

accounting procedures, but no part of the revenue from the taxes hereby imposed shall ever be used as such to satisfy any statutory allocation of malt beverage or liquor tax revenues; provided, however, that this act and the provisions thereof shall expire by their own limitation on July 1, 1961.

SECTION 2. PENALTY.) Any person violating any of the provisions of this act shall be guilty of a misdemeanor.

SECTION 3. EMERGENCY.) This act is hereby declared to be an emergency measure and shall be in full force and effect from and after April 1, 1949.

Approved March 19, 1949.

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## BANKS AND BANKING

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### CHAPTER 103

House Bill No. 327

Maher, Haugen of McLean, Thompson of McLean)

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#### EXAMINATIONS BY STATE EXAMINER

#### AN ACT

To amend section 6-0121 of the North Dakota Revised Code of 1943, relating to examinations by the state examiner.

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

SECTION 1. AMENDMENT.) Section 6-0121 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

6-0121. DUTIES, EXAMINATIONS, FEES.) The state examiner shall examine at least once each year, and more often if he, in his discretion, deems it advisable, the books and accounts of the secretary of state, state auditor, state treasurer, clerk of the 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 courts, county judges, registers of deeds, county superintendents of schools, sheriffs, county auditors, public administrators,

irrigation district treasurers and boards of flood irrigation. The state examiner at least once a year shall 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 one thousand 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 one thousand or more. 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 in such form and containing such information as the state examiner may require 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, school district treasurers, irrigation district treasurers, and boards of flood irrigation, and such fee shall be at the rate of fifteen dollars per day for the time actually employed by himself or his deputy in such examination, and shall be paid into the state treasury. On petition of thirty-five percent of the electors of any school district, city, or village for which examinations are not hereinbefore provided, or at the request of the governing board, or its chairman, of such political subdivision, the state examiner shall 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 fifteen dollars per day for the time actually employed in making such examination and audit, and said fees shall be paid into the state treasury.

Approved February 28, 1949.

## CHAPTER 104

House Bill No. 149  
(Baeverstad and Klefstad)

CONVERSION OF STATE BANKING ASSOCIATION INTO  
NATIONAL BANKING ASSOCIATIONS

## AN ACT

To amend and reenact Section 6-0311 of the North Dakota Revised Code of 1943 relating to the conversion of State Banking Associations into National Banking Associations or the merger or consolidation of State Banking Associations with other State Banking Associations or with National Banking Associations.

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

SECTION 1. AMENDMENT.) Section 6-0311 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

6-0311. CONVERSION, CONSOLIDATION OR MERGER.) Any two or more banks or trust companies, with the approval of the state examiner, may consolidate or merge into one bank under the charter of either existing bank on such terms and conditions as lawfully may be agreed upon by a majority of the board of directors of each bank or trust company proposing to consolidate or merge. Before becoming final, such consolidation or merger must be ratified and confirmed by the vote of the shareholders of each such bank or trust company owning at least two-thirds of its capital stock outstanding, at a meeting to be held on the call of the directors. Notice of such meeting and of the purpose thereof must be given to each shareholder of record by registered mail at least ten days prior to the meeting. The shareholders may unanimously waive such notice and may consent to such meeting and consolidation or merger in writing. The capital stock and surplus of such consolidated bank or trust company shall not be less than that required under this title for the organization of a bank or trust company of the class of the largest consolidating bank. Immediately after the consolidation or merger a full report thereof including a statement of the assets and liabilities of the consolidated bank or trust company shall be made to the state examiner by the surviving bank or trust company. Any State Banking Association may without approval by any state authority convert into or merge or consolidate with a National Banking Association as provided by federal law.

Approved February 28, 1949.

## CHAPTER 105

House Bill No. 26

(Legislative Research Committee  
at the request of the State Examiner)

**BORROWING, REDISCOUNTING AND PLEDGING OF ASSETS BY  
BANKING ASSOCIATION; FORECLOSURES; PENALTIES**

**AN ACT**

To amend and reenact sections 6-0351, 6-0352, 6-0353, 6-0354, 6-0356, 6-0357 and 6-0358 of the North Dakota Revised Code of 1943, relating to borrowing, rediscounting and pledging of assets by state banking association; providing for foreclosures and prescribing penalties.

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

SECTION 1. AMENDMENT.) Section 6-0351 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

6-0351. BORROWING, NORMAL AND EMERGENCY; LIMITATIONS.) Any state banking association shall have power to borrow money subject to the limitations of this chapter. Money borrowed from correspondent banks shall be evidenced by the promissory note or notes of the borrowing association, and no such association shall issue its certificate of deposit for money so borrowed or otherwise conceal the true nature of the transaction. Nothing herein shall affect the right of a state banking association to receive bona fide deposits from banks or other persons.

