpose; but in the case of a newly organized bank which has not yet issued common stock, the requirement of notice to and vote of stockholders shall not apply.

§ 3. DESIGNATION OF CAPITAL.] Any preferred stock lawfully issued by a banking institution organized under the laws of this state shall be included in determining whether such banking institution has complied with the minimum capital stock requirements provided by law for banking institutions in this state. Such preferred stock may be used in the capital structure of such institution in the reduction of the common stock or in addition thereto, provided, however, that nothing herein contained shall be construed as in any manner decreasing the amount of capital required of such an institution under the laws of this state.

§ 4. DEBENTURES—EXCHANGE OF.] Any such institution may, upon first obtaining the consent and approval of the State Examiner, exchange such preferred stock for capital notes or debentures now held by the Reconstruction Finance Corporation of the United States.

§ 5. RIGHTS, PRIVILEGES AND LIABILITIES.] The holders of such preferred stock shall be entitled to such rights and privileges and shall be subject to such limitations and restrictions with respect

to dividends, voting, conversion rights, control of management, retirement and replacement of such stock, rights and preferences in case of liquidation and any other rights or privileges as may be fixed and provided in the articles of incorporation. Also preferred stock shall be nonassessable and the holders thereof shall not be held individually responsible as such holders for any debts, contracts or engagements of such bank.

§ 6. DEFINITION.] The term "banking institution," as used in this act shall be construed to mean any bank, trust company, bank and trust company, stock savings bank or mutual savings bank, which is now or may hereafter be organized under the laws of this state.

§ 7. REPEAL.] All laws or parts of laws in conflict herewith are hereby repealed.

Approved March 7, 1935.

CHAPTER 93

S. B. No. 134—(Peterson and Whelan, by request)

CAPITAL STOCK OF BANKS

An Act to amend and re-enact Section 17 of Chapter 96 of the Session Laws of North Dakota for the year 1931, relating to capital stock of banks.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] Section 17 of Chapter 96 of the Session Laws of North Dakota for the year 1931, is hereby amended and re-enacted to read as follows:

§ 17. CAPITAL STOCK.] Hereafter no banking association shall be organized under this act with a capital stock of less than fifteen thousand dollars, nor in towns or cities of over five thousand inhabitants with a capital stock of less than twenty thousand dollars; nor in cities of over ten thousand inhabitants, with a capital stock of less than twenty-five thousand dollars; and in addition to the capital requirements herein provided for there shall also be subscribed and paid in at the time of organization a surplus equal to twenty per cent of such required capital. Provided further that the State Examiner shall require that the capital stock of any such association be increased whenever such capital and surplus shall amount to less than ten per cent of the deposits of such association. All of the capital stock and surplus of every such association as herein provided shall be paid in before it shall be authorized to commence business, and evidence of such payment of capital stock and surplus either in actual money or a deposit in a previously approved correspondent bank must be furnished to the State Examiner or Deputy Examiner before the certificate of authority may be delivered. For the purpose of this section, the population of the city may be determined by using

the population shown by the most recent state or national census. No association having been organized to transact business in any city and which may have sold or converted its business to a national bank, or other banking business which is continued at the same place, shall be allowed to remove its charter or its articles of incorporation to, and recommence business at another place, except with the consent and approval of the State Banking Board, and where it can be clearly shown that a banking association which has not changed, sold or conveyed its business as hereinbefore recited, is located at a place where there is not sufficient business for the profitable conduct of a bank, such association may apply to the State Banking Board for authority to remove its business to some other place within the state and to change its name if desired; and upon the approval of such application by the State Banking Board and the proper amendment of the articles of incorporation, the Board may issue authority for such removal and change; provided, that no such association shall be allowed to remove its business to any city without having the full amount of capital stock and surplus required by this act for a new organization in such city. A renewal charter shall not be granted until satisfactory evidence has been furnished the State Banking Board that the capital and surplus of the association seeking to renew is increased if necessary to conform with the requirements of this act relating to new banks and that its articles of incorporation have been properly amended and its required capital and surplus paid in.

