

# BANKS AND BANKING

## CHAPTER 96

HOUSE BILL NO. 1196

(Committee on Industry, Business and Labor)

(At the request of the Department of Banking and Financial  
Institutions and the Office of Management and Budget)

### FINANCIAL INSTITUTIONS FEES AND REGULATORY FUND

AN ACT to create and enact a new section to chapter 6-01 of the North Dakota Century Code, relating to the establishment of a special fund designated as the financial institutions regulatory fund; to amend and reenact sections 6-01-17, 6-01-17.1, 6-01-17.2, 6-03-70, 6-05-28, subsections 1, 2, and 4 of section 6-06-08, sections 6-10-06, 7-05-01, 13-03-04, subsection 1 of section 13-03-09, section 13-03.1-05, subsection 1 of section 13-03.1-11, section 13-04.1-04, subdivision a of subsection 1 of section 13-04.1-11, section 13-05-04, subsection 2 of section 13-05-06, subsection 1 of section 51-17-07, and section 51-17-10 of the North Dakota Century Code, relating to the annual assessments, examination fees, investigation fees, and annual licenses of institutions and associations supervised; to repeal section 6-06-08.1 of the North Dakota Century Code, relating to additional assessments of credit unions; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 6-01 of the North Dakota Century Code is hereby created and enacted to read as follows:

Regulatory fund established - Uses - Appropriation.

1. There is hereby created a special fund designated as the financial institutions regulatory fund. The amounts received under the following sections, and any other moneys received by the department of banking and financial institutions, must be deposited into this fund: sections 6-01-17, 6-01-17.1, 6-01-17.2, 6-03-70, 6-05-28, subsections 1, 2, and 4 of section 6-06-08, sections 6-10-06, 7-05-01, 13-03-04, subsection 1 of section 13-03-09, section 13-03.1-05, subsection 1 of section 13-03.1-11, section 13-04.1-04, subdivision a of subsection 1 of section 13-04.1-11, section 13-05-04, subsection 2 of section 13-05-06, subsection 1 of section 51-17-07, and section 51-17-10.
2. All moneys deposited in the financial institutions regulatory fund are reserved for use by the department of banking and financial institutions to defray the expenses of the department in the discharge of its administrative and regulatory powers and duties as prescribed by law, subject to the applicable laws relating to the appropriation of state funds and to the deposit and expenditure of state moneys. The department of banking and financial institutions is responsible for the proper expenditures of these moneys as provided by law.

3. Any cash balance in the financial institutions regulatory fund after all current biennium expenditures are met must be carried forward in the financial institutions regulatory fund for the next succeeding biennium. The balance in this fund at the end of the current biennium may not exceed twenty percent of the department's biennial budget.
4. All moneys derived from the investment of any portion of the financial institutions regulatory fund must be credited to the fund.

SECTION 2. AMENDMENT. Section 6-01-17 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-01-17. Yearly assessment of banks. Every state banking association and banking institution placed under the jurisdiction and control of the commissioner and the commissioner's deputy examiners by the provisions of this title, including the Bank of North Dakota, shall pay into the state treasury a yearly assessment of one and one-half hundredths of one percent of gross amount of the assets of said corporation or association on June thirtieth of that year, exclusive of expenses, interest, and taxes paid, and inclusive of any valuation allowance or allowances deducted by a state banking association from any asset account. Such fee may not be less than seven hundred fifty dollars. This assessment is to be determined by the state banking board as necessary to fund that portion of the department's budget relating to the regulation of state-chartered banks. Assessment fees may not be computed on the combined assets of the bank and its trust department for those banks exercising trust powers. The minimum and maximum shall apply to the assets of the bank separate from the assets of the trust department, and fees for the examination of the trust department must be computed in accordance with section 6-05-28. The assessment must be paid to the state treasurer within thirty days of each June thirtieth. Institutions that have not been examined by the commissioner or the state banking board for three years prior to any assessment date shall not be required to pay the assessment. The state treasurer shall report such payments of fees to the state banking board commissioner, and if any such corporation or institution shall be delinquent more than twenty days in making such payment, the board may make an order suspending the functions of such delinquent corporation or institution until payment of the amount due, plus. The commissioner may assess a penalty of five dollars a day additional for the delay for each day that the assessment fee is delinquent. All fees and penalties under this section must be paid to the state treasurer and deposited in the financial institutions regulatory fund.

SECTION 3. AMENDMENT. Section 6-01-17.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-01-17.1. Application fees - Cost of transcript. The following fees must accompany an application presented to the state banking board, state credit union board or commissioner and must be paid by the commissioner into the general fund of the state treasury financial institutions regulatory fund:

1. For a certificate of authority to organize a banking association, a fee of two five thousand five hundred dollars, paid by the applicants.

2. A banking association's application for authority to remove its business to some place within the state other than the town in which it is presently located and to change its name, a fee of two thousand five hundred dollars.
3. National bank conversion to a state bank, a fee of two thousand five hundred dollars.
4. Application by two or more banks to merge or consolidate, a fee of one thousand five hundred dollars for each merging bank.
5. Application by a person to sell, dispose, or purchase an association, banking institution, or holding company, a fee of five hundred dollars unless a hearing is held before the board in which case the fee is two thousand dollars.
6. A banking association's application to establish and operate a separate facility for drive-in and walkup service, a fee of one thousand five hundred dollars.
- ~~4-~~ 7. A banking association's application to establish and operate a paying and receiving station, a fee of one thousand five hundred dollars.
- ~~5-~~ 8. A banking association's application to establish customer electronic funds transfer centers, a fee not to exceed one thousand ~~five hundred~~ dollars.
- ~~6-~~ 9. For a certificate of authority to organize an annuity, safe deposit, surety or trust company, a fee of ~~two five~~ thousand ~~five hundred~~ dollars.
- ~~7-~~ 10. A banking association's application for authority to exercise trust powers, a fee of one thousand five hundred dollars.
11. Application to organize a credit union, a fee of three hundred dollars, paid by the applicants.
12. Application for a credit union to establish a branch, a fee of three hundred dollars.
13. Application by a credit union to expand its field of membership, a fee of one hundred fifty dollars.
14. Application by a federal credit union to convert to a state credit union, a fee of three hundred dollars.
- ~~8-~~ 15. For a certificate of authority to organize a savings and loan association, a fee of ~~two five~~ thousand ~~five hundred~~ dollars.
- ~~9-~~ 16. A savings and loan association's application to establish and operate a branch office, a fee of one thousand five hundred dollars.

The commissioner ~~shall~~ may cause a certified transcript to be prepared for any hearing conducted on an application. The costs for the original and up to six copies of the transcript must be paid by the applicant.

SECTION 4. AMENDMENT. Section 6-01-17.2 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-01-17.2. Additional assessment of banks. Where the commissioner determines that more than one visit, inspection, or examination is necessary to promote the safety and soundness of a state banking association during a twelve-month period, such state banking association shall pay to the state treasurer one hundred dollars per day a fee for the time used by the commissioner or other person designated by the commissioner in supervising, filing, and corresponding in connection with each additional visit, inspection, or examination and report of examination and for time used by each deputy examiner, or other person or persons in making and otherwise preparing and typing the reports of examination herein provided for. Fees for such visit, inspection, or examination must be charged by the department of banking and financial institutions at an hourly rate to be set by the commissioner, sufficient to cover all reasonable expenses of the department associated with the visit, inspection, or examination provided for by this section. A state banking association shall pay such assessment or fee within ten days of receiving a billing from the commissioner. Fees must be deposited in the financial institutions regulatory fund. The state treasurer shall report such payments of fees to the ~~state banking board~~ commissioner, and if any such corporation or institution is delinquent more than twenty days in making such payment, the board may make an order suspending the functions of such delinquent corporation or institution until payment of the amount due, ~~plus~~. The commissioner may assess a penalty of five dollars a day additional for the delay. The state banking board may waive or postpone the collection of this special assessment if such assessment would place an undue burden on the state banking association.

SECTION 5. AMENDMENT. Section 6-03-70 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-03-70. Reports - Regular and special - Publication - Penalty. Every state banking association shall respond to calls each year, the number to be determined by the commissioner. The commissioner shall prescribe the forms for such reports which must be the same forms as those for similar reports called by the federal deposit insurance corporation. The reports must exhibit in detail, under appropriate headings, the resources and liabilities of the association at the close of business on a past day specified by the commissioner, which must be the same day on which similar reports are required by the federal deposit insurance corporation. Each report must be verified by the oath of the president or the cashier and attested as correct by at least two of the directors, and must be transmitted to the commissioner within thirty days after receipt of the request for the same. Each report, in a form prescribed by the commissioner, must be published within sixty days of the call date, at the expense of the association, in some newspaper in the city where such bank is located, and in case there is no such newspaper, then in a legal newspaper of the county in which such association is located. The commissioner may request an amended call for reports filed in error and may require republication of the call report containing material errors. At the discretion of the commissioner, a call may be complied with by submission of a photocopy of the call report submitted to the federal deposit insurance corporation or federal reserve bank, or a printout retrieved from computer facilities in the department of banking and financial institutions and connected to those of the federal deposit insurance corporation. The commissioner may call for a special report from any association whenever in the commissioner's judgment the same is necessary to obtain complete

knowledge of the condition of the association. Every association which fails to make and transmit any report required by this section shall forfeit and pay to the state treasurer for deposit in the financial institutions regulatory fund a penalty of two hundred dollars for each delinquency. The commissioner may waive the penalty for reports filed late, not exceeding three business days beyond the due date required by this section.

SECTION 6. AMENDMENT. Section 6-05-28 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-05-28. Examination by commissioner - Fees - Power over business, officers, and employees. The commissioner shall make a full, true, complete, and accurate examination and investigation of the affairs of each corporation doing business under this chapter as often as the commissioner deems necessary. Such examination must be made without previous notice to the corporation to be examined. Fees for such examinations must be charged by the department of banking and financial institutions ~~for the examinations provided for by this section at the rate of one hundred thirty five dollars per day for the time used by the commissioner or other person designated by the commissioner in supervising, filing, and corresponding in connection with such examination and report of examination and for time used by each deputy examiner, or other person or persons in making and otherwise preparing and typing the reports of examination herein provided for at an hourly rate to be set by the commissioner, sufficient to cover all reasonable expenses of the department associated with the examinations provided for by this section. Fees must be paid to the state treasurer and deposited in the financial institutions regulatory fund.~~ The commissioner, in the commissioner's discretion, may accept, in lieu of any examination authorized or required by this title to be conducted by the department of banking and financial institutions, the examination that may have been made of such institution within a reasonable period by the federal reserve bank or federal deposit insurance corporation, if a copy of such examination is furnished to the commissioner. The commissioner shall assume and exercise over each such corporation and its business, officers, directors, and employees all the power and authority conferred upon the commissioner over banking and other financial or moneyed corporations or associations.

\* SECTION 7. AMENDMENT. Subsections 1, 2, and 4 of section 6-06-08 of the North Dakota Century Code are hereby amended and reenacted to read as follows:

1. Credit unions and the permanent loan funds thereof, if any, are under the supervision of the state credit union board. Credit unions shall report to the commissioner when called by the commissioner, and at least twice each year. The commissioner shall prescribe the forms for such reports. The reports must be received by the commissioner within thirty days of the call. At the discretion of the commissioner, a call may be complied with by submission of a photocopy of the call report submitted to the national credit union administration, or a printout retrieved from computer facilities in the department of banking and financial institutions and connected to those of the national credit union administration. The commissioner may call for special reports from any credit union whenever in the commissioner's judgment the same is necessary to obtain complete knowledge of the condition of the credit union. Every credit union which fails to make and transmit any report required in pursuance of this section shall forfeit and

\* NOTE: Subsection 2 of section 6-06-08 was also amended by section 5 of House Bill No. 1122, chapter 98.

- pay to the state a penalty of two hundred dollars for delinquency. The commissioner may waive the penalty for reports filed late, not exceeding three business days beyond the due date required by this section.
2. Credit unions must be examined at least once each ~~eighteen~~ twenty-four months by the commissioner, or with the commissioner's 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. In lieu of the examinations herein required, the commissioner may accept any examination made or obtained by the national credit union administration, and may in his or her discretion conduct a joint examination with said federal agency. Examinations made by the commissioner or deputy examiners must be made without previous notice to the credit union. If the examination is not made by the commissioner, the expense of such examination must be borne by the credit union examined and such examination must be in such form and contain such information as the commissioner may require. Two copies of such examination must be filed with the commissioner within thirty days after completion of the examination and must be approved by the commissioner.
4. Every state credit union, including North Dakota central credit union, placed under the jurisdiction and control of the state credit union board and the commissioner by the provisions of this title shall pay into the state treasury a yearly assessment of one and one-half hundredths of one percent of the gross amount of the assets of the corporation or association on June thirtieth of that year, exclusive of expenses, interest, and taxes paid, and inclusive of any valuation allowance or allowances deducted by the credit union from any asset account. The fee may not be less than three hundred dollars. This assessment is to be determined by the state credit union board as necessary to fund that portion of the department's budget relating to the regulation of state chartered credit unions. The assessment must be paid to the state treasurer within thirty days of each June thirtieth, except that those credit unions whose examination has begun within the six months immediately prior to July 1, 1987, do not have to pay the first yearly assessment. Credit unions that have not been examined by the commissioner or the state credit union board for three years prior to any assessment date are not required to pay the assessment. The state treasurer shall report the payments of fees to the state credit union board commissioner, and if any credit union is delinquent more than twenty days in making payment, the board may make an order suspending the functions of the delinquent credit union until payment of the amount due, plus. The commissioner may assess a penalty of five dollars a day additional for the delay for each day that the penalty is delinquent. The examination fee for North Dakota central credit union shall be charged by the department at an hourly rate to be set by the commissioner, sufficient to cover all reasonable expenses of the department associated with the examination. All fees and penalties under this section must be paid to the state treasurer and deposited in the financial institutions regulatory fund.

SECTION 8. AMENDMENT. Section 6-10-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-10-06. Duty of commissioner. The commissioner may make an examination of the business of such licensee, and such applicant shall pay an examination fee to the state treasurer. Fees for such examinations must be charged by the department of banking and financial institutions for the examinations provided for by this section at the rate of one hundred thirty five dollars per day for the time used by the commissioner or other person designated by the commissioner in supervising, filing, and corresponding in connection with such examination and report of examination and for time used by each deputy examiner, or other person or persons in making and otherwise preparing and typing the reports of examination herein provided for. Fees for such examinations must be charged by the department of banking and financial institutions at an hourly rate to be set by the commissioner, sufficient to cover all reasonable expenses of the department associated with the examinations provided for by this section. Fees must be paid to the state treasurer and deposited in the financial institutions regulatory fund.

