

BANKS AND BANKING

CHAPTER 105

SENATE BILL NO. 2236
(Reiten, Tallackson, Vosper, Walsh)

PAYING AND RECEIVING STATION LOAN AUTHORITY

AN ACT to amend and reenact subsection 9 of section 6-01-02, sections 6-03-13.1, 6-03-14, and 6-03-17 of the North Dakota Century Code, relating to services rendered by bank paying and receiving stations and separate drive-in facilities.

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

SECTION 1. AMENDMENT. Subsection 9 of section 6-01-02 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

9. "~~Receiving--and-paying~~ Paying and receiving station" means a place of business maintained by a banking institution separate from its main banking house within the county of its domicile or in an adjoining county for the purpose of receiving and paying out deposits, issuing drafts, traveler's checks, and similar instruments, making loans, handling and making collections, and cashing checks and drafts.

* SECTION 2. AMENDMENT. Section 6-03-13.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-03-13.1. SEPARATE DRIVE-IN FACILITY AUTHORIZED. Every 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, upon compliance with sections 6-03-13.1 through 6-03-13.4, maintain and operate separate and apart from its banking house one facility for drive-in and walkup service, in addition to such service at its main banking house, and at its paying and receiving stations, if any. ~~Such~~ The facility shall be within the corporate city limits of the main banking house or within three miles of such city but shall not be within the corporate limits of another city. The services rendered at the separate facility ~~shall be~~ are limited to receiving deposits of every kind and nature, cashing checks or orders to pay, issuing exchange, making loans, and receiving payments payable at the bank.

* NOTE: Section 6-03-13.1 was also amended by section 1 of House Bill No. 1422, chapter 109.

SECTION 3. AMENDMENT. Section 6-03-14 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-03-14. PAYING AND RECEIVING STATIONS AUTHORIZED. Any banking institution may establish and maintain within the county in which the home office of the applicant banking institution is located, or in any adjoining county, or in any other county provided the location of the community to be served is within a thirty-five mile [56.33 kilometer] radius of the home office, subject to the approval and supervision of the state banking board, a ~~receiving-and~~ paying and receiving station in any city organized under the laws of this state, or in any unincorporated townsite located within the limits of any Indian reservation, not having an established banking institution located therein. Provided, however, this limitation shall not apply to any banking institution which has already received a permit for the construction of such a ~~receiving-and~~ paying and receiving station. No additional capital shall be required for the operation of the station. This section shall not be construed as committing this state in any manner to a policy of permitting branch banking.

SECTION 4. AMENDMENT. Section 6-03-17 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-03-17. TRANSACTION OF BUSINESS AT AND REGULATION OF STATION. No banking business shall may be transacted in any ~~such~~ paying and receiving station other than receiving and paying out deposits, issuing drafts, travelers' checks, and similar instruments, making loans, handling and making collections, and cashing checks and drafts. The state banking board may prescribe rules ~~and-regulations~~ for the operation of each station.

Not approved or disapproved by the Governor

Filed March 9, 1981

CHAPTER 106

HOUSE BILL NO. 1108

(Committee on Industry, Business, and Labor)

(At the request of the Department of Banking and Financial Institutions)

BANK APPLICATIONS AND INTEREST RATE RULES

AN ACT to amend and reenact sections 6-02-06 and 6-03-63 of the North Dakota Century Code, relating to new bank applications and adoption of rules for interest on deposits.

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

SECTION 1. AMENDMENT. Section 6-02-06 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-02-06. HEARING BY BOARD - CONCLUSIONS - MANAGEMENT.

1. At the time and place stated, and through any sources of information at its command, the board diligently shall inquire whether the place where such banking association is proposed to be located is in need of further banking facilities, whether the proposed association is adapted to the filling of such need, and whether the proposed incorporators are possessed of such character, integrity, reputation, and financial standing as shown by a detailed financial statement to be furnished by them, and such statement to be held confidential by the board, that their connection with the banking association will be beneficial to the public welfare of the community in which such bank is proposed to be established. ~~The state banking board shall inquire into the qualifications of the management of the proposed bank. Qualifications of management shall include adequate experience, as determined by the board, with financial institutions or other approved related experience.~~ The board shall hear any reasons advanced by the applicants why they should be permitted to organize the proposed association, and any reasons advanced by any person why such association should not be permitted to be organized. At the termination of such hearing, the board shall make a brief statement in writing of its conclusions and conditions if any, and if it finds that the proposed association should not be permitted to organize, it shall

state briefly the reasons why. A If approval is granted, a copy of such conclusions either the board's order shall be endorsed upon or attached to the organization certificate, together with the refusal or grant of permission to the proposed incorporators to present the said organization certificate and, both presented to the secretary of state. A determination in favor of such organization must be joined in by a majority of all the members of the board.

2. If the proposed association is permitted to organize, the state banking board shall inquire into the qualifications of the management of the proposed bank, including experience with financial institutions and other related experience. The board's inquiry into the qualifications of management shall be confidential.

SECTION 2. AMENDMENT. Section 6-03-63 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-03-63. INTEREST ON DEPOSITS - RATES PAYABLE - PENALTY. No state banking association shall may pay interest on deposits, directly or indirectly, at rates greater than authorized by the state banking board, ~~which in no case shall exceed the applicable maximum rates of interest per annum established by the board of governors of the federal reserve system as payable by member banks of the federal reserve system on time and savings deposits.~~ The board may grant permission to pay a rate of interest exceeding four percent on deposits, but the rate so granted shall be uniform within any county. The board's authorization of interest rates is not subject to the public notice and public hearing requirements of chapter 28-32. Any officer, director, or employee of any association violating the provisions of this section, directly or indirectly, is guilty of a class B misdemeanor.

Approved March 26, 1981

CHAPTER 107

SENATE BILL NO. 2311
(Lodoen)

BANK DIRECTORS

AN ACT to amend and reenact subsection 5 of section 6-03-02 of the North Dakota Century Code, relating to the number of directors on a bank's board of directors.

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

SECTION 1. AMENDMENT. Subsection 5 of section 6-03-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

5. To elect or appoint directors, such board to consist of ~~an uneven~~ any number of members, not less than three nor more than ~~eleven~~ twenty-five, a majority of whom must be residents of the state of North Dakota, and, by such board of directors, to appoint a president, who shall be a member of said board, a cashier, and such other employees as may be required, to define their duties, to require bonds of them and fix the penalty thereof, and to dismiss such officers and employees, or any of them, and appoint others to fill their places;

Approved March 6, 1981

CHAPTER 108

HOUSE BILL NO. 1611
(Nicholas)

DIRECTOR'S QUALIFYING SHARES

AN ACT to amend and reenact section 6-03-03 of the North Dakota Century Code, relating to qualifying shares of directors of state banks.

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

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

6-03-03. DIRECTORS - QUALIFYING SHARES - ISSUE AND TRANSFER. Every director must own in ~~his~~ the director's own right, ~~free from hypothecation or pledge for any debt,~~ either shares of the capital stock of the association of which the person is a director the aggregate par value of at least one thousand dollars in the association of which he is a director, or an equivalent interest, as determined by the state banking board, in any company which has control over the association within the meaning of section 2 of the Bank Holding Company Act of 1956 [12 U.S.C. 1841]. Such shares shall be known as "director's qualifying shares". Such shares if issued by an association shall be issued in a separate certificate which shall have legibly marked in ink across the face thereof the words: "director's qualifying shares". ~~Such share shall be retained in the bank by the officers thereof during the whole time that such director shall continue in office, subject to inspection at all times by the state examiner or any other authorized examiner.~~ The oath of office shall be executed ~~at the time after~~ the shares are issued acquired and shall be at once forwarded to the ~~state examiner commissioner~~ and retained on file in ~~that office~~ the department of banking and financial institutions. Such shares shall not be subject to transfer, pledge, or hypothecation in any manner or to any extent whatsoever until a written resignation of the director shall have been filed with and accepted by the board of directors of the association, or until the director otherwise becomes disqualified, and any director who ceases to be the owner of the required number of qualifying shares of free and nonhypothecated stock of the association of the value as above set forth shall vacate his office. Upon the resignation or disqualification of any director, ~~his~~ the qualifying shares shall be returned to him or her, and, on demand, shall be reissued in the name of the owner, ~~the~~ or an assignee, or legal or personal representative.

Approved March 26, 1981

CHAPTER 109

HOUSE BILL NO. 1422
(Koland, Martinson)

BANK DRIVE-IN FACILITIES

AN ACT to amend and reenact section 6-03-13.1 and subsection 1 of section 6-03-13.2 of the North Dakota Century Code, relating to bank drive-in facilities and limitations on bank drive-in facilities.

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

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

6-03-13.1. SEPARATE DRIVE-IN FACILITY AUTHORIZED. Every 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, upon compliance with sections 6-03-13.1 through 6-03-13.4, maintain and operate separate and apart from its banking house one facility for drive-in and walkup service, in addition to such service at its main banking house, and at its paying and receiving stations, if any. Such facility shall be within the corporate city limits of the main banking house or within three miles of such city but shall not be within the corporate limits of another city. One additional separate drive-in and walkup facility may be maintained and operated not more than one thousand five hundred feet from its main banking house by any bank that does not have a drive-in facility at its main banking house. The services rendered at the separate facility shall be limited to receiving deposits of every kind and nature, cashing checks or orders to pay, issuing exchange, and receiving payments payable at the bank.

SECTION 2. AMENDMENT. Subsection 1 of section 6-03-13.2 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. More than one such facility separate and apart from its banking house, except facilities required by the United States government to be maintained by it as financial agent of the government on government reservations solely for military and other government personnel, provided, however, that nothing in this section shall be construed

* NOTE: Section 6-03-13.1 was also amended by section 2 of Senate Bill No. 2236, chapter 105.

to authorize any bank to establish or maintain such facilities as financial agent of the government on government reservations; provided further that one additional separate drive-in and walkup facility may be maintained and operated not more than one thousand five hundred feet from its main banking house by any bank that does not have a drive-in facility at its main banking house; or

Approved March 20, 1981

CHAPTER 110

HOUSE BILL NO. 1101
(Committee on Industry, Business, and Labor)
(At the request of the Department of
Banking and Financial Institutions)

CONVERSION, SHARES, RESERVE, AND PROPERTY

AN ACT to create and enact section 47-30-02.1 of the North Dakota Century Code, relating to abandoned property of closed financial institutions; and to amend and reenact sections 6-03-13.5, 6-03-23, 6-03-37, 6-05-06, 6-07-38, and 6-07-46 of the North Dakota Century Code, relating to a bank's conversion, change in capital, reserves, and a trust company's directors' qualifying shares.

