Sixty-sixth Legislative Assembly of North Dakota
In Regular Session Commencing Thursday, January 3, 2019

SENATE BILL NO. 2093
(Industry, Business and Labor Committee)
(At the request of the Department of Financial Institutions)

AN ACT to amend and reenact sections 6-01-09, 6-05-03, and 6-05-28, subsection 3 of section 6-08.1-01, sections 13-04.1-04.1, 13-05-04.1, and 13-08-06, subsection 1 of section 13-09-10, and section 13-11-08 of the North Dakota Century Code, relating to the examination of technology service providers, the capital requirement for trust companies, the examination of trust companies, the definition of a financial institution, surety bond requirements for money brokers and collection agencies, notice requirement for deferred presentment service providers, fees for money transmitters, and reporting requirements for debt-settlement providers; and to repeal sections 13-04.1-05.1, 13-05-05.2, 13-08-05.2, and 13-09-10.1 of the North Dakota Century Code, relating to automatic renewal of license in 2009 for money brokers, automatic renewal of license in 2014 for collection agencies, deferred presentment service providers, and money transmitters.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 6-01-09 of the North Dakota Century Code is amended and reenacted as follows:

6-01-09. Supervision and examination by commissioner of financial institutions.

The commissioner shall exercise a constant supervision over the business affairs of all financial corporations, financial institutions, and credit unions, including all out-of-state branches of financial corporations, financial institutions, and credit unions. Either the commissioner or one or more examiners shall visit each financial institution at least once each thirty-six months to examine its affairs and ascertain its financial condition. The commissioner shall inspect and verify the assets and liabilities of the institution and branches to ascertain with reasonable certainty that the value of the assets and the amounts of the liabilities are correctly carried on its books. The commissioner shall examine the validity of mortgages held by savings institutions and shall see that all of the mortgages are properly recorded. The commissioner shall investigate the method of operation and conduct of the corporations and institutions and their systems of accounting to ascertain whether the methods conform to the law and sound banking usage and principles. The commissioner shall inquire into and report any infringement of the laws governing those corporations and institutions, and for that purpose the commissioner may examine the officers, agents, and employees of the corporations and institutions and all persons doing business therewith. The commissioner may examine, or cause to be examined, or review the books and records of any subsidiary corporation of a bank under the commissioner's supervision and may require the bank to provide information on the holding company that owns the bank. The commissioner may also examine, or cause to be examined, or review the books and records of any technology service provider that provides services to financial corporations<u>, credit unions,</u> and financial institutions under the commissioner's supervision, to evaluate that entity's risk management systems and controls and compliance with applicable laws that affect such services provided to financial corporations<u>, credit unions,</u> and financial institutions. The commissioner shall report the condition of the corporations and institutions, together with the commissioner's recommendations or suggestions in connection therewith, to the state banking board, and the board may take such action as the exigencies may demand.

SECTION 2. AMENDMENT. Section 6-05-03 of the North Dakota Century Code is amended and reenacted as follows:

6-05-03. Capital ~~stock - Amount - Par value - Paid-in capital~~ required.

The amount of capital ~~stock~~ of any such corporation may not be less than one ~~hundred thousand~~million dollars, ~~and the same must be divided into shares of one hundred dollars each. No such corporation is authorized to transact any business or exercise any powers as such until the aforesaid minimum amount of capital stock has been subscribed for, and not less than fifty thousand dollars thereof actually has been paid in, invested, and deposited as provided in this chapter~~with no less than five hundred thousand dollars of that amount in liquid assets. The state banking board may require such additional capital, surplus, and undivided profits as it may determine necessary to properly serve the area and to protect the public interests. The state banking board shall take into consideration peer group ratios, or federal standards and guidelines, when determining whether any additional capital is required.

SECTION 3. AMENDMENT. Section 6-05-28 of the North Dakota Century Code is amended and reenacted as follows:

6-05-28. Examination by commissioner - Fees - Power over business, officers, and employees.

The commissioner shall make a full, true, complete, and accurate examination and investigation of the affairs of each corporation doing business under this chapter as often as the commissioner deems necessary. Such examination ~~must~~may be made without previous notice to the corporation to be examined. Fees for such examinations must be charged by the department of financial institutions at an hourly rate to be set by the commissioner, sufficient to cover all reasonable expenses of the department associated with the examinations provided for by this section. Fees must be paid to the department of financial institutions and deposited in the financial institutions regulatory fund. The commissioner, in the commissioner's discretion, may accept, in lieu of any examination authorized or required by this title to be conducted by the department of financial institutions, the examination that may have been made of such institution within a reasonable period by the federal reserve bank or federal deposit insurance corporation, if a copy of such examination is furnished to the commissioner. The commissioner shall assume and exercise over each such corporation and its business, officers, directors, and employees all the power and authority conferred upon the commissioner over financial or moneyed corporations or associations.

