

# BANKS AND BANKING

## CHAPTER 93

(S. B. No. 111—Committee on Banks and Banking.)  
By Request of the Voluntary Banking Code Commission

### ORGANIZATION AND MANAGEMENT ANNUITY, SAFE DEPOSIT, SURETY AND TRUST COMPANIES

An Act to amend and re-enact Section 5205, Supplement to the Compiled Laws of 1913, and Section 5206 of the Compiled Laws of North Dakota for 1913, as amended by Chapter 250 of the Session Laws of 1929, and Sections 5208, 5219 and 5220 of the Compiled Laws of North Dakota for 1913, relating to the organization, government and operation of annuity, safe deposit, surety and trust companies within the State of North Dakota.

*Be It Enacted by the Legislative Assembly of the State of North Dakota:*

§ 1. AMENDMENT.] Section 5205, Supplement to the Compiled Laws of 1913, is hereby amended and re-enacted to read as follows:

#### § 5205.

A. FORMATION. Any number of persons, not less than nine, not less than three of whom must be residents of this state, may associate themselves, and become incorporated for the purpose of transacting business as an annuity, safe deposit, surety and trust company, upon complying with the provisions of this act, and any company so formed or heretofore formed, and now doing business, and its successors, shall be entitled to the rights and privileges, and subject to the duties and obligations herein provided, and its existence shall be perpetual.

B. OTHER LAWS APPLICABLE. The provisions of Chapter 12 of the Civil Code of North Dakota for the year 1913 and all acts amendatory thereof, and Sections 24, 25, 28, 31, 34, 37, 38, 39, 40, 42, 43, 44, 52, 53, 54, 55, 57, 58, 59, 60, 61, 62, 64, 65, 66, and 67 of Senate Bill No. 82 of the 22nd Legislative Session relating to banks and banking, shall be applicable to and be observed by all corporations now or hereafter organized under this act, except as to provisions thereof inconsistent with the provisions of this act.

C. COMPLIANCE WITH LAWS GOVERNING. PENALTY.] No individual, firm, company, copartnership, or corporation, either domestic or foreign, not organized under this act nor subject to the provisions thereof, excepting only national banking corporations and the Bank of North Dakota, shall hereafter in signs, letterheads, advertising, or in any other way make use of and display in connection with its business such words as "trust," "trust company," or any other word or words of like import; nor shall there be done or performed by any person or concern, whatsoever, anything in the

nature of the business of a trust company, unless and until such business is regularly organized and authorized under this act; and any individual, firm, company, copartnership or corporation, either foreign or domestic, now making use of any of the said words or titles, or similar words, in violation hereof, shall within ninety days after the enactment of this law in every way discontinue the use of such words or titles. If any heretofore organized firm or corporation shall have been granted a charter permitting it to use any such word, words, or title contrary to the intent hereof, and, by reason of the rights under such charter, the provisions of this act may not be enforced against such firm or corporation during the life of such charter, no renewal charter shall be granted such corporation permitting the continuance of the use of such word, words or title, contrary hereto or in violation hereof. Any firm or corporation, which, by reason of an existing charter right under any statute enacted prior hereto, may be held by the court to be not affected hereby, and which therefore refuses to comply with the provisions of this act, shall hereafter prominently and continuously display 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, and as prominently as is such other matter displayed, the following words and language: "NOT UNDER THE SUPERVISION OF THE STATE BANKING BOARD OR THE STATE EXAMINER."

Any person, firm, company, copartnership, corporation, domestic or foreign, violating any provision of this section shall forfeit to the state \$100.00 for every day or part thereof during which such violation continues. Upon action brought by the state examiner or any aggrieved person, the court may issue an injunction restraining any such person, firm, company, copartnership or corporation from further using such words, terms or phrases in violation of this act or from further transacting business in such a way or manner as to lead the public to believe that its business is in whole or in part of the nature of a trust company, or that it is under the supervision of the State Banking Board or the State Examiner.

§ 2. AMENDMENT.] Section 5206 of the Compiled Laws of North Dakota for 1913, as amended by Chapter 250 of the Session Laws for the year 1929, is hereby amended and re-enacted to read as follows:

§ 5206. CAPITAL STOCK. AMOUNT. INVESTED. The amount of capital stock of any such corporation hereafter organized shall not be less than one hundred thousand dollars, and the same shall be divided into shares of one hundred dollars each. No such corporation hereafter organized shall be authorized to transact any business or exercise any powers as such, until the aforesaid minimum amount of capital stock shall have been subscribed for, and not less than fifty thousand dollars thereof shall have been actually paid in,

invested and deposited as hereinafter provided. Said fifty thousand dollars shall be invested in bonds of the United States, or of the State of North Dakota, or in bonds of other states, which shall have the approval of the State Auditor, and State Examiner, or in bonds or obligations of townships, school districts, cities, villages and counties within the State of North Dakota, which bonds or obligations have not been issued as a bonus for, or purchase of, or subscription to any railroad or other private enterprise, and whose total bonded indebtedness does not exceed five per centum of the then assessed valuation thereof; or in bonds or promissory notes, secured by first mortgages or deeds of trust, upon unencumbered real estate, situated within the State of North Dakota, worth two and one-half times the amount of the obligation so secured; or in the mortgage bonds of any railroad corporation, incorporated under the laws of any state of the United States, provided that during each of the ten fiscal years of such railroad's corporate existence next preceding the date of such investment: (1) such railroad corporation shall have paid the matured principal and interest of all of its mortgage indebtedness, and, (2) such railroad shall have paid in dividends in cash to its stockholders, an amount of at least four per cent per annum upon all of its outstanding stock of every class; or in the bonds issued or assumed by a corporation supplying electric energy or artificial gas, or both, for light, heat, power and other purposes, or furnishing telephone or telegraphic service, provided that such bonds are secured by a first mortgage on at least seventy-five per centum of the property of such corporation or by a first and refunding mortgage, on at least seventy-five per centum of such property, containing provisions for retiring all prior liens upon such property, and provided further that the issuing corporation is incorporated within the United States and is subject to regulation or supervision either as to its rates, charges, or accounts, or as to the issue of its said bonds, by a public service commission or any board, body or officials having like powers of the United States or of any state thereof, and provided such operating corporation has annual gross earnings of at least one million dollars, seventy-five per centum of which gross earnings have come, either directly or through subsidiary corporations, from the sale of gas or electricity or the rendering of telephone or telegraphic service, and not more than fifteen per centum from any other one kind of business, and which corporation has a record on its own behalf or for its predecessors, or constituent companies, of having officially reported net earnings at least twice its interest charges on all outstanding bonded indebtedness for the period of five years immediately preceding the investment and having outstanding junior securities and/or stock, the par or book value of which is not less than two-thirds of its total bonded debt and which corporation shall have all necessary franchises, indeterminate permits or agreements with duly constituted public authorities, to operate in the territory it serves in which at least seventy-five per centum of

its gross income is earned, or in the bonds of any constituent or subsidiary company of any such operating company which are secured by a first mortgage on at least seventy-five per centum of all property of such constituent or subsidiary company, provided such bonds are to be retired or refunded by a junior mortgage, the bonds of which are eligible hereunder, and the deposit of such corporation shall not be permitted, at any time, to be less than fifty thousand dollars in amount, and not less than one-sixth of its capital stock.

§ 3. AMENDMENT.] Section 5208 of the Compiled Laws of North Dakota for 1913, is hereby amended and re-enacted to read as follows:

§ 5208. DIRECTORS. QUALIFICATIONS. TERM. VACANCIES.] All the corporate powers of such corporation shall be exercised by a board of directors of not less than nine nor more than fifteen in number, and such officers and agents as they shall elect or appoint. A majority of such directors must be citizens of the State of North Dakota, and every director must own in his own right, free from hypothecation or pledge for any debt, at least ten shares of capital stock of the association of which he is a director, which said shares shall be known as "director's qualifying shares" and shall be issued and placed in charge of the state examiner, as by law provided; any director who ceases to be the owner of ten shares of the stock free and nonhypothecated, or who becomes in any manner disqualified shall thereupon vacate his place. Every such director when elected or appointed shall take an oath that he will, so far as the duty devolves upon him, diligently and honestly administer the affairs of such association, that he will not knowingly violate or willingly permit to be violated, any of the provisions of this chapter, that he is a bona fide owner of the number of shares of stock required by this chapter to become a director, standing in his own name on the books of the association, and that said stock is in his possession and control or in the possession of the state examiner and is not hypothecated or in any way pledged as security for any debt. Such oath, subscribed by the director making it, and certified by the officer before whom it was taken, together with such qualifying shares, unless such shares are already on file with the state examiner, shall at once be transmitted to the state examiner to be filed in his office. The articles of association must state the names and residences of the first board of directors, of whom the first named one-third shall serve for a period of three years, the second one-third for a period of two years and the balance thereof shall serve for a period of one year from the date fixed for the commencement of such corporation. In case any of the persons so named shall not become stockholders to the amount required to qualify, or if they fail or refuse to qualify from any cause, the directors who shall qualify must elect qualified stockholders to fill such vacancies, and thereafter, at each annual meeting of the stockholders, directors shall be elected to serve three years in place of those whose terms shall then expire.

§ 4. AMENDMENT.] Section 5219 of the Compiled Laws of North Dakota for 1913, is hereby amended and re-enacted to read as follows:

§ 5219. CAPITAL. INCREASE OF. DEPOSIT. RE-INSURANCE. Every such corporation, organized under the provisions of this act, shall have the full amount of its subscribed capital stock paid in within two years after commencement of business, and such payment may be made in such installments as may be prescribed in its by-laws, or by resolution of its board of directors, and such capital stock may be increased from time to time by a majority vote of all the stockholders of such corporation, voting at any regularly called general or special meeting, in the notice of which election, the object thereof is fully set out, but no such increase of capital stock shall be valid unless paid in cash, and verified to the State Treasurer in writing, and under oath by the president or secretary, or managing officer of such corporation. Whenever it shall appear to the satisfaction of the State Examiner, from an examination of the business of such company, that the deposit made by it with the State Treasurer, as hereinbefore provided, is insufficient to insure the safety of its deposits, trust and contingent liabilities, he shall make an order, as hereinafter provided, requiring an increase of such deposit, then such company shall deposit with the State Treasurer, other and further securities of the kind, class and value designated in Section 2 hereof, in an amount sufficient to comply with said order.

§ 5. AMENDMENT.] Section 5220 of the Compiled Laws of North Dakota for 1913, is hereby amended and re-enacted to read as follows:

§ 5220. STATE EXAMINER. DUTY OF.] It shall be the duty of the State Examiner, once in every six months, or oftener if required by the written, verified information filed with him by any person interested in any trust with which such corporation may be charged, and without notice to the officers of such company, to make a full, true, complete and accurate examination and investigation of the affairs of such corporation and to assume and exercise over such corporation, its business, officers, directors and employees, all the power and authority conferred upon him over banking and other financial or moneyed corporations. If it shall appear to the State Examiner from any examination made by him that such corporation has committed a violation of the law or that it is conducting business in an unsafe or unauthorized manner, or that the deposit made by it with the State Treasurer as hereinbefore provided, is insufficient to protect the interests of all concerned, then the State Examiner shall, by an order under his hand and the seal of his office, and addressed to such corporation, direct and (the) discontinuance of such illegal or unsafe practice, and to conform with the requirements of the law, or to make a further deposit with the State Treasurer in an amount sufficient to insure the safety of its trusts, deposits and liabilities. And

whenever such corporation shall refuse to comply with any such order as aforesaid, or whenever it shall appear to the said State Examiner that it is unsafe or inexpedient for any such corporation to continue to transact business, he shall communicate the facts to the Attorney General, and thereupon he shall be authorized to institute such proceedings against any such corporation, as is now, or may hereafter be provided by law, in case of insolvent corporations or such other proceedings as the case may require.

Approved March 11, 1931.

## CHAPTER 94

(S. B. No. 73—Banks and Banking Committee.)  
By Request of the Banking Code Commission

### REGULATING BUILDING AND LOAN ASSOCIATIONS

An Act to provide for the government and regulation of building and loan associations in the State of North Dakota; to provide for the organization and operation of such associations, and repealing Sections 5121, 5122, 5123, 5124, 5125, 5126, 5127, 5128, 5129, 5130, 5131, 5132, 5133, 5134, 5135, 5136, 5137, 5138, 5139, 5140, 5141, 5142, 5143, of the Compiled Laws of the State of North Dakota for the year 1913, and Chapter 148 of the Session Laws of the State of North Dakota for the year 1923, together with all acts amendatory thereof, and all other acts or parts of acts repugnant to and inconsistent herewith.

*Be It Enacted by the Legislative Assembly of the State of North Dakota:*

§ 1. PURPOSE—DEFINITION.] A corporation, mutually operated, for the purpose of encouraging home building and thrift among its shareholders and loaning substantially all of its funds to them on real estate mortgage security, shall be known in this act as a building and loan association, and shall be under the supervision of the banking board, whose duty it shall be to enforce all laws with respect thereto. Such associations shall be organized under and governed by the provisions of this act. All building and loan associations organized under the laws of this state shall be known as domestic associations. All corporations, societies, organizations, or associations incorporated under the laws of another state, territory, country or nation for the purpose specified herein, or carrying on a business of a character similar to that authorized by this act shall be known as a foreign corporation.

§ 2. ARTICLES OF INCORPORATION—CONTENTS.] Whenever any number of persons, not less than nine (9) shall desire to incorporate a building and loan association, having for its object the conduct and operation of such an association as defined in this act, they shall prepare and file articles of incorporation to that effect in the manner in this act specified; provided that, except as otherwise provided herein, the provisions of Articles one to twelve, inclusive,

of Chapter twelve of the Civil Code, Compiled Laws of North Dakota for the year 1913, and amendments thereto, shall apply to such association; and such articles of incorporation shall include therein the following:

(1) The name of the association. The name shall not be the same as, nor too closely resemble, that in use by any existing corporation established under the laws of this state. The words "Building and Loan Association" shall form a part of the name, and no corporation not organized under this act shall be entitled to use a name embodying said combination of words; provided, that any association now existing may continue and renew its charter under its present name.

(2) The principal office, or place of business of the association, which shall be within this state.

(3) The territory in which such association proposes to operate.

(4) The amount of its authorized capital shares and the number of shares into which the same shall be divided; such capital shall be divided into shares having a par value of either fifty dollars, one hundred dollars or two hundred dollars.

(5) A provision that such association is organized under this act for the purpose herein expressed.

(6) The names and residence of the persons who subscribed and acknowledged the said declaration, a majority of whom shall be citizens of this state, and shall thereafter be called incorporators.

(7) The names of the incorporators; their respective occupations and residence addresses, and a statement of the number of shares subscribed by each, and the amount of cash payment made upon such shares by each.

(8) The term of corporate existence, which shall not exceed twenty years but which may be extended as provided in this act.

(9) The number of the directors of the association.

§ 3. CHARTERS ISSUED WHEN.] The amount of capital designated in the articles of incorporation shall be deemed to refer to the par value of the authorized capital shares and the organization may be completed and business commenced when not less than twenty-five hundred dollars (\$2,500.00) has been paid in, in cash, and such amount must thereafter be maintained; and, provided further, that whenever such articles of incorporation are in due form and regularly executed and the by-laws have been duly approved as required in this act, the banking board shall thereupon ascertain, from the best sources of information at its command, the responsibility, character and general fitness of the incorporators, and that there is a reasonable need for the existence of such an association, and that the public convenience and advantage will be promoted thereby. If the banking

board shall not be satisfied with the result of its investigations of the matters above specified, it shall, within sixty days (60) after said articles of incorporation and by-laws have been presented to it, endorse upon each copy of the articles of incorporation the word "refused," with the date of such endorsement, together with the reason for such refusal, and shall forthwith return one copy of such articles of incorporation to the proposed incorporators from whom the same was received, and such refusal shall be conclusive unless the incorporators within thirty days of the issuance of such notice of refusal shall apply to the district court of Burleigh County, North Dakota, (which court shall have jurisdiction of such case) for a writ of mandamus to compel the filing of such charter and granting of a permit to do business. Provided, however, that said court shall not determine such action in favor of said incorporators unless it shall appear to the satisfaction of said court that there is such existing need and that the incorporators have the required responsibility, character and general fitness. Appeals shall lie from the decree of the district court in the same manner as appeals in other mandamus cases are allowable and taken in this state. If such board shall be satisfied with the result of its investigations, it shall within sixty days (60) after said articles of incorporation and by-laws have been presented to it, instruct the State Examiner to issue, under his hand and official seal, a certificate reciting in substance the filing in his office of the articles of incorporation and by-laws; that said articles and by-laws conform to all the requirements of this act; that the board has approved the same and that the incorporators are fit and proper persons to conduct the business of a building and loan association as defined in this act and said by-laws, and that there is a reasonable need for the existence of said building and loan association, and that the public convenience and advantage will be promoted thereby. Said certificate shall be made in quadruplicate and attached to each copy of the articles of incorporation, one of which shall be retained by the State Examiner, the other three shall be returned to the incorporators who shall forthwith file one copy thereof in the office of the Secretary of State, one in the office of the register of deeds of the county in which the principal place of business of said association is located and the other shall be retained by the association. Immediately upon the receipt of said certified copy, the Secretary of State shall issue a certificate of incorporation, whereupon the incorporation of said association shall be deemed complete.

§ 4. CERTIFIED COPY OF ARTICLES PRIMA FACIE EVIDENCE.] A certified copy of any articles of incorporation filed in pursuance of this act, must be received in all courts and other places as prima facie evidence of the facts therein stated.

§ 5. EVIDENCE OF CORPORATE EXISTENCE OR CAPACITY.] The certificate issued by the Secretary of State in pursuance of this act, or a certificate issued by the State Examiner setting forth that any

association, domestic or foreign, has fully complied with the provisions of this act and is lawfully authorized to transact business in this state, shall be admitted in evidence in all courts in this state, and shall be prima facie evidence of the corporate character and capacity of such association and of its right to transact business in this state, excepting in actions prosecuted by the state in the nature of quo warranto.

§ 6. BY-LAWS.] Contemporaneously with or immediately following the execution of said articles of incorporation provided in this act, the incorporators, acting in the capacity of directors shall adopt appropriate by-laws to govern and prescribe the methods by which, and the officers by whom, the business of the association shall be conducted. The by-laws shall be in conformity with the provisions of this act, and at all times, during the regular hours of business, shall be open to the inspection of the members at its principal place of business. The by-laws, among other things, shall especially provide for the character and method of conducting the business of the association, with rules governing the addition of shareholders; the sale of its shares; the amount of membership fees; provide for the annual meeting of the shareholders; for the annual election and qualification of directors and for the term or period during which the directors shall serve, provided, that the said term or period for directors shall not be less than one year or more than three years, and that the directors shall be so elected that as nearly as possible the term of an equal number shall expire each year; for the appointment of officers; for the adoption, ratification and amendment of the by-laws which adoption, ratification and amendment may be either by the shareholders or board of directors; for the method of voting at such annual meeting and for the periodical investigation of the business and condition of such association. Provided however, that no new association shall commence the transaction of business as such until the by-laws are first approved by the State Banking Board. Provided further, that every association now organized and existing under the laws of this state, shall within three months after this act takes effect, submit its by-laws to the State Banking Board for approval, and, in the event of the disapproval thereof, shall have three months from the date of receipt of notice of such disapproval within which to modify or amend the same as required by said banking board to conform to the provisions of this act. Thereafter, any changes or amendments from time to time in such by-laws shall be submitted to the State Banking Board by registered mail, for approval, and should the said board fail within sixty days after receipt thereof to advise such association of its disapproval, such changes or amendments shall thereupon be deemed approved and shall go into immediate force and effect. In the event of the disapproval of such changes or amendments within the time hereinbefore provided, then such changes or amendments shall not become

effective until modified or amended in manner and form as required by said board to conform to the provisions of this act.

§ 7. POWERS AND DUTIES OF BUILDING AND LOAN ASSOCIATIONS.] Every building and loan association is a creature of the law having certain powers and duties of a natural person, and as such has power:

- (1) To sue and be sued in any court.
- (2) To make and use a common seal and alter same at pleasure.
- (3) To appoint such officers or agents as the business of the association may require, and to allow them suitable compensation.
- (4) To enter into any obligation or contracts essential to the transaction of its ordinary affairs, or for the purposes of the association.

(5) Such association shall have the power to issue shares to members in any one or more of the following forms, viz: "installment shares," "fully paid shares," "prepaid shares," "optional payment shares" and such other classes of shares as may be approved by the State Banking Board. Such shares shall be paid in by the subscriber in the manner provided by the by-laws, and all such payments shall be called dues. Certificates shall be issued to each shareholder upon the first payment of dues by him.

(a) Installment Shares. Installment shares shall be shares upon which the shareholder shall be required to pay such dues and amounts, and at such times, as the by-laws may provide, and such payments shall continue on each share, until with the dividends allotted thereon, it reaches its matured value or is withdrawn or cancelled. On all such issues the dividends shall be apportioned or credited equally to each share in the same class.

(b) Fully Paid Shares. Fully paid shares shall be shares upon which the full par value of the shares shall be paid at the time of the issuance thereof, and upon which the holder shall be entitled to either a full participation in the net profits or to an agreed rate of dividends not exceeding six per centum per annum paid semi-annually, to be specified in the body of the certificate issued. Provided however, that in the event of the withdrawal by the holder of such certificate within one year after the issuance thereof, the same shall be subject to a withdrawal fee equal to one-fourth of the dividends earned thereon from the date of such certificate.

(c) Prepaid Shares. Prepaid shares shall be shares upon which an amount less than the par value of the shares shall be paid and shall mature and be payable when the amount so paid, together with the dividends allotted thereon, shall equal the par value of the shares.

(d) Optional Payment Shares. Optional payment shares shall be shares upon which amounts may be deposited or withdrawn at

any time, subject to the provisions of this act. The rate of dividend on such shares shall in no event exceed five per centum per annum. No dividend on such shares shall be paid or credited thereon more often than once every three months.

(6) To assess and collect from members dues on shares and principal and interest on loans at the times and in the amount as provided for in the by-laws. Interest in no event to exceed twelve per centum per annum on the amount of the loan. Interest not exceeding one per centum per month may also be charged on delinquent payments or installments from time such delinquent payments or installments are due. No association shall charge or collect from any shareholder, member or borrower, any fines, premiums or penalties of any kind whatsoever except as herein provided for delinquent payments or installments. Any officer, agent or employee of an association collecting or attempting to collect any penalty, fine or premium of any kind whatsoever, or any interest at a rate higher than provided by this act, except as herein provided for delinquent payments or installments, shall be guilty of a misdemeanor.