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

SECTION 1. AMENDMENT. Section 6-03-13.5 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-03-13.5. NATIONAL BANK CONVERSION TO STATE BANK. A national bank located in this state which follows the procedure prescribed by federal law to convert into a state bank, shall be granted a state charter if it meets the provisions of the North Dakota Century Code for the incorporation and chartering of a new state bank. Any requirement that shares must be paid in cash may be satisfied by the exchange of shares of the converted state bank for those of the converting national bank, which may be valued at no more than their fair cash market value. The procedure for incorporation of a state bank may be modified by the state banking board to the extent made necessary by the difference between an ordinary incorporation and a conversion and no public hearing need be held on a conversion application.

SECTION 2. AMENDMENT. Section 6-03-23 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-03-23. CAPITAL STOCK MAY BE INCREASED. Any association may provide, either by its articles of incorporation, by subsequent resolution, or by written agreement of the holders of a majority of its stock, for an increase in its capital stock from time to time subject to the limitations of this title ~~and the approval of the state banking board~~. No increase in capital stock shall be valid until the whole amount has been paid in, in cash, and such payment

certified under oath by the president or cashier of the association to the secretary of state, nor until the secretary of state executes a certificate specifying that this chapter has been complied with, the amount of the increase in capital stock, and that the increase has been paid in as part of the capital of the association, nor until a copy of such certificate has been filed with the state banking board.

SECTION 3. AMENDMENT. Section 6-03-37 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-03-37. RESERVE FUNDS. Every banking association shall have on hand at all times in available funds an amount which shall equal a percentage of its demand deposits and amounts due to other banks, plus a percentage of its time deposits. Such percentage shall be set by the state banking board. Such reserve funds may consist of cash on hand and balances due to the association from the Bank of North Dakota, a federal reserve bank, or good solvent state or national banks, approved by the ~~state-examiner~~ commissioner for such purposes and located in such cities as will facilitate banking exchange. The ~~state-examiner~~ commissioner, whenever he deems it necessary, may require such banking association, on fifteen days' notice in writing, to increase such reserve requirements to not more than twenty percent of its demand deposits nor more than ten percent of its time deposits. Cash items shall not be included in computing reserve, and no association shall carry as cash, or as cash items, any paper or other matter except legitimate bank exchange which will be cleared on the same or the next succeeding day. Whenever its reserve funds are below the required amount, no dividend may be paid.

If on any one day, reserves shall not meet the requirements, it shall not be a violation of this section provided that the average reserve for the period starting on Thursday of the same calendar week and ending on the second Wednesday following, shall equal or exceed the minimum requirements.

The ~~state--examiner~~ commissioner must notify any association whose reserve is below the amount required to make good such reserve, and if such association shall fail to do so for a period of thirty days after such notice, the state banking board may impose a penalty of not less than one hundred dollars or an amount equal to seven percent per annum based on the average deficiency for the period of deficiency, whichever is greater, which shall be collected in the same manner as other penalties prescribed in this title.

SECTION 4. AMENDMENT. Section 6-05-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-05-06. DIRECTORS - QUALIFICATIONS - TERMS - VACANCIES. All the corporate powers of such a corporation shall be exercised by a board of directors of not less than nine nor more than fifteen in number, and such officers and agents as it shall elect or appoint. A majority of the directors must be citizens of this state, and

every director must own in his own right, free from hypothecation or pledge for any debt, at least ten shares of capital stock of the corporation of which he is a director, which said shares shall be known as "director's qualifying shares" and which shall be ~~issued and placed in charge of the state examiner~~ so marked across the face and retained in the trust company, as provided in section 6-03-03. Any director who ceases to be the owner of ten shares of stock, free and nonhypothecated, or who becomes in any manner disqualified, shall vacate his office thereupon. Every director, when elected or appointed, shall take the oath specified in section 6-03-04. Such oath, subscribed by the director making it and certified by the officer before whom it was taken, ~~together with the qualifying shares, unless such shares are already on file with the state examiner,~~ shall be transmitted at once to the examiner commissioner to be filed in his office. The articles of incorporation must state the names and residences of the first board of directors, of whom the first named one-third shall serve for a period of three years, the second one-third named for a period of two years, and the balance thereof shall serve for a period of one year from the date fixed for the commencement of such corporation. In case any of the persons so named shall not become stockholders to the amount required to qualify, or if they fail or refuse to qualify from any cause, the directors who shall qualify must elect qualified stockholders to fill such vacancies, and thereafter, at each annual meeting of the stockholders, directors shall be elected to serve three years in place of those whose terms then shall expire.

SECTION 5. AMENDMENT. Section 6-07-38 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-07-38. CLOSING OF RECEIVERSHIPS - SALE OF ASSETS - NOTICE. Every receivership must be terminated within five years of the date of the appointment of the first receiver for said bank. If ninety days prior to the expiration of said five-year period any assets remain in the hands of the receiver, he shall cause notice of sale thereof at public auction to be given by publishing notice thereof in a newspaper in the county wherein the bank was located once each week for three successive weeks prior to the date set for sale, and such assets may be sold to the highest bidder. Such sale may be had at any earlier time when ordered by the court having jurisdiction. When the receivership of a closed bank is terminated, all books, records, documents, and other property of such bank, and any dividends unclaimed, shall be delivered over by such receiver to the ~~state examiner~~ commissioner and his receipt taken therefor by the receiver. Such receipt must be filed in the district court having jurisdiction, and the discharge of the receiver, whether he be an administrative or judicial receiver, must be approved by such court before it becomes final. The ~~state examiner~~ commissioner shall be custodian of all books, records, documents, and other property of such bank and of the dividends unclaimed upon the winding up of the receivership proceedings, and shall be vested with title to any assets belonging to such bank and not distributed in such receivership, and he shall have full power and authority to convert such assets into cash. He also shall have authority to execute all

deeds, satisfactions, assignments, or other documents required for the purpose of transferring undistributed assets or for the purpose of correcting public records and quieting title to property in which the insolvent bank has or has had an apparent interest. Any moneys collected by the ~~examiner~~ commissioner, prior to July 1, 1975, after the termination of a receivership shall be paid into the general fund of the state. Any moneys collected by the commissioner after July 1, 1975, after the termination of a receivership shall be paid to the commissioner of university and school lands.

SECTION 6. AMENDMENT. Section 6-07-46 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-07-46. DISPOSITION OF UNCLAIMED DIVIDENDS OR OTHER MONEYS DELIVERED TO ~~STATE-EXAMINER~~ COMMISSIONER. Any unclaimed dividend or other moneys delivered to the ~~state-examiner~~ commissioner by the receiver of an insolvent bank pursuant to the provisions of section 6-07-38 prior to July 1, 1975, shall be paid to the state treasurer who shall credit such payments to the general fund of this state. Any unclaimed dividends or other moneys credited to such fund may thereafter be paid to the lawful owner thereof, his heirs, executors, administrators, or assigns when proven to the satisfaction of the ~~state-examiner~~ commissioner that he is legally entitled thereto. Such payment shall be made by a warrant drawn by the department of accounts and purchases and issued in payment of a claim voucher certified to by the claimant and approved by the ~~state examiner~~ commissioner. The moneys required for the payment of such claims are hereby appropriated out of the general fund.

Any unclaimed dividend or other moneys delivered to the commissioner by the receiver of an insolvent bank pursuant to the provisions of section 6-07-38 after July 1, 1975, shall be transferred to the commissioner of university and school lands and voucher for the payment of such dividends to persons entitled thereto in accordance with chapter 47-30.

SECTION 7. Section 47-30-02.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

47-30-02.1. PROPERTY REMAINING AT TERMINATION OF RECEIVERSHIP. All unclaimed dividends or other moneys remaining at the termination of a receivership of a closed financial institution are presumed abandoned.

Approved February 20, 1981

CHAPTER 111

HOUSE BILL NO. 1548
(Hedstrom, Retzer)

LOANS TO EXECUTIVE BANK OFFICERS

AN ACT to amend and reenact section 6-03-60 of the North Dakota Century Code, relating to the making of loans to bank officers.

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

SECTION 1. AMENDMENT. Section 6-03-60 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-03-60. LOANS TO AND PURCHASES FROM DIRECTORS, OFFICERS, AND EMPLOYEES - RESTRICTIONS - CONDITIONS - PENALTY - CIVIL LIABILITY. No director or managing officer of any state banking association, nor the commissioner, assistant commissioner, nor deputy examiners, shall be permitted to borrow an amount in excess of twenty-five thousand dollars from any state banking association without first obtaining the approval of a majority of the board of directors of said banking association, excluding from such majority any director whose application is to be acted upon, and no action upon any loan herein provided for shall be taken by the board in the presence of the applicant. Every loan shall be made on substantially the same terms, including interest rates and collateral, as those prevailing at the time for comparable transactions with other persons and shall be in strict conformity with the association's rules and regulations. No executive officer of any state banking association shall borrow from or otherwise become indebted to any state banking association of which he is an executive officer in an aggregate amount exceeding ~~ten~~ twenty thousand dollars for any loan or extension of credit, other than a loan secured by a first mortgage on the officer's residence, which loan shall not exceed sixty thousand dollars, and a loan or extension of credit to finance the education of the officer's children, which loan or extension of credit shall not exceed the aggregate amount of twenty thousand dollars. At no time shall any combination of loans or extensions of credit or both made by a state banking association to an officer of that association exceed the limitation on loans to one person or concern specified in section 6-03-59. No state banking association

may pay an overdraft on an account at such bank of an officer or director. The chairman of the board, the president, every vice president, the cashier, the secretary, and the treasurer of a company or bank are considered executive officers, unless (1) the officer is excluded, by resolution of the board of directors or by the bylaws of the bank or company, from participation, other than in the capacity of a director, in major policymaking functions of the bank or company, and (2) the officer does not actually participate therein.

No director, officer, or employee of a bank shall sell to such bank, directly or indirectly, any mortgage, bond, note, stock, or other property whatsoever without first obtaining the written approval of the board of directors. The action of the board of directors in connection with the loans and discounts required under this section shall be made a matter of permanent record in the minute books of the banking association. Any shareholder, officer, or director of any banking association who knowingly shall violate the provisions of this section shall be held liable in his personal and individual capacity for all loss or damage which the association or any person shall sustain in consequence thereof and shall be guilty of a class B misdemeanor. The commissioner may require, at any time, the payment or repurchase of loans, securities, or obligations herein referred to.

Approved March 5, 1981

CHAPTER 112

SENATE BILL NO. 2312
(Lodoen)

BANK EXAMINATION BY DIRECTORS

AN ACT to amend and reenact section 6-03-69 of the North Dakota Century Code, relating to the semiannual examination of a bank by its board of directors.

