

**Sixty-first Legislative Assembly of North Dakota  
In Regular Session Commencing Tuesday, January 6, 2009**

HOUSE BILL NO. 1202  
(Representatives Keiser, Berg)  
(Senators Flakoll, Grindberg)

AN ACT to create and enact a new section to chapter 10-30.5 of the North Dakota Century Code, relating to entrepreneurship awards; to amend and reenact sections 6-09-15 and 10-30.5-04 and subdivision b of subsection 2 of section 54-60.1-01 of the North Dakota Century Code, relating to the Bank of North Dakota and North Dakota development fund, incorporated, use of funds for entrepreneurship awards; and to provide an expiration date.

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

**SECTION 1. AMENDMENT.** Section 6-09-15 of the North Dakota Century Code is amended and reenacted as follows:

**6-09-15. (~~Effective through July 31, 2009~~) Powers.** The Bank of North Dakota may:

1. Make, purchase, guarantee, or hold loans:
  - a. To state-chartered or federally chartered lending agencies or institutions or any other financial institutions.
  - b. To holders of Bank of North Dakota certificates of deposit and savings accounts up to ninety percent of the value of the certificates and savings accounts offered as security.
  - c. To actual farmers who are residents of this state, if the loans are secured by recorded mortgages giving the Bank of North Dakota a first lien on real estate in North Dakota in amounts not to exceed eighty percent of the value of the security.
  - d. That are insured or guaranteed in whole or in part by the United States, its agencies, or instrumentalities.
  - e. That are eligible to be guaranteed under chapter 15-62.1. Loans made pursuant to this subdivision may provide for interest that remains unpaid at the end of any period specified in the loan to be added to the principal amount of the debt and thereafter accumulate interest.
  - f. To individuals or bank holding companies for the purpose of purchasing or refinancing the purchase of bank stock of a bank located in the state.
  - g. To nonprofit organizations that are exempt from federal taxation under section 501(c)(3) of the Internal Revenue Code [26 U.S.C. 501(c)(3)], the proceeds of the loans to be used for construction, reconstruction, repair, renovation, maintenance, and associated costs on property under the control of the parks and recreation department.
  - h. Under Public Law No. 99-198 [99 Stat. 1534; 7 U.S.C. 1932 et seq.], as amended through December 31, 1996, to nonprofit corporations for the purpose of relending loan funds to rural businesses.
  - i. Under title 7, Code of Federal Regulations, part 1948, subpart C; part 1951, subparts F and R; and part 1955, subparts A, B, and C, as amended through

- December 31, 1996, to finance businesses and community development projects in rural areas.
- j. Obtained as security pledged for or originated in the restructuring of any other loan properly originated or participated in by the Bank.
  - k. To instrumentalities of this state.
  - l. As otherwise provided by this chapter or other statutes.
  - m. If the Bank is participating in the loan and the Bank deems it is in the best interests of the Bank to do so, it may purchase the remaining portion of the loan from a participating lender that is closed by regulatory action or from the receiver of the participating lender's assets.
  - n. To an investment company created for completing a trust preferred securities transaction for the benefit of a financial institution located in this state.
2. Make agricultural real estate loans in order to participate in the agricultural mortgage secondary market program established pursuant to the Agricultural Credit Act [Pub. L. 100-233; 101 Stat. 1686; 12 U.S.C. 2279aa-2279aa-14], as amended through December 31, 1996.
  3. Purchase participation interests in loans made or held by banks, bank holding companies, state-chartered or federally chartered lending agencies or institutions, any other financial institutions, or any other entity that provides financial services and that meets underwriting standards that are generally accepted by state or federal financial regulatory agencies.
  4. Invest its funds:
    - a. In conformity with policies of the industrial commission.
    - b. In a public venture capital corporation organized and doing business in this state through the purchase of shares of stock.
    - c. In North Dakota alternative and venture capital investments and early-stage capital funds, including the North Dakota development fund, incorporated, not to exceed ten million dollars, for the purpose of providing funds for investment in North Dakota alternative and venture capital investments ~~and~~, early-stage capital funds, and entrepreneurship awards. The Bank may invest a maximum of two hundred thousand dollars per biennium in North Dakota-based venture capital entities that make investments in companies located outside North Dakota. The Bank may allow for third-party management of the funds invested under this subdivision if the management is provided by the North Dakota development fund, incorporated, or a third party that is located in the state and that has demonstrated fund management experience.
  5. Buy and sell federal funds.
  6. Lease, assign, sell, exchange, transfer, convey, grant, pledge, or mortgage all real and personal property, title to which has been acquired in any manner.
  7. Acquire real or personal property or property rights by purchase, lease, or, subject to chapter 32-15, the exercise of the right of eminent domain and may construct, remodel, and repair buildings.
  8. Receive deposits from any source and deposit its funds in any bank or other financial institution.