SECTION 9. AMENDMENT. Section 7-05-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

7-05-01. Examination and fees therefor. The commissioner of banking and financial institutions, at least once each year or oftener if the commissioner deems it necessary or expedient, shall examine into the affairs of all domestic associations doing business in this state. Whenever persons holding ten percent or more of the subscribed shares of any association file a written application with the commissioner requesting the commissioner to make an examination of any such association, the commissioner shall make such examination forthwith. Upon the completion of any examination of any association made by the commissioner or under the direction of the commissioner, the association so examined shall pay to the state treasurer a fee. Fees for such examination must be charged by the department of banking and financial institutions for the examinations provided for by this section at the rate of sixty five dollars per day for the time used by the commissioner or other person designated by the commissioner in supervising, filing, and corresponding in connection with such examination or report of examination and for time used by each deputy examiner, or other person or persons in making and otherwise preparing and typing the reports of examinations herein provided for. The minimum fee for any such examination, however, is one hundred dollars at an hourly rate to be set by the commissioner, sufficient to cover all reasonable expenses of the department associated with the examinations provided for by this section. The commissioner shall report such payment to the state banking board, and if any such association is delinquent more than twenty days in making such payment, the state banking board may make an order suspending the functions of such association until payment of the amount due, together with. The commissioner may assess a penalty of five dollars additional for each day of delay in payment. All fees collected by the state treasurer must be credited to the general fund. In lieu of the examinations herein required, the commissioner may accept any examination made by a federal home loan bank, the federal home loan bank board, or, if an insured association, by the federal savings and loan insurance corporation. The commissioner may in his or her discretion conduct a joint examination with said described federal agencies. Fees and penalties under this section must be paid to the state treasurer and deposited in the financial institutions regulatory fund.

SECTION 10. AMENDMENT. Section 13-03-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

13-03-04. License - Application and fees. Application for a license shall be in writing, under oath, and in the form prescribed by the commissioner of banking and financial institutions. The application shall give the location where the business is to be conducted and shall contain such further information as the commissioner may require, including the names and addresses of the partners, officers, directors, or trustees, and of such of the principal owners or members as will provide the basis for the investigations and findings contemplated by section 13-03-05. At the time of making such application, the applicant shall pay to the commissioner the sum of three hundred dollars, which is not subject to refund, as a fee for investigating the application, and the sum of ~~one~~ two hundred dollars for the annual license fee. Fees must be deposited in the financial institutions regulatory fund.

SECTION 11. AMENDMENT. Subsection 1 of section 13-03-09 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. At least once each thirty months the commissioner or duly authorized representatives shall make an examination of the place of business of each licensee and of the loans, transactions, books, papers, annual reports, and records of such licensee so far as they pertain to the business licensed under this chapter. The actual cost of every examination shall be charged by the commissioner for every licensee so examined. Such costs shall be paid to the state treasurer. Fees for such examinations must be charged by the department of banking and financial institutions at an hourly rate to be set by the commissioner, sufficient to cover all reasonable expenses of the department associated with the examinations provided for by this section. Fees must be paid to the state treasurer and deposited in the financial institutions regulatory fund.

SECTION 12. AMENDMENT. Section 13-03.1-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

13-03.1-05. Application and fees. Application for a license shall be in writing, under oath, and in the form prescribed by the administrator. The application shall give the location where the business is to be conducted and shall contain such further information as the administrator may require, including the names and addresses of the partners, officers, directors, or trustees, and of such of the principal owners or members as will provide the basis for the investigations and findings contemplated by section 13-03.1-06. When making such application, the applicant shall ~~pay to the department of banking and financial institutions~~ include payment in the amount of three hundred dollars, which is not subject to refund, as a fee for investigating the application, and ~~one~~ two hundred dollars for the annual license fee. Fees must be deposited in the financial institutions regulatory fund.

SECTION 13. AMENDMENT. Subsection 1 of section 13-03.1-11 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. At least once each thirty months the administrator or a duly authorized representative shall make an examination of the loans, business, and records of every licensee. In addition, for the purpose of rediscovering violations of this chapter or securing



information lawfully required, the administrator may at any time investigate the loans, business, and records of any lender. For these purposes the administrator shall have free and reasonable access to the offices, places of business, and records of the lender. The actual costs of the examination shall be paid by the licensee. Fees for such examinations must be charged by the department of banking and financial institutions at an hourly rate to be set by the commissioner, sufficient to cover all reasonable expenses of the department associated with the examinations provided for by this section. Fees must be paid to the state treasurer and deposited in the financial institutions regulatory fund.

SECTION 14. AMENDMENT. Section 13-04.1-04 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

13-04.1-04. Fee and bond to accompany application for money broker license. The application for license shall be accompanied by the annual license fee for a money broker license, which is fixed at one hundred dollars, in writing, under oath, and in the form prescribed by the commissioner. The application must give the location where the business is to be conducted and must contain any further information the commissioner requires, including the names and addresses of the partners, officers, directors, trustees, and the principal owners or members as will provide the basis for the investigation and findings contemplated by section 13-04.1-03. At the time of making such application, the applicant shall include payment in the sum of three hundred dollars, which is not subject to refund, as a fee for investigating the application, and the sum of two hundred dollars for the annual license fee, and by provide a surety bond in the sum of twenty-five thousand dollars. Fees must be deposited in the financial institutions regulatory fund.

SECTION 15. AMENDMENT. Subdivision a of subsection 1 of section 13-04.1-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

- a. May make such public or private investigation within or outside this state as it deems necessary to determine whether any person has violated or is about to violate any provision of this chapter or any rule or order hereunder, or to aid in the enforcement of this chapter or in the prescribing of rules and forms hereunder. The licensee shall pay an investigation fee and must be charged by the department of banking and financial institutions at an hourly rate to be set by the commissioner, sufficient to cover all reasonable expenses of the department associated with the visitation provided for by this section. Fees must be paid to the state treasurer and deposited in the financial institutions regulatory fund.

SECTION 16. AMENDMENT. Section 13-05-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

13-05-04. Fee and bond to accompany application for collection agency license. The application for a collection agency license shall be accompanied by the annual license fee for a collection agency license, which is fixed at one hundred dollars. If the collection agency directly solicits,

collects, and handles money owed; the application shall be accompanied by in writing, under oath, and in the form prescribed by the commissioner. The application must give the location where the business is to be conducted and must contain any further information the commissioner requires, including the names and addresses of the partners, officers, directors, trustees, and the principal owners or members as will provide the basis for the investigation and findings contemplated by section 13-05-03. At the time of making such application, the applicant shall include payment in the sum of three hundred dollars, which is not subject to refund, as a fee for investigating the application, and the sum of two hundred dollars for the annual license fee, and provide a surety bond in the sum of ~~five~~ twenty thousand dollars. Fees must be deposited in the financial institutions regulatory fund.

SECTION 17. AMENDMENT. Subsection 2 of section 13-05-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. Conduct investigations and have authority to make an examination of any licensee or his place of business, including all records of such business, and to subpoena witnesses any time they have reason to believe such is necessary. The licensee shall pay an examination or visitation fee and must be charged by the department of banking and financial institutions at an hourly rate to be set by the commissioner, sufficient to cover all reasonable expenses of the department associated with the examination or visitation provided for by this section. Fees must be paid to the state treasurer and deposited in the financial institutions regulatory fund.

SECTION 18. AMENDMENT. Subsection 1 of section 51-17-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. An investigation fee of ~~two hundred fifty~~ three hundred dollars, which shall not be subject to refund ~~but which, if the license be granted,~~ shall be in addition to the annual license fee ~~for the first license year or part thereof.~~ Fees must be deposited in the financial institutions regulatory fund.

SECTION 19. AMENDMENT. Section 51-17-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

51-17-10. Annual license fee. Each licensee shall pay to the commissioner annually on or before June fifteenth of each year a license fee of ~~one~~ two hundred dollars, which must be deposited in the financial institutions regulatory fund.

SECTION 20. REPEAL. Section 6-06-08.1 of the North Dakota Century Code is hereby repealed.

SECTION 21. EFFECTIVE DATE. The new assessment rates and fees established by this Act apply to all assessments and fees attributable to the fiscal year beginning July 1, 1989, regardless of when paid.

Approved April 13, 1989  
Filed April 13, 1989

## CHAPTER 97

HOUSE BILL NO. 1117  
(Committee on Industry, Business and Labor)  
(At the request of the Department of  
Banking and Financial Institutions)

### FINANCIAL INSTITUTION CIVIL PENALTIES

AN ACT to create and enact a new section to chapter 6-01 of the North Dakota Century Code, relating to the assessment of civil money penalties.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 6-01 of the North Dakota Century Code is hereby created and enacted to read as follows:

Assessment of civil money penalties.

1. The state banking board and the state credit union board may assess a civil money penalty against a financial institution or financial corporation, including state-chartered banks, credit unions, trust companies, and savings and loan associations, or an officer, director, employee, agent, or person participating in the conduct of the affairs of the financial institution or corporation, upon finding one or more of the following:
  - a. Failure to comply with a permanent or temporary cease and desist order that has been voluntarily consented to or issued pursuant to section 6-01-04.2;
  - b. Failure to comply with a final order that has been voluntarily consented to or issued following formal proceedings under chapter 28-32;
  - c. Payment of dividends in violation of section 6-03-36;
  - d. Loans and leases to one borrower or concern which exceed the limitations set forth in sections 6-03-59 and 6-03-59.1;
  - e. Loans to directors, officers, and employees in violation of section 6-03-60;
  - f. The intentional filing of inaccurate or misleading call reports required by section 6-03-70;
  - g. Violations of loan limitations under subsection 7 of section 6-06-12;
  - h. Loans in violation of section 6-06-14; or

- i. Failure to file notice of change of control under section 6-08-08.1.
2. The board shall commence administrative proceedings to assess civil money penalties by serving a complaint on the respondent stating the factual basis for the board's belief that a violation has occurred and the amount of civil penalties that the board seeks to impose. The complaint must contain a notice of an opportunity for an administrative hearing conducted under chapter 28-32. The date for the hearing must be set not less than thirty days after the date the complaint is served upon the respondent. If assessment of civil money penalties are proposed based on conditions described in subdivisions c through i of subsection 1 of this section, a complaint may not be filed unless the respondent has been provided with prior orders, examination reports, or other written communications, and has willfully refused to take corrective action that the respondent was capable of taking at the time.
3. If the respondent fails to answer the complaint within twenty days of its service, or if a hearing is held and the board concludes that the record so warrants, the board may enter an order imposing civil money penalties upon the respondent. The assessment order is effective and enforceable immediately upon service or upon a date specified in the order, and remains effective and enforceable until it is stayed, modified, terminated, or set aside by action of the board or a reviewing court.
4. In determining the amount of civil penalty imposed, the board shall consider the good faith of the financial institution or the person being assessed, the gravity of the violation and any previous violations. The board may not impose a civil money penalty in excess of five thousand dollars for each occurrence and one hundred dollars per day for each day that the violation continues after service of an order. Any civil money penalties collected under this section must be paid to the state treasurer and deposited in the financial institutions regulatory fund, if the fund is established by the legislative assembly.

Approved March 14, 1989  
Filed March 15, 1989

## CHAPTER 98

HOUSE BILL NO. 1122  
(Committee on Industry, Business and Labor)  
(At the request of the Department of Banking and  
Financial Institutions)

### FINANCIAL INSTITUTION RECORDS

AN ACT to amend and reenact subsections 1 and 4 of section 6-01-07.1, subsection 1 of section 6-03-69, subsection 1 of section 6-06-02, subdivision e of subsection 5 of section 6-06-06, subsection 2 of section 6-06-08, and subsection 2 of section 6-06-35 of the North Dakota Century Code, relating to department of banking and financial institutions records, report of examining committee of banks, and the powers of credit unions.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsections 1 and 4 of section 6-01-07.1 of the North Dakota Century Code are hereby amended and reenacted to read as follows:

1. All facts and information obtained by the commissioner or the department in the following ways are confidential, except as provided in subsections 2 through 7:
  - a. In the course of examining financial institutions under the supervision of the commissioner, or in the course of receiving audit reports, reports of examining committee and reports of annual meetings of stockholders and directors of such institutions. The reports of examination may be made available to the financial institution's board of directors, or the board's specifically authorized agents or representatives, but the reports remain the property of the department.
  - b. From the federal reserve system, federal deposit insurance corporation, federal home loan bank board, ~~or~~ national credit union administration, or any state bank or credit union supervisors of other states.
  - c. In the course of investigating an institution under the supervision of the commissioner, until such investigation is complete.
  - d. In the course of a special investigation being carried out at the request of the governor or any court.
  - e. In the form or nature of an application for a charter, license or permission which meets any of the following criteria:
    - (1) Trade secrets and commercial or financial information.

- (2) Personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.
- (3) Information contained in the application form which is in the nature of examination report information.

Determination of what required application information falls within each category shall be made by the body before which the application is brought.

4. The commissioner may, in the commissioner's discretion, furnish information as to matters of mutual interest to an official or examiner of the federal reserve system, federal deposit insurance corporation, federal home loan bank board, ~~or~~ national credit union administration, or any state bank or credit union supervisors of other states.

SECTION 2. AMENDMENT. Subsection 1 of section 6-03-69 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. Examination by the board of directors or its examining committee. When this method is employed, the examination shall be conducted and the report submitted in ~~January and~~ July of each year.

SECTION 3. AMENDMENT. Subsection 1 of section 6-06-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. The applicants shall execute a certificate of organization, in triplicate, 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 may not exceed fifty dollars each. The commissioner shall prescribe the application form.

SECTION 4. AMENDMENT. Subdivision e of subsection 5 of section 6-06-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

- e. In notes or bonds secured by ~~mortgage~~ a security interest or lien upon unencumbered personal property in this state, if such investment does not exceed seventy-five percent of the actual cash value of the property ~~mortgaged~~ secured.

\* SECTION 5. AMENDMENT. Subsection 2 of section 6-06-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. Credit unions must be examined at least once each eighteen months by the commissioner, or with the commissioner's 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. In lieu of the examinations herein required, the commissioner may accept any examination made or obtained by the national credit union administration, and may in his or her discretion conduct a joint examination with said federal agency. ~~Examinations made by the commissioner or deputy examiners~~

\* NOTE: Subsection 2 of Section 6-06-08 was also amended by section 7 of House Bill No. 1196, chapter 96.

