

BANKS AND BANKING

CHAPTER 94

S. B. No. 133
(Johnson and Luick)

FEES FOR EXAMINATION OF BANKS

AN ACT

To amend and reenact section 6-0117 of the North Dakota Revised Code of 1943, relating to fees for examination of banks; providing for maximum fee limit and increasing minimum fee limit.

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

§ 1. AMENDMENT.) Section 6-0117 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

6-0117. FEES FOR EXAMINATION OF BANKS.) Every state banking association, banking institution, and trust company placed under the jurisdiction and control of the state examiner and his deputy examiners by the provisions of this title, prior to receiving its certificate of authority to commence business, if a new corporation or association, and in all cases within ten days after each examination, shall pay into the state treasury the following fee: one and one-half hundredths of one percent of the gross amount of the assets of said corporation or association on the day of the examination, exclusive of expenses, interest, and taxes paid, and inclusive of any valuation allowance or allowances deducted by a state banking association from any asset account. Such fee shall not be less than seventy-five dollars and not more than one thousand dollars. The state treasurer shall report such payments of fees to the state banking board, and if any such corporation or institution shall be delinquent more than twenty days in making such payment, the board may make an order suspending the functions of such delinquent corporation or institution until payment of the amount due, plus a penalty of five dollars a day additional for the delay.

Approved March 10, 1953.

CHAPTER 95

S. B. No. 132
(Johnson and Luick)

DUTIES, EXAMINATIONS AND FEES OF STATE EXAMINER

AN ACT

Relating to Duties, Examinations, and Fees of the state examiner, and
Repealing section 6-0121 of the North Dakota Revised Code of
1943.

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

§ 1. DUTIES, EXAMINATION, FEES.) The state examiner by his duly appointed deputy examiners or other authorized person or persons shall examine at least once each year if possible, and more often if he, in his discretion, deems it advisable, the official financial records and accounts of all elected state officers and the departments and divisions which they administer, all state boards, funds, commissions, associations, departments, and bureaus, except those which are specifically designated to be audited by the state board of auditors, all state institutions of higher learning under the administration and control of the state board of higher education, and all state institutions and departments under the administration and control of the state board of administration, the North Dakota soldiers' home, the offices of the clerk of the supreme court, the supreme court librarian, the adjutant general, the national guard and/or state guard, the historical society, the state librarian, the banking department of the Bank of North Dakota, and the North Dakota stockmen's association, and shall make at his convenience examinations of such other state agencies, boards, commissions, departments, funds or bureaus at such time and for such period as the governor may request in writing. Reports of examinations provided for herein shall be filed in the office of the governor, and a copy of such examination report shall be sent to the office, board, fund, commission, association, department, bureau or institution examined, and to the presiding officer of the board under whose administration the institution is operated.

Fees for the examinations provided for in this section shall be charged by the state examiner only for examinations of the state fire and tornado fund, the state bonding fund, the banking department of the Bank of North Dakota, and the North Dakota stockmen's association. The fee shall be at the rate

of twenty-five dollars (\$25.00) per day for the time actually required by the state examiner and each deputy examiner and other person employed in making, typing, and otherwise preparing and filing the reports of examination provided by this section. Such fees shall be paid to the state treasurer and by him credited to the general fund of the state.

§ 2.) The state examiner by his duly appointed deputy examiners or other authorized person or persons shall examine at least each year, if possible, and more often if he, in his discretion, deems it advisable, the official financial records, accounts, and proceedings of boards of county commissioners, county auditors, county treasurers, clerks of district court, county judges, registers of deeds, county superintendents of schools, sheriffs, public administrators, governing boards of irrigation districts and flood irrigation districts, clerks or secretaries of said boards and treasurers of said districts. Fees for such examinations shall be charged by the state examiner for the examinations in this section provided at the rate of twenty-five dollars (\$25.00) per day for the time used by himself or other person designated by him in supervising, filing and corresponding in connection with such report and for the time used by each deputy examiner, or other person or persons in making and otherwise preparing and typing the reports of examinations herein provided for. Fee for an extra day shall be paid for each person who may be required to travel to participate in the examinations in this section provided. The fees herein provided shall be paid by the counties and districts examined to the state treasurer, and by him credited to the general fund of the state.