9. Perform all acts and do all things necessary, convenient, advisable, or desirable to carry out the powers expressly granted or necessarily implied in this chapter through or by means of its president, officers, agents, or employees or by contracts with any person, firm, or corporation.
10. Purchase mortgage loans on residential real property originated by financial institutions.

**(Effective after July 31, 2009) Powers.** The Bank of North Dakota may:

1. ~~Make, purchase, or hold loans:~~
  - a. ~~To state-chartered or federally chartered lending agencies or institutions or any other financial institutions.~~
  - b. ~~To holders of Bank of North Dakota certificates of deposit and savings accounts up to ninety percent of the value of the certificates and savings accounts offered as security.~~
  - c. ~~To actual farmers who are residents of this state, if the loans are secured by recorded mortgages giving the Bank of North Dakota a first lien on real estate in North Dakota in amounts not to exceed eighty percent of the value of the security.~~
  - d. ~~That are insured or guaranteed in whole or in part by the United States, its agencies, or instrumentalities.~~
  - e. ~~That are eligible to be guaranteed under chapter 15-62.1. Loans made pursuant to this subdivision may provide for interest that remains unpaid at the end of any period specified in the loan to be added to the principal amount of the debt and thereafter accumulate interest.~~
  - f. ~~To individuals or bank holding companies for the purpose of purchasing or refinancing the purchase of bank stock of a bank located in the state.~~
  - g. ~~To nonprofit organizations that are exempt from federal taxation under section 501(c)(3) of the Internal Revenue Code [26 U.S.C. 501(c)(3)], the proceeds of the loans to be used for construction, reconstruction, repair, renovation, maintenance, and associated costs on property under the control of the parks and recreation department.~~
  - h. ~~Under Public Law No. 99-198 [99 Stat. 1534; 7 U.S.C. 1932 et seq.], as amended through December 31, 1996, to nonprofit corporations for the purpose of relending loan funds to rural businesses.~~
  - i. ~~Under title 7, Code of Federal Regulations, part 1948, subpart C; part 1951, subparts F and R; and part 1955, subparts A, B, and C, as amended through December 31, 1996, to finance businesses and community development projects in rural areas.~~
  - j. ~~Obtained as security pledged for or originated in the restructuring of any other loan properly originated or participated in by the Bank.~~
  - k. ~~To instrumentalities of this state.~~
  - l. ~~As otherwise provided by this chapter or other statutes.~~
  - m. ~~If the Bank is participating in the loan and the Bank deems it is in the best interests of the Bank to do so, it may purchase the remaining portion of the loan from a participating lender that is closed by regulatory action or from the receiver of the participating lender's assets.~~

- n. ~~To an investment company created for completing a trust preferred securities transaction for the benefit of a financial institution located in this state.~~
2. ~~Make agricultural real estate loans in order to participate in the agricultural mortgage secondary market program established pursuant to the Agricultural Credit Act [Pub. L. 100-233; 101 Stat. 1686; 12 U.S.C. 2279aa-2279aa-14], as amended through December 31, 1996.~~
3. ~~Purchase participation interests in loans made or held by banks, bank holding companies, state chartered or federally chartered lending agencies or institutions, any other financial institutions, or any other entity that provides financial services and that meets underwriting standards that are generally accepted by state or federal financial regulatory agencies.~~
4. ~~Invest its funds:~~
  - a. ~~In conformity with policies of the industrial commission.~~
  - b. ~~In a public venture capital corporation organized and doing business in this state through the purchase of shares of stock.~~
5. ~~Buy and sell federal funds.~~
6. ~~Lease, assign, sell, exchange, transfer, convey, grant, pledge, or mortgage all real and personal property, title to which has been acquired in any manner.~~
7. ~~Acquire real or personal property or property rights by purchase, lease, or, subject to chapter 32-15, the exercise of the right of eminent domain and may construct, remodel, and repair buildings.~~
8. ~~Receive deposits from any source and deposit its funds in any bank or other financial institution.~~
9. ~~Perform all acts and do all things necessary, convenient, advisable, or desirable to carry out the powers expressly granted or necessarily implied in this chapter through or by means of its president, officers, agents, or employees or by contracts with any person, firm, or corporation.~~
10. ~~Purchase mortgage loans on residential real property originated by financial institutions.~~

**SECTION 2. AMENDMENT.** Section 10-30.5-04 of the North Dakota Century Code is amended and reenacted as follows:

**10-30.5-04. (Effective through July 31, 2009) Powers.** The corporation must be organized as a nonprofit corporation. In addition to the powers in chapter 10-33, the corporation may:

1. Cooperate and contract with any private or public entity.
2. Receive appropriations from the legislative assembly and other public moneys as well as contributions from other private or public contributors. The funds for the entrepreneurship awards under section 3 of this Act may not exceed one million dollars.
3. ~~Borrow funds not to exceed ten million dollars from the Bank of North Dakota for the purpose of investing in North Dakota alternative and venture capital investments and early stage capital funds. The corporation may provide~~ Provide management services for the Bank's alternative and venture capital investments and early-stage capital funds.

