

BANKS AND BANKING

CHAPTER 65

HOUSE BILL NO. 1032

(Bunker, Gunderson, Lang, Metzger, Gengler)
(From Legislative Council Study)

LOANS ON REAL ESTATE

AN ACT to amend and reenact section 6-03-05 of the North Dakota Century Code, relating to loans on real estate.

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

SECTION 1. AMENDMENT.) Section 6-03-05 of the 1971 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-03-05. LOANS ON REAL ESTATE - REGULATION - LIMITATION - AMORTIZED LOANS PROVIDED FOR.) No association shall own or carry among its assets at any one time loans dependent primarily upon real estate security in an aggregate sum in excess of the amount of the capital stock of such association paid in and unimpaired plus the amount of its unimpaired surplus fund, or in excess of sixty-six and two-thirds percent of the amount of its time and savings deposits, whichever is the greater, and then only first mortgages constituting first liens upon such real estate. Before any such loan is made the board of directors shall appoint 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 the appraisal together with any other facts relating to such proposed loan and proposed security as will best enable the board to determine if the loan shall be granted. Such written report shall be made a permanent record in the bank's files and shall be 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 unamortized loan secured by realty may be made for a period exceeding five years in an amount exceeding fifty percent of the appraised value of the real estate offered as security.

Any such loan may be made in an amount not to exceed ninety percent of the appraised value of the real estate offered as security and for a term not longer than thirty years if the loan is secured by an amortized mortgage, deed of trust, or other such instrument under the terms of which the installment payments are sufficient to amortize the entire principal of the loan within a period of not more than thirty years.

Approved February 1, 1973

CHAPTER 66

SENATE BILL NO. 2356
(Reiten)

DRIVE-IN FACILITIES OF BANKS

AN ACT to amend and reenact sections 6-03-13.1, 6-03-13.2 and 6-03-13.3 of the North Dakota Century Code, relating to drive-in facilities of banks, their locations, and providing for the approval, in certain instances, of the comptroller of the currency.

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

SECTION 1. AMENDMENT.) Section 6-03-13.1 of the 1971 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-03-13.1. SEPARATE DRIVE-IN FACILITY AUTHORIZED.) Every bank organized under chapter 6-02 of the North Dakota Century Code, and under the supervision of the state banking board, and any national bank doing business in this state, may, upon compliance with sections 6-03-13.1 through 6-03-13.4, maintain and operate separate and apart from its banking house one facility for drive-in and walk-up service, in addition to such service at its main banking house, and at its paying and receiving stations, if any. Such facility shall be within the corporate city limits of the main banking house or within three miles of such city but shall not be within the corporate limits of another city. The services rendered at the separate facility shall be limited to receiving deposits of every kind and nature, cashing checks or orders to pay, issuing exchange, and receiving payments payable at the bank.

SECTION 2. AMENDMENT.) Section 6-03-13.2 of the 1971 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-03-13.2. FURTHER LIMITATIONS UPON FACILITY.) No bank may maintain or operate under sections 6-03-13.1 through 6-03-13.4:

1. More than one such facility separate and apart from its banking house, except facilities required by the United States government to be maintained by it as financial agent of the government on government reservations solely for military and other government personnel,

provided, however, that nothing in this section shall be construed to authorize any bank to establish or maintain such facilities as financial agent of the government on government reservations; or

2. Such facility separate and apart from its banking house without first having obtained the approval of the state banking board or the comptroller of the currency, as the case may be.

SECTION 3. AMENDMENT.) Section 6-03-13.3 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-03-13.3. FACTS CONSIDERED FOR APPROVAL.) Whenever any bank desires to maintain and operate a facility separate and apart from its banking house, pursuant to section 6-03-13.1 through 6-03-13.4, or to move a facility previously established to another location, it shall apply to the state banking board or the comptroller of the currency, as the case may be, for such authority and provide the board with such relevant information as the board may reasonably request. In determining whether or not to approve the application for such facility, the banking board shall take into consideration the following facts:

1. The convenience, needs and welfare of the people of the community and area served;
2. The financial strength of the bank in relation to the cost of establishing and maintaining such separate facility; and
3. Whether other banks will be seriously injured by the approval of the application.

Approved March 28, 1973

CHAPTER 67

HOUSE BILL NO. 1370
(Jenkins, Lodoen)

REQUIREMENTS FOR BANK SURPLUS FUND

AN ACT to amend and reenact section 6-03-34 of the North Dakota Century Code, relating to requirements for bank surplus fund.