§ 3.) The state examiner by his duly appointed deputy examiners or other authorized person or persons shall examine at least each year, if possible, and more often if he, in his discretion, deems it advisable, the official financial records, accounts, and proceedings of the governing boards, councils, commissions, and committees, city auditors, city treasurers, park district clerks and treasurers, village clerks and treasurers in cities and villages having a population of one thousand or more, and school district clerks, secretaries of boards of education and school boards and boards of education and treasurers thereof in school districts comprising cities and villages having a population of one thousand or more, and the books, records, and proceedings of the trustees and officers of firemen's relief associations receiving funds under the provisions of chapter 18-05 of the North Dakota Revised Code of 1943.

The governing board of any such city, park board, village, or school district may provide for an audit annually by a certified public accountant, and such audit report shall be in

such form and contain such information as the state examiner may require in addition to other information, and in such case the state examiner shall not be required to make the examination heretofore provided for in this section. Two copies of such audit reports shall be filed with the state examiner and one copy with the state bonding fund by the certified public accountant making such audit at the same time that the report of audit is delivered to said city, park board, village or school district, and the governing board of such subdivision shall not pay the fee for such audit until evidence of such filing is furnished. The state examiner may require the correction of any irregularities, objectionable accounting procedures, or illegal actions on the part of the governing boards and officers of such subdivisions disclosed by such audit reports, and failure to make such corrections shall result in examinations being resumed by the state examiner until such irregularities, procedures or illegal actions are corrected, and fees for such examinations, so resumed, shall be paid in accordance with this section.

Fees for the examinations provided for in this section shall be charged by the state examiner at the rate of twenty-five dollars (\$25.00) per day for the time used by himself or other person designated by him in supervising filing and corresponding in connection with such reports of examination, and for time used by each deputy examiner or other person or persons in making such examinations and otherwise preparing and typing the reports of examinations herein provided for. Fee for an extra day shall be charged for each person who may be required to travel to participate in the examinations in this section provided, and all fees for the examinations herein provided shall be paid by the subdivision examined to the state treasurer, and by him credited to the general fund of the state.

§ 4.) When so ordered by the governor of this state, or on petition of thirty-five per cent (35%) of the electors of any school district, city or village for which examinations are not provided in section 3 of this Act, or at the request of the chairman or governing board of any such political subdivision, the state examiner shall, through his deputy examiners or other authorized persons, examine the records of the governing body and the books, records, and financial accounts of the treasurer and clerk or auditor thereof, as the case may be. Fees for such examinations shall be paid in accordance with the provisions of section 3 of this Act to the state treasurer, and by him credited to the general fund of the state.

§ 5.) It shall not be the duty of the state examiner or his staff to make examinations of any political subdivision, state

office or department, state boards, funds, commissions, associations, and bureaus, for the reason of severance from the service of such political subdivisions, state offices or departments, state boards, funds, commissions, associations, and bureaus of any officer, clerk, deputy, cashier, or other employee unless the head of such state office or department, or the board administering any other of the agencies named herein shall request such examination in writing, and state that there is reason to believe that there is irregularity in handling funds or embezzlement involved.

§ 6. REPEAL.) Section 6-0121 of the North Dakota Revised Code of 1943 as heretofore amended by section 1 of chapter 103 of the session laws of 1949 is hereby repealed.

Approved March 13, 1953.

CHAPTER 96

S. B. No. 52
(Legislative Research Committee)
(at the request of the)
(State Examiner)

RESPONSIBILITY OF STATE BANKING ASSOCIATION SHAREHOLDERS

AN ACT

Relating to the responsibility of shareholders of state banking associations and repealing section 6-0329 of the North Dakota Revised Code of 1943.