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

SECTION 1. AMENDMENT. Section 6-03-69 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-03-69. DIRECTORS--MAKE--SEMIANNUAL-EXAMINATION-- REPORT OF EXAMINING COMMITTEE. The board of directors in January and July of each year shall make a careful and thorough examination of the assets of the bank, examine loans and discounts of every nature with the securities and collaterals belonging thereto, compare the aggregate with the records, and make a complete report of such examination in such form as may be designated by the state banking board, with suggestions and criticisms, if in its judgment such are necessary. Such report shall be spread on the records of the bank the same as the minutes of a regular meeting of the board of directors, and a duplicate thereof transmitted to the state banking board. The board of directors shall be responsible for submitting to the state banking board a report of examining committee on forms provided by the commissioner. The report shall reflect the results of a careful and thorough examination of the assets of the bank including loans and discounts of every nature and the securities and collaterals belonging thereto. The valuation of the assets of the bank shall be compared with the records of the bank. The report shall be made a part of the minutes of a regular meeting of the board of directors. The commissioner may refuse to accept such report if found to be not in accordance with acceptable accounting principles.

Any of the following methods may be used to conduct the examination required by this section.

1. Examination by the board of directors or its examining committee. When this method is employed, the examination

shall be conducted and the report submitted in January and July of each year.

2. Examination on an annual basis by an independent certified public accountant or firms composed of such accountants, or auditors of the bank's holding company, if any.
3. Examination by an autonomous internal audit control system. The individual directing the internal audit control system shall submit to the board of directors each quarter an interim report as to the degree of compliance with the internal audit control system and shall express an opinion as to the adequacy of the internal controls. A complete report shall be submitted annually to the board of directors.

Approved March 11, 1981

CHAPTER 113

SENATE BILL NO. 2103
 (Committee on Industry, Business, and Labor)
 (At the request of the Department of Banking
 and Financial Institutions)

BANK, CREDIT UNION, AND FINANCE COMPANY REPORTS

AN ACT to amend and reenact section 6-03-70, subsection 1 of section 6-06-08, subsection 1 of section 13-03-09, subsection 2 of section 13-03-10, and subsection 2 of section 13-03.1-10 of the North Dakota Century Code, relating to call reports of banks and credit unions, examination of licensees, and annual reports of small loan and consumer finance companies.

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

SECTION 1. AMENDMENT. Section 6-03-70 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-03-70. REPORTS - REGULAR AND SPECIAL - PUBLICATION - PENALTY. Every state banking association shall ~~make three or more reports respond~~ to calls each year, the number to be determined by ~~the state banking board, to~~ the commissioner. The ~~board commissioner~~ shall prescribe the forms for such reports ~~as nearly as possible like those prescribed by the comptroller of currency~~ which shall be the same forms as those for similar reports called by ~~national banks~~ the federal deposit insurance corporation. The reports shall exhibit in detail, under appropriate headings, the resources and liabilities of the association at the close of business on a past day specified by the ~~board commissioner~~, which, ~~if practicable,~~ shall be the same day on which similar reports are required ~~from national banking associations~~ by the ~~comptroller of currency~~ federal deposit insurance corporation. Each report must be verified by the oath of the president or the cashier and attested as correct by at least two of the directors, and must be transmitted to the commissioner within thirty days after receipt of the request for the same, ~~and an abstract of not less than three of such reports.~~ Each report, in a form prescribed by the ~~board commissioner~~, shall be published, at the expense of the association, in some newspaper in the city where such bank is located, and in case there is no such newspaper, then in a legal newspaper of the county in which such association is located. At the discretion of the commissioner, a

call may be complied with by submission of a photocopy of the call report submitted to the federal deposit insurance corporation, or a printout retrieved from computer facilities in the department of banking and financial institutions and connected to those of the federal deposit insurance corporation. The board--also--shall commissioner may call for a special report from any association whenever in ~~its~~ the commissioner's judgment the same is necessary ~~in order~~ to obtain full-and complete knowledge of ~~its~~ the condition of the association. Every association which fails to make and transmit any report required ~~in-pursuance-of~~ by this section shall forfeit and pay to the state a penalty of two hundred dollars for each delinquency.

SECTION 2. AMENDMENT. Subsection 1 of section 6-06-08 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. Credit unions and the permanent loan funds thereof, if any, shall be under the supervision of the state credit union board. Credit unions shall report to the commissioner when called by the commissioner, and at least once--annually,--upon--call--of--the--commissioner,--on--blanks supplied by the commissioner for that purpose--Additional reports--may--be--required--by--the--board--or--commissioner--Annual reports must be transmitted to the commissioner--by January--thirty--first--of--the--following--year--Other reports must be transmitted to--the--commissioner--within--fifteen days--after--receipt--of--the--request--for--the--same twice each year. The commissioner shall prescribe the forms for such 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 photocopy of the call report submitted to the national credit union administration, or a printout retrieved from computer facilities in the department of banking and financial institutions and connected to those of the national credit union administration. The commissioner may call for special reports from any credit union whenever in the commissioner's judgment the same is necessary to obtain complete knowledge of the condition of the credit union. Every credit union which fails to make and transmit any report required in pursuance of this section shall forfeit and pay to the state a penalty of five two hundred dollars for each delinquency.

SECTION 3. AMENDMENT. Subsection 1 of section 13-03-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. At least once each year the ~~state-examiner~~ commissioner or his duly authorized representatives shall make an examination of the place of business of each licensee and of the loans, transactions, books, papers, annual reports, and records of such licensee so far as they pertain to the

business licensed under this chapter. The actual cost of every examination shall be ~~paid to the state examiner by~~ charged by the commissioner for every licensee so examined. Such ~~sums~~ costs shall be paid ~~by the state examiner~~ to the state treasurer ~~to be credited to the general fund of this state.~~

SECTION 4. AMENDMENT. Subsection 2 of section 13-03-10 of the 1979 Interim Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. ~~Each~~ The parent company of each licensee shall annually on or before the thirty-first day of July file a report for the preceding fiscal year with the commissioner. Such report shall give composite information ~~with respect to~~ on the financial condition of ~~such licensee~~ its licensees and shall include:
 - a. ~~The name and address of the licensee, balance sheets at the beginning and end of the accounting period.~~
 - b. ~~A statement of income and expenses for said period, a reconciliation of surplus or net earnings with the balance sheets.~~
 - c. ~~A schedule of assets used and useful in the small loan business.~~
 - d. ~~An analysis of charges, size of loans and types of security on loans of one thousand dollars or less.~~
 - e. ~~An analysis of delinquent accounts, an analysis of suits, repossessions and sales of chattels and such other relevant information as the commissioner may require concerning the business and operations during the preceding fiscal year~~ all information requested by the commissioner.

Such report shall be made under oath and shall be in the form prescribed by the commissioner who may make and publish annually an analysis and recapitulation of such reports.

SECTION 5. AMENDMENT. Subsection 2 of section 13-03.1-10 of the 1979 Interim Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. On or before July thirty-first each year ~~every~~ the parent company of each licensee shall file with the administrator a composite annual report in the form prescribed by the administrator relating to all loans made by ~~the licensee~~ its licensees. The administrator shall consult with comparable officials in other states for the purpose of making the kinds of information required in annual reports uniform among the states. The administrator may make and publish annually an analysis and recapitulation of such reports.

Approved March 12, 1981

CHAPTER 114

HOUSE BILL NO. 1390
(Martinson)

BANK RECORDS SEARCH REIMBURSEMENT

AN ACT to create and enact a new section to chapter 6-03 of the North Dakota Century Code, relating to the authority of a bank to charge state and federal agencies for record searches.

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

SECTION 1. A new section to chapter 6-03 of the North Dakota Century Code is hereby created and enacted to read as follows:

RECORDS SEARCH REIMBURSEMENT. Any bank authorized to do business in this state, shall be reimbursed as follows for all records searches done at the request of any state agency or any branch of the state government except the social service board of North Dakota. Further, any federal agency or any branch of the federal government shall also make such reimbursement if authorized to do so:

1. For search and processing time at the rate of ten dollars per hour per person, computed on the basis of two dollars and fifty cents per quarter hour, limited to the total amount of personnel time spent in locating, retrieving, reproducing, packaging and preparing for shipment documents or information requested;
2. For making copies of duplicates of required or requested documents at the rate of fifteen cents per page; and
3. For making copies of photographs, films, and other materials at the actual cost incurred by the bank.

The bank shall be reimbursed for all actual mailing or transportation expenses incurred in conveying the requested or required materials to the requesting agency. The reimbursement provisions of this section shall not apply to standard bank confirmations.

Approved March 11, 1981

CHAPTER 115

SENATE BILL NO. 2100
(Committee on Industry, Business, and Labor)
(At the request of the Department of Banking and Financial
Institutions)

CREDIT UNION ORGANIZATION, AUTHORITY, AND INSURANCE

AN ACT to amend and reenact sections 6-06-02, 6-06-03, 6-06-14, 6-06-19, subsection 2 of section 6-06-35, and section 6-06-40 of the North Dakota Century Code, relating to a credit union's organization, authority to borrow, conversion and insurance.

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

SECTION 1. AMENDMENT. Section 6-06-02 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-06-02. 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 ~~duplicate~~ triplicate, by the terms of which they agree to be bound, stating the name and the 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 fifty dollars each.
2. The applicants shall prepare and execute proposed bylaws, in ~~duplicate~~ triplicate, for the general governance of the credit union consistent with the provisions of this chapter.
3. The certificate and the proposed bylaws, both executed in ~~duplicate~~ triplicate, shall be forwarded to the commissioner.
4. The applicants shall apply for and secure national credit union administration insurance of accounts.
5. The commissioner, within thirty days after the receipt of certificate and bylaws shall determine whether they comply

and are consistent with the provisions and purposes of this chapter.

5- 6. The commissioner shall notify the applicants and the state credit union board of his decision, and if it is favorable, the board shall instruct the secretary of state to issue a charter, which shall be ~~by him~~ attached to the certificate of organization and returned, together with the bylaws, to the applicants upon payment of a filing fee of five dollars to the secretary of state.

7. Evidence of securing national credit union administration insurance must be furnished to the commissioner before the charter may be released to the applicant credit union.

After the provisions of this section have been complied with, the association shall become a body corporate and shall be known as a credit union.

SECTION 2. AMENDMENT. Section 6-06-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-06-03. ~~SECRETARY--OF--STATE~~ COMMISSIONER TO FURNISH FORMS. The ~~secretary-of-state~~ commissioner, on written application of any seven residents of this state, shall furnish without charge to persons proposing to incorporate a credit union a form of certificate of organization and a set of suggested bylaws approved by him as consistent with this chapter.

* SECTION 3. AMENDMENT. Section 6-06-14 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-06-14. LOANS - HOW MADE - SECURITY - MEETINGS AND DUTIES OF CREDIT COMMITTEE - PREFERENTIAL LOANS. The credit committee shall have general supervision over all loans to members, and shall meet as often as may be necessary to perform its duties and at least once each month. Notice must be given to each member of the committee before any meeting is held. All applications for a loan shall be made on a form approved by the committee and shall set forth the purpose for which the loan is desired, the security, if any, which is offered, and such other data as the committee may require. The maximum loan that may be made without adequate security shall be two thousand five hundred dollars or one percent of the credit union's total share and deposit accounts, whichever is the higher, but not to exceed ten thousand dollars. Security under this section shall include an assignment of shares or deposits, an endorsement made on the note by a responsible person, and such other security as the committee in its discretion may deem adequate. No loan shall be made unless it is approved by a majority of the entire committee; except that the credit committee may appoint one or more loan officers, and delegate to him or them the power to approve loans up to the limit established by the credit committee, or in excess of such limit if such excess is fully secured by unpledged shares.

