

BANKS AND BANKING

CHAPTER 64

SENATE BILL NO. 2035
(Legislative Council)

(Interim Committee on Industry, Business & Labor "B")

BANKING LAW DEFINITIONS

AN ACT to amend and reenact sections 6-01-01, 6-01-02, 6-02-01, and subsection 2 of section 6-06-06 of the North Dakota Century Code, relating to the financial institutions under the control of the department of banking and financial institutions, definitions applicable to title 6, compliance with banking chapters, and powers of credit unions.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

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

6-01-01. MANAGEMENT AND CONTROL - STATE DEPARTMENT OF BANKING AND FINANCIAL INSTITUTIONS.) The state department of banking and financial institutions shall be under the supervision of the state banking board and a chief officer designated as the commissioner of banking and financial institutions, and known as the state examiner. Whenever the term state examiner is used in this Code, it shall mean the commissioner of banking and financial institutions. The state department of banking and financial institutions shall have charge of the execution of all laws relating to state banks, trust companies, building and loan associations, mutual investment corporations, mutual savings corporations, banking institutions, and other financial corporations, exclusive of the Bank of North Dakota and all credit unions, organized or doing business under the laws of this state. The same power granted to the state department of banking and financial institutions with reference to the corporations named in this section shall be granted to the state credit union board with reference to credit unions.

SECTION 2. AMENDMENT.) Section 6-01-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-01-02. DEFINITIONS.) As used in this title, unless the context or subject matter otherwise requires:

1. "Association", "banking association", or "state banking association" means any corporation organized under the laws of this state covering state banking associations, and all corporations, partnerships, firms, or associations whose business in whole or in part consists of the taking of money on deposit, except national banks, trust companies, and the Bank of North Dakota.
2. "Bank" means any association, firm, or corporation engaged in the business of banking.
3. "Banking" means the business of receiving deposits, making loans, discounting commercial paper, issuing drafts, traveler's checks, and similar instruments, handling and making collections, cashing checks and drafts, and buying and selling exchange.
4. "Banking department" means the state department of banking.
5. "Banking institution" means any bank, trust company, or bank and trust company organized under the laws of this state.
6. "Commissioner" means the commissioner of banking and financial institutions.
7. "Credit union" means a cooperative, nonprofit association organized for the purposes of encouraging thrift among its members, creating a source of credit at a fair and reasonable rate of interest, and providing an opportunity for its members to improve their economic and social condition.
8. "Mutual investment corporation" or "mutual savings corporation" means a corporation organized to engage in the investment or savings business, but having no capital stock or a nominal capital stock.
9. "Receiving and paying station" means a place of business maintained by a banking institution separate from its main banking house within the county of its domicile or in an adjoining county for the purpose of receiving and paying out deposits, issuing drafts, traveler's checks, and similar instruments, handling and making collections, and cashing checks and drafts.
10. "Trust company" means any corporation formed for the purpose of transacting business as an annuity, safe deposit, surety, or trust company.

SECTION 3. AMENDMENT.) Section 6-02-01 of the North Dakota Century Code is hereby amended and reenacted to read as

follows:

6-02-01. COMPLIANCE WITH CHAPTERS REQUIRED - PENALTY FOR NONCOMPLIANCE.)

1. No person, firm, company, copartnership, or corporation, either domestic or foreign, not organized under this chapter or authorized to take on banking powers under this section, except national banking corporations and the Bank of North Dakota, shall make use of or display in connection with its business, in signs, letterheads, advertising, or in any other way, such words as "bank", "banker", or "banking", or any other word or words of like import, nor shall any person or concern do or perform anything in the nature of the business of a bank until and unless such business is regularly organized or authorized under this chapter.
2. If any firm or corporation organized prior to July 1, 1931, shall have been granted a charter permitting it to use any word, words, or title contrary to the intent of this section, and by reason of its rights under such charter this section may not be enforced against it during the life of such charter, no renewal charter shall be granted to such person, firm, or corporation permitting the continuance of the use of such word, words, or title contrary to or in violation of this section. Any person, firm, or corporation which, by reason of an existing charter right under any law or statute in effect prior to July 1, 1931, may be held by the courts not to be affected by this section and which therefore refuses to comply with this section, during the period of noncompliance, shall prominently and continuously display in plain, legible, and clearly discernible lettering on all of its signs, stationery, circulars, and advertising, and in all of its printed or written matter, the following words and language: "NOT UNDER THE SUPERVISION OF THE STATE BANKING BOARD OR THE COMMISSIONER OF BANKING AND FINANCIAL INSTITUTIONS". Such language shall be displayed as prominently thereon as is other matter therein.
3. Any person, firm, company, copartnership, or corporation, domestic or foreign, violating any provision of this section shall forfeit to the state one hundred dollars for every day or part thereof during which such violation continues. In an action brought by the commissioner or any aggrieved person, the court may issue an injunction restraining any such person, firm, company, copartnership, or corporation from further using such words, terms, or phrases in violation of this section or from further transacting business in such way or

manner as to lead the public to believe that its business is in whole or in part of the nature of a bank, or that it is under the supervision of the state banking board or the commissioner.

4. Any trust company duly granted a charter to engage in banking business upon compliance with this chapter shall be subject to the state banking board in its banking operations as is the case for other chartered banks, and all the laws relating to banks in this title are thereafter applicable. Any trust company desiring to take on banking powers shall apply to the state banking board for a hearing upon the application pursuant to section 6-02-06. If the determination of the board is in favor of the applicant, the board shall make its order authorizing the applicant to engage in the business of banking. The order shall be recorded in the office of the register of deeds of the county in which the trust company is established, and shall be transmitted to the secretary of state who shall record and carefully preserve the order in his office, and shall certify the facts to the state banking board. Thereafter the trust company shall be subject to the jurisdiction of the state banking board as to its banking operations the same as state banking associations. The provisions of sections 6-02-02, 6-02-03, 6-02-04, 6-02-05, 6-02-07, and 6-02-09 shall not be applicable to trust companies granted authority to engage in the business of banking by the state banking board.

* SECTION 4. AMENDMENT.) Subsection 2 of section 6-06-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. To make loans to members;

*NOTE: Subsection 2 of section 6-06-06 was also amended by section 3 of Senate Bill No. 2327, chapter 74.

