

# BANKS AND BANKING

## CHAPTER 71

S. B. No. 227—(Burkhart and Fine.)

### BANKING DEPARTMENT

An Act to provide for a banking department, a state banking board, a state examiner and deputies; for the organization and operation of state banks and for the government and regulation of banking; and to repeal Sections 1 to 3, inclusive, of Chapter 96 of the Session Laws for the year 1931, Section 224 of the 1913 Compiled Laws of North Dakota as amended by Chapter 260 of the Session Laws for the year 1927, Section 225 of the 1913 Compiled Laws of North Dakota as amended by Chapter 127 of the Session Laws for the year 1919, as further amended by Chapter 195 of the Session Laws for the year 1925, Section 234 of the 1913 Compiled Laws of North Dakota as amended by Chapter 219 of the Session Laws for the year 1917 as further amended by Chapter 259 of the Session Laws for the year 1927, and Sections 226, 227, 228, 229, 230, 231, 232, 233 and 235 of the 1913 Compiled Laws of North Dakota, together with all Acts amendatory thereof and all other Acts or parts of Acts repugnant to and inconsistent herewith, and declaring an emergency.

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

### THE BANKING DEPARTMENT—STATE BANKING BOARD

§ 1. BANKING DEPARTMENT.] There is hereby created a state department of banking which shall have charge of the execution of all laws relating to state banks, savings banks, trust companies, building and loan associations, mutual investment corporations, mutual savings corporations and other financial corporations heretofore or hereafter organized or doing business under the laws of the State of North Dakota, exclusive of the Bank of North Dakota, and engaged wholly or in part in the receiving of deposits or the selling of their certificates or other evidences of indebtedness or obligations to the public, which shall be known and designated as the "Banking Department," and which shall be under the management and control of the State Banking Board and a chief officer to be designated and known as the State Examiner.

§ 2. STATE BANKING BOARD.] The State Banking Board shall consist of the governor, the secretary of state and the attorney general. None of the members of the Banking Board shall receive any additional compensation for their services by reason of the additional services herein imposed. The governor shall be the Chairman of the Board and the attorney general shall be ex-officio the attorney for the Board and the state examiner shall be its secretary. The Banking Board shall hold regular meetings on the first Wednesdays of January, April, July and October of each year, at the office of the Banking Department in the State Capitol at Bismarck, and shall hold special meetings at the call of the governor.

§ 3. POWERS. DUTIES. ORDERS. RECEIVERS.] The State Banking Board shall have, and it is hereby vested with, the power to make such rules and regulations for the government of financial corporations as in its judgment may seem wise and expedient, which rules shall not conflict with any laws of the State of North Dakota or of the United States. It shall be the duty of the Board at each regular meeting and at any special meeting called for that purpose, to examine all reports made by said corporations relating to their condition, and all reports of regular and special examinations made by the State Examiner and/or deputy examiners from his department and filed with said Board during the preceding quarter or such period as shall have elapsed since the last meeting of said Board, and to approve or disapprove the same, and to make and enforce such orders as, in its judgment, may be necessary or proper to protect the public and particularly the depositors or creditors of said institutions. Said Board and the State Examiner and the deputy examiners shall each have the power to subpoena witnesses, administer oaths, and generally to do and perform any and all acts and things necessary to the complete performance of the duties herein imposed, and to enforce all the provisions of law, and for the purpose of enabling them to perform all the duties imposed upon them, the provisions of Section 8200, Compiled Laws, 1913, shall be held as applicable to their proceedings. Any and all orders made by said Board shall be immediately operative and remain in full force until modified, amended or annulled by said Board, or by a Court of competent jurisdiction in an action to be commenced by the party against whom such order may have been issued. Said Board shall keep a full and complete record of all its proceedings and of all orders made by it, and the records of the State Banking Board, and of the State Examiner, and of any and all reports made by or filed with the Board or the State Examiner shall, under proper restrictions, during regular business hours, be open to inspection and examination by stockholders, depositors, creditors and sureties on any bonds of any of said corporations or on the bonds of any officer or employee thereof. The said Board, except as otherwise herein provided, is hereby vested with the power and authority to appoint, by its own order, receivers for insolvent corporations as defined in this Act, and such receivers shall have the same power and authority, and their acts the same validity, as if appointed under and by the direction of a district court, but nothing herein contained shall be construed so as to take away from the courts the power to appoint receivers of such institutions at any stage of the proceedings and thus terminate the receivership ordered by the Board.

#### THE STATE EXAMINER

§ 4. APPOINTMENT OF STATE EXAMINER. QUALIFICATIONS.] There shall be a State Examiner who shall be appointed by the Governor and confirmed by the Senate, immediately upon the taking effect of this Act, who shall hold his office for a term of four years

and until his successor has been appointed, confirmed by the Senate, and has qualified, unless sooner removed as herein provided. Thereafter, the terms of office shall be four years, beginning on the quadrennial anniversary after the taking effect of this Act. The State Examiner shall be a skilled accountant, an expert in the theory and practice of bookkeeping, and shall not be an incumbent of any public office in the state, or of any county, municipality or public institution therein, and shall not own, hold or control any stocks, capital or bonds, or the office of trustee, assignee, officer, agent or employee of any banking, annuity, safe deposit, trust company, moneyed or savings institution or corporation, or of any corporation engaged in the business of guaranteeing or insuring the fidelity or faithful performance of the duties of or the solvency of public officers or of public depositaries created under the laws of North Dakota, or created under the laws of any other state, or under the laws of the United States. If a vacancy arises by reason of death, removal, resignation or otherwise, the Governor shall fill the same by appointment. The Governor is authorized to remove from office any State Examiner who violates or fails to discharge faithfully the duties of his office or who becomes disqualified under the provisions of this section, and to appoint his successor, who shall hold office until the end of the current term for which his predecessor was appointed, as provided in this section.