~~must be made without previous notice to the credit union.~~ If the examination is not made by the commissioner, the expense of such examination must be borne by the credit union examined and such examination must be in such form and contain such information as the commissioner may require. Two copies of such examination must be filed with the commissioner within thirty days after completion of the examination and must be approved by the commissioner.

SECTION 6. AMENDMENT. Subsection 2 of section 6-06-35 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. a. A federal credit union, organized under the laws of the United States may be converted into a state credit union by (1) complying with all federal requirements requisite to enabling it to convert to a state credit union or to cease being a federal credit union, (2) filing with the state credit union board proof of such compliance, satisfactory to the commissioner, ~~and~~ (3) filing with the commissioner an organization certificate and bylaws, both in triplicate, as required by section 6-06-02, and (4) granting authority to the department to conduct an examination prior to the conversion date, if determined necessary by the department.
- b. When the commissioner has been satisfied that all of such requirements, and all other requirements of the North Dakota law have been complied with, the commissioner shall notify the applicants and the state credit union board of that fact, and the board shall instruct the secretary of state to issue a charter in accordance with section 6-06-02. Upon issuance of the charter, the federal credit union shall become a state credit union and ceases to be a federal credit union. The state credit union is vested with all of the assets and shall continue responsible for all of the obligations of the federal credit union to the same extent as though the conversion had not taken place.

Approved March 14, 1989  
Filed March 15, 1989

## CHAPTER 99

HOUSE BILL NO. 1581  
(Kretschmar, Vander Vorst, Stofferahn)

### FINANCIAL INSTITUTION LOAN LOSSES

AN ACT to create and enact a new section to chapter 6-03 and a new section to chapter 6-06 of the North Dakota Century Code, relating to the amortization and deferral of certain loan losses by state-chartered banks and credit unions; and to provide an expiration date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 6-03 of the North Dakota Century Code is hereby created and enacted to read as follows:

1. A bank that complies with the requirements of this section and which has at least twenty-five percent of its total loans in agricultural loans may amortize and defer its losses on agricultural loans and its losses resulting from a reappraisal or sale of real or personal property acquired by the bank in connection with an agriculturally related loan, provided the loss was not a result of fraud or criminal abuse on the part of an officer, director, or shareholder of the bank. Agricultural loans include loans made to finance agricultural production, loans secured by farmland, loans secured by farm machinery, or other loans that a bank proves to be sufficiently related to agriculture for classification as an agricultural loan.
2. At least sixty days before the end of the calendar quarter for which the bank intends to amortize and defer its losses as permitted by this section, the bank shall notify the board in writing and submit to the board its written plan for amortizing and deferring its eligible losses. At a minimum the bank's amortization and deferral plan must include a list and description of the specific losses which the bank intends to amortize and defer and a realistic capital plan for restoring the bank's capital to the level required by the board not later than the end of the amortization period.
3. Within thirty business days after the date of mailing of the notification required by subsection 2, the bank's intention to amortize and defer its losses as stated in its notification is deemed approved unless the board issues its preliminary order denying the amortization and deferral proposed by the bank and provides the bank with an opportunity for the bank to request a hearing before the board. Any hearing must be upon at least ten work days' notice to the bank. The board's preliminary order denying a bank's intended loss amortization and deferral plans may be made by the board after consultation with the commissioner and the preliminary order may be issued without a formal meeting. If



the bank does not make its written request for a hearing, the bank is deemed to have withdrawn its notification of its intention to amortize and defer its losses and may not amortize and defer its losses. When deciding on an amortization and deferral proposal, the board shall examine and consider all relevant factors including:

- a. Whether the losses the bank intends to amortize and defer are eligible for such treatment under this section;
  - b. That the bank is in need of capital restoration and whether by the end of the amortization period set forth in this section the bank's capital will be restored to the level required by the board under a realistic capital plan as approved by the board and considering the assets classified loss by a state or federal examiner;
  - c. Whether, during the period of amortization and deferral permitted by this section, the bank will remain viable and fundamentally sound; and
  - d. Whether the bank is well managed.
4. The losses that are eligible for amortization and deferral under this section are limited to those losses on agricultural loans which the bank incurred or incurs between 1984 and 1991, inclusive, and those losses on reappraisals or sales of real or personal property that the bank acquired in connection with an agriculturally related loan, owned no earlier than January 1, 1983, and any additional property that it acquires between January 1, 1983, and December 31, 1991, inclusive.
  5. To be permitted under this section, all amortization of deferred loss must be computed over a period not to exceed seven years on a quarterly straight-line basis commencing in the first quarter after the loan was or is charged off so as to be fully amortized not later than December 31, 1998. A bank that is permitted to amortize its losses under this section may restate its capital and other relevant accounts in accordance with the instructions for the reports it submits to the commissioner under section 6-03-70.
  6. Any determination of the value of the assets of a bank that is permitted to amortize and defer losses, including, determinations of asset value under section 6-01-09, must incorporate at face value the full amount of any asset account established and maintained by the bank in conformity with this section. Any determination of the level or amount of capital that is maintained by a bank that is permitted to amortize and defer loss, including a determination of capital and surplus under section 6-03-59 must incorporate at face value the full amount of any deferred loss capital account established and maintained by the bank in conformity with this section.
  7. A bank that is amortizing and deferring its losses as permitted by this section shall fully adhere to its approved capital plan unless it has obtained the prior approval of the board for a modification to its plan.

8. If the bank fails to continue to meet the requirements under which authorization was granted pursuant to this section or to comply with the capital plan, the board shall notify the bank of its intent to revoke authorization for deferral of losses. The bank has sixty days from receipt of the notice in which to submit objections and reasons why authorization should continue. If no written objections are received within sixty days, the revocation is final. If the bank submits objections, they will be considered and a final decision, or a request for additional information, must be made within the next thirty days.
9. The bank shall provide the board, upon request, with any information the board deems necessary to monitor the bank's amortization, its compliance with conditions, and its continued eligibility.
10. Acceptance of a bank for loss amortization does not foreclose any administrative action against the bank that the board may deem appropriate.

SECTION 2. A new section to chapter 6-06 of the North Dakota Century Code is hereby created and enacted to read as follows:

1. A credit union that complies with the requirements of this section and which has at least twenty-five percent of its total loans in agricultural loans may amortize and defer its losses on agricultural loans and its losses resulting from a reappraisal or sale of real or personal property acquired by the credit union in connection with an agriculturally related loan, provided the loss was not a result of fraud or criminal abuse on the part of an officer or director. Agricultural loans include loans made to finance agricultural production, loans secured by farmland, loans secured by farm machinery, or other loans that a credit union proves to be sufficiently related to agriculture for classification as an agricultural loan.
2. At least sixty days before the end of the calendar quarter for which the credit union intends to amortize and defer its losses as permitted by this section, the credit union shall notify the board in writing and submit to the board its written plan for amortizing and deferring its eligible losses. At a minimum the credit union's amortization and deferral plan must include a list and description of the specific losses which the credit union intends to amortize and defer and a realistic capital plan for restoring the credit union's capital to the level required by the board not later than the end of the amortization period.
3. The board shall approve or deny the amortization and deferral proposal within sixty days from receipt of the notification. If the board denies a credit union's application for loan loss deferral, the credit union is not entitled to a formal administrative hearing to protest the board's determination but may raise its objections to the board's decision in any pending or future administrative proceeding against the credit union. When deciding on an amortization and deferral proposal the board shall examine and consider all relevant factors including:

- a. Whether the losses the credit union intends to amortize and defer are eligible for such treatment under this section;
  - b. That the credit union is in need of capital restoration and whether by the end of the amortization period set forth in this section the credit union's capital will be restored to the board under a realistic capital plan as approved by the board and considering the assets classified loss by a state or federal examiner;
  - c. Whether, during the period of amortization and deferral permitted by this section, the credit union will remain viable and fundamentally sound; and
  - d. Whether the credit union is well managed.
4. The losses that are eligible for amortization and deferral under this section are limited to those losses on agricultural loans which the credit union incurred or incurs between 1984 and 1991, inclusive, and those losses on reappraisals or sales of real or personal property that the credit union acquired in connection with an agriculturally related loan, owned no earlier than January 1, 1983, and any additional property that it acquires between January 1, 1983, and December 31, 1991, inclusive.
  5. To be permitted under this section, all amortization of deferred loss must be computed over a period not to exceed seven years on a quarterly straight-line basis commencing in the first quarter after the loan was or is charged off so as to be fully amortized not later than December 31, 1998. A credit union that is permitted to amortize its losses under this section may restate its capital and other relevant accounts in accordance with the instructions for the reports it submits to the commissioner under section 6-06-08.
  6. Any determination of the value of the assets of a credit union that is permitted to amortize and defer losses, including, determinations of asset value under sections 6-01-09 and 6-06-08.2 must incorporate at face value the full amount of any asset account established and maintained by the credit union in conformity with this section. Any determination of the level or amount of capital that is maintained by a credit union that is permitted to amortize and defer loss, must incorporate at face value the full amount of any deferred loss capital account established and maintained by the credit union in conformity with this section.
  7. A credit union that is amortizing and deferring its losses as permitted by this section shall fully adhere to its approved capital plan unless it has obtained the prior approval of the board for a modification to its plan.
  8. If the credit union fails to continue to meet the requirements under which authorization was granted pursuant to subsection 3 or to comply with the capital plan, the board shall notify the credit union of its intent to revoke authorization for deferral of losses. The credit union has sixty days from receipt of the notice in which it may submit objections and reasons why authorization should continue. If no written objections are received within sixty days,

the revocation is final. If the credit union submits objections, they will be considered and a final decision, or a request for additional information, must be made within the next thirty days.

9. The credit union shall provide the board, upon request, with any information the board deems necessary to monitor the credit union's amortization, its compliance with conditions, and its continued eligibility.
10. Acceptance of a credit union for loss amortization does not foreclose any administrative action against the credit union that the board may deem appropriate.

SECTION 3. EXPIRATION DATE. This Act is effective through December 31, 1998, and after that date is ineffective.

Approved April 15, 1989  
Filed April 17, 1989

## CHAPTER 100

SENATE BILL NO. 2341  
(Lips)

### **BANK EMPLOYEE INDEMNIFICATION**

AN ACT to amend and reenact section 6-03-02.1 of the North Dakota Century Code, relating to indemnification of bank employees, directors, and officers.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 6-03-02.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-03-02.1. Indemnification of bank employees, directors, and officers. Each banking association has the same 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 is adjudged in such action, suit, or proceeding to be liable for negligence or misconduct in the performance of duty. Such indemnification is not deemed exclusive of any other rights to which such employee, director, or officer may be entitled, under any bylaw, vote of shareholders, or otherwise as provided for business corporations in section 10-19.1-91.

Approved March 22, 1989  
Filed March 23, 1989

## CHAPTER 101

HOUSE BILL NO. 1312  
(R. Larson)

### **BANKS INVESTMENTS**

AN ACT to amend and reenact subsection 1 of section 6-03-47.2 of the North Dakota Century Code, relating to the investments of state banks.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 1 of section 6-03-47.2 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. Bonds, notes, or debentures of any corporation rated at "A" or higher by a nationally recognized rating service approved by the state banking board, provided that such investments may not be made to exceed for any one corporation ~~ten~~ twenty-five percent of the ~~combined~~ unimpaired capital and surplus of the banking association; and

Approved April 3, 1989  
Filed April 3, 1989

## CHAPTER 102

SENATE BILL NO. 2317  
(W. Meyer)

### FEDERAL AGRICULTURAL MORTGAGE INVESTMENTS

AN ACT to create and enact a new section to chapter 6-03, a new subdivision to subsection 1 of section 6-09-15, and a new section to chapter 54-17 of the North Dakota Century Code, relating to bank investment in federal agricultural mortgage corporation stock, Bank of North Dakota authority to make agricultural real estate loans, and a trust fund to participate in the federal agricultural mortgage secondary market program.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 6-03 of the North Dakota Century Code is hereby created and enacted to read as follows:

Bank investment in federal agricultural mortgage corporation stock. Financial institutions under the jurisdiction of the state banking board may invest in stock and equity instruments of the federal agricultural mortgage corporation. The state banking board may adopt rules governing investments by North Dakota financial institutions in the stock and equity instruments of the federal agricultural mortgage corporation.

\* SECTION 2. A new subdivision to subsection 1 of section 6-09-15 of the North Dakota Century Code is hereby created and enacted to read as follows:

Make agricultural real estate loans in order to participate in the agricultural mortgage secondary market program established pursuant to the Agricultural Credit Act [Pub. L. 100-233, 101 Stat. 1686, 12 U.S.C. 2279aa-2279aa-14].

SECTION 3. A new section to chapter 54-17 of the North Dakota Century Code is hereby created and enacted to read as follows:

State trust created - Agricultural mortgage secondary market. The industrial commission may establish a trust for the purpose of participating as an agricultural mortgage marketing facility in the agricultural mortgage secondary market program established pursuant to the Agricultural Credit Act [Pub. L. 100-233, 101 Stat. 1686, 12 U.S.C. 2279aa-2279aa-14]. The industrial commission may take any action necessary to qualify as a certified facility.

Approved March 22, 1989  
Filed March 23, 1989

\* NOTE: Section 6-09-15 was also amended by section 6 of Senate Bill No. 2252, chapter 110.

## CHAPTER 103

HOUSE BILL NO. 1427  
(Representatives O. Hanson, Belter)  
(Senators Axtman, Krauter)

**BANK SERVICE CORPORATIONS**

AN ACT to amend and reenact section 6-03-49.1 of the North Dakota Century Code, relating to bank service corporations.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 6-03-49.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-03-49.1. Bank investment in service corporation - Service corporation services and activities. Subject to the approval of the state banking board, any bank may invest not more than ten percent of paid in and unimpaired capital and unimpaired surplus in stocks, bonds, debentures, or other obligations of any North Dakota corporation organized as a bank service corporation having its principal place of business in the state and operated exclusively for the purpose of providing for such bank and one or more other banks, bank services which the banks would otherwise be required or permitted to provide for on an individual bank basis. The term bank services in this section means includes services such as check and deposit sorting and posting, computation and posting of interest and other credits and charges, preparation and mailing of checks, statements, notices and similar items, or any other clerical, bookkeeping, accounting, statistical, or similar functions performed by a bank. Payment for rent earned, goods sold and delivered, or services rendered prior to the making of the payment is not an investment.