Approved March 23, 1977

CHAPTER 65

HOUSE BILL NO. 1153

(Committee on Industry, Business & Labor)

(At the request of the Department of Banking and Financial Institutions)

STATE CREDIT UNION BOARD MEETINGS

AN ACT to amend and reenact subsection 2 of section 6-01-03 of the North Dakota Century Code, relating to the state credit union board.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Subsection 2 of section 6-01-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. The state credit union board shall consist of the state examiner and two members to be appointed by the governor from a panel of five names of persons, residents of North Dakota, who have had at least three years' experience as an officer, director, or committee member of a North Dakota state chartered credit union, said panel of five names to be furnished to the governor by the North Dakota credit union league. Appointments of board members shall be for a term of five years. In case of a vacancy in such board, by death, resignation, or removal of an appointed member, the vacancy shall be filled by appointment by the governor for the unexpired term. The state examiner shall be chairman of such board and the attorney general shall be ex officio, the attorney for such board. The chief deputy examiner shall serve as its secretary. The members of the state credit union board shall receive the same remuneration as is provided for the members of the state banking board. The state credit union board shall hold meetings in March, June, September, and December of each year in the office of the state examiner in the state capitol at Bismarck and shall hold special meetings at the call of the state examiner in such places as he may designate within the state of North Dakota.

Approved March 5, 1977

CHAPTER 66

SENATE BILL NO. 2033
(Legislative Council)

(Interim Committee on Industry, Business & Labor "B")

BANKS EXAMINED AT LEAST ANNUALLY

AN ACT to amend and reenact section 6-01-09 of the North Dakota Century Code, relating to supervision and examination of state banks by the commissioner of banking and financial institutions.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

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

6-01-09. SUPERVISION AND EXAMINATION BY COMMISSIONER OF BANKING AND FINANCIAL INSTITUTIONS.) The commissioner shall exercise a constant supervision over the business affairs of all financial corporations and institutions placed within the jurisdiction of the board. Either the commissioner or one or more examiners shall visit each of the state banking associations and other corporations and associations placed under the commissioner's jurisdiction at least once each year to examine their affairs and ascertain their financial condition. The visits shall be made without previous notice to the corporation or institution to be examined. The commissioner shall inspect and verify the assets and liabilities of the institution to ascertain with reasonable certainty that the value of the assets and the amounts of the liabilities are correctly carried on its books. The commissioner shall examine the validity of mortgages held by savings institutions, and shall see that all of the mortgages are properly recorded. The commissioner shall investigate the method of operation and conduct of the corporations and institutions and their systems of accounting to ascertain whether such methods conform to the law and sound banking usage and principles. The commissioner shall inquire into and report any infringement of the laws governing such corporations and institutions, and for such purpose the commissioner may examine the officers, agents, and employees of such corporations and institutions and all persons doing business therewith. The commissioner shall report the condition of such corporations and institutions, together with the commissioner's recommendations or suggestions in connection therewith, to the state banking board, and the board may take such action as, in its discretion, the exigencies may demand.

CHAPTER 67

SENATE BILL NO. 2153
(Redlin)

BANK DEPOSIT INSURANCE

AN ACT to create and enact a new section to chapter 6-03 of the North Dakota Century Code, relating to requiring state banks to have federal deposit insurance corporation insurance of deposits; to amend and reenact sections 6-02-03, 6-02-07, and 6-03-01 of the North Dakota Century Code, relating to capital stock, surplus, and federal deposit insurance requirements for state banking associations, organization certificates of state banking associations, and certificates of authority of state banking associations; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 6-02-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-02-03. CAPITAL STOCK, SURPLUS, AND FEDERAL DEPOSIT INSURANCE REQUIREMENTS.) The capital stock of any banking association shall be not less than fifty thousand dollars. In addition to such capital requirements there shall be subscribed and paid in at the time of organization a surplus of not less than twenty-five thousand dollars. The state banking board may require such additional capital, surplus, and undivided profits as it may determine necessary to properly serve the area and to protect the public interest. All of the capital stock and surplus of every association shall be paid in before it shall be authorized to commence business, and evidence of such payment either in actual money or a deposit in a previously approved correspondent bank must be furnished to the commissioner before the certificate of authority may be delivered to it. A banking association shall, after July 1, 1978, secure federal deposit insurance corporation insurance of deposits before it is authorized to commence business. Evidence of securing such insurance must be furnished to the commissioner before the certificate of authority may be delivered to the banking association.

SECTION 2. AMENDMENT.) Section 6-02-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-02-07. DETERMINATION OF BOARD - RECORDING OF ORGANIZATION CERTIFICATE.) If the determination of the state banking board is in

favor of the applicants, the organization certificate and permission of the board accompanying the same shall be recorded in the office of the register of deeds of the county in which such banking association is to be established, and the same shall be transmitted to and received by the secretary of state. He shall record and carefully preserve it in his office, and shall certify the facts to the state banking board. He then shall issue a certificate of authority to the corporation, and such certificate of authority shall be transmitted to and held by the commissioner until an examination is made and the certificate of the commissioner or the deputy examiner procured to the effect that the capital stock and required surplus have been paid in full, that federal deposit insurance corporation insurance of deposits has been secured, and that all conditions of the law have been complied with strictly. 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, and, if presented, it shall not be accepted by the secretary of state.

SECTION 3. AMENDMENT.) Section 6-03-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-03-01. POWERS BEFORE RECEIPT OF CERTIFICATE OF AUTHORITY.) No association shall transact any business, except such as is incidental and necessarily preliminary to its organization, until it has been authorized by the secretary of state to commence the business of banking and has received a certificate of authorization, and such certificate has been returned by the commissioner with his certificate that the capital stock and required surplus have been paid in full, that federal deposit insurance corporation insurance of deposits has been secured, and that all conditions of the law have been strictly complied with.

SECTION 4.) A new section to chapter 6-03 of the North Dakota Century Code is hereby created and enacted to read as follows:

OPERATION WITHOUT FEDERAL DEPOSIT INSURANCE PROHIBITED - LIABILITY - PENALTY.) No state banking association shall, after July 1, 1978, engage in the business of banking without securing and continuing in force federal deposit insurance corporation insurance of deposits. Any officer or director of any state banking association who violates this section is guilty of a class A misdemeanor and shall be personally liable to any person aggrieved for any damages caused by the violation.

Approved March 31, 1977

CHAPTER 68

SENATE BILL NO. 2401
(Freed)

INDEMNIFICATION OF BANK PERSONNEL

AN ACT to provide for indemnification of any employee, director, or officer or former employee, director, or officer of any bank.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. INDEMNIFICATION OF BANK EMPLOYEES, DIRECTORS, AND OFFICERS.) Each banking association shall have the power to indemnify any employee, director, or officer, or former employee, director, or officer of the bank against expenses actually and necessarily incurred by him in connection with the defense of any action, suit, or proceeding in which he is made a party by reason of being or having been such an employee, director, or officer, except in relation to matters as to which he shall be adjudged in such action, suit, or proceeding to be liable for negligence or misconduct in the performance of duty. Such indemnification shall not be deemed exclusive of any other rights to which such employee, director, or officer may be entitled, under any bylaw, vote of shareholders, or otherwise.