Approved March 7, 1935.

CHAPTER 94

S. B. No. 128—(Fine, McGillic and Gronvold)

NATIONAL HOUSING ACT LOANS

An act to promote the objects of the Act of Congress of the United States entitled, "National Housing Act," approved June 27, 1934, and acts amendatory thereof or supplemental thereto, by authorizing banks, savings banks, trust companies, building and loan associations, and insurance companies, to make loans pursuant to Title I and II of the National Housing Act, and by authorizing banks, savings banks, trust companies, building and loan associations, insurance companies, executors, administrators, guardians, trustees, and other fiduciaries, the State of North Dakota and its political subdivisions, and institutions and agencies thereof, and all other persons, associations and corporations, subject to the laws of this state, to invest in mortgages insured, and in debentures issued, by the Federal Housing Administrator, and to invest in securities of national mortgage associations or similar national mortgage credit institutions now or hereafter organized under Title III of the National Housing Act, and by excepting banks, savings banks, trust companies, building and loan associations, insurance companies, executors, administrators, guardians, trustees, and other fiduciaries, the State of North Dakota and its political subdivisions, and institutions and agencies thereof, and all other persons, and associations, subject to the laws of this state from the application of laws of this state requiring

security upon which loans or investments may be made, or limiting making of loans to shareholders or members of the lender, or prescribing the nature, amount or form of such security, or limiting or prescribing the interest rates upon loans or investments, or the period for which loans or investments may be made, provided such loans, securities or investments are insured by the Federal Housing Administrator, and providing for invalidity, and declaring an emergency to exist.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. Banks, savings banks, trust companies, building and loan associations, and insurance companies, are authorized:

(a) To make such loans and advances of credit and purchases of obligations representing loans and advances of credit as are insured pursuant to Title I, Section 2, of the National Housing Act, and to obtain such insurance.

(b) To make such loans, secured by real property or leasehold, as the Federal Housing Administrator insures or makes a commitment to insure pursuant to Title II of the National Housing Act, and to obtain such insurance.

§ 2. It shall be lawful for banks, savings banks, trust companies, building and loan associations, insurance companies, executors, administrators, guardians, trustees, and other fiduciaries, the State of North Dakota and its political subdivisions, and institutions and agencies thereof, and all other persons, associations and corporations, subject to the laws of this state, to invest their funds, and the moneys in their custody or possession, eligible for investment, in notes or bonds secured by mortgage or deed of trust insured by the Federal Housing Administrator, and in debentures issued by the Federal Housing Administrator, pursuant to Title II of the National Housing Act, and in securities issued by national mortgage associations or similar national mortgage credit institutions now or hereafter organized under Title III of the National Housing Act.

§ 3. No law of this state requiring security upon which loans or investments may be made, or limiting making of loans to shareholders or members of the lender, or prescribing the nature, amount or form of such security, or prescribing or limiting interest rates upon loans or investments, or prescribing or limiting the period for which loans or investments may be made, shall be deemed to apply to loans or investments made pursuant to the foregoing paragraphs.

§ 4. [INVALIDITY.] In the event that any section or clause, sentence, paragraph or part of this act shall for any reason be adjudged by any court of competent final jurisdiction to be invalid such judgment shall not affect, impair or invalidate the remainder of this act, but shall be confined in its operation to the section, clause, sentence, paragraph or part thereof directly involved in the controversy in which such judgment shall have been rendered.

§ 5. EMERGENCY.] This act is hereby declared to be an emergency measure, and shall be in full force and effect from and after its passage and approval.

Approved March 2, 1935.

CHAPTER 95

S. B. No. 132—(Peterson and Whelan, by request)

DEFINING BANKING INSTITUTIONS—AUTHORIZING U. S. POSTAL SAVINGS DEPOSITS, FEDERAL DEPOSIT INSURANCE, ETC.