* NOTE: Section 6-06-14 was also amended by section 2 of House Bill No. 1300, chapter 116.

Each loan officer shall furnish to the credit committee a record of each loan approved or not approved by him within seven days of the date of the filing of the application therefor. All loans not approved by a loan officer shall be acted upon by the credit committee. No individual shall have authority to disburse funds of the credit union for any loan which has been approved by him in his capacity as a loan officer. Not more than one member of the credit committee may be appointed as a loan officer. Every loan by a credit union to its directors, officers, managers, and committee members shall be made on substantially the same terms, including interest rates and collateral, as those prevailing at the time for comparable transactions with other persons and shall be in strict conformity with the credit union's rules and regulations.

SECTION 4. AMENDMENT. Section 6-06-19 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-06-19. AUTHORITY TO BORROW - LIMITATION - EXCEPTION. A credit union may borrow money from any source, but the total borrowings shall not exceed twenty-five percent of its assets unless the commissioner shall authorize a larger amount. The state credit union board, in the exercise of its discretion, may suspend or restrict the borrowing powers of a credit union. The limitation on borrowing does not apply to a corporate central credit union which shall be limited to borrowing up to five times its capital, surplus and reserve fund.

SECTION 5. AMENDMENT. Subsection 2 of section 6-06-35 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. a. A federal credit union, organized under the laws of the United States may be converted into a state credit union by (1) complying with all federal requirements requisite to enabling it to convert to a state credit union or to cease being a federal credit union, (2) filing with the state credit union board proof of such compliance, satisfactory to the commissioner and (3) filing with the commissioner an organization certificate and bylaws, both in triplicate, as required by North--Dakota--law section 6-06-02.
- b. When the commissioner has been satisfied that all of such requirements, and all other requirements of the North Dakota law have been complied with, the state credit union board shall approve the organization certificate commissioner shall notify the applicants and the state credit union board of that fact, and the board shall instruct the secretary of state to issue a charter in accordance with section 6-06-02. Upon such approval issuance of the charter, the federal credit union shall become a state credit union as-of-the-date

it and ceases to be a federal credit union. The state credit union shall be vested with all of the assets and shall continue responsible for all of the obligations of the federal credit union to the same extent as though the conversion had not taken place.

SECTION 6. AMENDMENT. Section 6-06-40 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

~~6-06-40. SHARE INSURANCE EXCEPTION. Not later than July 1, 1978, each credit union shall apply for insurance on share and deposit accounts under the provisions of Title II of the National Credit Union Act. A credit union which has been denied a commitment for insurance of its share and deposit accounts shall either dissolve, merge with another credit union which is insured under Title II of the National Credit Union Act, or apply in writing within thirty days of denial to the state credit union board for additional time to obtain an insurance commitment.~~

~~The state credit union board shall grant additional time for the credit union to obtain the insurance commitment upon satisfactory evidence that the credit union has made or is making a substantial effort to achieve the conditions precedent to issuance of the commitment. Additional time or times shall not extend later than January 1, 1979.~~

A central credit union with corporate shareholdings equal to or in excess of seventy-five percent of its total assets may by vote of its board of directors elect exemption of insurance of share and deposit accounts under provisions of Title II of the National Credit Union Act.

Approved March 12, 1981

CHAPTER 116

HOUSE BILL NO. 1300
(Koski, Martinson, Vig)

CENTRAL CREDIT UNION PROVISIONS

AN ACT to amend and reenact sections 6-06-05 and 6-06-14 of the North Dakota Century Code, relating to use of the terms "corporate central credit union" and "central credit union" and meetings of the credit committee.

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

SECTION 1. AMENDMENT. Section 6-06-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-06-05. USE OF "CREDIT UNION" AND "CORPORATE CENTRAL CREDIT UNION" RESTRICTED - FORFEITURE. It shall be unlawful for any person, association, copartnership, or corporation, domestic or foreign, except corporations organized in accordance with the provisions of this chapter, to use the words "credit union", "corporate central credit union", or "central credit union" in their name or title, and any person, association, copartnership, or corporation violating this section shall forfeit to the state one hundred dollars for every day, or part thereof, during which such violation continues. The ~~state-examiner~~ commissioner may recover such forfeited sums in a civil action, and shall deposit any sums recovered or collected with the state treasurer. Only one "corporate central credit union" or "central credit union" shall be organized under this Act, and no other credit union may use the term "corporate central" or "central" as part of its name.

* SECTION 2. AMENDMENT. Section 6-06-14 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-06-14. LOANS - HOW MADE - SECURITY - MEETINGS AND DUTIES OF CREDIT COMMITTEE. The credit committee shall have general supervision over all loans to members, and shall meet as often as may be necessary to perform its duties and at least once each month, except the foregoing provisions regarding monthly meetings shall not apply to the North Dakota central credit union. Notice must be given to each member of the committee before any meeting is held.

* NOTE: Section 6-06-14 was also amended by section 3 of Senate Bill No. 2100, chapter 115.

All applications for a loan shall be made on a form approved by the committee and shall set forth the purpose for which the loan is desired, the security, if any, which is offered, and such other data as the committee may require. The maximum loan that may be made without adequate security shall be two thousand five hundred dollars or one percent of the credit union's total share and deposit accounts, whichever is the higher, but not to exceed ten thousand dollars. Security under this section shall include an assignment of shares or deposits, an endorsement made on the note by a responsible person, and such other security as the committee in its discretion may deem adequate. No loan shall be made unless it is approved by a majority of the entire committee; except that the credit committee may appoint one or more loan officers, and delegate to him or them the power to approve loans up to the limit established by the credit committee, or in excess of such limit if such excess is fully secured by unpledged shares. Each loan officer shall furnish to the credit committee a record of each loan approved or not approved by him within seven days of the date of the filing of the application therefor. All loans not approved by a loan officer shall be acted upon by the credit committee. No individual shall have authority to disburse funds of the credit union for any loan which has been approved by him in his capacity as a loan officer. Not more than one member of the credit committee may be appointed as a loan officer.

Approved March 5, 1981

CHAPTER 117

SENATE BILL NO. 2099
 (Committee on Industry, Business, and Labor)
 (At the request of the Department of Banking
 and Financial Institutions)

CREDIT UNION EXAMINATION FEES

AN ACT to amend and reenact subsection 4 of section 6-06-08 of the North Dakota Century Code, relating to examination fees for credit unions.

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

SECTION 1. AMENDMENT. Subsection 4 of section 6-06-08 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

4. The credit union shall, within thirty days from date of billing, pay to the state treasury for examination a fee ~~equal to sixty-five dollars per examiner day, for the time used by the commissioner or other person designated by the commissioner--in supervising, filing, and corresponding in connection with such examination and report of examination and for time used by each deputy examiner, or other person or persons in making and otherwise--preparing--and--typing the--reports--of--examinations herein provided for, except that the~~ as provided in the following schedule:

Total Assets on Day of Examination	Fee
\$0 to \$ 300,000	\$300
over \$ 300,000	\$ 300 plus .00075 x excess over \$ 300,000
over \$ 500,000	\$ 450 plus .00030 x excess over \$ 500,000
over \$ 1,000,000	\$ 600 plus .00020 x excess over \$ 1,000,000
over \$ 5,000,000	\$1,400 plus .00016 x excess over \$ 5,000,000
over \$ 10,000,000	\$2,200 plus .00012 x excess over \$ 10,000,000
over \$ 20,000,000	\$3,400 plus .00009 x excess over \$ 20,000,000
over \$ 30,000,000	\$4,300 plus .00007 x excess over \$ 30,000,000
over \$ 40,000,000	\$5,000 plus .00006 x excess over \$ 40,000,000
over \$ 50,000,000	\$5,600 plus .00005 x excess over \$ 50,000,000

The minimum fee for the examination of a credit union shall be ~~one~~ three hundred dollars and the maximum fee shall be ten thousand dollars. The examination fee for North Dakota central credit union shall be one hundred

dollars per examiner day for the time used by the commissioner or other person or persons designated by the commissioner in making and otherwise preparing and typing the reports of examination. If any such credit union shall be delinquent more than twenty days in making such payment, the board may make an order suspending the functions of such delinquent credit union until payment of the amount due, plus a penalty of five two hundred dollars ~~a-day-additional~~ for the delay.

Approved March 12, 1981

CHAPTER 118

HOUSE BILL NO. 1511
(Koski)

CREDIT UNION OFFICERS AND DIRECTORS

AN ACT to amend and reenact section 6-06-13 of the North Dakota Century Code, relating to compensation of officers and directors.

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

SECTION 1. AMENDMENT. Section 6-06-13 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-06-13. OFFICERS - ELECTIONS - DUTIES ~~COMPENSATION~~. At their organization meeting and within thirty days following each annual meeting of the members, the directors shall elect from their own number an executive officer, who may be designated as chairman of the board or president; a vice chairman of the board or one or more vice presidents; a treasurer; and a secretary. The treasurer and the secretary may be the same individual. The persons so elected shall be the executive officers of the corporation. The terms of the officers shall be one year, or until their successors are chosen and have duly qualified. The duties of the officers shall be prescribed in the bylaws. The board of directors may employ an officer in charge of operations whose title shall be either president or general manager, or both; or, in lieu thereof, the board of directors may designate the treasurer or an assistant treasurer to act as general manager and be in active charge of the affairs of the credit union. ~~The general manager of the credit union 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.~~

Approved March 5, 1981

CHAPTER 119

HOUSE BILL NO. 1315
(Martinson, Vig)

CREDIT UNION INTEREST RATES AND DIVIDENDS

AN ACT to amend and reenact sections 6-06-18 and 6-06-26 of the North Dakota Century Code, relating to interest rates for and payment of dividends by credit unions.

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

SECTION 1. AMENDMENT. Section 6-06-18 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-06-18. INTEREST RATES. Interest rates on loans made by a credit union shall not exceed one and ~~one-fourth~~ one-half percent a month on unpaid balances, unless a greater maximum is approved by the state credit union board.

Provided, that the foregoing provisions shall not apply to the North Dakota central credit union.

SECTION 2. AMENDMENT. Section 6-06-26 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-06-26. DIVIDENDS. A credit union, upon action by its board of directors, may declare a dividend to be paid from the remaining net earnings or, in the absence of sufficient net earnings, as authorized by the state credit union board. The board of directors shall establish the dividend and the dividend period, ~~however, dividends shall not be paid more frequently than quarterly.~~ The members may fix the maximum rate of dividends which shall be paid. ~~Dividends may be computed on a daily basis. Such dividend, not to exceed six percent in any case,~~ dividends must be paid from the net earnings of the credit union, after establishing a special reserve for delinquent loans ~~if~~ as required by the state credit union board. A credit union, upon action of its board of directors, may authorize an interest refund to members of record at the close of business the last day of any dividend period in proportion to the interest paid during that dividend period. Interest refunds may be made to borrowers only after provision has been made for a special reserve for delinquent loans if required by the state credit union board.