Approved April 6, 1977

CHAPTER 69

SENATE BILL NO. 2412
(Lee)

BANK REAL ESTATE LOAN LIMITATIONS

AN ACT to amend and reenact section 6-03-05 of the North Dakota Century Code, relating to limitation on bank loans secured by real estate.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 6-03-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-03-05. LOANS ON REAL ESTATE - REGULATION - LIMITATION - AMORTIZED LOANS PROVIDED FOR.) No association shall own or carry among its assets at any one time loans dependent primarily upon real estate security in an aggregate sum in excess of the amount of the capital stock of such association paid in and unimpaired plus the amount of its unimpaired surplus fund, or in excess of sixty-six and two-thirds percent of the amount of its time and savings deposits, whichever is the greater. Before any such loan is made the board of directors shall appoint a committee which shall make actual inspection of the security offered and shall appraise both the land and the improvements thereon, if any, and shall report to the board of directors, in writing, the results of the appraisal together with any other facts relating to such proposed loan and proposed security as will best enable the board to determine if the loan shall be granted. Such written report shall be made a permanent record in the bank's files and shall be made available to the state examiner. No director shall act as an appraiser of his own property nor of property offered as security for loans the proceeds of which are to be used for his benefit. No unamortized loan secured by realty may be made for a period exceeding five years in an amount exceeding fifty percent of the appraised value of the real estate offered as security.

Any such loan may be made in an amount not to exceed ninety percent of the appraised value of the real estate offered as security and for a term not longer than thirty years if the loan is secured by an amortized mortgage, deed of trust, or other such instrument under the terms of which the installment payments are sufficient to amortize the entire principal of the loan within a period of not more than thirty years.

Approved March 23, 1977

CHAPTER 70

HOUSE BILL NO. 1372
(B. Larson, Herslip)

ADVANCEMENT OF FUNDS TO PROTECT LIENS

AN ACT to amend and reenact section 6-03-05.1 of the North Dakota Century Code, relating to the authority of mortgagees to advance funds to protect liens.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 6-03-05.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-03-05.1. ADVANCEMENT OF FUNDS TO PROTECT LIENS.) Any banking association or other mortgagee may advance funds or make additional loans to borrowers, from time to time, covering real estate on which the mortgagee owns a first mortgage lien, with or without changing the terms of said mortgage, and may carry such advances or loans upon its books as assets of the mortgagee, provided the said first mortgage by its terms reserves in the mortgagee the right to make such advances or additional loans. Such advances or loans shall be deemed to be merged, incorporated in and become a part of and secured by said first mortgage, and the mortgagee shall have a good and valid first lien against such real estate to secure the payment of funds so advanced or loaned.

Approved April 6, 1977 .

CHAPTER 71

SENATE BILL NO. 2036
(Legislative Council)
(Interim Committee on Industry, Business & Labor "B").

BANKING LAW STATUTORY REFERENCES

AN ACT to amend and reenact sections 6-05-22 and 6-05-34 of the North Dakota Century Code, relating to certificates of authority for corporations writing fidelity and surety bonds and code provisions applicable to annuity, deposit, surety, and trust companies.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 6-05-22 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-05-22. DOMESTIC SURETY COMPANIES AND AGENTS MUST OBTAIN CERTIFICATE FROM COMMISSIONER OF INSURANCE.) Every corporation organized under the laws of this state for the purpose, in whole or in part, of transacting the business of fidelity or corporate suretyship must comply with the provisions of this chapter and must pay the fees provided for under section 26-01-04. Upon the filing in the office of the commissioner of insurance by any such corporation of a certificate issued by the state treasurer showing compliance with section 6-05-05, together with a certified copy of its articles of incorporation and the payment of the proper fee therefor, the commissioner of insurance shall issue to the corporation a certificate setting forth that it has qualified and is authorized for the ensuing year to engage in the business of writing fidelity and surety bonds. Such certificate shall be evidence of the corporation's authority to become and be accepted as sole surety and of its solvency and credit for all purposes, and shall be issued annually on the filing by such corporation of a statement of its condition as of December thirty-first of the year last ending. Certificates to the agents of the corporation as provided in chapter 26-17.1 shall be issued on compliance with this section.

SECTION 2. AMENDMENT.) Section 6-05-34 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-05-34. OTHER CODE PROVISIONS APPLICABLE TO CORPORATIONS DOING BUSINESS UNDER THIS CHAPTER.) The provisions of title 10, as it may be amended from time to time, governing profit corporations,

and sections 6-01-06, 6-01-09, 6-03-11, 6-03-12, 6-03-27, 6-03-33, 6-03-34, 6-03-35, 6-03-41, 6-03-42, 6-03-51, 6-03-52, 6-03-53, 6-03-54, 6-03-55, 6-03-56, 6-03-57, 6-03-58, 6-03-61, 6-03-62, 6-03-63, 6-03-64, 6-03-65, 6-03-70, 6-03-72, 6-07-01, 6-07-02, 6-07-04, 6-07-05, 6-07-06, 6-07-21, 6-07-23, 6-07-24, 6-07-25, 6-07-26, 6-07-27, 6-07-28, 6-07-29, 6-08-03, 6-08-06, 6-08-09, 6-08-14, and 6-08-20 shall be applicable to and shall be observed by all corporations organized under this chapter, except as to provisions thereof inconsistent with the provisions of this chapter.

Approved April 19, 1977

CHAPTER 72

SENATE BILL NO. 2331
(Goodman, Freed)

SUBSIDIARY TRUST COMPANIES

AN ACT to provide for the establishment of separate and independent trust companies.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. DEFINITIONS.) As used in this Act, unless the context plainly requires otherwise:

1. "Affiliated bank", with respect to a subsidiary trust company, means any of the following:
 - a. A bank incorporated under the laws of this state, or a national banking association having its main office in this state, more than fifty percent of the voting stock of which is owned by the same owning bank holding company that owns more than fifty percent of the voting stock of such subsidiary trust company.
 - b. A bank which owns shares of voting stock of such subsidiary trust company.
2. "Fiduciary capacity" means a capacity resulting from a bank undertaking to act alone or jointly with others primarily for the benefit of another in all matters connected with its undertaking and includes the capacities of trustee, including trustee of a common trust fund, executor, administrator, personal representative, registrar, or transfer agent with respect to stocks, bonds, or other evidences of indebtedness of any corporation, association, municipality, state or public authority, guardian of estates, conservator, receiver, escrow agent, agent for the investment of money, attorney in fact, and any other similar capacity.
3. "Main office", with respect to a subsidiary trust company or an affiliated bank, is the place designated in the articles of incorporation or articles of association of such subsidiary trust company or affiliated bank at which its principal functions are to be conducted.

4. "Owning bank holding company", with respect to a subsidiary trust company or an affiliated bank, means a bank holding company as defined in the United States Bank Holding Company Act of 1956, as amended.
5. "Subsidiary trust company" means any trust company incorporated under the laws of this state, or any national banking association formed under the laws of the United States solely for the purpose of engaging in trust business with its main office in this state, more than fifty percent of the voting stock of which is owned by an owning bank holding company or by a bank having its main office in this state or by two or more banks each of which has its main office in this state, and which has as its sole purpose the conduct of trust business as defined in section 6-05-08. A subsidiary trust company may not conduct commercial banking business but may maintain deposits of funds of fiduciary accounts not currently invested.
6. "Trust office", with respect to a subsidiary trust company, means an office, including the main office, of such subsidiary trust company maintained for the purpose of conducting its business.

