

BANKS AND BANKING

CHAPTER 93

H. B. No. 188—(Sand, Godwin and Savre)

AUTHORIZATION OF PAYING AND RECEIVING STATIONS BY BANKS

An Act authorizing any banking institution to establish stations for receiving of deposits and the payment of checks and similar bank paper, subject to the approval and supervision of the State Banking Board, and prohibiting branch banking.

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

§ 1. PAYING AND RECEIVING STATIONS, ESTABLISHMENT OF.] Any banking institution may establish and maintain, within the County in which the home office of the applicant banking institution is located or in any adjoining County, subject to the approval and supervision of the State Banking Board, a receiving and paying station in any community not having an established banking institution.

§ 2. APPLICATION.] Any banking institution desiring to establish such a station shall make application to the State Banking Board in such manner and in such form as shall be prescribed by it, giving such information as the Board may require and shall at the time of filing the application pay to the Board such sum as said Board may designate, not exceeding the sum of Twenty-five Dollars (\$25.00) to defray the cost of investigation by the Board.

§ 3. INVESTIGATION.] The State Banking Board shall thereupon make an investigation and may issue a permit for the establishment and maintenance pursuant hereto of such station, provided as the result of said investigation it shall find that: (a) public convenience and advantage will be promoted by such station; (b) that the capital of the applicant bank is unimpaired and its management good. Provided, however, that no permit shall be granted until all banking institutions within a radius of fifteen miles of the proposed situs, of any such service station has been served with at least thirty (30) days notice and given an opportunity to be heard. If upon such hearing it shall be made to appear that some other banking institution than the applicant is more favorably located, and can render better service to the community, the Board may grant such favorably located institution the right to establish the station.

§ 4. BUSINESS TRANSACTION OF.] No banking business shall be transacted in any such station other than receiving and paying out deposits, issuing drafts, travelers' checks, and similar instru-

ments, handling and making collections, and cashing checks and drafts.

§ 5. REGULATIONS.] Whenever a paying and receiving station shall be permitted to operate under this section, the State Banking Board in each case may prescribe the rules and regulations of its operation.

§ 6. DISCONTINUANCE OF.] No station shall be continued at any place after a banking institution shall have actually commenced business at the same place. Whenever the State Banking Board shall determine after investigation that the continued operation of any such station will no longer promote public convenience and advantage, or that it will prove detrimental to the banking institution operating such station, the Board may revoke the permit for such station.

§ 7. PERMIT, CANCELLATION OF.] Whenever any banking institution, which has been granted a permit to establish and maintain such a station, shall deem it advisable to discontinue the maintenance of such station, it may make written application to the State Banking Board for the cancellation of its permit, and the Board may thereupon enter its order, cancelling such permit, within such time as the Banking Board may specify therein.

§ 8. BRANCH BANKING PROHIBITED.] This section shall not be construed as committing the State in any manner to a policy of permitting branch banking.

§ 9. ADDITIONAL CAPITAL NOT REQUIRED.] No additional capital is required for the operation of said stations.

§ 10. No banking institution shall operate or maintain such paying or receiving station without first applying for and receiving permission so to do from the Banking Board.

Approved March 10, 1937.

CHAPTER 94

H. B. No. 280—(Solberg)

RELATING TO INSOLVENT BANKS

An Act amending Subdivision U of Section 51 of Chapter 96 of the Session Laws of North Dakota for 1931, relating to the liquidation of insolvent banks by depositors; and declaring an emergency.

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

§ 1. AMENDMENT.] That Sub-division U of Section Fifty-one (51) of Chapter 96 of the Session Laws of North Dakota for 1931 be amended and re-enacted to read as follows:

§ 51. ADMINISTRATION OF INSOLVENT BANKS.]