Approved March 5, 1981

CHAPTER 120

SENATE BILL NO. 2344
(H. Christensen)

NONSUFFICIENT FUND CHECK COLLECTION

AN ACT to amend and reenact sections 6-08-16 and 6-08-16.2 of the North Dakota Century Code, relating to issuing a check or draft without sufficient funds or credit and a fee for collection of such check or draft and prosecution for such check or draft.

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

SECTION 1. AMENDMENT. Section 6-08-16 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-08-16. ISSUING CHECK OR DRAFT WITHOUT SUFFICIENT FUNDS OR CREDIT - NOTICE - TIME LIMITATION - FINANCIAL LIABILITY - PENALTY.

1. Any person who for himself or as the agent or representative of another, or as an officer or member of a firm, company, copartnership, or corporation makes ~~or~~, draws ~~or~~, utters, or delivers any check, draft, or order for the payment of money upon a bank, banker, or depository, and at the time of such making, drawing, uttering, or delivery, or at the time of presentation for payment if made within one week after the original delivery thereof, has not sufficient funds in or credit with such bank, banker, or depository to meet such check, draft, or order in full upon its presentation, ~~shall-be is~~ is guilty of a class B misdemeanor. The person is also liable for collection fees or costs, not in excess of ten dollars, which are recoverable by civil action by the holder of the check, draft, or order. The word "credit" as used in this section shall-mean means an arrangement or understanding with the bank, banker, or depository for the payment of ~~such the~~ check, draft, or order. The making of a postdated check knowingly received as such, or of a check issued under an agreement with the payee that the ~~same~~ check would not be presented for payment for a time specified, ~~shall~~ does not constitute a violation of this section.

- 2. A notice of dishonor may be sent by the holder of the check upon dishonor, said the notice to be in substantially the following form:

Notice of Dishonored Check

Date -----
 Name of Issuer -----
 Street Address -----
 City and State -----
 You are according to law hereby notified that a check dated -----, 19----, drawn on the ----- Bank of ----- in the amount of ----- has been returned unpaid with the notation the payment has been refused because of nonsufficient funds. Within ten days from the receipt of this notice, you must pay or tender to ----- (Holder) sufficient moneys to pay such instrument in full and any collection fees or costs not in excess of ten dollars.

Such notice may also contain a recital of the penal provisions of this section and the possibility of a civil action to recover any collection fees or costs authorized by this section.

An agent acting for the receiver of a check in violation of this section may present the check to the state's attorney for prosecution if the issuer does not pay to the holder sufficient moneys to pay the check within ten days from receipt of the notice. The criminal complaint for the offense of issuing a check, draft, or money order without sufficient funds under this section must be executed within not more than ninety days after the dishonor by the drawee of said instrument for nonsufficient funds. The failure to execute a complaint within said time shall bar the criminal charge under this section.

* SECTION 2. AMENDMENT. Section 6-08-16.2 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-08-16.2. ISSUING CHECK WITHOUT ACCOUNT OR WITH INSUFFICIENT FUNDS - FINANCIAL LIABILITY - PENALTY - EXCEPTIONS.

- 1. As used in this section:
 - a. "Account" means any account at a bank or depository from which an instrument could legally be paid.
 - b. "Dishonor" is synonymous with "nonpayment".
 - c. "Instrument" means any check, draft, or order for the payment of money.
 - d. "Issues" means draws, utters, or delivers.

* NOTE: Section 6-08-16.2 was also amended by section 1 of Senate Bill No. 2142, chapter 362.

2. Any person who, for himself or as agent or representative of another, issues any check, draft, or order for the payment of money is guilty of a class C felony if that person has been previously convicted of issuing an instrument without an account or without sufficient funds in a bank or depository pursuant to section 6-08-16 and:
- a. At the time of issuing the instrument with intent to defraud, the drawer does not have an account with the bank or depository on which the instrument is drawn; or
 - b. At the time of issuing the instrument with intent to defraud, or at the time of presentation for payment if made within one week after the original delivery of the instrument, the drawer does not have sufficient funds in the bank or depository, or credit with the bank, banker, or depository, to pay the instrument in full upon its presentation; ~~and~~
- ~~e. If the drawer has been previously convicted of issuing an instrument without an account or without sufficient funds in a bank or depository pursuant to section 6-08-16.~~

The person is also liable for collection fees or costs, not in excess of ten dollars, which are recoverable by civil action by the holder of the instrument.

3. The fact that payment has been refused by a drawee because of insufficient funds or because the drawer has no account with the drawee from which payment could legally be made ~~shall constitute prima facie evidence~~ constitutes an inference of intent to defraud. However, if the drawer pays the holder of the instrument within thirty days after receiving written notice of nonpayment by certified mail or by personal service in accordance with rule 4(d) of the North Dakota Rules of Civil Procedure, that fact shall constitute an affirmative defense to a criminal prosecution under this section.
4. An agent acting for the receiver of a check in violation of this section may present the check to the state's attorney for prosecution if the issuer does not pay to the holder sufficient moneys to pay the check within ten days from receipt of the notice of dishonor. A criminal complaint for violation of subdivision b of subsection 2 must be executed within ninety days after the drawer of the instrument receives notice, from the holder, of nonpayment. Failure to execute a complaint within the time set forth in this subsection shall constitute a bar to any criminal charges under subdivision b of subsection 2.

- 5. A notice of dishonor shall be sent by the holder of the check upon dishonor. The notice shall be in substantially the following form:

Notice of Dishonored Check

Date -----
 Name of Issuer -----
 Street Address -----
 City and State -----
 You are according to law hereby notified that a
 check dated -----, 19----, drawn on the
 ----- Bank of ----- in
 the amount of ----- has been returned
 unpaid with the notation the payment has been
 refused because (of nonsufficient funds) (the
 drawer does not have an account). Within ten days
 from the receipt of this notice, you must pay or
 tender to -----
 (Holder)
 sufficient moneys to pay such instrument in full
and any collection fees or costs not in
excess of ten dollars.

The notice may also contain a recital of the penal provisions of this section and the possibility of a civil action to recover any collection fees or costs authorized by this section.

Approved March 19, 1981

CHAPTER 121

HOUSE BILL NO. 1301
(Vig, Koski, Martinson)

BANK OF NORTH DAKOTA LOAN AUTHORITY

AN ACT to amend and reenact subsection 1 of section 6-09-15 of the North Dakota Century Code, relating to Bank of North Dakota loans to credit unions.

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

* SECTION 1. AMENDMENT. Subsection 1 of section 6-09-15 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. The Bank of North Dakota may:
 - a. Make loans to and purchase securities issued by instrumentalities of this state. Such loans shall be repaid with interest to the Bank.
 - b. Make loans to state or national banks and North Dakota central credit union.
 - c. Participate with state or national banks, savings and loan associations, subsidiary corporations of state banking associations approved by the state banking board pursuant to section 6-03-38, and credit unions, in loans being made by them on such terms and under such rules and regulations as the industrial commission may determine.
 - d. Buy and sell federal funds, excess reserves, bankers' acceptances, participation loans, and all securities issued by the United States government or its instrumentalities.
 - e. Invest its funds in bonds, notes, or debentures of any corporation incorporated under the laws of any state of the United States rated at "A" or higher by a nationally recognized rating service approved by the industrial commission and short term commercial and

* NOTE: Subdivisions b and c of subsection 1 of section 6-09-15 were also amended by section 1 of House Bill No. 1194, chapter 122.

finance company paper rated A-1 or P-1. Such investments shall not be made to exceed for any one corporation ten percent of the combined capital and surplus of the Bank.

- f. Make loans 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.
- g. Make loans to actual farmers who are residents of this state, if such 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 sixty-five percent of the value of the security.
- h. Make United States insured and guaranteed loans as specifically authorized by law.

Approved March 15, 1981

CHAPTER 122

HOUSE BILL NO. 1194
(Committee on Industry, Business, and Labor)
(At the request of the Bank of North Dakota)

BANK OF NORTH DAKOTA LOAN AUTHORITY

AN ACT to amend and reenact subdivisions b and c of subsection 1 and subsection 3 of section 6-09-15 of the North Dakota Century Code, relating to the authority of the Bank of North Dakota to make loans to and participate in loans made by bank holding companies and to make loans on real estate security.

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

* SECTION 1. AMENDMENT. Subdivisions b and c of subsection 1 and subsection 3 of section 6-09-15 of the 1979 Supplement to the North Dakota Century Code are hereby amended and reenacted to read as follows:

- b. Make loans to state or national banks and bank holding companies.
- c. Participate with state or national banks, bank holding companies, savings and loan associations, subsidiary corporations of state banking associations approved by the state banking board pursuant to section 6-03-38, and credit unions, in loans being made by them on such terms and under such rules and regulations as the industrial commission may determine.
3. The Bank of North Dakota shall not loan more than thirty percent of its combined capital and surplus, nor in addition thereto, more than ~~twenty~~ forty percent of its deposits on real estate security, excluding those loans insured or guaranteed by the United States government or its agencies.

Approved March 2, 1981

* NOTE: Subsection 2 of section 6-09-15 was also amended by section 1 of House Bill No. 1301, chapter 121.

CHAPTER 123

SENATE BILL NO. 2342
(Reiten)

BANK OF NORTH DAKOTA BANK STOCK LOANS

AN ACT to amend and reenact section 6-09-15.3 of the North Dakota Century Code, relating to bank stock loans made by the Bank of North Dakota.

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

SECTION 1. AMENDMENT. Section 6-09-15.3 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-09-15.3. BANK STOCK LOANS - REQUIREMENTS. The Bank of North Dakota may make direct loans to these who have resided in this state--for--at--least--one--year individuals or bank holding companies for the purchase or refinancing of bank stock of a bank located in the state, provided the individuals or the stockholders of the bank holding company are residents of this state. These loans shall be secured by bank stock or stock of a bank holding company located in the state. For this purpose, loans secured by stock in any one bank or bank holding company shall not exceed twenty-five percent of the total of capital and surplus of the Bank of North Dakota.

The industrial commission shall adopt rules and regulations to carry out the purpose of this section which shall include provisions for terms under which such loans shall be made, the types of security required in addition to the stock purchased under the loan, and the procedure for disposition of stock-acquired-by-the-Bank the stock of the bank or bank holding company and other types of security. The Bank of North Dakota may make direct loans to individuals or bank holding companies for the purchase or refinancing of bank stock as provided herein, if not more than thirty-five percent of the bank stock or bank holding company stock will be or is owned by nonresidents of this state, provided that such loan applications involving nonresidents are submitted to the Bank of North Dakota advisory board of directors for recommendation, and are approved by the industrial commission before such loans are made. In the event the Bank of North Dakota becomes the owner of stock in a bank pursuant to foreclosure proceedings on such loan, such stock shall be disposed of within three years after acquisition by the Bank.

