

Sixty-first  
Legislative Assembly  
of North Dakota

## ENGROSSED HOUSE BILL NO. 1152

Introduced by

Industry, Business and Labor Committee

(At the request of the Department of Financial Institutions)

1 A BILL for an Act to amend and reenact section 6-01-04.1 of the North Dakota Century Code,  
2 relating to the removal of officers, directors, and employees of financial corporations or  
3 institutions.

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

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

7 **6-01-04.1. Removal of officers, directors, and employees of financial**  
8 **corporations or institutions.**

- 9 1. The department of financial institutions or the board may issue and serve, upon  
10 any current or former officer, director, or employee of a financial corporation or  
11 institution subject to its jurisdiction and upon ~~the~~ a financial corporation or  
12 institution involved, a complaint stating the basis for the board's or the  
13 department's belief that the current or former officer, director, or employee is  
14 engaging, or has engaged, in any of the following conduct:
- 15 a. Violating any law, regulation, board order, or written agreement with the  
16 board;
  - 17 b. Engaging or participating in any unsafe or unsound practice; or
  - 18 c. Performing any act of commission or omission or practice which is a breach  
19 of trust or a breach of fiduciary duty.
- 20 2. The complaint must contain a notice of opportunity for hearing pursuant to chapter  
21 28-32. The date for the hearing must be set not less than thirty days after the date  
22 the complaint is served upon the current or former officer, director, or employee of  
23 ~~the~~ a financial corporation or institution. The current or former officer, director, or  
24 employee may waive the thirty-day notice requirement.

- 1           3. If no hearing is requested within twenty days of the date the complaint is served  
2           upon the current or former officer, director, or employee, or if a hearing is held and  
3           the board finds that the record so warrants, and if the board finds that ~~the~~ a  
4           financial corporation or institution has suffered or will probably suffer significant  
5           loss or other significant damage or that the interest of its depositors, shareholders,  
6           members, or creditors could be seriously prejudiced, it may enter an order  
7           suspending or removing the current or former officer, director, or employee.
- 8           4. A contested or default suspension or removal order is effective immediately upon  
9           service on the current or former officer, director, or employee and upon ~~the~~ a  
10          financial corporation or institution. A consent order is effective as agreed.
- 11          5. Any current or former officer ~~or~~, director, or employee suspended or removed from  
12          ~~office~~ any position pursuant to this section is not eligible, while under suspension  
13          or removal, ~~for reelection~~ to occupy any ~~official~~ position within a financial  
14          corporation or institution in North Dakota ~~for a period not exceeding three years~~  
15          ~~from the effective date of the suspension or removal~~ until the suspension or  
16          removal is terminated by the department of financial institutions or board.
- 17          6. When any current or former officer, director, employee, or other person  
18          participating in the conduct of the affairs of a financial corporation or institution is  
19          charged with a felony in state or federal court, involving dishonesty or breach of  
20          trust, the commissioner may immediately suspend the person from office or  
21          prohibit the person from any further participation in ~~the~~ a financial corporation's or  
22          institution's affairs. The order is effective immediately upon service of the order on  
23          ~~the~~ a financial corporation or institution and the person charged, and remains in  
24          effect until the criminal charge is finally disposed of or until modified by the board.  
25          If a judgment of conviction, a federal pretrial diversion, or similar state order or  
26          judgment is entered, the board may order that the suspension or prohibition be  
27          made permanent. A finding of not guilty or other disposition of the charge does not  
28          preclude the commissioner or the board from pursuing administrative or civil  
29          remedies.