

June 2009

## **TITLE 6**

### **Banks and Banking**

### **Summary of Bills Enacted by 2009 Legislative Assembly**

This memorandum summarizes 2009 legislation primarily affecting North Dakota Century Code Title 6. Bills primarily affecting other titles may also affect this title, but those bills are not summarized in this memorandum.

The legislation relating to banks and banking may be classified in these subject areas: financial institutions and credit unions, programs, and miscellaneous.

#### **FINANCIAL INSTITUTIONS AND CREDIT UNIONS**

**House Bill No. 1096** provides a banking institution that seeks to discontinue operation of a separate facility may notify the Commissioner of Financial Institutions and the commissioner may order approval of the cancellation. Additionally, the bill provides that instead of requiring a banking institution to publish notice of an application for a separate banking facility, the institution shall provide a board-approved notice.

**House Bill No. 1143** amends the law requiring credit unions to make reports to the Commissioner of Financial Institutions, providing credit unions may submit their call reports to the commissioner by electronic submission, and increasing the fine for late filings of call reports.

**House Bill No. 1152** expands the authority of the Department of Financial Institutions, State Banking Board, and State Credit Union Board to take disciplinary actions against officers, directors, and employees of financial corporations and financial institutions to include taking disciplinary actions against former officers, directors, and employees.

**House Bill No. 1154** creates a definition of "Tier 1, Tier 2, and Tier 3 capital" for purposes of the banks and banking law.

**House Bill No. 1155** allows for the guaranty of payment or collection of a loan made upon real estate in the case of the sale of a residential mortgage on the secondary market.

**House Bill No. 1207** provides the chapter of law relating to financial institution disclosure of financial information does not apply to a disclosure made by the Disciplinary Board of the North Dakota Supreme Court, or similar entity of another state, with respect to dishonor of an instrument issued against a trust account maintained by an attorney or law firm.

**Senate Bill No. 2220** amends the law relating to a banking account owned by a minor, providing a bank may honor all payment orders made by a minor on an account for which the minor is listed as an account owner.

**Senate Bill No. 2240** provides an industrial bank may not accept deposits or make loans at a commercial location unless the industrial bank is owned by a financial holding company.

**Senate Bill No. 2281** removes the requirement that a bank's solicitation and receipt of deposits for custodial accounts for the purpose of health savings or similar health care cost funding accounts, retirement fund contracts, or pension programs be funded only in savings accounts or certificates of deposit.

#### **PROGRAMS**

**House Bill No. 1202** removes the July 31, 2009, expiration date from the law authorizing the Bank of North Dakota to invest its funds in alternative and venture capital investments and early-stage capital funds and expands the authorization to allow the investments to be used for entrepreneurship awards.

**House Bill No. 1324** repeals a cross-referenced section relating to definitions used on the long-form income tax form and imports the current definition of "beginning farmer" for the beginning farmer loan guarantee program.

**Senate Bill No. 2100** modifies the maximum amount of guarantees the Bank of North Dakota may have under the beginning entrepreneur loan guarantee program from allowing the Bank to guarantee up to \$8 million in loans

outstanding to providing the outstanding guarantees at the time of issuance may not exceed 5 percent of the Bank's Tier 1 capital.

**Senate Bill No. 2103** removes the July 31, 2009, expiration date from the law authorizing the Bank of North Dakota to invest its funds in North Dakota alternative and venture capital investments and early-stage capital funds.

**Senate Bill No. 2126** removes the statutory net worth dollar limit for eligibility of a farmer to be considered a farmer under the Family Farm Survival Act and the net worth eligibility requirement for a loan under the Financial Assistance for Family Farmers Program and instead allows the Bank of North Dakota to set the net worth limits, removes the statutory dollar limit on the Family Farm Survival Act and the Financial Assistance for Family Farmers Program for purchases of participation interests in loans and instead allows the Bank to set the limits, and removes the statutory maximum loan amount for a loan under the Financial Assistance for Family Farmers Program and instead allows the Bank to set the limit.

**Senate Bill No. 2225** expands the definition of "business" and thereby the authorized recipients of funding under the partnership in assisting community expansion program by including a person that provides child care.

**Senate Bill No. 2332** creates two new loan funds to be administered by the Bank of North Dakota--the health information technology loan fund and the health information technology planning loan fund--which provide loans to health care providers to purchase and upgrade electronic health record technology, train personnel in its use, and improve security of information exchange and provide low-interest loans to health care entities to assist those entities in improving health information technology infrastructure.

### **MISCELLANEOUS**

**Senate Bill No. 2136** increases from \$200,000 to \$500,000 the amount the Public Finance Authority may lend to a political subdivision or other qualifying borrower under the capital financing program without prior approval of the Industrial Commission.

**Senate Bill No. 2160**, as part of the bill implementing regulation of residential mortgage brokers under the federal S.A.F.E. Act, updates a statutory cross-reference and clarifies funds in the financial institutions regulatory fund which are collected for use in the next succeeding biennium are not used in calculating the biennium maximum for the fund.

**Senate Bill No. 2242** increases the per diem for members of the North Dakota Agricultural Mediation Service from \$75 per day to \$135 per day.

**Senate Bill No. 2328** provides an agreement to operate or share an automated teller machine may not prohibit the owner or operator of the automated teller machine from imposing an access fee or surcharge on an individual who conducts a transaction using a foreign account.