Approved March 11, 1981

CHAPTER 124

HOUSE BILL NO. 1096
(Representatives A. Olson, Berg)

BANK OF NORTH DAKOTA BEGINNING BUSINESSMEN LOANS

AN ACT to create and enact section 6-09-15.4 of the North Dakota Century Code, relating to the Bank of North Dakota making loans to beginning businessmen.

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

SECTION 1. Section 6-09-15.4 of the North Dakota Century Code is hereby created and enacted to read as follows:

6-09-15.4. BANK LOANS TO BEGINNING BUSINESSMEN - REQUIREMENTS. The Bank of North Dakota may participate in the making of loans to beginning businessmen with other financial institutions who are authorized to make such loans.

As used in this section, "beginning businessman" means any person who is a resident of this state; receives more than one-half his annual income from a revenue-producing enterprise; intends to use any revenue-producing enterprise that he wishes to purchase or rent for business purposes; has had adequate training, by experience or education, in the type of revenue-producing enterprise which he wishes to begin.

Approved March 2, 1981

CHAPTER 125

HOUSE BILL NO. 1145
(Committee on Industry, Business, and Labor)
(At the request of the Bank of North Dakota)

**BANK OF NORTH DAKOTA
RECORD CONFIDENTIALITY**

AN ACT to create and enact a new section to chapter 6-09 of the North Dakota Century Code, relating to confidentiality of records of the Bank of North Dakota.

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

SECTION 1. A new section to chapter 6-09 of the North Dakota Century Code is hereby created and enacted to read as follows:

CONFIDENTIALITY - RECORDS. The following records of the Bank of North Dakota shall be confidential:

1. Commercial or financial information of a customer, whether obtained directly or indirectly, except for routine credit inquiries or unless required by due legal process.
2. Internal or interagency memorandums or letters which would not be available by law to a party other than in litigation with the Bank.
3. Information contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of a state or federal agency responsible for the regulation or supervision of any Bank activity.
4. Information obtained from the state department of banking and financial institutions which would not be available from that agency under section 6-01-07.1.

Approved March 26, 1981

CHAPTER 126

HOUSE BILL NO. 1188
(Committee on Industry, Business, and Labor)
(At the request of the Bank of North Dakota)

BANK OF NORTH DAKOTA ADVISORY BOARD

AN ACT to amend and reenact section 6-09.1-02 of the North Dakota Century Code, relating to the Bank of North Dakota advisory board of directors.

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

SECTION 1. AMENDMENT. Section 6-09.1-02 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-09.1-02. BANK OF NORTH DAKOTA ADVISORY BOARD OF DIRECTORS. The governor of North Dakota shall appoint an advisory board of directors to the Bank of North Dakota consisting of seven persons, at least two of whom shall be officers of banks, the majority of the stock of which is owned by North Dakota residents, and at least one of ~~which whom~~ shall be an officer of a state or federally chartered financial institution. The governor shall appoint a chairman, vice chairman, and secretary from the advisory board of directors. The term of the directors shall be four years. ~~The five member advisory board of directors existing prior to July 1, 1979, shall continue to serve until expiration of their terms or until their successors have been appointed.~~ The industrial commission shall define the duties and fix the compensation of the advisory board of directors.

Approved March 2, 1981

CHAPTER 127

HOUSE BILL NO. 1169
(Committee on Industry, Business, and Labor)
(At the request of the Bank of North Dakota)

INDUSTRIAL DEVELOPMENT LOAN STANDARDS

AN ACT to repeal section 6-09.1-04 of the North Dakota Century Code, relating to standards to be followed by the Bank of North Dakota in sponsoring first mortgage industrial development loans in cooperation with private lenders.

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

SECTION 1. REPEAL. Section 6-09.1-04 of the North Dakota Century Code is hereby repealed.

Approved February 4, 1981

CHAPTER 128

HOUSE BILL NO. 1397
(Rued)

INDUSTRIAL REVENUE BOND GUARANTEE PROGRAM

AN ACT to create and enact a new section to chapter 40-57 of the North Dakota Century Code, relating to a bond issuance fee to be assessed against all evidence of indebtedness issued pursuant to chapter 40-57; and to amend and reenact chapter 6-09.2 of the North Dakota Century Code, relating to the guarantee of municipal industrial development revenue bonds issued pursuant to chapter 40-57 instead of real estate mortgages.

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

SECTION 1. AMENDMENT. Chapter 6-09.2 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-09.2-01. ~~INDUSTRIAL BUILDING-AND-AGRICULTURAL DEVELOPMENT MORTGAGE REVENUE BOND GUARANTEE PROGRAM - ADMINISTRATION.~~ The ~~Bank of North Dakota~~ business and industrial development department shall administer an industrial ~~building--and--agricultural~~ development ~~mortgage revenue bond guarantee program~~ as provided in this chapter.

6-09.2-02. PURPOSE. It is declared that a statewide need exists for ~~agricultural industrial development, and--for--industrial buildings--and--expansion--of--existing-industrial-buildings.~~ It is also declared that it is in the interest of the public welfare and purpose to promote the expansion and diversification of ~~agriculture and industry,~~ to increase employment, and to provide a larger taxable base for the economy of the state of North Dakota. Therefore, the industrial ~~building--and--agricultural~~ development ~~mortgage revenue bond guarantee program~~ is created to encourage the ~~making-of-mortgage-loans~~ purchase of industrial revenue bonds issued pursuant to chapter 40-57, for the purpose of furthering industrial expansion and ~~agricultural~~ development in the state, and thus improve the welfare of the public for the foregoing reasons and, by the stimulation of a larger flow of ~~private~~ investment funds ~~from banks,--building--and--loan--associations,--credit-unions,--savings--and--loan--associations,--insurance--companies,--and--other--financial institutions,--including--pension,--retirement,--and--profit-sharing~~

funds, to meet the needs of agricultural industrial development and industrial-plant-expansions.

6-09.2-03. DEFINITIONS. As used in this chapter, the following words and terms shall have the following meanings unless the context shall indicate another meaning or intent include or mean:

1. "Bank" shall mean "Department" means the Bank of North Dakota business and industrial development department.
2. "Cost of project" shall mean includes the cost or fair market value of construction, excavation, lands, equipment, property rights, easements, financing charges, interest, engineering and legal services, plans, specifications, surveys, cost estimates, studies, and other expenses as may be necessary or incident to the development, construction, equipping, financing, and placing in operation of an industrial or agricultural development project.
3. "Federal agency" shall mean means and include includes the United States of America, the president of the United States of America, and any department of, or corporation, agency, or instrumentality heretofore or hereafter created, designated, or established by the United States of America.
4. a. ~~"Industrial project" shall mean any building, whether or not the Bank has already insured mortgage payments under a mortgage on any such building in accordance with this chapter, or other real estate improvement in North Dakota, and, if a part thereof, the land upon which such building or other real estate improvement may be located, provided that such building or other real estate improvement is to be used~~
 - (1) ~~By any industry for the manufacturing, processing, or assembling of raw materials or manufactured products, or~~
 - (2) ~~For the providing of research or warehousing facilities for the benefit of any such industry,~~

~~and provided further, that the Bank has determined that such building or other real estate improvement will tend to provide gainful employment for the people of North Dakota, increase the tax base of the economy, and diversify and expand industry so that periods of large-scale unemployment and distressed times may be avoided.~~
- b. ~~"Agricultural development project" shall mean any irrigation construction or irrigation equipment~~

~~purchase, agricultural building construction, purchase of agricultural equipment, or other improvement to agricultural real estate, whether or not the Bank has already insured mortgage payments under a mortgage on any land, building, or equipment referred to above, provided that the construction, purchases, or improvements referred to above are for the purpose of growing, raising, processing, or furthering the growth, raising, or processing of livestock, poultry, or agricultural crops.~~

"Industrial development project" or "project" includes any real property, buildings, and improvements on real property or the buildings thereon, and any equipment permanently located on such real property or in such buildings, which are used or useful in connection with revenue-producing enterprises, or any combination of two or more such enterprises, engaged or to be engaged in:

- a. Assembling, fabricating, manufacturing, mixing, or processing of any agricultural, mineral, or manufactured products, or any combination thereof, including the retail sale of any such product by the enterprise that assembled, fabricated, manufactured, mixed, or processed it and the incidental sale of any service of a kind essential to the primary activities of the enterprise.
 - b. Storing, warehousing, distributing, or selling any products of agriculture, mining, or manufacturing, provided that "selling" shall not include the sale of any service except storing, warehousing, and distributing or as provided in subdivision a of subsection 4 nor shall it include the sale at retail of any product except as provided in subdivision a of subsection 4.
5. "Maturity date" shall mean means the date on which the mortgage revenue bond indebtedness would be extinguished if paid in accordance with periodic payments provided for in the mortgage the terms of issuance.
6. "Mortgage" shall mean a first mortgage or security agreement on an industrial or agricultural development project, or part thereof, together with the credit instruments thereby secured and creating and constituting a first lien of record, provided, however, a "first mortgage" shall include a second or subsequent mortgage or security agreement on an industrial or agricultural development project if:
- a. The holder of such second or subsequent mortgage or security agreement is also the holder of a prior mortgage or security agreement on the industrial or

~~agricultural-development--project--under--which--prior mortgage--or--security--agreement--the-Bank-is-already insuring-mortgage-payments-~~

~~b.--No--other--person-or-legal-entity-holds-an-intervening mortgage,--security--interest,--or--lien--on--such industrial--or--agricultural-development-project-prior to-such-second--or--subsequent-mortgage--or--security interest-~~

"Industrial development revenue bond" means an evidence of indebtedness issued pursuant to chapter 40-57 to fund the cost of an industrial development project, or part thereof, together with the securing instruments.

7. "Mortgagee" shall mean the original lender approved by the Bank under a mortgage, and its successors and assigns, and may include all insurance companies, trust companies, banks, building and loan associations, credit unions, savings and loan associations, investment companies, savings banks, individuals, executors, administrators, guardians, conservators, trustees, and other fiduciaries, including pension, retirement, and profit-sharing funds. "Bondholder" means the holder of the guaranteed industrial development revenue bond.
8. "Mortgagor" shall mean an individual or corporation which obtains a loan under the provisions of "Issuer" means municipalities as defined in chapter 40-57 which issue evidences of indebtedness which are guaranteed by this chapter and which pledges property as security for such loan evidence of indebtedness as provided in this chapter.
9. "Mortgage payments" shall mean "Debt service" means periodic payments of principal and interest by the mortgagor issuer's project lessee to the mortgagee bondholder required by the mortgage, and may include interest, installments of principal, taxes and assessments, land lease rentals, mortgage insurance premiums, and hazard insurance premiums, or any of them as the Bank may prescribe covenants of issuance of the evidence of indebtedness and the project lease.
10. "Project lessee" includes the individual, corporation or partnership or combination thereof to whom the project will be leased.
11. "Project lease" means the lease agreement between the issuer and the project lessee the lease rentals from which shall be sufficient to pay all the project costs as required by chapter 40-57.

