

**Sixty-first Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 6, 2009**

HOUSE BILL NO. 1152
(Industry, Business and Labor Committee)
(At the request of the Department of Financial Institutions)

AN ACT to amend and reenact section 6-01-04.1 of the North Dakota Century Code, relating to the removal of officers, directors, and employees of financial corporations or institutions.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 6-01-04.1 of the North Dakota Century Code is amended and reenacted as follows:

6-01-04.1. Removal of officers, directors, and employees of financial corporations or institutions.

1. The department of financial institutions or the board may issue and serve, upon any current or former officer, director, or employee of a financial corporation or institution subject to its jurisdiction and upon ~~the~~ a financial corporation or institution involved, a complaint stating the basis for the board's or the department's belief that the current or former officer, director, or employee is engaging, or has engaged, in any of the following conduct:
 - a. Violating any law, regulation, board order, or written agreement with the board;
 - b. Engaging or participating in any unsafe or unsound practice; or
 - c. Performing any act of commission or omission or practice which is a breach of trust or a breach of fiduciary duty.
2. The complaint must contain a notice of opportunity for hearing pursuant to 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 current or former officer, director, or employee of ~~the~~ a financial corporation or institution. The current or former officer, director, or employee may waive the thirty-day notice requirement.
3. If no hearing is requested within twenty days of the date the complaint is served upon the current or former officer, director, or employee, or if a hearing is held and the board finds that the record so warrants, and if the board finds that ~~the~~ a financial corporation or institution has suffered or will probably suffer significant loss or other significant damage or that the interest of its depositors, shareholders, members, or creditors could be seriously prejudiced, it may enter an order suspending or removing the current or former officer, director, or employee.
4. A contested or default suspension or removal order is effective immediately upon service on the current or former officer, director, or employee and upon ~~the~~ a financial corporation or institution. A consent order is effective as agreed.
5. Any current or former officer ~~or~~, director, or employee suspended or removed from ~~office~~ any position pursuant to this section is not eligible, while under suspension or removal, ~~for reelection~~ to occupy any ~~official~~ position within a financial corporation or institution in North Dakota ~~for a period not exceeding three years from the effective date of the suspension or removal~~ until the suspension or removal is terminated by the department of financial institutions or board.

6. When any current or former officer, director, employee, or other person participating in the conduct of the affairs of a financial corporation or institution is charged with a felony in state or federal court, involving dishonesty or breach of trust, the commissioner may immediately suspend the person from office or prohibit the person from any further participation in ~~the~~ a financial corporation's or institution's affairs. The order is effective immediately upon service of the order on ~~the~~ a financial corporation or institution and the person charged, and remains in effect until the criminal charge is finally disposed of or until modified by the board. If a judgment of conviction, a federal pretrial diversion, or similar state order or judgment is entered, the board may order that the suspension or prohibition be made permanent. A finding of not guilty or other disposition of the charge does not preclude the commissioner or the board from pursuing administrative or civil remedies.

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Sixty-first Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1152.

House Vote: Yeas 89 Nays 0 Absent 5

Senate Vote: Yeas 43 Nays 0 Absent 4

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 2009.

Approved at _____ M. on _____, 2009.

Governor

Filed in this office this _____ day of _____, 2009,

at _____ o'clock _____ M.

Secretary of State