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

§ 1.) The additional liability imposed upon shareholders in state banking associations by section 6-0329 of the North Dakota Revised Code of 1943, or by any earlier statute imposing the same or similar liability, shall not apply with respect to shares in any such association issued after July 1, 1953. Such additional liability shall cease on July 1, 1955, with respect to all shares theretofore issued by any such association which shall be transacting the business of banking on July 1, 1955; provided, that no less than six months prior to that date such association shall have caused notice of such prospective termination of liability to be published once each

week for four successive weeks in a newspaper published in the county in which such association is located. If any such association shall fail to give such notice as and when above provided, a termination of such additional liability may thereafter be accomplished as of a date six months subsequent to publication in the manner above provided.

§ 2.) Nothing in this Act contained shall impair or affect the validity of the termination of any such liability heretofore affected pursuant to the provisions of chapter 95 of the North Dakota session laws of 1937 or chapter 103 of the North Dakota session laws of 1941.

§ 3. REPEAL.) Section 6-0329 of the North Dakota Revised Code of 1943 is hereby repealed.

Approved February 28, 1953.

CHAPTER 97

S. B. No. 142
(Wadeson)

AUTHORIZING USE OF WORD "SAVINGS" IN NAMES OF BUILDING AND LOAN ASSOCIATIONS

AN ACT

To amend and reenact section 6-0409 of the North Dakota Revised Code of 1943; section 7-0101 of the North Dakota Revised Code of 1943; and subsection 1 of section 7-0103 of the North Dakota Revised Code of 1943, authorizing building and loan associations to use the word "savings" in their names.

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

§ 1. AMENDMENT.) Section 6-0409 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

6-0409. USE OF "SAVINGS BANK" IN CORPORATE NAME; WHO MAY RECEIVE DEPOSITS; VIOLATION A MISDEMEANOR.) Every corporation organized under the provisions of this chapter shall use the words "savings bank" as a part of its corporate name, and it shall not be the same as that of any other bank incorporated in this state. A corporation shall not use the word "savings" as a part of its title unless it is organized under this

chapter or under chapter 7-01. No corporation, except a national banking corporation, state bank, and an annuity safe deposit, and trust company organized under the laws of this state, shall receive savings deposits without first complying with and organizing under the provisions of this chapter. Any person violating the provisions of this section is guilty of a misdemeanor.

§ 2. AMENDMENT.) Section 7-0101 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

7-0101. DEFINITION: SUPERVISION.) 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 as a building and loan association, or a savings and loan association, and shall be under the supervision of the state banking board, which board is charged with the duty of enforcing all laws with respect thereto. Such association shall be organized under and governed by the provisions of this title. 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 in this title, or carrying on a business of a character similar to that authorized by this title, shall be known in this title as foreign corporations.

§ 3. AMENDMENT.) Subsection 1 of section 7-0103 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

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" or "savings and loan association" shall form a part of the name, and only corporations and associations organized under this chapter shall be entitled to use a name embodying either of said combinations of words. Any association in existence on July 1, 1931, may continue and renew its charter in the name under which it was then operating. Any corporation or association organized or operating under this chapter is authorized to change its name to embody the words "savings and loan association."

Approved March 17, 1953.

CHAPTER 98

H. B. No. 619
(McLellan)

**AUTHORIZING OUT-OF-STATE BANKS AND TRUST COMPANIES
TO SERVE AS FIDUCIARIES ON RECIPROCAL BASIS**

AN ACT

To authorize out-of-state banks and trust companies to serve as fiduciaries in the State of North Dakota on a reciprocal basis.

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

§ 1.) A bank or trust company organized and doing business under the laws of any state or territory of the United States of America, including the District of Columbia, other than the state of North Dakota, and a national bank, duly authorized so to act, may be appointed and may serve in this state as trustee, whether of a corporate or personal trust, executor, administrator, guardian for a minor or for an incompetent person, or in any other fiduciary capacity, whether the appointment is by will, deed, court order or decree, or otherwise, when and to the extent that the state, territory or district in which such bank or trust company is organized or has its principal place of business grants authority to serve in like fiduciary capacities to a bank or trust company organized and doing business under the laws of this state.