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

SECTION 1. AMENDMENT.) Section 6-03-34 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-03-34. SURPLUS FUND REQUIRED - DIVIDENDS ONLY OUT OF EARNINGS NOT REQUIRED FOR SURPLUS.) The board of directors of any association organized under this title may declare annual or semiannual dividends out of the net profits of the association subject to the limitations of this section. Every such association, semiannually or annually, as its board of directors shall deem advisable, shall ascertain, set apart, and convert into a surplus fund at least fifty percent of its net earnings until such surplus fund shall equal one hundred percent of its common stock, and no dividend shall be declared upon its stock except from the remaining fifty percent of its net earnings.

Approved March 11, 1973

CHAPTER 68

SENATE BILL NO. 2331
(Wenstrom, Redlin)

BANKING ASSOCIATION INVESTMENTS

AN ACT relating to investments of state banks.

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

SECTION 1. INVESTMENTS OF STATE BANKS.) In addition to the other powers authorized by law under Title 6 of the North Dakota Century Code, any state banking association may invest its funds in:

1. Bonds, notes, or debentures of any corporation rated at "A" or higher by a nationally recognized rating service approved by the state banking board, provided that such investments shall not be made to exceed for any one corporation ten percent of the combined capital and surplus of the banking association; and
2. Equity and debt instruments of corporations or projects designed primarily to promote community welfare such as economic rehabilitation and development of low income areas, subject to approval and regulation of the state banking board but not to exceed for the total of all investments under this subsection, ten percent of the combined capital and surplus of the banking association.

Approved March 11, 1973

CHAPTER 69

HOUSE BILL NO. 1033

(Bunker, Gunderson, Lang, Metzger, Gengler)

(From Legislative Council Study)

TERM OF PERSONAL PROPERTY LEASES

AN ACT to amend and reenact section 6-03-59.1 of the North Dakota Century Code, relating to the term of leases of personal property from banks.

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

SECTION 1. AMENDMENT.) Section 6-03-59.1 of the 1971 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-03-59.1. LEASING OF PERSONAL PROPERTY - LIMITATION ON TERM AND AMOUNT.) A bank may become the owner and lessor of personal property upon the specific request of and for the use of a customer. The term of the lease shall not exceed ten years and all such leases shall provide for the payment of at least annual rentals the total of which shall at least equal the cost to the bank of the personal property so leased. The total leasing obligation or rentals to a bank will be a part of the total liability limitations of any borrower as set forth in section 6-03-59.

Approved March 12, 1973

CHAPTER 70

HOUSE BILL NO. 1132
(Metzger, Livingston)

CREDIT UNIONS

AN ACT to amend and reenact sections 6-06-12, 6-06-14, and 6-06-26 of the North Dakota Century Code, relating to membership officer, loan officer and declaration of dividends in credit unions.

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

SECTION 1. AMENDMENT.) Section 6-06-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-06-12. DIRECTORS - DUTIES AND POWERS.) The directors shall have general management of the credit union, and it shall be their duty particularly:

1. To act on applications for membership, unless a membership officer is appointed;
2. To determine interest rates on loans and deposits;
3. To fix, subject to the approval of the state examiner, the amount of surety bond which shall be required of all officers and employees handling money;
4. To recommend dividends;
5. To transmit to the members recommendations for changes in the bylaws;
6. To fill vacancies on the board of directors and on the credit committee who shall serve until their successors are chosen and qualified;
7. To determine the maximum individual shareholdings and the maximum individual loans which can be made, but the maximum loan allowed by the board shall not exceed the amounts listed in the following schedule:

Total assets

Loan limit

0 to 70,000

10% with a limit of 5,000

70,001 to 100,000	6,000 limit
100,001 to 200,000	8,000 limit
200,001 to 300,000	10,000 limit
300,001 to 400,000	12,000 limit
400,001 to 500,000	14,000 limit
over 500,000	3% of assets

In all cases a credit union shall be allowed to loan up to and including two hundred dollars to any individual regardless of the amount of total assets in said credit union. Provided, that the foregoing provisions shall not apply to the North Dakota central credit union.

8. To supervise and control investments other than loans to members;
9. To establish a schedule of fines for delinquency in the payment of principal or interest, which the board shall impose at its discretion; and
10. The board may appoint a membership officer authorized to approve applications for membership under such conditions as the board may prescribe; except that such membership officer so authorized shall submit to the board at each monthly meeting a list of approved or pending applications for membership received since the previous monthly meeting, together with such other related information as the bylaws or the board may require.

