

## **BANKS AND BANKING**

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### **CHAPTER 103**

**H. B. 700**  
**(Holland and McLellan)**

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#### **INVESTMENT OF TRUST FUNDS**

##### **AN ACT**

To amend and reenact section 6-0515 of the North Dakota Revised Code of 1943 relating to investment of trust funds.

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

§ 1. AMENDMENT.) Section 6-0515 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

6-0515. INVESTMENT OF TRUST FUNDS.) Any sum of money, which shall be collected or received by any such corporation in its trust capacity, and which shall not be required for the purposes of such trust, or which is not to be accounted for within one year from the date of such collection, receipt, or deposit, shall be invested by the corporation as soon as practicable. At least fifty percent of the funds available for investment shall be invested in accordance with the provisions of sections 6-0347, 6-0348, or 7-0409 or in the following securities:

1. Bonds of the United States or of the state of North Dakota;
2. Bonds of other states which shall have the approval of the state auditor and the state examiner;
3. Bonds or obligations of any township, school district, city, village, or county within this state, whose total bonded indebtedness does not exceed five percent of the then assessed valuation thereof; or
4. Bonds or promissory notes secured by first mortgages or deeds of trust upon unencumbered real estate situated within the state of North Dakota worth two times the amount of the obligation so secured.

In acquiring, investing, reinvesting, exchanging, retaining, selling and managing the remaining property for the benefit of another,

the trustee shall exercise the judgment and care under the circumstances then prevailing, which men of prudence, discretion and intelligence exercise in the management of their own affairs, not in regard to speculation but in regard to the permanent disposition of their funds, considering the probable income as well as the probable safety of their capital. Within the limitations of the foregoing standard, the trustee is authorized to acquire and retain every kind of property real, personal or mixed, and every kind of investment, specifically including but not by way of limitation, bonds, debentures, and other corporate obligations and stocks, preferred or common, including investment trusts, which men of prudence, discretion and intelligence acquire or retain for their own account, and within the limitations of the foregoing standard, the trustee may retain property properly acquired without limitation as to time and without regard to its suitability for original purchase. The net interest and profits of such investments, less the reasonable charges and disbursements of the corporation in connection therewith, shall be accounted for and paid over as a part of such trust. The net accumulations of such interest and profits likewise shall be invested and reinvested as a part of the principal, and such investments shall be received and allowed in the settlement of the trust.

Approved March 6, 1951.

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## CHAPTER 104

S. B. No. 121  
(Duffy and Sandness)

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### REGULATING CREDIT UNIONS

#### AN ACT

To amend and reenact subsections 1, 2, 3, and 4 of section 6-0602, sections 6-0606, subsection 7 of section 6-0612, 6-0613, 6-0626 and 6-0630 of the North Dakota Revised Code of 1943, and sections 6-0604 and 6-0608 of the 1949 Supplement to the North Dakota Revised Code of 1943, relating to credit unions; providing for the manner of managing, the method of the amendment of the certificate of organization or by-laws, the powers of credit unions, the supervision of credit unions, the duties, election and compensation of officers, and providing for dividends, voluntary liquidation, and the amount and manner of establishing special reserves for delinquent loans and investments.

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

§ 1. AMENDMENT.) Subsections 1, 2, 3 and 4 of section 6-0602 of the North Dakota Revised Code of 1943, are hereby amended and reenacted to read as follows:

**6-0602. MANNER OF ORGANIZATION OF CREDIT UNIONS.)** A credit union shall be organized in the following manner:

1. The applicants shall execute a certificate of organization, in triplicate, by the terms of which they agree to be bound, stating the name and location of the proposed credit union, the names and addresses of the subscribers to the certificate and the number of shares subscribed by each, and the par value of the shares of the credit union, which shall not exceed ten dollars each;
2. The applicants shall prepare and execute proposed by-laws, in triplicate, for the general governance of the credit union consistent with the provisions of this chapter;
3. The certificate and the proposed by-laws, both executed in triplicate, shall be forwarded to the state examiner;
4. The state examiner, within thirty days after the receipt of certificate and by-laws shall determine whether they comply and are consistent with the provisions and purposes of this chapter;

§ 2. **AMENDMENT.)** Section 6-0604 of the 1949 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

**6-0604. AMENDMENT OF CERTIFICATE OR BY-LAWS; APPROVAL BY STATE CREDIT UNION BOARD.)** The certificate of organization or by-laws of a credit union may be amended at a regular or special meeting of the members thereof. The proposed amendments must be fully set forth in the notice of the meeting at which the proposed amendments are to be submitted for action. Any amendment to the certificate of organization must be approved by a majority vote of the entire membership of the credit union, and any amendment to the by-laws must be approved by three-fourths of the members present at the meeting. Proposed amendments to the certificate of organization or the by-laws shall, before submission to members for adoption, be approved by the state credit union board, and shall become operative immediately upon approval of the membership of the credit union. The resolution containing the full text of any amendment of the certificate of organization, verified by the president and the treasurer of the credit union and approved by the state credit union board, shall be recorded in the office of the register of deeds of the county in which the principal places of business of the credit union is located. The applicants shall, within thirty days thereafter, provide the state examiner with a true and correct copy of the amendment to the certificate of organization or the amendment to the by-laws.

