

February 9, 2011

PROPOSED AMENDMENTS TO SENATE BILL NO. 2124

Page 1, line 1, after "enact" insert "two new subsections to section 13-04.1-01.1,"

Page 1, line 1, after "13-04.1-04.2" insert a comma

Page 1, line 2, after the second "to" insert "the definition of a net branch and net branching arrangement,"

Page 1, line 6, after "13-10-03" insert "and subsection 6 of section 13-10-16"

Page 1, after line 12, insert:

**"SECTION 1.** Two new subsections to section 13-04.1-01.1 of the North Dakota Century Code are created and enacted as follows:

"Net branch" means an office at which a licensed money broker allows a separate person that does not hold a valid North Dakota money brokers license to originate loans under the license of the money broker.

"Net branch arrangement" means an arrangement under which a licensed money broker enters an agreement whereby its designated branch manager has the appearance of ownership of the licensee by, among other things, sharing in the profits or losses, establishing, leasing, or renting the branch premises, entering other contractual relationships with vendors such as for telephones, utilities, and advertising, having control of a corporate checkbook, or exercising control of personnel through the power to hire or fire such individuals. A person may be considered to be utilizing a net branch if the net branch agreement requires the branch manager to indemnify the licensee for damages from any apparent, express, or implied agency representation by or through the branch's actions or if the agreement requires the branch manager to issue a personal check to cover operating expenses whether or not funds are available from an operating account of the licensee."

Page 1, remove line 19

Page 1, line 20, remove "arrangement."

Page 2, line 17, remove "or such other amount determined by the commissioner by rule. The"

Page 2, remove lines 18 through 20

Page 2, line 21, remove "interest"

Page 3, remove lines 2 through 4

Page 3, line 5, remove "The commissioner may adopt rules with respect to the requirements for minimum net"

Page 3, replace line 6 with "If the net worth of a licensee falls below the minimum net worth set forth in subsection 1, the licensee shall provide a plan, subject to the approval of the commissioner, to increase the licensee's net worth to an amount in conformance with this section. Submission of a plan under this section must be made within twenty

business days of a notice from the commissioner which states the licensee is not in compliance with subsection 1. If the licensee does not submit a plan under this section, fails to comply with an approved plan, or has repeated violations of subsection 1, the commissioner may revoke the license."

Page 3, line 17, after "ten" insert "business"

Page 10, line 26, remove "attorneys,"

Page 11, line 25, replace the first "or" with an underscored comma

Page 11, line 25, after "44-04" insert ", or section 6-01-07.1,"

Page 12, line 2, replace "or" with an underscored comma

Page 12, line 2, after "44-04" insert ", or section 6-01-07.1"

Page 12, line 6, remove "as established by rule or order of"

Page 12, line 7, remove "the commissioner"

Page 12, line 13, remove "private civil action or"

Page 12, after line 17, insert:

"4. The commissioner shall take all necessary steps, under any applicable law or rule, to protect the disclosure of information or material that is subject to a privilege or confidentiality under subsection 1. Records subject to a privilege or confidentiality under subsection 1 may be required to be disclosed only pursuant to an order of the court. The court ordering the disclosure shall issue a protective order to protect the confidential nature of the records."

Page 12, line 18, replace "4." with "5."

Page 12, line 18, after "44-04" insert "or section 6-01-07.1,"

Page 12, line 20, after "1" insert an underscored comma

Page 12, line 24, replace "ten" with "twenty business"

Page 14, after line 21, insert:

**"SECTION 16. AMENDMENT.** Subsection 6 of section 13-10-16 of the North Dakota Century Code is amended and reenacted as follows:

6. In order to carry out the purposes of this section, the commissioner may:
  - a. Retain ~~attorneys,~~ accountants, or other professionals and specialists as examiners, auditors, or investigators to conduct or assist in the conduct of examinations or investigations;
  - b. Enter into agreements or relationships with other government officials or regulatory associations in order to improve efficiencies and reduce regulatory burden by sharing resources, standardized or uniform methods or procedures, and documents, records, information, or evidence obtained under this section;

- c. Use, hire, contract, or employ publicly or privately available analytical systems, methods, or software to examine or investigate the licensee, individual, or person subject to this chapter;
- d. Accept and rely on examination or investigation reports made by other government officials, within or without this state; or
- e. Accept audit reports made by an independent certified public accountant for the licensee, individual, or person subject to this chapter in the course of that part of the examination covering the same general subject matter as the audit and may incorporate the audit report in the report of the examination, report of investigation, or other writing of the commissioner."

Renumber accordingly