

**Fifty-sixth Legislative Assembly, State of North Dakota, begun in the  
Capitol in the City of Bismarck, on Tuesday, the fifth day of January,  
one thousand nine hundred and ninety-nine**

HOUSE BILL NO. 1099  
(Industry, Business and Labor Committee)  
(At the request of the Department of Banking and Financial Institutions)

AN ACT to create and enact a new section to chapter 6-06 of the North Dakota Century Code, relating to corrective actions concerning undercapitalized credit unions.

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

**SECTION 1.** A new section to chapter 6-06 of the North Dakota Century Code is created and enacted as follows:

**Prompt corrective action.** Whenever the state credit union board determines that any credit union under its supervision does not have adequate capital, the state credit union board, without a hearing, may declare that the credit union is either undercapitalized, significantly undercapitalized, or critically undercapitalized. For the purposes of this section, a credit union is undercapitalized if it either has a net worth ratio of less than six percent or fails to meet any applicable risk-based net worth requirement established by the board by rule. A credit union is significantly undercapitalized if it has a net worth ratio of less than four percent or has a net worth ratio of less than five percent and fails to submit an acceptable net worth restoration plan or materially fails to implement a plan accepted by the board. A credit union is critically undercapitalized if it has a net worth ratio of less than two percent or such higher net ratio, not exceeding three percent, as the board may specify. The board, by order, may require a credit union that is undercapitalized to annually set aside as net worth an amount equal to up to four-tenths percent of its total assets. Additionally, the board may require an undercapitalized credit union to submit an acceptable net worth restoration plan to the board within the time allowed by the board. For a significantly undercapitalized credit union that has no reasonable prospect of becoming adequately capitalized or a critically undercapitalized credit union, the board may take possession of the credit union, appoint a conservator or liquidating agent for the credit union, or take such other action as the board determines would be appropriate to resolve the problems of the credit union.

A credit union that is the subject of such a board declaration may ask for a hearing before the board within five days after service upon it of the board's declaration. The application for a hearing must be granted and the hearing must be held not later than ten days after the application is filed. A complete record of the hearing must be established and maintained. On the basis of the hearing, the board shall enter a final order. The institution may appeal the order to the district court of Burleigh County, within ten days after the order is served upon it. The appeal is governed by chapter 28-32.

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Speaker of the House

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President of the Senate

\_\_\_\_\_  
Chief Clerk of the House

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Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Fifty-sixth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1099.

House Vote:      Yeas    96      Nays    0      Absent    2

Senate Vote:    Yeas    49      Nays    0      Absent    0

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Chief Clerk of the House

Received by the Governor at \_\_\_\_\_ M. on \_\_\_\_\_, 1999.

Approved at \_\_\_\_\_ M. on \_\_\_\_\_, 1999.

\_\_\_\_\_  
Governor

Filed in this office this \_\_\_\_\_ day of \_\_\_\_\_, 1999,  
at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Secretary of State