SECTION 2. ORGANIZATION OF SUBSIDIARY TRUST COMPANIES.) A subsidiary trust company may be incorporated under the laws of this state, or formed under the laws of the United States. To the extent not inconsistent with the provisions of sections 1 through 5 of this Act, any subsidiary trust company incorporated under the laws of this state shall be subject to the laws of this state generally applicable to trust companies. A subsidiary trust company formed under the laws of the United States, shall, to the extent provided by the laws of the United States, be subject to the laws of this state applicable to subsidiary trust companies incorporated under the laws of this state.

SECTION 3. PERMISSIBLE BUSINESS OF SUBSIDIARY TRUST COMPANIES.) The permissible business of a subsidiary trust company shall be to engage in such trust business as may be engaged in by a trust company pursuant to section 6-05-08. A subsidiary trust company may not exercise any of the powers provided in subsection 8 of section 6-03-02, nor conduct commercial banking business, but may maintain deposits of funds of fiduciary accounts not currently invested.

SECTION 4. TRUST OFFICES OF SUBSIDIARY TRUST COMPANIES.) A subsidiary trust company may have a trust office at any one or more locations in this state in the same building in which the main office of any affiliated bank is located, but not elsewhere.

SECTION 5. TRANSFER OF FIDUCIARY RELATIONSHIPS FROM AFFILIATED BANKS TO SUBSIDIARY TRUST COMPANIES.)

1. Any subsidiary trust company which has been duly authorized to commence the business for which it is organized, and which has made any deposit of securities required

by law, may at any time file its verified application in the district court of the county in which its main office is located requesting that it be substituted, except as may be expressly excluded in the application, in every fiduciary capacity for each of its affiliated banks specified in the application, and each such specified affiliated bank shall join in the application. Any such application shall indicate the county wherein the main office of each affiliated bank joining in the application is located and shall designate each fiduciary account existing at the date thereof with respect to which the applicant requests substitution, but fiduciary capacities in other cases need not be listed. Any such application shall additionally set forth, with regard to each existing fiduciary account with respect to which the applicant requests substitution, the name and address last known to the applicant of each person entitled to mailed notice of hearing thereon, who are as follows:

- a. In the case of an existing fiduciary account which may be revoked, terminated, or amended, each person who, alone or together with others, is empowered to revoke, terminate, or amend the same.
 - b. In the case of an existing fiduciary account with respect to which any person other than a court has the power to remove the corporate fiduciary, each person who, alone or together with others, is empowered to remove the corporate fiduciary.
 - c. In the case of an existing fiduciary account which is an estate of a deceased person or which is a guardianship, or conservatorship, the clerk of the court in which such estate, guardianship, or conservatorship matter is pending.
 - d. In the case of an existing fiduciary account not described in any of the foregoing subdivisions, each income beneficiary of such account and each beneficiary who, were such account terminated at the date of the application respecting such account, would be entitled to share in distributions of income or principal thereof.
 - e. In the case of an existing fiduciary account wherein an affiliated bank specified in the application is acting with a co-fiduciary, to each such co-fiduciary.
2. When any such application shall have been filed with the district court, the court shall make an order fixing a date and time for hearing thereon and directing that notice thereof be given as hereinafter provided. The applicant shall cause a copy of such notice to be published at least once a week for three successive

weeks preceding the hearing date, the last such publication to be at least ten days preceding the hearing date. Such publication shall be made in a newspaper of general circulation published in each county in which the main office of an affiliated bank specified in the application is located. In addition, at least fourteen days preceding the hearing date, the applicant shall cause a copy of such notice to be mailed by first-class mail to each person identified in the application as being entitled to mailed notice under the provisions of this section, at that person's address last known to the applicant as set forth in the application. Proof of the giving of such notice shall be made on or before the hearing date and filed in the proceeding.

3. The notice to be published and mailed with respect to each such application shall state the time and place of the hearing thereon, the name of the subsidiary trust company which has filed the application, the name of each affiliated bank which has joined in the application, that the application requests that the subsidiary trust company be substituted in every fiduciary capacity for each of its affiliated banks specified in the application, and that any person entitled to receive mailed notice pursuant to this section with respect to any existing fiduciary account may appear on or before the date of hearing and file written objection to such substitution as to such account, and such notice shall refer to such application for further particulars.
4. On or before the date and time of hearing any such application, any person entitled to receive mailed notice pursuant to this section with respect to any existing fiduciary account may appear and file objection to substitution of the applicant in such account and shall then be entitled to be heard with respect to such objection. The court shall not apply the provisions of this section to substitute a subsidiary trust company as fiduciary of any existing fiduciary account with respect to which a person entitled to receive mailed notice pursuant to this section has filed objection to substitution and has appeared and been heard in support thereof.
5. On such date of hearing, upon finding that due notice has been given as required by this section and upon finding that the applicant subsidiary trust company has been duly authorized to commence the business for which it is organized by the state banking board, or by the comptroller of the currency if the applicant is a national banking association, and that the applicant has made such deposit of securities as may be required by law, the district court shall enter an order substituting the applicant in every fiduciary capacity for each of its specified affiliated banks,

excepting as may be otherwise specified in the application, and excepting fiduciary capacities in any account with respect to which a person entitled to receive mailed notice pursuant to this section has filed objection to substitution and has appeared and been heard in support thereof. Upon entry of such order, or at such later date as may be specified in such order, the applicant subsidiary trust company shall, without further act, be substituted in every such fiduciary capacity. Such substitution may be made a matter of record in any county of this state by filing a certified copy of the order of substitution in the office of the clerk of any district court in this state, or in the office of the clerk of any county court in this state, or by filing a certified copy of such order in the office of the register of deeds of any county of this state to be recorded and indexed in like manner and with like effect as other orders and decrees of court are recorded and indexed.

6. Each designation, in a will or other instrument heretofore or hereafter executed, of a bank as fiduciary shall be deemed a designation of the subsidiary trust company substituted for such bank pursuant to this section except where such will or other instrument is executed after such substitution and expressly negates the application of this section. Any grant in any such will or other instrument of any discretionary power shall be deemed conferred upon the subsidiary trust company deemed designated as the fiduciary pursuant to this section.
7. A bank shall account jointly with the subsidiary trust company which has been substituted as fiduciary for such bank pursuant to this section for the accounting period during which the subsidiary trust company is initially so substituted. Upon substitution pursuant to this section, the bank shall deliver to the subsidiary trust company all assets held by the bank as fiduciary, except assets held for fiduciary accounts with respect to which there has been no substitution pursuant to this section, and upon such substitution all such assets shall become the property of the subsidiary trust company without the necessity of any instrument of transfer or conveyance.