SECTION 2. AMENDMENT.) Section 6-06-14 of the 1971 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-06-14. LOANS - HOW MADE - SECURITY - MEETINGS AND DUTIES OF CREDIT COMMITTEE.) The credit committee shall have general supervision over all loans to members, and shall meet as often as may be necessary to perform its duties and at least once each month. Notice must be given to each member of the committee before any meeting is held. All applications for a loan shall be made on a form approved by the committee and shall set forth the purpose for which the loan is desired, the security, if any, which is offered, and such other data as the committee may require. No loan in excess of twenty-five hundred dollars shall be made without adequate security and security, under this section, shall include an assignment of shares or deposits, an endorsement made on the note by a responsible person, and such other security as the committee in its discretion may deem adequate. No loan shall be made unless it is approved by a majority of the entire committee; except that the credit committee may appoint one or more loan officers, and delegate to him or them the power to approve loans up to the limit established by the credit committee, or in excess of such limit if such excess is fully secured by unpledged shares. Each loan officer shall furnish to the credit committee a record of each loan approved or not approved by him within seven days of the date of the filing of the application therefor. All loans not approved by a loan officer shall be acted upon by

the credit committee. No individual shall have authority to disburse funds of the credit union for any loan which has been approved by him in his capacity as a loan officer. Not more than one member of the credit committee may be appointed as a loan officer.

SECTION 3. AMENDMENT.) Section 6-06-26 of the 1971 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-06-26. DIVIDENDS.) A credit union, upon action by its board of directors, may declare a dividend to be paid from the remaining net earnings. The board of directors shall establish the dividend period, however, dividends shall not be paid more frequently than quarterly. The members may fix the maximum rate of dividends which shall be paid. Dividends may be computed on a daily basis. Such dividend, not to exceed six percent in any case, must be paid from the net earnings of the credit union, after establishing a special reserve for delinquent loans if required by the state credit union board. A credit union, upon action of its board of directors, may authorize an interest refund to members of record at the close of business the last day of any dividend period in proportion to the interest paid during that dividend period. Interest refunds may be made to borrowers only after provision has been made for a special reserve for delinquent loans if required by the state credit union board.

Approved March 12, 1973

CHAPTER 71

HOUSE BILL NO. 1035
(Bunker, Gunderson, Lang, Metzger, Gengler)
(From Legislative Council Study)

BANK OF NORTH DAKOTA LOANS

AN ACT to amend and reenact section 6-09-15 of the North Dakota Century Code, relating to loans made by the Bank of North Dakota.

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

SECTION 1. AMENDMENT.) Section 6-09-15 of the 1971 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-09-15. BANK MAY MAKE LOANS - REAL ESTATE LOANS LIMITED.) The Bank of North Dakota may make loans to, and purchase securities issued by instrumentalities of this state, and such loans shall be repaid with interest to the Bank. The Bank of North Dakota may make loans to state or national banks, and may participate with state or national banks, savings and loan associations, and credit unions, in loans being made by them, on such terms and under such rules and regulations as the industrial commission may determine. The Bank may buy and sell federal funds, or excess reserves, bankers acceptances, participation loans, and all securities issued by the United States government or its instrumentalities. The Bank of North Dakota may invest its funds in bonds, notes, or debentures of any corporation incorporated under the laws of any state of the United States rated at "A" or higher by a nationally recognized rating service approved by the industrial commission, provided that such investments shall not be made to exceed for any one corporation, ten percent of the combined capital, and surplus of the Bank. The Bank may make loans, to holders of Bank of North Dakota certificates of deposit and savings accounts, up to ninety percent of the value of the certificate and savings accounts offered as security. The Bank shall not otherwise make loans or give its credit to any individual, association, or private corporation, except that it may make loans to actual farmers who are residents of this state, if such loans are secured by recorded mortgages giving the Bank of North Dakota a first lien on real estate in North Dakota in amounts not to exceed one-half the value of the security and except United States insured and guaranteed loans as specifically authorized by law. The Bank shall not loan more than thirty percent of its capital, nor in addition thereto, more than twenty percent of its deposits on real estate security, excluding those loans insured or guaranteed by the United States or its agencies.

Approved March 19, 1973

CHAPTER 72

HOUSE BILL NO. 1351
(Kloubec)

BANK OF NORTH DAKOTA AUDIT

AN ACT to amend and reenact section 6-09-29 of the North Dakota Century Code, relating to audits and examinations of the state bank of North Dakota, and providing an appropriation.