SECTION 2. AMENDMENT.) Section 6-0352 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

6-0352. BORROWING AND REDISCOUNTING: AUTHORIZATION BY DIRECTORS.) No banking association shall borrow money, rediscount paper with recourse on it, or pledge securities for money borrowed or rediscounted paper, except in accordance with express authority conferred by resolution of its board of directors indicating the officer or officers who are authorized to borrow, rediscount, and pledge and the extent of their authority. Every such resolution shall be entered in the minute book of the association, but a copy of such resolution certified as such by an officer of the association, authenticated by the seal of the association and accepted and acted upon by another bank or other lender

in good faith shall be conclusive evidence of the existence and terms of the resolution.

SECTION 3. AMENDMENT.) Section 6-0353 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

6-0353. BORROWING AND REDISCOUNTING: REPORT REQUIRED.) Whenever a state banking association shall borrow money or rediscount with recourse such association shall immediately make a full written report of the transaction to the state examiner, which report shall include a full description of all collateral security given or to be given by such association for the credit obtained. Whenever it appears to the state examiner that any association is borrowing money or rediscounting its paper with recourse for the purpose of making or carrying speculative loans or investments or that the association is in an extended or unsound condition, the state examiner after reasonable notice and an opportunity for a hearing may by written order to the association require it to discharge its liability for borrowed money or on rediscounted paper either in full or to such extent as the order may specify. If the association so notified shall fail to comply with such order within thirty days of the receipt thereof, it shall thereafter cease to make any new loans or investments until such order has been complied with, and any director, officer, or employee of the association who authorizes or in any way participates in the making of any new loan or investment in violation of the provisions of this section shall be personally liable to the association for all losses sustained by it in connection with any such new loan or investment.

SECTION 4. AMENDMENT.) Section 6-0354 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

6-0354. PLEDGE; RATIO TO ASSETS.) It shall be unlawful for any state banking association to pledge or hypothecate more than one and one-half dollars of the face value of any of its assets for each one dollar of money borrowed, except with written authority from the state examiner.

SECTION 5. AMENDMENT.) Section 6-0356 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

6-0356. UNLAWFUL BORROWING, REDISCOUNTING, ENDORSING, PLEDGING BY OFFICERS, EMPLOYEES, AND ACCESSORIES; MISDEMEANOR.) Any officer, director, agent, or employee of any state banking association who shall borrow money for, or on behalf or in the name of such association or obligate any such asso-

ciation upon rediscounted paper, or pledge any of the assets of such association in violation of the provisions of this chapter shall be guilty of a misdemeanor and shall be personally liable to the association for any loss it shall sustain on account of such illegal action, but no such violation shall affect the validity of any loan, endorsement, or pledge in the hands of any federal reserve bank or federal lending agency or commercial bank correspondent who shall have loaned money to the association or discounted its paper in good faith and in reliance upon a certified copy of a resolution complying with section 6-0352.

SECTION 6. AMENDMENT.) Section 6-0357 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

6-0357. FORECLOSURE OF PLEDGE CONTRACTS.) Except as otherwise provided in chapter 7 of this title, no pledge made by an association shall be foreclosed except by an action in equity brought in the district court of the county in which the pledgor association is located, except where assets are pledged by a state banking association in order to secure borrowed money or the obligation of the association on rediscounted paper, the rights of the pledgee shall be determined by the terms of the agreement of pledge, and if the pledged assets are outside of this state, the foreclosure of the pledge shall be governed by the laws of the state where the pledge is located, and sections 6-0721 to 6-0729, inclusive, of this title shall not apply.

SECTION 7. AMENDMENT.) Section 6-0358 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

6-0358. UNLAWFUL REDISCOUNTS, BORROWINGS, AND PLEDGINGS.) It shall be unlawful for any state banking association either directly or indirectly, to make any rediscount or contract to borrow money, nor shall it borrow money, or pledge or hypothecate, nor contract to pledge or hypothecate, any of its assets except in accordance with the provisions of this chapter.

Approved March 15, 1949.

## CHAPTER 106

House Bill No. 148  
(Klefstad and Baeverstad)

## AUTHORIZED SAVINGS BANKS INVESTMENTS

## AN ACT

To amend and reenact Section 6-0404 of the North Dakota Revised Code of 1943 relating to investments authorized.

