

Sixtieth
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1369

Introduced by

Representatives Clark, Boe, Dietrich, Haas

Senator Krebsbach

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; and to declare an emergency.

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, their
11 affiliates, bona fide financial institution trade associations and their affiliates, and
12 the Bank of North Dakota, may make use of or display in connection with its
13 business, in signs, letterheads, advertising, or in any other way, such words as
14 "bank", "banker", or "banking", or any other word or words of like import, nor may
15 any person or concern do or perform anything in the nature of the business of a
16 bank until and unless such business is regularly organized or authorized under this
17 chapter. Upon written request, the commissioner may grant an exemption to this
18 section if the commissioner finds that use of the words "bank", "banker", or
19 "banking", or words of like import, are not reasonably likely to cause confusion or
20 lead the public to believe that the person requesting the exemption is a bank,
21 holding company, trade association, or affiliate authorized under this section or is
22 conducting a business subject to the jurisdiction of the department. In granting an
23 exemption under this section the commissioner may restrict or condition the

exemption and use of the name or word or the activities of an exempt person as
the commissioner considers appropriate to protect the public interest.

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

6-05-02. Compliance with chapter required - Penalty for noncompliance. No
person, firm, company, copartnership, or corporation, either domestic or foreign, not organized
under this chapter nor subject to its provisions, except only national banking corporations, state
banks authorized under this chapter, state banks or trust companies authorized to engage in
trust activities under the laws of another state, their affiliates, bona fide banking institution trade
associations and their affiliates, and the Bank of North Dakota, may make use of or display in
connection with its business, in signs, letterheads, advertising, or in any other way, such words
as "trust", "trust company", or any other word or words of like import, nor may any person or
concern do or perform anything in the nature of the business of a trust company until and
unless such business is regularly organized and authorized under this chapter. If any firm or
corporation organized prior to July 1, 1931, has been granted a charter permitting it to use any
word, words, or title contrary to the intent of this section, and by reason of its rights under such
charter, the provisions of this section may not be enforced against it during the life of such
charter. However, no renewal charter may be granted to such person, firm, or corporation
permitting the continuance of the use of such word, words, or title contrary to or in violation of
this section. Any person, firm, or corporation which, by reason of an existing charter right under
any law or statute in effect prior to July 1, 1931, may be held by the courts not to be affected by
this section and which therefore refuses to comply with the provisions of this section, during the
period of noncompliance, shall display, prominently and continuously in plain, legible, and
clearly discernible lettering on all of its signs, stationery, circulars, and advertising, and in all of
its printed or written matter the following words and language: "NOT UNDER THE
SUPERVISION OF THE STATE BANKING BOARD OR THE COMMISSIONER OF
FINANCIAL INSTITUTIONS", and such language must be displayed thereon as prominently as
any other matter therein. Any person, firm, company, copartnership, or corporation, domestic
or foreign, violating any provision of this section, shall forfeit to the state one hundred dollars for
every day or part thereof during which such violation continues. In an action brought by the
commissioner or any aggrieved person, the court may issue an injunction restraining such

1 person, firm, company, copartnership, or corporation from further using such words, terms, or
2 phrases in violation of this section or from further transacting business in such a way or manner
3 as to lead the public to believe that its business is in whole or in part of the nature of a trust
4 company, or that it is under the supervision of the state banking board or the commissioner.

5 Upon written request, the commissioner may grant an exemption to this section if the
6 commissioner finds that use of the words "trust" or "trust company", or words of like import, are
7 not reasonably likely to cause confusion or lead the public to believe that the person requesting
8 the exemption is a trust company, banking institution trade association, or affiliate authorized
9 under this section or is conducting a business subject to the jurisdiction of the department. In
10 granting an exemption under this section the commissioner may restrict or condition the
11 exemption and use of the name or word or the activities of an exempt person as the
12 commissioner considers appropriate to protect the public interest.

13 **SECTION 3. EMERGENCY.** This Act is declared to be an emergency measure.