

HOUSE BILL NO. 1351

Introduced by

Representatives N. Johnson, Mahoney

Senators Espgaard, C. Nelson

1 A BILL for an Act to amend and reenact section 6-03-38 of the North Dakota Century Code,
2 relating to the powers of state-chartered banks.

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

4 **SECTION 1. AMENDMENT.** Section 6-03-38 of the 1999 Supplement to the North
5 Dakota Century Code is amended and reenacted as follows:

6 **6-03-38. Assets not to be used in other business - Exceptions - Penalty.** No bank,
7 except as otherwise authorized in this title, may employ its money or other assets as principal,
8 directly or indirectly, in trade or commerce, nor may it employ or invest any of its assets or
9 funds in the stock of any corporation, limited liability company, bank, partnership, firm, or
10 association. However, a state bank may, to the extent that banks subject to the laws of the
11 federal government are permitted to do so, purchase shares of stocks, or any other type of
12 securities offered by small business investment companies organized and licensed under
13 Public Law No. 85-699, known as the Small Business Investment Company Act of 1958 [72
14 Stat. 689; 15 U.S.C. 661 et seq.], and the Small Business Equity Enhancement Act of 1992
15 [Pub. L. 102-366; 106 Stat. 1007-1020; 15 U.S.C. 661 et seq.], and any amendments thereto,
16 or chapter 10-30, but in no event may any state bank hold securities of small business
17 investment companies in an amount aggregating more than two percent of the bank's capital
18 and surplus, nor in speculative margins of stock, bonds, grain, provisions, produce, or other
19 commodities, except that it is lawful for a bank to make advances for grain or other products in
20 store or in transit to market, and to invest in ~~stocks of subsidiary corporations~~ organizations,
21 when the activities of such ~~corporations~~ organizations are incidental or complementary to
22 ~~banking the bank's~~ activities, with the specific approval of the state banking board for each such
23 subsidiary. The state banking board has the same power to make rules for the subsidiary
24 ~~corporations~~ organizations, and to examine its records and affairs, as it has for other financial

1 corporations under section 6-01-04. If the state banking board determines that such
2 investments would be detrimental to the interests of a bank's depositors, it may direct the bank
3 to divest itself of such subsidiary investments. In addition, the state banking board has power
4 to authorize state banks to engage directly or indirectly in any ~~banking~~ activity in which such
5 banks could engage were they operated as national banks at the time such authority is granted,
6 notwithstanding any restriction elsewhere contained in this code. Any officer, director, or
7 employee of any bank who invests or uses its funds contrary to this title is guilty of a class A
8 misdemeanor.