6-09.2-04. POWERS. In carrying out the provisions of this chapter, the Bank department is authorized and empowered:

1. To ~~insure~~ guarantee the payment of ~~mortgage-loans debt service on evidence of indebtedness secured by security interests in an industrial buildings, or agricultural buildings, lands, equipment, or improvements~~ development project consistent with the terms and limitations expressed in this chapter.
2. To accept from a federal agency or North Dakota, its agencies and instrumentalities, loans or grants for use in carrying out its purposes, and to enter into agreements with such agency or North Dakota, its agencies and instrumentalities, respecting any such loans or grants.
3. ~~In connection with the insuring of payments of any industrial project mortgage, to request for its guidance a finding of the planning board of the municipality, or if there is no planning board, a finding of the municipal officers of the municipality in which the industrial project is proposed to be located, or of the regional planning board of which such municipality is a member, as to the expediency and advisability of such project.~~
4. To enter into agreements with prospective mortgagees bondholders and mortgage issuers for the purpose of planning, designing, constructing, acquiring, altering, and financing industrial and agricultural development projects and require as a condition of guarantee that the Bank of North Dakota be the designated trustee, paying agency and depository of all funds and accounts of all guaranteed evidence of indebtedness of the program.
- 5- 4. To acquire, purchase, manage and operate, and hold and dispose of, real and personal property, to take assignments of rentals and leases, and make and enter into all contracts, leases, agreements, and arrangements necessary or incidental to the performance of its duties.
- 6- 5. When in the opinion of the Bank department it is necessary or advisable, in order to further the purposes of this chapter, or to safeguard the mortgage-insurance bond guarantee fund, to purchase, acquire, take assignments of notes, mortgages, and other forms of security and evidences of indebtedness, to purchase, acquire, attach, seize, accept, or take title to any industrial or agricultural development project, ~~or mortgaged part thereof~~, by conveyance or, when ~~an insured mortgage thereon is clearly in default~~, by any guaranteed evidence of indebtedness has been redeemed in whole or in part exercise with the consent of the bondholder any of the bondholder's rights under any of the covenants of issuance including but not limited to foreclosure, and to sell sale, lease, or rent an industrial development project for a use specified in subsection 4 of section 6-09.2-03, or for any other use.

6-09.2-05. DEFAULT BY MORTGAGORS ISSUER. When a mortgagor an issuer's project lessee does not meet--mortgage make debt service payments insured guaranteed by the Bank-by-reason-of-its-industrial or-agricultural--development--project department's bond guarantee fund, the Bank, department for the purpose of maintaining income from industrial or-agricultural development projects on which mortgage--leas bonds have been insured guaranteed by the Bank department and for the purpose of safeguarding the mortgage insurance bond guarantee fund, may grant the mortgagor issuer permission to lease or rent the property to a tenant for a use other than that specified in subsection 4 of section 6-09.2-03, such lease or rental to be temporary in nature and subject to such conditions as the Bank department may prescribe; provided, however, no lease shall in any manner conflict with the provisions of chapter 40-57 or in the opinion of bond counsel issuing the opinion on the evidence of indebtedness in any way jeopardize the income tax exempt status of the interest on the bonds.

6-09.2-06. MORTGAGE-INSURANCE BOND GUARANTEE FUND.

1. There is hereby created an industrial building--and agricultural development mortgage-insurance revenue bond fund, hereinafter in this chapter referred to as the "fund" which shall be used by the Bank department as a nonlapsing, revolving fund for carrying out the provisions of this chapter. Within the fund are hereby created the following accounts, a debt service guarantee account, an administration account, a debt service reserve account and a debt service principal and interest account. The fund shall include the funds appropriated by section 13 of chapter 112 of the 1971 Session Laws which shall be deposited in the fund debt service guarantee account and all accumulated earnings from the investment of the fund since the appropriation in 1971 shall be deposited in the fund administration account. To this the fund administration account shall be charged any and all expenses of the Bank department necessary for this purpose--including--mortgage administration of this chapter, except debt service payments required by loan defaults, and to-the-fund-shall-be-credited--all--mortgage insurance--premiums--and all debt service guarantee account charges. Net proceeds from the sale, disposal, lease, or rental of real or personal property which the Bank department may receive under the provisions of this chapter shall be deposited in the debt service guarantee account. The department may issue evidence of indebtedness payable from anticipated revenues of the fund.
2. Moneys in the fund not currently needed to meet the expenses and obligations incurred in carrying out the provisions of this chapter may be invested by the Bank department through the Bank of North Dakota as provided by law.

6-09.2-07. INSURANCE GUARANTEE OF MORTGAGES BONDS. The Bank department, as the administrator of the fund created in this chapter, is authorized, upon application of the proposed mortgagee issuer, to insure mortgage guarantee debt service payments required by a mortgage evidence of indebtedness on any industrial or agricultural development project, or mortgaged part thereof, upon such terms and conditions as the Bank department may prescribe, and subject to the limitations of this chapter, provided the aggregate amount of the unpaid principal balance of all obligations of all mortgages evidence of indebtedness so insured guaranteed outstanding at any one time shall not exceed five-million-dollars twenty times the unencumbered balance in the fund debt service guarantee account. To be eligible for insurance guarantee under the provisions of this chapter a mortgage bonds shall:

1. Be ~~one--which-is-made-to-and-held-by-a-mortgagee-approved by-the-Bank~~ issued by a municipality as defined in chapter 40-57.
2. Involve a principal obligation, including initial service charges and appraisal, inspection, and other fees approved by the Bank, ~~not-to-exceed-ninety-percent-of-the-cost-of any-project~~ department.
3. Have a maturity date satisfactory to the Bank department, but in no case later than ~~twenty-five~~ forty years from the date of ~~the-mortgage~~ issuance for any project.
4. Contain complete amortization provisions satisfactory to the Bank department requiring periodic payments, costs of local property taxes and assessments, land lease rentals, if any, and hazard insurance on the property and such ~~mortgage--insurance--premiums~~ bond guarantee fees as are required under section 6-09.2-08, all as the Bank department shall from time to time prescribe or approve.
5. Be in such form and contain such terms and provisions, with respect to property, insurance, repairs, alterations, payment of taxes and assessments, restrictions as to location of machinery and equipment, default reserves, delinquency charges, default remedies, anticipation of maturity, additional and secondary liens, and other matters as the Bank department may prescribe.

6-09.2-08. MORTGAGE---INSURANCE---PREMIUMS,---The--Bank--is authorized-to-fix-mortgage-insurance-premiums-for-the--insurance--of mortgage--payments--under--the--provisions--of--this--chapter,--such premiums-to-be-computed-as-a--percentage,--which--shall--not--exceed three-percent-per-annum,--of-the-principal-obligation-of-the-mortgage in-such-manner-in-each-case-as-the-Bank-shall-determine-on-the-basis of--all-pertinent-available-data,--Such-premiums-shall-be-payable-by the-mortgagors--or--the--mortgagees--in--such--manner--as--shall--be prescribed--by--the--Bank,--The-amount-of-premium-need-not-be-uniform among-the-various-loans-insured.

BOND GUARANTEE FEES. The department shall charge three percent of the principal obligation of the evidence of indebtedness as a fee for guaranty of debt service payments on evidence of indebtedness guaranteed by the fund debt service guarantee account which shall be deposited in the fund debt service guarantee account. The department shall charge an annual administrative fee of three-eighths of one percent of the outstanding principal obligation of all evidence of indebtedness guaranteed by the fund debt service guarantee account. Such fees shall be payable by the issuer's project lessee in such manner as shall be prescribed by the department. Earnings on the investment of any accounts held by the fund shall be first deposited in the fund administration account. Any moneys declared by the department commission to be surplus and not essential to the administration of this chapter may be transferred on order of the commission to the fund debt service guarantee account.

6-09.2-09. EXPENSES. The Bank department, subject to the approval of the business and industrial development commission, may expend out of the fund administration account such moneys as may be necessary for any expenses of the Bank department in carrying out the provisions of this chapter, ~~including administrative, legal, actuarial, and other services.~~

6-09.2-10. MORTGAGES BONDS ELIGIBLE FOR INVESTMENT. ~~Mortgages insured~~ Evidence of indebtedness bonds guaranteed by the Bank department under this chapter ~~and participations therein~~ are hereby made legal investments for all insurance companies, trust companies, banks, investment companies, savings banks, building and loan associations, credit unions, savings and loan associations, executors, administrators, guardians, conservators, trustees and other fiduciaries, pension, profit-sharing, and retirement funds to the extent limited by law.

6-09.2-11. LIMITATION - CREDIT OF BANK DEPARTMENT AND STATE NOT PLEDGED. Nothing in this chapter shall be construed to authorize or permit the Bank department or any officer thereof to create any indebtedness of the Bank department or of ~~the state of~~ North Dakota, or to incur any obligation of any kind or nature, except such as shall be payable solely from the fund created in this chapter and the revenues appropriated and accumulated therein.

SECTION 2. A new section to chapter 40-57 of the North Dakota Century Code is hereby created and enacted to read as follows:

A bond issuance fee or excise in lieu of taxes of two percent of the principal amount of all evidence of indebtedness issued pursuant to this chapter and guaranteed by the industrial development revenue bond guarantee program is hereby imposed and shall be assessed by the issuing municipality and collected at or before the time of sale. The bond issuance fee or tax shall not exceed two hundred thousand dollars. The fee or tax shall be transmitted and is hereby appropriated to the business and industrial development department for deposit in the fund debt service guarantee account created by section 6-09.2-06. The bond issuance fee or tax shall not be charged on exchange or refunding of evidence of indebtedness. The fee or tax shall be assessed on all original issues sold after the effective date of this section.

CHAPTER 129

HOUSE BILL NO. 1049
(Legislative Council)
(Interim Budget "B" Committee)

DEVELOPMENTALLY DISABLED FACILITY LOAN PROGRAM

AN ACT to establish a revolving loan fund at the Bank of North Dakota for construction, reconstruction, or acquisition of intermediate care facilities for developmentally disabled persons and residential facilities for physically disabled persons; to amend chapter 422 of the 1969 Session Laws of North Dakota, relating to termination of revolving loans by the Bank of North Dakota; to provide an appropriation; to provide effective dates; and to provide expiration dates.

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

SECTION 1. REVOLVING LOAN FUND. A revolving loan fund shall be maintained in the Bank of North Dakota, for the purpose of making loans to nonprofit corporations for the construction, reconstruction, or acquisition of intermediate care facilities for developmentally disabled persons and residential facilities for physically disabled persons. All moneys transferred into the fund, interest upon moneys in the fund, and collections of interest and principal on loans made from the fund are hereby appropriated for the purpose of providing loans in accordance with the provisions of this Act.