An Act defining banking institutions within the meaning of this act; authorizing such banking institutions to enter into such contracts, incur such obligations and generally to do such acts as may be appropriate or necessary to take advantage of any and all memberships, loans, subscriptions, contracts, grants, rights or privileges, including the right to receive and hold United States Postal Savings Deposits, which may, at any time, be available or enure to said banking institutions or their depositors, stockholders, conservators, liquidators or receivers, under or by virtue of any act, regulation or resolution of the Congress of the United States or any department, board, agency or officer thereof; to aid, regulate, foster, promote or safeguard banking institutions and depositors, including the act creating the Federal Deposit Insurance Corporation and prescribing, defining and regulating the manner, terms, conditions, limitations and restrictions under and upon which said banking institutions, their stockholders, depositors, conservators, liquidators or receivers may take advantage of, comply with and act upon the rights and privileges hereby granted to them, and declaring an emergency.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. DEFINITION.] The term "banking institution," as used in this act shall be construed to mean any bank, trust company, bank and trust company, stock savings bank or mutual savings bank, which is now or may hereafter be organized under the laws of this State.

§ 2. POWERS.] Any banking institution now or hereafter organized under the laws of this state is hereby empowered, on the authority of its board of directors, or a majority thereof, to enter into such contracts, incur such obligations and generally to do and perform any and all such acts and things whatsoever as may be necessary or appropriate in order to take advantage of any and all memberships, loans, subscriptions, contracts, grants, rights or privileges, which may at any time be available or enure to banking institutions or to their depositors, creditors, stockholders, conservators, receivers or liquidators, by virtue of those provisions of Section 8 of the Federal "Banking Act of 1933" (Sec. 12B of the Federal Reserve Act, as amended,) which established the Federal Deposit Insurance Corporation and provided for the insurance of deposits, or of any other provisions of that or of any other act or regulation of Congress to aid, regulate or safeguard banking institutions and their depositors,

including any amendments of the same or any substitutions therefor; also, to subscribe for and acquire any stock, debentures, bonds or other types of securities of the Federal Deposit Insurance Corporation and to comply with the lawful regulations and requirements from time to time issued or made by such corporation. It shall also have the right and power, upon the approval and consent of the State Examiner, to take, receive and hold United States Postal Savings Deposits and to take any and all action necessary to procure the deposit of the same.

§ 3. RECEIVERS. LIQUIDATION.] The Federal Deposit Insurance Corporation created by Section eight of the Federal "Banking Act of 1933" (Section 12B of the Federal Reserve Act, as amended) is hereby authorized and empowered to be and act without bond as receiver or liquidator of any banking institution, the deposits in which are to any extent insured by said Corporation, and which shall have been closed on account of inability to meet the demands of its depositors.

The appropriate state authority, having the right to appoint a receiver or liquidator of a banking institution, may in its discretion, in the event of such closing tender to said Corporation the appointment as receiver or liquidator of such banking institution, and if the Corporation accepts said appointment, the Corporation shall have and possess all the powers and privileges provided by the laws of this state with respect to a receiver or liquidator respectively of a banking institution, its depositors and other creditors, and be subject to all the duties of such receiver or liquidator.

§ 4. SUBROGATION.] Whenever any banking institution shall have been closed as aforesaid, and said Federal Deposit Insurance Corporation shall pay or make available for payment the insured deposit liabilities of such closed institution, the Corporation, whether or not it shall have become receiver or liquidator of such closed banking institution, as herein provided, shall be subrogated to all rights against such closed banking institution of the owners of such deposits, in the same manner and to the same extent as subrogation of the Corporation is provided for in Sub-section (1) of Section 12B of said Federal Reserve Act, as amended (being Section 8 of said "Banking Act of 1933") in the case of the closing of a national bank: Provided, that the rights of depositors and other creditors of such closed institution shall be determined in accordance with the applicable provisions of the laws of this state.

§ 5. EXAMINATIONS. REPORTS.] The State Examiner is authorized to accept in his discretion in lieu of any examination authorized by the laws of this state to be conducted by his department of a banking institution the examination that may have been made of same within a reasonable period by the Federal Deposit Insurance Corporation provided a copy of said examination is furnished to said State Examiner. Said State Examiner may, also, in his discretion accept

any report relative to the condition of a banking institution which may have been obtained by said Corporation within a reasonable period, in lieu of a report authorized by the laws of this state to be required of such institution by his department, provided a copy of such report is furnished to said State Examiner.