CHAPTER 73

HOUSE BILL NO. 1151

(Committee on Industry, Business & Labor)

(At the request of the Department of Banking and Financial Institutions)

CREDIT UNION EXAMINATIONS

AN ACT to amend and reenact section 6-06-08 of the North Dakota Century Code, relating to supervision of credit unions by the state credit union board, reports, examinations, and fees.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 6-06-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-06-08. STATE CREDIT UNION BOARD TO SUPERVISE CREDIT UNIONS - REPORTS - EXAMINATIONS - FEES.) Credit unions and the permanent loan funds thereof, if any, shall be under the supervision of the state credit union board. The credit unions shall report to the state examiner at least once annually, upon call of the state examiner, on blanks supplied by the examiner for that purpose. Additional reports may be required by the board or examiner. Annual reports must be transmitted to the examiner by January thirty-first of the following year. Other reports must be transmitted to the examiner within fifteen days after receipt of the request for the same. Every credit union which fails to make and transmit any report required in pursuance of this section shall forfeit and pay to the state a penalty of five dollars for each delinquency. Credit unions shall be examined at least once each year by the examiner, or with his approval and the approval of the state credit union board, credit unions may be examined annually by a certified public accountant or the North Dakota credit union league. If the examination is not made by the state examiner, the expense of such examination shall be borne by the credit union examined and such examination shall be in such form and contain such information as the state examiner may require. Two copies of such examination shall be filed with the state examiner within thirty days after completion of the examination and shall be approved by him. If it is determined through an examination or otherwise that the credit union is violating the provisions of this chapter, or is insolvent, the state credit union board may serve notice on the credit union of its intention to revoke the charter. If such violations continue for a period of fifteen days after such notice, the board may revoke the charter and take possession of the business and property of such

credit union, and shall maintain possession then until such time as it shall permit the reinstatement of the charter and the continuation of business by the credit union, or until its affairs finally are liquidated. The board may take similar action if any required report remains in arrears for more than fifteen days. The credit union shall, within thirty days after each examination, pay to the state examiner for examination a fee equal to sixty-five dollars per examiner day, except that the minimum fee for the examination of a credit union shall be one hundred dollars. If any such credit union shall be delinquent more than twenty days in making such payment, the board may make an order suspending the functions of such delinquent credit union until payment of the amount due, plus a penalty of five dollars a day additional for the delay.

Approved March 5, 1977

CHAPTER 74

SENATE BILL NO. 2327
(Reiten, Barth)

CREDIT UNIONS

AN ACT to create and enact section 6-06-39 of the North Dakota Century Code, relating to scaledown of shares in credit unions; to create and enact section 6-06-40 of the North Dakota Century Code, relating to mandatory share and deposit insurance for credit unions; to amend and reenact subsections 1, 2, 3, and 5 of section 6-06-02 of the North Dakota Century Code, relating to the par value of shares of credit unions and filing of certificates of organization with the register of deeds; to amend and reenact section 6-06-04 of the North Dakota Century Code, relating to the recording of amendments of certificates of organization of credit unions with the register of deeds; to amend and reenact subsection 2 of section 6-06-06 of the North Dakota Century Code, relating to making loans for provident or productive purposes; to amend and reenact section 6-06-07 of the North Dakota Century Code, relating to entrance fees and field of membership of credit unions; to amend and reenact section 6-06-11 of the North Dakota Century Code, relating to the appointment of supervisory committee members of credit unions; to amend and reenact subsection 4 of section 6-06-12 of the North Dakota Century Code, relating to the declaration of dividends for credit unions; to amend and reenact section 6-06-13 of the North Dakota Century Code, relating to officers of credit unions; to amend and reenact subsection 2 of section 6-06-15 of the North Dakota Century Code, relating to annual audits of credit unions by the supervisory committee; to amend and reenact section 6-06-16 of the North Dakota Century Code, relating to the credit union membership entrance fee; to amend and reenact subsection 1 of section 6-06-35 of the North Dakota Century Code, relating to the vote required to convert from a state to a federal credit union; to repeal subsection 6 of section 6-06-02 of the North Dakota Century Code, relating to recording of certificate of organization and charter of a credit union with the register of deeds.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Subsections 1, 2, 3, and 5 of section 6-06-02 of the North Dakota Century Code are hereby amended and reenacted to read as follows:

1. The applicants shall execute a certificate of organization, in duplicate, by the terms of which they agree to be bound, stating the name and the location of the proposed credit union, the names and addresses of the subscribers to the certificate and the number of shares subscribed by each, and the par value of the shares of the credit union, which shall not exceed fifty dollars each;
2. The applicants shall prepare and execute proposed by-laws, in duplicate, for the general governance of the credit union consistent with the provisions of this chapter;
3. The certificate and the proposed bylaws, both executed in duplicate, shall be forwarded to the state examiner;
5. The examiner shall notify the applicants and the state credit union board of his decision, and if it is favorable, the board shall instruct the secretary of state to issue a charter, which shall be by him attached to the certificate of organization and returned, together with the bylaws, to the applicants upon payment of a filing fee of five dollars to the secretary of state.

SECTION 2. AMENDMENT.) Section 6-06-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-06-04. AMENDMENT OF CERTIFICATE OR BYLAWS - APPROVAL BY STATE CREDIT UNION BOARD.) The certificate of organization or bylaws of a credit union may be amended at a regular or special meeting of the members thereof. The proposed amendments must be fully set forth in the notice of the meeting at which the proposed amendments are to be submitted for action. Any amendment to the certificate of organization and any amendment to the bylaws must be approved by three-fourths of the members present at the meeting. Proposed amendments to the certificate of organization or the bylaws shall, before submission to members for adoption, be approved by the state credit union board, and shall become operative immediately upon approval of the membership of the credit union. The resolution containing the full text of any amendment of the certificate of organization verified by the president and the treasurer of the credit union and approved by the state credit union board, shall be filed with the secretary of state for permanent record. The fee for filing the amendment with the secretary of state shall be five dollars. The applicants shall, within thirty days thereafter, provide the state examiner with a true and correct copy of the amendment to the certificate of organization or the amendments to the bylaws.

SECTION 3. AMENDMENT.) Subsection 2 of section 6-06-06 of the North Dakota Century Code is hereby amended and reenacted to

read as follows:

- *2. To make loans to members;

SECTION 4. AMENDMENT.) Section 6-06-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-06-07. MEMBERSHIP IN CREDIT UNION.) The membership of a credit union shall consist of the incorporators and such other persons as may be elected to membership. Each member must subscribe to and pay the initial installment on at least one share in the credit union, and pay the entrance fee as provided by the bylaws of the credit union. Organizations, incorporated or otherwise, composed principally of the same general group as the credit union membership may be members therein. Credit union membership shall be limited to groups having a common bond of occupation or association or to groups within a well-defined rural or urban district.