(7) To assess and collect from members and others such dues and principal and interest on loans made or advancements, as may be provided for in the by-laws. Such dues, interest, or advancements shall not be deemed usury, although in excess of the legal rate of interest. No association, its officers, agent, or employees, shall charge or collect a membership fee exceeding two per centum of the par value of each share.

(8) To permit members to withdraw all or part of their share credits at such time and upon such terms as the by-laws may provide; provided also that shareholders who have filed notice of withdrawal still remain shareholders and are in no way to be deemed creditors of the association. Applications for withdrawals are to be registered on the books of the association in the order received and after outstanding contracts have been provided for, at least one-half of the collections made by the association must be used for the payment of the withdrawals in the order received; provided, however, that if applications for withdrawals are six months old, all collections, less operating expenses, and amounts due on matured shares, must be used for payment.

(9) To cancel shares upon which all credits have been withdrawn, or upon which loans have been cancelled, or shares upon which no payments have been made for a period of six months, by returning to the shareholders all credits, if any.

(10) To retire all classes of free shares enforcing the withdrawal of same; provided, however, that the by-laws of such association shall clearly state the manner in which such withdrawals shall be enforced; and, provided also, that the holders thereof shall be paid full withdrawal value of the shares. Shares which have not been

transferred to the association as security for repayment of a loan shall be called "free shares"; shares that have been so transferred shall be called "pledged shares."

(11) To acquire, hold, encumber and convey such real estate and personal property as may be necessary for the transaction of its business, or to enforce or protect its securities. Provided, however, not over two per cent of the assets of any association shall be invested in its home office lot and building, and furniture and fixtures; provided further, however, that ten per cent of the assets of any association may be invested in its home office, lot, building and furniture and fixtures, when authorized by a vote of two-thirds of its directors, and the written approval of the State Examiner.

(12) To borrow money, when necessary, and to issue its promissory note therefor; provided, that the assets and securities of an association shall not be pledged or hypothecated to secure its borrowed money in an amount exceeding ten per cent of its assets without the consent of the State Examiner.

(13) To make loans to members on the security of the shares of the association, and also on their notes secured by first mortgages constituting first liens on improved real estate used wholly or in part for dwelling purposes, except loans may be made on business property with the approval of the State Examiner.

(14) To cancel such loans and release the securities on such terms as the board of directors may provide.

(15) To invest the idle funds in:

(a) Bonds and other obligations of the United States.

(b) In bonds or evidences of debt of this state or any political subdivision thereof, or in bonds or evidences of debt of any other state in the union, or of any county, city or school district thereof, having a population according to the last state or United States government census, of ten thousand or more inhabitants.

(c) In the mortgage bonds of any railroad corporation, incorporated under the laws of any state of the United States, provided that during each of the ten fiscal years of such railroad corporation's existence next preceding the date of such investment:

1. Such railroad corporation shall have paid the matured principal and interest of all its mortgage indebtedness.

2. Such railroad shall have paid in dividends in cash to its stockholders, an amount of at least four per cent per annum upon all of its outstanding stock of every class.

(d) Not to exceed in the aggregate twenty per cent of its assets in the following securities:

1. In commercial paper due in not more than one year from the date of the loan.

2. In first lien public utility, industrial or equipment trust bonds.

3. In first mortgage real estate bonds where the total issue thereof does not exceed fifty per cent of the value of the property.

(16) To loan its idle funds to other domestic building and loan associations when authorized by a vote of two-thirds of its directors and written approval of State Examiner.

(17) To make such annual, semi-annual or quarterly distribution of all the earnings as the directors may provide after payment of expenses and setting aside a sum for the reserve fund as herein provided.

(18) To amend its articles of incorporation by a majority vote of its directors.

(19) To dissolve the corporation in accordance with the provisions of this act.

(20) To provide by by-laws, adopted or amended, by its board of directors, for the proper exercise of the powers herein granted, and the conduct and management of its affairs.

(21) All such other powers as are necessary and proper to enable such corporation to carry out the purposes of its organization.

(22) To renew its corporate existence for a term of years not exceeding the period limited by law, at any regular directors' meeting of such association, by a two-thirds vote of the directors of said association, and the certificate of the chairman and secretary of such directors' meeting, evidencing such vote and renewal, and filed with the Secretary of State, shall be effectual to accomplish such renewal, and shall be recorded by the Secretary of State in the book of corporations, and thereupon the terms of the existence of such association shall be renewed for the term provided by said vote and certificate.

§ 8. CONFORMITY REQUIRED.] No domestic or foreign association now engaged in the business of a building and loan association, or a business of like character, shall be permitted to conduct such business in this state unless it comply in every respect with the provisions of this act.

§ 9. DEPOSIT ACCOUNTS—RESTRICTIONS AS TO.] No building and loan association shall carry or have upon its books at any time any demand, commercial or checking account, or any credit to be withdrawn upon the presentation of any negotiable check or draft and no association shall receive any savings account or any sum of money which does not represent a payment made upon the shares of the association.

§ 10. SHAREHOLDERS.] The owners of shares in a building and loan association shall be known as shareholders.

§ 11. VOTING SHARES.] All members of such association shall be entitled to vote at such meetings in person or by proxy. At any election, each member shall have one vote for each share owned and held by him.

§ 12. TRANSFER OF SHARES — EFFECT — FEE.] No transfer of shares shall be binding upon the association until same shall have been made upon its books; the transferee thereof shall take same subject to and shall be responsible for all the obligations, liabilities and conditions attaching thereto or secured by such shares. No transfer fee in excess of twenty-five cents per share shall be charged. Shares shall be non-negotiable and payments on shares made by the association to the holders of record shall be a full discharge thereof.

§ 13. JOINT OWNERSHIP.] Any building and loan association may issue shares in the joint names of two or more persons with the power of withdrawal in either, or in either or the survivor, and the withdrawal value of such shares may be paid to either of such persons whether the other be living or not, and the receipt or acquittance of the person so paid shall be a valid and sufficient release and discharge to such association for the payment so made.

§ 14. TRUSTS—PAYMENT.] Whenever any shares shall be purchased in any building and loan association by any person in trust for another, and no other further notice of the existence and terms of a legal and valid trust shall have been given in writing to the association, in the event of the death of the trustee, the same or any part thereof, together with the interest or dividends thereon, may be paid to the person for whom said shares were purchased.

§ 15. SHARES HELD BY MINORS.] Whenever any shares shall be purchased by any minor, the same shall be held for the exclusive right and benefit of such minor, and may be paid, with any interest due thereon, to the person in whose name the shares shall have been purchased, and the receipt of such minor shall be sufficient release or discharge for such shares to the association.

§ 16. DIRECTORS—DUTIES—OBLIGATIONS.] The conduct and management of the affairs and business of such association shall be vested in a board of directors which shall consist of an uneven number, not less than five (5) nor more than eleven (11) members. The incorporators of the association shall possess the qualifications of directors and shall serve as directors until the first meeting of the shareholders, and until their successors are elected and qualified. The directors thereafter shall be elected by the shareholders of the association in accordance with the provisions of this act and the by-laws of the association. The directors shall hold their office for not less than one year nor more than three years and if a longer period than one year, it shall be so arranged that the terms of an equal number thereof, as nearly as possible, shall expire each year. Such directors when appointed or elected shall file with the State

Examiner their oath of office, as provided in the election and appointment of bank directors. Meetings of the board of directors must be held at least once each month. No person shall be eligible to election as a director or an officer unless he is the owner in good faith and in his own right on the books of the association of shares upon which at least two hundred dollars (\$200.00) has been paid, and any person elected to be a director, who, after such election, shall hypothecate, pledge or cease to be the owner in his own right of the necessary qualifying shares shall thereupon vacate his office. Provided, however, that the board of directors, when so authorized by the by-laws may elect the officers or any of them and fill vacancies until the next annual meeting of the shareholders.

§ 17. REMOVAL FROM OFFICE.] No director shall be removed from office except as herein provided, or by a vote of the shareholders holding two-thirds of the outstanding capital shares, at a general meeting held after previous notice given in the manner provided in this act. Meetings of the shareholders for this purpose may be called by a majority vote of the directors, or by shareholders holding not less than twenty-five per cent of the outstanding capital shares.

§ 18. REMOVAL OF DIRECTORS, OFFICERS OR EMPLOYEES.] Any director, officer or employee of any association found by the State Examiner to be incompetent or dishonest may be removed by him from such office or position upon the failure of the board of directors to act.

§ 19. MEETING OF SHAREHOLDERS AND DIRECTORS.] The meeting of the shareholders of a domestic building and loan association must be held at its office or principal place of business in this state.

In its by-laws such association shall provide for at least one regular meeting of shareholders annually in January. Notice of any meeting, whether regular or special, shall be given by the secretary in accordance with this act. The board of directors shall have the right to call a special meeting at any time. The board of directors must also call a special meeting whenever petitioned so to do by shareholders owning at least twenty-five per cent of the issued shares, such meeting shall be called within twenty days after the filing of such petition.

§ 20. NOTICE OF MEETINGS.] At least thirty days (30) prior to any annual meeting or special meeting of any such association, a notice stating the time and place of such meeting shall be published at least once each week for two successive weeks in some newspaper of general circulation, printed and published in the town or city where the association has its principal place of business, if there be one printed or published in said town or city, and, if none, then in the nearest town or city where there may be such newspaper printed or published.

In notice of special meetings there shall be included a statement of any matter or matters to be considered at such special meeting, provided, however, that nothing herein shall be construed as preventing such association from giving to its shareholders personal notice or notice by registered mail of any regular or special meeting in lieu of such publication.

§ 21. EMPLOYMENT OF AGENTS. LICENSES AND REVOCATION THEREOF.] No person receiving compensation from a building and loan association shall act as solicitor or agent for the sale of the shares of stock, shares or membership, certificates or other securities or forms of investment issued by such association, excepting shares issued in connection with and not exceeding the amount of any loan as made, until he has first procured from the State Examiner, a license therefor; provided, that no license shall be required by any officer or director. To obtain such license there must be filed with the State Examiner a duplicate of the authorization or appointment issued to such person, together with a request from a licensed association, that a license be issued to him to act as an agent or solicitor for it, and accompanied by a fee of two dollars. All such licenses shall expire by limitation on the thirty-first day of December succeeding their issue, but may be renewed from time to time, for an additional period of one year upon a request therefor from the association originally applying and upon payment of a renewal fee of two dollars. Any such license may be revoked at any time on the application of the association, for whom it was issued, or may be revoked by the State Examiner for cause.

The State Examiner shall keep an alphabetical list of the names of persons to whom such licenses are issued with the date of issue and renewal, and the name of the association for whom such licensee is authorized to act. All such licenses shall be issued under rules and regulations to be prescribed by the Banking Board.

§ 22. PROMOTIONAL CONTRACTS.] The State Banking Board shall refuse authority to commence business to any building and loan association if commissions, contributions or fees have been paid or have been contracted to be paid directly or indirectly by the building and loan association or by anyone to any person, association or corporation for securing subscriptions for or selling stock in such building and loan association.

§ 23. BONDS OF DIRECTORS, OFFICERS, AGENTS AND EMPLOYEES.] Every officer, director, employee, or agent handling or having the custody or charge of funds, securities, books or records belonging to such association, shall, before entering upon the discharge of his duties, give a good and sufficient bond in such sum as may be fixed by the board of directors of any such association, conditioned for the faithful performance of his duties and such pecuniary loss as the association may sustain for money or other

valuable securities embezzled, wrongfully abstracted or wilfully misapplied by any such officer, director, employee or agent in the course of his employment as such or in the course of his employment in any other position in such association, whether he be assigned, appointed, elected, reelected or temporarily assigned to such position. Such bond shall be made by a surety corporation authorized to do business as such in this state. The amount of such bond and the solvency of such corporation shall be subject to the approval of the State Examiner and such bond shall be made upon forms approved by the State Examiner; provided, that in lieu of individual bonds, a blanket bond covering all active officers and employees of such association may be executed, subject to the same provisions as to approval of surety, amount and form specified herein. The board of directors may require any other bond or bonds in addition to that herein required, at their discretion. Officers of associations who do not handle the associations' funds or securities shall not be required to give bond. Bonds shall be executed in duplicate-original, one of which shall be filed with the State Examiner and the other shall be retained by an officer or custodian of the association.

All such directors and officers of such association, on being reelected to office, and all such agents and employees upon their reappointment shall renew their bonds.

§ 24. PURCHASE OF OBLIGATIONS AND ASSETS BY CERTAIN PERSONS PROHIBITED. PENALTY.]

(a) No director, officer, agent or other employee of any building and loan association shall, directly or indirectly for his own personal benefit, purchase, or be interested in the purchase of any obligation of said association for a less sum than shall appear upon the books of such association to be the value thereof. Every person violating the provisions of this section shall, for each offense, forfeit to the state three times the face value of any such obligation so purchased.

(b) No officer, director, agent or other employee of any association shall, directly or indirectly, for his own personal benefit, purchase, or be interested in the purchase of any of the assets of any building and loan association for a less sum than the actual value thereof as may be determined by the board of directors. Every person violating any provision of this section, shall, for each offense forfeit to the state twice the actual value of any such assets so purchased.

§ 25. LIMITATION OF LOANS.] It shall be unlawful for any building and loan association, the assets of which do not exceed fifty thousand dollars, to make loans exceeding in the aggregate five thousand dollars upon any one piece of property; if its assets exceed fifty thousand dollars but do not exceed one hundred thousand dollars, it shall be unlawful for it to make loans exceeding in the aggre-

gate seven thousand five hundred dollars upon any one piece of property; if its assets exceed one hundred thousand dollars, but do not exceed two hundred thousand dollars it shall be unlawful to make loans exceeding ten thousand dollars upon any one piece of property; if its assets exceed two hundred thousand dollars but do not exceed five hundred thousand dollars it shall be unlawful for it to make loans exceeding in the aggregate fifteen thousand dollars upon any one piece of property; if its assets exceed five hundred thousand dollars, it shall be unlawful for it to loan to exceed three per centum of its assets upon any one piece of property; provided, however, that any loan exceeding twenty thousand dollars, shall, before being accepted and passed by any association have the approval by an affirmative vote of two-thirds of the members of the board of directors of such association, which vote shall be recorded. Provided, further, that no loan upon any one piece of property shall exceed fifty thousand dollars.

§ 26. LOANS TO SHAREHOLDERS.] Loans may be made to shareholders on notes secured by mortgages which shall be a first lien on improved real property not to exceed seventy-five per cent of the cash value thereof, payable in shares of the association or by periodical installments, and, where any association holds a mortgage on real property which is a first and prior lien, such association may increase its loan thereon and secure the same, by a second or subsequent mortgage payable in installments. A prior lien or encumbrance upon property upon which such association holds a subsequent mortgage or encumbrance may be sold, transferred or assigned, but the aggregate amount of such outstanding and unsatisfied prior liens or encumbrances so sold, transferred or assigned, shall not exceed at any one time ten per cent (10%) of its assets, and in no event shall exceed the amount of its reserve fund. Provided further, that the total indebtedness to the association, less the amount of dues paid on the shares pledged for such loan, shall not exceed seventy-five per cent of the cash value of the real property. It shall be lawful for any such building and loan association to permit members, subject to the consent of the board of directors, when loans are granted, to secure the repayment thereof, if so desired, by giving the association a straight note and mortgage on real property for a fixed period, for an amount not to exceed one-half of the value of the property; conditioned, however, that no association shall be permitted to make straight loans on real property in excess of ten per cent of the assets of the association; provided that it shall not be lawful to collect fines or penalties on such straight note and mortgage. Loans may be made upon the mutual plan or upon the definite contract plan. Loans made upon the mutual plan shall be accompanied by a pledge of shares having a matured or par value equal to the face of the loan. Definite contract loans shall be repayable in a definite number of equal periodical installments, to be named in the note or obligation, each in an amount sufficient so that the aggregate of

all will repay the principal of the loan, together with the interest on the unpaid periodical balances within the time and at the rate agreed upon. Loans may be made to shareholders upon the pledge of collateral security of the shares of such association, not to exceed ninety per cent of the withdrawal value of such shares. Loans made on the mutual plan shall become due and payable upon the date of maturity of the stock of borrowing member pledged as collateral security to such loan, but the payments made by the borrowing shareholder upon the shares so pledged shall not be considered as payments upon the principal of the loan.

Any association may advance such sums from time to time for the payment of insurance premiums, necessary repairs, and taxes due and owing on real estate upon which it has loaned money, and to carry such advances upon its books as an asset of the association, and such association shall have a good and valid lien against such real estate and pledged shares to secure the payment of funds so advanced.

No building and loan association shall make a mortgage loan to an officer or director until such loan be first unanimously approved by the board of directors, such approval to be recorded by aye and nay vote in the minutes of the meeting of the board.

§ 27. REPAYMENT OF LOANS.] Any loan made by any association to a shareholder may be repaid at any time, provided the shareholder shall pay the principal due thereon, less the withdrawal value of the shares transferred as security therefor, the interest accrued at the date of such repayment, and all sums advanced by the association for taxes, assessments or insurance premiums, or necessary repairs, with interest thereon, and in addition thereto:

1. Interest on the principal repaid for a period of three months after the date of repayment; or any such borrowing member may pay upon any such loan a sum equal to the matured value of one or more of the installment shares transferred and pledged as security therefor, upon the same proportionate terms as are provided in this section for the payment in full. Whenever any mortgage is foreclosed, the withdrawal value of the shares transferred and pledged to any such association for the payment of the loan shall be applied to the extinguishment of the indebtedness of the shareholder as hereinbefore determined, and his right under such shares shall terminate.

2. Interest upon such principal for the whole year when so provided in the by-laws of the association, if the repayment be made at any time within one year from the date of the mortgage or other evidence of debt.

3. If any such association is in the process of voluntary liquidation, the shares of a borrowing shareholder shall be entitled to full participation in the current earnings of such association, and their value as thus determined shall be applied upon the indebtedness of such member.

4. If any such association is in the process of involuntary liquidation, the minimum value of the shares owned by the borrowing shareholder, after allowing for all possible losses and the expenses of liquidation, may be allowed in the reduction of his indebtedness, and he shall be entitled to receive his proportionate share of any further sums that may be thereafter realized from the assets of such association.

5. Nothing in this section shall be construed to prevent the reduction of any such association's liability to its members, in accordance with the provisions of the section relating to impaired capital.

§ 28. CONVEYING PROPERTY MORTGAGED TO ASSOCIATION.] The conveyance or transfer of property mortgaged to a building and loan association shall act as a transfer also of the shares of such association securing said loan. If a borrowing member of such association shall convey the title to any property upon which such borrowing member has given to the association a mortgage lien, without the purchaser assuming the payment of the indebtedness to the association thereby accrued, the board of directors may in their discretion declare the entire indebtedness due and proceed to the collection of the debt in the manner provided by the by-laws of such association and by this act.

§ 29. FUND FOR CONTINGENT LOSSES.] The amount to be set aside to the fund for contingent losses shall be determined by the board of directors, but at least five per cent (5%) of the net earnings shall be set aside each year for such fund until it reaches at least five per cent (5%) of the assets and such fund shall be known and designated as the "Reserve Fund." All losses shall be paid out of such fund until the same is exhausted, and whenever the amount in said fund falls below five per cent (5%) of the assets as aforesaid, it shall be replenished by annual appropriations of at least five per cent (5%) of the earnings, as hereinbefore provided, until it again reaches said amount.

§ 30. PAYMENT OF EXPENSES.] All expenses of any association shall be paid out of the earnings only in such manner as may be provided in its by-laws.

§ 31. DISTRIBUTION OF PROFITS.] Interest unpaid, although due or accrued, on debts owing to any building and loan association, shall not be included in distribution of its profits.

§ 32. UNDIVIDED PROFITS—INVESTMENT OF RESERVE AND UNDIVIDED PROFITS.] Any residue of earnings, after providing for expenses, reserve fund and dividends, may be held as undivided profits to be used as other earnings; provided, that such undivided profit fund shall at no time exceed three per cent of the assets.

The board of directors are authorized and empowered to invest all reserve funds and undivided profit funds in the same manner and in the same class of securities as provided in this act for all other funds of the associations.

§ 33. PENALTY FOR DECLARING GREATER DIVIDENDS THAN EARNED.] Any member or members of the board of directors of a building and loan association who knowingly votes to declare, or who, being secretary or manager thereof, wilfully declares a greater dividend than has actually been earned, or has been previously accumulated as undivided profits by such association, shall be personally liable to the corporation therefor, jointly and severally.

§ 34. EXAMINATIONS. FEES FOR.] The State Examiner shall examine all domestic building and loan associations doing business in this state as often as he may deem necessary, but at least once a year. Also, whenever persons holding ten per cent of the subscribed shares of any association file a written application with the State Examiner, requesting him to make examination of any such association, he shall make such examination forthwith. Upon the completion of any examination of any association made by the State Examiner or under his direction, the association so examined shall pay to the Examiner a fee to be determined as follows, viz :

For the first one hundred thousand dollars of assets, a fee of twenty dollars, and for each additional one hundred thousand dollars of assets, or major portion thereof, an additional fee of ten dollars; provided, however, that the minimum fee for any such examination shall be thirty-five dollars. The Examiner shall report such payments to the Banking Board, and if any such association shall be delinquent more than twenty days in making such payment the board may make an order suspending its functions until such payment of the amount due together with a penalty of five dollars a day additional for the delay. All fees collected by the Examiner shall be by him paid to the State Treasurer.

§ 35. POWERS OF STATE EXAMINER.] The State Examiner shall have power to prescribe for and supervise uniform system of reports for all associations; shall have access to and may compel the production of all books, papers, securities and moneys of any association under examination. He shall have power to administer oaths to and examine the officers, employees, agents and shareholders of such association and its affairs.

§ 36. STATE EXAMINER'S REPORT TO GOVERNOR.] The State Examiner shall keep and preserve in permanent form a full record of his proceedings, including a concise statement of each association examined, and he shall annually make a report to the Governor of the general conduct and condition of the building and loan associations doing business in this state, with such suggestions as he may deem expedient. Such report shall also include the information contained in the statement required of the association, and arranged in tabulated form. He shall also report the whole amount of the income of his office, paid by such associations, the source whence derived, and the expense in detail during the year ending the thirty-first day of December.