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

SECTION 1. AMENDMENT.) That section 6-0404 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

6-0404. INVESTMENTS AUTHORIZED.) A savings bank incorporated under this chapter shall invest its deposits as follows:

1. In bonds of the United States;
2. In bonds or evidences of debt of this state or in bonds of other states in the United States;
3. In bonds or warrants of any county, city, village, township, or school district in this state, issued pursuant to authority of law, but not to exceed thirty percent of the assets of any savings bank may be invested in such bonds or warrants;
4. In notes or bonds secured by mortgage or deed of trust upon unencumbered, improved real estate in this state, if such investment shall not exceed fifty percent of the actual cash value of the property mortgaged, and fire and tornado insurance policies are maintained and deposited as collateral to such mortgage;
5. In listed first lien, public utility, industrial, or foreign bonds, but not to exceed ten percent of its capital and surplus may be invested in any one issue thereof, and not to exceed twenty-five percent of its total deposits may be invested in bonds of the kinds specified in this subsection;
6. In promissory notes due not more than one year from the date of the loan, but not to exceed forty percent of its total deposits may be invested therein; and
7. The obligations issued, assumed or guaranteed by International Bank for Reconstruction and Development.

Approved February 28, 1949.

## CHAPTER 107

House Bill No. 150  
(Klefstad and Baeverstad)

SECURITY DEPOSIT INVESTMENTS REQUIRED, ANNUITY,  
SAFE DEPOSIT, SURETY, AND TRUST COMPANIES

## AN ACT

To amend and reenact section 6-0504 of the North Dakota Revised Code of 1943 relating to Security Deposit Investments required, and securities in which investment may be made.

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

SECTION 1. AMENDMENT.) That section 6-0504 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

6-0504. SECURITY DEPOSIT INVESTMENTS REQUIRED; SECURITIES IN WHICH INVESTMENT MAY BE MADE.) Every corporation organized under this chapter shall be required to deposit with the state treasurer securities of the amount of at least fifty thousand dollars, and such deposit shall not be permitted, at any time, to be less than said amount or less than one-sixth of the par value of the capital stock of the corporation, whichever is the greater. The securities so deposited shall be:

1. Bonds of the United States or of the state of North Dakota;
2. Bonds of other states which shall have the approval of the state auditor and the state examiner;
3. Bonds or obligations of any township, school district, city, village, or county within this state, whose total bonded indebtedness does not exceed five percent of the then assessed valuation thereof;
4. Bonds or promissory notes secured by first mortgages or deeds of trust upon unencumbered real estate situated within the state of North Dakota worth two and one-half times the amount of the obligation so secured;
5. Mortgage bonds of any railroad corporation incorporated under the laws of any state of the United States, if during each of the ten fiscal years of such railroad's corporate existence next preceding the date of such investment it shall have paid the matured principal and interest of all of its mortgage indebtedness, and shall have paid in dividends, in cash, to its stockholders, an amount of at least four percent per annum upon all of its outstanding stock of every class; or



6. Obligations issued, assumed or guaranteed by International Bank for Reconstruction and Development.

Approved February 28, 1949.

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## CHAPTER 108

House Bill No. 273  
(Fitch)

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### INVESTMENT TRUST COMPANIES

#### AN ACT

Authorizing the creation, establishment and operation of Investment Trust Companies in the State of North Dakota, providing for the supervision thereof by the State Examiner, and regulating the business to be conducted by such companies.

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

SECTION 1. INVESTMENT TRUST COMPANIES AUTHORIZED.) Any number of persons, not less than five, at least three of whom must be residents of this state, may associate themselves together for the purpose of organizing and operating an investment trust company. They shall enter into articles of association which shall specify in general terms the object for which the association is formed and which may contain any other provisions, not inconsistent with law, which the association may see fit to adopt for the regulation of its business and the conduct of its affairs. These articles must be signed and acknowledged by the persons uniting to form the association and shall be filed in the office of the secretary of state.

SECTION 2. CAPITAL STOCK.) The capital stock of any such association shall not be less than twenty-five thousand dollars, and shall be divided into shares of such par value as may be provided in its articles of incorporation. Such stock shall be paid up in full before any association incorporated under this act shall be authorized to commence business.

SECTION 3. ORGANIZATION CERTIFICATE. CONTENTS.) The persons uniting to form such an organization, under their hands, shall make an organization certificate which shall state specifically:

1. The name assumed by such association, and such name shall not be the name of any other similar association in this state;

2. The place where the business of the organization is to be carried on;
3. The amount of capital stock and the number of shares into which the same shall be divided;
4. The names and places of residence of the shareholders and the number of shares held by each of them; and
5. The respective dates at which such association shall commence and terminate business.