§ 2.) Before qualifying or serving in this state in any fiduciary capacity, as defined in section 1 of this Act, such bank or trust company shall file in the office of the secretary of state a copy of its charter certified by its secretary under its corporate seal, and a power of attorney designating the said secretary of state or his successor in office as the person upon whom all notices and processes issued by any court of this state may be served in any action or proceeding relating to any trust, estate, or matter within this state in respect of which such bank or trust company is acting in any fiduciary capacity with like effect as personal service on such bank or trust company, which power of attorney shall be irrevocable so long as any such liability shall remain outstanding against such bank or trust company in this state; upon receipt of such notice or process, it shall be the duty of the said secretary of state forthwith to forward the same by registered mail to such bank or trust company at the address stated in the said power of

attorney, and such bank or trust company shall comply with the provisions of chapter 6-05 of the North Dakota Revised Code of 1943, as heretofore or hereafter amended, insofar as the provisions of said chapter pertain to banks or trust companies.

§ 3.) The provisions of this Act shall not be construed to permit a bank or trust company, organized and doing business under the laws of any other state, territory or district than the state of North Dakota, including a national bank doing business in any other state, to establish in this state a place of business, branch office, or agency for the conduct of business as a fiduciary.

§ 4.) No bank or trust company organized and doing business under the laws of any state or territory of the United States of America, or of the District of Columbia, other than the state of North Dakota, or a national bank doing business in any other state, territory or district, shall act in a fiduciary capacity in this state, except pursuant to the provisions of this Act.

§ 5.) Any bank or trust company violating any provision of this Act shall be guilty of a misdemeanor and, upon conviction thereof, shall be subject to a fine of not exceeding ten thousand dollars, and may, in the discretion of the court, be prohibited thereafter from serving in this state in any fiduciary capacity.

§ 6.) All Acts or parts of Acts which are inconsistent with the provisions of this Act are hereby repealed.

Approved March 4, 1953.

CHAPTER 99

H. B. No. 730

(Siverson, Snortland, Erickson of Divide)
(Poling and Esterby)ASSESSMENT OF MEMBERSHIP DUES IN NORTH DAKOTA
CREDIT UNION LEAGUE

AN ACT

To amend and reenact section 6-0616 of the North Dakota Revised Code of 1943, relating to the assessment of membership dues in the North Dakota Credit Union League.

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

§ 1. AMENDMENT.) Section 6-0616 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

6-0616. ENTRANCE FEE; CAPITAL; LIEN ON SHARES; ASSESSMENT ON SHARES.) A credit union may charge such entrance fee, not to exceed fifty cents, as may be provided by its by-laws. Its capital shall consist of the entrance fees paid in and the payments made to it by the several members on shares therein. The credit union shall have a lien on the shares and deposits of a member for any sum due to the credit union from that member or for the amount due on any loan endorsed by him. A credit union that is a member of the North Dakota credit union league may, by resolution adopted with a quorum present at a regular or special meeting of the board of directors of the credit union, annually assess against the share accounts of all members of the credit union an amount equal to the whole or proportionate part of the annual membership fee payable to the North Dakota credit union league.

Approved March 4, 1953.

CHAPTER 100

S. B. No. 172
(Johnson)

EXPENSES OF COURT COMMISSIONER OR DISTRICT JUDGE
IN CHARGE OF CLOSED BANKS; REPEAL

AN ACT

To repeal section 6-0744 of the 1949 Supplement of the North Dakota Revised Code of 1943 relating to expenses of court commissioner or district judge in charge of closed banks.

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

§ 1. REPEAL.) Section 6-0744 of the 1949 Supplement of the North Dakota Revised Code of 1943 is hereby repealed.

Approved March 13, 1953.