

BANKS AND BANKING

CHAPTER 66

HOUSE BILL NO. 1198
(Committee on State and Federal Government)
(At the request of the Bank of North Dakota)

ACCESS TO BANK RECORDS

AN ACT to amend and reenact section 6-01-20 of the North Dakota Century Code, relating to the Bank of North Dakota being entitled to records.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 6-01-20 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-01-20. BANK OF NORTH DAKOTA ENTITLED TO RECORDS.) The state examiner is authorized and directed to permit the manager of the Bank of North Dakota, or any other officer of the Bank of North Dakota authorized by said manager, to examine all reports, statements, records, books, files, and documents of any state bank, savings and loan association, or credit union in the possession of said state examiner. The state examiner also is authorized and directed to give to said manager of the Bank of North Dakota, or to any person designated by said manager, upon request, any and all information that he may have concerning the solvency and financial standing of any state bank, savings and loan association, or credit union.

Approved March 12, 1975

CHAPTER 67

SENATE BILL NO. 2017
(Wenstrom, Lips, Larson, Barth)
(From Legislative Council Study)

PUBLIC FINANCIAL ACCOUNTS
OPEN FOR INSPECTION

AN ACT to create and enact section 6-01-31 of the North Dakota Century Code, providing that certain accounts with financial institutions be subject to inspection, audit, or examination by the state auditor, the commissioner of banking, or the attorney general.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1.) Section 6-01-31 of the North Dakota Century Code is hereby created and enacted to read as follows:

6-01-31. CERTAIN ACCOUNTS OPEN FOR INSPECTION.) Any person acquiring custody of, or receiving any funds for or on behalf of the state of North Dakota, or any of its political subdivisions, who places such funds in an account with any financial institution, banking association, or banking institution, or who commingles such funds with any private account, shall have waived all privilege of privacy or confidentiality on such accounts for the purposes of permitting an audit, examination, or inspection by the state auditor, state banking commissioner, or the attorney general, as hereinafter provided.

Upon application and a reasonable showing by either the state auditor, the commissioner of banking, or the attorney general that any account, private or otherwise, in any banking association, financial institution, or banking institution, contains funds belonging to the state of North Dakota or a political subdivision, whether or not commingled with private funds, the district court may issue its order making such accounts available for examination, audit, or inspection by the state auditor, the commissioner of banking, or the attorney general. No financial institution, banking association, or banking institution shall be subject to damages for giving information on, or making such account available for inspection, audit, or examination pursuant to this section.

In addition to any other presumptions, any check, draft, or other comparable instrument is presumed to represent public funds of the state, or a political subdivision, as the case may be, if it is payable to a person identified as an official of the state or a political subdivision.

Approved March 7, 1975

CHAPTER 68

SENATE BILL NO. 2443
(Kautzmann)

ELECTRONIC FUND TRANSFERS

AN ACT to amend and reenact subsection 8 of section 6-03-02 of the North Dakota Century Code, relating to powers of banks.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Subsection 8 of section 6-03-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

8. To exercise, by its board of directors or duly authorized officers or agents subject to law, all such incidental powers as shall be necessary to carry on the business of banking, including: discounting and negotiating promissory notes, bills of exchange, drafts, and other evidences of debt; receiving deposits; buying and selling exchange, coin, and bullion; and loaning money upon real or personal security, or both; soliciting and receiving deposits in the nature of custodial accounts funded only in savings accounts or certificates of deposit for the purpose of retirement fund contracts or pension programs, and such custodial accounts are exempt from the provisions of chapter 6-05 of this title; providing services to its customers involving electronic transfer of funds to the same extent that other financial institutions chartered and regulated by an agency of the federal government are permitted to provide such services within this state. A bank which provides electronic funds transfer equipment and service to its customers, at premises separate from its main banking house or duly authorized paying and receiving station or facility approved by the state banking board, must make such equipment and service available for use by customers of any other bank upon the request of such other bank to share its use and the agreement of such other bank to share pro rata all costs incurred in connection with its installation and operation, and such electronic operations shall not be deemed to be the establishment of a branch, nor of a paying and receiving station, nor of a separate

facility. Such electronic operations at premises separate from its banking house or duly authorized paying and receiving station or facility, shall be considered a customer electronic funds transfer center and may be established subject to rules and regulations that the state banking board shall adopt.

Approved April 8, 1975

CHAPTER 69

HOUSE BILL NO. 1182
(Committee on Industry, Business, and Labor)
(At the request of the Bank of North Dakota)

BANK PERSONAL PROPERTY LEASES

AN ACT to amend and reenact section 6-03-59.1 of the North Dakota Century Code, relating to leasing of personal property, regarding limitation and amount.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 6-03-59.1 of the 1973 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-03-59.1 LEASING OF PERSONAL PROPERTY - LIMITATION ON TERM AND AMOUNT.) A bank may become the owner and lessor of personal property upon the specific request of and for the use of a customer. The term of the lease shall not exceed twenty years and all such leases shall provide for the payment of at least annual rentals, the total of which shall at least equal the cost to the bank of the personal property so leased. The total leasing obligation or rentals to a bank will be a part of the total liability limitations of any borrower as set forth in section 6-03-59.