§ 37. REPORTS CONFIDENTIAL.] Whoever, being the State Examiner, his deputy, assistant or clerk, fails to keep secret the facts and information obtained in the course of an examination, or by reason of his official position, except when the public duty of such officer requires him to report upon or take official action regarding the affairs of an association so examined, or wilfully makes a false report as to the condition of such association shall be guilty of a felony and shall be removed from office. Nothing in this section shall prevent the proper exchange of information relating to building and loan associations and the business thereof, with the representatives of building and loan departments of other states, but in no case shall the private business or affairs of any individual association or company be disclosed.

§ 38. ANNUAL STATEMENT—FORM—WHERE FILED—PUBLICATIONS.] Every building and loan association authorized to do business in this state shall, annually on the thirty-first day of December, or within thirty days thereafter file with the State Examiner a full detailed report, in writing, of the affairs and business of the association for the fiscal year ending on December thirty-first, showing its financial condition at the end of said year. The statement shall be in such form and contain such information as may be prescribed by the State Examiner. It shall be sworn to by the secretary of such association and its correctness attested by at least three directors or an auditing committee appointed by the board of directors. The original shall be filed with the State Examiner within thirty days after the close of the fiscal year, and in such form as the State Examiner shall require shall be published once in a newspaper published in the town in which the association is located, or if no newspaper is published in the town in which the association is located, then in one published nearest thereto in the same county, and such proof of publication shall be furnished at such times and in such manner as may be required by the State Examiner.

§ 39. REPORT TO STATE EXAMINER. PUBLICATION.] Every building and loan association shall make to the State Examiner a report of condition whenever requested to do so by the State Examiner, according to the form which may be prescribed by him, verified by the oath or affirmation of the president, vice-president or secretary of such association, and attested by the signature of at least two of the directors. Each such report shall exhibit in detail and under appropriate heads, the resources and liabilities of the association at the close of business on any past day by him specified; and shall be transmitted to the State Examiner within fifteen days after the receipt of a request or requisition therefor from him.

§ 40. OBTAINING PROPERTY BY FRAUD, FALSE REPORTS, INSPECTION OF BOOKS.] A director, officer, agent, or employee of any building and loan association who:

(1) Wilfully receives or possesses himself of any of its property, otherwise than in payment for a just demand, and, with intent to defraud, omits to make or cause or direct to be made a full and true entry thereof in its books and accounts; or

(2) Concurs in omitting to make any material entry thereof; or

(3) Wilfully makes or concurs in making or publishing any written report, exhibition or statement of its affairs or pecuniary condition, containing any material statement which is false; or

(4) Having the custody or control of its books, wilfully refuses or neglects to make any proper entry in the books of such association as required by law, or to exhibit, or allow the same to be inspected and extracts to be taken therefrom by the State Examiner, his chief deputy, or any of his examiners, shall be guilty of a felony.

§ 41. COMMUNICATIONS FROM STATE EXAMINER.] Each official communication directed by the State Examiner or one of his examiners or deputies, to a building and loan association or an officer thereof relating to an investigation or examination conducted by the State Examiner or containing suggestions or recommendations as to the conduct of the business of the association shall be submitted by the officer receiving it to the board of directors at the next meeting of the board and noted in the minutes of the meetings of such board.

§ 42. REDUCTION OF LIABILITY TO MEMBERS.] Whenever the losses of any building and loan association, resulting from depreciation in value of its securities or otherwise, exceed its reserve, undivided profits and current earnings, so that the estimated value of its assets is less than the total amount due its members, the State Examiner upon petition of such building and loan association, may order a reduction of its liability to members in such manner as to distribute the loss equitably among such members. If thereafter, such association shall realize from such assets a greater amount than was fixed in the order of reduction, such excess shall be divided among members whose credits were so reduced, but to the extent of such reduction only.

§ 43. CONSOLIDATION.] Any building and loan association may, with the consent and approval of the State Examiner consolidate with or be taken over by any other association upon such terms as may be authorized by the respective boards of directors after being authorized to do so by a majority vote of their respective shareholders at any regular or special meeting. This section shall be construed to also include any association taken over by the State Examiner whether in process of liquidation or otherwise.

§ 44. VOLUNTARY LIQUIDATION AND SETTLEMENT.] By and with the consent of the State Examiner any association organized

under the laws of and doing business in this state, may, if the shareholders deem it advisable, go into liquidation, and for the purpose of so doing may be (by) a two-thirds affirmative vote at any regular or special meeting of the shareholders, called for that purpose, adopt a resolution declaring that such association intends to go into liquidation and discontinue business as a building and loan association. A copy of such resolution, duly certified by the president and secretary of such association, under the seal thereof, shall be transmitted to the State Examiner within ten days after the adoption thereof. Thereupon the State Examiner shall issue his certificate reciting that such association is in liquidation. After the filing of such notice, it shall not be lawful for such association to issue shares, or to loan or advance its money to members or to any person or persons, but all of the income and receipts of such association, in excess of the actual expense of managing the same, shall be applied to pay off, first, the indebtedness, and then the shares in such association upon which no loans have been made shall be paid pro rata. The board of directors of such association in liquidation may adopt rules and make such orders as shall be just and equitable for the sale and disposition of all property held by such association, and for the division of the assets of such association. Such association in liquidation shall be subject to examination and under the supervision of the State Examiner.

§ 45. ILLEGAL, UNAUTHORIZED, UNSAFE OR FRAUDULENT PRACTICES. INSOLVENCY.] Whenever the State Examiner, as the result of any examination, of (or) from any report made to him or to the shareholders, shall find that any association, licensed by him, is violating the provisions of its charter or of the laws of this state provided for its government, or is conducting its business in an unsafe or unauthorized manner, he may, by an order addressed to the association, so offending, direct a discontinuance of such violations or unsafe practices and a conformity with all requirements of law; and if such association shall refuse or neglect to comply with such order within the time specified therein, or if it shall appear to the examiner that such association is in unsafe condition, or is conducting its business in an unsafe manner, such as to render its further proceeding hazardous to the public, or to those having funds in its custody; or if he shall find that its assets are impaired to such an extent that after providing for all liabilities other than to shareholders, they do not exceed in volume the dues or principal payments paid in by shareholders and accredited to or on account of all classes of shares issued and outstanding, he shall in order to prevent waste and diversion of assets, assume and take charge of the affairs and business of such association, and possession of all books, records, and assets of every description of such association, and hold and retain the possession of same pending the further proceedings herein specified. Should the board of directors, secretary or person in charge of such association refuse to permit the State Examiner to

take possession as aforesaid, the State Examiner shall communicate such fact to the Attorney General whereupon it shall become the duty of the Attorney General at once to institute such proceedings as may be necessary to place the State Examiner in immediate possession of the property of such association. Upon taking possession of the effects of the association as aforesaid, the State Examiner shall prepare a full and true statement of the affairs and condition of such association, including an itemized statement of its assets and liabilities and shall receive and collect all debts, dues and claims belonging to it, and pay the immediate and reasonable expenses of his trust. When the condition of such association has been fully ascertained, and it shall appear that the affairs of said association are in fact in an unsound condition, the State Examiner shall at once notify, in writing, the board of directors of such association of his decision, giving them twenty days in which to restore the affairs of such association to a sound condition. Meanwhile, the State Examiner shall remain in charge of the books, records, and assets of every description of such association, attend, or be represented, at all directors and shareholders meetings held, suggest such steps as he may deem necessary to restore such association to a sound condition; and if same is not done within such twenty days, he may report the facts to the Attorney General, and it shall thereupon become the duty of the Attorney General to institute proceedings in the district court of the county in which such association has its principal place of business, for the appointment of a receiver. Such receiver shall be authorized to collect all moneys due such association, and to do such other acts as are necessary to conserve its assets and business, and he shall, after having furnished a good and sufficient surety bond, proceed to liquidate its affairs. He shall have general power and authority, except as otherwise limited by the terms of this Act, to do any and all acts, to take any and all steps necessary, or, in his discretion desirable, for the protection of the property and assets of such association and the speedy economical liquidation of its assets and affairs and the payment of its creditors, or for the reopening and resumption of business of said association where that is practicable or desirable. He may institute in his name as receiver, or in the name of the association, such suits, actions and other legal proceedings as he deems expedient for such purposes, and by making application to the district court of the county in which such association is located, or to the judge thereof, in chambers, may upon proper and sufficient showing of cause therefor, procure an order to sell, compromise or compound any bad or doubtful debt or claim, and to sell and dispose of any or all the assets, which sale, with the consent of the court, may be made to shareholders, officers, directors, or others interested in such association. On such proceedings the association shall be made a party by notice on order of the court or judge in lieu of summons, but served in like manner, and the hearing of any such application or petition by the receiver

may be had at any time either in term or vacation in court, or in chambers, as the court may order, after said association has had five days notice of such application.

§ 46. APPLICATION TO OTHER PERSONS, CORPORATIONS, ASSOCIATIONS.] The provisions of this Act shall apply to and be enforceable against all corporations, persons, firms, partnerships, associations, trustees or combinations of persons whatsoever, whether foreign or domestic organized for building and loans purposes, and whether citizens of this state or otherwise, that transact, or attempt to transact, a building and loan business, or a business of like kind, or character, or whereby its or their charter, constitution, by-laws or by declaration of trust, or other device, or by a contract or agreement, the members are required to pay regular installments to a common fund or series, from which fund or series loans are made to said members, for the purpose of building homes or buildings, purchasing building sites, paying off liens or debts against real estate. The name association when used in this Act shall be deemed to include any of the above named.

§ 47. LAWS OF OTHER STATES.] When by the laws of any other state, territory or nation any taxes, fines, penalties, licenses, fees, deposits of money or securities or other obligations or prohibitions are imposed on building and loan associations of this state doing business in such other state, territory or nation, or upon their agents therein as long as such laws continue in force the same obligations and prohibitions shall be imposed on the associations of such other state, territory or nation doing, or attempting to do a building and loan business, or a business of like kind or character in this state, and upon their agents herein.

§ 48. FOREIGN ASSOCIATIONS—REQUIREMENTS.] Any association as defined in this Act, organized under the laws of any state, other than North Dakota, or of the United States, or of any foreign government shall, before doing business within this state, file in the office of the Secretary of State and in the office of the State Examiner, a duly authenticated copy of their charter, articles of incorporation, or articles of agreement, copy of its by-laws and other rules and regulations showing the method of conducting its business, and also a statement verified by oath of the president and secretary of such corporation or managing officials if other than a corporation and duly verified, showing:

(1) The name of such association and the location of its principal office or place of business without this state; and the location of the place of business or principal office within this state;

(2) The names and residences of the officers, trustees or directors;

(3) The amount of paid in capital stock or outstanding shares;

(4) The amount invested in the State of North Dakota;

(5) It shall deposit with the State Treasurer one hundred thousand dollars in cash or bonds of the United States or bonds of any state of the United States, or bonds of any county or municipal corporation in the State of North Dakota or mortgages being first liens on improved and productive real estate located within this state and worth at least twice the amount of the liens, which securities shall be approved in advance by the State Examiner. The State Examiner shall have authority to require such associations to deposit additional securities, and to order a change in any of the securities so deposited, at any time. Such deposit shall be held as security for all claims of residents of this state against such foreign association, and shall be liable for all judgments or decrees thereon; and said securities shall not be released until all its obligations to residents of this state shall have been fully performed and discharged. Such foreign associations may collect and use the interest on any securities so deposited, so long as it fulfills its obligations and complies with the provisions of this Act. It may also exchange them for other securities of equal value, if satisfactory to the State Examiner. Any foreign building and loan association may, in lieu of the deposit of securities, as herein provided, deposit with the State Examiner a surety company bond, satisfactory to him, in the sum of one hundred thousand dollars, which bond shall be conditioned for the payment of any judgment entered against such foreign building and loan association, by any court of competent jurisdiction in this state, in favor of any resident of this state. Such judgment creditor shall have the right to bring suit on such bond in his own name in the county in which such judgment is rendered and any resident of this state, having a claim against such foreign building and loan association may bring suit in his own name against such surety company, by joining such surety company with such foreign building and loan association as parties defendant.

Such association shall also file, at the same time, and in same offices, a certificate, under seal and the signature of its president, vice-president, or other acting head, and its secretary, if there be one, certifying that the said association has consented to all the license laws and other laws of the State of North Dakota relative to foreign associations, has consented to be sued in the courts in this state, upon all causes of action arising against it in this state, that service of process in any action or proceeding brought against it may be made upon the Secretary of State of North Dakota and that such service of process, when so made upon the secretary of state, shall be valid service on the association. The Secretary of State upon receipt of any legal process in any action brought against a foreign association shall immediately mail the same to the home office of such foreign association, and shall within six days certify the fact of such mailing to the court in which such action or proceeding is

pending. The plaintiff shall for each process so served pay the Secretary of State a fee of two dollars, which shall be recovered by the plaintiff as part of the taxable costs if he prevail in the suit.

It shall also file a statement verified under oath by its president and secretary, showing the names, addresses, and the total cash credits of all of its stockholders, shareholders, investors and customers who reside in the state of North Dakota, and a similar statement shall be filed annually thereafter as of December thirty-first, each year, such statement to be filed with the State Examiner within twenty (20) days after December thirty-first of each year.

§ 49. SECURITIES DEPOSITED BY FOREIGN ASSOCIATIONS.] Upon deposit with the State Treasurer by such foreign association of the securities as provided for in this Act the State Treasurer shall issue his receipt in duplicate therefor, delivering the original to the State Examiner and the copy to such depositor. The State Treasurer and his surety shall be responsible for the safekeeping of such securities which shall be released by him only upon the written order of the State Examiner.

§ 50. CERTIFICATE TO FOREIGN ASSOCIATIONS.] Whenever such foreign association has complied with the provisions of this Act and has furnished a full and complete statement of its financial affairs duly sworn to by its president and secretary, and said financial status of such association has been verified by an examination of its assets and its records for the purpose of ascertaining whether the same meet the requirements of this Act, said examination to be made by the State Examiner, or his duly authorized representative, for which examination the said foreign association shall pay in the same manner as herein specified for regular examinations of domestic associations, the State Examiner, if he be satisfied that such association is in sound financial condition, and that it is conducting its business in accordance with the laws of this state, and if he shall regard such association as safe, reliable and entitled to public confidence, shall issue a certificate of authority to such association to do business in this state upon the payment of fees as herein provided. Provided, that the State Examiner, in his discretion, may accept a report of an examination of the affairs of such association made by a supervising officer of its own state under lawful authority. Such certificate shall be for the period of one year and must be renewed each year.

§ 51. MAY REVOKE CERTIFICATE OF FOREIGN ASSOCIATIONS.] Should the State Examiner find, upon examination, that such foreign association does not conduct its business in accordance with law, or that the affairs of such association are in an unsound condition, or such foreign association refuses to permit examination to be made, he may revoke the certificate of authority, and shall mail a notice thereof to the home office of such foreign association, and

cause a similar notice to be published once in a newspaper, published in the City of Bismarck, North Dakota. After publication of said notice it shall be unlawful for any agent of such foreign association to transact any business in this state except to receive payments to apply on loan contracts then in effect.

§ 52. FEES TO BE PAID BY FOREIGN ASSOCIATIONS.] All foreign building and loan associations shall pay to the State Examiner the following fees, which shall be paid to the State Treasurer as hereinbefore provided, to-wit: For filing each application for admission to do business in this state, five hundred dollars; for each certificate of authority and annual renewal of the same, two hundred dollars.

§ 53. EXAMINATIONS—FOREIGN ASSOCIATIONS.] Every foreign building and loan association doing business in this state shall be subject to the same examinations as are building and loan associations organized under the laws of this state; provided, that the expense of all examination of such foreign associations shall be paid by the association examined, upon bill approved by the State Examiner; provided that it shall not be necessary for such examination to be made but once in each year; provided, further, that such expense shall only include necessary traveling expenses of such examiner and the sum of not more than twenty-five dollars per day for each examiner for each day actually required in making such examination. Provided that the result of any similar examination made and certified by the duly constituted authority of any state having similar laws of supervision may be accepted by the State Examiner.

§ 54. CONTRACTS VOID IF MADE BEFORE COMPLIANCE WITH ACT.] If any such foreign association shall attempt or commence to do business in this state without having first filed said statement, certificate and consent, required by this Act, or without complying with any or all of the laws of North Dakota relating to the payment of fees or licenses, no contract made by them or any agent or agents thereof, during said time, shall be enforceable by them until the foregoing provisions have been complied with.

§ 55. CONTRACTS DEEMED MADE IN THIS STATE.] Any contract made by any foreign association with any citizen of this state shall be deemed and considered a North Dakota contract, and shall be so construed by all the courts of this state according to the laws thereof.

§ 56. UNSATISFIED JUDGMENTS FOREIGN ASSOCIATIONS.] If at any time any resident of this state shall recover judgment against such foreign association, and which judgment after thirty days shall not have been satisfied, the creditor holding such judgment, or his attorney, may prepare and file with the State Examiner an affidavit setting forth the fact of the recovery of said judgment, that the same has remained unpaid for thirty days, that no proceedings

are pending for the vacation of such judgment or an appeal therefrom, together with the petition of such creditor for the sale of securities on deposit with the State Treasurer sufficient to satisfy said judgment.

A copy of such affidavit and petition shall be by such creditor or his attorney served on such foreign association by registered mail, addressed to its principal place of business, and proof of such mailing shall be filed with such petition and affidavit with the Examiner.

Unless within ten days from the date of filing such petition and affidavit together with such proof of service, such association shall furnish to the Examiner satisfactory proof of the payment of said judgment, he shall issue an order to the State Treasurer for the sale of securities of such association, at current market value, sufficient to pay said judgment in full, together with five per cent thereon for his services and expenses. After a sale of securities as herein provided, such foreign association shall transact no new business in this state until any deficiency of securities caused by such sale shall have been made good by further deposit.

§ 57. MISDEMEANOR. FAILURE TO COMPLY.] It shall be unlawful for any association, whether foreign or domestic, and whether citizens of this state or otherwise, to do business, or attempt to do business, as defined in this Act without having first complied with its provisions and having received a certificate of authority to do business, from the State Examiner. Any such associations, violating any of the provisions of this Act, and failing to comply with any of its provisions, shall be fined not less than two hundred and fifty dollars and not more than one thousand dollars for each and every such violation, to be recovered by an action in the name of the state, and on collection paid into the state treasury. Any person or persons, whether citizens of this state or otherwise, who aids or assists any such association to do business contrary to the provisions of this Act, shall be guilty of a misdemeanor.

§ 58. SLANDER AND LIBEL. FELONY.] Any person who shall wilfully and maliciously make, circulate or transmit to another or others, any statement, rumor or suggestion, written, printed or by word of mouth, which is directly or by inference derogatory to the financial condition or affects the solvency or financial standing of any building and loan association now existing under the laws of ~~or~~ doing business in this state, or that may be hereafter organized under this Act, or who shall counsel, aid, procure or induce another to start, transmit or circulate any such statement or rumor, shall be guilty of a felony, and in addition thereto shall be liable in damages to such association, or the receiver thereof, to be recovered in a civil action brought for that purpose.

§ 59. INVALIDITY.] In the event that any section or clause, sentence, paragraph or part of this Act shall for any reason be adjudged by any court of competent or final jurisdiction to be invalid such judgment shall not affect, impair or invalidate the remainder of this Act, but shall be confined in its operation to the section, clause, sentence, paragraph or part thereof directly involved in the controversy in which such judgment shall have been rendered.

§ 60. PENALTY FOR VIOLATIONS.] Any officer of any building and loan association violating or knowingly permitting to be violated, the provisions of this Act, not hereinbefore specifically designated as a crime, shall be guilty of a misdemeanor.

§ 61. PENALTIES. HOW RECOVERED.] All fines and penalties herein provided for, to which any association under this Act may become subject, shall be recovered on complaint of the State Examiner, before any court having competent jurisdiction, and all fines and penalties so recovered shall be paid into the state treasury.

§ 62. PUNISHMENTS OF FELONIES AND MISDEMEANORS.] Every offense declared by this Act to be a felony is punishable by a fine not exceeding one thousand dollars or by imprisonment in the penitentiary for not less than one and not exceeding ten years, or by both such fine and imprisonment.

Every offense declared by this Act to be a misdemeanor is punishable by imprisonment in the county jail not exceeding one year, or by a fine not exceeding one thousand dollars, or by both such fine and imprisonment.

In all cases where a corporation is convicted of an offense for the commission of which a natural person would be punishable, and there is no other punishment prescribed herein, such association is punishable by a fine of not less than five hundred dollars and not exceeding five thousand dollars.

§ 63. REPEAL.] Sections 5121, 5122, 5123, 5124, 5125, 5126, 5127, 5128, 5129, 5130, 5131, 5132, 5133, 5134, 5135, 5136, 5137, 5138, 5139, 5140, 5141, 5142, 5143, of the Compiled Laws of the State of North Dakota for the Year 1913, and Chapter 148 of the Session Laws of North Dakota for the Year 1923, together with all Acts amendatory thereof, and all other Acts or parts of Acts Repugnant to and Inconsistent herewith, are hereby repealed.

§ 64. SAVING CLAUSE.] Nothing in this Act contained repealing any law for the regulation or conduct of building and loan associations, shall be construed to release any person from punishment for any acts heretofore committed violating said law or laws, nor affect in any manner any existing indictment or prosecution thereunder; and for that purpose such laws shall continue in force and effect notwithstanding such repeal.

Approved March 12, 1931.

## CHAPTER 95

(S. B. No. 87—Committee on Banks and Banking.)  
By Request of the Voluntary Banking Code Commission.

**EFFECT OF CONSOLIDATION, MERGER, ETC., CORPORATIONS  
INCLUDING BANKS AND TRUST COMPANIES**

An Act amending and re-enacting Chapter 108 of the Session Laws of North Dakota for the year 1927, relating to, and defining the effect of, the consolidation, merger or other transfer of the business of corporations, including banks and trust companies, organized under the laws of this state or the laws of the United States, heretofore or hereafter effected.