§ 5. STATE EXAMINER, SUPERVISION BY. EXAMINATIONS.] The State Examiner shall, under the direction and subject to the orders of the State Banking Board, exercise a constant supervision, either personal or through the deputy examiners hereinafter provided for, over the business and affairs of all the financial corporations placed by this Act within the jurisdiction of the State Banking Board and shall, personally or through the deputy examiners herein provided for, visit at least twice each year, all of said corporations, inspecting and verifying the assets and liabilities of each, and so far investigate the character and value of the assets of each such corporation as to ascertain with reasonable certainty that the values are correctly carried on its books. He shall further investigate the methods of operation and conduct of said corporations and their systems of accounting, to ascertain whether such methods are in accordance with the law and sound banking usage and principles, and report the findings, conclusions and recommendations upon such examinations to the Banking Board and put into force and effect such orders and directions as it may make in reference thereto.

§ 6. SECRETARY OF THE STATE BANKING BOARD.] The State Examiner shall be ex-officio secretary of the State Banking Board, and shall keep all proper records and files pertaining to the duties and work of his office and the proceedings of the Board and shall report to the Board annually, touching on all his official acts and those of his deputy examiners, giving abstracts of statistics and of

the conditions of the various institutions to which his duties relate, and making such recommendations and suggestions as he may deem proper, which report shall be printed and bound in a satisfactory and substantial manner and distributed among all of the state banking corporations and other financial corporations within his jurisdiction, and to the Bank of North Dakota. The State Banking Board shall make biennial reports, each containing a full report of its proceedings, the same as other state officers and boards, in which there shall be included a summary or abstract of the reports of the State Examiner.

§ 7. DUTY TO ENFORCE LAWS.] It shall be the duty of the State Examiner to enforce the provisions of this Act and the other provisions of law relating to financial corporations within his jurisdiction.

§ 8. SALARY.] The salary of the State Examiner for all services so rendered in any capacity whatever shall not exceed four thousand dollars per year, and his necessary and actual expenses incurred in the discharge of his official duties, to be audited and paid in the same manner as the salary and expenses of the state officers are paid.

§ 9. OFFICIAL BOND.] The State Examiner shall execute an official bond to the State in the sum of ten thousand dollars and each of his deputies shall execute a like bond in the sum of ten thousand dollars, all to be approved by the Governor and filed in the office of the Secretary of State.

§ 10. APPOINTMENT OF DEPUTIES.] The State Examiner may, subject to the approval of the State Banking Board, appoint and at pleasure remove, not more than ten deputy examiners, one statement clerk, one stenographer and such other employees as may, in the judgment of the Banking Board, be necessary for the proper discharge of the business of the Banking Department. The State Examiner shall select and designate one of said deputy examiners to be chief deputy examiner and to act during the absence or disability of the State Examiner, and in such cases the deputy examiner so designated shall have charge of the office and administer its affairs. Not less than three of the said deputy examiners so appointed shall have had at least three years active experience in bank work within this state and shall furnish such evidence of qualification as expert accountants and of general fitness for the duties as may be demanded by the Banking Board.

§ 11. DEPUTIES CONTROLLED BY STATE EXAMINER.] Each deputy examiner herein provided for shall be under the direct orders and instructions of the State Examiner and shall make report to him, in such form as he or the Banking Board may prescribe, during or immediately after the completion of the examination of each

financial institution examined by him, with such recommendations and suggestions as he may deem advisable.

§ 12. DEPUTIES TO BE DISINTERESTED.] No deputy examiner shall have any interest directly or indirectly in any corporation within the jurisdiction of the Banking Department, nor in any corporation engaged wholly or in part in the writing or issuing of bonds of or for any such corporation or of the officers or employees of any such corporation.

§ 13. SALARIES OF DEPUTIES.] The salary of the chief deputy examiner shall not exceed twenty-eight hundred dollars per annum, and the salary of each other deputy shall be not less than twelve hundred dollars nor more than twenty-four hundred dollars per annum, to be fixed by the Banking Board, and in addition thereto each deputy shall be paid his actual and necessary traveling expenses when engaged in the discharge of his duties; and the salaries of all other clerks, stenographers and assistants shall be fixed by the Banking Board.

§ 14. SPECIAL STATE EXAMINER.] The Governor may, at such time as he may consider it for the best interests of the State, appoint a special state examiner to examine any of the state institutions, state industries, state departments, or public offices. Such special state examiner shall have all the powers and authority that are granted to the State Examiner in making such examinations, and shall also examine into and report upon such other matters connected with the state institutions and public offices as the Governor may direct. He shall receive as compensation for such services the sum of ten dollars per day for the time actually employed upon such examinations, and his actual traveling expenses, to be paid upon vouchers approved by the Governor, in the same manner as state officers salaries are now paid.

§ 15. DUTIES, EXAMINATIONS, FEES.] It shall be the duty of the State Examiner to examine at least once a year, and as much oftener as he in his discretion may deem advisable, the books and accounts of the Secretary of State, State Auditor, State Treasurer, Clerk of Supreme Court, Commissioner of Insurance, Commissioner of Agriculture and Labor, Department of University and School Lands, Supply Department of the National Guard, Board of Administration, State Tax Commissioner, County Treasurers, Clerks of the District Court, County Judges, Registers of Deeds, County Superintendents of Schools, Sheriffs, County Auditors, and Public Administrators.