SECTION 4. AMENDMENT. Subsection 3 of section 6-08.1-01 of the North Dakota Century Code is amended and reenacted as follows:

3. "Financial institution" means any organization ~~that is physically located in the state which is~~ authorized to do business under state or federal laws relating to financial institutions, including, without limitation, a bank, including the Bank of North Dakota, a savings bank, a trust company, a savings and loan association, or a credit union.

SECTION 5. AMENDMENT. Section 13-04.1-04.1 of the North Dakota Century Code is amended and reenacted as follows:

13-04.1-04.1. Surety bond required.

1. Each licensee shall maintain a surety bond in an amount not less than ~~twenty-five~~fifty thousand dollars. The surety bond must be in a form prescribed by the commissioner.

2. When an action is commenced on a licensee's bond, the commissioner may require the filing of a new bond.

3. Immediately upon recovery upon any action on the bond, the licensee shall file a new bond.

SECTION 6. AMENDMENT. Section 13-05-04.1 of the North Dakota Century Code is amended and reenacted as follows:

13-05-04.1. Surety bond required.

1. Each licensee shall maintain a surety bond in the amount of ~~twenty~~fifty thousand dollars.

2. The surety bond must be in a form as prescribed by the commissioner.

3. When an action is commenced on a licensee's bond, the commissioner may require the filing of a new bond.

4. Immediately upon recovery upon any action on the bond, the licensee shall file a new bond.

SECTION 7. AMENDMENT. Section 13-08-06 of the North Dakota Century Code is amended and reenacted as follows:

13-08-06. Issuance of license - Posting.

1. Upon receipt of a complete application, the commissioner shall determine whether the qualifications prescribed under this chapter are satisfied. If the commissioner determines the qualifications are satisfied and approves the documents, the commissioner shall issue to the applicant a license to engage in the deferred presentment service business.

2. A licensee shall keep ~~the license~~a notice conspicuously posted in the place of business of the licensee~~,~~ and shall provide the same notice to its customers in this state ~~of the license number under which it is operating~~. This notice must include the license number and instructions for customers to look up the licensee on the nationwide multistate licensing system for license verification.

3. A license issued under this section is effective through the remainder of the fiscal year ending ~~June thirtieth~~December thirty-first after the license's date of issuance unless earlier surrendered, suspended, or revoked under this chapter.

SECTION 8. AMENDMENT. Subsection 1 of section 13-09-10 of the North Dakota Century Code is amended and reenacted as follows:

1. A licensee under this chapter shall pay an annual renewal fee ~~of four hundred fifty dollars~~, which is not subject to refund. The fee must equal five hundred dollars or one-fourth of one percent of the money transmission dollar volume in North Dakota for the twelve months ending June thirtieth, whichever is greater. The fee may not exceed two thousand five hundred dollars.

SECTION 9. AMENDMENT. Section 13-11-08 of the North Dakota Century Code is amended and reenacted as follows:

13-11-08. Records - Annual reports.

1. Every licensee shall maintain records in conformity with generally accepted accounting principles and practices in a manner that will enable the commissioner to determine whether the licensee is complying with this chapter. The records of a licensee may be maintained electronically provided all records can be reproduced upon request of the commissioner and within the required statutory time frame outlined in this section.

2. Before ~~August~~January first of each year, the parent company of each licensee shall file with the commissioner a composite annual report in the form prescribed by the commissioner relating to services provided by licensees.

SECTION 10. REPEAL. Sections 13-04.1-05.1, 13-05-05.2, 13-08-05.2, and 13-09-10.1 of the North Dakota Century Code are repealed.

President of the Senate	Speaker of the House
Secretary of the Senate	Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Sixty-sixth Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2093.

Senate Vote:	Yeas 47	Nays 0	Absent 0
House Vote:	Yeas 90	Nays 0	Absent 4

Secretary of the Senate

Received by the Governor at _____M. on _____, 2019.

Approved at _____M. on _____, 2019.

Governor

Filed in this office this _____day of _____, 2019,

at _____ o'clock _____M.

Secretary of State