*Be It Enacted by the Legislative Assembly of the State of North Dakota:*

§ 1. AMENDMENT.] That Chapter 108 of the Session Laws of North Dakota for the year 1927 is hereby amended and re-enacted to read as follows:

Section 2. CORPORATIONS. MERGER. EFFECT OF.] Whenever any two or more corporations, including banks and trust companies, organized under the laws of this state or the laws of the United States, have heretofore consolidated, merged or otherwise transferred, or shall hereafter consolidate, merge or otherwise transfer, its or their business, as the case may be, to another corporation, including banks or trust companies, organized or to be organized, under the laws of this state or the laws of the United States, the consolidated or new corporation, by whatever name it may assume, or be known, shall, unless otherwise provided in the agreement or order of merger or consolidation, be a continuation of the entities of each and all of the corporations, including banks and trust companies, so consolidated, merged or otherwise transferred to such consolidated or new corporation for all purposes whatsoever, and all of the rights, franchises and interests of said corporations, including banks and trust companies, so consolidated, merged or transferred in and to every species of property, real, personal and mixed and choses in action thereto belonging shall be deemed to be so transferred to and vested in the corporation which acquires the same on such consolidation, merger or other transfer without any assignment, deed or other transfer, and such corporation shall hold and enjoy the same and all rights of property, franchises and interests in the same manner and to the same extent as was held and enjoyed by the corporation or corporations, including banks and trust companies, so consolidated, merged or otherwise transferred, including the holding and performing by any bank or trust company of any and all trusts and fiduciary relations whatsoever as to and for which either or any of the banks or trust companies so consolidating, merging or otherwise transferring may have been,

or may be appointed, nominated or designated by any will, agreement, conveyance, or otherwise, whether or not such trust or fiduciary relation shall have come into being, or shall have taken effect at the time of such consolidation, merger or other transfer.

Approved March 10, 1931.

## CHAPTER 96

(S. B. No. 82—Committee on Banks and Banking.)  
By Request of the Voluntary Banking Code Commission

### REGULATION OF BANKING

An Act to provide for the government and regulation of banking within the State of North Dakota, to provide for the organization and operation of state banking associations, the administration of insolvent state banking associations and repealing Sections 5146, 5147, 5148, 5150, 5151, 5152, 5153, 5154, 5155, 5156, 5157, 5158, 5159, 5160, 5161, 5162, 5164, 5165, 5166, 5167, 5168, 5169, 5170, 5171, 5172, 5173, 5174, 5175, 5176, 5177, 5178, 5179, 5180, 5181, 5182, 5183, 5184, 5185, 5186, 5187, 5188, 5189, 5190, 5192, 5193, 5194, 5195, 5196, 5197, 5198, 5199, 5200, 5201, 5202, 5203, 5204, 10006, 10007, 10010, 10011, and 10012 of the Compiled Laws of North Dakota for the year 1913, Chapter 111 of the Session Laws for the year 1919, Chapters 138 and 139 of the Session Laws for the year 1923, Chapters 92 and 170 of the Session Laws for the year 1925, Chapters 91, 92, 93, 96, 97 and 98, of the Session Laws for the year 1927, Chapters 87 and 88 of the Session Laws for the year 1929, together with all acts amendatory thereof and all other acts or parts of acts repugnant to and inconsistent herewith.

*Be It Enacted by the Legislative Assembly of the State of North Dakota:*

§ 1. CREATION OF BANKING DEPARTMENT. STATE BANKING BOARD.]

(a) There is hereby created a Department of Banking which shall have charge of the execution of all laws relating to state banks, savings banks, trust companies, building and loan associations, mutual investment corporations, mutual savings corporations and other financial corporations heretofore or hereafter organized or doing business under the laws of the State of North Dakota, and engaged wholly or in part in the receiving of deposits or the selling of their certificates of indebtedness or other obligations to the public. Such department shall be designated as the "Department of Banking," and it shall be under the management and control of the State Banking Board and a chief officer to be known as the State Examiner.

(b) The State Banking Board shall consist of the Governor, the Secretary of State and the Attorney General. None of the members of said board shall receive any compensation for their services other than that now provided by law. The Governor shall be the chairman of said board and the Attorney General shall be ex-officio the attorney for the board, and the State Examiner shall be its

secretary. Said board shall hold regular meetings on the first Wednesdays of January, April, July and October of each year, at the office of the department in the state capitol at Bismarck, and special meetings at the call of the Governor.

(c) The said board shall have, and there is hereby vested in it, the power to make such rules and regulations for the government of such corporations, as in its judgment may seem wise and expedient, which rules shall not conflict with any laws of the State of North Dakota or of the United States. It shall be the duty of said board at each regular meeting and at any special meeting called for that purpose, to examine all reports made by said corporations relating to their condition, and all reports of regular and special examinations made by the State Examiner and deputy examiners from his department and filed with said board during the preceding quarter or such period as shall have elapsed since the last meeting of said board, and to approve or disapprove the same, and to make and enforce such orders as, in its judgment, may be necessary or proper to protect the public and particularly the depositors or creditors of said institutions. Said board and the State Examiner and deputy examiners shall have the power to subpoena witnesses, administer oaths, and generally to do and perform any and all acts and things necessary to the complete performance of the duties herein imposed, and to enforce all the provisions of this act, and for the purpose of enabling them to perform all the duties imposed upon them, the provisions of Section 8200, Compiled Laws 1913, shall be held as applicable to their proceedings. Any and all orders made by said board shall be immediately operative and remain in full force until modified, amended or annulled by such board, or by a court of competent jurisdiction in an action to be commenced by the party against whom such order may have been issued. Said board shall keep a full and complete record of all its proceedings and of all orders made by it, and the records of the State Banking Board, and of the State Examiner, and of any and all reports made by or filed with the board or the State Examiner shall, under proper restrictions, during regular business hours, be open to inspection and examination by stockholders, depositors, creditors and sureties on any bonds of any of said corporations or on the bonds of any officer or employee thereof. The said board, except as otherwise herein provided, is hereby vested with the power and authority to appoint by its own order, receivers for insolvent corporations as defined in this act, and such receivers shall have the same power and authority, and their acts the same validity as if appointed under and by the direction of a district court, but nothing herein contained shall be construed so as to take away from the courts the power to appoint receivers of such institutions at any stage of the proceedings and thus terminate the receivership ordered by the board.

§ 2. STATE EXAMINER. SUPERVISION BY. DUTY.]

(a) The State Examiner shall, under the direction and subject to the orders of the State Banking Board, exercise a constant supervision, either personal or through the deputy examiners hereinafter provided for, over the business and affairs of all the financial corporations placed by this act within the jurisdiction of the State Banking Board and shall, personally or through the deputy examiners herein provided for, visit at least twice each year all of said corporations, inspecting and verifying the assets and liabilities of each, and so far investigate the character and value of the assets of each such corporation as to ascertain with reasonable certainty that the values are correctly carried on its books. He shall further investigate the methods of operation and conduct of said corporations and their systems of accounting, to ascertain whether such methods are in accordance with the law and sound banking usage and principles, and report the findings, conclusions and recommendations upon such examinations to the Banking Board and put into force and effect such orders and directions as it may make in reference thereto.

(b) The State Examiner shall be ex-officio secretary of the State Banking Board, and shall keep all proper records and files pertaining to the duties and work of his office and the proceedings of the board and shall report to the board annually, touching on all his official acts and those of his deputy examiners, giving abstracts of statistics and of the conditions of the various institutions to which his duties relate, and making such recommendations and suggestions as he may deem proper, which report shall be printed and bound in a satisfactory and substantial manner and distributed among all of the state banking corporations and other corporations within his jurisdiction. The State Banking Board shall make biennial reports the same as other state officers and boards, in which there shall be included, with a full report of its proceedings, a summary or abstract of the reports of the State Examiner.

(c) It shall be the duty of the State Examiner to enforce the provisions of this act.

§ 3. APPOINTMENT OF DEPUTIES. DISTRICTS. SALARIES.]

(a) The State Examiner may, subject to the approval of the State Banking Board, appoint and at pleasure remove not more than thirteen deputy examiners, one reconciliation clerk, one stenographer and such other employees as may, in the judgment of the State Banking Board, be necessary for the proper discharge of the business of his department. Each deputy examiner shall give bond to the state in the sum of \$10,000.00 to be approved and filed in the same manner as the bond of the State Examiner. The

State Examiner shall select and designate one of said deputy examiners to be the office deputy and to act during the absence or disability of the State Examiner, and in such cases the deputy examiner so authorized shall have charge of the office and administer its affairs. Not less than six of the said deputy examiners so appointed shall have at least three years active experience in bank work within this state and shall furnish such evidence of qualification as expert accountants and general fitness for the duties as may be demanded by the Banking Board.

(b) Each deputy examiner herein provided for shall be under the direct orders and instructions of the State Examiner and shall make report to him in such form as he or the Banking Board may prescribe during or immediately after the completion of the examination of each financial institution examined by him, with such recommendations and suggestions as he may deem advisable.

(c) For the purpose of the better administration of his department, the State Examiner shall, immediately after the taking effect of this act, proceed to divide the state into six (6) districts which shall have, as nearly as may be, banks and other financial institutions of an equal number, and arranged with reference to convenience and economy in travel, and shall at once designate the district in which each of his six examiners shall make examinations, and such deputy examiners shall confine their work, as nearly as may be, to the examination of corporations located within their respective districts, except that any such deputy examiner may be temporarily transferred to other districts, or more than one deputy examiner may be assigned temporarily to any district when the proper performance of the work therein would indicate the necessity for so doing. No deputy examiner shall have any interest directly or indirectly in any corporation within the jurisdiction of the Banking Department, nor in any corporation engaged wholly or in part in the writing or issuing of bonds of or for any such corporation or of the officers or employees of any such corporation.

(d) The salary of the office deputy shall not exceed thirty-five hundred dollars per annum, and the salary of each other deputy shall be not less than fifteen hundred dollars nor more than three thousand dollars per annum, to be fixed by the State Banking Board, and in addition thereto each deputy shall be paid his actual and necessary traveling expenses when engaged in the discharge of his duties; the salary of the reconciliation clerk shall be eighteen hundred dollars per annum; and the salaries of all other clerks, stenographers and assistants shall be fixed by the State Banking Board.

§ 4. FEES FOR EXAMINATION.] Every corporation contemplated to be, by this act, placed under the jurisdiction and control of the State Banking Board, and made subject to the examination of the State Examiner and his deputy examiners, shall if a new

corporation, prior to receiving its certificate of authority to commence business, and in all cases within ten days after each examination, pay into the State Treasury the following fee, to-wit: A fee of one and one half hundredths of one per cent of the gross amount of the assets of said bank on the day of examination, exclusive of expences, interest and taxes paid; provided that the fee hereunder shall be not less than fifteen dollars and not more than two hundred dollars.

The Treasurer shall report such payments to the State Banking Board, and if any such corporation shall be delinquent more than twenty days in making such payments, the board may make an order suspending its functions until such payment of the amount due and a penalty of five dollars a day additional for the delay.

§ 5. SECRETARY TO KEEP BANK RECORD.] It shall be the duty of the secretary of the State Banking Board to keep a "bank record" wherein shall be recorded the name and location of each bank in the state, its capitalization and changes thereof, its officers, its shareholders and addresses thereof, and its reserve agents, and changes of the same, and in docket form such other proceedings as may have been had relative to the same, by the State Banking Board, and by the State Examiner.

§ 6. STATE BANKING ASSOCIATIONS DEFINED.] Every corporation organized under the laws of this state for state banking associations or savings banks, and corporations or other associations excepting national banks and trust companies, whose business in whole or in part consists of the taking of money on deposit, shall be held and are hereby declared to be state banking associations, and as thus defined shall be subject to the provisions of this act.

§ 7. COMPLIANCE WITH LAW GOVERNING. PENALTY.] No individual, firm, company, copartnership, or corporation, either domestic or foreign, not organized under this act, except only national banking corporations and the Bank of North Dakota, shall hereafter in signs, letterheads, advertising, or in any other way make use of and display in connection with its business such words as "bank," "banker," "banking," "savings bank," or any other word or words of like import; nor shall there be done or performed by any person or concern, whatsoever, anything in the nature of the business of a bank or savings bank, unless and until such business is regularly organized and authorized under this act; and any individual, firm, company, copartnership or corporation, either foreign or domestic, now making use of any of the said words or titles, or similar words, in violation hereof, shall within ninety days after the enactment of this law in every way discontinue the use of such words or titles. If any heretofore organized firm or corporation shall have been granted a charter permitting it to use any such word, words or title contrary to the intent hereof, and, by reason

of the rights under such charter, the provisions of this act may not be enforced against such firm or corporation during the life of such charter, no renewal charter shall be granted such corporation permitting the continuance of the use of such word, words or title, contrary hereto or in violation hereof. Any firm or corporation, which, by reason of an existing charter right under any statutes enacted prior hereto, may be held by the court to be not affected hereby, and which therefore refuses to comply with the provisions of this act, shall hereafter prominently and continuously display 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, and as prominently as is such other matter displayed, the following words and language: "NOT UNDER THE SUPERVISION OF THE STATE BANKING BOARD OR THE STATE EXAMINER."

Any person, firm, company, copartnership, corporation, domestic or foreign, violating any provision of this section shall forfeit to the state \$100.00 for every day or part thereof during which such violation continues. Upon action brought by the State Examiner or any aggrieved person, the court may issue an injunction restraining any such person, firm, company, copartnership or corporation from further using such words, terms or phrases in violation of this section or from further transacting business in such a way or manner as to lead the public to believe that its business is in whole or in part of the nature of a bank or savings bank, or that it is under the supervision of the State Banking Board or the State Examiner.

§ 8. BANKING CORPORATIONS. WHO MAY FORM.] Associations for carrying on the business of banking under this act may be formed by any number of natural persons, not less than three, two-thirds of whom shall be residents of this state. They shall enter into articles of association which shall specify in general terms the object for which the association is formed, and may contain any other provisions, not inconsistent with law, which the association may see fit to adopt for the regulation of its business and the conduct of its affairs. These articles shall be signed and acknowledged by the persons uniting to form the association and shall be filed in the office of the Secretary of State.

§ 9. ORGANIZATION CERTIFICATE. CONTENTS] The persons uniting to form such an organization shall, under their hands, make an organization certificate which shall specifically state:

(a) The name assumed by such association, which name shall not be the name of any other bank in this state, nor of any bank heretofore incorporated in the State of North Dakota, or in the Territory of Dakota.

(b) The place where the business of discount and deposit is to be carried on.

(c) The amount of the capital stock and the number of shares into which the same shall be divided.

(d) The names and places of residence of the shareholders and the number of shares held by each of them.

(e) The period at which such bank shall commence and terminate business.

§ 10. CERTIFICATES OF AUTHORITY OF BANKS.]

(a) The organization certificates shall be acknowledged before the clerk of some court of record or a notary public and shall be, together with the acknowledgment thereof, authenticated by the seal of such court or notary. The same shall thereupon be transmitted to the State Banking Board with a request for permission to present the same to the Secretary of State, with application to him for the issuance of a certificate of authority. Upon receiving such organization certificate the board shall cause notice of the application therefor to be published in the official newspaper of the county within which such association is proposed to be established, which notice shall contain a statement of a time and place where the board will hear such application and that any person objecting thereto may appear and show cause why such application should not be approved.

At the time and place so stated, and through any other sources of information at its command, the board shall diligently inquire whether the place where such banking association is proposed to be located is in need of further banking facilities, and whether the proposed association is adapted to the filling of such need, and whether the proposed incorporators are possessed of such character, integrity, reputation and financial standing as shown by a detailed financial statement, that their connection with the banking associations will be beneficial to the public welfare of the community in which such bank is proposed to be established. The board shall hear any reasons advanced by the applicants why they should be permitted to organize the proposed association, and any reasons advanced by any person in opposition thereto why such association should not be permitted to be organized. At the termination of such hearing the board shall make a brief statement in writing of its conclusions whether such association should be permitted to be organized, and if it finds that it should not, stating briefly the reasons why. A copy of such conclusions shall be either indorsed upon or attached to the organization certificate, together with the refusal or grant of permission to be (the) proposed incorporators to present the said organization certificate to the Secretary of State. Provided, however, the determination in favor of such organization must be joined in by all the members of the board.

If the determination of the State Banking Board is in favor of the applicants, the organization certificate and permission of the

board accompanying the same, shall be recorded in the office of the register of deeds in the county where such banking association is to be established, and the same shall be transmitted to the Secretary of State and received by him, and he shall record and carefully preserve it in his office, and certify the facts to the State Banking Board, and issue a certificate of authority to the corporation, which certificate of authority shall be transmitted to and held by the State Examiner until an examination is made and the certificate of the State Examiner or the deputy examiner procured to the effect that the capital stock and required surplus has been paid in full and that all conditions of the law have been strictly complied with. But if the determination of the State Banking Board is against the said application, such organization certificate must not be either recorded in the office of the register of deeds, or, if presented, received by the Secretary of State.

(b) If any part of this section granting powers to the State Banking Board shall be held to be invalid, such part shall not be deemed to have been the inducement to the granting of any other powers, and shall not invalidate the section as to any such other powers.

§ 11. CERTIFICATE AND AUTHORIZATION PUBLISHED.] The association shall cause the organization certificate and the certificate of authority of the Secretary of State, issued under this act, to be published in some newspaper in the city or county where the association is located, for at least four consecutive weeks next after the issuing thereof, proof of such publication to be filed with the State Banking Board.

§ 12. ARTICLES AS EVIDENCE.] A certified copy of the articles of incorporation of any banking association, organized under the provisions of this act, may be used as evidence in all courts for or against any person or such banking association for or against whom such evidence is necessary, whether on civil or criminal trials.

§ 13. POWERS.] Upon making and filing articles of association and an organization certificate, the association shall become, as from the date of the execution of the same, a body corporate, and as such and in the name designated in the certificate, it shall have the power:

(a) To adopt and use a corporate seal.

(b) To have succession for a period of twenty-five years from its organization, unless it is sooner dissolved, according to the provisions of this act, or unless the franchise becomes forfeited by some violation of law.

(c) To make contracts.

(d) To sue and be sued.

(e) To elect or appoint directors, which board shall consist of an uneven number not less than three nor more than eleven, a majority of whom must be residents of the State of North Dakota, and by such board of directors to appoint a president and vice-president, who shall be members of said board, a cashier and such other employees as may be required; define their duties, require bonds of them and fix the penalty thereof; dismiss such officers or any of them, and appoint others to fill their places.

(f) To provide by its board of directors, by-laws not inconsistent with the laws of this state, to regulate the manner in which its stock shall be transferred, its directors elected or appointed, its officers appointed, its property transferred, its business conducted, and the privileges granted it by law exercised and enjoyed; provided, however, vacancies in the board of directors, not exceeding one-third of the whole membership thereof in any calendar year, must be filled by a majority vote of the remaining members.

(g) To exercise by its board of directors, or duly authorized officers or agents, subject to law, all such incidental powers as shall be necessary to carry on the business of banking, by discounting and negotiating promissory notes, bills of exchange, drafts and other evidences of debt, by receiving deposits, by buying and selling exchange, coin and bullion, by loaning money upon real or personal security, or both; but no association shall transact any business, except such as is incidental and necessarily preliminary to its organization, until it has been authorized by the Secretary of State to commence the business of banking, and the Secretary of State may withhold from any association his certificate authorizing the commencement of business whenever he has reason to believe that the shareholders have formed the same for any other than legitimate objects as contemplated by this act.

(h) No such association shall own or carry among its assets at any one time loans dependent wholly upon real estate security in any amount exceeding twenty-five per cent of its total loans and discounts, and then only upon first mortgages constituting first liens thereon and which shall not exceed forty per cent of the actual cash value of the property mortgaged. Before any such loan is made the board of directors shall appoint from among its members a committee which shall make actual inspection of the security offered and shall appraise both the land and the improvements thereon, if any, and shall report to the board of directors in writing the results of such appraisal together with such other facts relating to such proposed loan and proposed security as will best enable the board to determine if such loan shall be granted, and such written report shall be made a matter of permanent record in the bank's files and made available to the State Examiner. No

director shall act as an appraiser of his own property nor of property offered as security for loans the proceeds of which are to be used for his benefit. No such loan shall be made for a longer period than five years. Any mortgage so taken shall be immediately recorded in the office of the register of deeds of the county in which the security is situated, and such mortgage shall provide that the mortgagor will pay taxes and insure the improvements for the benefit of the mortgagee and that in default thereof the mortgagee may pay the taxes and insure the improvements. And before any advance or credit shall be given of or for any part of such intended loan the mortgagor shall deliver to such bank an abstract of title, by a bonded abstracter, to the security offered, which abstract must show the mortgage thereon, and that the title is in the mortgagor, marketable and free of prior lien or encumbrance, and shall also deliver to such bank insurance policies in known reliable companies insuring the building improvements to the amount of their insurance value with mortgage clauses attached thereto payable to such bank or its assigns as mortgagee.

In selling or disposing of said loans so made upon real estate security no such association shall have power to guarantee the payment or collection thereof, and any such guarantee made in violation of this provision shall not be binding on such association but shall be upon the officer or other person making the same.

§ 14. INVESTMENT IN BANKING HOUSE. FURNITURE AND FIXTURES.] It shall be unlawful for any corporation having banking powers and a capital stock of twenty thousand dollars or more, to invest over thirty per cent of such stock and unimpaired surplus in banking house, furniture and fixtures, including the lot, piece or parcel of land on which such banking house is located; provided, that similar corporations with a capital stock of ten thousand dollars and less than fifteen thousand dollars may invest forty per cent of their stock and unimpaired surplus, and those with fifteen thousand dollars and less than twenty thousand dollars stock may invest thirty-five per cent of their capital stock and unimpaired surplus in such banking house, furniture, fixtures, and lot, piece or parcel of land on which such banking house is located.

§ 15. POWERS AS TO OTHER REAL ESTATE.] Every state banking association shall have the power to purchase, hold and convey other real estate as herein provided, and not otherwise:

1st. Such as shall be mortgaged to it in good faith by way of security for loans, or for debts previously contracted;

2nd. Such as shall be conveyed to it in good faith in satisfaction of debts previously contracted in the course of its dealings;

3rd. Such as it shall purchase at sales under judgments, decrees or mortgages held by the corporation, or shall purchase to

secure debts due it; but no banking corporation shall hold the possession of any real estate under mortgage, or title and possession of any real estate purchased to secure indebtedness, for a longer period than five years from date of acquiring title thereto, unless such time has been extended by certificate of the State Examiner.