§ 3. **AMENDMENT.)** Section 6-0606 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

6-0606. POWERS OF CREDIT UNIONS.) A credit union shall have the following powers:

1. To receive the savings of its members either as payment on shares or as deposits, including the right to conduct Christmas clubs, vacation clubs, and other such thrift organizations within its membership;
2. To make loans to members for provident or productive purposes;
3. To make loans to a cooperative society or other organization having membership in the credit union;
4. To deposit its moneys in state and national banks and trust companies and central credit unions authorized to receive deposits;
5. To invest in the following:
  - a. In bonds of the United States;
  - b. In bonds or evidences of debt of this state or in bonds of other states of the United States;
  - c. In bonds or certificates of indebtedness of any county, city, village, or school district in this state, issued pursuant to authority of law, but not to exceed thirty percent of the assets of any credit union may be invested in such bonds or certificates of indebtedness;
  - d. In notes or bonds secured by mortgage or deed of trust upon unencumbered, improved real estate in this state, if such investment shall not exceed sixty-five percent of the actual cash value of the property mortgaged, and fire and tornado insurance policies are maintained and deposited as collateral to such mortgage, subject to such restriction and regulations as may be imposed by the state credit union board;
  - e. In notes or bonds secured by mortgage upon unencumbered personal property in this state, if such investment shall not exceed seventy-five percent of the actual cash value of the property mortgaged;
  - f. In first lien, public utility, industrial, corporation or association bonds, notes or other evidences of debt issued by corporations located in the United States of America to the extent authorized by the state credit union board.
6. To borrow money as limited in this chapter;
7. To establish a permanent loan fund, if approved by the majority vote of the members present at any regular meeting or at any special meeting regularly called for that purpose;
8. To sue and be sued;
9. A credit union may invest in a credit union office building including the lot, piece, or parcel of land on which the same is located, and in furniture and fixtures, to the

extent authorized by regulations issued by the state credit union board; and

10. Every state credit union shall have the power to purchase, hold and convey other real estate as herein provided, and not otherwise:
  - a. Such as shall be mortgaged to it in good faith by way of security for loans, or for debts previously contracted,
  - b. Such as shall be conveyed to it in good faith in satisfaction of debts previously contracted in the course of its dealings; and
  - c. Such as it shall purchase at sales under judgments, decrees, or mortgages held by the credit union, or shall purchase to secure debts due to it.

§ 4. AMENDMENT.) Section 6-0608 of the 1949 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

6-0608. STATE CREDIT UNION BOARD TO SUPERVISE CREDIT UNIONS; REPORTS; EXAMINATIONS; FEE.) Credit unions and the permanent loan funds thereof, if any, shall be under the supervision of the state credit union board. The credit unions shall report to the state examiner at least once annually, upon call of the state examiner, on blanks supplied by the examiner for the purpose. Additional reports may be required by the board or examiner. Credit unions shall be examined at least once each year by the examiner. If it is determined through an examination or otherwise that the credit union is violating the provisions of this chapter, or is insolvent, the state credit union board may serve notice on the credit union of its intention to revoke the charter. If such violations continue for a period of fifteen days after such notice, the board may revoke the charter and take possession of the business and property of such credit union, and shall maintain possession then until such time as it shall permit the reinstatement of the charter and the continuation of business by the credit union, or until its affairs finally are liquidated. The board may take similar action if any required report remains in arrears for more than fifteen days. The credit union shall pay to the state examiner for examination a fee equal to twenty cents per thousand dollars of assets for the first one hundred thousand dollars, and ten cents per thousand dollars of assets in excess of one hundred thousand dollars, except that the minimum fee for the examination of a credit union shall be five dollars.

