

## CHAPTER 198.

(H. B. No. 55—Lackey.)

## PENALTY FOR VIOLATING DAIRY LAWS.

An Act to Amend and Re-enact Section 2861, Compiled Laws of North Dakota for 1913, Relating to Penalty for Violating Dairy Laws.

*Be It Enacted by the Legislative Assembly of the State of North Dakota:*

Sec. 1. AMENDMENT.) That Section 2861, Compiled Laws of 1913 of the State of North Dakota, be, and the same hereby is amended and re-enacted to read as follows:

Sec. 2861. VIOLATION CONSTITUTES MISDEMEANOR. PENALTY.) Whoever violates any of the provisions of this article, the punishment of which is not herein otherwise provided, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished for each offense by a fine of not less than fifteen dollars nor more than one hundred dollars, or by imprisonment of not to exceed thirty days, or both.

Approved February 7th, 1923.

## DEPOSITORIES

## CHAPTER 199.

(H. B. No. 194—Hanson.)

## DEPOSITORIES OF PUBLIC FUNDS.

An Act Designating the Depositories of Public Funds and Fixing the Minimum Rate of Interest; Requiring Competitive Bids for such Deposits; Providing for Publicity with Reference to such Funds and Depositories; Prescribing Penalties for Violation of this Act; Defining Terms used Herein, and Repealing Sections 147, 147a, 147b, and Sections 370 to 374, inclusive, Sections 1472 to 1488, Inclusive, and Sections 3315 to 3329, Inclusive, of the Compiled Laws of 1913, and Chapter 59, Session Laws of 1915, and Chapter 56 Session Laws of 1921.

*Be It Enacted by the Legislative Assembly of the State of North Dakota:*

Sec. 1. DEFINITION OF TERMS.) (a) The term "public Corporation" shall be construed to include counties, township, school districts, villages and cities, and all bodies corporate, except private corporations.

(b) The term "state" and "State institutions," shall be construed to include, respectively, the State of North Dakota

and all penal, charitable, correctional, educational and industrial institutions, enterprises and business projects.

(c) The term "school district" shall include all common school districts, special school districts, independent school districts, consolidated school districts, and cities and other bodies politic or corporate, organized as school districts under a special law, or operating under a special law.

(d) The term "board," unless otherwise indicated, shall be construed to include the State Board of Auditors, the governing board of school districts as hereinbefore defined, the city council or commission in cities, the board of county commissioners, the board of trustees of villages, the board of township supervisors, the Board of Administration, the Workmen's Compensation Bureau, and any board or commission having control of state industries or enterprises.

(e) The term "clerk," unless otherwise indicated, shall include the clerks of school boards in common school districts, in consolidated school districts, in special school districts, the secretary of the board of education in independent school districts, the clerk or secretary of the school board in special school districts, the city auditor in case of school districts in cities organized under a special act or law, the county auditor in his capacity as clerk of the board of county commissioners, the clerk or secretary of the board of trustees in villages, the clerk or secretary of the board of township supervisors, the secretary of the Board of Administration, the secretary of the Workmen's Compensation Bureau, and the secretary or chief clerk of any board or commission having charge of state industries or enterprises.

(f) The term "public funds," unless the context otherwise indicates, shall be construed to include all funds derived from taxation, fees, penalties, sale of bonds, or from any other source which belong to and are the property of public corporations as defined in section one of this act. It shall include all sinking funds of public corporations, the state, and of state institutions, and all funds from whatever source derived and for whatever purpose to be expended of which public corporations, the state or state institutions have legal custody. It shall include the funds of which any board, bureau, commission or individual, created or authorized by law to have control of such funds as the legal custodian for any purpose whatsoever, whether such funds were derived from general or special taxation or the assessment of persons, corporations or individuals for a specified purpose, or from the sale of bonds.

Sec. 2. In counties where township organization is incomplete, the Board of County Commissioners shall perform all

duties, with reference to the designation of depositories and the deposit of public funds, in townships in such counties which, if the townships were duly organized, would under the provisions of this act devolve upon the board of township supervisors.

Sec. 3. All funds of public corporations, and all funds of the state and of state institutions, as defined herein, shall be deposited in the Bank of North Dakota or in banks which have been duly designated as depositories of public funds as provided in this act. The treasurer of public corporations and the State of North Dakota and all persons by law charged with the custody of public funds, which, according to the provisions of this act, shall be deposited in depositories duly designated as provided herein, shall promptly upon receipt of such funds deposit the same in a duly designated depository in compliance with this act. Checks or drafts on funds deposited as herein provided shall be drawn by the legal custodian thereof in his official capacity only; and no checks or drafts on such deposits shall be paid or honored by such depository unless so drawn. Any person violating the provisions of this section shall be guilty of a misdemeanor, and shall, in addition thereto, be liable to the public corporation, the state, and any state institution, in a civil action for all damages caused or suffered thereby.