It shall also be the duty of the State Examiner at least once a year to examine the books and accounts of all city auditors, city treasurers, treasurers of park districts, village clerks and village treasurers in cities and villages having a population of 1000 or more, and school district clerks, secretaries of boards of education, and

school district treasurers in school districts comprising cities or villages having a population of 1000 or more. Provided, however, that the governing board of any such city, park board, village or school district, may provide for such examination by a certified public accountant, and in such case the State Examiner shall not be required to make such examination. Copies of the report of such examination made by a certified public accountant shall be filed with the State Bonding Fund, and with the State Examiner, not more than thirty days after the date of such examination. Fees for such examinations shall be charged by the State Examiner, only for the examination of books and accounts of county treasurers, clerks of the district court, county judges, registers of deeds, county superintendents of schools, sheriffs, county auditors, public administrators, city auditors, city treasurers, treasurers of park districts, village clerks, village treasurers, school district clerks, secretaries of boards of education, and school district treasurers, at the rate of \$10.00 per day, for the time actually employed by himself or his deputy in such examination, which fees shall be paid into the State Treasury. On petition of 35% of the electors of any school district, city or village, in which such examinations are not hereinbefore provided for, or at the request of the governing board or chairman thereof, of such political subdivision, it shall be the duty of the State Examiner to examine the books, records and accounts of the treasurer, and clerk or auditor thereof, as the case may be. Fees for such services shall be paid by such school district, city or village at the rate of \$10.00 per day for the time actually employed in making such examination and audit, and said fees shall be paid into the State Treasury.

§ 16. SUPERVISION OF BOOKS AND ACCOUNTS OF PUBLIC INSTITUTIONS AND PRIVATE INSTITUTIONS WITH WHICH STATE HAS DEALINGS.] It shall be the duty of the State Examiner to assume and exercise constant supervision over the books and financial accounts of the several public, educational, charitable, penal, reformatory and industrial institutions belonging to the state; to prescribe and enforce correct methods of keeping financial accounts of the state institutions by himself or duly appointed deputy, and to instruct the proper officer of each of said institutions in the due performance of his duty concerning the same; to examine the books and accounts of all public institutions under the control of the state, and of all private institutions with which the state has any dealings, so far only as the same relates to such dealing, once in each six months.

§ 17. EXAMINATION OF COUNTIES.] It shall be the duty of the State Examiner to order and enforce a correct and, as far as practicable, uniform system of bookkeeping by state and county treasurers and auditors so as to afford a suitable check upon their mutual actions and to insure a thorough supervision over and the safety of the state and county funds. He shall have full authority to expose false and erroneous systems of accounting, and when necessary to

instruct or cause to be instructed the state and county officers in the proper mode of keeping the accounts. It shall be the duty of the State Examiner to ascertain the character and financial standing of all present and proposed bondsmen of state and county officers. He shall require county treasurers as often as he shall deem necessary to make true statements of their accounts, and he shall personally, or by deputy, visit said offices without previous notice to such treasurers, at irregular periods, of at least once a year, or when requested by the board of county commissioners of any such county, and make a thorough examination of the books, accounts and vouchers of such officers, ascertaining in detail the various items of receipts and expenditures; and it shall be his duty to inspect and verify the character and amounts of any and all assets and securities held by said officers on public account, and to ascertain the character and amount of any commissions, percentages or charges for services exacted by such officer without warrant of law. He shall report to the Attorney General the refusal or neglect of any state or county officer to obey his instructions, and it shall be the duty of said Attorney General promptly to take action to enforce compliance herewith. He shall report to the Governor the result of his examination, which report shall be filed in the Executive Office, as well as any failure of duty by any financial officers, as often as he thinks required by public interest, and the Governor may cause the result of such examination to be published, or at his discretion to take such action for the public security as the exigencies demand, and if in his opinion the public interest requires it, he may suspend any such officer from further performance of duty, until examination is had, or such security obtained as may be demanded for the protection of the public funds.

§ 18. FISCAL AFFAIRS OF COUNTIES.] It shall be the duty of the State Examiner at the request of the county commissioners of any county in this State to examine and audit, compare and correct any books, records, papers, securities or other documents necessary to be had in any pending settlement of the fiscal affairs, or any necessary correction of the records of any county in this State. He shall have free access to all books, papers, records or other documents of any county in the State, found or deemed to be necessary, and is hereby empowered to take the records of any one county in this State to any other county in this State, when in his judgment it is deemed necessary, to compare and correct the same. And all county officers in this State are hereby required and enjoined to assist said State Examiner in the discharge of his duties in all things which he may require of them as such county officers.

§ 19. EXAMINATION OF BANKS AND OTHER FINANCIAL CORPORATIONS.] It shall be his duty to visit, at least once in each year, without previous notice, each of the banks and other private financial corporations, incorporated or doing business under the laws of this State, and thoroughly examine into their affairs and ascertain their

financial condition. It shall be the duty of such examiner to inspect carefully and verify the validity and amount of the securities held by such institutions, examine into the validity of the mortgages held by savings institutions, and see that the same are duly recorded, and ascertain the amount of any discount or other banking transaction which he may deem foreign to the legitimate and lawful purposes of savings institutions. He shall inquire into, and report any neglect or infringement of the laws governing such banks and other private financial corporations, and for such purposes shall have power to examine the officers, agents and employees thereof, and all persons doing business therewith. He shall forthwith report the condition of such corporation so ascertained to the Governor, together with his recommendations or suggestions respecting the same, and the Governor may cause the same to be published, or in his discretion take such action as the exigencies may seem to demand.