Subdivision (U) LIQUIDATION BY DEPOSITORS.] When any bank shall be closed and taken charge of by the receiver as provided for herein, or while proceedings are pending for taking charge thereof hereunder, articles of agreement and a plan for liquidation by a liquidating committee may be submitted to the State Examiner. Such plan must, among other things, contain the names of six persons who may or may not be depositors, from among whom, if the application is granted by the Court as hereinafter provided, the Court may select three to act as such liquidating committee. There shall also be submitted with such plan and articles of agreement and the consent in writing of all of such proposed members of the liquidating committee to act on such committee if selected by the Court. It shall be the duty of the State Examiner to act in an advisory capacity to the persons interested in the plan. He shall pass upon the feasibility and practicability of the same, and either approve or disapprove thereof. If he disapproves the plan, it shall be his duty to formulate and present in lieu thereof an agreement and plan which meets with his approval.

Such agreement and plan so approved by the State Examiner shall thereupon be by the applicants presented to the deposit creditors of such bank for execution by each depositor in person, or by his representative holding a power of attorney to act in the premises, sworn to before a Notary Public or other officer empowered to administer oaths, which power of attorney shall accompany such agreement and plan. When deposit creditors thereof, representing not less than fifty-one per cent (51%) of the amount of deposits of such bank exclusive of public money secured by indemnity bonds or otherwise, and also exclusive of deposits of less than Twenty-five Dollars each, have executed said articles of agreement and plan for liquidation, all other unsecured depositors shall be held subject to such agreement and all the terms thereof to the same extent and effect as if they had joined in its execution, and the same may be presented to the Court Commissioner or Judge of the District Court designated by the Supreme Court as hereinbefore provided, together with an application to have the liquidation of the said bank withdrawn from the receivership and vested in a liquidation committee. Such Court Commissioner or District Judge, as the case may be, shall thereupon make an order fixing a time and place for the hearing of such application, which hearing shall be held in the town where such bank is located. Ten days' notice of such hearing, containing a statement of the purpose, time and place thereof, must be given by the applicants by registered mail to the receiver of such bank, to the State Examiner, and to each deposit creditor shown of record on the books of the bank at the time of closing, and for the purpose hereof such records shall be by the receiver of such bank made available to the applicants upon demand.

Upon the hearing the Court shall advise itself fully in regard to the status of the existing receivership, the feasibility of the proposed

plan, the competency of the proposed members of the liquidating committee and its several members to act in the proposed capacity, and it shall have the power to select three persons from the names submitted in such plan and articles of agreement to act as a liquidating committee, and to prescribe the terms and conditions upon which the liquidation of the affairs of such bank will be transferred from the receivership to such committee. It may also permit the applicants, with the consent of the State Examiner, to modify or amend the said proposed plan of liquidation. If no good reason is presented why the application as originally made or as amended should not be granted, the Court must make its order appointing three persons from among the names submitted with said plan, to act as joint receivers of said bank in the place and stead of the existing receiver, prescribe the amount of the bond, if any, which they should be required to give upon qualifying as receivers and the manner of their reporting and accounting to the Court, directing the existing receiver to account to them and turn over all of the assets of the receivership, first deducting the proper expense and charges for administration of the receivership up to such time, the amount thereof to be agreed upon between the existing and the new receivers, or in case of disagreement to be settled by the Court; but the failure of the parties to so agree shall not delay the transfer of the assets and effects to the new receivers, except such thereof as are claimed by the old receiver as compensation, as aforesaid, and the correctness of such claim shall be subsequently determined by the Court.

Upon so accounting and surrendering the assets and effects to the said new receivers, the existing receiver shall take their receipt therefor, and he shall be thereupon discharged from all liability and responsibility in connection with the further liquidation of such bank, and the said new receivers shall be deemed to have assumed the same liability, responsibility and accountability to the Court as other receivers. Any vacancy in the office of such receivers so appointed by the Court as hereinbefore provided, shall be filled by the remaining receivers with the approval of the Court, and in the event that all of said receivers shall vacate their office for any cause simultaneously, then the Court shall fill such vacancies.

§ 2. EMERGENCY.] This Act is hereby declared to be an emergency and shall take effect from and after its passage and approval.