§ 16. VIOLATION. POWERS. PENALTY.] Any banking corporation violating the provisions of the three preceding sections of this act relating to "Powers" shall at the discretion of the State Banking Board forfeit its charter. Any officer, director, or employee who knowingly violates or permits the violation of any of the provisions hereunder shall be guilty of a misdemeanor.

§ 17. CAPITAL STOCK.] Hereafter no banking association shall be organized under this act with a capital stock of less than fifteen thousand dollars, nor in towns or cities of over one thousand inhabitants with a capital stock of less than twenty thousand dollars; nor, in cities of over two thousand inhabitants, with a capital stock of less than thirty thousand dollars; nor, in cities of over three thousand inhabitants, with a capital stock of less than thirty-five thousand dollars; nor, in cities of over four thousand inhabitants, with a capital stock of less than forty thousand dollars; nor, in cities of over five thousand inhabitants, with a capital stock of less than fifty thousand dollars; and in addition to the capital requirements herein provided for there shall also be subscribed and paid in at time of organization a surplus equal to twenty per cent of such required capital. All of the capital stock and surplus of every such association as herein provided shall be paid in before it shall be authorized to commence business, and evidence of such payment of capital stock and surplus either in actual money or a deposit in a previously approved correspondent bank must be furnished to the State Examiner or deputy examiner before the certificate of authority may be delivered. For the purpose of this section, the population of the city may be determined by using the population shown by the most recent state or national census. No association having been organized to transact business in any city and which may have sold or converted its business to a national bank, or other banking business which is continued at the same place, shall be allowed to remove its charter or its articles of incorporation to, and recommence business at, another place; but where it can be clearly shown that a banking association which has not changed, sold or conveyed its business as hereinbefore recited, is located at a place where there is not sufficient business for the profitable conduct of a bank, such association may apply to the State Banking Board for authority to remove its business to some other place within the state and to change its name if desired; and upon the approval of such application by the State Banking Board and the proper amendment of the articles of incorporation, the board may issue authority for

such removal and change; provided, that no such association shall be allowed to remove its business to any city without having the full amount of capital stock and surplus required by this act for a new organization in such city. A renewal charter shall not be granted until satisfactory evidence has been furnished the State Banking Board that the capital and surplus of the association seeking to renew is increased if necessary to conform with the requirements of this act relating to new banks and that its articles of incorporation have been properly amended and its required capital and surplus paid in.

§ 18. IMPAIRMENT OF CAPITAL. REDUCTION. RESTORED. ASSESSMENT.] Whenever the capital of any state banking association becomes impaired, or the capital stock reduced below the amount required by law or the articles of incorporation, no dividend shall be declared or distribution of profits be made thereafter while any debts of the association remain unsatisfied, and until such impairment or deficiency is made good. Whenever it shall appear that the capital of any state banking association has become impaired, or its capital stock so reduced, the State Examiner shall immediately report the same to the State Banking Board. Such board shall thereupon immediately issue and enforce the necessary order restraining the declaring of dividends and requiring that such impairment or deficiency be made good.

When the capital of any such association shall become impaired or its capital stock so reduced, the board of directors of such association shall have the power, and it shall be its duty, whether ordered by the State Banking Board or not, to immediately make a pro rata assessment upon all the outstanding stock of such association to make good such impairment or deficiency, and to serve notice thereof by registered mail upon each stockholder of record, directed to such stockholder at his address last known to the board. Provided, however, that any such assessment or assessments shall not in the aggregate exceed one hundred per cent of the face value of such stock in the first year and not to exceed 25% in any succeeding year. Such notice shall specify the date on which such assessment shall be due and payable, which date shall not be less than ten nor more than thirty days after the date of mailing such notice of assessment.

Whenever the capital of any such association shall be impaired, or its capital stock reduced below the amount required by law or its articles of incorporation, such impairment must be made good and the capital stock must be restored to the amount required by law and its articles of incorporation, within sixty days thereafter, otherwise the State Examiner may forthwith, upon the order or direction of the State Banking Board, take charge of such state banking association and proceed to liquidate the same as in case of insolvency.

§ 19. IMPAIRMENT. NOTICE TO EXAMINER. MISDEMEANOR.]

It shall be the duty of the president, cashier, or other officer in active charge of any state banking association to immediately notify the State Examiner by registered mail of any impairment of capital or reduction of capital stock thereof, and any such officer failing so to do shall be guilty of a misdemeanor.

§ 20. CAPITAL STOCK. HOW INCREASED OR REDUCED.]

(a) Any association formed under this act may, by its articles of association, or by subsequent resolution, or written agreement of the holders of a majority of its stock, provide for an increase of its capital stock from time to time as may be deemed expedient, subject to the limitations of this act, and upon approval of the State Banking Board. But no increase of capital stock shall be valid until the whole amount shall be paid in cash, and such payment certified under oath by the president or cashier of such association to the Secretary of State, who shall give his certificate that the provisions of this section have been complied with, and specifying therein the amount of such increase in capital stock, and that it has been duly paid in as part of the capital thereof, nor until a copy of such certificate shall be filed with the State Banking Board.

(b) Any association formed under this act may, by vote of its shareholders owning two-thirds of its stock reduce its capital to any sum not below the amount required by this act to authorize the formation of the association, but no such reduction shall be made until the amount of the proposed reduction is reported to the State Banking Board and its approval thereof obtained in writing, and no such reduction shall be construed as affecting the liability of shareholders for any debts of the association incurred prior to such reduction. Every such reduction before the same shall become valid must be certified to and a copy of the certificate filed in the same manner as for an increase of capital stock.

(c) Notice of the time and place of meeting, stating its object and the amount to which it is proposed to increase or diminish its capital stock must be personally served on each stockholder resident in the state, sixty days prior to the time of such meeting, at his place of residence, if known; and such notice must be given to stockholders whose place of residence is unknown or who are not residents in the state by the publication of such notice in a newspaper published in the county where the principal office of the association is situated, not less than once a week for sixty days prior to such meeting. No vote in favor of such increase shall take effect until the proceedings of such meeting, showing the names of all of the stockholders voting therefor and the amount of stock owned by each, shall be entered upon the records of such corporation.

(d) If all of the stockholders of such association agree in writing to such increase or reduction in capital stock, then no meeting need be called for the purpose of effecting such increase or reduction, but the directors shall file such agreement in writing with the Secretary of State together with the further certificate hereinbefore provided for, and the Secretary of State shall thereupon issue his certificate that the provisions of this section have been complied with.

§ 21. SHARES. VALUE. LIABILITY OF SHAREHOLDERS.] The capital stock of each state banking association shall be divided into shares of one hundred dollars each, and be deemed personal property and transferable on the books of the association in such manner as may be prescribed by the by-laws or articles of such association; provided, however, that all qualifying shares issued to a director of the association shall be issued in a separate certificate or certificates which shall have legibly marked in ink across the face thereof the words "director's qualifying shares," which shares during the whole time that such director shall continue in office as a director shall remain in the custody of the State Examiner to whom they shall be sent with such director's oath of office and shall not be subject to transfer, pledge or hypothecation in any manner or to any extent whatsoever until a written resignation of such director shall have been filed with and accepted by the board of directors or such director becomes otherwise disqualified; upon the resignation or disqualification of any director, such qualifying shares shall be returned to the owner and shall upon demand be reissued in the name of the owner, his assigns, or his legal representatives; but no transfer of any stock shall be valid against the bank or any creditor thereof so long as the registered holder of such stock shall, as principal debtor, surety, guarantor, or otherwise, be indebted to the bank; nor in any case shall any dividend, interest or profit be paid on such stock as long as any past due and unpaid liability of the shareholder continues, but such dividend, interest or profit shall be retained by such bank and applied to the discharge of such past due and unpaid liability. Every person or corporation becoming a shareholder by such transfer shall in proportion to his shares succeed to all rights and liabilities of prior holders of such shares existing by reason of ownership thereof, and no change shall be made in the articles of incorporation or by-laws by which the rights, remedies or security of the existing creditors of the association shall be impaired.

§ 22. RESPONSIBILITY OF SHAREHOLDERS.] The shareholders of every association organized under this act shall be individually responsible, equally and ratably, and not one for another, for all contracts, debts and engagements of such association made or entered into to the extent of the amount of his stock therein at the par value thereof, in addition to the amount invested in and due

on such shares. Such individual liability shall continue for one year after the recording on the books of the association of any transfer or sale of stock by any stockholder or stockholders.

§ 23. DELINQUENT STOCK. HOW SOLD.] Whenever any shareholder or his assignee fails to pay any assessment on the stock when the same is required to be paid, the directors of such association may sell at the best price obtainable so much of said stock as is necessary to pay such assessment and costs of such sale, at public or private sale as appears to them best for all concerned, on a day certain, not less than thirty days after the day fixed for payment of such assessment; notice of time and place of which sale shall be given to the stockholder as follows, viz: in event of private sale, by forwarding such notice to the person or persons in whose name the stock stands in the association stock book, by registered mail to such stockholder's last address known to the board of directors and at least twenty days prior to the date thereof; and, in event of public sale, by one publication of a notice thereof in a newspaper published and in general circulation in the city or county where the association is located, not less than twenty days prior to such sale. Any proceeds of such sale remaining after the said assessment and expenses of sale have been fully paid shall be thereupon paid over to the said shareholder or his assignee or pledgee; and such sale of stock, as herein provided, shall effect an absolute cancellation of such outstanding certificate or certificates in the hands of such delinquent shareholder, his assignee or pledgee, and a new certificate shall be issued and delivered by the bank to the purchaser thereof for the number of shares purchased, and a new certificate for the remaining shares, if any, issued to the said stockholder, and delivered to him, his assignee or pledgee, upon the surrender of the original certificate or certificates involved; provided, however, that if no bidder appears at the time and place of sale who will pay for the stock the amount due to the association thereon together with costs and expenses of sale, then no sale shall be made and any amounts previously paid therefor or thereon shall be forfeited to the association together with the total number of said shares and the association shall proceed forthwith to cancel such shares upon its books and records, deduct such from the capital stock thereof, and immediately notify the State Examiner of such cancellation. Such forfeiture and cancellation shall not impair the right of the association to take such further action as to it seems best to recover the amount of such assessment from such delinquent shareholder. Where, following such sale or cancellation, the record of such stock book is completed accordingly, such record shall be prima facie evidence of the regularity of the proceedings of such sale or cancellation.

§ 24. LOANS ON SHARES PROHIBITED.] No association shall make any loan or discount on the security of the shares of its own

stock, nor be the purchaser or holder of any such shares, unless such security or purchase shall be necessary to prevent loss upon a debt previously contracted in good faith, and stock so purchased shall within thirty days be sold or disposed of at public or private sale. If such stock is not sold within the period last herein provided, the same shall be cancelled and deducted from the capital stock of said association.

§ 25. LIST OF SHAREHOLDERS TO BE KEPT AND FILED.] The president, or cashier of every bank formed pursuant to the provisions of this Act, shall at all times keep a true and correct list of the names and postoffice addresses—which addresses shall be verified every six months—of all shareholders of such bank, with the amount of stock held by each, the time of transfer and to whom transferred, and shall file a copy of such list in the office of the county auditor and in the office of the State Examiner on the first Monday of January and July in each year.

§ 26. DIRECTORS. QUALIFICATIONS OF.] Every director must own in his own right, free from hypothecation or pledge for any debt, at least ten shares of capital stock of the association of which he is a director, which said shares shall be known as “director’s qualifying shares” and shall be issued and placed in charge of the State Examiner; any director who ceases to be the owner of ten shares of the stock \*(free) and non-hypothecated, or who becomes in any manner disqualified shall thereupon vacate his office. Every such director when elected or appointed shall take an oath that he will, so far as the duty devolves upon him, diligently and honestly administer the affairs of such association, that he will not knowingly violate or willingly permit to be violated, any of the provisions of this Act, that he is a bona fide owner of the number of shares of stock required by this Act to become a director, standing in his own name on the books of the association, and that said stock is in his possession and control or in the possession of the State Examiner and is not hypothecated or in any way pledged as security for any debt. Such oath, subscribed by the director making it, and certified by the office before whom it was taken, together with such qualifying shares, unless such shares are already on file with the State Examiner, shall at once be transmitted to the State Examiner to be filed in his office.

§ 27. DIRECTORS. SEMI-ANNUAL EXAMINATION. REPORT.] It shall be the duty of the board of directors in January and July of each year to make a careful and thorough examination of the assets of the bank, examine stock, checks, certificates of deposit and cashier’s checks, count cash, examine loans and discounts of every nature, with the securities and collaterals belonging thereto, compare

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\*Word “(free)” appears in original bill but was evidently omitted inadvertently from enrolled law. It has been inserted to assist in showing probable intent of legislature.

the aggregate with the records and make a complete report of such examination in such form as may be designated by the State Banking Board, with suggestions and criticisms, if in their judgment such are necessary, which report shall be spread on the records of the bank the same as the minutes of a regular meeting of the board of directors, and a duplicate thereof transmitted to the State Banking Board.

§ 28. REPORTS. REGULAR AND SPECIAL. PUBLICATION. PENALTY.] Every state banking association, shall make three or more reports each year to the State Examiner, the number to be determined by the State Banking Board, in such form as the State Banking Board shall prescribe; such forms to be as nearly as possible like those prescribed by the Comptroller of the Currency for similar reports for national banks. Such reports shall exhibit in detail, under appropriate heads, the resources and liabilities of the association at the close of the business on a past day by him specified, which shall if practicable, be the same day for which similar reports are required from national banking associations within the state by the Comptroller of the Currency of the United States. Each report must be verified by the oath of the president or the cashier, and attested as correct by at least two of the directors, and must be transmitted to the State Examiner within seven days after receipt of the request for the same, and an abstract of not less than three of such reports in a form prescribed by the board, shall be published, at the expense of the association, in some newspaper in the city, town or village where such bank is located, and in case there is no such newspaper, then in a legal newspaper of the county in which such association is located. The State Banking Board shall also call for a special report from any association whenever in its judgment the same is necessary in order to obtain full and complete knowledge of its condition. Every association which fails to make and transmit any report required in pursuance of this section, shall forfeit and pay to the state a penalty of two hundred dollars for each delinquency.

§ 29. OATHS, BONDS, OFFICERS AND EMPLOYEES.]

(a) Every active officer of any state banking association organized under this Act shall, before entering upon the duties of his office, take and subscribe an oath that he will so far as the duty devolves upon him, diligently and honestly administer the affairs of such association, and that he will not knowingly violate, or willingly permit to be violated any of the provisions of this Act. All such oaths shall be presented to the board of directors and a synopsis thereof recorded in the directors' record and then filed with the State Banking Board.

(b) All officers and employees of any state banking association shall, before entering upon their duties, furnish a good and sufficient bond to the association in such sum and upon such conditions as may be required by the board of directors in keeping with

rules and regulations relative thereto established by the State Banking Board. All such bonds shall be approved by the board of directors of such association and shall be subject to the approval of the State Banking Board. A record of the approval of such bonds by the board of directors of such association shall be made on the records of the bank, and such bonds shall be filed with the State Banking Board. Stockholders of such banks shall not be eligible as bondsmen for such officers.

§ 30. RESERVE FUND.] Each banking association shall at all times have on hand in available funds an amount which shall equal twenty per cent of its demand deposits and amounts due to other banks and ten per cent of its time deposits; three-fifths of this amount may consist of balances due to the association from the Bank of North Dakota, or good solvent state or national banks or trust companies approved by the State Banking Board for such purposes, and located in such commercial centers as will facilitate the purposes of banking exchanges, and the remaining two-fifths of such reserve shall consist of actual cash on hand; cash items shall not be included in computing reserve, and no association shall carry as cash, or cash items, any paper or other matter except legitimate bank exchange which will be cleared on the same or next succeeding day. Provided, however, that any state banking association with the permission of the State Banking Board may carry not to exceed one-fourth of its legal reserve in United States Certificates of Indebtedness, United States bonds, North Dakota land series bonds, Bank of North Dakota bonds, and North Dakota Mill and Elevator bonds. Whenever the available funds within the meaning of this Section shall be below the requirements hereinbefore stated, such association shall not increase its liabilities by making any new loans or discounts other than by discounting or purchasing bills of exchange, payable at sight, or make any dividend of its profits until the required proportion between the aggregate amount of the deposits and its lawful money reserve has been restored and the State Banking Board must notify any association whose lawful money reserve shall be below the amount required to be kept on hand to make good such reserve and if such association shall fail to do so for a period of thirty days after such notice, the State Banking Board may impose a penalty of not less than one hundred dollars or more than five hundred dollars which shall be collected in the same manner as other penalties prescribed in this Act.

§ 31. SURPLUS FUNDS. DIVIDENDS.]

(a) Every banking association doing business shall semi-annually, or annually, as its governing board shall deem advisable, ascertain and set apart and convert into a surplus fund at least fifty per cent of its net earnings until such surplus shall equal one hundred per cent of its capital stock, and no dividend shall be declared upon its stock except from the remaining fifty per cent of its net earnings.

Such surplus is intended to strengthen the banking associations of the state and safe-guard the depositors and it shall, therefore, be exempt from taxation and not taken into account in determining the taxable value of the shares of stock of banking associations.

(b) If at any time the surplus of a banking association, shall fall below the highest point it shall have theretofore attained, no dividends shall be declared on the capital stock until such surplus has been restored to such highest point, and until it is so restored all of the net earnings shall be converted into such surplus fund.

§ 32. DIVIDENDS PROHIBITED WHEN. BAD DEBTS.] No association nor any officer thereof shall, during the time it shall continue its banking operations, withdraw or permit to be withdrawn, either in form of dividends or otherwise, any portion of its capital. If losses have at any time been sustained by such association, equal to or exceeding its undivided profits then on hand, no dividend shall be made; and no dividend shall be made by any association while it continues its banking business to an amount greater than its net profits on hand, deducting therefrom its losses and bad debts. All debts due to an association made or continued in violation of any of the provisions of this Act, shall be considered bad debts within the meaning of this Section, and the State Banking Board is empowered, and it is made the duty of such Board, to ascertain and designate such bad debts, to make and enforce such orders and to institute such proceedings as may be deemed necessary to dispose of the same or to convert them into good assets.

§ 33. ASSETS NOT TO BE USED IN OTHER BUSINESS. EXCEPTION. MISDEMEANOR.] No bank, except as in this section specifically authorized, shall as principal employ its money or other of its assets, directly or indirectly, in trade or commerce, nor employ or invest any of its assets or funds in the stock of any corporation, bank, partnership, firm or association. nor shall it invest any of its assets in speculative margins of stock, bonds, grain, provisions, produce or other commodities, except that it shall be lawful for banks to make advances for grain or other products in store or in transit to market; provided, nevertheless, that this Section shall not be construed as in any way preventing a bank from investing such part of its funds in stock of the Federal Reserve Bank of this district as may be necessary to become a member of the Federal Reserve Association and from carrying such stock among its assets; and provided further, that any bank now or hereafter organized and doing business under the laws of this state is hereby authorized and empowered, under such rules and regulations as may be prescribed by the State Banking Board, to invest in the capital stock of any agricultural credit corporation which is organized under the laws of this state, and which agrees to subject itself to examination by the State

Examiner of this state as hereinafter provided and which said agricultural credit corporation is entitled to discount privileges with the Federal Intermediate Credit Bank of St. Paul, Minnesota, under the following conditions, to-wit:

1st. The amount of such investment shall at no time exceed the sum of ten thousand dollars.

2nd. Before any such bank shall make such investment it shall make application to the State Banking Board furnishing such information as shall be required by said Board. If said State Banking Board, in its discretion, approve such application it shall notify such bank specifying the amount of investment authorized.

3rd. The majority of the stock and the control of such corporation shall at all times be held and retained by any such bank.

4th: All such agricultural credit corporations shall be subject to examination by the State Examiner at the times and in the manner now or hereafter provided by law for the examination of banks, shall make annual reports to said Examiner upon forms prescribed by him, and shall comply with such requirements, rules and regulations as may be prescribed by the State Banking Board.

5th. No bank shall, directly or indirectly, make, purchase or own any loan or obligation of any person, firm or corporation which is the debtor of any agricultural credit corporation in which said bank is a stockholder, and which loan or obligation is secured in whole or in part by any property pledged or given as security for the loan or obligation of such debtor to such agricultural credit corporation.

Any officer, director or employee of any such investing bank who shall violate any of the provisions of this Section shall be guilty of a misdemeanor.

§ 34. BORROWING. RE-DISCOUNTING. RE-PURCHASING. PLEDGING. FORECLOSURE. REDEMPTION. PENALTY.]

(a) UNLAWFUL RE-DISCOUNTS, BORROWING, PLEDGING, VOID. No state banking association shall, directly or indirectly, make any re-discount, or contract to borrow, or borrow money, or pledge or hypothecate, or contract to pledge or hypothecate any of its assets except in accordance with the provisions of this Section.

Any contract to borrow money, any pledge or hypothecation of any of its assets, or the sale of any of its pledged assets by any state banking association, made in violation of this Section shall be null and void, and of no force and effect, and shall not be binding on any of the parties affected thereby.

(b) BORROWING, NORMAL AND EMERGENCY. LIMITATIONS. Any state banking association shall have power to contract for and to borrow money as follows:

1. A sum equal to twenty per centum of its deposits without the prior authorization therefor by the State Examiner.

2. A sum in excess of the preceding limitation only after prior authorization by the State Examiner, granted upon the application of such banking association, for the following purposes only: restoring depleted legal reserve, or in anticipation of such depletion within thirty (30) days; to protect the assets of such bank; to avert any other actual or imminent emergency which, in the judgment of the State Examiner, would be dangerous to the interest of such bank, or its depositors and other creditors.

Such authorization shall be granted by the State Examiner only after examination by him of the affairs of such banking association, and such authorization shall be granted and exercised under rules and regulations adopted, and orders prescribed, by the State Banking Board.