Approved March 17, 1975

CHAPTER 70

HOUSE BILL NO. 1544

(Dick, Watkins, Vander Vorst, Olson, A. Hausauer, Gronneberg)

LOANS TO BANK DIRECTORS

AN ACT to amend and reenact section 6-03-60 of the North Dakota Century Code, relating to loans to and purchases from bank directors, officers, and employees, and providing a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 6-03-60 of the 1973 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-03-60. LOANS TO AND PURCHASES FROM DIRECTORS, OFFICERS, AND EMPLOYEES - RESTRICTIONS - CONDITIONS - PENALTY - CIVIL LIABILITY.) No director, officer, or employee of any state banking association, nor the state examiner, nor any deputy, shall be permitted to borrow any of the funds of any state banking association without first obtaining the approval of a majority of the board of directors of said banking association, excluding from such majority any director whose application is to be acted upon, and no action upon any loan herein provided for shall be taken by the board in the presence of the applicant. Every loan provided for herein shall be upon like and equal security required of other borrowers and shall be in strict conformity with the association's rules and regulations. No officer of any state banking association shall borrow from or otherwise become indebted to any state banking association of which he is an officer in an aggregate amount exceeding ten thousand dollars for any loan or extension of credit, other than a loan secured by a first mortgage on his residence. At no time shall any combination of loans or extensions of credit or both made by a state banking association to an officer of that association exceed an aggregate amount of fifty thousand dollars.

No director, officer, or employee of a bank shall sell to such bank, directly or indirectly, any mortgage, bond, note, stock, or other property whatsoever without first obtaining the written approval of the board of directors. The action of the board of directors in connection with the loans and discounts required under this section shall be made a matter of permanent record in the minute books of the banking association. Any shareholder, officer, or director of any banking association who knowingly shall violate the provisions of this section shall be held liable in his personal and individual capacity for all loss or damage which the association or any person shall sustain in consequence thereof and shall be guilty of a class B misdemeanor. The state examiner may require, at any time, the payment or repurchase of loans, securities, or obligations herein referred to.

Approved March 18, 1975

CHAPTER 71

SENATE BILL NO. 2038
(Kautzmann)
(From Legislative Council Study)

INTEREST RATES AND USURY

AN ACT to amend and reenact sections 6-03-63 and 47-14-09 of the North Dakota Century Code, relating to the interest rates payable by a state banking association on deposits and to usury; providing a penalty; and declaring an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 6-03-63 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-03-63. INTEREST ON DEPOSITS - RATES PAYABLE - PENALTY.) No state banking association shall pay interest on deposits, directly or indirectly, at rates greater than authorized by the state banking board, which in no case shall exceed the applicable maximum rates of interest per annum established by the board of governors of the federal reserve system as payable by member banks of the federal reserve system on time and savings deposits. The board may grant permission to pay a rate of interest exceeding four percent on deposits, but the rate so granted shall be uniform within any county. Any officer, director, or employee of any association violating the provisions of this section, directly or indirectly, is guilty of a class B misdemeanor.

SECTION 2. AMENDMENT.) Section 47-14-09 of the 1973 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

47-14-09. USURY - DEFINITION - MAXIMUM CONTRACT RATE - PROHIBITION.) Except as otherwise provided by the laws of this state, no person, copartnership, association, or corporation, either directly or indirectly, shall take or receive, or agree to take or receive, in money, goods, or things in action, or in any other way, any greater sum or greater value for the loan or forbearance of money, goods, or things in action than three percent per annum higher than the maximum rate of interest payable on time deposits maturing in thirty months as defined and authorized by the state banking board under section 6-03-63, but that in any event the maximum allowable interest

rate ceiling shall not be less than seven percent, and in the computation of interest the same shall not be compounded. This section shall not apply to a loan made to a foreign or domestic corporation, or a cooperative corporation or association, nor to any business loan the principal amount of which amounts to more than twenty-five thousand dollars. No contract shall provide for the payment of interest on interest overdue, but this section shall not apply to a contract to pay interest at a lawful rate on interest that is overdue at the time such contract is made. Any violation of this section shall be deemed usury.

SECTION 3. EMERGENCY.) This Act is hereby declared to be an emergency measure and shall be in full force and effect from and after its passage and approval.

Approved January 28, 1975

CHAPTER 72

HOUSE BILL NO. 1185
(Committee on Industry, Business, and Labor)
(At the request of the Bank of North Dakota)

SURETY DEPOSIT INVESTMENTS

AN ACT to amend and reenact section 6-05-04 of the North Dakota Century Code, relating to surety deposit investments.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 6-05-04 of the 1973 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-05-04. SURETY DEPOSIT INVESTMENTS REQUIRED - SECURITIES IN WHICH INVESTMENT MAY BE MADE.) Every corporation organized under the provision of this chapter and not under the jurisdiction of the insurance commissioner and every foreign corporation before engaging in similar comparable activities excepting those foreign corporations qualified to act as surety or guarantor under the provisions of section 6-05-30 of the North Dakota Century Code within this state shall either deposit with the state treasurer, with any federal reserve bank, or with the Bank of North Dakota, securities of the amount of at least fifty thousand dollars, and such deposit shall at no time be permitted to be less than said amount or less than one-sixth of the par value of the capital stock of the corporation, whichever is the greater, but no such corporation shall be required to deposit more than five hundred thousand dollars. Where such deposits are made with a federal reserve bank, the deposit certificate shall authorize the state treasurer to cause such deposits, in part or in whole, to be transferred to the state treasurer upon his demand. An original of such certificate of deposit shall be furnished to the state treasurer. The securities so deposited shall be:

1. Bonds of the United States or of the state of North Dakota;
2. Bonds of other states which shall have the approval of the state auditor and the state examiner;
3. Bonds or obligations of any township, school district, city, or county within this state, whose total bonded indebtedness does not exceed five percent of the then assessed valuation thereof;

4. Bonds or promissory notes secured by first mortgages or deeds of trust upon unencumbered real estate situated within the state of North Dakota worth two and one-half times the amount of the obligation so secured;
5. Obligations issued, assumed, or guaranteed by International Bank for Reconstruction and Development; or
6. United States treasury bills or notes or an agency thereof.

Approved March 19, 1975

CHAPTER 73

SENATE BILL NO. 2260
(Barth, Reiten, Longmire)

CREDIT UNION INTEREST RATES

AN ACT to amend and reenact section 6-06-18 of the North Dakota Century Code, relating to an increase in interest rates.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 6-06-18 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-06-18. INTEREST RATES.) Interest rates on loans made by a credit union shall not exceed one and one-fourth percent a month on unpaid balances.

Approved March 22, 1975

CHAPTER 74

SENATE BILL NO. 2259
(Longmire, Reiten, Barth)

CREDIT UNIONS

AN ACT to create and enact section 6-06-38 of the North Dakota Century Code, relating to destruction of records by credit unions; to amend and reenact subsection 10 of section 6-06-12 of the North Dakota Century Code, to increase the number of membership officers permissible for credit unions; to amend and reenact section 6-06-14 of the North Dakota Century Code, relating to the limitations and types of loans that the credit union can make; to amend and reenact section 6-06-20 of the North Dakota Century Code, to increase the ceiling on loans to officers.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Subsection 10 of section 6-06-12 of the 1973 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

10. The board may appoint membership officers authorized to approve applications for membership under such conditions as the board may prescribe; except that such membership officers so authorized shall submit to the board at each monthly meeting a list of approved or pending applications for membership received since the previous monthly meeting, together with such other related information as the bylaws or the board may require.

SECTION 2. AMENDMENT.) Section 6-06-14 of the 1973 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-06-14. LOANS - HOW MADE - SECURITY - MEETINGS AND DUTIES OF CREDIT COMMITTEE.) The credit committee shall have general supervision over all loans to members, and shall meet as often as may be necessary to perform its duties and at least once each month. Notice must be given to each member of the committee before any meeting is held. All applications for a loan shall be made on a form approved by the committee and shall set forth the purpose for which the loan is desired, the security, if any, which is offered, and such other data as the committee may require. The

maximum loan that may be made without adequate security shall be two thousand five hundred dollars or one percent of the credit union's total share and deposit accounts, whichever is the higher, but not to exceed five thousand dollars. Security, under this section shall include an assignment of shares or deposits, an endorsement made on the note by a responsible person, and such other security as the committee in its discretion may deem adequate. No loan shall be made unless it is approved by a majority of the entire committee; except that the credit committee may appoint one or more loan officers, and delegate to him or them the power to approve loans up to the limit established by the credit committee, or in excess of such limit if such excess is fully secured by unpledged shares. Each loan officer shall furnish to the credit committee a record of each loan approved or not approved by him within seven days of the date of the filing of the application therefor. All loans not approved by a loan officer shall be acted upon by the credit committee. No individual shall have authority to disburse funds of the credit union for any loan which has been approved by him in his capacity as a loan officer. Not more than one member of the credit committee may be appointed as a loan officer.

SECTION 3. AMENDMENT.) Section 6-06-20 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-06-20. BORROWINGS OF OFFICERS LIMITED - REPAYMENT OF LOANS.) No director, officer, or member of any committee may borrow from the credit union in which he holds office more than two thousand five hundred dollars plus pledged shares and deposits less any loan balance therein, unless his application is approved by three-fourths of the other members of the board of directors. He may not guarantee or endorse paper for other borrowers. A borrower may repay his loan in whole or in part on any day that the office of the credit union is open for business.

SECTION 4.) Section 6-06-38 of the North Dakota Century Code is hereby created and enacted to read as follows:

6-06-38. DESTRUCTION OF RECORDS.) No credit union shall be required to preserve and retain its records of accounts or files, except share and deposit files, for a longer period than six years next after the first day of January of the year following the final date of the termination of such accounts or files. No credit union shall be required to preserve and retain its share and deposit account records and files for a longer period than two years next after the first day of January of the year following the date of the death of the shareholder or depositholder.

Approved March 22, 1975

CHAPTER 75

SENATE BILL NO. 2374
(Kautzmann, Wenstrom, Redlin)

COMPENSATION OF BANK RECEIVERS

AN ACT to amend and reenact section 6-07-20 of the North Dakota Century Code, relating to compensation of a bank receiver; and declaring an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 6-07-20 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-07-20. SALARY AND EXPENSE OF RECEIVER - RECEIVER MAY HAVE MORE THAN ONE BANK.) Any receiver appointed by the state banking board under the provisions of this chapter, shall receive from the assets of the bank for which he has been designated as receiver, salary and expenses as determined by the district judge having jurisdiction pursuant to section 6-07-33 of this Code. Nothing in this section shall prohibit the same receiver from being appointed for more than one bank.

