



APPENDIX B  
Timothy J. Karsky  
*Commissioner*

Robert J. Entringer  
*Assistant Commissioner*

Douglas D. Grenz  
*Chief Examiner - Banks*

Corey J. Krebs  
*Chief Examiner - Credit Unions*

CSBS ACCREDITED 1993  
NASCUS ACCREDITED 2000

## MEMORANDUM

**DATE:** September 11, 2008

**TO:** Senator Tom Fischer, Chairman  
Administrative Rules Committee

**FROM:** Robert J. Entringer, Assistant Commissioner *Robert J. Entringer*

**SUBJECT:** Rules Published in the October 2008  
Supplements of the North Dakota Administrative Code

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A brief description of the rules that have been established by the North Dakota Department of Financial Institutions and answers to questions to be asked at the meeting are as follows:

### Chapters 13-03-02 and 13-03-16

The amendment to Chapter 13-03-02 has to do with extending the length of term on real estate loans from 30 years to 40 years for state-chartered credit unions and 13-03-16 deals with construction and development lending; more specifically the equity investment required of the owner in the project being financed.

1. Whether the rules resulted from statutory changes made by the Legislative Assembly.

*Amendments to this Chapter were requested by a North Dakota state-chartered credit union and the North Dakota Credit Union League. They did not result from statutory changes made by the Legislative Assembly.*

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2. Whether the rules are related to any federal statute or regulation.

*The rule does not relate to any federal statute or regulation.*

3. A description of the rulemaking procedure followed in adopting the rules, e.g., the type of public notice given and the extent of public hearings held on the rules.

*Initially the State Credit Union Board at a Special Meeting held December 27, 2007, reviewed the proposed amendments to Chapter 13-03-02 concerning the length of the amortization term for real estate loans from a state-chartered credit union and Chapter 13-03-16 dealing with the minimum equity interest a borrower must have for a construction and development loan from a state-chartered credit union. Notice was sent out on December 28, 2007, to all state and federally-chartered credit unions in the North Dakota, the National Credit Union Administration, the North Dakota Bankers Association, the North Dakota Credit Union League, the Office of the Attorney General, the North Dakota Association of Realtors, the State Credit Union Board members, and the National Association of State Credit Union Supervisors. A copy of the full notice and the proposed rules was also sent on December 27, 2007, to the Legislative Council. Publication in the official county newspapers occurred between January 9-22, 2008. The public hearing was held on the proposed amendments on February 11, 2008, in the Office of the Department of Financial Institutions, before Commissioner Timothy Karsky who acted as the hearing officer. The final comment period ended on February 22, 2008. The rules were sent to the Attorney General's Office for examination as to the legality on March 17, 2008; on May 6, 2008, the Attorney General issued an opinion that the rules are in substantial compliance with N.D.C.C. ch. 28-32 and were approved as to their legality. The rules were adopted in final form at the June 19, 2008, State Credit Union Board meeting and were filed with the Legislative Council on June 24, 2008.*

4. Whether any person has presented a written or oral concern, objection, or complaint for agency consideration with regard to these rules. If so,

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describe the concern, objection, or complaint, and the response of the agency, including any change made to the rules to address the concern, objection, or complaint. Please summarize the comments of any person who offered comments at the public hearing on this rule.

*The Department of Financial Institutions did not receive any concerns, objections or complaints related to the amendments. At the administrative hearing, Greg Tschider, Counsel for the North Dakota Credit Union League, offered testimony in support of the rules as did Steve Davis who represented the Governmental Affairs Committee of the Mid-America Credit Union Association.*

5. The approximate cost of giving public notice and holding any hearing on the rules and the approximate cost (not including staff time) of developing and adopting the rules.

*The cost for publication of the notice was \$1,797.00; the hearing was very short in duration and was conducted by Department staff. The amendments entailed changing two words and the cost was nominal.*

6. An explanation of the subject matter of the rules and the reasons for adopting those rules.

*Section 13-03-02-03 of the N.D. Admin. Code limits the term of a mortgage for a state-chartered credit union to 30 years; the change would allow the state-chartered credit union to extend mortgages for a 40 year term. As Mr. Tschider indicated in his oral testimony at the hearing the landscape has changed and credit unions are getting requests by their members for the longer term mortgages.*

*With regard to Section 13-03-16-05, N.D. Admin. Code, the change lowered to equity investment of the property owner from 35% to 25% to make it consistent with federal law.*

7. Whether a regulatory analysis was required by North Dakota Century Code Section 28-32-08 and whether that regulatory analysis was issued.

*A regulatory analysis was not required nor issued.*

8. Whether a regulatory analysis or economic impact statement of impact on small entities was required by NDCC Section 28-32-08.1 and whether that regulatory analysis or impact statement was issued.

*The proposed amendments are not expected to have an adverse economic impact on small credit unions as it will only expand the term of mortgages they are allowed to offer and will harmonize state rules with federal law.*

9. Whether a constitutional takings assessment was prepared as required by NDCC Section 28-32-09.

*No constitutional takings assessment was required.*

10. If these rules were adopted as an emergency (interim final) rules under North Dakota Century Code Section 28-32-03, provide the statutory grounds from that section for declaring the rules to be an emergency and the facts that support the declaration and provide a copy of the Governor's approval of the emergency status of the rules.

*The rules were not adopted as an emergency rule.*

RJE:sr