(c) BORROWING BY BANK. AUTHORIZATION. RECORD. Every state banking association shall, prior to the borrowing of money, or rediscounting with endorsement, receive approval by action of its board of directors, to be evidenced by resolution recorded upon its minute book, and no banking association shall have power to contract and to pledge or hypothecate any of its assets without resolution of its board of directors authorizing the same, spread upon its minute book, and each proposed loan, either with or without security, or re-discount with endorsement, shall be acted upon separately by such board. Instruments evidencing such loans, pledges and hypothecations and endorsement upon re-discounts, shall be executed by the officer or officers designated in such resolution, and all such loans and rediscounts shall immediately be entered and carried upon the account books and records of the association as bills payable, or re-discounts, as the case may be. Copies of such minutes, books and records authenticated by the oath of an officer of such association shall be sufficient to support such loan, re-discount or pledge. A complete record and description of the pledged assets and re-discounts shall be entered and maintained by such banking associations in a book devoted to the purpose, the form of which shall be prescribed by the State Examiner.

(d) RE-DISCOUNTS. RE-PURCHASING. LIMITATIONS. In addition to its power to borrow as herein prescribed, any state banking association shall have power to incur liability in an amount equal to ten per centum of its deposits, upon endorsement of notes and bills re-discounted, but it shall have no power to incur any obligation or liability to re-purchase loans and discounts, bills receivable or other assets disposed of by it.

The State Examiner, under rules and regulations prescribed by the State Banking Board, shall have power to increase the limit of liability upon endorsements by such state banking associations upon

notes and bills re-discounted as in his judgment seems best. The discount of bills of exchange, drawn in good faith against agricultural products, raw or manufactured, and other commodities of trade in transit, shall not come within the provisions hereof.

(e) PLEDGE. RATIO TO ASSETS. It shall be unlawful for any state banking association to pledge or hypothecate more than one and one-half dollars of the face value of any of its assets for each one dollar of money borrowed, excepting for money borrowed upon authorization of the State Examiner who shall fix the amount and kind of assets which may be pledged or hypothecated for such purpose.

(f) PLEDGEE. POWERS. Holders of pledged or hypothecated notes or other evidence of indebtedness pledged by state banking associations shall have the right to collect and enforce payment, and to renew or extend the time of payment thereof, (if no endorser, guarantor or joint maker be, by reason of such renewal, released thereby,) and provided that such extension is for a period of not longer than fifteen months, and to accept from makers of such pledged or hypothecated notes and other evidences of indebtedness, security or additional security for the payment thereof, and upon payment in full by any maker to give and execute discharges and releases of instruments and securities, and shall have the power to sell, assign and transfer any note with the security therefor so pledged, upon payment of the full amount due thereon from the maker. The pledgee shall be entitled to be reimbursed out of the pledged assets, or the proceeds of the sale thereof, for his reasonable and necessary expenses incurred and expended in collecting, renewing, securing and otherwise protecting the assets pledged or hypothecated to him.

(g) PLEDGE. FORECLOSURE. CLOSED BANKS.

(1) Other than provided by subdivision (2) hereof no pledge contracts authorized hereby, shall be foreclosed except by an action in equity, brought in the district court of the county in which the pledgor association is located, and the receiver of any such banking association shall have the right to enjoin any foreclosure under subdivision (2) of this section, of any such pledge contracts, and to require such foreclosure to be by action in equity, where there is a defense or counterclaim to the debt secured, or the pledge contract.

(2) In case of default by the pledgor association, in the hands of a receiver, after demand for and neglect of payment, the pledgee shall have the right in lieu of foreclosure by the action in equity provided in subdivision (1) hereof to apply to a judge of the district court for the county within which the closed bank is situated for an order authorizing the foreclosure and sale of the pledge. Fifteen days notice of such application shall be given by personal service or registered mail to the State Examiner and to the receiver of the closed pledgor association.

The State Examiner, or receiver, or any of the depositors or other creditors of such closed bank may contest the granting of such order. Such order shall not be granted unless it appear by competent evidence that all reasonable efforts for the collection of the pledged paper have been made, and that there is no reasonable probability of further collection thereof within a reasonable period, and at reasonable expense, nor unless it shall appear that it is to the best interest of the pledgee, the said closed bank or its successor, or receiver, and the depositors and creditors thereof that such foreclosure and sale shall be had. The order for foreclosure and sale shall direct the sheriff of the county to make the sale, and the notice to be given thereof, and the newspaper wherein such notice shall be published, which notice shall not be less than fifteen days, and shall be served personally or by registered mail upon the State Examiner, and the receiver, and by publication for at least two successive weeks prior to the sale. All sales shall be made at the front door of the court house of the county within which said pledgor association is situated, beginning at the hour of two o'clock in the afternoon of the day specified, separately, article by article, for cash, to the highest bidder. Any amount received from said sale over and above the amount of the debt secured, plus costs and expenses of said sale allowed by law, shall be paid to the receiver, upon confirmation of the sale. Within five days after the sale the sheriff shall report the same in detail to the clerk of the district court, and file a copy thereof with the State Examiner and the receiver. The pledgee may purchase at such sale, and upon confirmation the amount of such bid, less the costs and expenses allowed by law, shall be credited upon the debt secured.

(h) REDEMPTION. The possession of the property sold and of the proceeds thereof, shall be retained by the sheriff unless the court otherwise directs, until the expiration of the redemption period herein prescribed, whereupon, and upon the confirmation of the sale the same shall be delivered to the persons entitled thereto. At any time within fifteen days after the sale the receiver may give notice to the sheriff of his intention to redeem therefrom and shall have the full period of five days thereafter to redeem by paying to the sheriff the amount paid by the purchaser; such redemption may be made of any or all of the articles sold. Redemptions may also be made by depositors or other creditors within ten days after such sale by depositing with the sheriff the amount paid by the purchaser, and by serving notice of such redemption upon the receiver and the sheriff, which said notice shall state the amount which such redemptioner will credit upon his debt for the privilege of redeeming from the purchaser. Notice of redemption may be given by more than one creditor for any one note or other article, and the creditor offering the largest credit upon his debt shall be awarded the right of redemption. Provided, however, that the receiver's right of redemption shall be superior to all other redemption rights. A redemption

vests in the redemptioner or receiver the title to said note or other articles upon confirmation of the sale as provided herein. Report of the sale and of the redemptions thereunder shall be made to the court by the sheriff within thirty days after the sale, and the court may order hearing thereon, with such notice as it may deem proper, not exceeding twenty days and upon such hearing shall have power, either to confirm or set aside the sale, or to order a new sale, or to direct such other proceedings as may seem to the best interests of the pledgee, the banking association, its successor, receiver, its depositors and creditors, and thereupon all documents arising from proceedings hereunder shall be filed with the clerk of the district court. Under the confirmation of the sale, out of the proceeds thereof the pledgee shall be reimbursed for the costs and disbursements paid and incurred in connection therewith, including a reasonable attorney's fee, not exceeding fifty dollars, to be allowed by the court in the order of confirmation; sheriff shall receive the same fees and commissions allowed him in the foreclosure of chattel mortgages, not exceeding fifteen dollars; the remainder of such proceeds shall be applied upon the debt secured, upon which debt interest shall be computed to the date of such payment, and any residue shall be paid to the receiver. During the period of foreclosure and redemption any debtor may pay upon his debt to the person having custody of such pledged collateral, which person is hereby authorized to receipt to the person paying, and upon full payment to release and discharge such debt and surrender the evidence thereof.

(i) VIOLATIONS. FELONY. ACCESSORY. Any officer, director, agent or employee of any state banking association who shall borrow money for, or on behalf of, or in the name of any such state banking association, or who shall obligate any such state banking association upon re-discounts, or who shall pledge or hypothecate any of the assets of such state banking association in violation of the provisions of this Section, and any person who shall counsel, aid or abet, or conspire with, or be accessory thereto, shall be guilty of a felony.

§ 35. LOAN. LIMIT TO ONE CONCERN.] The total liability to any state banking association of any person, corporation, company or firm, including in the liabilities of the firm the liabilities of the several members thereof for money borrowed and paper of the same parties as makers thereof purchased, shall not at any time exceed ten per cent of the unimpaired capital and surplus of such association, provided, however, that with the consent and approval of the State Examiner, such liability may be increased to an amount not exceeding fifteen per cent of such capital and surplus, and provided further, that for the purpose of this section the head of a family and all dependent members thereof shall be regarded as one person and the total liability of the members of such family shall be so limited; but the discount of bills of exchange drawn in good faith

against actual existing values, or loans secured by bills of lading upon produce in transit, or loans secured by bonded warehouse receipts or elevator storage tickets covering produce actually in store shall not be considered as money borrowed, providing that all paper relating to such transactions be made payable to, and such paper and security therefor be and remain in the possession and control of, such association until the advance or debt be paid, and such association may discount commercial or business paper actually owned by the person negotiating same without it being deemed an addition to the loan to said negotiator; provided however, that any loan made prior to the taking effect of this Act, which was not excessive when made, and any renewal of such loan for the same or a lesser amount, shall not be deemed contrary to the provisions of this section.

§ 36. LOANS. CERTAIN PERSONS. CONDITIONS. RESTRICTIONS. PENALTY.] No director, officer or employee of any state banking association of this state, nor the State Examiner, his deputies or any employee of such State Examiner's department, shall be permitted to borrow any of the funds of any state banking association, upon his own note or obligation, whether secured or unsecured, without first obtaining the approval of a majority of the board of directors of said banking association, excluding from such majority any directors whose application is to be acted upon; and no action, upon any loan herein provided for, shall be taken by the board in the presence of the applicant; and provided further, that no loan to a director or officer in excess of one thousand (\$1000.00) dollars shall be made without first obtaining the written consent of the State Examiner. Every loan, provided for herein, shall be upon like and equal security required of other borrowers and be in strict conformity with the association's rules and regulations. No director, officer, or employee of a bank shall sell to such bank directly or indirectly any mortgage, bond, note, stock or other property whatsoever without first obtaining the written approval of the board of directors, and where the amount of any such to be so sold exceeds the amount of one thousand (\$1000.00) dollars the written approval of the State Examiner also; and the action of the board of directors in connection with loans and discounts to be by it so approved, and the written approval of the State Examiner where such is necessary as herein provided, shall be made a matter of permanent record in the minute book of said banking association. Provided, further, that any shareholder, officer, or director of any banking association who shall knowingly violate the provisions of this Act shall be held liable in his person (personal) and individual capacity for all loss or damage which the association or any person shall sustain in consequence thereof and be deemed guilty of a misdemeanor.

§ 37. UNLAWFUL LOANS. PENALTY. MISDEMEANOR.] Whenever a state banking association shall allow any person, co-partnership or corporation to become indebted to it, directly or indirectly, in excess of the amount exclusive of interest permitted by

the laws of this state, the officer, director or employe thereof wilfully permitting or approving such loan shall be guilty of a misdemeanor and in addition thereto shall be personally liable to the association for the amount of such loan in excess of the statutory limit.

§ 38. UNAUTHORIZED LOANS NOT INVALID.] Nothing in the last section shall render any loan made by the directors of any such corporation in violation thereof, invalid.

§ 39. INTEREST ON LOANS. RATE OF.] Such association may demand and receive for loans on personal security, or for notes, bills or other evidences of debt, discounted, such rate of interest as may be agreed upon, not exceeding the amount authorized by law to be contracted for, and it shall be lawful to receive such interest according to the ordinary usage of banking associations and for not more than one year in advance.

§ 40. DEPOSITS. INTEREST ON. RATE.] No state banking association organized and existing under this Act shall pay interest on deposits, directly or indirectly, at a greater rate than four per cent per annum, unless authorized by the State Banking Board to pay a greater rate, which in no case shall exceed six per cent per annum; and said State Banking Board is hereby authorized and empowered to grant permission to pay such higher rate; provided, that the rate so granted shall be uniform within any county.

Any officer, director or employee of such association violating the provisions of this Section, directly or indirectly, shall be deemed guilty of a misdemeanor.

§ 41. DEPOSITS, UNLAWFUL TO APPROPRIATE, LIABILITY FOR.]

(a) It shall be unlawful for any banking association, with which money has been deposited, to charge against the deposit any claim of such banking association or any other person, or to appropriate the same to the payment of any debt to such banking association or any other person, without legal process or without the consent of the depositor.

(b) Any banking association which shall so charge any claim against a deposit or in any way appropriate the same to the payment of a debt of the depositor, in violation of the terms hereof, shall be liable to the party aggrieved for any damages caused thereby to be recovered in a civil action.

§ 42. DEPOSITS BY EXECUTORS, MINORS, ETC.] Deposits made by a person as executor, administrator or guardian, or in any other official position, with any banking association, shall be payable to him as such officer, or if personally made by a minor, shall be paid to him, although he has no guardian, or if he has a guardian, it shall not be necessary to obtain his consent to such payment, but a check, receipt of acquittance, signed by such minor therefor shall

be valid and binding. If made by any corporation, association or society, payment shall be made to any person authorized by its board of directors or trustees to receive the same.

§ 43. DEPOSITS IN TRUST; TO WHOM PAID.] Whenever any deposits shall be made with any banking association by any person in trust for another and no other or further notice of the existence and terms of a legal and valid trust shall have been given in writing to the bank in the event of the death of the trustee, the same, or any part thereof, together with the dividends or interest thereon, may be paid to the person for whom said deposit was made.

§ 44. DEPOSITS IN TWO NAMES: TO WHOM PAID.] When a deposit has been made or shall hereafter be made with any banking association, transacting business in this state, in the name of two persons, payable to either, or payable to either or the survivor, such deposit, or any part thereof, or any interest or dividend thereon, may be paid to either of said persons, whether the other be living or not; and the receipt or acquittance of the person so paid shall be a valid and sufficient release and discharge to such banking association, for any payment so made.

§ 45. OVERDRAFTS. PENALTY.] Any bank officer or employee who shall pay out the funds of any bank upon the check, order or draft of any individual, firm, corporation or association, which has not on deposit with such bank a sum equal to such check, order or draft, shall be personally liable to such bank for the amount so paid.

§ 46. OVERDRAFT, BANK OFFICER, EMPLOYEE.] Every officer, agent, teller, clerk, or servant of any bank, banking association or savings bank, who knowingly overdraws his account with such bank, and thereby wrongfully obtains money, notes or funds of such bank, is guilty of a misdemeanor.

§ 47. INSOLVENT BANK OR OFFICER RECEIVING DEPOSIT. FELONY.] No banking association shall accept or receive on deposit, with or without interest, any moneys, bank bills or notes, or United States notes or United States treasury notes or currency or other notes, bills or drafts circulating as money or currency, when such banking association is insolvent; and if any such banking association shall receive or accept on deposit any such deposits as aforesaid when insolvent, any officer, director, cashier, manager, member, party or managing party thereof, knowing of such insolvency, who shall knowingly receive or accept, be accessory or permit or connive at the receiving or accepting on deposit therein or thereby any such deposit as aforesaid, shall be guilty of a felony.

§ 48. SECURED SAVINGS DEPOSITS.]

(a) ESTABLISHED. LIMIT OF AMOUNT. INTEREST. Any banking association may establish a class of deposits to be known as

"Secured Savings Deposits," which shall not exceed in amount for any one depositor the sum of five hundred dollars. Interest thereon shall not be promised or paid, either directly or indirectly, to such depositor in excess of two and one-half per cent per annum, but the same may be compounded quarterly or semi-annually.

Such banks shall maintain and keep as cash reserve an amount which shall equal ten per cent of its total Secured Savings Deposits, four-fifths of which amount shall, as nearly as practicable, consist of balances due from reserve agents to be approved by the State Banking Board, and carried in the name of such bank in an account entitled "Secured Savings Account of.....Bank of....., N. Dak.," and as nearly as practicable, not exceeding one-fifth of such reserve provided for herein may be kept in another department of such bank.

(b) INVESTMENTS RESTRICTED. Any bank having Secured Savings Deposits shall invest the deposits received in such department only in bonds or certificates of indebtedness of the United States, the State of North Dakota, any county or school district within the state, or such other political subdivisions of the state, the bonds and certificates of indebtedness of which may, from time to time, be approved for investment of such deposits by the State Banking Board.

(c) RESERVE AND INVESTMENTS TO BE KEPT SEPARATE. PLEDGING OR LOANING OF ASSETS PROHIBITED. The reserve, bonds and investments belonging to the Secured Savings Department of any such bank shall be kept separate and apart from the other reserves, bonds, investments, loans and discounts of the bank, and shall be applicable only to the repayment of such Secured Savings Deposits, and shall not be pledged, loaned or hypothecated as security for loans of such bank or otherwise, excepting as permitted by subdivision (a).

(d) PROTECTION REMOVED WHERE HIGHER INTEREST RATE PAID TO DEPOSITORS. The protection provided for depositors hereunder shall not apply to a depositor who accepts, either directly or indirectly or by whatever device, interest or compensation upon such deposit of a higher rate than provided herein, but he shall in such event be treated and considered as a common creditor of such bank.

(e) FIRST LIEN ON BANK'S GENERAL ASSETS. EXCEPTION. The amount of the cash reserve standing to the credit of the Secured Savings Department in any such bank shall be, and is hereby declared to be, secured by a first and paramount lien upon the assets of such bank in favor of such Secured Savings Depositors, save and except funds deposited in such institution belonging to the estate of any insolvent bank, deposited therein by the receiver or other person officially in charge, which shall have preference over all other claims. In the event of the closing of any bank having Secured Savings Deposits, if it shall appear that such deposits or investments have been wrongfully mingled with the other assets of such bank,

or, except as otherwise hereinbefore provided, that such reserves and investments have not been maintained separately, but have been unlawfully co-mingled, such Secured Savings Deposits shall be deemed to be especially secured by a first and paramount lien upon all the other assets of such bank as herein provided for.

(f) DEPOSITS. NOTICE OF WITHDRAWAL. RULE AND REGULATIONS TO RECEIVE APPROVAL OF STATE BANKING BOARD. Deposits received under the provisions hereof shall be paid to the order of the depositor or his representative and shall be kept, maintained and paid out, with interest as herein provided for, under such rules and regulations as the board of directors from time to time prescribe, not inconsistent with the provisions hereof and of the banking laws of the state, and shall be effective upon approval of the State Banking Board, and which shall be printed in a pass book furnished the depositor, and also conspicuously posted in the lobby of the bank in some place accessible and visible to all, and no changes which may at any time be made in such rules and regulations affecting the rights of depositors acquired previously thereto in respect to the deposits or interest thereon shall be operative until approved by the State Banking Board nor until sixty days after the posting of such change; provided, however, that in order to prevent loss to the depositor, by enforced sale of securities below their real value, it shall be lawful for the directors in their discretion, to require notice of one week before the withdrawal of any part of any Secured Savings Deposit of more than twenty dollars and not exceeding one hundred dollars; of two weeks before the withdrawal of any part of any deposit of more than one hundred dollars and not exceeding two hundred fifty dollars; of three weeks before the withdrawal of any part of any deposit of more than two hundred fifty dollars and not exceeding five hundred dollars, and in cases where the deposit has been made on a certificate for a definite time and the depositor fails to withdraw the same within ten days after such definite time, then notice of withdrawal may be required as prescribed above, and provided, further, that the directors of any such bank may, with the written consent of the State Banking Board, and shall, at its direction, make any changes deemed necessary in regard to the notices heretofore required to be given by the depositors for the withdrawal of their deposits, by extending the time that notice shall be given by any depositor for the withdrawal of all such deposits, to a period of time not exceeding three months, and provided, further, that the directors may limit the aggregate amount that any depositor may deposit to such sum as they deem expedient to receive, not exceeding the amount limited under subdivision (a), and may in their discretion refuse to receive any deposit, and may also, at any time, return all or any part of any deposit and the accrued interest thereon to any depositor without notice.

(g) **SEPARATE BOOKS. REPORTS TO STATE EXAMINER.** Every banking association which shall establish and maintain a Secured Savings Department, shall be required to keep separate books and records of the deposits made therein, and of the investments made and belonging to such department, and shall be required to make reports of the condition of such department to the State Examiner on the last business day of each month, and also at the time of making report of the condition of the general business of the bank, and which last mentioned report shall show separately therein the amount of such Secured Savings Deposits, investments and reserves, and upon forms prescribed and approved by the State Banking Board, and such Board may require in the published statement of condition of such bank that the same shall be set forth as separate items in such published report.

(h) **SAVINGS DEPARTMENT NOT AFFECTED.** This section shall not be construed to limit or interfere with the establishing or conducting of a general savings department in state banks and trust companies.

§ 49. SAVINGS BANKS.]

(a) **ORGANIZATION.** Any number of persons, not less than five, at least three of whom must be residents of this state, may associate themselves together for the purpose of organizing and operating a savings bank, by complying with the provisions of Sections 8, 9 and 10 of this act and thereupon shall be vested with the powers provided for in Sections 13, 14 and 15 of this act.

(b) **CAPITAL STOCK.** The capital of every such savings bank shall be divided into shares of the par value of one hundred dollars (\$100.00) each, and shall not be less than twenty-five thousand dollars (\$25,000.00) in cities, towns or villages having a population of less than five thousand, not less than fifty thousand dollars (\$50,000.00) in cities having a population of five thousand or more, and the capital stock of every association incorporated hereunder, shall be paid up in full before such corporation shall be authorized to commence business.

(c) **DEPOSITS.** Savings banks organized hereunder may receive on deposit money equal to twenty times the aggregate amount of its paid up capital and surplus, and no greater amount of deposits shall be received without a corresponding increase in the aggregate paid up capital and surplus. Deposits so received shall be paid to the order of such depositor or his representative, with such interest and under such regulations as the board of directors from time to time prescribe, not inconsistent with the provisions of this section, which rules and regulations shall be printed in a pass book furnished the depositor, and also conspicuously exposed in the business office of the bank in some place accessible and visible to all and no alterations which may at any time be made in such rules and regulations

affecting the right of depositors acquired previously thereto in respect to the deposits or interest thereon shall be operative until sixty days after the posting of such alteration; provided, however, that in order to prevent loss to the depositor, by enforced sale of securities below their real value, it shall be lawful for the directors in their discretion, to require notice of one week before the withdrawal of any part of any savings deposits of more than ten dollars and not exceeding one hundred dollars; of two weeks before the withdrawal of any part of any deposit of more than one hundred dollars and not exceeding five hundred dollars; of three weeks before the withdrawal of any part of any deposit of more than five hundred dollars and not exceeding one thousand dollars; of thirty days before the withdrawal of any part of any deposit of more than one thousand dollars and not exceeding two thousand dollars; of sixty days before the withdrawal of any part of any deposit of more than two thousand dollars and in case where the deposit has been made on certificate for a definite time, and the depositor fails to withdraw the same within thirty days after such definite time, then notice for withdrawal may be required as prescribed above; and provided, further, that the directors of such savings bank may, with the written consent of the State Banking Board, and shall at its direction, make any changes deemed necessary in regard to the notices heretofore required to be given by the depositors for the withdrawal of their deposits, by extending the time that notice shall be given by any depositor for the withdrawal of all deposits, to any period of time not exceeding six months; and provided, further, that the directors may limit the aggregate amount that any depositor may deposit to such sum as they deem it expedient to receive, and may in their discretion refuse to receive any deposit, and may also, at any time, return all or any part of any deposit and the accrued interest thereon to any depositor without notice.