Sec. 4. Any state bank duly incorporated in this state under and pursuant to the laws governing the incorporation of banking corporations, and any national bank situated and doing business within the State of North Dakota, and the Bank of North Dakota, may be designated a depository of public funds by the proper board as herein defined. The board may select two or more banks in the same county as depositories, but if more than one bank be designated the board shall deal with the banks selected and designated impartially, both as to the deposit of funds and the withdrawal of funds and the requirement as to bonds. The board shall take into consideration in selecting and designating the depository or depositories, the condition of each bank and capital, surplus and general credit thereof.

Sec. 5. In counties where only one bank is located or functioning the board may designate such bank as a depository, or it may designate another state or national bank or banks within the state or the Bank of North Dakota as depository or depositories in the manner and upon the conditions provided in this act. In counties where there is no bank in existence or functioning the board may designate the Bank of North Dakota or any state or national bank or banks outside of such county and within the state as depository or depositories in the manner and upon the conditions provided in this act for the selection of depositories of public funds.

Sec. 6. In no case shall the amount of county funds deposited by the county commissioners in any one bank exceed the combined capital and surplus of such bank. In counties where the deposits to be made by the county commissioners of county funds exceed the combined capital and surplus of all the banks in the county, qualified as depositories, the board of county commissioners may nevertheless deposit such county funds in banks within the county, upon the condition that such banks furnish a sufficient bond as required in this act.

Sec. 7. Before any deposit shall be made in any depository, except the Bank of North Dakota, by or in behalf of any public corporation, such depository shall furnish a bond payable to the public corporation making such deposit in an amount that shall at least equal the largest deposit that may at any time be in such depository; said bond shall be approved as to form by the state's attorney and as to amount and sufficiency by the board. If the board fails or refuses to approve any such bond the same may be presented to the Judge of the District Court, upon three days notice to the clerk of the board of the public corporation to which such bond was submitted, and in case of cities involving deposits of municipal funds, the city auditor, respectively, and the Judge shall forthwith proceed to hear and determine the sufficiency of such bond and may approve or disapprove the same as the facts warrant. If he approves such bond the said bank shall be declared a depository of the funds of such public corporation. The sureties on all bonds required by public corporations according to the provisions of this law shall justify as required by law in arrest and bail proceedings; provided, however, that in lieu of such personal bond, the board of public corporation involved may require such bank designated as a depository to file a surety bond for a sum equal to the amount of funds such bank may receive according to the provisions of this act. The bond, when approved, shall be deposited with the county auditor. This bond shall be a continuing bond and shall continue binding until the proper board of public corporation shall require a new or different bond, but in no case involving the deposit of funds of public corporations shall such bond be continued without a renewal thereof for a longer period than four years.

Sec. 8. The board except the State Board of Auditors shall at its regular meeting in July of each odd numbered year after the taking effect of this act assemble and examine all outstanding bonds and require new bonds whenever necessary in order to comply with the provisions of this law. If there be no regular meeting of the board in July required by any law heretofore in force, the board shall assemble for said purpose not later than the third Tuesday in July. At its first regular meeting in July after this act takes effect the board

shall designate depositories of public funds as herein provided. The clerk of such board shall on the first day of July when this act takes effect, and thereafter, at least ten days before such meeting, notify every bank in the county, both state and national, that at the next regular meeting, or if no regular meeting be required by law, then at a meeting to be called for that purpose, the board will designate a depository or depositories of public funds. Such notice shall be given by registered mail. The notice shall further recite the probable amount of public funds to be deposited indicating separately sinking funds to be deposited on time and call funds to be deposited subject to check or draft; such notice shall advise the bank that proposals will be received for such deposits, and that the interest rate on such deposits shall be not less than two per cent (2%) or over three per cent (3%) on call deposits and not less than four per cent (4%) or over six per cent (6%) on time deposits. It shall further recite that the board expects the depositories to pay interest on public funds at substantially the same rate it pays interest on the funds deposited by private persons. Proposals for deposits shall be sealed and delivered to the clerk and shall state in writing what rate of interest will be paid on average daily balances during the month and what interest will be paid on time deposits, and shall have attached to it a statement showing the financial condition of the bank at that time and as disclosed in the several statements of financial condition made during the last preceding twelve months. This section shall not apply to designating of the depositories by the state Board of Auditors.