§ 20. PUBLIC OFFICERS TO AID EXAMINER. PENALTY FOR FALSE STATEMENT.] All officers of the State and counties of the State and all officers and employees of banking and other financial institutions mentioned in this Article must afford all reasonable facilities for the investigations provided for in this Article, and all such officers, managers, and employees must make return and exhibit to the Examiner under oath in such form and in such manner as he may prescribe, and each and every person so required who shall refuse and neglect to make such return or exhibit, or to make or to give such information as may be required by said Examiner, shall be deemed guilty of a felony and shall be liable on conviction to a fine of one thousand dollars, and imprisonment in the penitentiary for the term of one year; and if any person in making such exhibit or giving such information or affording any statement required under this Act, on his oath, shall knowingly swear falsely concerning the same, he shall be deemed guilty of perjury and be punished accordingly. Any statement or report required under this Act when signed by any officer by his own signature shall be deemed to be as fully a true and correct report of the subject matter thereof as though an affidavit as to its truth and accuracy were affixed; and the absence of an affidavit shall be no release from liability, either civil or criminal, thereunder, nor from penalty accruing therefrom.

§ 21. OBSTRUCTION OF EXAMINER. PENALTY.] Every person who shall wilfully obstruct or mislead the State Examiner in the execution of his duties as hereby prescribed shall be subject to conviction and punishment therefor in the same manner as is now provided for the conviction and punishment of persons obstructing or hindering any officers, ministerial, judicial, or executive, under the laws and authority of this State. The State Examiner shall have full power and authority for the various purposes named to examine, and he shall at least once each year examine any books, papers, accounts, bills, vouchers and other documents, or property of any or all of the



aforesaid state institutions, moneyed, banking, insurance, annuity, safe deposit, trust company and moneyed or insurance corporations and county or state officers and custodians of any county or state fund or official or person to whom any public money or funds is paid as custodian thereof; also to examine under oath any or all trustees, managers, officers, or employees or agents of said institution and moneyed and savings corporations and other persons in the control of or doing business with said moneyed or savings institutions, or any person receiving public money or money charged with a public purpose, either officially or personally, and the county and state officers and custodians of county and state funds aforesaid. When necessary, the State Examiner shall employ stenographers, or clerical help, the expense incurred therefor to be collected by the Examiner from the county or corporation in interest. Said Examiner is empowered to issue subpoenas and administer oaths in the performance of his duties, and any person refusing access by said Examiner, to any such books or papers, or any trustee, manager, officer, agent, clerk, employee, or other person aforesaid, who shall obstruct such access or refuse to furnish any required information, or who shall in any manner hinder a thorough examination required by this act of the officers, state, moneyed, banking, insurance, annuity, safe deposit, trust companies and savings institutions, or custodian, personal or official, of money or funds charged with a public purpose, or pertaining to the county and state officers aforesaid, shall be deemed guilty of a felony and shall be liable on conviction to a fine of one thousand dollars or imprisonment in the penitentiary for the term of one year.

§ 22. REPORTS, CONTENTS OF.] The State Examiner shall report to the Governor the result of his examinations on the first Monday in November of each year; he must also make a report upon any particular matter at any time when required by the Governor, and shall embody in such report an abstract of the statistical facts relating to resources and liabilities, receipts and expenditures and financial condition of the State, the several state institutions, and the counties, ascertained by him, which report shall be printed to the number of five hundred copies and shall be included with other official reports in the volume of executive documents. The State Examiner shall perform such other duties as shall be prescribed by law.

§ 23. REPEAL.] Sections 1, 2 and 3 of Chapter 96 of the Session Laws for the year 1931, Section 224 of the 1913 Compiled Laws of North Dakota as amended by Chapter 260 of the Session Laws for the year 1927, Section 225 of the 1913 Compiled Laws of North Dakota as amended by Chapter 127 of the Session Laws for the year 1919 as further amended by Chapter 195 of the Session Laws for the year 1925, Section 234 of the 1913 Compiled Laws of North Dakota as amended by Chapter 219 of the Session Laws for the

year 1917 as further amended by Chapter 259 of the Session Laws for the year 1927, and Sections 226, 227, 228, 229, 230, 231, 232, 233, and 235 of the 1913 Compiled Laws of North Dakota, together with all Acts amendatory thereof and all other Acts or parts of Acts repugnant to and inconsistent herewith, are hereby repealed.

§ 24. INVALIDITY.] In the event that any section or clause, sentence, paragraph or part of this Act shall for any reason be adjudged by any court of competent or final jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder of this Act but shall be confined in its operation to the section, clause, sentence, paragraph or part thereof directly involved in the controversy in which such judgment shall have been rendered.

Approved March 7, 1933.

## CHAPTER 72

S. B. No. 207—(Bangert.)

### ADMINISTRATION INSOLVENT BANKS

An Act relating to the administration of insolvent banking institutions; repealing all Acts or parts of Acts in conflict herewith.

*Whereas*, there are now a great number of insolvent banking institutions in the State of North Dakota, many of which have been in the hands of the receiver of insolvent banks for a number of years, and

*Whereas*, there is a wide-spread demand for the more prompt and expeditious closing of said insolvent institutions and for amendment of the laws under which said institutions are now being liquidated; *therefore*,

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

§ 1. JURISDICTION BURLEIGH COUNTY DISTRICT COURT, REVIEW OF ACTS BY SUPREME COURT.] The District Court of Burleigh County is hereby invested with full, complete, and exclusive original jurisdiction of all proceedings connected with insolvent banking institutions hereinafter referred to, and the judges of said District Court of Burleigh County shall perform all the duties herein required, and the acts of said Court and the judges thereof shall be subject to review by the Supreme Court in the manner now or hereafter provided by law relating to appeals.

§ 2. JURISDICTION, OTHER DISTRICT COURTS.] The district court of any county wherein any closed bank may be located is hereby vested with full and complete jurisdiction and power to carry out the provisions of this Act and the judges of said district court shall perform all of the duties herein required and the acts of said courts

and the judges thereof shall be subject to review by the Supreme Court in the manner now or hereafter provided by law.