(d) INVESTMENT OF FUNDS. A savings bank incorporated hereunder shall invest its deposits as follows:

First. In bonds of the United States.

Second. In bonds or evidences of debt of this state or in the bonds of other states in the United States.

Third. In bonds or warrants of any county in this state, or in the bonds or warrants of any city in this state, or in the bonds or warrants of any village, township, or school district in this state, issued pursuant to the authority of law, but not exceeding thirty per cent of the assets of such savings bank shall be invested in such bonds or warrants.

Fourth. In notes or bonds secured by mortgage or deed of trust upon unencumbered improved real estate in this state, which investment shall not exceed forty per cent of the actual cash value of the property mortgaged, provided fire and tornado insurance policies are maintained and deposited as collateral to such mortgage.

Fifth. In the mortgage bonds of any railroad corporation, incorporated under the laws of any state of the United States, provided that during each of the ten fiscal years of such railroad corporation's existence next preceding the date of such investment;

1. Such railroad corporation shall have paid the matured principal and interest of all its mortgage indebtedness.

2. Such railroad shall have paid in dividends in cash to its stockholders, an amount of at least four per cent per annum upon all its outstanding stock of every class.

Sixth. In listed first lien, public utility, industrial or foreign bonds, but not more than ten per cent of the capital and surplus shall be invested in any one issue thereof; and not more than twenty-five per cent of the total deposits shall be invested in bonds of all of the above classes, in this section.

Seventh. In promissory notes, not to exceed forty per cent of the total deposits, due not more than one year from the date of the loan; when securities as permitted in above sections, are pledged as collateral to a loan, there may be loaned thereon an amount not in excess of eighty per cent of the value thereof. In no event shall more than fifteen per cent of the capital and surplus of a savings bank be loaned to any one person, firm or corporation.

(e) DIVIDENDS. No dividend shall be declared or paid to any stockholder save out of the undivided profits on hand after paying or setting apart a sum sufficient for the payment of:

First. All expense for operating the bank.

Second. All interest due and accrued to depositors according to the rate fixed therefor in the by-laws.

Third. The taxes for the current year.

Fourth. Fifty per cent of the net profits to the surplus fund until such fund amounts to one hundred per cent of the paid-in capital stock.

(f) RESERVE. Each savings bank shall at all times have on hand in available funds an amount which shall equal:

(1) twenty per cent of its total deposits subject to check, or on demand and amounts due to other banks.

(2) ten per cent of its total deposits on time certificate; and,

(3) five per cent of its total savings deposits subject to notice as herein authorized.

Three-fifths of these amounts may consist of balances due the savings bank from such solvent state or national banks or trust companies as shall have been approved by the State Banking Board, but the remaining two-fifths of such reserve shall consist of actual cash on hand; cash items shall not be included in computing reserve,

and no savings bank shall carry as cash or cash items any paper or other matter except legitimate bank exchange, which shall be cleared on the same or next successive business day. Whenever the available funds within the meaning of this section shall be below the percentage of its deposits stated herein, such savings bank shall not increase its liabilities by taking any new loans or make any dividend of its profits until the required proportion between the aggregate amount of the deposits and its lawful money reserve has been restored, and the said Banking Board shall notify any bank whose reserve shall be below the amount required, to make good such reserve, and if such savings bank shall fail to do so for a period of thirty days after such notice, the State Banking Board may impose a penalty of not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00), which penalty shall be collected in the same manner as other penalties prescribed in this act.

(g) SAVINGS DEPOSITS, WHO MAY TAKE. MISDEMEANOR. Every corporation organized under the provisions of this section shall use the words "Savings Bank" as a part of its corporate name, and it shall not be the same name as that of any other bank heretofore or hereafter incorporated in this state, and no corporation not organized under the provisions of this section shall use the word "Savings" as a part of its title, and no corporation, except national banking corporations, state banks and annuity, safe deposit and trust companies organized under the laws of this state, shall receive savings deposits without first complying with and organizing under the provisions of this section. Any person violating the provisions of this subdivision shall be guilty of a misdemeanor.

(h) LIMIT OF INTEREST. All savings accounts, upon which no deposits or drafts have been made for the period of six years in succession, and the whereabouts of the depositor be not known to any officer of the bank, shall be so far closed that neither the sum deposited nor the interest which shall have accrued thereon shall be entitled to any interest after the expiration of six years from the date of the last deposit or draft. This provision, however, shall not apply to endowments nor to trust estates nor to other cases where special provision is made therefor at the time of the deposit thereof.

(i) OTHER PROVISIONS APPLICABLE. Except as this section specifically extends, enlarges or restricts its rights, powers, duties and obligations, any savings bank organized hereunder or now existing shall be subject to and governed by all the other provisions of this act.

§ 50. BANKS INSOLVENT. WHEN.] A bank shall be deemed insolvent:

(a) When the actual cash market value of its assets is insufficient to pay its liabilities;

(b) When it is unable to meet the demands of its creditors in the usual and customary manner;

(c) When it shall fail to make good its reserve as required by law;

(d) When it shall fail to comply with any lawful order of the State Banking Board within any time specified therein.

Its property shall not be subject to attachment or levy, nor shall a receiver be appointed during such reasonable time as the State Examiner may require for examination. After such examination if the State Examiner shall find such bank to be insolvent, he shall take possession of books, records, and other property of such bank, and certify the fact of such insolvency to the Attorney General as hereinafter provided. Whenever, after such examination and before the appointment of a receiver, said Examiner shall find the bank in such condition that all creditors aside from stockholders, can be paid in full from its assets, he may relinquish possession of its property to its proper officers; provided, however, that the bank shall pay into the state treasury a fee of ten dollars per day and the hotel and traveling expenses of the State Examiner or deputy state examiner, who shall have been in charge of the bank during this period, and such bank may, with the consent of the State Examiner, resume business upon such conditions as may be approved by him. Upon taking possession of the property and business of such bank, the State Examiner is authorized to collect moneys due to such bank and to do such other acts as are necessary to conserve its assets and business.

§ 51. ADMINISTRATION OF INSOLVENT BANKS.]

(a) SUPREME COURT, JURISDICTION OF. The Supreme Court of the State of North Dakota is hereby given, and is requested to exercise, original jurisdiction of the insolvency proceedings to liquidate and wind up the affairs of all insolvent State Banking Associations within the state.

(b) INSOLVENT BANKS. CERTIFIED TO ATTORNEY GENERAL. Whenever any bank shall be closed as insolvent, the State Examiner shall certify such fact to the Attorney General together with a concise statement, showing the time of insolvency, the name of the receiver in charge, and such other information as the State Examiner believes will be of importance to the Attorney General.

(c) PROCEEDINGS FOR WINDING UP. Immediately upon receiving such certificate the Attorney General shall institute a proceeding in the Supreme Court entitled in the name of the State of North Dakota, for itself, and on behalf of all creditors of such bank, as plaintiffs, against said insolvent bank as defendant, for the purpose of declaring it insolvent and winding up its affairs as an insolvent banking association. Such proceedings shall be brought by the filing

in the office of the Clerk of the Supreme Court of a complaint reciting briefly the fact as to the insolvency of such bank, and the name of the receiver or other officer in charge.

Upon the filing of such complaint the Attorney General shall issue a summons in the usual form of summons issued in actions in the district court of the state, and containing an additional statement to the effect that a petition charging the bank in question with being insolvent is on file in the office of the Clerk of the Supreme Court, and that unless answer is made thereto within fifteen days from such service such complaint will be taken as confessed. Such summons, however, as prepared for service on individual banks need only name as a defendant, the particular bank upon which service thereof is to be made, and such service may be made upon any officer of such bank.

Service of such summons may be made in the same manner as the service of summons in ordinary civil actions is made, and the sheriff of the county in which the bank to be served is located shall upon request of the Attorney General immediately make service, or cause service thereof to be made, as in ordinary actions, but he shall not be entitled to collect any fees or expenses for making such service and he shall make return thereof when served to the Attorney General.

(d) ANSWER. Upon the service of the summons as aforesaid the defendant bank shall have fifteen days within which to serve and file an answer denying insolvency, or any other material fact stated in the petition and unless within such fifteen days such answer is served and filed the insolvency of such defendant shall be deemed confessed.

(e) COURT COMMISSIONER; QUALIFICATIONS; JURISDICTION; REVIEW. The Supreme Court shall appoint a Court Commissioner who shall have all the qualifications prescribed by law for a Judge of the Supreme Court to whom it may refer any matters committed to the jurisdiction of the Court, as herein provided, who shall act for and on behalf of the Supreme Court in hearing evidence, finding facts and making orders in any matter arising in connection with the action or actions instituted in such court under the provisions hereof.

Such Commissioner may sit for hearing and determination of any question of law or fact that may arise in such action or actions at any place within the state, and any such hearing may be brought on upon reasonable notice given by the Commissioner to the party in interest of the time and place of such hearing, and in the exercise of the jurisdiction conferred upon him, said Commissioner may permit matters to be brought before him either upon ordinary notice served upon the parties or by order to show cause, according to the practice of the district courts.

Any decision of the Commissioner may be reviewed by the Supreme Court on the motion of any party aggrieved at such times and under such rules as the Court may prescribe, and unless objected to by motion to review as herein provided, the Court may deem the decision of the Commissioner correct and without notice or application affirm the same.

Any party desiring to have a review of the decision of the Commissioner by the Supreme Court must within three days after the making of the same, if he is present personally or by counsel, or within three days after written notice thereof, if not present, file with the Commissioner a brief written statement of the grounds of his objection and containing the post office address of the party or his attorney upon which notice of hearing shall be served. Such statement must be filed by the Commissioner with the Clerk of the Supreme Court and notice of the hearing of such notice for review shall be given to the complaining party by letter addressed to him, or his attorney at the place named in such statement. The time of giving notice of such hearing to be fixed by rule or order of the Supreme Court.

(f) SALARY. CLERK HIRE. EXPENSES. OATH. Such Commissioner shall be paid out of the general funds of the state the same salary as is paid to Justices of the Supreme Court and may employ such clerical assistance as shall be allowed by the Court, and shall be reimbursed by the state for all his actual expenses incurred in connection with the performance of his duties to be passed upon by the state auditing board as other claims against the state. Such Commissioner shall take the constitutional oath to perform his duties according to the Constitution of the United States and the State of North Dakota.

(g) REGULATIONS. The Supreme Court shall make rules and regulations from time to time governing the reference of matters to the Commissioner and the exercise of his jurisdiction and powers and the manner and method of reviewing his decision.

(h) RECEIVER. APPOINTMENT OF. Upon the filing of the complaint aforesaid the Supreme Court shall appoint a receiver, or two joint receivers, of all said insolvent banks, which receiver shall have all the powers and authority ordinarily possessed and exercised by receivers of insolvent corporations or prescribed by statute and the Court shall have all the power and authority with regard to the administration and closing of the affairs of such banks as are ordinarily possessed and exercised by courts of equity over the affairs of insolvent corporations. If upon a hearing on an issue raised by answer to the complaint, it shall be established that any bank proceeded against is not insolvent, then the receiver shall be deemed to have been a temporary receiver, and shall account and be discharged accordingly as to such bank, in all other respects the receiver shall be deemed to be a permanent receiver.

The receiver so appointed by the Court shall supersede and supplant any receiver theretofore appointed by the banking department, or by any other court, or any examiner or officer of the banking department that may be in charge of any such bank, but until the receiver appointed as herein provided shall take possession of any such bank the receiver, or other officer already in charge, shall continue, and it shall be his duty to protect, conserve and administer its affairs to the best of his ability, and he shall remain liable under his bond for all his acts committed prior to being finally relieved of his trust. The Court shall also have power to fill any vacancy in the office of receiver occasioned by death or other disqualification.

(i) **RECEIVER; APPLICATION TO COMMISSIONER FOR INSTRUCTIONS.** The receiver appointed hereunder shall from time to time apply to the Commissioner for guidance and instructions and for the purpose of obtaining orders and directions with reference to the administration of the affairs or the disposition of the property of any of the banks under his control, as receiver, in the same way and as far as may be practicable under the same course of procedure that receivers appointed by district courts apply to such courts, and the receiver or any other parties aggrieved by any determination of the Commissioner may apply to the Court for a review thereof, as hereinbefore provided for.

(j) **CLAIMS. LIMITATION OF ACTION ON.** When any bank shall hereafter become insolvent and go into the hands of a receiver, such receiver shall give notice thereof by registered mail to every creditor whose address appears on the records of the bank, or shall be known to the receiver, within sixty days after his appointment. Any claim against such bank not presented to the receiver within two and one-half years after his taking possession thereof shall be barred and cannot thereafter be presented or an action maintained thereon. In the case of any bank that is heretofore closed and gone into the hands of a receiver where notice has already been mailed substantially as provided herein, whether within sixty days from the time of the taking possession by the receiver or not, and in which any claim has not been filed, it shall be barred and cannot be presented or any action maintained thereon after two and one-half years from the date of the mailing of such notice. Provided, however, any person bringing action on a claim against any such receiver must allege in his complaint and prove that the action is not barred under the foregoing provisions.

(k) **RECEIVER TO FURNISH FINANCIAL STATEMENT. CLOSED BANKS.** When any bank shall hereafter become insolvent and pass into the hands of a receiver, such receiver shall, within sixty days after the closing of such bank, mail to each stockholder, depositor and creditor of such bank whose name and address appears on the records of the closed bank, a statement showing the assets and liabilities of such bank as of the date of its closing. It shall be the

duty of said receiver annually thereafter, to mail to each stockholder, depositor and creditor of such closed bank, a statement of the affairs of the receivership, which statement shall show the amounts collected since the last statement was rendered, the disposition made of the funds collected and the amount of assets on hand at the time of rendering such annual statement.

(l) **EXPENSE OF RECEIVERSHIP.** Whenever the affairs of any bank under the receivership aforesaid are ready to be closed, the Court shall fix the amount of the expense of the receivership properly chargeable to such bank.

(m) **PROCEDURE.** So far as practicable, except as herein otherwise provided, and except as may be otherwise provided by the Court, the ordinary rules of procedure applicable to like actions in the district court shall govern the proceedings herein provided for; but the Court may from time to time prescribe such rules of procedure as it shall from time to time find best adapted to the furtherance of the general purpose of expeditiously and economically winding up the affairs of insolvent banks.

(n) **COMMISSIONER; POWERS OF.** The Commissioner appointed hereunder shall have power and authority to issue subpoenas for witnesses any place within the state, and to administer oaths and to punish for contempt, to the same extent as a judge of the district court, subject to a review of his decision by the Supreme Court, as in case of other decisions. At any time when district court is not in session in any county, in which the Commissioner is holding a hearing, he shall have a right to take and use the court room of the district court, and he may call upon the clerk of such district court to act as his clerk, in issuing subpoenas, and may call upon the sheriff of the county to act as his court officer, and such officers shall perform such service without compensation.

(o) **PLACE OF HEARING.** The Commissioner shall, as far as practicable, hold his hearings in the county in which the bank interested is located, and as far as practicable and with fair regard to the convenience and interest of all parties at the most accessible point within the county.

(p) **WITNESS FEES AND MILEAGE.** In all hearings before the Commissioner the parties procuring the attendance of witnesses shall be liable for their witness fees and mileage, as is allowed in district court, and the Commissioner may make such order with reference to the payment of costs by the different parties as shall be just.

(q) **JUDGMENTS; INTERLOCUTORY OR FINAL; TRANSCRIPT OF.** The Supreme Court may from time to time as occasion shall require enter interlocutory or final judgments affecting the rights of particular parties to the proceedings without affecting the rights of any other party, and any judgment so entered in the Supreme Court may be at the request of any interested party transcribed to the

district court of any county in the state where it shall be docketed by the clerk of court, and shall from the time of docketing be taken and considered as a judgment of such district court in all things the same as though originally entered, and it may be enforced as a judgment in such court.

(r) **TRANSFER TO DISTRICT COURT. RESIGNATION OF DISTRICT JUDGE. REVIEW OF ACTS OF.** In case the Supreme Court shall be of the opinion that its original jurisdiction does not extend to the controversy or controversies referred to herein, or if for any other reason the Supreme Court shall refrain from exercising its original jurisdiction with respect thereto, the proceeding shall not be dismissed, but all papers and files therein shall be transmitted to the Clerk of the District Court of Burleigh County, and that court shall be and is thereupon vested with full jurisdiction of such proceedings, and thereupon the Supreme Court, in the exercise of its supervisory jurisdiction shall designate some district judge to hear and try said controversy or controversies, and the judge so designated shall give precedence to such controversy or controversies over all other work and in the disposition thereof he shall be governed by the provisions hereof, and endeavor in every way to carry the same into effect. The District Judge so designated shall perform all of the duties herein required to be performed by the Court Commissioner, and in such case no Court Commissioner shall be appointed. In such case the acts of the District Court shall be subject to review by the Supreme Court in the same manner herein provided for review by the Supreme Court of the acts of the Court Commissioner. Provided that all acts of such District Court performed under the provisions hereof, including the appointment of a receiver, shall be subject to the supervisory control of the Supreme Court. In case of the designation of a District Judge as herein provided for, all his necessary traveling expenses incurred in carrying out the provisions hereof shall be paid out of the general fund of the state upon vouchers duly presented, as in other cases of the expenses of District Judges. In case of the designation of a District Judge as in this subdivision provided, all further insolvency proceedings hereinafter provided to be instituted in the Supreme Court, shall be instituted in the District Court of Burleigh County and conducted in like manner.

In case of the designation of a District Judge as in this subdivision provided for, the rules of procedure prescribed herein for the Court Commissioner shall govern the procedure before such District Judge, and the Supreme Court shall likewise make necessary rules governing the conduct of such proceeding or proceedings.

(s) **REOPENING WITHOUT RECEIVERSHIP.** Whenever any bank shall for any reason be suspended or closed, if twenty-five of the depositors therein shall notify the State Examiner that they desire to attempt to reorganize or otherwise reopen or consolidate such

bank with some other banking institution, a reasonable time shall be given by the State Examiner during which receivership proceedings will not be commenced; and thereupon the depositors must proceed immediately with the perfection of a plan and articles of agreement, outlining in general the proposed plan, which must be signed by deposit creditors representing eighty per cent of the amount of deposits in such bank, exclusive of deposits of public money secured by indemnity bond or otherwise, and also exclusive of deposits of less than twenty-five dollars each. All other unsecured depositors shall be held to be subject to and bound by the terms of such agreement to the same extent as though they had joined in the execution thereof, and in case of the restoration of said bank to solvency and the reopening thereof their claims shall be treated in all respects as if they had been parties to the making thereof. If at any time, in the opinion of the State Examiner, reasonable progress is not being made in the attempted reorganization the grant of time to depositors may be withdrawn and receivership proceedings immediately instituted.

When eighty per cent of the depositors, as aforesaid, have joined in such agreement the same shall be presented to the State Examiner, with a full report of what has been done in adjusting the affairs of the bank in anticipation of reopening; and the State Examiner may thereupon require any further or additional things to be done as in his opinion will be necessary to place the bank in position to open and function as a going concern. The State Examiner may then grant such reasonable time as seems necessary to place the bank in such position and when the requirements of the State Examiner have been complied with said bank shall reopen and become in all things a going bank, subject to all provisions of law and regulations of the Banking Department; provided, however, that if at any time, in the opinion of the State Examiner, the interests of the creditors of said bank are being jeopardized by delay he may immediately withdraw all grants of time and cause receivership proceedings to be instituted.

(t) REORGANIZATION AND OPENING OF BANKS. Any bank coming under the jurisdiction of the court as provided for herein, may be withdrawn from the control of the receiver hereinbefore provided for, and its reorganization and opening may be undertaken by its depositors in the manner following, to-wit:

Articles of agreement and a plan of reorganization in writing may be submitted to the State Examiner by deposit creditors. Such plan must, among other things, contain the names of three persons who may or may not be depositors, to put such reorganization into effect. There shall also be submitted with such articles of agreement and plan, the consent in writing of such proposed members of the

reorganization committee to act on such committee. The State Examiner shall thereupon present such articles of agreement and reorganization plan to the State Banking Board, which may in its discretion modify or amend the same and shall append thereto specifications and requirements to be met for such reorganization and reopening. Thereafter such articles of agreement and reorganization plan, together with the specifications and requirements as set forth by the State Banking Board shall be presented by the applicants to the deposit creditors of such bank for execution by each depositor in person or by his representative holding a power of attorney to act in the premises, sworn to before a Notary Public or other officer empowered to administer oaths, which power of attorney shall accompany such agreement and plan. When deposit creditors representing eighty per cent of the amount of deposits therein, exclusive of deposits of public money secured by indemnity bonds or otherwise, and exclusive of deposits of less than twenty-five dollars each, have executed said articles of agreement, and the other specifications and requirements fixed by the Banking Board as prerequisite to such reorganization have been complied with, notice thereof shall be given to said Court Commissioner or district judge, as the case may be, and all other unsecured depositors shall be held subject to such agreement and bound by the terms thereof to the same extent and effect as if they had joined in its execution, and in the event of restoring such bank to solvency, and the reopening of it for business, all depositors shall be bound to abide by the terms thereof.