A bank service corporation may be chartered under the laws of this state with shareholders limited to state and national banks located within the state to provide all the services, except deposit taking, that all the banks that are its shareholders can offer directly to their own customers at any place in the state where they can offer their services including owning and administering a credit card program for customers of banks and engaging in activities incidental to banking services and other activities that further or facilitate the corporate purposes of a bank or subsidiaries of a bank, so long as such services may be lawfully performed by both its national bank shareholders under the laws of the United States and its state bank shareholders under the laws of this state.

Approved March 29, 1989  
Filed March 30, 1989



## CHAPTER 104

SENATE BILL NO. 2420  
(Satrom)

### AFRICAN DEVELOPMENT BANK OBLIGATIONS AS SECURITIES

AN ACT to amend and reenact section 6-05-04 of the North Dakota Century Code, relating to surety deposit investments; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

\* SECTION 1. AMENDMENT. Section 6-05-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-05-04. Surety deposit investments required - Securities in which investment may be made. Every corporation organized under this chapter and every foreign corporation before engaging in similar comparable activities within this state shall either deposit with the state treasurer, with any federal reserve bank, or with the Bank of North Dakota, securities as provided by this section. The deposit may not be less than fifty thousand dollars or less than one-sixth of the par value of the capital stock of the corporation, whichever is the greater. However, no corporation is required to deposit more than five hundred thousand dollars. ~~Where~~ If the deposit is made with a federal reserve bank, the deposit certificate must authorize the state treasurer to cause such deposit, in part or in whole, to be transferred to the state treasurer upon the state treasurer's demand. An original of such certificate of deposit must be furnished to the state treasurer. The securities so deposited must be:

1. Bonds of the United States or of this state;
2. Bonds of other states which have the approval of the state auditor and the commissioner of banking and financial institutions;
3. Bonds or obligations of any township, school district, city, 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. Obligations issued, assumed, or guaranteed by the International Bank for Reconstruction and Development or the African Development Bank; or
6. United States treasury bills or notes of an agency thereof.

SECTION 2. EMERGENCY. This Act is declared to be an emergency measure.

Approved March 22, 1989  
Filed March 23, 1989

\* NOTE: Section 6-05-04 was also amended by section 2 of Senate Bill No. 2363, chapter 113.

## CHAPTER 105

HOUSE BILL NO. 1330  
(Goetz)

### **CREDIT UNION SALES TAX PAYMENT**

AN ACT to amend and reenact section 6-06-29 of the North Dakota Century Code, relating to taxation of credit unions.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 6-06-29 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-06-29. Taxation of credit unions. Any credit union organized under this chapter or under the Federal Credit Union Act is exempt from all taxation now or hereafter imposed by the state or any municipality within the state or any local taxing authority and no law which taxes corporations in any form, or the shares thereof, or the accumulations thereon, shall apply to any such credit union; except that any real property and any tangible personal property owned by any credit union organized under this chapter or under the Federal Credit Union Act is subject to taxation to the same extent as other similar property is taxed and purchases by credit unions are subject to sales or use tax. The shares of credit unions are not subject to any stock transfer tax, either when issued or when transferred from one member to another. The participation by the credit union in any unemployment insurance funds, or social security fund, or old-age fund, may not be deemed a waiver of the tax immunities hereby granted.

Approved March 29, 1989  
Filed March 30, 1989

## CHAPTER 106

HOUSE BILL NO. 1526  
(Representatives Mertens, R. Larson)  
(Senator Langley)

### **BAD CHECK PRESENTATION**

AN ACT to amend and reenact subsection 1 of section 6-08-16 of the North Dakota Century Code, relating to nonsufficient fund check offenses.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 1 of section 6-08-16 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. A person may not, for himself, as the agent or representative of another, or as an officer or member of a firm, company, copartnership, or corporation make, draw, utter, or deliver any check, draft, or order for the payment of money upon a bank, banker, or depository, if at the time of such making, drawing, uttering, or delivery, or at the time of presentation for payment if the presentation for payment is made within ~~one week~~ fourteen days after the original delivery thereof, there are not sufficient funds in or credit with the bank, banker, or depository to meet the check, draft, or order in full upon its presentation. Violation of this subsection is a class B misdemeanor.

Approved April 10, 1989  
Filed April 11, 1989

## CHAPTER 107

HOUSE BILL NO. 1057  
(Legislative Council)  
(Interim Judiciary Committee)

### NO ACCOUNT CHECKS

AN ACT to amend and reenact section 6-08-16.1 of the North Dakota Century Code, relating to issuing a check or draft without an account; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 6-08-16.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-08-16.1. Issuing check or draft without account - Penalty. Any person who issues any check, draft, or order upon any bank or depository, for the payment of money, and, at the time of such issuance does not have an account with ~~such~~ the bank or depository, is guilty of a class A misdemeanor.

Approved April 3, 1989  
Filed April 3, 1989

## CHAPTER 108

HOUSE BILL NO. 1148  
(Committee on Industry, Business and Labor)  
(At the request of the Secretary of State)

### FOREIGN BANK FIDUCIARY FEES

AN ACT to amend and reenact section 6-08-26 of the North Dakota Century Code, relating to the filing fee for foreign banks and trust companies serving as fiduciaries in this state.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 6-08-26 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-08-26. Requirements of foreign bank or trust company serving as fiduciary in state. Before qualifying or serving in this state in any fiduciary capacity as defined in section 6-08-25, such bank or trust company shall file in the office of the secretary of state a filing fee of twenty-five dollars, a copy of its charter certified by its secretary, and a power of attorney designating the said secretary of state or his successor in office as the person upon whom all notices and processes issued by any court of this state may be served in any action or proceeding relating to any trust, estate, or matter within this state in respect of which such bank or trust company is acting in any fiduciary capacity with like effect as personal service on such bank or trust company. Such power of attorney is irrevocable so long as any such liability remains outstanding against such bank or trust company in this state. Upon receipt of such notice or process with a filing fee of twenty-five dollars, it is the duty of the said secretary of state forthwith to forward the same by registered or certified mail to such bank or trust company at the address stated in the said power of attorney, and such bank or trust company shall comply with the provisions of chapter 6-05, insofar as the provisions of said chapter pertain to banks or trust companies.

Approved March 14, 1989  
Filed March 15, 1989

## CHAPTER 109

HOUSE BILL NO. 1444  
 (Representatives Brokaw, Myrdal, Shockman)  
 (Senators Kelsh, Wogsland)

## AGRICULTURAL MEDIATION SERVICE

AN ACT to create and enact a new subsection to section 6-08.1-02, a new subsection to section 6-08.1-03, and sections 6-09.10-10 and 6-09.10-11 of the North Dakota Century Code, relating to disclosure of customer information by financial institutions, mediation records and meetings, and authority to receive and expend federal funds; to amend and reenact sections 6-09.10-03, 6-09.10-04, 6-09.10-04.1, 6-09.10-05, and subsection 3 of section 6-09.10-08.5 of the North Dakota Century Code, relating to fees charged for assistance provided to farmers and creditors, changing the name of the farm credit counseling program, compensation for credit review board members, requests for assistance, and liability; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new subsection to section 6-08.1-02 of the North Dakota Century Code is hereby created and enacted to read as follows:

Disclosure by a financial institution to the commissioner of agriculture that it has given a customer notice of the availability of the North Dakota agricultural mediation service.

SECTION 2. A new subsection to section 6-08.1-03 of the North Dakota Century Code is hereby created and enacted to read as follows:

For the purpose of notifying the commissioner of agriculture that a financial institution has notified a customer of the availability of the North Dakota agricultural mediation service.

SECTION 3. AMENDMENT. Section 6-09.10-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-09.10-03. Farm Credit Counseling Program North Dakota agricultural mediation service - Powers - Compensation and expenses - Fees. The board shall meet at the call of the chairman, as is necessary to fulfill its duties under this chapter. The department of agriculture shall administer the farm credit counseling program agricultural mediation service. The commissioner of agriculture shall establish a farm credit counseling program an agricultural mediation service to disseminate information to farmers concerning farm credit problems, and provide advice and counseling regarding assistance to seek to resolve farm credit problems. The commissioner shall appoint an administrator of the farm credit counseling program to administer the program agricultural mediation service. The commissioner shall hire staff and, negotiators, and mediators who may mediate between a farmer who has requested assistance and the farmer's creditors, either of whom may

request assistance. The board may charge the farmer and each of the farmer's creditors a reasonable fee for any assistance provided to a farmer, such funds to be used to continue the program service until June 30, 1989 1991. Fees charged to the farmer's creditors are limited to twenty-five dollars per hour, each, for the time spent in mediation sessions. The board shall adopt policies governing the negotiators and, staff, and mediators hired under this section. Board members are entitled to receive fifty sixty-five dollars for each day of official service, as directed by the board. The board members are entitled to expenses as provided in sections 44-08-04 and 54-06-09. The expenses provided under this section may be paid from any funds available in the home-quarter purchase fund.

SECTION 4. AMENDMENT. Section 6-09.10-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-09.10-04. Request for assistance - Negotiation - Mediation.

- 1- Any farmer or creditor may request the assistance of a negotiator from the administrator. Upon receipt of the request, the negotiator may enter into negotiations with the lender, on behalf of the farmer and upon consent of the farmer and the creditor to mediation, the negotiator or mediator shall encourage and assist the farmer and the farmer's creditors to reach a voluntary settlement.
- 2- The negotiator shall negotiate with the lender in an attempt to extend the term of the loan, reduce the dollar amount of payments under the loan, or otherwise negotiate a settlement that will allow the farmer to reside in the farm residence and allow the farmer to continue to produce agricultural commodities. Any change in the terms of the mortgage must be approved by the lender and the farmer.

SECTION 5. AMENDMENT. Section 6-09.10-04.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-09.10-04.1. Liability. The board, commissioner, administrator, staff, and negotiators, and mediators are not subject to any liability arising from any actions undertaken on behalf of a farmer or between a farmer and the farmer's creditors in attempting to reach a settlement with a lender.

SECTION 6. AMENDMENT. Section 6-09.10-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-09.10-05. Interest rate buydowns by the board.

1. If the board, or its authorized agent, is unable to mediate a settlement in the negotiation of with regard to a farmer's debt, the board may approve the purchase, refinancing, or redemption of the farmer's home-quarter. If the board approves the purchase, refinancing, or redemption of the home-quarter, it shall subsidize the interest rate paid by the farmer after credit has been obtained by the farmer from any governmental or private financial institution or agency.
2. The board may only approve an interest subsidy if the farmer has the financial ability to meet all payments and financial

responsibilities, including the payment of principal and interest on loans subsidized under this chapter.

3. The board may defer or waive payment, restructure payment, or enter into other reasonable loan servicing options with a farmer who has received an interest subsidy, upon proof of financial hardship, or if the farmer, after deferral, restructure, or other loan servicing options, has the ability to make all the payments and meet all the financial responsibilities with regard to the change in payments.

SECTION 7. AMENDMENT. Subsection 3 of section 6-09.10-08.5 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. Cooperate with the ~~farm credit counseling program~~ agricultural mediation service and existing informational and referral networks among farmers, farmer advocates, small business persons, and others concerned with the economic crisis in agricultural and small business concern areas.

SECTION 8. Section 6-09.10-10 of the North Dakota Century Code is hereby created and enacted to read as follows:

6-09.10-10. Mediation - Open records and meetings exception. Information created, collected, and maintained by the agricultural mediation service regarding the finances of specific farmers and creditors is confidential and is not subject to the open records requirements of section 44-04-18. All mediation meetings, or meetings involving the board, staff, negotiators, or mediators wherein the finances of specific farmers and creditors is discussed, are confidential, closed meetings and are not subject to the open meetings requirements of section 44-04-19.

SECTION 9. Section 6-09.10-11 of the North Dakota Century Code is hereby created and enacted to read as follows:

6-09.10-11. Commissioner of agriculture - Authorization. The commissioner of agriculture is authorized to receive and expend any federal, private, or other funds that become available for the purpose of defraying the expenses of the agricultural mediation service.

SECTION 10. EMERGENCY. This Act is declared to be an emergency measure.

Approved April 10, 1989  
Filed April 11, 1989



**CHAPTER 110**

SENATE BILL NO. 2252  
(Committee on State and Federal Government)  
(At the request of the Bank of North Dakota)

**BANK OF NORTH DAKOTA ADMINISTRATION**

AN ACT to create and enact two new sections to chapter 6-09, a new section to chapter 6-09.5, and a new section to chapter 6-09.6 of the North Dakota Century Code, relating to the advisory board of directors to the Bank of North Dakota, audit of the community water facility loan fund, and audit of the developmentally disabled, chronically mentally ill, and physically disabled facility loan programs; to amend and reenact sections 6-09-02, 6-09-04, 6-09-05, 6-09-11, 6-09-15, 6-09-26, and 6-09-27 of the North Dakota Century Code, relating to the execution of instruments on behalf of the Bank and to the powers and duties of the Bank of North Dakota; and to repeal sections 6-09-03, 6-09-09, 6-09-12, 6-09-14, 6-09-15.2, 6-09-15.3, 6-09-15.6, 6-09-15.7, 6-09-15.8, 6-09-26.1, 6-09-33, 6-09.1-01, 6-09.1-02, 6-09.1-03, and 6-09.9-06 of the North Dakota Century Code, relating to powers and duties of the Bank of North Dakota.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Two new sections to chapter 6-09 of the North Dakota Century Code are hereby created and enacted to read as follows:

Declaration and finding of public purpose - Bank of North Dakota advisory board of directors. To enlist the help of private enterprise and to encourage more active use of the purposes for which the Bank of North Dakota was created, the governor shall appoint an advisory board of directors to the Bank of North Dakota consisting of seven persons, at least two of whom must be officers of banks, the majority of the stock of which is owned by North Dakota residents, and at least one of whom must be an officer of a state or federally chartered financial institution. The governor shall appoint a chairman, vice chairman, and secretary from the advisory board of directors. The term of the directors is four years. The industrial commission shall define the duties and fix the compensation of the advisory board of directors.

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. In addition to the foregoing and pursuant to authorization from the industrial commission, act on behalf of the Bank with respect to the powers and functions of the Bank.