§ 3. EXPENSES OF DISTRICT JUDGES.] The necessary traveling and other expenses of the judges of the district courts, incurred in carrying out the provisions of this Act, shall be paid out of the general funds of the State upon vouchers duly presented as in other cases of the expenses of district judges.

§ 4. CERTIFYING INSOLVENT BANKS. DELIVERY OF ASSETS AND PROPERTY TO STATE BANK EXAMINER. PRODUCING INFORMATION RELATING TO AFFAIRS. FIXING TIME FOR SO DOING.] Within ten days after this Act takes effect or such further time, not exceeding an additional thirty days, as the District Court of Burleigh County or one of the judges thereof may, for good cause shown, grant the present receiver of insolvent banking institutions of this State which have not been fully liquidated at the time of the taking effect of this Act shall prepare and serve upon one of the judges of the District Court of Burleigh County, the Attorney General, and the Bank Examiner of this State a full, concise and complete statement of all property, assets, books, records, documents, and files in his hands, with a full and complete itemized statement of all bills receivable, notes, cash, mortgages, contracts, accounts, or other assets still in his hands, in connection with each separate banking institution then under his control, together with all information which has come to his knowledge as such receiver touching each of said insolvent banking institutions and the affairs thereof, with a summary of the affairs of said insolvent institution from the time the same was taken over by him to the date of making said report. Immediately thereupon one of the judges of the District Court of Burleigh County shall fix a time and place for hearing said report, shall designate one of the district judges to hear said matter if the report relates to an insolvent institution not located in Burleigh County, which judge so designated shall be in the judicial district where said insolvent banking institution was located at the time of its closing, and shall cause notice to be served upon the receiver, the Bank Examiner, the Attorney General, and the designated district judge, as herein provided for, of the time and place so fixed. At the time and place fixed as aforesaid, the receiver, or one of his deputies who shall have knowledge of the matters contained in said statement, shall appear and make proof under oath in support of said statement so rendered and the judge or referee hearing said matter shall receive said proof and the judge may approve, modify, or reject the same and may require such further or additional statements or proof as under the circumstances shall seem just and proper in order to arrive at the exact and true condition of the affairs of said insolvent institution. Such hearing may be adjourned from time to time and until such time as it shall appear to the judge that a full, comprehensive, and complete statement of the affairs of said in-

solvent institution has been furnished by the receiver, and when so satisfied the court shall make its order requiring the receiver to deliver to the State Bank Examiner all the records, files, documents, correspondence, assets, and information upon which evidence has been received and which remain in his hands or under his control, and thereafter the affairs of said insolvent institution shall be handled by the State Bank Examiner in the manner hereinafter provided, provided, however, that if it shall be made to appear to the Court that the furnishing of the report within the time allowed herein will in any way interfere with the closing of Federal Loans, the Court may grant such additional time as shall appear necessary in each instance.

§ 5. REFERENCE TO OTHER DISTRICT JUDGES.] The judges of the District Court of Burleigh County are hereby directed and empowered to refer to the judges of the district court in the judicial district wherein the insolvent banking institution is located all matters to be heard and tried under the provisions of this Act.

§ 6. APPOINTMENT OF ATTORNEY.] Upon receiving the statements herein provided for to be furnished by the receiver, one of the judges of the District Court of Burleigh County may appoint an attorney duly qualified to practice in the courts of this State who shall appear and represent the interests of the State Bank Examiner and the depositors in connection with said matter, and he shall fix his compensation for services so rendered, which compensation shall be paid out of the assets of the insolvent institution; provided, that such attorney shall be discharged at any time upon the petition of a majority of the depositors.

§ 7. REFERENCE.] Instead of conducting the hearings in person the judges of the district courts may refer the same to a referee who shall be appointed and who shall have the power conferred upon and receive the compensation provided for referees under the provisions of the laws of the State of North Dakota.

§ 8. NOTICE TO DEPOSITORS. HEARINGS, FIXING BOND.] Immediately upon receiving the order from the district court approving the statement and account of the receiver, said Bank Examiner shall serve notice by registered letters addressed to all of the known depositors of said insolvent banking institution, whose deposits shall amount to twenty-five dollars or more, said notice to be mailed to said depositors to the addresses shown by the records of said bank or known to the receiver, and in case no address is shown or known then to the town, city, or village in which said insolvent banking institution was located at the time of its closing, and said notice shall inform the depositors that the assets of said insolvent institution are in the hands of the examiner and that said depositors will be granted ninety days from the date of said notice within which to serve upon the examiner notice of their intention to reorganize

or liquidate such insolvent institution. If said notice is given and is signed by persons, firms, or corporations representing forty per cent of the amount of the deposits in such insolvent institution at the date of the notice, exclusive of public money secured by indemnity bond or otherwise and exclusive of deposits of less than twenty-five dollars, thereupon the Bank Examiner shall immediately transmit such proposal to the judge to whom the affairs of said insolvent banking institution have been referred and the court shall require said depositors to submit for its inspection and approval a plan under which they propose to handle the affairs of said insolvent institution, which plan must specify, among other things, the percentage to be paid to depositors not joining in the notice upon the amount of their deposits; thereupon the court may proceed to hear said matter, either with or without notice, and upon such terms as the court may direct, and if said plan is approved by said judge he shall make his order to that effect and cause the same to be served upon the State Bank Examiner and said examiner shall immediately send notice to all persons who joined in said notice and plan of the fact that said plan has been approved, and advising them of the amount and condition of the bond, if any, directed by the court to be furnished which bond shall be conditioned for the faithful performance of said plan, and if said bond shall be furnished and the order of the court complied with, the assets, books, records, property, and files of said insolvent institution shall be transferred and delivered to the person or persons agreed upon in the plan submitted.