Thereupon the court shall fix the time and place when such application for reorganization will be considered, which hearing shall be held in the town where such bank is located. At least ten days' notice of such hearing, containing a statement of the purpose, time and place thereof, must be given by the applicants by registered mail to the receiver of such bank, to the State Examiner, and to each deposit creditor shown of record on the books of the bank at the time of closing, and for the purpose hereof such records shall be by the receiver of such bank made available to the applicants upon demand. At such hearing, the State Examiner or deputy, the receiver of such bank or his representative and the organization committee selected by the depositors shall be present. If it shall appear to the court upon such hearing that the committee named in such agreement is prepared to put the plan into operation, and that it is in compliance with law, the application shall be granted, unless good reason to the contrary is shown by some objecting party; and when the State Examiner shall certify that he has examined its affairs and that it is in condition to open and proceed with business as a solvent bank within the banking statutes, an order shall thereupon be made by the court permitting such reorganization, the withdrawal of such bank from the receivership, and the reopening thereof, and directing the receiver, upon presentation of such order of the Court, to turn over to the said bank, or account for all of the assets and effects

thereof that have been taken possession of by him, deducting, however, the proper expenses of administration during the time the same has been in his charge, such expenses to be agreed upon by the said committee and the receiver, or in case of disagreement to be fixed by the Court. But the failure of the parties to so agree shall not delay the turning over of the assets other than those which the receiver claims to be entitled to by way of compensation, and the matter of the correctness of such claim shall be thereafter determined. Upon so delivering the assets and effects the receiver shall take the receipt of the said bank and the said committee jointly for the same and he shall thereupon be absolved from all future responsibility on account of the affairs of said bank, and the same shall thereupon become a going banking association, subject to all the rules of law and regulations applicable to other banking associations.

(u) LIQUIDATION BY DEPOSITORS. When any bank shall be closed and taken charge of by the receiver as provided for herein, or while proceedings are pending for taking charge thereof hereunder, articles of agreement and a plan for liquidation by a liquidating committee may be submitted to the State Examiner. Such plan must, among other things, contain the names of six persons who may or may not be depositors, from among whom, if the application is granted by the Court as hereinafter provided, the Court may select three to act as such liquidating committee. There shall also be submitted with such plan and articles of agreement and the consent in writing of all of such proposed members of the liquidating committee to act on such committee if selected by the Court. It shall be the duty of the State Examiner to act in an advisory capacity to the persons interested in the plan. He shall pass upon the feasibility and practicability of the same, and either approve or disapprove thereof. If he disapproves the plan, it shall be his duty to formulate and present in lieu thereof an agreement and plan which meets with his approval.

Such agreement and plan so approved by the State Examiner shall thereupon be by the applicants presented to the deposit creditors of such bank for execution by each depositor in person, or by his representative holding a power of attorney to act in the premises, sworn to before a Notary Public or other officer empowered to administer oaths, which power of attorney shall accompany such agreement and plan. When deposit creditors thereof, representing not less than eighty per cent of the amount of deposits of such bank exclusive of public money secured by indemnity bonds or otherwise, and also exclusive of deposits of less than twenty-five dollars each, have executed said articles of agreement and plan for liquidation, all other unsecured depositors shall be held subject to such agreement and all the terms thereof to the same extent and effect as if they had joined in its execution, and the same may be presented to the Court Commissioner or judge of the district court designated

by the Supreme Court as hereinbefore provided, together with an application to have the liquidation of the said bank withdrawn from the receivership and vested in a liquidation committee. Such Court Commissioner or district judge, as the case may be, shall thereupon make an order fixing a time and place for the hearing of such application, which hearing shall be held in the town where such bank is located. Ten days' notice of such hearing, containing a statement of the purpose, time and place thereof, must be given by the applicants by registered mail to the receiver of such bank, to the State Examiner, and to each deposit creditor shown of record on the books of the bank at the time of closing, and for the purpose hereof such records shall be by the receiver of such bank made available to the applicants upon demand.

Upon the hearing the Court shall advise itself fully in regard to the status of the existing receivership, the feasibility of the proposed plan, the competency of the proposed members of the liquidating committee and its several members to act in the proposed capacity, and it shall have the power to select three persons from the names submitted in such plan and articles of agreement to act as a liquidating committee, and to prescribe the terms and conditions upon which the liquidation of the affairs of such bank will be transferred from the receivership to such committee. It may also permit the applicants, with the consent of the State Examiner, to modify or amend the said proposed plan of liquidation. If no good reason is presented why the application as originally made or as amended should not be granted, the Court must make its order appointing three persons from among the names submitted with said plan, to act as joint receivers of said bank in the place and stead of the existing receiver, prescribe the amount of the bond, if any, which they should be required to give upon qualifying as receivers, and the manner of their reporting and accounting to the Court, directing the existing receiver to account to them and turn over all of the assets of the receivership, first deducting the proper expense and charges for administration of the receivership up to such time, the amount thereof to be agreed upon between the existing and the new receivers, or in case of disagreement to be settled by the Court; but the failure of the parties to so agree shall not delay the transfer of the assets and effects to the new receivers, except such thereof as are claimed by the old receiver as compensation, as aforesaid, and the correctness of such claim shall be subsequently determined by the Court.

Upon so accounting and surrendering the assets and effects to the said new receivers, the existing receiver shall take their receipt therefor, and he shall be thereupon discharged from all liability and responsibility in connection with the further liquidation of such bank, and the said new receivers shall be deemed to have assumed the same liability, responsibility and accountability to the Court as other receivers. Any vacancy in the office of such receivers so appointed

by the Court as hereinbefore provided, shall be filled by the remaining receivers with the approval of the Court, and in the event that all of said receivers shall vacate their office for any cause simultaneously, then the Court shall fill such vacancies.

(v) CONSTRUCTION OF ACT. The provisions of this section with reference to the withdrawal of banks from the receivership for the purpose of reorganization and opening, or for the purpose of liquidation, shall be deemed to be highly remedial in character and they contemplate the most expeditious disposal of such matters that is practicable, and shall be liberally construed to accomplish this purpose, and it shall be the duty of the Court and all other public officers having any connection therewith to give such matters preference over ordinary matters to the fullest extent that can be done without undue interference with other official and judicial business.

(w) TERMINATION. CUSTODY OF RECORDS AND ASSETS. When the affairs of any closed bank shall be wound up and the receiver discharged, all books, records, documents, and other property of such bank and any dividends unclaimed by the creditors of such bank shall be by such receiver delivered over to the State Examiner and his receipt taken therefor and filed with the clerk of the Court having jurisdiction of such receivership.

The State Examiner is hereby appointed custodian of all books, records, documents, and other property of such bank and of the dividends unclaimed by creditors upon the winding up of the receivership proceedings. Such custodian shall be vested with the title to any assets belonging to such bank and not distributed in such receivership, and he shall have full power and authority to \*(to convert such assets into cash. He shall also have authority to) execute all deeds, satisfactions, assignments or other documents for the purpose of transferring such assets or for the purpose of clearing the records and quieting title to property in which said bank had an apparent interest. Any money collected by such custodian, over and above his necessary expenses, shall be distributed in the same manner as though the receivership had not been terminated. Any dividends remaining unclaimed for a period of two years from the termination of the receivership or other recoveries, shall be by said custodian covered into the state treasury.

(x) APPROPRIATION. There is hereby appropriated out of the general funds of the state the sum of one thousand dollars per year or so much thereof as may be necessary to pay the traveling and other expenses necessarily incident to the performance of the duties of such Court Commissioner, or of the district judge who may be designated by the Supreme Court, in carrying out the provisions hereof.

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\*Words shown in parenthesis appear in original bill but evidently were omitted inadvertently from enrolled law. They have been inserted to assist in showing probable intent of legislature.

§ 52. CONSOLIDATION OR MERGER.] Any two or more banks may, with the approval of the State Examiner, consolidate or merge into one bank under the charter of either existing bank, on such terms and conditions as may be lawfully agreed upon by a majority of the board of directors of each bank proposing to consolidate or merge, and be ratified and confirmed by the vote of the shareholders of each such bank owning at least two-thirds of its capital stock outstanding, at a meeting to be held on the call of the directors, after sending notice to each shareholder of record by registered mail at least ten days prior to said meeting; provided, that the stockholders may unanimously waive such notice and may consent to such meeting and consolidation or merger in writing. Provided also, that the capital stock and surplus of such consolidated bank shall not be less than that required under existing law for the organization of a bank of the class of the largest consolidating bank.

The assets and liabilities of the consolidated bank shall be reported by the surviving bank. All the rights, franchises, and interest of said bank so consolidated in and to every species of property, real, personal and mixed and choses in action thereto belonging, shall be deemed to be transferred to and vested in such bank into which it is consolidated without other instrument of transfer, and the said consolidated bank shall hold and enjoy the same and all rights of property, franchises, and interests in the same manner and to the same extent as was held and enjoyed by the bank so consolidated therewith, provided, however, that the merging bank shall transfer to the surviving bank all of its real property by good and sufficient deed of conveyance and for that and other purposes shall remain a body corporate for a period of at least three years after merger and shall not then dissolve without the approval of the State Examiner.

§ 53. HOW DISSOLVED. DUTIES STATE EXAMINER.] Any association organized under the provisions of this act, may be dissolved by the district court of the county where its office or principal place of business is situated upon its voluntary application for that purpose. The application must be in writing, and must set forth that at a meeting of the stockholders or members called for that purpose, the dissolution was resolved upon by a two-thirds vote of the capital stock outstanding, and that all claims and demands against the association have been satisfied and discharged. The application must be signed by a majority of the board of directors, or other officers having the management of the affairs of the association, and must be verified in the same manner as a complaint in a civil action. A certified copy of the application shall be filed with the State Examiner, or such state officer as is by law authorized to examine such association, within ten days after the filing of such application with the district court. If the court is satisfied that the application is in conformity with this act it must order the application to be filed, and that the clerk give not less than thirty nor more than sixty days

notice of the application by publication in some newspaper published in the county, and if there are none such, then by advertisement posted in five of the principal public places in the county. At any time before the expiration of the time of publication, any person may file his objections to the application. Before the final hearing and determination of the application, the State Examiner shall make a thorough examination of the affairs of such association, and file a certified statement of such examination with the clerk of court of the county where such application is made, which statement shall be a part of the papers in the case. After the time of publication has expired the court may, upon five days notice to the persons who have filed objections or without further notice if no objections have been filed, proceed to hear and determine the application, and if all the statements therein made are shown to be true, the court must declare the association dissolved. No stockholder or officer of such association shall be allowed to withdraw from such association, or surrender or dispose of his share of stock, after the filing or making of such application for dissolution and prior to the final determination of the case. Upon the dissolution of such association by the district court, the clerk of said court shall forthwith notify the Secretary of State of such dissolution, by sending a copy of the order of the court, and said order and notice shall be filed by the Secretary of State with the original certificate of organization. The application, notices and proof of publication, objections, if any, and declaration of dissolution, constitute the judgment roll, and from the judgment an appeal may be taken in the same manner as in other actions. The Secretary of State shall immediately certify such dissolution to the State Examiner.

§ 54. TAXATION.] Banks organized and existing under and by virtue of the laws of the State of North Dakota shall be taxed upon the same basis only as banks organized and existing under and by virtue of the laws of the United States of America, it being the purpose, design and intent of this section to place state banks in a position of parity and equality in matters of taxation with national banks.

§ 55. BANKS EXEMPT FROM ATTACHMENT AND EXECUTION.] Every banking association in this state shall be exempt from the legal process of attachment and execution. But if any bank fails, neglects or refuses to pay any valid final judgment or decree that may be rendered against it by any court of competent jurisdiction, not properly stayed by an appeal bond within the time prescribed by statute or order of court after rendition thereof, the State Banking Board shall declare such bank insolvent or in failing circumstances and shall forthwith cause a receiver to be appointed to wind up its affairs.

§ 56. BANKS TO HAVE OFFICIAL NUMBER.] It is hereby provided that all banks existing and hereafter organized under the laws

of this state shall be numbered and shall receive from the Secretary of State an official number, and it shall be the duty of the Secretary of State to notify each bank of its official number and also file a list of same with the State Examiner.

§ 57. ESTATES OWNING BANK STOCK. NOTICE TO STATE EXAMINER.] It shall hereafter be incumbent upon the county judge before whom the administration of an estate or the probating of a will is had, at the time of publishing notice to creditors, to serve, by registered mail, a copy of such notice to creditors upon the State Examiner. Upon receipt thereof, the Examiner shall refer to the lists of shareholders of banks on file in his office and determine whether or not the deceased person was, at the time of his death, the owner of any shares of a state banking association as the same is defined by this act, or had owned, and transferred, any such stock within the period of one year before the date of his death. If it shall be found that such deceased person did so own or had so transferred any such stock, the State Examiner shall immediately notify the bank in which such stock is held, or if it be a closed bank, then the receiver thereof, of the decease of such stockholder, including in such notice information as to the county in which such probate proceeding is pending and the title of such proceeding. Upon receipt of such notice, it shall thereupon become the duty of the officers of such open bank, or the receiver of such closed bank, as the case may be, to file with the administrator, executor, or the county judge of the county in which such probate proceeding is pending, a proper claim for such amounts, if any, as may be owing to said bank, or the receiver thereof, from the deceased by reason of the ownership or transfer of such stock, and for any indebtedness of the deceased to the said bank, or to the receiver thereof, either as principal debtor, surety, guarantor, or otherwise.

§ 58. COLLECTION BY BANKS. LIABILITY.] The Bank of North Dakota and any bank doing business in this state, which shall cash, receive for application on an obligation, or for collection or deposit and credit, any check, note, or other negotiable instrument drawn upon or payable at any other bank, savings bank, trust company, or other financial institution located in another city or town, or which should be presented for acceptance or payment in another city or town, whether within or without this state, may, at its option, forward such instrument for presentment or collection directly to the bank on which it is drawn, or at which it is made payable, or may forward it through the Federal Reserve Bank, or other recognized banking agencies, and in payment of such collection such bank or other agency may accept the exchange or draft of the collecting or payor bank. Such method of collection shall, in the absence of a special agreement to the contrary, be deemed to be agreed to by the parties and the forwarding bank and successive agencies shall not be liable to the owner or depositor until actual final payment is

received by the collection of such exchange or draft, and until such final collection the depositor, indorser, guarantor or surety of any check, draft, or other instrument so received, deposited, cashed or credited, shall be liable to the bank to the extent of any money paid out or credit given by it on account of such instrument.

Provided, however, the bank and every other agency through whose hands such instrument or the proceeds thereof shall pass shall be charged with ordinary business care, and shall be liable for any lack thereof, or for any default or negligence on its part resulting in loss, but not for the default, negligence or lack of care of any other agencies, and the owner or depositor of such instrument shall have a cause of action directly against such bank, or other agencies, for his damage or loss on account of its default or lack of ordinary care.

§ 59. FORGED CHECKS. LIABILITY OF BANK.] No bank shall be liable to a depositor for the payment by it of a forged or raised check unless within ninety days after the end of the month in which such check is paid such depositor shall notify the bank in writing that the check so paid is forged or raised.

§ 60. CERTIFIED CHECKS. MISDEMEANOR.] It shall be unlawful for an officer, clerk, or agent of any state banking association to certify any check, draft, or order drawn upon the association unless the person drawing the same has on deposit with the association at the time of such certification an amount of money equal to the amount specified therein and upon such certification the amount of such certified check, draft or order shall be immediately charged against the account of such drawer. Any officer or employee of any banking association who shall wilfully violate the provisions of this section shall be deemed guilty of a misdemeanor.

§ 61. FALSE STATEMENTS TO OBTAIN CREDIT.] Any person who, either individually or in a representative capacity:

1. Shall knowingly make a false statement in writing to any state banking association respecting his own financial condition, or the financial condition of any person, firm or corporation for the purpose of procuring a loan or credit in any form, or an extension of credit from such state banking association to whom such false statement is made, either for his own use, or for the use of any person, firm or corporation; or,

2. Having previously made or having knowledge that another has previously made a statement in writing to any state banking association respecting his own financial condition, or the financial condition of any person, firm or corporation, shall afterwards, on the faith of such statement, procure from such state banking association, to whom any such previous statement has been made, either for his own use or for the use of any person, firm or corporation, a loan or credit in any form, or an extension of credit, knowing at the time

of procuring the same that such previously made statement is in any material particular false, with respect to the financial condition of himself or of any firm or corporation at the time of procuring such loan, credit or extension of credit ; or,

3. Shall deliver to any note broker, or other agent, for the sale or negotiation of commercial paper to any state banking association any statement in writing, knowing the same to be false, respecting his own financial condition or the financial condition of any person, firm or corporation, for the purpose or with the intent of having such statement used in furtherance of the sale, pledge or negotiation of any note, bill or other instrument for the payment of money, made or endorsed or accepted, or owned in whole or in part by him individually, or by any person, firm or corporation ; or,

4. Having previously delivered or having knowledge that another has previously delivered to any note broker, or other agent, for the sale or negotiation of commercial paper described in the preceding subdivision, a statement in writing respecting his own financial condition or the financial condition of any person, firm or corporation, shall afterwards deliver to any such note broker or other agent, for the purpose of sale, pledge or negotiation, on the faith of any such statement, any note, bill or other instrument for the payment of money made, endorsed, accepted or owned in whole or in part, either by himself or by any person, firm or corporation, knowing at the time that such previously delivered statement is in any material particular false as to the present financial condition of himself, or any person, firm or corporation, shall be guilty of a misdemeanor.

§ 62. FALSE STATEMENTS CONCERNING VALUE.] Any person who knowingly makes or publishes any book, prospectus, notice, report, statement, exhibit, or other publication containing any statement which is wilfully false and which is intended to give and does give a substantially greater or less apparent value to the shares, bonds, or property, or any part thereof, of any state banking association, than said shares, bonds, property or any part thereof, shall in fact possess, shall be guilty of a misdemeanor.

§ 63. SLANDER AND LIBEL. MISDEMEANOR.] Any person who shall wilfully and maliciously make, circulate or transmit to another or others, any false statement, rumor or suggestion, written, printed or by word of mouth, which is directly or by inference derogatory to the financial condition or affects the solvency or financial standing of any state or national bank now existing under the laws of or doing business in this state, or that may be hereafter organized under this act, or who shall counsel, aid, procure or induce another to start, transmit or circulate any such false statement or rumor, shall be guilty of a misdemeanor, and in addition thereto shall be liable in damages to such association, or the receiver thereof, to be recovered in a civil action brought for that purpose.

§ 64. FALSE STATEMENTS ON (OR) ENTRIES. FELONY.] Every director, officer, agent or clerk of any association organized under this Act, who wilfully and knowingly subscribes or makes any false statements or entries in the books of such association, or knowingly subscribes or exhibits any false paper with intent to deceive any person authorized to examine as to the condition of such association, or wilfully subscribes or makes false reports, shall be guilty of a felony.

§ 65. FORFEITURE OF FRANCHISE.] Every association organized under this Act which shall refuse or neglect to comply with any requirements, lawfully made upon it by the State Banking Board, or by the State Examiner, pursuant to this Act, for a period of ninety days (or for a lesser period if specified in the order) after demand in writing by such board or examiner is made, shall be deemed to have forfeited its franchise and any failure on the part of such association to comply with, or any violation of any of the provisions of this Act, shall work a forfeiture of its franchise, and in either case the Attorney General, upon demand of the State Banking Board, must commence an action for the purpose of annulling the existence of said association.

§ 66. PENALTY FOR VIOLATIONS.] Any officer of any banking association, violating or knowingly permitting to be violated, the provisions of this Act, not hereinbefore specifically designated as a crime shall be guilty of a misdemeanor.

§ 67. PENALTIES. HOW RECOVERED.] All fines and penalties herein provided for, to which any association under this Act may become subject, shall be recovered on complaint of the State Examiner, before any court having competent jurisdiction, and all fines and penalties so recovered shall be paid into the State Treasury.

§ 68. PUNISHMENTS OF FELONIES AND MISDEMEANORS.] Every offense declared by this Act to be a felony is punishable by a fine not exceeding one thousand dollars or by imprisonment in the penitentiary for not less than one and not exceeding ten years, or by both such fine and imprisonment.

Every offense declared by this Act to be a misdemeanor is punishable by imprisonment in the county jail not exceeding one year, or by a fine not exceeding five hundred dollars, or by both such fine and imprisonment.

In all cases where a corporation is convicted of an offense for the commission of which a natural person would be punishable, and there is no other punishment prescribed herein, such corporation is punishable by a fine of not less than five hundred dollars and not exceeding five thousand dollars.

§ 69. REPEAL.] Sections 5146, 5147, 5148, 5150, 5151, 5152, 5153, 5154, 5155, 5156, 5157, 5158, 5159, 5160, 5161, 5162, 5164, 5165, 5166, 5167, 5168, 5169, 5170, 5171, 5172, 5173, 5174, 5175, 5176, 5177, 5178, 5179, 5180, 5181, 5182, 5183, 5184, 5185, 5186,

5187, 5188, 5189, 5190, 5192, 5193, 5194, 5195, 5196, 5197, 5198, 5199, 5200, 5201, 5202, 5203, 5204, 10006, 10007, 10010, 10011 and 10012 of the Compiled Laws of North Dakota for the year 1913, Chapter 111 of the Session Laws for the year 1919, Chapters 138 and 139 of the Session Laws for the year 1923, Chapters 92 and 170 of the Session Laws for the year 1925, Chapters 91, 92, 93, 96, 97 and 98 of the Session Laws for the year 1927, Chapters 87 and 88 of the Session Laws for the year 1929, together with all acts amendatory thereof and all other acts or parts of acts repugnant to and inconsistent herewith are hereby repealed.

§ 70. SAVING CLAUSE.] Nothing in this Act contained repealing any Act for the regulation or conduct of banking, shall be construed, to release any person from punishment for any acts heretofore committed violating said Act or Acts nor affect in any manner any existing indictment or prosecution by reason of such repeal; and for that purpose such Acts shall continue in force and effect notwithstanding such repeal.

§ 71. INVALIDITY.] In the event that any section or clause, sentence, paragraph or part of this Act shall for any reason be adjudged by any court of competent or final jurisdiction to be invalid such judgment shall not affect, impair or invalidate the remainder of this Act, but shall be confined in its operation to the section, clause, sentence, paragraph or part thereof directly involved in the controversy in which such judgment shall have been rendered.

Approved March 12, 1931.

## BARBERS

### CHAPTER 97

(S. B. No. 24—Porter by Request.)

#### APPRENTICE BARBER

An Act to amend and re-enact Section 3 of Chapter 101 of the Session Laws of the State of North Dakota for 1927.

*Be It Enacted by the Legislative Assembly of the State of North Dakota:*

That Section 3 of Chapter 101 of the Session Laws of the State of North Dakota for 1927 be amended and re-enacted to read as follows:

§ 3. PRACTICE OF APPRENTICE.] No registered apprentice may independently practice barbering, but they may as an apprentice do any or all of the acts constituting the practice of barbering under the immediate personal supervision of a registered barber; provided that not more than one apprentice shall be employed in any one barber shop.

Approved February 5th, 1931.