

Fifty-ninth  
Legislative Assembly  
of North Dakota

## HOUSE BILL NO. 1140

Introduced by

Industry, Business and Labor Committee

(At the request of the Department of Financial Institutions)

1 A BILL for an Act to amend and reenact subsection 1 of section 6-02-01 and section 6-05-02 of  
2 the North Dakota Century Code, relating to use of terms for bank, annuity, safe deposit, surety,  
3 and trust company regulation purposes.

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

5 **SECTION 1. AMENDMENT.** Subsection 1 of section 6-02-01 of the North Dakota  
6 Century Code is amended and reenacted as follows:

7 1. No person, firm, company, copartnership, or corporation, either domestic or  
8 foreign, not organized under this chapter or authorized to take on banking powers  
9 under this section, except national banking corporations, banks organized under  
10 the laws of another state, domestic or foreign bank holding companies, and the  
11 Bank of North Dakota, may make use of or display in connection with its business,  
12 in signs, letterheads, advertising, or in any other way, such words as "bank",  
13 "banker", or "banking", or any other word or words of like import, nor may any  
14 person or concern do or perform anything in the nature of the business of a bank  
15 until and unless such business is regularly organized or authorized under this  
16 chapter. Upon written request, the commissioner may grant an exemption to this  
17 section if the commissioner finds that use of the words "bank", "banker", or  
18 "banking" or words of like import is not reasonably likely to cause confusion or lead  
19 the public to believe that the person requesting the exemption is a banking  
20 institution or is conducting a business subject to the jurisdiction of the department.

21 **SECTION 2. AMENDMENT.** Section 6-05-02 of the North Dakota Century Code is  
22 amended and reenacted as follows:

23 **6-05-02. Compliance with chapter required - Penalty for noncompliance.** No  
24 person, firm, company, copartnership, or corporation, either domestic or foreign, not organized

1 under this chapter nor subject to its provisions, except only national banking corporations, state  
2 banks authorized under this chapter, state banks authorized to engage in trust activities under  
3 the laws of another state, and the Bank of North Dakota, may make use of or display in  
4 connection with its business, in signs, letterheads, advertising, or in any other way, such words  
5 as "trust", "trust company", or any other word or words of like import, nor may any person or  
6 concern do or perform anything in the nature of the business of a trust company until and  
7 unless such business is regularly organized and authorized under this chapter. If any firm or  
8 corporation organized prior to July 1, 1931, has been granted a charter permitting it to use any  
9 word, words, or title contrary to the intent of this section, and by reason of its rights under such  
10 charter, the provisions of this section may not be enforced against it during the life of such  
11 charter. However, no renewal charter may be granted to such person, firm, or corporation  
12 permitting the continuance of the use of such word, words, or title contrary to or in violation of  
13 this section. Any person, firm, or corporation which, by reason of an existing charter right under  
14 any law or statute in effect prior to July 1, 1931, may be held by the courts not to be affected by  
15 this section and which therefore refuses to comply with the provisions of this section, during the  
16 period of noncompliance, shall display, prominently and continuously in plain, legible, and  
17 clearly discernible lettering on all of its signs, stationery, circulars, and advertising, and in all of  
18 its printed or written matter the following words and language: "NOT UNDER THE  
19 SUPERVISION OF THE STATE BANKING BOARD OR THE COMMISSIONER OF FINANCIAL  
20 INSTITUTIONS", and such language must be displayed thereon as prominently as any other  
21 matter therein. Any person, firm, company, copartnership, or corporation, domestic or foreign,  
22 violating any provision of this section, shall forfeit to the state one hundred dollars for every day  
23 or part thereof during which such violation continues. In an action brought by the commissioner  
24 or any aggrieved person, the court may issue an injunction restraining such person, firm,  
25 company, copartnership, or corporation from further using such words, terms, or phrases in  
26 violation of this section or from further transacting business in such a way or manner as to lead  
27 the public to believe that its business is in whole or in part of the nature of a trust company, or  
28 that it is under the supervision of the state banking board or the commissioner. Upon written  
29 request, the commissioner may grant an exemption to this section if the commissioner finds that  
30 use of the words "trust" or "trust company" or any other word or words of like import is not  
31 reasonably likely to cause confusion or lead the public to believe that the person requesting the

- 1 exemption is a banking institution or is conducting a business subject to the jurisdiction of the
- 2 department.