Approved March 16, 1937.

CHAPTER 95**H. B. No. 189—(G. Wendland and Paul A. Sand)****LIABILITY STATE BANK SHAREHOLDERS**

An Act to amend Section 22, of Chapter 96, of the Session Laws of the State of North Dakota for the year 1931, relating to the responsibility of shareholders of state bank stock.

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

§ 1. AMENDMENT.] Section 22, of Chapter 96, of the Session Laws of the State of North Dakota for the year 1931, is hereby amended to read as follows:

§ 22. RESPONSIBILITY OF SHAREHOLDERS.] The shareholders of every association organized under this Act shall be individually responsible, equally and ratably, and not one for another, for all contracts, debts and engagements of such association made or entered into to the extent of the amount of his stock therein at the par value thereof, in addition to the amount invested in and due on such shares.

Such additional liability shall cease on July 1, 1939, with respect to all shares issued by any state banking association which shall be transacting the business of banking on July 1, 1939; provided, that not less than six (6) months prior to such date, such association shall have caused notice of such prospective termination of liability to be published once each week for four (4) successive weeks in a newspaper published in the City, town, or County in which such banking association is located, and if no newspaper is published in such City, town or County, then in a newspaper of general circulation therein. If any banking association fail to give such notice as and when above provided the termination of such additional liability may thereafter be accomplished as of the date six (6) months subsequent to publication, in the manner above provided.

Approved March 16, 1937.

CHAPTER 96**S. B. No. 173—(Committee on Banking)****RESERVE FUNDS BANKING ASSOCIATIONS**

An Act amending and re-enacting Section 30, of Chapter 96, of the Session Laws of the State of North Dakota for the year 1931, relating to reserve funds of State banking associations.

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

§ 1. AMENDMENT.] Section 30, of Chapter 96, of the Session Laws of the State of North Dakota for the year 1931, is hereby amended and re-enacted to read as follows:

§ 30. RESERVE FUNDS.] Each banking association shall at all times have on hand in available funds an amount which shall equal twenty per cent of its demand deposits and amounts due to other banks and ten per cent of its time deposits; four-fifths of this amount may consist of balances due to the association from the Bank of North Dakota, or good solvent State or National banks or Trust companies approved by the State Banking Board for such purposes, and located in such commercial centers as will facilitate the purposes of banking exchanges, and the remaining one-fifth of such reserve shall consist of actual cash on hand; cash items shall not be included in computing reserve, and no association shall carry as cash, or cash items, any paper or other matter except legitimate bank exchange which will be cleared on the same or next succeeding day. Provided, however, that any State banking association with the permission of the State Banking Board may carry not to exceed one-fourth of its legal reserve in United States Certificates of Indebtedness, United States bonds, North Dakota land series bonds, Bank of North Dakota bonds, and North Dakota Mill and Elevator bonds. Whenever the available funds within the meaning of this section, shall be below the requirements hereinbefore stated, such association shall not increase its liabilities by making any new loans or discounts other than by discounting or purchasing bills of exchange, payable at sight, or make any dividend of its profits until the required proportion between the aggregate amount of the deposits and its lawful money reserve has been restored and the State Banking Board must notify any association whose lawful money reserve shall be below the amount required to be kept on hand to make good such reserve and if such association shall fail to do so for a period of thirty (30) days after such notice, the State Banking Board may impose a penalty of not less than One Hundred Dollars or more than Five Hundred Dollars which shall be collected in the same manner as other penalties prescribed in this Act.

Approved March 10, 1937.

BEER

CHAPTER 97

H. B. No. 233—(Schauss)

FOUR PER CENT BEER

An Act declaring that all beer and ale manufactured or sold in the State of North Dakota containing 4%, or less, of alcohol by weight, shall be controlled by and subject to the provisions of the State Laws relating to 3.2 alcohol content beer; declaring an emergency.

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

§ 1. That all beer and ale manufactured or sold in the State of