§ 5. AMENDMENT.) Subsection 7 of section 6-0612 of the North Dakota Revised Code of 1943, is hereby amended and reenacted to read as follows:

6-0612. DIRECTORS; DUTIES AND POWERS.) The directors shall have general management of the credit union, and it shall be their duty particularly:

- (7) To determine the maximum individual shareholdings and the maximum individual loans which can be made, but the maximum loan allowed by the board shall not exceed the amounts listed in the following schedule:

Total Assets	Loan Limit
0 to 70,000	10% with a limit of 5,000
70,001 to 100,000	6,000 limit
100,001 to 200,000	8,000 limit
200,001 to 300,000	10,000 limit
300,001 to 400,000	12,000 limit
400,001 to 500,000	14,000 limit
Over 500,000	3% of assets

In all cases a credit union shall be allowed to loan up to and including two hundred dollars to any individual regardless of the amount of total assets in said credit union. Provided, that the foregoing provisions shall not apply to the North Dakota central credit union.

§ 6. AMENDMENT.) Section 6-0613 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

6-0613. OFFICERS; ELECTION; DUTIES; COMPENSATION.) At the first meeting, the board of directors shall elect from its own members, a president, a vice president, and a secretary, and the board shall appoint a treasurer who may be a member of the board, and one person may hold the offices of treasurer and secretary. The duties of the officers shall be determined by the by-laws. The treasurer shall be general manager of the credit union and may receive a reasonable compensation to be fixed by the board of directors. No other member of the board, or of the credit committee or supervisory committee shall receive any compensation. Except that the board of directors may provide for the payment of expenses incurred by directors or committee members while on official business.

7. AMENDMENT.) Section 6-0626 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

6-0626. DIVIDENDS.) At the end of any fiscal year, a credit union, upon action by its board of directors, may declare a dividend which shall be paid on all outstanding and paid up shares. Except that the members may fix the maximum rate of dividend which shall be paid each year. Such dividend must be paid from the net earnings of the credit union, after establishing a special reserve for delinquent loans as required under this title, but shall not exceed six percent in any case. Shares which become fully paid up during the year shall be entitled to their proportional

part of such dividend calculated from the first day of the first month following the date of such payment. At the end of the fiscal year, a credit union, upon action by its board of directors, may declare and allocate a patronage dividend on interest paid by borrowers after provision has been made for special reserve for delinquent loans as required under this title, and may pay said dividend to borrowers.

§ 8. AMENDMENT.) Section 6-0630 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

6-0630. VOLUNTARY LIQUIDATION AUTHORIZED; QUALIFICATION OF LIQUIDATING COMMITTEE.) A credit union may be liquidated voluntarily after two-thirds of its entire membership shall have voted such liquidation at a special meeting called for that purpose by a majority of its board of directors. Written notice of such meeting, clearly stating the purpose thereof, shall be mailed to each member of the credit union at least thirty days prior to the date set for the meeting. A committee of three members shall be elected to liquidate the credit union by a majority vote of the members present at such meeting. If dissolution is voted, the credit union immediately shall cease to do business except for the purpose of liquidation. Before commencing liquidation, each member of the liquidating committee shall execute and file with the state examiner a bond conditioned for the faithful performance of all duties of his trust, running to the state of North Dakota for the benefit of the members and creditors of the credit union, in such amount and form and with such sureties as shall be approved by the examiner.

§ 9. AMOUNT AND MANNER OF ESTABLISHING SPECIAL RESERVES FOR DELINQUENT LOANS AND INVESTMENTS.) Whenever the reserve, required by section 6-0621 of the North Dakota Revised Code of 1943, shall be inadequate for bad loans or investments, a special reserve for delinquent loans and investments shall be established. The amount of such reserve shall be determined as follows:

1. Loans and investments will be classified by unpaid principal balances as follows:
  - a. Current and less than two months delinquent;
  - b. Military loans;
  - c. Two months to less than six months delinquent;
  - d. Six months to less than twelve months delinquent;
  - e. Twelve months to less than eighteen months delinquent;
  - f. Delinquent eighteen months and over.
2. As of the close of business as of December 31st, the total reserve requirement will be determined from delinquent

loans and investments in classes c, d, e and f as follows:

Ten percent of the total unpaid balances of loans in class c, plus twenty-five percent of the total unpaid balances of loans in class d, plus fifty percent of the total unpaid balance of loans in class e, plus one hundred percent of the total unpaid balance of loans in class f.

The total amounts obtained from the foregoing computations is the total reserve requirement; and

3. From the total reserve requirement, mentioned above, there shall be deducted the amount of the reserve established under section 6-0621 of the North Dakota Revised Code of 1943, after making all transfers thereto for the current year. The special reserve for delinquent loans and investments will then be established by transfer of funds from undivided profits for such amount, if any, by which the total reserve requirement, exceeds the reserve established under said section 6-0621 of the North Dakota Revised Code of 1943.

This special reserve will be established and adjusted as of December 31st of each year, and if the amount carried forward from the previous year, exceeds the amount required for this special reserve, the excess shall be returned to undivided profits.

Approved March 7, 1951.