SECTION 2. EMERGENCY.) This Act is hereby declared to be an emergency measure and shall be in full force and effect from and after its passage and approval.

Approved March 19, 1975

CHAPTER 76

SENATE BILL NO. 2336
(Kautzmann)

**BANK OF NORTH DAKOTA
INTEREST RATES**

AN ACT to amend and reenact section 6-09-12 of the North Dakota Century Code, relating to interest rates fixed by commission, time deposits, and limitations; and declaring an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 6-09-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-09-12. INTEREST RATES FIXED BY COMMISSION - TIME DEPOSITS - LIMITATIONS - CHARGES FOR SERVICES.) The industrial commission, unless otherwise limited by law, from time to time shall fix the rates of interest allowed and received in transactions of the bank. Such rates shall be as nearly uniform and constant as practicable, and shall not be fixed or changed to work any discrimination against or in favor of any person or corporation. In respect to time deposits received by the bank, transactions may be reasonably classified as to the amounts and the duration of time involved, and a reasonable differentiation of interest rates based on such classification may be allowed. When interest is allowed on any deposits the interest rate thereon shall not be more than the amounts allowed under section 6-03-63. The industrial commission also shall fix reasonable charges, without unjust discrimination, for any and all services rendered by the bank.

SECTION 2. EMERGENCY.) This Act is hereby declared to be an emergency measure and shall be in full force and effect from and after its passage and approval.

Approved March 7, 1975

CHAPTER 77

HOUSE BILL NO. 1183
(Committee on State and Federal Government)
(At the request of the Bank of North Dakota)

BANK OF NORTH DAKOTA INVESTMENTS

AN ACT to amend and reenact section 6-09-15.2 of the North Dakota Century Code, relating to investments of the state Bank of North Dakota.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 6-09-15.2 of the 1973 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-09-15.2. BANK MAY INVEST IN CERTAIN GOVERNMENT SPONSORED STOCKS - LIMIT.) The Bank of North Dakota may invest in stock of United States government sponsored corporations, whether publicly or privately held, but such investments shall not exceed two percent of the bank's combined capital and surplus.

Approved March 19, 1975

CHAPTER 78

HOUSE BILL NO. 1542
(E. Metzger, Mushik)

**BANK OF NORTH DAKOTA
ELECTRONIC FUND TRANSFERS**

AN ACT to create and enact section 6-09-34 of the North Dakota Century Code, to create the authority in the Bank of North Dakota to establish electronic fund transfer services to customers of the Bank of North Dakota and of all state and federally chartered banks and other financial institutions otherwise authorized to utilize the services of electronic fund transfer systems.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. Section 6-09-34 of the North Dakota Century Code is hereby created and enacted to read as follows:

6-09-34. The Bank of North Dakota may establish, under such rules and regulations as adopted by the industrial commission, a system to provide fund transfer services to its customers and to the customers of state and federally chartered banks located within the state of North Dakota, and to other financial institutions otherwise authorized to utilize the services of electronic fund transfer systems, to acquire such equipment as is necessary to establish electronic fund transfer systems, and to make such reasonable charges for services rendered to other banks hereunder as may be established by the industrial commission.

Approved March 18, 1975

CHAPTER 79

SENATE BILL NO. 2398
(Nothing)

AGRICULTURAL MORTGAGE PROGRAM FOR BANK OF NORTH DAKOTA

AN ACT to amend and reenact sections 6-09.2-01, 6-09.2-02, subsections 2, 4, and 6 of section 6-09.2-03, subsections 1,3, 4, and 6 of section 6-09.2-04, section 6-09.2-05, subsection 1 of section 6-09.2-06, and the initial language of section 6-09.2-07 of the North Dakota Century Code, relating to an agricultural development mortgage insurance program in the Bank of North Dakota.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 6-09.2-01 of the 1973 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-09.2-01. INDUSTRIAL BUILDING AND AGRICULTURAL DEVELOPMENT MORTGAGE PROGRAM - ADMINISTRATION.) The Bank of North Dakota shall administer an industrial building and agricultural development mortgage program as provided in this chapter.

SECTION 2. AMENDMENT.) Section 6-09.2-02 of the 1973 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-09.2-02. PURPOSE.) It is declared that a statewide need exists for agricultural development; and for industrial buildings and expansion of existing industrial buildings. It is also declared that it is in the interest of the public welfare and purpose to promote the expansion and diversification of agriculture and industry, to increase employment, and to provide a larger taxable base for the economy of the state of North Dakota. Therefore, the industrial building and agricultural development mortgage program is created to encourage the making of mortgage loans for the purpose of furthering industrial expansion and agricultural development in the state, and thus improve the welfare of the public for the foregoing reasons and, by the stimulation of a larger flow of private investment funds from banks, building and loan associations, credit unions, savings and loan associations, insurance companies, and other financial institutions, including pension, retirement, and profit-sharing funds, meet the needs of agricultural development and industrial plant expansions.