Should the court refuse to approve said plan, he shall have power to specify such additional terms as may seem just and proper and if said additional terms are complied with then said plan shall be approved and the assets delivered as aforesaid.

§ 9. PROVIDING FOR DISPOSAL OF ASSETS. NO PLAN FILED.] If no petition for reorganization or liquidation is presented to the examiner within ninety days after notice has been given as herein provided, it shall be the duty of said bank examiner to present to one of the judges of the District Court of Burleigh County or to the district judge to whom said matter has been referred a plan for disposing of the remaining assets of said insolvent institution, and thereupon the court shall consider said plan and shall make such order with reference thereto as shall seem proper, and the remaining assets of said insolvent institution shall be disposed of as provided for in said order; said order shall provide for the final disposition of all of the remaining assets of said insolvent institution within two years after having been received by said state bank examiner; provided however that the examiner may extend the time if the best interest of the depositors require it.

§ 10. APPOINTMENT OF TEMPORARY RECEIVER.] If it shall appear to one of the judges of the District Court of Burleigh County, or to the judge to whom the affairs of an insolvent banking institu-

tion have been referred, that it would be advantageous and of benefit to appoint a temporary receiver to take charge of the remaining assets of said insolvent institution pending an application to reorganize or to liquidate, or for the purpose of making final disposition of the assets by the bank examiner, the court shall have power to appoint a receiver for such purpose and such receiver shall have the usual powers conferred upon receivers of insolvent institutions and he shall handle the affairs of said insolvent institution under the order and direction of said court, and the court shall fix his compensation for such services. The same person may be temporary receiver of any number of closed banks in the same county.

§ 11. FUTURE INSOLVENCY. DISPOSITION.] Whenever any banking institution shall hereafter be closed as insolvent it shall be the duty of the State Bank Examiner to immediately serve notice as provided for in Section 8 hereof, and the depositors shall have the right to reorganize or liquidate the affairs of said bank upon the terms and in the manner hereinafter provided for.

§ 12. APPOINTMENT OF RECEIVER.] Whenever any bank shall hereafter be closed as insolvent, any three or more depositors may petition the District Court of Burleigh County for the appointment of a receiver. Said petition shall set forth all the jurisdictional facts and a full report of the condition of the affairs of said bank so far as known, including a list of the depositors, their residence, and the amount of their several deposits. If said district court is satisfied as to the truthfulness of said petition he shall appoint a receiver for said bank with full power to liquidate the same and shall fix the salary of said receiver. The same person may be receiver of any number of closed banks in the same county.

§ 13. APPOINTMENT OF ATTORNEY.] The judge of the District Court of Burleigh County may, upon receiving the petition referred to in the preceding paragraph, appoint an attorney duly qualified to practice in the courts of this state who shall appear and represent the interests of the State Bank Examiner and the depositors in connection with said matter, and the judge shall fix his compensation for the services so rendered, which compensation shall be paid out of the assets of said insolvent institution; provided, that such attorney shall be discharged at any time upon the petition of a majority of the depositors.

§ 14. REFERENCE TO OTHER DISTRICT JUDGES.] The judges of said District Court of Burleigh County are hereby directed and empowered to refer to the judges of the district courts of the judicial district wherein the insolvent banking institution is located all matters to be heard and tried and the control of the receiver appointed as herein provided, and said matter shall from the time of reference be within the control of said district judge to whom it is referred.

§ 15. LIQUIDATING COMMITTEE.] At any time within thirty days after any receiver shall have been appointed for any bank hereafter to become insolvent, as provided for in the preceding section, depositors representing fifty-one per cent of the deposits may select a liquidating committee of five, four of whom shall be elected from the depositors and one selected by the stockholders, and when said committee has been selected they may petition the district court of the county wherein said bank is closed, and to whom said matter has been referred, for the appointment of said liquidating committee as the receiver of said bank and when so appointed said committee shall have all of the powers of a general receiver and shall complete the liquidation of said bank under the control and upon the approval of the court, and thereupon the prior receivership shall be discharged. Said liquidating committee shall receive such compensation as may be fixed by the court and shall be authorized to hire such assistance as may be deemed necessary and as the court may approve to complete said liquidation, and the compensation to be paid to such persons so selected shall be subject to the approval of the court.

§ 16. DEPOSITORS AND CREDITORS MAY REORGANIZE.] In connection with all banking institutions to become insolvent hereafter, whenever depositors representing fifty-one per cent of the deposits and creditors, exclusive of the depositors of funds covered by indemnity bond or other valuable security, and exclusive of depositors of less than twenty-five dollars each, shall present a petition to the State Bank Examiner setting forth a plan of reorganization, which has the approval of fifty-one per cent of such depositors as described herein, and said petition is accompanied by such data and information as shall be required by said bank examiner, the said State Bank Examiner shall approve of the application and authorize the reorganization committee named in the petition to proceed with the plan and re-open said bank, and for that purpose the State Bank Examiner shall request the judge under whose jurisdiction said insolvent banking institution is to surrender to said committee the assets of said bank, and thereupon the receiver theretofore appointed shall be discharged.

§ 17. GENERAL LAW APPLIES.] In the event no provision is made in this Act with reference to any matters relating to procedure touching the powers of the court or the duty of the receiver in connection with the matters herein referred to, the general law of the State of North Dakota shall apply thereto.

§ 18. REPEAL.] All Acts or parts of Acts in conflict herewith are hereby repealed; provided, however, that nothing herein contained shall be construed as repealing subdivision S of Section 51 of Chapter 96 of the Session Laws of 1931, relating to re-opening of banks without receivership.

Approved March 7, 1933.