SECTION 4. ACKNOWLEDGMENT OF CERTIFICATE.) The organization certificate shall be acknowledged before the clerk of some court of record, or a notary public, and, together with the acknowledgment thereof, shall be authenticated by the seal of such court or notary. The certificate, together with the articles of incorporation, shall be filed with the secretary of state, and shall be accompanied by the same fees as fixed for the organization of other general corporations.

SECTION 5. CHARTER, ISSUANCE OF. RENEWAL.) Upon receipt of the organization certificate and the articles of incorporation, as hereinbefore provided, the secretary of state shall issue to said association a charter. The term of such charter shall be for a period of twenty years, but same may be renewed in the same manner as charters for general corporations.

SECTION 6. CORPORATION LAWS APPLICABLE.) Except as herein specifically otherwise provided such corporation shall be subject to all of the laws of the state of North Dakota, or acts amendatory thereof, relating to general corporations.

SECTION 7. SUPERVISION.) Such association shall be under the direct supervision of the state examiner, and the state examiner shall have the power to make such rules and regulations, not inconsistent with law, governing the operation of the business of such association as to him may seem proper, including the maximum rate of interest which may be paid upon its deposits.

SECTION 8. POWERS.) In addition to powers under the general corporation law, such association shall have the power to invest its funds, subject to regulations of the state examiner, in the stock, debentures, bonds or other types of securities of established and going business concerns, and to loan money to such concerns. It shall also have the power to provide business management service and counsel to such business concerns. No investment, however, shall be made in the securities, and no loans made, to any concern unless it or its immediate predecessor concern has shown an average net profit of five per cent per annum over a period of the five preceding calendar years.

SECTION 9. INVESTMENT TRUST CERTIFICATE.) Such association shall have the power to issue and sell its investment trust certificates; but the state examiner shall prescribe rules and regulations governing the maximum rate of interest, the ratio of such investment trust certificates to its capital structure, and the amount of reserve which such association shall be at all times required to maintain.

SECTION 10. EXAMINATIONS. FEES. REVOCATION OF CHARTER.) The state examiner may at any time, and at least once each year, shall examine every such association, and such association shall pay into the state treasury for such examination the same fees as are by law provided for the examination of state banks. In the event that the state examiner, either as a result of any such examination, or from other information brought to his attention, believes that such association is conducting its business in an unsound or unsafe manner, or in violation of law, he shall cause to be served upon such association an order to show cause why its charter should not be revoked. Notice of the hearing upon such order to show cause shall be served upon an officer of such association at least fifteen days prior to such hearing, together with a statement of the specific charges or violations of law complained of. Such association at such hearing shall be entitled to be represented by counsel, and in the case of the entry of an order suspending or revoking its charter, shall have the right of appeal therefrom to the court.

SECTION 11. SECRETARY OF STATE TO REVOKE CHARTER. WHEN.) In addition to the other provisions of law with reference to revocation of corporate charters the secretary of state shall upon receipt from the state examiner of a certified copy of a final order suspending such association and directing cancellation of its charter, immediately enter upon his records an order revoking the charter of any such association, and thereafter no such association shall be permitted to continue its business.

Approved March 11, 1949.

## CHAPTER 109

Senate Bill No. 117  
(Senator Page)

TIME LIMIT FOR RETENTION OF OLD BANK RECORDS  
AND FOR BRINGING ACTION ON ACCOUNTS

## AN ACT

Fixing a limit on the time that old records must be retained by a bank, and limiting the time in which an action may be commenced on accounts.

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

SECTION 1. RETENTION OF RECORDS.) No bank shall be required to preserve and retain its records of accounts or files for a longer period than six years next after the first day of January of the year following the date of such records or files.

SECTION 2. ACTIONS ON ACCOUNTS AND CLAIMS LIMITED.) No depositor or other creditor shall commence an action against a bank on any account or claim of any kind after the expiration of the six year period provided for in section 1 of this act, unless such depositor or creditor shall have, within such six year period, made demand in writing on such bank requesting a settlement or adjustment of such claim; provided, however, that ledger sheets showing unpaid balances in favor of depositors shall not be destroyed and nothing in this act shall be construed as limiting the time when actions may be brought to recover such balances.

Approved March 7, 1949.

## CHAPTER 110

Senate Bill No. 125  
(Braun and Duffy)

COLLECTION, PAYMENT AND DISHONOR OF DEMAND ITEMS  
BY BANKS; REVOCATION OF CREDIT

## AN ACT

Relating to the collection, payment and dishonor of demand items by banks and the revocation of credit for and payment of such items.