SECTION 3. AMENDMENT.) Subsections 2, 4, and 6 of section 6-09.2-03 of the 1973 Supplement to the North Dakota Century Code are hereby amended and reenacted to read as follows:

2. "Cost of project" shall mean the cost or fair market value of construction, excavation, lands, equipment, property rights, easements, financing charges, interest, engineering and legal services, plans, specifications, surveys, cost estimates, studies, and other expenses as may be necessary or incident to the development, construction, equipping, financing, and placing in operation of an industrial or agricultural development project.
4. a. "Industrial project" shall mean any building, whether or not the bank has already insured mortgage payments under a mortgage on any such building in accordance with this chapter, or other real estate improvement in North Dakota, and, if a part thereof, the land upon which such building or other real estate improvement may be located, provided that such building or other real estate improvement is to be used:
 - (1) By any industry for the manufacturing, processing, or assembling of raw materials or manufactured products; or
 - (2) For the providing of research or warehousing facilities for the benefit of any such industry;and provided further, that the bank has determined that such building or other real estate improvement will tend to provide gainful employment for the people of North Dakota, increase the tax base of the economy, and diversify and expand industry so that periods of large-scale unemployment and distressed times may be avoided.
- b. "Agricultural development project" shall mean any irrigation construction or irrigation equipment purchase, agricultural building construction, purchase of agricultural equipment, or other improvement to agricultural real estate, whether or not the bank has already insured mortgage payments under a mortgage on any land, building, or equipment referred to above, provided that the construction, purchases, or improvements referred to above are for the purpose of growing, raising, processing, or furthering the growth, raising, or processing of livestock, poultry, or agricultural crops.

6. "Mortgage" shall mean a first mortgage or security agreement on an industrial or agricultural development project, or part thereof, together with the credit instruments thereby secured and creating and constituting a first lien of record; provided, however, a "first mortgage" shall include a second or subsequent mortgage or security agreement on an industrial or agricultural development project if:
 - a. The holder of such second or subsequent mortgage or security agreement is also the holder of a prior mortgage or security agreement on the industrial or agricultural development project under which prior mortgage or security agreement the bank is already insuring mortgage payments.
 - b. No other person or legal entity holds an intervening mortgage, security interest, or lien on such industrial or agricultural development project prior to such second or subsequent mortgage or security interest.

SECTION 4. AMENDMENT.) Subsections 1, 3, 4, and 6 of section 6-09.2-04 of the 1973 Supplement to the North Dakota Century Code are hereby amended and reenacted to read as follows:

1. To insure the payment of mortgage loans secured by industrial buildings, or agricultural buildings, lands, equipment, or improvements consistent with the terms and limitations expressed in this chapter.
3. In connection with the insuring of payments of any industrial project mortgage, to request for its guidance a finding of the planning board of the municipality, or if there is no planning board, a finding of the municipal officers of the municipality in which the industrial project is proposed to be located, or of the regional planning board of which such municipality is a member, as to the expediency and advisability of such project.
4. To enter into agreements with prospective mortgagees and mortgagors for the purpose of planning, designing, constructing, acquiring, altering, and financing industrial and agricultural development projects.
6. When in the opinion of the bank it is necessary or advisable, in order to further the purposes of this chapter, or to safeguard the mortgage insurance fund, to purchase, acquire, take assignments of notes, mortgages, and other forms of security and evidences of indebtedness, to purchase, acquire, attach, seize, accept, or take title to any industrial or agricultural development project, or mortgaged part thereof, by conveyance or, when an insured mortgage thereon is clearly in default, by foreclosure, and to sell, lease, or rent an

industrial project for a use specified in subsection 4 of section 6-09.2-03, or for any other use.

SECTION 5. AMENDMENT.) Section 6-09.2-05 of the 1973 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-09.2-05. DEFAULT BY MORTGAGORS.) When a mortgagor does not meet mortgage payments insured by the bank by reason of its industrial or agricultural development project, the bank, for the purpose of maintaining income from industrial or agricultural development projects on which mortgage loans have been insured by the bank and for the purpose of safeguarding the mortgage insurance fund, may grant the mortgagor permission to lease or rent the property to a tenant for a use other than that specified in subsection 4 of section 6-09.2-03, such lease or rental to be temporary in nature and subject to such conditions as the bank may prescribe.

SECTION 6. AMENDMENT.) Subsection 1 of section 6-09.2-06 of the 1973 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. There is hereby created an industrial building and agricultural development mortgage insurance fund, hereinafter in this chapter referred to as the "fund" which shall be used by the bank as a nonlapsing, revolving fund for carrying out the provisions of this chapter. To this fund shall be charged any and all expenses of the bank for this purpose, including mortgage payments required by loan defaults, and to the fund shall be credited all mortgage insurance premiums and proceeds from the sale, disposal, lease, or rental of real or personal property which the bank may receive under the provisions of this chapter.

SECTION 7. AMENDMENT.) The initial language of section 6-09.2-07 of the 1973 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-09.2-07. INSURANCE OF MORTGAGES.) The bank, as the administrator of the fund created in this chapter, is authorized, upon application of the proposed mortgagee, to insure mortgage payments required by a mortgage on any industrial or agricultural development project, or mortgaged part thereof, upon such terms and conditions as the bank may prescribe, and subject to the limitations of this chapter, provided the aggregate amount of the unpaid principal balance of all obligations of all mortgages so insured outstanding at any one time shall not exceed five million dollars. To be eligible for insurance under the provisions of this chapter a mortgage shall:

Approved March 27, 1975

CHAPTER 80

HOUSE BILL NO. 1063
(Strinden, Gronneberg, Gunderson, Lee, Martinson,
Rivinius, Rundle, Scofield)
(From Legislative Council Study)

MUNICIPAL BOND BANK ACT

AN ACT to provide for a municipal bond bank to be administered by the Bank of North Dakota.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. TITLE.) This Act shall be known as the "North Dakota Municipal Bond Bank Act".

