

BANKS AND BANKING

CHAPTER 96

S. B. No. 178

(Hernett, George, Klefstad, Wenstrom and Sayer)

STALE CHECKS

AN ACT

Defining a stale check and authorizing a bank or trust company to refuse payment thereof.

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

§ 1. Definition.) A stale check is hereby defined to be any check or other instrument payable on demand at any bank or trust company doing business in this state which has not been presented for payment within six months from the date it was issued.

§ 2. Right To Refuse Payment.) Any bank or trust company doing business in this state, unless expressly instructed by the drawer or maker, shall have the right to refuse payment upon any check or other instrument payable on demand at such bank or trust company which has not been presented for payment within six months from the date it was issued, and no liability shall thereby be incurred to the drawer or maker of said check for dishonoring the instrument by non-payment.

Approved March 13, 1957.

CHAPTER 97

S. B. No. 189

(Hernett, George, Klefstad, Wenstrom, Sayer)

STOP PAYMENT ORDERS

AN ACT

Defining a demand item drawn on a bank, payable by, at, or through a bank, fixing limitations on stop payment orders or countermand of payment of such items, and defining under certain circumstances what shall be deemed final payment of an item upon which a stop payment or countermand order has been given.

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

§ 1. Definition.) As used in this Act a "demand item" means a check, draft, or other demand instrument drawn on a bank, payable by, at, or through a bank.

§ 2. Stop Payment Order.) No stop payment order or countermand order relating to the payment of any check or draft against an account of a depositor in any bank or trust company doing business in this state, unless otherwise provided between the parties in a written contract signed by the depositor, shall remain in effect for more than six months after the service thereof on the bank, unless the same be renewed, which renewal shall be in writing. Such renewal may be made from time to time but shall not be in effect for more than six months.

§ 3. Service Of Notice.) Notice of stop payment or countermand of an item may be served upon the bank by written, telephonic or other oral communication, but shall not be effective unless written notice is served upon the bank within five days after an oral service of such notice has been given.

§ 4. Notices Heretofore Given.) No notice affecting a check upon which a stop payment or countermand order has been made at the time of the taking effect of this Act shall be deemed to continue for a period of more than six months.

§ 5. When Item Finally Paid.) A demand item in respect to which a stop payment or countermand order is given to a drawee bank is deemed to be finally paid at the time the instrument remitting for the item or advice of credit relating thereto leaves the premises of the bank, or when the bank gives credit therefor over the counter or at a clearing house, or when that bank has certified the instrument.

§ 6. Limitation.) This Act is limited to the ascertainment of whether, as between a paying bank and one giving a stop payment order, the order is timely given so that the paying bank must honor it, if the order is otherwise proper.

§ 7. Statutory Rights Not Affected.) No statutory right of any bank doing business in North Dakota is curtailed, restricted or affected by this section.

Approved March 18, 1957.

CHAPTER 98

S. B. No. 156

(Hernett, George and Klefstad)

BANK DIRECTORS QUALIFYING SHARES

AN ACT

To amend and reenact section 6-0303 and section 6-0328, of the North Dakota Revised Code of 1943, relating to the value of shares of stock in state banks, and directors qualifying shares.

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

§ 1. Amendment.) Section 6-0303* of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

6-0303. Directors; Qualifying Shares; Issue And Transfer.)

Every director must own in his own right, free from hypothecation or pledge for any debt, capital stock of the par value of at least one thousand dollars in the association of which he is a director. Such shares shall be known as "director's qualifying shares". Such shares shall be issued in a separate certificate which shall have legibly marked in ink across the face thereof the words: "director's qualifying shares". Such share shall be retained in the bank by the officers thereof during the whole time that such director shall continue in office, subject to inspection at all times by the state examiner or any other authorized examiner. The oath of office shall be executed at the time the shares are issued and shall be at once forwarded to the state examiner and retained on file in that office.

Such shares shall not be subject to transfer, pledge, or hypothecation in any manner or to any extent whatsoever

until a written resignation of the director shall have been filed with and accepted by the board of directors of the association, or until the director otherwise becomes disqualified, and any director who ceases to be the owner of the required number of qualifying shares of free and nonhypothecated stock of the association of the value as above set forth shall vacate his office. Upon the resignation or disqualification of any director, his qualifying shares shall be returned to him or her, and, on demand, shall be reissued in the name of the owner, the assignee, or legal representative.

***Note:** This section purports to amend section 6-0303 as it existed in 1943. The section was later amended by S.L. 1947, Chapter 112, as shown in the 1953 Supplement.

§ 2. Amendment.) Section 6-0328 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

6-0328. Shares; Value And Transfer; Shareholders Obligation.) The capital stock of each association shall be divided into shares of not less than ten dollars each, and shall be deemed personal property and transferable on the books of the association in such manner as may be prescribed by its by-laws or articles of incorporation. A transfer of shares shall not be valid except between the parties thereto until the transfer is entered upon the books of the association, and shall not be valid against the association or any creditor thereof while the registered holder of the shares is indebted to the bank as principal debtor, surety, guarantor or otherwise. No dividend, interest, or profit shall be paid on any stock as long as any past due and unpaid liability of the shareholder continues, but such dividend, interest, or profit shall be retained by the association and applied to the discharge of the past due and unpaid liability. Every person or corporation becoming a shareholder by any transfer, shall succeed, in proportion to the shares acquired by him, to all rights and liabilities of prior holders of the shares existing by reason of ownership thereof, and no change shall be made in the articles of incorporation or by-laws of the association by which the rights, remedies, or security of its existing creditors shall be impaired.

Approved March 15, 1957.

CHAPTER 99

H. B. No. 683
(Stockman and Scott)

BAD CHECKS

AN ACT

To amend and reenact section 6-0816 of the North Dakota Revised Code of 1943, relating to issuing checks or drafts without an account, or without sufficient funds or credit with a bank or other depository; providing for penalty and rule of evidence.

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

§ 1. Amendment.) Section 6-0816 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

6-0816. Issuing Check Or Draft, Without An Account, Or Without Sufficient Funds Or Credit; Penalty; Rule Of Evidence.) Every person, firm or corporation who shall issue any check, draft or order upon any bank or other depository, for the payment of money, not having an account with such bank or other depository, or knowing at the time of such issuance that there are not sufficient funds in or credit with such bank or other depository for the payment in full upon presentation of such instrument, shall be punished by a fine of not more than one hundred dollars, or by imprisonment in the county jail for not more than thirty days, or by both such fine and imprisonment. The issuance of a check, draft, or order, payment of which is refused by the drawee, shall be prima facie evidence of intent to defraud and of knowledge of insufficient funds in or credit with such drawee, unless within ten days from the receipt of written notice of dishonor, the issuer shall have deposited with the drawee, or paid or tendered to the payee sufficient money to pay such instrument in full. The making of a postdated check knowingly received as such, shall not constitute a violation of this section. This statute shall not be construed to nullify or supersede section 12-3807 of this Code, as heretofore amended.

The notice of dishonor shall be substantially as follows:

Notice of Dishonored Check

Date
Name of issuer.....
Street address
City and state.....

You are according to law hereby notified that a check dated....., 19... drawn on the Bank of..... in the amount of \$..... bearing the signature of..... has been returned unpaid with the notation that payment has been refused because of..... Within ten (10) days from the receipt of this notice you must deposit to pay the above check \$..... in the..... Bank of..... (city) or pay or tender to..... (payee) sufficient money to pay such instrument in full.

Such notice may also contain a recital of the penal provisions of this statute.

Approved March 19, 1957.