SECTION 5. AMENDMENT.) Section 6-06-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-06-11. ANNUAL MEETINGS - ELECTION OF DIRECTORS AND COMMITTEES.) The organization meeting of the members of a credit union shall be the first annual meeting. At its annual meeting, its members shall elect a board of directors of not less than five members and a credit committee of not less than three members. A supervisory committee of not less than three members shall be elected at the annual meeting, unless the bylaws of the credit union provide that the supervisory committee members be appointed by the board of directors of the credit union. The directors and committee members to hold office for such terms, respectively, as provided by the bylaws of the credit union and until their successors qualify. A record of the names and addresses of the officers and members of the board and committees shall be filed with the state examiner within ten days after their election.

SECTION 6. AMENDMENT.) Subsection 4 of section 6-06-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

- 4. To declare dividends;

SECTION 7. AMENDMENT.) Section 6-06-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-06-13. OFFICERS - ELECTIONS - DUTIES - COMPENSATION.) At their organization meeting and within thirty days following each annual meeting of the members, the directors shall elect from their own number an executive officer, who may be designated as chairman of the board or president; a vice chairman of the board or one or more vice presidents; a treasurer; and a secretary. The treasurer and the secretary may be the same individual. The persons so elected shall be the executive officers of the corporation. The

*NOTE: Subsection 2 of section 6-06-06 was also amended by section 4 of Senate Bill No. 2035, chapter 64.

terms of the officers shall be one year, or until their successors are chosen and have duly qualified. The duties of the officers shall be prescribed in the bylaws. The board of directors may employ an officer in charge of operations whose title shall be either president and/or general manager; or, in lieu thereof, the board of directors may designate the treasurer or an assistant treasurer to act as general manager and be in active charge of the affairs of the credit union. The general manager of the credit union may receive a reasonable compensation to be fixed by the board of directors. No other member of the board, or of the credit committee or supervisory committee shall receive any compensation. Except that the board of directors may provide for the payment of expenses incurred by directors or committee members while on official business.

SECTION 8. AMENDMENT.) Subsection 2 of section 6-06-15 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. Make an examination of the affairs of the credit union, including an audit of its books, at least annually, and it may submit such report to the members of the credit union at a meeting called for that purpose by the committee whenever it deems such action necessary;

SECTION 9. AMENDMENT.) Section 6-06-16 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-06-16. ENTRANCE FEE - CAPITAL - LIEN ON SHARES - ASSESSMENT ON SHARES.) A credit union may charge such entrance fee as may be provided by its bylaws. Its capital shall consist of the entrance fees paid in and the payments made to it by the several members on shares therein. The credit union shall have a lien on the shares and deposits of a member for any sum due to the credit union from that member or for the amount due on any loan endorsed by him. A credit union that is a member of the North Dakota credit union league may, by resolution adopted with a quorum present at a regular or special meeting of the board of directors of the credit union, annually assess against the share accounts of all members of the credit union an amount equal to the whole or proportionate part of the annual membership fee payable to the North Dakota credit union league.

SECTION 10. AMENDMENT.) Subsection 1 of section 6-06-35 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. A state credit union may be converted into a federal credit union under the laws of the United States by complying with the following requirements:
 - a. The proposition for such conversion shall first be approved, and a date set for a vote thereon by the members (either at a meeting to be held on such date or by written ballot to be filed on or before

such date), by a majority of the directors of the state credit union. Written notice of the proposition and of the date set for the vote shall then be delivered in person to each member or mailed to each member at the address for such member appearing on the records of the credit union, not more than thirty nor less than seven days prior to such date. Approval of the proposition for conversion shall be by the affirmative vote of two-thirds of the members present at the meeting.

- b. A statement of the results of the vote, verified by the affidavits of the president or vice president and the secretary shall be filed with the state credit union board within ten days after the vote is taken.
- c. Promptly after the vote is taken and in no event later than ninety days thereafter, if the proposition for conversion was approved by such vote, the credit union shall take such action as may be necessary under the applicable federal law to make it a federal credit union, and within ten days after receipt of the federal credit union charter there shall be filed with the state credit union board a copy of the charter thus issued. Upon such filing the credit union shall cease to be a state credit union.
- d. Upon ceasing to be a state credit union, such credit union shall no longer be subject to any of the provisions of the North Dakota credit union law. The successor federal credit union shall be vested with all of the assets and shall continue responsible for all of the obligations of the state credit union to the same extent as though the conversion had not taken place.

SECTION 11.) Section 6-06-39 of the North Dakota Century Code is hereby created and enacted to read as follows:

6-06-39. SHARE SCALEDOWN.) Whenever the losses of any credit union, resulting from a depreciation in value of its loans or investments or otherwise, exceed its undivided earnings and reserve fund so that the estimated value of its assets is less than the total amount due the shareholders, the credit union may by a majority vote of the entire membership order a reduction in the shares of each of its shareholders to divide the loss proportionally among the members. If the credit union thereafter realizes from such assets a greater amount than was fixed by the order of reduction, such assets shall be divided proportionally among the shareholders whose assets were reduced, but only to the extent of such reduction.

SECTION 12.) Section 6-06-40 of the North Dakota Century Code is hereby created and enacted to read as follows:

6-06-40. SHARE INSURANCE.) Not later than July 1, 1978, each credit union shall apply for insurance on share and deposit accounts under the provisions of Title II of the National Credit Union Act. A credit union which has been denied a commitment for insurance of its share and deposit accounts shall either dissolve, merge with another credit union which is insured under Title II of the National Credit Union Act, or apply in writing within thirty days of denial to the state credit union board for additional time to obtain an insurance commitment.

The state credit union board shall grant additional time for the credit union to obtain the insurance commitment upon satisfactory evidence that the credit union has made or is making a substantial effort to achieve the conditions precedent to issuance of the commitment. Additional time or times shall not extend later than January 1, 1979.

A central credit union with corporate shareholdings equal to or in excess of seventy-five percent of its total assets may by vote of its board of directors elect exemption of insurance of share and deposit accounts under provisions of Title II of the National Credit Union Act.

SECTION 13. REPEAL.) Subsection 6 of section 6-06-02 of the North Dakota Century Code is hereby repealed.

Approved April 9, 1977

CHAPTER 75

SENATE BILL NO. 2107

(Committee on Industry, Business & Labor)

(At the request of the Board of University and School Lands)

UNCLAIMED DIVIDENDS AND DISTRIBUTIONS

AN ACT to amend and reenact sections 6-06-34, 6-06-38, and 10-15-49 of the North Dakota Century Code, relating to the duties of credit unions under the escheat laws; and to repeal section 10-15-34 of the North Dakota Century Code, relating to the duties of credit unions and cooperatives under the escheat laws.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 6-06-34 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-06-34. UNCLAIMED DIVIDENDS OF CREDIT UNIONS.) The state examiner shall transfer all unpaid dividends to the commissioner of university and school lands. The commissioner is authorized to issue a voucher for the payment of such dividends to the persons respectively entitled thereto, in accordance with the escheat and abandoned property laws of the state.