Said State Examiner may furnish to said Corporation, or to any official or examiner thereof, a copy or copies of any or all examinations made of any such banking institutions and of any or all reports made by same, and may give access to and disclose to said Corporation or any official or examiner thereof any and all information possessed by the office of said State Examiner, with reference to the conditions or affairs of any such insured institution.

Nothing in this section shall be construed to limit the duty of any banking institution in this state, deposits in which are to any extent insured under the provisions of Section 8 of the "Banking Act of 1933" (Section 12B of the Federal Reserve Act, as amended) or of any amendment of or substitution for the same, to comply with the provisions of said act, its amendments or substitutions, or the requirements of said Corporation relative to examinations and reports, nor to limit the powers of the State Examiner with reference to examinations and reports under existing law.

§ 6. BORROWING.] With respect to any banking institution, which is now or may hereafter be closed on account of inability to meet the demands of its depositors or by action of the State Banking Board, or of a court or by action of its directors or in the event of its insolvency or suspension, the State Examiner and/ or the receiver or liquidator of such institution with the permission of said State Banking Board may borrow from said Corporation and furnish any part or all of the assets of said institution to said Corporation as security for a loan from same, provided, that where said Corporation is acting as such receiver or liquidator, the order of a Judge of a District Court of North Dakota shall be first obtained approving such loan. Said State Banking Board upon the order of a Judge of a District Court of North Dakota, and upon a like order and with the permission of said State Banking Board the receiver or liquidator of any such institution may sell to said Corporation any part or all of the assets of such institution.

The provisions of this section shall not be construed to limit the power of any banking institution, or receivers or liquidators to pledge or sell assets in accordance with any existing law.

§ 7. ASSETS. TITLE TO.] Upon the acceptance of the appointment of a receiver or liquidator aforesaid by said Corporation, the possession of and title to all the assets, business and property of such banking institutions of every kind and nature shall pass to and vest in said Corporation as such receiver or liquidator, and without the execution of any instruments of conveyance, assignment, transfer or endorsement.

§ 8. STOCKHOLDERS' LIABILITY.] Among its other powers, said Corporation, in the performance of its powers and duties as such receiver or liquidator, shall have the right and power upon the order of a Judge of a District Court of North Dakota to enforce the individual liability of the stockholders, and directors of any such banking institution.

of the stockholders, and directors of any such banking institution.

§ 9. VALIDITY.] The validity of any provision or part of this act shall not be dependent upon any other provision or part thereof. If any provision or part thereof should for any reason be held unconstitutional or invalid such decision shall not affect the validity of any of the remaining provisions or parts of this act.

§ 10. REPEAL.] All laws or parts of laws in conflict herewith are hereby repealed.

§ 11. EMERGENCY.] Whereas an emergency exists in that it is necessary that banks, savings banks and trust companies be in a position to take advantage of and comply with the requirements of laws of the United States relating to the subject matter covered by this act as soon as possible, therefore this act shall be in full force and effect from and after its passage and approval.

Approved March 6, 1935.

CHAPTER 96

S. B. No. 311—(Fine and Greene)

BUILDING AND LOAN ASSOCIATION INVESTMENT INSURANCE IN FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

An Act to authorize building and loan associations to insure members' investments in Federal Savings and Loan Insurance Corporation and to provide for the conversion of building and loan associations and other home financing organizations into Federal savings and loan associations, prescribing the procedure therefor, defining the results thereof and providing for the indebtedness of such associations, and declaring an emergency.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. Any such association may do all things necessary to obtain, continue, pay for and terminate insurance of its shares with Federal Savings and Loan Insurance Corporation.

§ 2. Any building and loan association or other home financing organization by whatever name or style it may be designated, eligible to become a Federal Savings and Loan Association may convert itself into a Federal Savings and Loan Association by following the procedure hereinafter outlined.

