

MEMORANDUM

DATE: January 4, 2023
TO: Senate Industry and Business
FROM: Lise Kruse, Commissioner
SUBJECT: Testimony in Support of Senate Bill No. 2092

Chairman Larsen and members of the Senate Industry and Business Committee, thank you for the opportunity to testify in support of Senate Bill No. 2092.

Mr. Chairman and members of the Committee, Senate Bill No. 2092 includes the creation of 6-07.2, amendment to section 6-01-04.1, and the repeal of chapter 6-06.1 of the North Dakota Century Code relating to financial institutions. I would like to note that prior to filing this Bill, the department met with various staff and committee members of the North Dakota Bankers Association, Independent Community Banks of North Dakota, and the Dakota Credit Union Association, and had discussions with

several bankers and credit union officials to review our proposed legislation. Input from these stakeholders was considered and is reflected in this Bill.

Section 1 of the Bill would amend section 6-01-04.1, which addresses the removal of officers, directors, and employees of financial corporations or institutions. To ensure the safety of our financial system, the Department has the ability to take action against bad actors. When fraud or violations of law are occurring, the Department can issue an order against the perpetrator; however, it goes into effect upon service. Since law enforcement may not immediately be able to locate the individual, especially if the individual is outside of North Dakota, the individual can effectively avoid action against them simply by evading service. The federal banking regulators have this same authority, and their orders are effective upon issuance. We are proposing copying our federal counterparts and making orders effective upon issuance so that orders are effective immediately, thereby alerting North Dakota citizens of these bad actors. The individual or entity must still be served, and the appeals process will not start until service. In this way, the individual is afforded their due process rights under North Dakota Century Code 28-32. The Department would also have more control over how and when an order is served, which would be less disruptive for a local community financial institution.

Section 1 also clarifies how and when a previously issued order is made final. It removes inconsistencies between the reasons an order can be initially issued and the reasons an order can be made final. It also clarifies that an order can be final if a person is convicted of or pleading to a lesser charge.

Section 2 is the creation of a new section to chapter 6-07.2. Voluntary liquidation of credit unions was addressed in a stand-alone chapter, and it made more sense to include this in the same chapter as bank voluntary liquidations. The language has been modernized to correspond with current practices, including requirements by our federal counterpart.

Section 3 repeals chapter 6-06.1 regarding voluntary liquidation of credit unions since this was moved to a section in chapter 6-07.2.

Mr. Chairman, thank you for the opportunity to provide this testimony. I would be happy to answer any questions the Committee may have.