**(Effective after July 31, 2009) Powers.** The corporation must be organized as a nonprofit corporation. In addition to the powers in chapter 10-33, the corporation may:

1. Cooperate and contract with any private or public entity.

2. ~~Receive appropriations from the legislative assembly and other public moneys as well as contributions from other private or public contributors.~~

**SECTION 3.** A new section to chapter 10-30.5 of the North Dakota Century Code is created and enacted as follows:

**Entrepreneurship awards:**

1. The corporation shall administer an entrepreneurship award program that provides funding awards to entrepreneurial centers and to entrepreneurs.
2. The following provisions apply to entrepreneurial center awards:
  - a. An applicant must be an entrepreneurial center certified by the department of commerce. In certifying an entrepreneurial center, the department shall consider whether the center provides business incubator services such as mentors, shared services, and relationships with educational institutions. An entrepreneurial center may not be a state entity or an institution under the control of the state board of higher education.
  - b. An award may not exceed fifty thousand dollars. An entrepreneurial center may not qualify for more than one award per year and may not receive more than five awards.
  - c. Before funds are distributed to a center under this subsection, the center shall provide the corporation with detailed documentation of the availability of one dollar of nonstate matching funds for each dollar of state funds distributed under this subsection. Matching funds must be cash and may not be in-kind assets.
  - d. If during the twelve months preceding the application for an award under this subsection, an entrepreneurial center was awarded state funding from any other source, the maximum award under this subsection must be decreased dollar for dollar for every dollar of other state funds awarded.
  - e. As a term of receipt of an award under this subsection, an entrepreneurial center shall pay back the funds awarded under this subsection. The payback schedule must be based on the center's ability to pay back the award.
  - f. An award under this subsection is not a business incentive under chapter 54-60.1.
3. The following provisions apply to entrepreneur awards:
  - a. An applicant must be an entrepreneur:
    - (1) Using the services of an entrepreneurial center certified by the department of commerce under subsection 2;
    - (2) With a business plan, but the business is not required to be a primary sector business; and
    - (3) That has been approved by the entrepreneurial center and by the corporation.
  - b. An award may not exceed twenty thousand dollars per business.
  - c. Before funds are distributed to an entrepreneur under this subsection, the entrepreneur shall provide the corporation with detailed documentation of the availability of one dollar of nonstate matching funds for every four dollars of state funds distributed under this subsection. Matching funds must be cash and may not be in-kind assets.

- d. If during the twelve months preceding the application for an award under this subsection an entrepreneur received state funding for the business from any other source, the maximum award under this subsection must be decreased dollar for dollar for every dollar of other state funds received.
- e. As a term of receipt of an award under this subsection, the entrepreneur shall pay back the funds awarded under this subsection. The payback schedule must be based upon the entrepreneur's ability to pay back the award and may include debt, equity, or a combination of debt and equity.

**SECTION 4. AMENDMENT.** Subdivision b of subsection 2 of section 54-60.1-01 of the North Dakota Century Code is amended and reenacted as follows:

- b. Incentives resulting from Bank of North Dakota programs unless the incentive is a direct interest rate buydown or is an investment made pursuant to the North Dakota alternative and venture capital investments and early-stage capital funds program. An entrepreneurial center award under section 3 of this Act is not a business incentive.

**SECTION 5. EXPIRATION DATE.** Sections 3 and 4 of this Act are effective through July 31, 2015, and after that date are ineffective.

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Speaker of the House

\_\_\_\_\_  
President of the Senate

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

\_\_\_\_\_  
Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Sixty-first Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1202.

House Vote:      Yeas    92      Nays    0      Absent    2

Senate Vote:    Yeas    43      Nays    1      Absent    3

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Chief Clerk of the House

Received by the Governor at \_\_\_\_\_ M. on \_\_\_\_\_, 2009.

Approved at \_\_\_\_\_ M. on \_\_\_\_\_, 2009.

\_\_\_\_\_  
Governor

Filed in this office this \_\_\_\_\_ day of \_\_\_\_\_, 2009,

at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

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