SECTION 2. AMENDMENT. Section 6-09-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-09-02. Industrial commission to operate Bank - Business of Bank. The industrial commission shall operate, manage, and control the Bank of North Dakota, locate and maintain its places of business, of which the principal place must be within the state, and make and enforce orders, rules, regulations, and bylaws for the transaction of its business. The business and financial transactions of the Bank, in addition to other matters specified in this chapter, may include anything that any bank or bank holding company lawfully may do, except as it is restricted by the provisions of this chapter. This provision may not be held in any way to limit or qualify either the powers of the industrial commission granted by nor the functions of said Bank as defined in this chapter. The powers of the industrial commission and the functions of the Bank must be implemented through actions taken and policies adopted by the industrial commission.

SECTION 3. AMENDMENT. Section 6-09-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-09-04. Commission to employ president and employees - Compensation, operation, and maintenance expenditures limited to appropriations, revenue, or capital. The industrial commission shall appoint a president, and may appoint and employ such subordinate officers, employees, and agents as it may judge expedient and in the interests of the state, and shall define the duties, designate the titles, and fix the compensation of all such persons. The commission may ~~constitute~~ designate the president, other officers or employees as its ~~general~~ agent in respect to the functions of the Bank, subject to its supervision, limitation, and control. The total compensation of such appointees and employees, together with other expenditures for the operation and maintenance of the Bank, shall remain within the appropriation, revenues, or capital lawfully available in each year for such purpose purposes.

SECTION 4. AMENDMENT. Section 6-09-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-09-05. Removal and discharge of appointees. The industrial commission may remove and discharge any and all persons appointed in the exercise of the powers granted by this chapter, whether by the commission or by the president of the Bank; and any such removal may be made whenever in the judgment of the commission the public interests require it. All

appointments and removals contemplated by this chapter must be made as the commission deems fit to promote the efficiency of the public service.

SECTION 5. AMENDMENT. Section 6-09-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-09-11. State bank deposits in Bank of North Dakota available funds— Bank a clearinghouse. Funds deposited by state banks in the Bank of North Dakota are deemed "available funds" within the meaning of that term as used in section ~~6-03-37~~. For banks that make the Bank of North Dakota a reserve depository, it may perform the functions and render the services of a clearinghouse, including all facilities for providing domestic and foreign exchange, and may rediscount paper, on such terms as the industrial commission shall provide.

\* SECTION 6. AMENDMENT. Section 6-09-15 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-09-15. Bank may make loans - Loan limitations-

1. The Bank of North Dakota may:

- a. Make loans to and purchase securities issued by instrumentalities of this state. Such loans shall be repaid with interest to the Bank.
- b. Make loans to state or national banks, bank holding companies, institutions which are part of the federal farm credit system, and North Dakota central credit union.
- c. Participate with the following institutions and agencies in loans being made by them on such terms and under such rules and regulations as the industrial commission may determine:
  - (1) State or national banks.
  - (2) Bank holding companies.
  - (3) Savings and loan associations.
  - (4) Subsidiary corporations of state banking associations approved by the state banking board pursuant to section ~~6-03-38~~.
  - (5) Credit unions.
  - (6) Federally chartered lending agencies or institutions.
- d. Buy and sell federal funds, excess reserves, bankers' acceptances, participation loans, and all securities issued by the United States government or its instrumentalities.
- e. Invest its funds in bonds, notes, or debentures of any corporation incorporated under the laws of any state of the United States rated at "A" or higher by a nationally recognized rating service approved by the industrial commission and short-term commercial and finance company paper rated A-1 or P-

\* NOTE: Section 6-09-15 was also amended by section 2 of Senate Bill No. 2317, chapter 102.

- ~~i. Such investments shall not be made to exceed for any one corporation ten percent of the combined capital and surplus of the Bank.~~
- ~~f. Make loans to holders of Bank of North Dakota certificates of deposit and savings accounts up to ninety percent of the value of the certificates and savings accounts offered as security.~~
- ~~g. Make loans to actual farmers who are residents of this state, if such loans are secured by recorded mortgages giving the Bank of North Dakota a first lien on real estate in North Dakota in amounts not to exceed sixty-five percent of the value of the security.~~
- ~~h. Make United States insured and guaranteed loans as specifically authorized by law.~~
- ~~i. Make loans which are eligible to be guaranteed pursuant to chapter 15-62.1.~~
- ~~2. The Bank of North Dakota shall not otherwise make loans or give its credit to any individual, association, or private corporation.~~
- ~~3. The Bank of North Dakota shall not loan more than thirty percent of its combined capital and surplus, nor in addition thereto, more than forty percent of its deposits on real estate security, excluding those loans insured or guaranteed by the United States government or its agencies.~~

Powers. The Bank of North Dakota may:

1. Make, purchase, or hold loans:
- a. To state or federally chartered lending agencies or institutions, or any other financial institutions.
- b. To holders of Bank of North Dakota certificates of deposit and savings accounts up to ninety percent of the value of the certificates and savings accounts offered as security.
- c. To actual farmers who are residents of this state, if the loans are secured by recorded mortgages giving the Bank of North Dakota a first lien on real estate in North Dakota in amounts not to exceed sixty-five percent of the value of the security.
- d. That are insured or guaranteed in whole or in part by the United States, its agencies, or instrumentalities.
- e. That are eligible to be guaranteed under chapter 15-62.1.
- f. To individuals or bank holding companies for the purpose of purchasing or refinancing the purchase of bank stock of a bank located in the state.
- g. To nonprofit organizations that are exempt from federal taxation under section 501(c)(3) of the Internal Revenue Code [26 U.S.C. 501 (c)(3)], the proceeds of the loans to be used

- for construction, reconstruction, repair, renovation, maintenance, and associated costs on property under the control of the state parks and recreation department.
- h. Under Public Law No. 99-198 [99 Stat. 1534, 7 U.S.C. 1932 et seq.] to nonprofit corporations for the purpose of relending loan funds to rural businesses.
  - i. Under title 7, Code of Federal Regulations, part 1948, subpart C; part 1951, subparts F and R; and part 1955, subparts A, B, and C, to finance businesses and community development projects in rural areas.
  - j. Obtained as security pledged for or originated in the restructuring of any other loan properly originated or participated in by the Bank.
  - k. To instrumentalities of this state.
  - l. As otherwise provided by this chapter or other statutes.
- 2. Purchase participation interests in loans made or held by banks, bank holding companies, state or federally chartered lending agencies or institutions, or any other financial institutions.
  - 3. Invest its funds:
    - a. In conformity with policies of the industrial commission.
    - b. In an export trading company organized and doing business in this state through the purchase of shares of stock.
    - c. In a public venture capital corporation organized and doing business in this state through the purchase of shares of stock.
  - 4. Buy and sell federal funds.
  - 5. Lease, assign, exchange, transfer, convey, grant, pledge, or mortgage all real and personal property, title to which has been acquired in any manner.
  - 6. Acquire real or personal property or property rights by purchase, lease, or the exercise of the right of eminent domain and may construct, remodel, and repair buildings.
  - 7. Receive deposits from any source and deposit its funds in any bank or other financial institution.
  - 8. Perform all acts and do all things necessary, convenient, advisable, or desirable to carry out the powers expressly granted or necessarily implied in this chapter through or by means of its president, officers, agents, or employees or by contracts with any person, firm, or corporation.

SECTION 7. AMENDMENT. Section 6-09-26 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-09-26. Name in which business conducted and titles taken - Execution of ~~written~~ instruments. All business of the Bank must be conducted under the name of "The Bank of North Dakota". Title to property pertaining to the operation of the Bank must be obtained and conveyed in the name of "The State of North Dakota, doing business as The Bank of North Dakota". ~~Written instruments~~ Instruments must be executed in the name of the state of North Dakota, ~~signed by two members of the industrial commission, of whom the governor must be one, or by the manager of the Bank of North Dakota within the scope of his authority so to do as defined by the industrial commission.~~ Within the scope of authority granted by the industrial commission, the president may execute instruments on behalf of the Bank, including any instrument granting, conveying, or otherwise affecting any interest in or lien upon real or personal property. Other officers, employees of and legal counsel to the Bank may execute instruments on behalf of the Bank when authorized by the industrial commission. Any instrument executed prior to the effective date of this Act by the president, an attorney for the Bank, or an officer or employee of the Bank, and otherwise proper, is valid and effective.

SECTION 8. AMENDMENT. Section 6-09-27 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-09-27. Civil actions on Bank transactions - Name of parties - Service - Venue. Civil actions may be brought against the state of North Dakota on account of claims for relief claimed to have arisen out of transactions connected with the operation of the Bank of North Dakota upon condition that the provisions of this section are complied with. In such actions, the state shall be designated as "The State of North Dakota, doing business as The Bank of North Dakota", ~~and the service of process shall be made upon the president of the Bank.~~ The actions may be brought in the same manner and are subject to the same provisions of law as other civil actions. The action shall be brought, ~~however, in the county where the Bank of North Dakota has its principal place of business, in Burleigh County~~ except as provided in ~~sections section 28-04-01, 28-04-02, 28-04-03, 28-04-04, and 28-04-06.~~

SECTION 9. A new section to chapter 6-09.5 of the North Dakota Century Code is hereby created and enacted to read as follows:

Audit and costs of administration. The industrial commission is responsible for contracting with a certified public accounting firm to audit the revolving fund as necessary. The cost of the audit, and any other actual costs incurred by the Bank on behalf of the fund, must be paid for by the fund.

SECTION 10. A new section to chapter 6-09.6 of the North Dakota Century Code is hereby created and enacted to read as follows:

Audit and costs of administration. The industrial commission is responsible for contracting with a certified public accounting firm to audit the loan funds established by this chapter as necessary. The cost of the audit, and any other actual costs incurred by the Bank on behalf of the loan funds, must be paid for by the funds.

\* SECTION 11. REPEAL. Sections 6-09-03, 6-09-09, 6-09-12, 6-09-14, 6-09-15.2, 6-09-15.3, 6-09-15.6, 6-09-15.7, 6-09-15.8, 6-09-26.1, 6-09-33, 6-09.1-01, 6-09.1-02, 6-09.1-03, and 6-09.9-06 of the North Dakota Century Code are hereby repealed.

Approved April 10, 1989  
Filed April 12, 1989

\* NOTE: Section 6-09.9-06 was also repealed by section 4 of House Bill No. 1211, chapter 117.

## CHAPTER 111

SENATE BILL NO. 2204  
(Committee on Agriculture)  
(At the request of the Bank of North Dakota)

### BEGINNING FARMER LOAN FUND

AN ACT to amend and reenact section 6-09-15.5 of the North Dakota Century Code, relating to the beginning farmer revolving real estate loan fund.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 6-09-15.5 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-09-15.5. Bank loans to beginning farmers - Revolving loan fund - Requirements.

1. A revolving loan fund must be maintained in the Bank of North Dakota for the purpose of making loans to North Dakota beginning farmers; ~~as defined under subsection 2 of section 57-30-67;~~ for the purchase of agricultural real estate. All moneys transferred into the fund, interest upon moneys in the fund, and payments to the fund of principal and interest on loans made from the fund are hereby appropriated for the purpose of providing loans in accordance with the provisions of this section.
2. The revolving loan fund and loans made from the fund must be administered and supervised by the Bank of North Dakota. The Bank may deduct a service fee for administering the fund from interest payments received on loans. An application for a loan from the fund must be made to the Bank and, upon approval, a loan must be made from the fund in accordance with the provisions of this section.
3. A loan made from the fund may not exceed fifty sixty-five percent of the appraised value of the agricultural real estate to be acquired with the loan proceeds, with the actual percentage to be determined by the Bank. The Bank may do all things and acts; ~~may take such security;~~ and may establish additional terms and conditions as deemed necessary to make a loan under this section. The Bank may take a second mortgage as security for a loan from the fund if a beginning farmer's real estate financing involves a loan from a source other than the state and may take additional security.
4. A loan made from the fund must bear interest at a maximum rate of four percent per year ~~for the first ten years of the loan and at a rate of six percent per year after ten years.~~

5. The maximum term of the a loan is ten years unless at the end of the ten year term the commissioner of agriculture extends the loan for a five-year period.
6. The industrial commission is responsible for contracting with a certified public accounting firm to audit the fund as necessary. The cost of the audit, and any other actual costs incurred by the Bank on behalf of the fund, must be paid for by the fund.
7. The Bank shall adopt policies to implement this section.

Approved March 14, 1989  
Filed March 15, 1989



## CHAPTER 112

SENATE BILL NO. 2501  
(Senators Kelsh, Wogsland, Hanson)  
(Representatives Nicholas, Dalrymple, Gerntholz)

### **BEGINNING FARMER LOAN FUND TRANSFER**

AN ACT to create and enact a new section to chapter 6-09 of the North Dakota Century Code, relating to transfers from the Bank of North Dakota profits to the beginning farmer revolving loan fund.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY 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:

Transfer - Beginning farmer revolving loan fund. The Bank of North Dakota shall transfer an amount equal to one and one-half million dollars of the Bank's preceding year's profits from the Bank's accumulated and undivided profits to the beginning farmer revolving loan fund as established in section 6-09-15.5 on July 1, 1989, and on July first of each year thereafter through July 1, 1992.

Approved April 19, 1989  
Filed April 19, 1989

## CHAPTER 113

SENATE BILL NO. 2363  
(Heigaard)

### CUSTODY OF STATE SECURITIES

AN ACT to provide for custody by the Bank of North Dakota of certain securities; and to amend and reenact sections 6-05-04, 6-05-05, 6-05-27, 7-07-03, 7-07-04, 7-07-12, 39-16-10, 39-16.1-15, subsection 1 of section 39-16.1-17, and subsection 1 of section 39-16.1-19 of the North Dakota Century Code, relating to the Bank of North Dakota acting as the custodian of securities that must be deposited with the state.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Bank of North Dakota - Custodian of securities. Notwithstanding any other provision of law to the contrary, the Bank of North Dakota shall replace the state treasurer as the custodian of all securities that are required to be deposited with the state except that the state treasurer is the custodian of all securities resulting from the investment of funds by the state treasurer, or except as otherwise required by this Act.

\* SECTION 2. AMENDMENT. Section 6-05-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-05-04. Surety deposit investments required - Securities in which investment may be made. Every corporation organized under this chapter and every foreign corporation before engaging in similar comparable activities within this state shall either deposit with ~~the state treasurer, with~~ any federal reserve bank, ~~or with~~ the Bank of North Dakota, ~~or any other custodian approved by the commissioner,~~ securities as provided by this section. The deposit may not be less than fifty thousand dollars or less than one-sixth of the par value of the capital stock of the corporation, whichever is the greater. However, no corporation is required to deposit more than five hundred thousand dollars. ~~Where the deposit is made with a federal reserve bank, the~~ The deposit certificate must authorize the ~~state treasurer commissioner~~ to cause such deposit, in part or in whole, to be transferred to the ~~state treasurer commissioner~~ upon the ~~state treasurer's commissioner's~~ demand. An original of such certificate of deposit must be furnished to the ~~state treasurer commissioner~~. The securities so deposited must be:

1. Bonds of the United States or of this state;
2. Bonds of other states which have the approval of the state auditor and the commissioner of banking and financial institutions;
3. Bonds or obligations of any township, school district, city, or county within this state, whose total bonded indebtedness does not exceed five percent of the then assessed valuation thereof;

\* NOTE: Section 6-05-04 was also amended by section 1 of Senate Bill No. 2420, chapter 104.