SECTION 2. ADMINISTRATION OF REVOLVING FUND. The revolving fund and loans made therefrom shall be supervised and administered by the Bank of North Dakota. All applications for loans under the provisions of this Act shall be made to the state department of health. The department may promulgate rules, pursuant to chapter 28-32, to carry out the provisions of this Act. Applications approved by the department shall be forwarded to the Bank of North Dakota. Upon approval of such application by the Bank of North Dakota, loans shall be made from the revolving fund in accordance with the provisions of this Act.

SECTION 3. ADMINISTRATION OF REVOLVING FUND. The revolving fund and loans made therefrom shall be supervised and administered by the Bank of North Dakota. All applications for loans under the provisions of this Act shall be made to the state department of

human services. The department may promulgate rules, pursuant to chapter 28-32, to carry out the provisions of this Act. Applications approved by the department, in consultation with the state department of health, shall be forwarded to the Bank of North Dakota. Upon approval of such application by the Bank of North Dakota, loans shall be made from the revolving fund in accordance with the provisions of this Act.

SECTION 4. AMOUNT OF LOAN - TERMS AND CONDITIONS. Loans in an amount not exceeding three-fourths of the cost of construction, reconstruction, or acquisition, including the cost or value of real estate upon which the facility is located, and in no event exceeding three hundred thousand dollars to any one applicant, shall be made by the Bank of North Dakota to nonprofit corporations to be used in the construction, reconstruction, or acquisition of intermediate care facilities in this state for developmentally disabled persons and residential facilities for physically disabled persons. Such loans shall bear interest at a rate of five percent, and shall be repayable in the manner prescribed by the Bank of North Dakota within a period of not more than twenty-five years. In addition, in consideration of the granting of a loan under this Act, each nonprofit corporation shall execute a contract with the state to operate the facility in accordance with the standards prescribed for the licensing of the facility by the state department of health. The contract shall also provide that if the use of the facility is discontinued or diverted to other purposes, the full amount of the loan provided under this Act shall immediately become due and payable. The Bank of North Dakota may deduct one-half of one percent of the outstanding loans annually as a service fee for administering the revolving fund. Payments of interest and principal on loans made under this Act shall be made to the Bank of North Dakota and credited to the revolving fund.

SECTION 5. AMOUNT OF LOAN - TERMS AND CONDITIONS. Loans in an amount not exceeding three-fourths of the cost of construction, reconstruction, or acquisition, including the cost or value of real estate upon which the facility is located, and in no event exceeding three hundred thousand dollars to any one applicant, shall be made by the Bank of North Dakota to nonprofit corporations to be used in the construction, reconstruction, or acquisition of intermediate care facilities in this state for developmentally disabled persons and residential facilities for physically disabled persons. Such loans shall bear interest at a rate of five percent, and shall be repayable in the manner prescribed by the Bank of North Dakota within a period of not more than twenty-five years. In addition, in consideration of the granting of a loan under this Act, each nonprofit corporation shall execute a contract with the state to operate the facility in accordance with the standards prescribed for the licensing of the facility by the state department of human services. The contract shall also provide that if the use of the facility is discontinued or diverted to other purposes, the full amount of the loan provided under this Act shall immediately become due and payable. The Bank of North Dakota may deduct one-half of one percent of the outstanding loans annually as a service fee for

administering the revolving fund. Payments of interest and principal on loans made under this Act shall be made to the Bank of North Dakota and credited to the revolving fund.

SECTION 6. STANDARDS - ADMINISTRATION PROCEDURE. The state department of health, shall establish standards of construction which shall be followed by all applicants receiving loans of funds for the construction, reconstruction, or acquisition of intermediate care facilities for developmentally disabled persons and residential facilities for physically disabled persons.

SECTION 7. POWERS OF BANK OF NORTH DAKOTA. The Bank of North Dakota may do all acts or things necessary to negotiate loans under this Act, including the power to take such security as deemed necessary, and to bring suit against any nonprofit corporation in order to collect interest and principal due the revolving fund under mortgages, contracts, and notes executed to obtain loans under the provisions of this Act. If the applicant's plan for financing provides for a loan of funds from sources other than the state of North Dakota, then the Bank of North Dakota shall take a second mortgage upon the facilities constructed or reconstructed from the proceeds of the loan.

SECTION 8. APPROPRIATION. There is hereby appropriated out of any moneys in the land and minerals trust fund, not otherwise appropriated, the sum of \$4,000,000, or so much thereof as may be necessary, to the Bank of North Dakota for deposit in the revolving fund created by this Act which fund is to provide loans for intermediate care facilities for developmentally disabled persons and residential facilities for physically disabled persons as provided in this Act. During the 1981-83 biennium the Bank of North Dakota shall approve loans only for the acquisition, construction, or reconstruction of intermediate care facilities in geographical areas included in the plan for such facilities approved by the legislative assembly. Six hundred thousand dollars, or so much thereof as may be necessary, of the amount appropriated by this section shall be available for loans to nonprofit corporations to construct residential facilities for physically disabled persons.

SECTION 9. AMENDMENT. Section 1 of chapter 422 of the 1969 Session Laws is hereby amended and reenacted to read as follows:

SECTION 1. TERMINATION OF THE MAKING OF LOANS BY THE BANK OF NORTH DAKOTA TO NURSING HOMES - TRANSFER OF FUNDS TO ~~GENERAL~~ REVOLVING FUND. Notwithstanding the provisions of sections 50-21-01, 50-21-02, 50-21-02.1, 50-21-03, 50-21-04, and 50-21-05, the Bank of North Dakota shall make no new loans from the revolving loan fund to nursing homes and homes for the aged and infirm. It is the intent of the legislative assembly that loans made pursuant to the provisions of this chapter be discontinued beginning with the effective date of this Act. The balance in the revolving loan fund on July 1, 1969, shall be transferred to the general fund and all payments made to the revolving loan fund after that date shall be transferred monthly by the manager of the Bank of North Dakota to

the ~~general-fund~~ revolving loan fund created by House Bill No. 1049 of the forty-seventh legislative assembly.

SECTION 10. EFFECTIVE DATES. Sections 3 and 5 of this Act shall become effective on January 1, 1982.

SECTION 11. EXPIRATION DATES. Sections 2 and 4 of this Act shall be effective through December 31, 1981, and after that date shall be ineffective.

Approved April 6, 1981

CHAPTER 130

SENATE BILL NO. 2374
(Vosper, Tallackson)

FUEL PRODUCTION FACILITY LOAN GUARANTEE PROGRAM

AN ACT to authorize the Bank of North Dakota to guarantee loans used for the construction of community-sized agriculturally derived fuel production facilities.

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

SECTION 1. GUARANTEE LOAN PROGRAM - ADMINISTRATION - ADVISORY BOARD. The Bank of North Dakota shall administer the state guarantee loan program as provided in this Act. The advisory board of directors to the Bank of North Dakota appointed pursuant to chapter 6-09.1 shall act in an advisory capacity concerning the program. The Bank, upon recommendation of the advisory board, and subject to approval of the industrial commission, may expend moneys from the interest earned from the principal balance in the reserve fund established pursuant to this Act as may be necessary to implement the program.

SECTION 2. POWERS AND DUTIES OF THE BANK OF NORTH DAKOTA. The Bank of North Dakota may:

1. Guarantee the loan of money by eligible banks, credit unions, and savings and loan associations, upon such terms, conditions, and procedures as it may establish in accordance with the provisions of this Act, to any qualified person to assist that person in constructing agriculturally derived fuel production facilities of a size to serve the community in or near which the facility is located. The facility must use grain-related and biomass farm products for agriculturally derived fuel production.
2. Take, hold, and administer, on behalf of the state from any source, any property, or any interest therein, and the income therefrom, either absolutely or in trust, for any purpose of the guarantee loan program, provided that no guarantee obligation of the Bank shall be payable out of

any moneys of the Bank except those made available to it under this Act.

3. Adopt standards governing the qualifications and financial needs of applicants, and establish a method of application for the guaranteeing of loans which may be made by banks, credit unions, and savings and loan associations, and any other standards as may be necessary to administer properly this Act.

SECTION 3. EXTENT OF LOAN GUARANTEE. The extent of the loan guarantee under this Act may not exceed twenty-five percent of the total loan. The maximum dollar amount of any guarantee on a single loan may not exceed two million five hundred thousand dollars. The extent of the value of all loan guarantees under this Act may not, at any one time, exceed ten million dollars.

SECTION 4. BANK TO PRESCRIBE THE RATE OF INTEREST ON GUARANTEED LOAN. Any loan guaranteed by the Bank of North Dakota shall bear interest at a rate not in excess of the interest charged by the lender to other persons for similar types of loans not guaranteed by the Bank unless the Bank determines that a higher rate of interest is justified by special circumstances and would be consistent with the general objectives of this Act.

SECTION 5. ESTABLISHMENT AND MAINTENANCE OF ADEQUATE GUARANTEE FUNDS - USE OF LANDS AND MINERALS TRUST. The Bank of North Dakota shall establish and at all times maintain an adequate guarantee reserve fund in a special account in the Bank. The guarantee reserve fund shall be maintained from the lands and minerals trust created by section 15-08.1-08 and any moneys transferred from the lands and minerals trust to maintain the guarantee reserve fund are available to reimburse lenders for guaranteed loans in default. The securities in which the moneys in the reserve fund may be invested shall meet the same requirements as those authorized for investment under the state investment board. The income from such investments shall be made available for the costs of administering the state guarantee loan program and income in excess of that required to pay the cost of administering the program shall be deposited in the reserve fund. The amount of reserves for all guaranteed loans shall be determined by a formula which will assure as determined by the Bank, an adequate amount of reserve.

SECTION 6. PROCEDURE ON DEFAULT OF GUARANTEED LOAN. Whenever it appears to the satisfaction of the Bank of North Dakota that a guaranteed loan is in default, and the eligible lender has certified this fact to the Bank, the Bank shall reimburse the eligible lender making the loan from the reserve fund to the extent the loan was guaranteed by the fund. Whenever payment of the guaranteed principal balance of any guaranteed loan is demanded of the Bank, the note and accompanying evidence of the loan shall be tendered to the Bank in manner and form to confer good title so that the loan may be collected by the Bank as it may determine according to law.

No statute of limitations may be used as a defense against collection, through court proceedings, of any loan guaranteed under this Act.

SECTION 7. FEES FOR REASONABLE COSTS. The Bank of North Dakota may charge reasonable fees for guaranteeing of loans under this Act, and the fees shall be available to defray costs of administering the state guarantee loan program. Fees in excess of the amount required to pay the cost of administering the program shall be deposited in the reserve fund.

SECTION 8. LIMITATION ON ADDITIONAL STATE AID. Any person whose application for a loan guarantee under this Act is approved shall not be eligible to receive additional aid in the form of a loan, grant, or guarantee from any state agency, department, or instrumentality.

Approved April 8, 1981