

Introduced by

Industry, Business and Labor Committee

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

1 A BILL for an Act to create and enact a new section to chapter 6-06 of the North Dakota
2 Century Code, relating to corrective actions concerning undercapitalized credit unions.

3 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

4 **SECTION 1.** A new section to chapter 6-06 of the North Dakota Century Code is
5 created and enacted as follows:

6 **Prompt corrective action.** Whenever the state credit union board determines that any
7 credit union under its supervision does not have adequate capital, the state credit union board,
8 without a hearing, may declare that the credit union is either undercapitalized, significantly
9 undercapitalized, or critically undercapitalized. For the purposes of this section, a credit union
10 is undercapitalized if it either has a net worth ratio of less than six percent or fails to meet any
11 applicable risk-based net worth requirement established by the board by rule. A credit union is
12 significantly undercapitalized if it has a net worth ratio of less than four percent or has a net
13 worth ratio of less than five percent and fails to submit an acceptable net worth restoration plan
14 or materially fails to implement a plan accepted by the board. A credit union is critically
15 undercapitalized if it has a net worth ratio of less than two percent or such higher net ratio, not
16 exceeding three percent, as the board may specify. The board, by order, may require a credit
17 union that is undercapitalized to annually set aside as net worth an amount equal to up to
18 four-tenths percent of its total assets. Additionally, the board may require an undercapitalized
19 credit union to submit an acceptable net worth restoration plan to the board within the time
20 allowed by the board. For a significantly undercapitalized credit union that has no reasonable
21 prospect of becoming adequately capitalized or a critically undercapitalized credit union, the
22 board may take possession of the credit union, appoint a conservator or liquidating agent for
23 the credit union, or take such other action as the board determines would be appropriate to
24 resolve the problems of the credit union.

1 A credit union that is the subject of such a board declaration may ask for a hearing
2 before the board within five days after service upon it of the board's declaration. The
3 application for a hearing must be granted and the hearing must be held not later than ten days
4 after the application is filed. A complete record of the hearing must be established and
5 maintained. On the basis of the hearing, the board shall enter a final order. The institution may
6 appeal the order to the district court of Burleigh County, within ten days after the order is served
7 upon it. The appeal is governed by chapter 28-32.