**CHAPTER 73****S. B. No. 311—(Erickson of Kidder.)****ORGANIZATION AND OPERATION OF STATE BANKS**

An Act to amend and re-enact Subdivision a of Section 10, Section 11 and Section 14, of Chapter 96, of the Session Laws of North Dakota for the year 1931, relating to the organization and operation of State Banks.

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

§ 1. AMENDMENT.] Subdivision a of Section 10, of Chapter 96 of the Session Laws of North Dakota, for the year 1931, is hereby amended and re-enacted to read as follows:

“(a) The organization certificates shall be acknowledged before the clerk of some court of record or a Notary Public and shall be, together with the acknowledgment thereof, authenticated by the seal of such court or notary. The same shall thereupon be transmitted to the State Banking Board with a request for permission to present the same to the Secretary of State, with application to him for the issuance of a certificate of authority. Upon receiving such organization certificate the Board shall cause notice of the application therefor to be published in the official newspaper of the county within which such association is proposed to be established, which notice shall contain a statement of a time and place where the board will hear such application and that any person objecting thereto may appear and show cause why such application should not be approved; provided, however, upon the consolidation of banks or the conversion of a national bank to a state bank notice of such hearing need not be given.

At the time and place so stated, and through any other sources of information at its command, the board shall diligently inquire whether the place where such banking association is proposed to be located is in need of further banking facilities, and whether the proposed association is adapted to the filling of such need, and whether the proposed incorporators are possessed of such character, integrity, reputation and financial standing as shown by a detailed financial statement, that their connection with the banking associations will be beneficial to the public welfare of the community in which such bank is proposed to be established. The board shall hear any reasons advanced by the applicants why they should be permitted to organize the proposed association, and any reasons advanced by any person in opposition thereto why such association should not be permitted to be organized. At the termination of such hearing the board shall make a brief statement in writing of its conclusions whether such association should be permitted to be organized, and if it finds that it should not, stating briefly the reasons why. A copy of such conclusions shall be either indorsed upon or attached to the organization



certificate, together with the refusal or grant of permission to the proposed incorporators to present the said organization certificate to the Secretary of State. Provided, however, the determination in favor of such organization must be joined in by all the members of the board.

If the determination of the State Banking Board is in favor of the applications, the organization certificate and permission of the board accompanying the same, shall be recorded in the office of the Register of Deeds in the county where such banking association is to be established, and the same shall be transmitted to the Secretary of State and received by him, and he shall record and carefully preserve it in his office, and certify the facts to the State Banking Board, and issue a certificate of authority to the corporation, which certificate of authority shall be transmitted to and held by the State Examiner until an examination is made and the certificate of the State Examiner or the deputy examiner produced to the effect that the capital stock and required surplus has been paid in full and that all conditions of the law have been strictly complied with. But if the determination of the State Banking Board is against the said application such organization certificate must not be recorded in the office of the Register of Deeds, nor, if presented, shall it be accepted by the Secretary of State.

§ 2. AMENDMENT.] Section 11, of Chapter 96, of the Session Laws of North Dakota for the year 1931, is hereby amended and re-enacted to read as follows:

“§ 11. CERTIFICATE AND AUTHORIZATION PUBLISHED.] The association shall cause the organization certificate and the certificate of authority of the Secretary of State, issued under this Act, to be published in some newspaper in the city or county where the association is located, for at least four consecutive weeks next after the issuing thereof, proof of such publication to be filed with the State Banking Board; provided, however, upon the consolidation of banks or the conversion of a national bank to a state bank such organization certificate of authority need not be published.”

§ 3. AMENDMENT.] Section 14 of Chapter 96 of the Session Laws of North Dakota for the year 1931, is hereby amended and re-enacted to read as follows:

“§ 14. INVESTMENT IN BANKING HOUSE. FURNITURE AND FIXTURES.] It shall be unlawful for any corporation having banking powers and a capital stock of twenty thousand dollars or more, to invest over thirty per cent of such stock and unimpaired surplus in banking house, furniture and fixtures, including the lot, piece or parcel of land on which such banking house is located; provided, that similar corporations with a capital stock of ten thousand dollars and less than fifteen thousand dollars may invest forty per cent of their stock and unimpaired surplus, and those with fifteen thousand

dollars and less than twenty thousand dollars stock may invest thirty-five per cent of their capital stock unimpaired surplus in such banking house, furniture, fixtures, and lot, piece or parcel of land on which such banking house is located; provided, further, that the provisions hereof shall not be applicable upon the consolidation of banks or the conversion of a national bank to a state bank, in which cases the amount which may be invested in banking house, lot, and furniture and fixtures shall be fixed and determined by the State Banking Board.

Approved March 6, 1933.

#### CHAPTER 74

H. B. No. 313—(Sannes and Erickson of McKenzie)

##### MANAGER BANK OF NORTH DAKOTA EXAMINATION REPORTS, ETC., STATE BANKS

An Act authorizing the State Bank Examiner to permit the Manager of the Bank of North Dakota to examine the reports, statements and all other records of State Banks.

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

§ 1. The State Bank Examiner is hereby authorized and directed to permit the Manager of the Bank of North Dakota, or any other officer of the Bank of North Dakota authorized by said manager, to examine all reports, statements, records, books, files, and documents of any state bank in the possession of said State Bank Examiner. The State Bank Examiner is also authorized and directed to give to said Manager of the Bank of North Dakota, or person designated by said Manager, any and all information that he may have, upon request, concerning the solvency and financial standing of any state bank.

Approved March 3, 1933.

#### CHAPTER 75

S. B. No. 128—(Committee on Banks and Banking.)

##### MEETINGS BUILDING AND LOAN ASSOCIATION

An Act to amend and re-enact Section 19, of Chapter 94, of the Session Laws of 1931, relating to building and loan associations of the State of North Dakota.

