

Fifty-sixth  
Legislative Assembly  
of North Dakota

## ENGROSSED HOUSE BILL NO. 1100

Introduced by

Industry, Business and Labor Committee

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

1 A BILL for an Act to create and enact a new section to chapter 6-01 of the North Dakota  
2 Century Code, relating to the authority of the state banking board to take corrective action  
3 concerning undercapitalized state banks.

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

5 **SECTION 1.** A new section to chapter 6-01 of the North Dakota Century Code is  
6 created and enacted as follows:

7 **Prompt correction action.** The board may enter an order if the board finds that a state  
8 bank is undercapitalized, significantly undercapitalized, or critically undercapitalized. For the  
9 purpose of this section, undercapitalized, significantly undercapitalized, and critically  
10 undercapitalized have the same definition as found in title 12, Code of Federal Regulations,  
11 part 325, section 103. The order may require an undercapitalized state bank to take prompt  
12 corrective action as the board determines reasonable to bring the bank to an adequately  
13 capitalized condition, including the submission and implementation of an acceptable capital  
14 restoration plan. For a significantly or critically undercapitalized state bank, the board may  
15 issue a temporary cease and desist order appointing a receiver, or with the consent of the  
16 federal deposit insurance corporation appoint a conservator or take such other action as may  
17 be better to resolve the problems of the state bank consistent with section 38 of the Federal  
18 Deposit Insurance Act of 1991 [Pub. L. 102-242; 105 Stat. 2253; 12 U.S.C. 1831(o) et seq.]. A  
19 bank that has been served with a complaint requesting the state banking board to issue a  
20 prompt corrective action under this section may request a hearing before the board within five  
21 days after service of the complaint upon the bank. A request for a hearing must be granted and  
22 the hearing must be held not later than ten days after the request is filed with the board. A  
23 complete record of the hearing must be established and maintained. On the basis of the  
24 hearing, the board may issue an order. The bank may appeal the board's order under this

- 1 section to the district court of Burleigh County, North Dakota, within ten days after the board's
- 2 order is served on the bank. The appeal is governed by chapter 28-32.