

HOUSE BILL NO. 1369

Introduced by

Representatives Clark, Boe, Dietrich, Haas

Senator Krebsbach

1 A BILL for an Act to amend and reenact subsection 1 of section 6-02-01 and section 6-05-02 of
2 the North Dakota Century Code, relating to use of terms for bank, annuity, safe deposit, surety,
3 and trust company regulation purposes.

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

5 **SECTION 1. AMENDMENT.** Subsection 1 of section 6-02-01 of the North Dakota
6 Century Code is amended and reenacted as follows:

7 1. No person, firm, company, copartnership, or corporation, either domestic or
8 foreign, not organized under this chapter or authorized to take on banking powers
9 under this section, except national banking corporations, banks organized under
10 the laws of another state, domestic or foreign bank holding companies, their
11 affiliates, and the Bank of North Dakota, may make use of or display in connection
12 with its business, in signs, letterheads, advertising, or in any other way, such words
13 as "bank", "banker", or "banking", or any other word or words of like import, nor
14 may any person or concern do or perform anything in the nature of the business of
15 a bank until and unless such business is regularly organized or authorized under
16 this chapter. Upon written request, the commissioner may grant an exemption to
17 this section if the commissioner finds that use of the words "bank", "banker", or
18 "banking", or words of like import, are not reasonably likely to cause confusion or
19 lead the public to believe that the person requesting the exemption is a banking
20 institution or is conducting a business subject to the jurisdiction of the department.

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

23 **6-05-02. Compliance with chapter required - Penalty for noncompliance.** No
24 person, firm, company, copartnership, or corporation, either domestic or foreign, not organized

1 under this chapter nor subject to its provisions, except only national banking corporations, state
2 banks authorized under this chapter, state banks or trust companies authorized to engage in
3 trust activities under the laws of another state, their affiliates, and the Bank of North Dakota,
4 may make use of or display in connection with its business, in signs, letterheads, advertising, or
5 in any other way, such words as "trust", "trust company", or any other word or words of like
6 import, nor may any person or concern do or perform anything in the nature of the business of a
7 trust company until and unless such business is regularly organized and authorized under this
8 chapter. If any firm or corporation organized prior to July 1, 1931, has been granted a charter
9 permitting it to use any word, words, or title contrary to the intent of this section, and by reason
10 of its rights under such charter, the provisions of this section may not be enforced against it
11 during the life of such charter. However, no renewal charter may be granted to such person,
12 firm, or corporation permitting the continuance of the use of such word, words, or title contrary
13 to or in violation of this section. Any person, firm, or corporation which, by reason of an existing
14 charter right under any law or statute in effect prior to July 1, 1931, may be held by the courts
15 not to be affected by this section and which therefore refuses to comply with the provisions of
16 this section, during the period of noncompliance, shall display, prominently and continuously in
17 plain, legible, and clearly discernible lettering on all of its signs, stationery, circulars, and
18 advertising, and in all of its printed or written matter the following words and language: "NOT
19 UNDER THE SUPERVISION OF THE STATE BANKING BOARD OR THE COMMISSIONER
20 OF FINANCIAL INSTITUTIONS", and such language must be displayed thereon as prominently
21 as any other matter therein. Any person, firm, company, copartnership, or corporation,
22 domestic or foreign, violating any provision of this section, shall forfeit to the state one hundred
23 dollars for every day or part thereof during which such violation continues. In an action brought
24 by the commissioner or any aggrieved person, the court may issue an injunction restraining
25 such person, firm, company, copartnership, or corporation from further using such words,
26 terms, or phrases in violation of this section or from further transacting business in such a way
27 or manner as to lead the public to believe that its business is in whole or in part of the nature of
28 a trust company, or that it is under the supervision of the state banking board or the
29 commissioner. Upon written request, the commissioner may grant an exemption to this section
30 if the commissioner finds that use of the words "trust" or "trust company", or words of like
31 import, are not reasonably likely to cause confusion or lead the public to believe that the person

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- 1 requesting the exemption is a banking institution or is conducting a business subject to the
- 2 jurisdiction of the department.