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

SECTION 1. AMENDMENT.) Section 6-09-29 of the 1971 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-09-29. DEPARTMENT OF BANKING AND FINANCIAL INSTITUTIONS AND THE INDUSTRIAL COMMISSION RESPONSIBLE FOR EXAMINATIONS AND AUDIT REPORTS.) The industrial commission shall be responsible for contracting with a nongovernment certified public accounting firm to annually audit the Bank of North Dakota in accordance with generally accepted auditing standards, which shall include inspection and verification of the assets in its possession and under its control with sufficient thoroughness to ascertain with reasonable certainty whether the valuations are carried correctly on its books. The auditor so hired shall audit the Bank's methods of operation and accounting, shall report the results to the industrial commission as soon as practicable, and shall furnish one copy to the legislative assembly. The costs of such audit shall be paid for by the Bank of North Dakota. The department of banking and financial institutions, through the state examiner, shall be responsible for an annual examination of the Bank of North Dakota and for any investigation of the Bank which may be necessary. The results of this examination, and any necessary investigation, shall be reported to the industrial commission as soon as practicable and to the legislative assembly. Fees for such examinations shall be charged by the department of banking and financial institutions for the examinations in this section provided at the rate of forty dollars per day for the time used by the state examiner 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.

SECTION 2. APPROPRIATION.) There is hereby appropriated the sum of \$40,000 or so much thereof as may be necessary, from

unappropriated profits of the Bank of North Dakota, for the purpose of defraying the expense of an independent certified public accountant audit of the Bank of North Dakota during the biennium beginning July 1, 1973, and ending June 30, 1975.

Approved March 27, 1973

CHAPTER 73

SENATE BILL NO. 2032
(Lips, Thane, Gronhovd, Mutch)
(From Legislative Council Study)

ADMINISTRATION OF ASSETS OF
RURAL REHABILITATION CORPORATION

AN ACT to provide for administration of the assets of the North Dakota rural rehabilitation corporation if these assets are released to the state of North Dakota by an Act of Congress of the United States.

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

SECTION 1. BANK OF NORTH DAKOTA TO ADMINISTER ASSETS OF RURAL REHABILITATION CORPORATION.) The Bank of North Dakota shall do all things necessary and proper to administer all assets of the North Dakota rural rehabilitation corporation released to the state of North Dakota by an Act of Congress of the United States in accordance with law and in accordance with the terms or conditions of the laws of the United States and the agreement relating to the release of such funds.

Approved March 10, 1973

CHAPTER 74

HOUSE BILL NO. 1034
(Bunker, Gunderson, Lang, Metzger, Gengler)
(From Legislative Council Study)

IRRIGATION DEVELOPMENT DEBENTURES

AN ACT to authorize the industrial commission to issue debentures through the Bank of North Dakota to provide funds to participate with other banks and lending agencies in loans for irrigation development.

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

SECTION 1. DECLARATION OF LEGISLATIVE INTENT AND FINDING OF PUBLIC PURPOSE.) It is declared that a statewide need exists for a program of irrigation development in North Dakota. It is also declared that it is in the public interest to promote the expansion and diversification of agriculture, to increase employment, and to provide a larger taxable base for the economy of the state. The legislative assembly further finds that there is a need to provide additional capital sources for farmers who wish to convert to irrigation farming, particularly young farmers and small operators who would otherwise be unable to obtain sufficient credit through usual commercial channels.

SECTION 2. INDUSTRIAL COMMISSION MAY ISSUE DEBENTURES THROUGH THE BANK OF NORTH DAKOTA.) The industrial commission, acting through the Bank of North Dakota, may issue debentures in amounts not to exceed a total of ten million dollars to provide capital for loans to enable residents of this state to purchase and finance irrigation distribution systems and related agricultural facilities and enterprises. Such loans shall be made on a participating basis with other banks and lending agencies. The industrial commission shall prescribe procedures for the preparation, issuance, delivery, and liquidation of debentures issued pursuant to the provisions of this Act. Such debentures shall be secured solely by, and any recourse shall be limited to, the real and personal property of the Bank of North Dakota and shall not be an obligation of the state of North Dakota.

SECTION 3. DEBENTURES EXEMPT FROM TAXATION - EXCEPTION.) Debentures issued pursuant to this Act, and income therefrom, shall be exempt from any taxes, except inheritance, estate, and transfer taxes.

Approved March 3, 1973

CHAPTER 75

SENATE BILL NO. 2231
(Litten)

TRANSFER OF PROFITS OF
BANK OF NORTH DAKOTA

AN ACT to transfer moneys from the accumulated and undivided profits of the Bank of North Dakota to the general fund of the state.

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

SECTION 1. TRANSFER.) There is hereby transferred to the general fund of the state the sum of ten million dollars from the accumulated and undivided profits of the Bank of North Dakota. Such moneys shall be transferred during the 1973-75 biennium upon order of the industrial commission.

Approved March 9, 1973