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. Obligations issued, assumed, or guaranteed by the International Bank for Reconstruction and Development; or
6. United States treasury bills or notes of an agency thereof.

SECTION 3. AMENDMENT. Section 6-05-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-05-05. Certificate of deposit — ~~State treasurer's duties.~~ Whenever any such corporation assigns, transfers, and delivers to the ~~state treasurer commissioner, or a designated agent,~~ the securities described in section 6-05-04 and all evidences of such investment, he shall execute and deliver to the corporation a certificate of such deposit, and thereupon, the said corporation may commence and carry on business under the provisions of this chapter. ~~The state treasurer and his successors in office commissioner, or a designated agent,~~ shall hold the said securities so deposited with him as collateral security for the depositors and creditors of the corporation, and for the faithful execution of any trusts which may be imposed lawfully upon and accepted by such corporation. The corporation from time to time may withdraw the said securities or any part thereof from the ~~state treasurer commissioner, or a designated agent,~~ upon depositing with him other securities of equal amount and value and of the kinds specified in section 6-05-04. Until otherwise ordered by a court of competent jurisdiction, the said ~~treasurer commissioner, or a designated agent,~~ shall pay over to such corporation the interest and dividends which he collects upon such securities. Any corporation having a larger deposit with the ~~state treasurer commissioner, or a designated agent,~~ than is required by this chapter must be allowed at any time to withdraw its excess deposit.

SECTION 4. AMENDMENT. Section 6-05-27 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-05-27. Commissioner to order increase in security deposit - When. Whenever it appears to the commissioner, from an examination of the business of any such corporation, that the deposit made by it ~~with the state treasurer,~~ as hereinbefore required, is insufficient to insure the safety of its deposit, trust, and contingent liabilities, he shall make an order, as hereinafter provided, requiring an increase of such deposit. Such company immediately upon receipt of such order shall deposit with the ~~state treasurer commissioner, or a designated agent,~~ other and further securities of the kind, class, and value designated in section 6-05-04 in an amount sufficient to comply with said order.

SECTION 5. AMENDMENT. Section 7-07-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

7-07-03. Securities to be deposited - Surety bond. A foreign corporation before doing business in this state shall deposit with the ~~state treasurer Bank of North Dakota, any federal reserve bank, or any other custodian approved by the commissioner~~ one hundred thousand dollars in cash or bonds of the United States, bonds of any state of the United States, bonds of any county or municipal corporation in the state of North Dakota, or

mortgages which are first liens on improved and productive real estate located within this state worth at least twice the amount of the liens. Such securities must be approved in advance by the commissioner of banking and financial institutions. The commissioner has authority to require such foreign corporation to deposit additional securities and to order a change in any of the securities so deposited, at any time. Such deposit must be held as security for all claims of residents of this state against such foreign corporation, and is liable for all judgments or decrees against such corporation. Said securities may not be released until all its obligations to residents of this state have been fully performed and discharged. Such foreign corporation may collect and use the interest on any securities so deposited as long as it fulfills its obligations and complies with the provisions of this title. It also may exchange them for other securities of equal value, if such exchange is approved by the commissioner. Any foreign corporation, in lieu of the deposit of securities as herein provided, may deposit with the commissioner a surety company bond, satisfactory to him, in the sum of one hundred thousand dollars, which must be conditioned for the payment of any judgment entered against such foreign corporation by any court of competent jurisdiction in this state, in favor of any resident of this state. Such judgment creditor has the right to bring suit on such bond in his own name in the county in which such judgment is rendered, and any resident of this state having a claim against such foreign corporation may bring suit in his own name against the surety company by joining such surety company and such foreign building and loan corporation as parties defendant.

SECTION 6. AMENDMENT. Section 7-07-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

7-07-04. Securities deposited. Upon deposit with the state treasurer custodian by such foreign corporation of the securities as provided for in this chapter, ~~the state treasurer shall issue his receipt in duplicate therefor, delivering the original to the commissioner of banking and financial institutions and the copy to such depositor. The state treasurer and his surety are responsible for the safekeeping of such securities which must be released by him only upon the written order of the commissioner the~~ deposit certificate must authorize the commissioner to cause the deposit, in whole or in part, to be transferred to the commissioner upon the commissioner's demand. An original of the deposit certificate must be furnished to the commissioner.

SECTION 7. AMENDMENT. Section 7-07-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

7-07-12. Unsatisfied judgments - Sale of securities. If any resident of this state recovers judgment against a foreign corporation and such judgment is not satisfied within thirty days after the entry thereof, the judgment creditor or his attorney may prepare and file with the commissioner of banking and financial institutions an affidavit setting forth the fact of the recovery of the judgment, that the same has remained unpaid for thirty days, and that no proceedings are pending for the vacation of such judgment or for an appeal therefrom, together with the petition of such creditor for the sale ~~of sufficient~~ of the securities of the judgment debtor on deposit with the ~~state treasurer~~ Bank of North Dakota, any federal reserve bank, or any other custodian approved by the commissioner sufficient to satisfy said judgment. The judgment creditor or his attorney shall serve a copy of such affidavit and petition on the foreign corporation by registered or certified mail addressed to its principal office or place of business, and proof of

such mailing must be filed with the commissioner. Unless such foreign corporation furnishes to the commissioner satisfactory proof of the payment of the judgment within ten days after the filing of the affidavit and petition herein mentioned, the commissioner, or a designated agent, shall issue an order to the ~~state treasurer~~ for the sale of ~~sufficient~~ of the securities of such corporation, at current market prices, to pay the judgment in full, together with five percent thereon to cover his services and expenses. After a sale of securities as herein provided, such foreign corporation shall transact no new business in this state until the deficiency of securities caused by such sale has been made good by further deposit.

SECTION 8. AMENDMENT. Section 39-16-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-16-10. Deposit of security with ~~state treasurer~~ Bank of North Dakota - Release - How payment made.

1. Security deposited in compliance with the requirements of this chapter must be placed by the commissioner in the custody of the ~~state treasurer~~ Bank of North Dakota and must be applied as in subsection 2 only to the payment of a judgment rendered against the person on whose behalf the deposit was made, for damages arising out of the accident in question in an action at law, begun not later than one year after the date of such accident, or within one year after the date of deposit of any security under subsection 3 of section 39-16-07, and such deposit or any balance thereof must be returned to the depositor or his personal representative, when evidence satisfactory to the commissioner has been filed with him that there has been a release from liability, or a final adjudication of nonliability, or a confession of judgment, or a duly acknowledged agreement, in accordance with subsection 3 of section 39-16-06, or whenever, after the expiration of one year from the date of the accident, or within one year after the date of deposit of any security under subsection 3 of section 39-16-07, the commissioner is given reasonable evidence that there is no such action pending and no judgment rendered in such action left unpaid. Upon certification by the commissioner the ~~state treasurer~~ Bank of North Dakota shall return any security deposited with him under the provisions of this chapter to the person entitled thereto except as provided for in subsection 3.
2. Such deposit must be held by the ~~state treasurer~~ Bank of North Dakota to satisfy, in accordance with the provisions of this chapter, any execution on a judgment issued against the person for whom such deposit was made, for damages, including damages for care and loss of services, because of bodily injury to or death of any person, or for damages because of injury to or destruction of property, including the loss of use thereof, resulting from the ownership, maintenance, use, or operation of a motor vehicle in the accident which resulted in the requirement for the deposit of such security. Money or securities so deposited shall not be subject to attachment or execution unless such attachment or execution arises out of a suit for damages as aforesaid.
3. All payments and refunds made from cash deposits in the ~~state treasury~~ Bank of North Dakota under this chapter must be made upon a warrant-check issued by the office of management and budget after

submission of a voucher signed by the commissioner and approved by the office of the budget.

SECTION 9. AMENDMENT. Section 39-16.1-15 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-16.1-15. Deposit of cash with ~~state treasurer~~ the Bank of North Dakota.

1. Proof of financial responsibility may be evidenced by the certificate of the ~~state treasurer~~ Bank of North Dakota that the person named therein has deposited with ~~him~~ it twenty-five thousand dollars in cash, or securities such as may legally be purchased by savings banks or for trust funds of a market value of twenty-five thousand dollars. The ~~state treasurer~~ Bank of North Dakota may not accept any such deposit and issue a certificate therefor and the commissioner may not accept such certificate unless accompanied by evidence that there are no unsatisfied judgments of any character against the depositor in the county where the depositor resides.
2. Such deposit must be held by the ~~state treasurer~~ Bank of North Dakota to satisfy, in accordance with the provisions of this chapter, any execution on a judgment issued against such person making the deposit for damages, including damages for care and loss of services, because of bodily injury to or death of any person, or for damages because of damages to or destruction of property, including the loss of use thereof, resulting from the ownership, maintenance, use, or operation of a motor vehicle after such deposit was made. Money or securities so deposited shall not be subject to attachment or execution unless such attachment or execution arises out of a suit for damages as aforesaid.

SECTION 10. AMENDMENT. Subsection 1 of section 39-16.1-17 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. The commissioner shall consent to the cancellation of any bond or certificate of insurance or the commissioner shall direct and the ~~state treasurer~~ Bank of North Dakota shall return any money or securities to the person entitled thereto upon the substitution and acceptance of other adequate proof of financial responsibility pursuant to this chapter.

SECTION 11. AMENDMENT. Subsection 1 of section 39-16.1-19 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. The commissioner shall upon request consent to the immediate cancellation of any bond or certificate of insurance, or the commissioner shall direct and the ~~state treasurer~~ Bank of North Dakota shall return to the person entitled thereto any money or securities deposited pursuant to this chapter as proof of financial responsibility, or the commissioner shall waive the requirement of filing proof, in any of the following events:
  - a. At any time after three years from the date such proof was required when, during the three-year period preceding the request, the commissioner has not received record of a conviction or a forfeiture of bail which would require the

- revocation of the license or operating privilege, or both, of the person by or for whom such proof was furnished.
- b. The death of the person on whose behalf such proof was filed or the permanent incapacity of such person to operate a motor vehicle.
  - c. The surrender of his license to the commissioner by the person who has given proof.

Approved March 31, 1989  
Filed March 31, 1989

## CHAPTER 114

SENATE BILL NO. 2216  
 (Committee on Natural Resources)  
 (At the request of the Bank of North Dakota)

### BANK OF NORTH DAKOTA PROPERTY

AN ACT to create and enact a new section to chapter 6-09 and two new sections to chapter 15-08.1 of the North Dakota Century Code, relating to transfer of certain property to and the management of certain property by the Bank of North Dakota; to amend and reenact sections 15-08.1-03, 15-08.1-05, 15-08.1-06, and 15-08.1-08 of the North Dakota Century Code, relating to property held by the Bank of North Dakota or the board of university and school lands; and to repeal 15-08.1-02, 15-08.1-04, and 15-08.1-07 of the North Dakota Century Code, relating to transfer of interests in realty from the Bank of North Dakota.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY 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:

Sale and leasing of acquired agricultural real estate. The sale and leasing of all agricultural real estate acquired by the Bank of North Dakota through foreclosure or deed in lieu of foreclosure must be done in accordance with chapter 15-07 and rules of the board of university and school lands. In the case of a lease by the party holding the right of redemption, that party has the right to purchase at any time.

SECTION 2. AMENDMENT. Section 15-08.1-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-08.1-03. Transfer of future possessory interests in real property. ~~All contracts for deed, tracts of real property, reserved minerals, mineral leases, surface leases, and all possessory interests in real property of whatever nature and derived from whatever source mineral interests~~ that may be acquired by the Bank of North Dakota, together with future increments, accruals, and recoveries coming, arising, or resulting from any of such property or from dealing therewith in whatever form, shall be transferred, assigned, conveyed, and granted to the state of North Dakota, acting by and through the board of university and school lands. All transfers made in accordance with this section are self-executing; no evidence other than the provisions of this chapter shall be required to establish the fact of transfer of title to the state of North Dakota, acting by and through the board of university and school lands. Proper and sufficient delivery of all title documents shall be conclusively presumed.

SECTION 3. AMENDMENT. Section 15-08.1-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:



15-08.1-05. Existing contracts and encumbrances recognized. The transfers made by this chapter shall be subject to all existing contracts, rights, easements, and encumbrances outstanding heretofore made or sanctioned by the Bank of North Dakota and shown in the files and records of the Bank of North Dakota or the board of university and school lands.

SECTION 4. AMENDMENT. Section 15-08.1-06 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-08.1-06. Duties and powers of the board. The board of university and school lands shall manage, operate, and supervise all properties transferred to it by this chapter; shall have full power of sale or lease with respect to any and all such property; may enter into surface or mineral leases; may enforce all rights of the owner by all lawful means in its own name; may make and execute all instruments of release or conveyance as agreements were made heretofore, or are made hereafter; and may establish, charge, and collect fees for the management of property acquired under this chapter. The board shall pay the costs incurred in carrying out its duties under this chapter from the fees and income derived under this chapter.

SECTION 5. AMENDMENT. Section 15-08.1-08 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-08.1-08. Income - Expenses - Reimbursement - Creation of lands and minerals trust. The income derived from the sale, lease, and management of the lands mineral interests acquired by the board of university and school lands pursuant to this chapter must be apportioned to the entity from which the property was acquired. The expenses of sale, lease, and management of the property acquired from each entity must first be deducted from the income apportioned to the respective entity. If the property was acquired from a trust, the remainder after expenses must be credited to that trust. If the property was acquired from the Bank of North Dakota, the remainder after expenses must be credited to the Bank of North Dakota until the Bank has been reimbursed for the total principal, interest, and costs due the Bank at the time of transfer. The balance must, after deducting the expenses of sale, lease, and management of the property, be deposited in a fund to be known as the lands and minerals trust. The corpus and interest of such trust may be expended as the legislative assembly may provide.