SECTION 2. LEGISLATIVE POLICY.) It is declared to be the policy of the state of North Dakota to foster and promote the provision of adequate capital markets and facilities for borrowing money by political subdivisions and for the financing of their respective public improvements. It is in the public interest to encourage political subdivisions to continue their independent undertakings of public improvements and the financing thereof by making funds available at reduced interest costs, especially during periods of restricted credit or money supply. Current credit and municipal bond market conditions require the exercise of the powers of the state to further and implement such policies by authorizing a state instrumentality to be created to borrow money and to issue its bonds to make funds available at reduced rates and on favorable terms for borrowing by political subdivisions through the purchase of the bonds of political subdivisions in fully marketable form and by granting broad powers to accomplish and to carry out the policies of the state.

SECTION 3. DEFINITIONS.) In this Act, unless the context or subject matter otherwise requires:

1. "Bond bank" means the North Dakota municipal bond bank created by section 4 of this Act.
2. "Bondholder" or "holder" or any similar term when used with reference to a bond or note of the bank means any person who shall be the bearer of any outstanding bond or note of the bank.
3. "Bonds" or "bond" means bonds of the bond bank issued pursuant to this Act.

4. "Fully marketable form" means a municipal security duly executed and accompanied by an approving legal opinion of a bond counsel whose opinions are generally accepted by purchasers of municipal bonds.
5. "Municipal security" means a bond or evidence of debt issued by a political subdivision and payable from taxes or from rates, charges, or assessments, but shall not include bonds issued pursuant to chapter 40-57.
6. "Political subdivision" means a county, city, school district, township, park district, airport authority, city or county housing authority, municipal parking authority, irrigation district, board of drainage commissioners, fire protection district, or water management district.
7. "Required debt service reserve" means the amount required to be on deposit in the reserve fund.
8. "Reserve fund" means the North Dakota municipal bond bank reserve fund created as provided in section 10.
9. "Revenues" means all fees, charges, moneys, profits, payments of principal of or interest on municipal securities and other investments, appropriations, and all other income derived or to be derived by the bond bank under this Act.

SECTION 4. CREATION OF BANK.) A bond bank is hereby established within the Bank of North Dakota, to be known as the "North Dakota municipal bond bank". The bond bank is constituted as an instrumentality of the state exercising public and governmental functions, and the exercise by the bond bank of the powers conferred by this Act shall be deemed and held to be an essential governmental function of the state.

SECTION 5. PARTICIPATION VOLUNTARY.) Participation by a political subdivision is entirely voluntary and no political subdivision shall be required to sell its bond issues to the bond bank.

SECTION 6. LENDING AND BORROWING POWERS GENERALLY.) The bond bank is authorized to lend money to political subdivisions through the purchase of municipal securities of political subdivisions which, in the opinion of the attorney general, are legally sufficient. The bond bank may hold such bonds for any length of time it finds to be necessary. The bond bank, for the purposes authorized by this Act, is authorized to issue its bonds payable solely from the funds available to the bond bank which are authorized or pledged for payment of bond bank obligations, and to otherwise assist political subdivisions as provided in this Act.

Bonds of the bond bank issued under this Act shall not be in any way a debt or liability of the state and shall not con-

stitute a loan of the credit of the state or create any debt or debts, liability or liabilities, on behalf of the state, or be or constitute a pledge of the faith and credit of the state, but all such bonds shall be payable solely from revenues or funds pledged or available for their payment as authorized in this Act. Each bond shall contain on its face a statement to the effect that the bond bank is obligated to pay such principal or interest, and redemption premium, if any, and that neither the faith and credit nor the taxing power of the state is pledged to the payment of the principal of or the interest on such bonds. Specific funds pledged to fulfill the bond bank's obligations are obligations of the bond bank.

All expenses incurred in carrying out the purposes of this Act shall be payable solely from revenues or funds provided or to be provided under this Act and nothing in this Act shall be construed to authorize the bond bank to incur any indebtedness or liability on behalf of or payable by the state.

SECTION 7. POWERS.) The bond bank shall have the following powers:

1. To sue and be sued;
2. To make and enforce bylaws, rules, and regulations for the conduct of its affairs and business and for use of its services;
3. To acquire, hold, use, and dispose of its income, revenue, funds, and moneys in accordance with law, this Act, or legislative appropriations;
4. To acquire, rent, lease, hold, use, and dispose of other personal property for its purposes;
5. To borrow money and to issue its negotiable bonds or notes and to provide for and secure the payment thereof and to provide for the rights of the holders thereof, and to purchase, hold, and dispose of any of its bonds;
6. To fix and revise from time to time and charge and collect fees and charges for the use of its services or facilities;
7. To do and perform any acts and things authorized by this Act under, through, or by means of its officers, agents, or employees or by contracts with any person, firm, or corporation;
8. To make, enter into, and enforce all contracts or agreements necessary, convenient, or desirable for the purposes of the bond bank or pertaining to any loan to a political subdivision or any purchase or sale of municipal securities or other investments

or to the performance of its duties and execution or carrying out of any of its powers under this Act;