SECTION 2. AMENDMENT.) Section 6-06-38 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-06-38. DESTRUCTION OF RECORDS.) No credit union shall be required to preserve and retain its records of accounts or files, except share and deposit files, for a longer period than six years next after the first day of January of the year following the final date of the termination of such accounts or files. No credit union shall be required to preserve and retain its share and deposit account records and files for a longer period than two years next after the first day of January of the year following the date of the death of the shareholder or depositholder. All credit unions must, however, keep sufficient records to satisfy the reporting requirements of the escheat and abandoned property laws of the state.

SECTION 3. AMENDMENT.) Section 10-15-49 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

10-15-49. AMOUNTS DUE UNKNOWN PERSONS.) Upon liquidation of a cooperative, the assets distributable to persons who are unknown or cannot be found may be reduced to cash and transferred to the commissioner of university and school lands and shall be treated as abandoned and unclaimed property under the escheat and abandoned property laws of the state.

SECTION 4. REPEAL.) Section 10-15-34 of the North Dakota Century Code is hereby repealed.

Approved April 6, 1977

CHAPTER 76

SENATE BILL NO. 2034
(Legislative Council)
(Interim Committee on Industry, Business & Labor "B")

REPEAL OF ADDITIONAL COMPENSATION

AN ACT to repeal section 6-07-50 of the North Dakota Century Code, relating to additional compensation for the commissioner of banking and financial institutions for terminating insolvent banks.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. REPEAL.) Section 6-07-50 of the North Dakota Century Code is hereby repealed.

Approved April 6, 1977

CHAPTER 77

HOUSE BILL NO. 1409
(Martinson)

ISSUING CHECK WITH INSUFFICIENT FUNDS

AN ACT to create and enact section 6-08-16.2 of the North Dakota Century Code, relating to the issuance of checks without an account or with insufficient funds and providing a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1.) Section 6-08-16.2 of the North Dakota Century Code is hereby created and enacted to read as follows:

6-08-16.2. ISSUING CHECK WITHOUT ACCOUNT OR WITH INSUFFICIENT FUNDS - PENALTY - EXCEPTIONS.)

1. As used in this section:

- a. "Account" means any account at a bank or depository from which an instrument could legally be paid.
- b. "Dishonor" is synonymous with "nonpayment".
- c. "Instrument" means any check, draft, or order for the payment of money.
- d. "Issues" means draws, utters, or delivers.

2. Any person who, for himself or as agent or representative of another, issues any check, draft, or order for the payment of money is guilty of a class C felony if:

- a. At the time of issuing the instrument, the drawer does not have an account with the bank or depository on which the instrument is drawn; or
- b. At the time of issuing the instrument, or at the time of presentation for payment if made within one week after the original delivery of the instrument, the drawer does not have sufficient funds in the bank or depository, or credit with the bank, banker, or depository, to pay the instrument in full upon its presentation; and

- c. If the drawer has been previously convicted of issuing an instrument without an account or without sufficient funds in a bank or depository pursuant to section 6-08-16.
3. The fact that payment has been refused by a drawee because of insufficient funds or because the drawer has no account with the drawee from which payment could legally be made shall constitute prima facie evidence of intent to defraud. However, if the drawer pays the holder of the instrument within thirty days after receiving written notice of nonpayment by certified mail or by personal service in accordance with rule 4(d) of the North Dakota Rules of Civil Procedure, that fact shall constitute an affirmative defense to a criminal prosecution under this section.
 4. A criminal complaint for violation of subdivision b of subsection 2 must be executed within ninety days after the drawer of the instrument receives notice, from the holder, of nonpayment. Failure to execute a complaint within the time set forth in this subsection shall constitute a bar to any criminal charges under subdivision b of subsection 2.
 5. A notice of dishonor shall be sent by the holder of the check upon dishonor. The notice shall be in substantially the following form:

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 _____ has been returned unpaid with the notation the payment has been refused because (of nonsufficient funds) (the drawer does not have an account). Within ten days from the receipt of this notice, you must pay or tender to _____ (Holder) sufficient moneys to pay such instrument in full.

The notice may also contain a recital of the penal provisions of this section.

Approved March 19, 1977

CHAPTER 78

HOUSE BILL NO. 1440
(Langley, Rau, Vander Vorst)

BANK OF NORTH DAKOTA BANK STOCK LOANS

AN ACT to create and enact a new section to chapter 6-09 of the North Dakota Century Code, relating to the Bank of North Dakota making bank stock loans.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1.) A new section to chapter 6-09 of the North Dakota Century Code is hereby created and enacted to read as follows:

The Bank of North Dakota may make loans to those who have resided in this state for at least one year for the purpose of purchasing stock in banks located in the state. For this purpose, loans to purchase stock in any one bank shall not exceed twenty-five percent of the total of capital and surplus of the Bank of North Dakota. At no time shall the total of all such loans exceed the total deposits in the Bank of North Dakota by all correspondent-respondent banks located within the state.

The industrial commission shall adopt rules and regulations to carry out the purpose of this section which shall include provisions for terms under which such loans shall be made, the types of security required in addition to the stock purchased under the loan, and the procedure for disposition of stock acquired by the Bank.

In the event the Bank of North Dakota becomes the owner of stock in a bank pursuant to foreclosure proceedings on such loan, such stock shall be disposed of within one year after acquisition by the Bank.

Approved March 31, 1977

CHAPTER 79

SENATE BILL NO. 2120
(Wenstrom)

**BANK OF NORTH DAKOTA EXECUTION OF
INSTRUMENTS**

AN ACT to create and enact a new section to chapter 6-09 of the North Dakota Century Code, relating to execution of instruments by the Bank of North Dakota.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1.) A new section to chapter 6-09 of the North Dakota Century Code is hereby created and enacted to read as follows:

EXECUTION OF INSTRUMENTS.) In the absence of any provision regulating the execution and acknowledgement of conveyances, transfers, assignments, releases, satisfactions, or other instruments affecting liens on, title to, or interests in real estate, the president, cashier, vice presidents, and attorney may execute and acknowledge such instruments on behalf of the Bank of North Dakota. Other officers of the Bank of North Dakota when authorized so to do by resolution of the industrial commission may execute and acknowledge such instruments on behalf of the Bank of North Dakota.