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

SECTION 1. DEFERRED POSTING AUTHORIZED.) In any case in which a bank receives, other than for immediate payment over the counter, a demand item payable by, at, or through such bank and gives credit therefor before midnight of the day of receipt, the bank may have until midnight of its next business day after receipt within which to dishonor or refuse payment of such item. Any credit so given, together with all related entries on the books of the receiving bank, may be revoked by returning the item, or if the item is held for protest or at the time is lost or is not in the possession of the bank, by giving written notice of dishonor, nonpayment or revocation, provided that such item or notice is dispatched in the mails or by other expeditious means not later than midnight of the bank's next business day after the item was received. For the purpose of determining when notice of dishonor must be given or protest made under the law relative to negotiable instruments, an item duly presented credit for which is revoked as authorized by this act, shall be deemed dishonored on the day the item or notice is dispatched. A bank, revoking credit pursuant to the authority of this act, is entitled to refund of, or credit for, the amount of the item.

SECTION 2. DEFINITIONS.) For the purpose of this act:

1. An item received by a bank on a day other than its business day, or received on a business day after its regular business hours or during afternoon or evening period when it has reopened or remained open for limited functions, shall be deemed to have been received at the opening of its next business day;
2. The term, "credit" includes payment, remittance, advice of credit, or authorization to charge and, in cases where the item is received for deposit as well as for payment, also includes the making of appropriate entries to the receiving bank's general ledger without regard to whether the item is posted to individual customers' ledgers; and
3. Each branch or office of a bank shall be deemed a separate bank.

SECTION 3. VARIED BY AGREEMENT.) The effect of this act may be varied by agreement.

Approved March 8, 1949.

## CHAPTER 111

House Bill No. 167  
(Callahan and Klefstad)

## HOLIDAY BANK TRANSACTIONS

## AN ACT

Relating to holiday bank transactions.

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

SECTION 1. HOLIDAY TRANSACTIONS.) Nothing in any law in this state shall in any manner whatsoever affect the validity of, or render void or voidable, the payment, certification, or acceptance of a check or other negotiable instrument or any other transaction by a bank or trust company in this state because done or performed during any time other than regular banking hours, provided, further, that nothing herein shall be construed to compel any bank or trust company in this state, which by law or custom is entitled to close at twelve o'clock noon on any Saturday, or for the whole or any part of any legal holiday, to keep open for the transaction of business, or to perform any of the acts or transactions aforesaid on any Saturday after such hour, or on any legal holiday, except at its own option.

Approved March 9, 1949.

## CHAPTER 112

House Bill No. 97  
(Callahan, Wolf, Stair, Maher, Wadson, Mollet,  
Bentz and Klefstad)

BANK OF NORTH DAKOTA COLLECTION ITEMS FOR PUBLIC  
BILLS PAYABLE AT PAR, PENALTY

## AN ACT

To amend and reenact section 6-0913 of the North Dakota Revised Code of 1943, and declaring an emergency.

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

SECTION 1. AMENDMENT.) Section 6-0913 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

6-0913. COLLECTION ITEMS MUST BE PAID TO BANK OF NORTH DAKOTA AT PAR; VIOLATION A MISDEMEANOR.) All checks and other instruments and items of exchange payable on demand issued in payment of public bills to the state of North Dakota and its political subdivisions or any department of either sent by the Bank of North Dakota to any state bank or banking association in North Dakota, for collection, shall be remitted for at par by such state bank or banking association to the Bank of North Dakota if good on the day presented. Any person or corporation who shall violate any of the provisions of this section shall be guilty of a misdemeanor.

SECTION 2. EMERGENCY.) This act is hereby declared to be an emergency measure and shall be in full force and effect from and after its passage and approval.

Approved February 25, 1949.

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## CONTRACTS AND OBLIGATIONS

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### CHAPTER 113

House Bill No. 114  
(Klefstad and Murray)

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#### ASSIGNMENTS OF ACCOUNTS RECEIVABLE

#### AN ACT

Relating to notice of assignments of accounts receivable, defining "account receivable" and setting forth the effect of such assignments as against creditors and subsequent purchasers and encumbrancers of such account.

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

SECTION 1. DEFINITIONS.) As used in this Act, the following words and phrases shall have the meaning hereinafter set forth:

1. "Accounts receivable" means an obligation for the payment of money, due or which may become due, arising out of,
  - a. The sale, conditional sale, manufacture, lease, repair, processing or fabrication of personal property;
  - b. The improvement of real estate;