SECTION 6. A new section to chapter 15-08.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

Transfer of present possessory interests - Self-executing. All possessory interests in real property other than minerals which were conveyed by this chapter to the state of North Dakota acting by and through the board of university and school lands prior to the effective date of this Act, and which are still held by the board on the effective date of this Act, are hereby conveyed to the state of North Dakota doing business as the Bank of North Dakota. This transfer is self-executing and no evidence other than this Act is required to establish the transfer of title to the Bank.

SECTION 7. A new section to chapter 15-08.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

Validation of conveyances. All conveyances of interests in real property to the board of university and school lands which were effected by this chapter prior to the effective date of this Act are hereby validated and confirmed, and all contracts, agreements, conveyances, or other transfers of interests in real property made by the board of university and school lands under the authority of this chapter prior to the effective date of this Act are hereby validated and confirmed, and are binding upon the Bank of North Dakota.

SECTION 8. REPEAL. Sections 15-08.1-02 and 15-08.1-07 of the North Dakota Century Code, and section 15-08.1-04 of the 1987 Supplement to the North Dakota Century Code are hereby repealed.

Approved April 12, 1989  
Filed April 13, 1989

## CHAPTER 115

HOUSE BILL NO. 1177  
(Committee on Political Subdivisions)  
(At the request of the Bank of North Dakota)

### MUNICIPAL BOND BANK

AN ACT to amend and reenact sections 6-09.4-03, 6-09.4-06, 6-09.4-09, 6-09.4-10, 6-09.4-12, 6-09.4-13, 6-09.4-14, 6-09.4-16, 6-09.4-17, 6-09.4-18, 6-09.4-19, 6-09.4-20, and 6-09.4-21 and subdivision 1 of subsection 1 of section 28-32-01 of the North Dakota Century Code, relating to the North Dakota municipal bond bank; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 6-09.4-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-09.4-03. Definitions. In this chapter, unless the context or subject matter otherwise requires:

1. "Bond bank" means the North Dakota municipal bond bank created by section 6-09.4-04.
2. "Bondholder" or "holder" or any similar term when used with reference to a bond ~~or note~~ of the bond bank means any person who is the bearer of any outstanding ~~bond or note~~ of the bond bank.
3. "Bonds" or "bond" means bonds evidences of indebtedness of the bond bank issued pursuant to this chapter.
4. "Fully marketable form" means a municipal security duly executed and accompanied by an approving legal opinion of a bond counsel whose opinions are generally accepted by the bond bank or other purchasers of municipal bonds securities.
5. "Municipal security" means a bond or evidence of debt an evidence of indebtedness issued by a political subdivision and payable from taxes or from rates, revenues, charges, or assessments, or distributions of revenue pursuant to a state appropriation or statutory or constitutional provision or under currently existing contracts of the bureau of Indian affairs, but does not include bonds or payable from a pledge of property, but does not include an evidence of indebtedness issued pursuant to chapter 40-57, and also means a pledge of property or revenues by a municipal pipeline authority.
6. "Political subdivision" means a political subdivision of the state or an agency or authority of a political subdivision of the state as authorized by law including, but not limited to, a county, city,

school district, township, park district, airport authority, city or county housing authority, municipal parking authority, municipal pipeline authority, irrigation district, board of drainage commissioners, fire protection district, or water resource district and any member-owned association, nonprofit corporation, or similar entity or organization established and organized primarily for operating a rural water distribution system.

7. "Required debt service reserve" means the amount required to be on deposit in the reserve fund.
8. "Reserve fund" means the North Dakota municipal bond bank reserve fund or funds created as provided in section 6-09.4-10.
9. "Revenues" means any or all fees, charges, moneys, profits, payments of principal of or interest on municipal securities and other investments, investment income, revenues, appropriations, and all other income derived or to be derived by the bond bank under this chapter.

SECTION 2. AMENDMENT. Section 6-09.4-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-09.4-06. Lending and borrowing powers generally. The bond bank is authorized to lend money to political subdivisions through the purchase of municipal securities of political subdivisions which, in the opinion of the attorney general, are legally sufficient properly eligible for purchase by the bond bank under this chapter. The bond bank is authorized to lend money to political subdivisions through the purchase and holding of municipal securities of political subdivisions which are in the form of a pledge of property or revenues of a project where the political subdivisions are expressly authorized to pledge the property or revenues with the bond bank. The bond bank may hold such bonds municipal securities for any length of time it finds to be necessary. The bond bank, for the purposes authorized by this chapter, is authorized to issue its bonds payable solely from the funds revenues available to the bond bank which are authorized or pledged for payment of bond bank obligations, and to otherwise assist political subdivisions as provided in this chapter.

Bonds of the bond bank issued under this chapter shall not be in any way a debt or liability of the state and shall not constitute a loan of the credit of the state or create any debt or debts, liability or liabilities, on behalf of the state, or be or constitute a pledge of the faith and credit of the state, but all such bonds shall be payable solely from revenues or funds pledged or available for their payment as authorized in this chapter. Each bond must contain on its face a statement to the effect that the bond bank is obligated to pay such principal or interest, and redemption premium, if any, and that neither the faith and credit nor the taxing power of the state is pledged to the payment of the principal of or the interest on such bonds. Specific funds pledged to fulfill the bond bank's obligations are obligations of the bond bank.

All expenses incurred in carrying out the purposes of this chapter are payable solely from revenues or funds provided or to be provided under this chapter and nothing in this chapter may be construed to authorize the bond bank to incur any indebtedness or liability on behalf of or payable by the state.

SECTION 3. AMENDMENT. Section 6-09.4-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-09.4-09. Pledges. Any pledge of revenue ~~or other moneys~~ made by the industrial commission as security for bond bank bonds is valid and binding from time to time when the pledge is made. The industrial commission may also pledge ~~other~~ assets of the Bank of North Dakota as security for ~~its bond bank bonds~~. The revenues or other moneys so pledged and thereafter received by the bond bank are immediately subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of any such pledge is valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against the bond bank, regardless of whether such parties have notice thereof. Neither the resolution nor any other instrument by which a pledge is created need be filed or recorded, except in the records of the bond bank.

SECTION 4. AMENDMENT. Subsection 1 of section 6-09.4-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. The bond bank shall establish and maintain a reserve fund in which there must be deposited all moneys appropriated by the state for the purpose of such fund, all proceeds of bonds required to be deposited therein by terms of any contract between the bond bank and its bondholders or any resolution of the bond bank with respect to such proceeds of bonds, any other moneys or funds of the bond bank which it determines to deposit therein, and any other moneys made available to the bond bank only for the purposes of such fund from any other source or sources. Moneys in the reserve fund shall be held and applied solely to the payment of the interest on and the principal of bonds and sinking fund payments as the same become due and payable and for the retirement of bonds, including payment of any redemption premium required to be paid when any bonds are redeemed or retired prior to maturity. Moneys in the reserve fund may not be withdrawn therefrom if such withdrawal would reduce the amount in the reserve fund to an amount less than the required debt service reserve, except for payment of interest then due and payable on bonds and the principal of bonds then maturing and payable and sinking fund payments and for the retirement of bonds in accordance with the terms of any contract between the bond bank and its bondholders and for the payments on account of which interest or principal or sinking fund payments or retirement of bonds, other moneys of the bond bank are not then available in accordance with the terms of any such contract. Required debt service reserve shall be an aggregate amount equal to at least the largest amount of money required by the terms of all contracts between the bond bank and its bondholders to be raised in the then current or any succeeding calendar year for the payment of interest on and maturing principal of outstanding bonds, and sinking fund payments required by the terms of any such contracts to sinking funds established for the payment or redemption of such bonds.

SECTION 5. AMENDMENT. Section 6-09.4-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-09.4-12. Participation by bond bank in bonds held by bank ~~on effective date~~. The bond bank may ~~borrow an amount of money, through the issuance of its bonds,~~ issue its bonds from time to time in an amount

sufficient to ~~offset the amount of money the Bank of North Dakota has invested in municipal securities on July 1, 1975~~ purchase municipal securities held by the Bank of North Dakota at a price established by mutual agreement between the bond bank and the Bank of North Dakota.

SECTION 6. AMENDMENT. Section 6-09.4-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-09.4-13. Personal liability. Neither the members of the industrial commission nor any person executing bonds ~~or notes~~ issued pursuant to this chapter is liable personally on such bonds ~~or notes~~ by reason of the issuance thereof.

SECTION 7. AMENDMENT. Section 6-09.4-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-09.4-14. Purchase of bonds of bond bank. The bond bank has the power to purchase bonds of the bond bank out of any funds or money of the bond bank available therefor. The bond bank may hold, cancel, or resell such bonds or notes subject to and in accordance with agreements with holders of its bonds.

SECTION 8. AMENDMENT. Section 6-09.4-16 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-09.4-16. Tax exemptions. All property of the bond bank and all bonds issued under this chapter shall be deemed to be serving essential public and governmental purposes and such property and such bonds ~~and notes~~ so issued, their transfer and the income therefrom, including any profits made on the sale thereof, shall at all times be exempt from ~~taxation within the state, county, and municipal taxes of any and all kinds.~~

SECTION 9. AMENDMENT. Section 6-09.4-17 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-09.4-17. Exemption of property from execution sale. All property of the bond bank is exempt from levy and sale by virtue of an execution and no execution or other judicial process may issue against the same nor may any judgment against the bond bank be a charge or lien upon its property; provided, that nothing contained in this chapter applies to or limits the rights of the holder of any bonds to pursue any remedy for the enforcement of any pledge or lien given by the bond bank on its revenues ~~or other moneys~~. Any action or proceeding in any court to set aside a resolution authorizing the issuance of bonds ~~or notes~~ by the bond bank under this chapter or to obtain any relief upon the ground that such resolution is invalid must be commenced within ten days after the adoption of said resolution by the ~~bond bank industrial commission~~. After the expiration of such period of limitation, no claim for relief or defense founded upon the invalidity of the resolution or any of its provisions may be asserted nor may the validity of the resolution or any of its provisions be open to question in any court on any ground whatever.

SECTION 10. AMENDMENT. Section 6-09.4-18 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-09.4-18. Insurance or guaranty. The bond bank is authorized and empowered to obtain from any department or agency of the United States of

America or nongovernmental insurer any insurance or guaranty, or from a financial institution a letter of credit, to the extent such insurance, guaranty, or letter of credit now or hereafter available, as to, or for, the payment or repayment of, interest or principal, or both, or any part thereof, on any bonds or notes issued by the bond bank, or on any municipal securities of governmental units purchased or held by the bond bank, pursuant to this chapter; and to enter into any agreement or contract with respect to any such insurance or guaranty, or letter of credit and pay any required fee, unless the same would impair or interfere with the ability of the bond bank to fulfill the terms of any agreement made with the holders of its bonds.

SECTION 11. AMENDMENT. Section 6-09.4-19 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-09.4-19. Remedies on default of municipal securities. In the event of default by a political subdivision in the payment of interest on or principal of any municipal securities owned or held by the bond bank, the bond bank shall may proceed to enforce payment, pursuant to applicable provisions of law, of such interest or principal or other amount then due and payable.

SECTION 12. AMENDMENT. Section 6-09.4-20 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-09.4-20. Form of municipal securities and investments. All municipal securities or other investments of moneys of held by the bond bank as permitted or provided for under this chapter must at all times be purchased and held in fully marketable form, subject to provision for any registration in the name of the bond bank. All municipal securities at any time purchased, held, or owned by the bond bank must, upon delivery to the bond bank, be accompanied by documentation, including approving legal opinion of a bond counsel whose opinions are generally accepted by purchasers of municipal bonds, certification, and guaranty as to signatures, and certification as to absence of litigation, in fully marketable form and accompanied by such other or further documentation as shall from time to time be required in the municipal bond market by the bond bank.

SECTION 13. AMENDMENT. Section 6-09.4-21 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-09.4-21. Presumption of validity. After issuance, all bonds or notes of the bond bank are conclusively presumed to be fully authorized and issued under the laws of the state, and any person or governmental unit is estopped from questioning their authorization, sale, issuance, execution, or delivery by the bond bank.

SECTION 14. AMENDMENT. Subdivision 1 of subsection 1 of section 28-32-01 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. The industrial commission with respect to the activities of the Bank of North Dakota, the North Dakota housing finance agency, the North Dakota municipal bond bank, and the North Dakota mill and elevator association.

SECTION 15. EMERGENCY. This Act is declared to be an emergency measure.

Approved March 8, 1989  
Filed March 8, 1989

## CHAPTER 116

SENATE BILL NO. 2035  
 (Legislative Council)  
 (Interim Budget Committee on Government Finance)

### VARIOUS CONTINUING APPROPRIATIONS ELIMINATED

AN ACT to amend and reenact sections 6-09.7-01, 19-01-07, 20.1-06-05, 37-01-38, 54-38-09, and 54-44-04.4 of the North Dakota Century Code, relating to continuing appropriations of the fuel production facility loan program of the Bank of North Dakota, the department of health and consolidated laboratories contract servicers fund, moneys obtained from removing undesirable fish, the national guard operating fund, and revenues of the alcohol and drug abuse program of the department of human services, and to payment of unemployment compensation claims; and to repeal sections 6-07-46 and 54-44-04.3 of the North Dakota Century Code, relating to continuing appropriations of unclaimed dividends and other money delivered to the department of banking and financial institutions and unemployment compensation assessments of the office of management and budget.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 6-09.7-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-09.7-01. Guarantee loan program - Administration - Advisory board. The Bank of North Dakota shall administer the state guarantee loan program as provided in this chapter. The advisory board of directors to the Bank of North Dakota appointed pursuant to chapter 6-09.1 shall act in an advisory capacity concerning the program. ~~The Bank, upon recommendation of the advisory board, and subject to approval of the industrial commission, may expend moneys from the interest earned from the principal balance in the reserve fund established pursuant to this chapter as may be necessary to implement the program.~~

SECTION 2. AMENDMENT. Section 19-01-07 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

19-01-07. Fees - Disposition. All revenues received and fees and charges collected under ~~the provisions of~~ this title ~~shall must~~ be properly accounted for daily by the department, and recorded by counties from which the fees and charges are received. The department shall forward all moneys so collected to the state treasurer monthly, and the treasurer shall place the same in the state general fund of the state. Funds may be accepted from cities, counties, states, federal agencies, and private organizations for contract services of analytical and inspection work. Such funds ~~shall must~~ be remitted by the department to the state treasurer and deposited in a special account in the state treasury, designated the "consolidated the operating fund of the department of health and consolidated laboratories contract servicers fund" to be used exclusively to carry out the intent and



purposes of this section: Such funds are retained by the department for payment of expenditures incurred in rendering such services and are hereby appropriated to the department to be disbursed by the department in accordance with the intent and purposes of this section: Funds in excess of fifty thousand dollars received and disbursed during any biennial period pursuant to this section shall require emergency commission approval.