9. To purchase or hold municipal securities of political subdivisions at such prices and in such manner as the bond bank shall deem advisable, and to sell municipal securities acquired or held by it at such prices without relation to cost and in such manner as the bond bank shall deem advisable;
10. To invest any funds or moneys of the bond bank not then required for loan to political subdivisions and for the purchase of municipal securities in the same manner as permitted for investment of funds belonging to the state or the Bank of North Dakota;
11. To fix and prescribe any form of application or procedure to be required of a political subdivision for the purpose of any loan or the purchase of its municipal securities, and to fix the terms and conditions of any such loan or purchase and to enter into agreements with political subdivisions with respect to any such loan or purchase;
12. To consider the need, desirability, or eligibility of such loan, the ability of such political subdivision to secure borrowed money from other sources and the costs thereof, and the particular public improvement or purpose to be financed by the municipal securities to be purchased by the bond bank;
13. To impose and collect charges from a political subdivision for its costs and services in review or consideration of any proposed loan to a political subdivision or purchase of municipal securities of such political subdivision, and to impose and collect charges therefor whether or not such loan shall have been made or such municipal securities shall have been purchased;
14. To fix and establish any and all terms and provisions with respect to any purchase of municipal securities by the bond bank, including dates and maturities of such bonds, provisions as to redemption or payment prior to maturity, and any and all other matters which in connection therewith are necessary, desirable, or advisable in the judgment of the bond bank;
15. To procure insurance against any losses in connection with its property, operations, or assets in such amounts and from such insurers as it deems desirable to pay the premiums on such insurance;
16. To the extent permitted under its contracts with the holders of bonds of the bond bank, to consent to any modification with respect to rates of interests,

time, and payment of any installment of principal or interest, security, or any other term of bond, contract, or agreement of any kind to which the bond bank is a party; and

17. To do all acts and things necessary, convenient, or desirable to carry out the powers expressly granted or necessarily implied in this Act.

SECTION 8. BONDS OF THE BOND BANK.) Bonds of the bond bank shall be authorized by resolution of the industrial commission and may be issued in one or more series and shall bear such date or dates, mature at such time or times, bear interest at such rate or rates of interest per year, be in such denomination or denominations, be in such form, either coupon or registered, carry such conversion or registration privileges, have such rank or priority, be executed in such manner, be payable from such sources in such medium of payment at such place or places within or without the state, and be subject to such terms of redemption, with or without premium, as such resolution or resolutions may provide. Bonds of the bond bank may be sold at public or private sale at such time or times and at such price or prices as the bond bank shall determine.

SECTION 9. PLEDGES.) Any pledge of revenue or other moneys made by the industrial commission shall be valid and binding from time to time when the pledge is made. The industrial commission may also pledge other assets of the Bank of North Dakota as security for its bonds. The revenues or other moneys so pledged and thereafter received by the bond bank shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against the bond bank, regardless of whether such parties have notice thereof. Neither the resolution nor any other instrument by which a pledge is created need be filed or recorded, except in the records of the bond bank.

SECTION 10. RESERVE FUND.)

1. The bond bank shall establish and maintain a reserve fund in which there shall be deposited all moneys appropriated by the state for the purpose of such fund, all proceeds of bonds required to be deposited therein by terms of any contract between the bond bank and its bondholders or any resolution of the bank with respect to such proceeds of bonds, any other moneys or funds of the bond bank which it determines to deposit therein, and any other moneys made available to the bond bank only for the purposes of such fund from any other source or sources. Moneys in the reserve fund shall be held and applied solely to the payment of the interest on and the principal of bonds and sinking fund payments as the same shall become due and payable and for the retirement of bonds, including payment of

any redemption premium required to be paid when any bonds are redeemed or retired prior to maturity. Moneys in the reserve fund shall not be withdrawn therefrom if such withdrawal would reduce the amount in the reserve fund to an amount less than the required debt service reserve, except for payment of interest then due and payable on bonds and the principal of bonds then maturing and payable and sinking fund payments and for the retirement of bonds in accordance with the terms of any contract between the bond bank and its bondholders and for the payments on account of which interest or principal or sinking fund payments or retirement of bonds, other moneys of the bank are not then available in accordance with the terms of any such contract. Required debt service reserve shall be an aggregate amount equal to at least the largest amount of money required by the terms of all contracts between the bank and its bondholders to be raised in the then current or any succeeding calendar year for the payment of interest on and maturing principal of outstanding bonds, and sinking fund payments required by the terms of any such contracts to sinking funds established for the payment or redemption of such bonds.

2. Moneys in said fund at any time in excess of the required debt service reserve or in excess of the amount permissible under section 103 (d) of the IRS Code may be withdrawn at any time by the bond bank and transferred to any other fund or account of the bond bank.
3. No bonds shall be issued by the bond bank unless there is in the reserve fund the required debt service reserve for all bonds then issued and outstanding and the bonds to be issued. Nothing in this Act shall prevent or preclude the bond bank from satisfying the foregoing requirement by depositing so much of the proceeds of the bonds to be issued, upon their issuance, as is needed to achieve the required debt service reserve. The bond bank may at any time issue its bonds or notes for the purpose of providing any amount necessary to increase the amount in the reserve fund to the required debt service reserve, or to meet such higher or additional reserve as may be fixed by the bond bank with respect to such fund.
4. In order to assure the maintenance of the required debt service reserve, there shall be appropriated by the legislative assembly and paid to the bond bank for deposit in said fund, such sum, if any, as shall be certified by the industrial commission as necessary to restore said fund to an amount equal to the required debt service reserve.