Sec. 9. The proposals for public deposits referred to in the preceding section hereof shall be by the clerk laid before the board at the meeting aforesaid, and shall be thereupon opened by such clerk in the presence of the board and the board shall thereupon proceed to designate a depository or depositories of public funds under its control.

Sec. 10. All funds of the state shall be deposited by the State Treasurer in the Bank of North Dakota and other banks within and without the state as is now provided by law. Depositories other than the Bank of North Dakota that are or may be required by law, shall be designated by the Board of Auditors acting in conjunction with the Governor. The Board of Auditors shall advertise in at least three daily newspapers published in this state, not less than thirty days prior to the meeting at which depositories are designated, for proposals; the proposals for the deposit of public funds shall state what interest will be paid on average daily balances of such funds as are subject to check and what interest will be paid on time deposits; the amount deposited in any one designated depository shall not exceed in any case, more than fifty per cent of its

paid up capital and surplus. Interest on funds thus deposited shall be not less than two per cent or over three per cent on daily balances subject to check and not less than four per cent or over six percent on time deposits. Each bank thus designated as a depository shall continue as such until the order of the board designating such bank as a depository shall be revoked and new depositories designated. The Board of Auditors shall designate depositories at its regular meeting held and which shall be held on the second Tuesday in January of every even number year, and at such meeting the board shall re-examine conditions with respect to existing depositories and their bonds and make such new orders with reference thereto as the public interest may require.

Sec. 11. Every National Banking Corporation, designated as a state depository under the provisions of this act for the deposit of the funds of the state or of any state institution, shall be required to permit the examination and inspection by the State Examiner or of any report or reports made to the comptroller of currency, relative to the financial condition of such association. The State Examiner may also call for special reports from any such depository whenever in his judgment the same is necessary in order to obtain full and complete knowledge of the condition of the public funds therein deposited. If any National Banking Corporation fails to comply with a demand of the State Examiner for such inspection, as provided herein, the State Examiner shall certify that fact to the State Treasurer and also the board or boards having charge of the state institutions as herein defined, forthwith, and the State Treasurer shall immediately withdraw from the said depository all funds of the state deposited therein; and in case of deposits of the funds of state institutions in such a National Banking Corporation, the board having charge of such funds shall forthwith withdraw the same therefrom.

Sec. 12. Before any deposit shall be made in any depository other than the Bank of North Dakota by or in behalf of the state or of any state institution, such depository shall furnish a bond, payable to the State of North Dakota, in a penal sum that shall not be less than the largest amount on deposit with such depository at any one time; such bond, if required of a depository of the funds of a state institution, shall be approved as to amount, form and sufficiency by the board having control or charge of such institutions; when such bond is required of a depository of the funds of the state, it shall be approved as to amount, form and sufficiency by the State Board of Auditors and the Governor; all such bonds with the approval endorsed thereon, shall be filed like public documents with the Secretary of State; and after such depositories have been designated and such bonds have been filed and ap-

proved, the Secretary of State shall certify to the State Treasurer, or treasurer of such institution or corporation, a list of depositories and the amount of deposit for which such deposittee shall have qualified; provided, that if a depository of the funds of both the State and of state institutions so elects one bond may be sufficient, if the same otherwise comply with the requirements of this act and has the approval of the authorities designated herein; such bond, must, however, in all cases be in a penal sum that shall not be less than the total amount of funds belonging to the state and state institutions, that may at any one time be deposited in such depository.

Sec. 13. The rate of interest on all public funds deposited as herein provided shall not be less than two per cent (2%) or over three per cent (3%) on daily balances subject to check or draft, credited monthly, and not less than four per cent (4%) or over six per cent (6%) on time deposits. It is the intention of this act that depositories of public funds in this state shall pay substantially the same rate of interest thereon as such banks pay to individual depositors upon individual deposits.

Sec. 14. Each depository shall furnish to the public corporation, the state, or state institution, to whose credit the deposit is held, on the first day of each month, an itemized statement of amount in such deposits subject to check. Such statement shall be verified whenever required by the State Treasurer as to funds of the state or state institutions, or by the treasurer of any public corporation, as to funds of such corporations. All sums of interest accruing on funds so deposited shall be credited to said deposit on the first day of each month for the preceding month.