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

§ 1. AMENDMENT.] Section 19, of Chapter 94, of the Session Laws of 1931, be and it is hereby amended and re-enacted to read as follows:

§ 19. MEETING OF SHAREHOLDERS AND DIRECTORS.] The

meeting of the shareholders of a domestic building and loan association must be held at its office or principal place of business in this state, and any number not less than twenty-five per cent (25%) of shareholders represented at the meeting, either in person or by proxy, shall constitute a quorum.

In its by-laws such association shall provide for at least one regular meeting of shareholders annually in January. Notice of any meeting, whether regular or special, shall be given by the secretary in accordance with this Act. The board of directors shall have the right to call a special meeting at any time. The board of directors must also call a special meeting whenever petitioned so to do by shareholders owning at least twenty-five per cent of the issued shares, such meeting shall be called within twenty days after the filing of such petition.

§ 2. EMERGENCY.] This Act is hereby declared an emergency measure, and shall be in full force and effect from and after its passage and approval.

Approved March 3, 1933.

## CHAPTER 76

S. B. No. 126—(Committee on Banks and Banking.)

### POWERS BUILDING AND LOAN ASSOCIATIONS

An Act to amend and re-enact Subdivision 12, of Section 7, of Chapter 94, of the Session Laws of 1931, relating to building and loan associations of the State of North Dakota.

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

§ 1. AMENDMENT.] That Subdivision 12 of Section 7, of Chapter 94, of the Session Laws of 1931, relating to building and loan associations of the State of North Dakota, is hereby amended and re-enacted to read as follows:

Subdivision 12. To borrow money, when deemed necessary, and to issue its promissory note therefor, and to pledge its assets as security for such notes; provided, that the assets and securities of an association shall not be pledged or hypothecated to secure its borrowed money in an amount exceeding twenty-five per cent of its assets without the consent of the State Examiner.

To become a member of the Federal Home Loan Bank in compliance with the provisions of the Act of Congress known and cited as a Federal Home Loan Bank Act approved July 22nd, 1932.

To subscribe for the stock of the Federal Home Loan Bank and to invest its funds in such stock, bonds and obligations, for the purpose and to the extent required and permitted by the provisions of the Federal Home Loan Bank Act.

To do all other things required under the Federal Home Loan Bank Act or any amendment thereto necessary to obtain and to continue membership in the Federal Home Loan Bank, and to assume all duties, obligations, responsibilities and liabilities and to become entitled to all the benefits provided in the Federal Home Loan Bank Act.

To borrow money from the Federal Home Loan Bank when authorized by a resolution of its Board of Directors upon such terms and rates of interest as may be agreed upon, and to assign and pledge its notes, bonds, mortgages or other property and to repledge its shares of stock pledged to it as collateral security for the payment of its indebtedness for money borrowed and to do all other acts or things incidental thereto.

To deposit money in Federal Home Loan Bank of the district in which said association is located, upon such terms and conditions as authorized by the Federal Home Loan Bank.

§ 2. EMERGENCY.] This Act is hereby declared an emergency measure, and shall be in full force and effect from and after its passage and approval.

Approved March 10, 1933.

## CHAPTER 77

S. B. No. 125—(Committee on Banks and Banking.)

### REPORTS BUILDING AND LOAN ASSOCIATIONS

An Act to amend and re-enact Section 37, of Chapter 94, of the Session Laws of 1931, relating to building and loan associations of the State of North Dakota.

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

§ 1. AMENDMENT.] That Section 37, of Chapter 94, of the Session Laws of 1931, relating to building and loan associations of the State of North Dakota, is hereby amended and re-enacted to read as follows:

§ 37. REPORTS CONFIDENTIAL.] Whoever, being the State Examiner, his deputy, assistant or clerk, fails to keep secret the facts and information obtained in the course of an examination, or by reason of his official position, except when the public duty of such officer requires him to report upon or take official action regarding the affairs of an association so examined, or wilfully makes a false report as to the condition of such association, shall be guilty of a felony and shall be removed from office. Nothing in this Section shall prevent the proper exchange of information relating to building and loan associations and the business thereof, with the representatives of building and loan departments of other states, but in no case shall the private business or affairs of any individual association

or company be disclosed; provided, however, that nothing in this Section shall prevent the said officer or officers from fully disclosing to the Federal Home Loan Bank Board at Washington, D. C., or to the Federal Home Loan Bank of this district or to any other federal agency any information which such examiner may have in his office pertaining to such associations.

§ 2. EMERGENCY.] This Act is hereby declared an emergency measure, and shall be in full force and effect from and after its passage and approval.

Approved March 1, 1933.

### CHAPTER 78

S. B. No. 127—(Committee on Banks and Banking.)

#### WITHDRAWAL SHARE CREDITS BUILDING AND LOAN ASSOCIATIONS

An Act to amend and re-enact Subdivision 8, of Section 7, of Chapter 94, of the Session Laws of 1931, relating to building and loan associations of the State of North Dakota.

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

§ 1. AMENDMENT.] Subdivision 8, of Section 7, of Chapter 94, of the Session Laws of 1931, be and it is hereby amended and re-enacted to read as follows:

Subdivision 8.) To permit members to withdraw all or part of their share credits at such times and upon such terms as the by-laws or the board of directors may provide; provided, that at least one-half of the collections made by the association must be used for the payment of withdrawals after outstanding contracts have been provided for. And provided further that the Board of Directors in providing for withdrawals shall make classifications as to amount of stock held and make uniform payments as to each classification. Provided, also, that shareholders who have filed applications for withdrawals still remain shareholders and are in no way to be deemed creditors of the association.

§ 2. EMERGENCY.] This Act is hereby declared an emergency measure, and shall be in full force and effect from and after its passage and approval.

Approved March 3, 1933.