SECTION 11. ADDITIONAL RESERVES AND FUNDS.) The bond bank may establish such additional and further reserves or such other funds or accounts as may be, in its discretion, necessary, desir-

able, or convenient to further the accomplishment of the purposes of the bond bank to comply with the provisions of any agreement made by or any resolution of the bond bank.

SECTION 12. PARTICIPATION BY BOND BANK IN BONDS HELD BY BANK ON EFFECTIVE DATE.) The bond bank may borrow an amount of money, through the issuance of its bonds, sufficient to offset the amount of money the Bank of North Dakota has invested in municipal securities on the effective date of this Act.

SECTION 13. PERSONAL LIABILITY.) Neither the members of the industrial commission nor any person executing bonds or notes issued pursuant to this Act shall be liable personally on such bonds or notes by reason of the issuance thereof.

SECTION 14. PURCHASE OF BONDS OF BOND BANK.) The bond bank shall have power to purchase bonds of the bond bank out of any funds or money of the bank available therefor. The bond bank may hold, cancel, or resell such bonds or notes subject to and in accordance with agreements with holders of its bonds.

SECTION 15. BONDS AS LEGAL INVESTMENTS AND SECURITY.) Notwithstanding any restrictions contained in any other law, the state and all public officers, boards and agencies, and political subdivisions and agencies thereof, all national banking associations, state banks, trust companies, savings banks and institutions, building and loan associations, savings and loan associations, investment companies, and other persons carrying on a banking business, all insurance companies, insurance associations and other persons carrying on an insurance business, and all executors, administrators, guardians, trustees, and other fiduciaries, may legally invest any sinking funds, moneys, or other funds belonging to them or within their control in any bonds issued by the bond bank pursuant to this Act, and such bonds shall be authorized security for any and all public deposits.

SECTION 16. TAX EXEMPTIONS.) All property of the bond bank and all bonds issued under this Act shall be deemed to be serving essential public and governmental purposes and such property and such bonds and notes so issued, their transfer and the income therefrom, including any profits made on the sale thereof, shall at all times be exempt from taxation within the state.

SECTION 17. EXEMPTION OF PROPERTY FROM EXECUTION SALE.) All property of the bond bank shall be exempt from levy and sale by virtue of an execution and no execution or other judicial process shall issue against the same nor shall any judgment against the bond bank be a charge or lien upon its property; provided that nothing contained in this Act shall apply to or limit the rights of the holder of any bonds to pursue any remedy for the enforcement of any pledge or lien given by the bank on its revenues or other moneys. Any action or proceeding in any court to set aside a resolution authorizing the issuance of bonds or notes by the bond bank under this Act or to obtain any relief upon the

ground that such resolution is invalid must be commenced within ten days after the adoption of said resolution by the bond bank. After the expiration of such period of limitation, no right of action or defense founded upon the invalidity of such resolution or any of its provisions shall be asserted nor shall the validity of such resolution or any of its provisions be open to question in any court on any ground whatever.

SECTION 18. INSURANCE OR GUARANTY.) The bond bank is authorized and empowered to obtain from any department or agency of the United States of America or nongovernmental insurer any insurance or guaranty, to the extent now or hereafter available, as to, or for, the payment or repayment of, interest or principal, or both, or any part thereof, on any bonds or notes issued by the bond bank, or on any municipal securities of governmental units purchased or held by the bond bank, pursuant to this Act; and to enter into any agreement or contract with respect to any such insurance or guaranty and pay any required fee, unless the same would impair or interfere with the ability of the bond bank to fulfill the terms of any agreement made with the holders of its bonds.

SECTION 19. REMEDIES ON DEFAULT OF MUNICIPAL SECURITIES.) In the event of default by a political subdivision in the payment of interest on or principal of any municipal securities owned or held by the bond bank, the bond bank shall proceed to enforce payment, pursuant to applicable provisions of law, of such interest or principal or other amount then due and payable.

SECTION 20. FORM OF MUNICIPAL SECURITIES AND INVESTMENTS.) All municipal securities or other investments of moneys of the bond bank permitted or provided for under this Act shall at all times be purchased and held in fully marketable form, subject to provision for any registration in the name of the bond bank. All municipal securities at any time purchased, held, or owned by the bond bank shall, upon delivery to the bond bank, be accompanied by documentation, including approving legal opinion of a bond counsel whose opinions are generally accepted by purchasers of municipal bonds, certification, and guaranty as to signatures, and certification as to absence of litigation, and such other or further documentation as shall from time to time be required in the municipal bond market.

SECTION 21. PRESUMPTION OF VALIDITY.) After issuance, all bonds or notes of the bond bank shall be conclusively presumed to be fully authorized and issued under the laws of the state, and any person or governmental unit shall be estopped from questioning their authorization, sale, issuance, execution, or delivery by the bond bank.

Approved March 25, 1975