Sec. 15. All such public funds shall be deposited in the name of the state, state institution or public corporation to which the same belongs, and in case of public corporations, the treasurer shall, between the first and tenth day of the months of January, May and September in each year, publish once in some newspaper in the county the names of such depositories, the amount of money on deposit therein subject to check and on time deposit and the rate of interest thereon, and the amount of the bond furnished by each depository. The State Treasurer shall between the first and tenth day of January, May and September, in each year cause to have printed in pamphlet form a report, showing the balances in all funds, the names of all depositories of such state funds, stating the amount of average daily balances and the amount on time deposit therein, together with the rate of interest paid on each class of deposits, and the amount of the bond furnished by each depository, and mail a copy of said report to each depository, one to each county

auditor and county treasurer in the state and one to each official county paper in the state. On each occasion when the state treasurer causes to be printed a report as herein provided, he shall cause to be published in the official paper in his county a public notice to the effect that such report is ready for distribution and can be had by any voter of the state upon request.

Sec. 16. This act shall not apply to public corporation and school districts unless the amount in the treasury of such corporation equals or exceeds the sum of five hundred dollars. The board of public corporations having on hand less than five hundred dollars, and therefore not within the provisions of this act, shall deposit all the funds of such public corporations and school districts nevertheless in some bank selected by the board thereof under such conditions and restrictions as shall seem adequate to such board to protect the public interest.

Sec. 17. To the extent that public funds are deposited as herein provided, the legal custodian thereof, and the sureties on his bond, shall be exempt from all liability thereof by reason of loss of any such funds from failure or other act of any such depository.

Sec. 18. Any person violating any of the provisions hereof shall be guilty of a misdemeanor, and shall be fined not less than twenty-five dollars (\$25.00) nor more than one thousand dollars (\$1,000.00) or imprisoned in the county jail not less than ten days nor more than six months or both for each offense.

Sec. 19. Any board, commission, bureau or individual having the legal custody of any public funds that do not expressly or by name come within the provisions of the preceding sections of this act, shall at least thirty days before its first meeting in each odd numbered year advertise in a newspaper for proposals for the deposit of such funds. A bond shall be required of the depository designated, and shall be approved by such board, commission, bureau or individual and filed with the county auditor or Secretary of State as hereinafter provided. Such bonds shall be filed with the county auditor if the funds deposited be the funds of a public corporation as defined in this act; it shall be filed with the Secretary of State if the funds deposited be the funds of the state or of a state institution as defined herein. The provisions of Sections 3, 4, 5, 6, 11, 12, 13, 14, 15, 16, and 17 of this act, with reference to the deposit of public funds in a duly designated depository, the drawing of checks or drafts thereon and the payment thereof, the penalties for violating such provisions as prescribed in Section three hereof, the bank or banks that may be designated

and the consideration entering into such designation, the provision of section five, with reference to counties in which but one bank or in which no bank is located and functioning, the amount to be deposited in each bank designated, the contents of the notice that proposals will be received, including the probable amount to be deposited on time and subject to draft, and the minimum rates of interest on each class of deposits, the inspection of reports of national banking corporations by the bank examiner in which state funds or the funds of state institutions are deposited in case that the funds to be deposited under the previous section be the funds of the state or of a state institution as defined herein, shall govern insofar as applicable to the designation of depositories and the deposit of public funds therein by such board, commission, bureau or individual.

Sec. 20. REPEAL.) Sections 147, 147a, 147b, and 370 to 374, inclusive, Sections 1472 to 1488, inclusive, Sections 3315 to 3329, inclusive, of the Compiled Laws of 1913; Chapter 59 of the Session Laws of 1915; Chapter 56 of the Session Laws of the State of North Dakota for the year 1921, are hereby repealed; and all acts and parts of acts inconsistent with this act are hereby repealed.

Approved March 8th, 1923.

---

## DEPOSITORS' GUARANTY FUND

---

### CHAPTER 200.

(S. B. No. 250—Majority of Banking Committee.)

---

#### DEPOSITORS' GUARANTY FUND.

An Act to Amend and Re-enact Chapter 126 of the Laws of 1917, as Amended by Chapter 110 of the Laws of 1919 and as Further Amended by Chapter 21 of the Laws of 1921.

*Be It Enacted by the Legislative Assembly of the State of North Dakota:*

Chapter 126 of the Laws of 1917 as amended by Chapter 110 of the Laws of 1919 and further amended by Chapter 21 of the Laws of 1921 is hereby amended and re-enacted to read as follows:

Sec. 1. GUARANTY FUND COMMISSION. DEPOSITORS' GUARANTY FUND COMMISSION. ESTABLISHED. COMPENSATION. EXPENSE.) There is hereby established a Depositors' Guaranty Fund Commission of the State of North Dakota to be com-