SECTION 3. AMENDMENT. Section 20.1-06-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

20.1-06-05. Removing undesirable fish. The commissioner, any person authorized by ~~him the commissioner~~, or anyone contracting with ~~him the commissioner~~, may kill or take fish from waters of this state in any manner prescribed by the commissioner when in ~~his the commissioner's~~ judgment it is in the best interest of public fishing. All such fish shall be disposed of at the commissioner's discretion. Money derived from such disposal ~~may must~~ be used to defray removal costs: ~~Money so derived in excess of removal costs is hereby appropriated deposited in the state treasury and credited to the game and fish fund.~~ All money received and expended shall be itemized, and written records thereof ~~shall must~~ be kept in the commissioner's office. Any person desiring to contract with the commissioner to take such fish, as determined by the commissioner, from the waters of this state, by means of not more than five hoop-nets or traps, not more than five setlines of ten hooks, or not more than one hundred feet [30.48 meters] of seine, ~~shall must~~ be awarded the contract upon payment of the appropriate fee. These contracts ~~shall must~~ not specify the disposition of the fish.

SECTION 4. AMENDMENT. Section 37-01-38 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

37-01-38. National guard operating fund. All income, collections, and reimbursements of the North Dakota national guard from the United States and from armory rentals must be deposited in the state treasury and credited to a national guard operating fund. ~~All such income, collections, and reimbursements are hereby appropriated for the maintenance and operation of the national guard and must be expended in the manner and for the purposes provided by law.~~ The state treasurer, upon order of the director of the office of management and budget, shall make semiannual transfers from the general fund appropriation for the maintenance of the national guard to the national guard operating fund.

SECTION 5. AMENDMENT. Section 54-38-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-38-09. Reimbursement for treatment - Rates - Disposition of revenue and aid - Expenditures - Appropriation. The department, insofar as may be possible, shall seek to be reimbursed by the patient or persons liable for the support of the patient for any or all items of expense incurred by the department in connection with the care, custody, treatment, and rehabilitation and may make such financial arrangements concerning necessary expenses as it deems best. No patient ~~shall may~~ be charged at a rate greater than actual cost of the care, treatment, or rehabilitation furnished ~~such the~~ patient. The department may accept funds, property, or services from any source, and all revenue received from gifts and grants-in-aid ~~is hereby appropriated and shall must~~ be used in carrying out the provisions of this chapter deposited in the state treasury and may be spent only pursuant to an appropriation first made by the legislative assembly.

SECTION 6. AMENDMENT. Section 54-44-04.4 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-44-04.4. Payment of unemployment compensation claims. The office of management and budget ~~from the appropriations made in section 54-44-04.3~~ shall quarterly reimburse ~~the~~ job service North Dakota for the amount of actual claims paid by ~~the~~ job service North Dakota to eligible recipients previously employed by state departments and institutions. ~~It shall be the responsibility of each~~ Each department and institution to shall verify and certify the validity of each unemployment claim prior to the reimbursement of funds to ~~the~~ job service North Dakota.

SECTION 7. REPEAL. Sections 6-07-46 and 54-44-04.3 of the North Dakota Century Code are hereby repealed.

Approved March 28, 1989  
Filed March 28, 1989

## CHAPTER 117

HOUSE BILL NO. 1211  
 (Committee on Agriculture)  
 (At the request of the Bank of North Dakota)

## FARMERS OPERATING LOAN PROGRAM

AN ACT to amend and reenact sections 6-09.9-02, 6-09.9-03, and 6-09.9-04 of the North Dakota Century Code, relating to operating loans to farmers and agribusinesses; and to repeal section 6-09.9-06 of the North Dakota Century Code, relating to participation interests in operating loans to agribusinesses.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 6-09.9-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-09.9-02. Definitions. In this chapter, unless the context or subject matter otherwise requires:

1. ~~"Agribusiness" means a locally owned business operation, located within this state, which is primarily engaged in providing services, materials, or equipment for the production, processing, or transportation of agriculture products.~~
2. "Farmer" means a resident of this state who owns or operates an existing farm or ranch operation, and has a debt-to-asset ratio of fifty percent or greater. The industrial commission may adopt additional eligibility criteria in determining who is a farmer eligible for loans under this chapter.
- 3- 2. "Operating loan" means a loan or extension of credit with a term of one year or less made by a nongovernmental financial institution to a farmer ~~or agribusiness~~ for the operation of an existing farm or ranch operation ~~or agribusiness~~. An operating loan includes a ~~farmer's~~ farmers home administration ~~or small business administration~~ subordinated operating loan and guaranteed operating loan, and may be further defined by rule of the industrial commission.

SECTION 2. AMENDMENT. Section 6-09.9-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-09.9-03. Operating loans - Participation by the Bank of North Dakota.

1. The Bank of North Dakota shall make available an appropriate amount of funds to purchase participation interests in operating loans to farmers ~~and agribusinesses~~. Interest charged on a participation interest purchased by the Bank under this section may not exceed

eight percent per annum, plus one percent less than the Bank's base rate, as it may be established from time to time. The Bank may charge necessary and reasonable fees as determined by the industrial commission.

2. The amount of a participation interest purchased by the Bank under this section may not be greater than sixty-five percent of the loan amount or two hundred thousand dollars, whichever is less. The term of any participation interest purchased under this section may not exceed one year.
3. The Bank may not purchase a participation interest in a loan under this section until verification is received establishing that the farmer has obtained adequate crop or hail insurance which has been assigned to the primary lender, or that adequate insurance, as determined by the Bank, has been obtained by the agribusiness and the originating financial institution shall determine whether a borrower must obtain insurance on property pledged as security for a loan under this chapter.

SECTION 3. AMENDMENT. Section 6-09.9-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-09.9-04. Participation loans by private financial institutions.

1. The industrial commission may adopt rules relating to the maximum rate of interest charged on the portion of the operating loan retained by a participating financial institution.
2. All participation interests purchased are subject to the review and approval of the Bank.
3. The full amount of a loan qualifying for participation must be evidenced by one master note drawn by the financial institution to reflect both interest rates and to provide a schedule of payments to the financial institution and the Bank of North Dakota based upon pro rata shares of the loan participation.

\* SECTION 4. REPEAL. Section 6-09.9-06 of the North Dakota Century Code is hereby repealed.

Approved April 3, 1989  
Filed April 3, 1989

\* NOTE: Section 6-09.9-06 was also repealed by section 11 of Senate Bill No. 2252, chapter 110.

## CHAPTER 118

HOUSE BILL NO. 1146  
(Committee on State and Federal Government)  
(At the request of the Bank of North Dakota)

**BANK OF NORTH DAKOTA INTEREST SUBSIDY FUND**

AN ACT to amend and reenact section 6-09.10-06 of the North Dakota Century Code, relating to the interest subsidy revolving loan fund maintained at the Bank of North Dakota.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 6-09.10-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-09.10-06. Fund - Appropriation.

1. A revolving fund must be maintained at the Bank of North Dakota for the subsidy of interest rates on home-quarter purchases, as provided in this chapter. All moneys transferred into the fund, interest upon moneys in the fund, and payments to the fund are hereby appropriated for the purpose of providing subsidies in accordance with this chapter.
2. The board may petition the emergency commission for a transfer from the state contingency fund whenever it appears to the board that the moneys remaining in the fund are not sufficient to meet demands on the fund. The emergency commission may grant the transfer request, or so much thereof as may be necessary, if it finds that an emergency situation exists in the industry of farming, due to increasing numbers of farm foreclosures.
3. The fund must be administered and supervised by the Bank of North Dakota. The Bank may deduct a service fee for administering the fund from payments received on the fund. The board and the Bank of North Dakota shall enter into an agreement through which the Bank shall supervise and monitor the payment and repayment of interest subsidies approved by the board.

Approved March 31, 1989

Filed March 31, 1989

## CHAPTER 119

HOUSE BILL NO. 1181  
 (Committee on Agriculture)  
 (At the request of the Bank of North Dakota)

### FINANCIAL ASSISTANCE FOR FAMILY FARMERS

AN ACT to amend and reenact sections 6-09.11-01, 6-09.11-03, 6-09.11-04, 6-09.11-06, 6-09.11-07, and 6-09.11-09 of the North Dakota Century Code, relating to financial assistance for family farmers; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 6-09.11-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-09.11-01. Definitions. In this chapter, unless the context or subject matter otherwise requires:

1. ~~"Economic farm unit" means a farm capable of producing income sufficient to support the operator of the farm and the farmer's family, if any, and to repay moneys borrowed under this chapter to establish the unit within the term of the loan.~~
- 2- "Family farm" means agricultural real estate operated and owned or leased by a farmer, or other organization authorized to own or lease land used for farming or ranching under chapter 10-06, where the majority of the labor necessary to operate the farm is performed by the farmer and the farmer's family, if any.
- 3- 2. "Farmer" means a resident of North Dakota involved in whose principal occupation is or will be the production of an agricultural commodity or livestock on a family farm or who will be involved in the production of an agricultural commodity on a family farm if granted a loan, and who meets the definition of "farmer" as provided in paragraph 2 of subdivision b of subsection 45 of section 57-02-08.

SECTION 2. AMENDMENT. Section 6-09.11-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-09.11-03. Loans - Participation by the Bank of North Dakota.

1. The Bank of North Dakota may make available an appropriate amount of funds to purchase participation interests in loans made by financial institutions for the purposes as set forth in section 6-09.11-04. Interest charged on a participation interest purchased by the Bank under this section may not exceed eight percent per annum, plus for the first five years of the loan. For the remaining time period of the loan, interest charged by the Bank may

not exceed one percent less than the Bank's base rate, as it may be established from time to time. For loans under this section, the Bank may not charge an interest rate exceeding eleven percent at any time during the course of the loan. The Bank may charge for necessary and reasonable fees as determined by the industrial commission.

2. The amount of a participation interest purchased by the Bank under this section may not be greater than the lesser of seventy-five thousand dollars or ninety percent of the loan amount.

\* SECTION 3. AMENDMENT. Section 6-09.11-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-09.11-04. Loans to farmers - Purposes.

1. The following purposes are eligible to be funded by bond proceeds or loan participations under this chapter:
  - a. Purchasing ~~or leasing~~ agricultural real estate.
  - b. Constructing, repairing, altering, or adding to any farm buildings on agricultural real estate owned or purchased by the farmer.
  - c. Making permanent improvements to agricultural real estate owned or purchased by the farmer for the purpose of increasing the productive value of the land or promoting conservation of the soil.
  - d. Purchasing farm equipment.
  - e. Purchasing livestock.
  - f. Paying off and discharging mortgages, encumbrances, and other charges or liens against or on the agricultural real ~~estate or~~ personal property owned or purchased by the farmer.
  - g. Purchasing the farmer's home-quarter pursuant to chapter ~~6-10~~ 6-09.10.
  - h. Restructuring operating debt carryover.

SECTION 4. AMENDMENT. Section 6-09.11-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-09.11-06. Loan restrictions.

1. ~~Except for loans made to purchase the farmer's home quarter, no loan may be made under this chapter unless the farm is an economic farm unit or it is reasonably expected that the farm unit will, as a result of the loan, constitute an economic farm unit.~~
2. ~~A loan to a farmer under this chapter may not exceed fifty thousand dollars. A farmer may borrow money under this chapter in a lump sum or in installments.~~

\* NOTE: Section 6-09.11-04 was also amended by section 2 of Senate Bill No. 2056, chapter 69.

- 3- A loan under this chapter may not exceed ninety percent of the appraised value of the security given for the loan, with the actual percentage to be determined by the ~~industrial commission~~ Bank of North Dakota. The ~~industrial commission~~ Bank may do all things and acts, may require such security, and may establish additional terms and conditions as is determined necessary to ~~make~~ purchase a participation interest in a loan under this chapter.
- 4- 2. Except as otherwise provided:
- a. A loan under this chapter must be repayable in installments and may have a term up to twenty years.
  - b. All or part of a loan under this chapter may be repaid ~~on any day on which an installment is due at any time~~, subject to conditions set forth in the mortgage.

SECTION 5. AMENDMENT. Section 6-09.11-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-09.11-07. Insurance requirements. ~~Buildings on land given as security for a loan must, while any part of the loan remains unpaid, be insured against fire or casualty for their full insurable value, and the insurance policy must be assigned as collateral security. Livestock, crops on land, and other chattels given as security for a loan must be insured against risk~~ The Bank of North Dakota and the originating financial institution shall determine whether a borrower must obtain insurance on property pledged as security for a loan under this chapter.

SECTION 6. AMENDMENT. Section 6-09.11-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-09.11-09. Postponement of repayment of principal. If the income of a borrower is reduced in any year due to causes beyond the borrower's control to the extent that the borrower is unable to make a payment on a loan under this chapter, the ~~industrial commission~~ Bank of North Dakota and the originating lender may defer the payment of the principal sum due in that year and the term of the loan may be extended for the period of deferment.

SECTION 7. EMERGENCY. This Act is declared to be an emergency measure.

Approved April 7, 1989  
Filed April 7, 1989



## CHAPTER 120

SENATE BILL NO. 2286  
(Senators Yockim, Waldera, Maixner)  
(Representatives Gerhardt, Schmidt)

### OIL AND GAS DEVELOPMENT LOANS

AN ACT to create and enact a new chapter to title 6 of the North Dakota Century Code, relating to oil and gas development loans by the Bank of North Dakota.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

Definitions. In this chapter, unless the context otherwise requires:

1. "Developer" means a resident of this state or a corporation generating fifty percent or more of its income within this state.
2. "Oil and gas development" means oil and gas well reworking operations; oil and gas well recompletion operations; oil and gas enhanced recovery operations, including secondary and tertiary recovery operations; and purchase of producing oil and gas wells.
3. "Oil and gas development project" means a project financed under this chapter.

Bank of North Dakota may make loans for oil and gas development projects. The North Dakota industrial commission shall establish a program through the Bank of North Dakota for the purpose of participating in loans made by North Dakota financial institutions for oil and gas development projects undertaken by developers within the state. The Bank's total participation in any one loan may not exceed one hundred thousand dollars. The interest on a loan may not be greater than the Bank's base rate as in effect from time to time, and may float.

Approved April 12, 1989  
Filed April 13, 1989