A. At any regular or special meeting of the shareholders of any

such association, in either case called to consider such action and held in accordance with the laws governing such association, such shareholders by a two-thirds affirmative vote of those present in person or by proxy may declare by resolution the determination to convert such association into a Federal Savings and Loan Association.

B. A copy of the minutes of such meeting of the shareholders verified by the affidavit of the president or vice-president and the secretary of the meeting shall be filed within ten days after said meeting, in the office or department of this state having supervision of such association. Such verified copy of the minutes of such meeting when so filed shall be presumptive evidence of the holding and of the action of such meeting.

C. Within a reasonable time and without any unnecessary delay after the adjournment of such meeting of shareholders, the board of directors and officers of such association shall take such action and do all things necessary to make it a Federal Savings and Loan Association. Within ten days after receipt of the Federal charter there shall be filed in the office or department of this state having supervision of such association a copy of such charter issued to such association by the Federal Home Loan Bank Board or a certificate showing the organization of such association as a Federal Savings and Loan Association certified by, or on behalf of, the Federal Home Loan Bank Board. Upon the filing of such instrument such association shall cease to be a state association and shall thereafter be a Federal Savings and Loan Association.

§ 3. At the time when such conversion becomes effective as hereinbefore provided, such association shall cease to be supervised by this state and all of the property and rights of such association including all of its right, title and interest in and to all property of every kind and character whether real, personal or mixed shall immediately by operation of law and without any conveyance or transfer whatsoever and without any further act or deed, continue to be vested in such association under its new name and style as a Federal Savings and Loan Association and under its new jurisdiction; and such Federal Savings and Loan Association shall have, hold and enjoy the same in its own right as fully and to the same extent as the same was possessed, held and enjoyed by it as a state association and said Federal Savings and Loan Association at the time of the taking effect of such conversion shall continue responsible for all of the obligations of said state association to the same extent as though said conversion had not taken place; it being expressly declared that the said Federal Savings and Loan Association shall be merely a continuation of the said state association under a new name and new jurisdiction and such revision of its corporate structure as may be considered necessary for its proper operation under said new jurisdiction.

§ 4. All laws and parts of laws in conflict with any of the provisions of this act are hereby repealed.

§ 5. If any provision in this act, or the application thereof to any person, corporation or circumstance, is held invalid, the remainder of the act, and the application of such provision to other persons, corporations or circumstances, shall not be affected thereby.

§ 6. EMERGENCY.] Whereas, an emergency exists in that it is necessary that building and loan associations and other home financing organizations be in a position to take advantage of and comply with the requirements of the laws of the United States relating to the subject matter covered by this act. This act is hereby declared to be an emergency measure and shall be in full force and effect from and after its passage and approval.

Approved March 13, 1935.

BEER

CHAPTER 97

S. B. No. 195—(Drew, Trout and Gronvold)

**BEER SALES—POWERS AND DUTIES BEER COMMISSIONER,
GOVERNING BOARDS CITIES AND VILLAGES, ETC.**

An Act to amend and re-enact Sections, 3, 5, 7, 8, and 11 of the Initiated Measure entitled "An Act Providing for the Manufacture and Sale, within the State, of Beer, as defined by the Congress of the United States, making regulations under which the same may be done, providing a revenue therefrom, and repealing Senate Bill No. 263, passed by the 23rd Legislative Assembly of the State of North Dakota, and all other acts or parts of acts in conflict with the provisions of this Act." approved by the people of the State of North Dakota at the Special Election held on the 22nd day of September, 1933, relating to the manufacture and sale of beer, and declaring an emergency.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] Section 3 of the Initiated Measure for the manufacture, sale and distribution of beer, enacted and approved September 22, 1933, is hereby amended and re-enacted to read as follows:

§ 3. BEER COMMISSIONER—POWER AND DUTIES.] There is hereby established for the purpose of carrying out the provisions of this act, an officer to be known as the State Beer Commissioner of the State of North Dakota, whose duty it shall be to license all persons, firms, corporations, partnerships and associations, who may desire to engage in the sale of beer, either wholesale or retail, and such officer shall be appointed by the Governor of the state, and