Approved March 23, 1977

CHAPTER 80

SENATE BILL NO. 2031
(Legislative Council)

(Interim Committee on Industry, Business & Labor "B")

BANK OF NORTH DAKOTA ADVISORY BOARD AUTHORITY

AN ACT to amend and reenact section 6-09.1-03 of the North Dakota Century Code, relating to the authority of the advisory board of directors to the Bank of North Dakota.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 6-09.1-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-09.1-03. AUTHORITY OF THE ADVISORY BOARD OF DIRECTORS TO THE BANK OF NORTH DAKOTA.) The advisory board of directors to the Bank of North Dakota shall:

1. Meet regularly with the management of the Bank of North Dakota to review the Bank's operations to determine whether recommendations should be made by the board to the industrial commission relating to improved management performance, better customer service, and overall improvement in internal methods, procedures, and operating policies of the Bank.
2. Make recommendations to the industrial commission relating to the establishment of additional objectives for the operation of the Bank of North Dakota.
3. Make recommendations to the industrial commission concerning the appointment of officers of the Bank of North Dakota.
4. Meet regularly with the industrial commission to present any recommendations concerning the Bank of North Dakota.
5. Act in behalf of the Bank of North Dakota in any capacity as may be approved by the industrial commission.

Approved April 21, 1977

CHAPTER 81

HOUSE BILL NO. 1018
(Legislative Council)
(Interim Committee on Agriculture)

COMMUNITY WATER FACILITY LOAN ACT

AN ACT to provide for community water facility loans through the Bank of North Dakota in conjunction with federal moneys; defining community water facility; and providing for a transfer of funds to a revolving fund, loan application approval, fund supervision and administration, fund purposes, loan terms, loan eligibility, project service area alternatives, rules and regulations, and powers of the Bank of North Dakota in relation to loans.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. COMMUNITY WATER FACILITY LOAN ACT - INTENT.) This Act shall be known as the Community Water Facility Loan Act. Moneys transferred under this Act shall be used primarily for supplementary financing in conjunction with federal moneys available under the authority of 7 U.S.C. 1926 and 1927, and the rules and regulations promulgated thereunder for the construction, enlargement, extension, or other improvement of community water facilities. This Act is intended to improve the health, general welfare, convenience, and prosperity of communities and rural inhabitants presently lacking adequate water supplies.

SECTION 2. COMMUNITY WATER FACILITY - DEFINITION.) The term "community water facility" shall include any or all projects for the development, storage, treatment, purification, and distribution of water. Such projects shall include, but not be limited to, those works necessary for locating, conserving, controlling, treating, and distributing water, including reservoirs, dams, canals, wells, pumps, treatment plants, mains, pipelines, and other associated features necessary to supply water.

SECTION 3. TRANSFER OF FUNDS - REVOLVING FUND.) A community water facility loan fund with an authorized ceiling of ten million dollars is hereby established from the future undivided profits of the Bank of North Dakota. Five million dollars from the future undivided profits of the Bank shall be transferred to the fund through quarterly transfers of one million two hundred fifty thousand dollars on each of the following dates:

July 1, 1978; October 1, 1978; January 1, 1979; and April 1, 1979. This shall be a revolving fund, and all moneys transferred into the fund, interest upon fund moneys, and collections of interest and principal on fund loans shall be used for the purposes of this Act.

SECTION 4. LOAN APPLICATIONS - APPROVAL.) Applications for revolving Fund loans shall be submitted to the Bank of North Dakota which shall investigate and consider approval of loan applications under such rules and regulations as it may establish. The Bank shall cooperate with the state office of the farmers home administration or its successor in considering applications to comply with the requirements of 7 U.S.C. 1926 and 1927, and the rules and regulations promulgated thereunder relating to community water facilities.

SECTION 5. FUND SUPERVISION AND ADMINISTRATION.) The revolving fund and loans made therefrom shall be supervised and administered by the Bank of North Dakota which shall make loans from the revolving fund to the extent moneys are available. Payments of interest and principal upon loans shall be made to the Bank and credited to the revolving fund. The Bank may deduct one-half of one percent of the outstanding loans annually as a service fee for administering the revolving fund.

SECTION 6. FUND PURPOSES.)

1. Revolving fund moneys shall not be used whenever sufficient federal loan and grant moneys are available, except:
 - a. To make community water facility projects feasible in conjunction with federal moneys when the projected cost is above the maximum per user feasibility loan limit set by the farmers home administration or its successor.
 - b. To provide supplemental financing for community water facility projects in conjunction with federal moneys when more projects can be completed through combined financing.
2. Revolving fund moneys may also be used for the following purposes under such terms and conditions as the Bank of North Dakota may prescribe:
 - a. To provide loans for necessary services prior to farmers home administration approval of proposed community water facility projects. Cities eligible under this Act and associations, corporations, or cooperatives organized for the purposes of this Act under the laws of North Dakota shall be eligible for loans under this subdivision.
 - b. To provide loans to cover operating expenses of community water facility projects when the borrower is unable to pay such expenses.

3. The Bank of North Dakota may defer interest and principal payments on revolving fund loans for up to three years to provide time for a community water facility to become self-supporting.

SECTION 7. LOAN TERMS.) Revolving fund loans approved by the Bank of North Dakota shall in no event exceed fifty percent of the cost of a community water facility project. Such loans shall bear interest at a rate of three percent less per annum than the loan rate charged by the farmers home administration or its successor for community water facility projects.

SECTION 8. LOAN ELIGIBILITY.) Applicants eligible for loans shall include cities eligible under 7 U.S.C. 1926 and associations, cooperatives, and corporations operated on a nonprofit basis which have the legal authority necessary for constructing, operating, and maintaining the proposed facility or service and for obtaining, giving security for, and repaying the loan in accordance with farmers home administration requirements. Applicant cities, associations, cooperatives, and corporations shall seek to include cities and rural areas, eligible under farmers home administration rules and regulations and located near a proposed service area, as part of a water facility project. Reasons for not including such cities and rural areas must be approved jointly by the Bank of North Dakota and the farmers home administration.

SECTION 9. PROJECT SERVICE AREA ALTERNATIVES.) Applicants for revolving fund loans shall consider available alternatives to select the most efficient and economically feasible methods of planning a community water facility project. In addition to central systems, community water facility projects may provide service through installations for individual usage or for small clusters of users within the central system service area, but who are beyond the physical or economic limits of the central system, when it is more feasible to provide such service through individual or remote facilities in accordance with farmers home administration rules and regulations.

SECTION 10. RULES AND REGULATIONS.) The Bank of North Dakota may promulgate and adopt such rules and regulations in accordance with chapter 28-32 as are necessary to carry out the provisions of this Act and meet the requirements of 7 U.S.C. 1926 and 1927, and the rules and regulations promulgated thereunder relating to community water facilities.

SECTION 11. POWERS OF BANK OF NORTH DAKOTA.) The Bank of North Dakota shall be authorized to do everything necessary to make revolving fund loans. This shall specifically include the power to take such security as deemed necessary, and to bring suit to collect interest and principal due the revolving fund under contracts and notes executed pursuant to this Act.