

**Fifty-fifth Legislative Assembly, State of North Dakota, begun in the  
Capitol in the City of Bismarck, on Monday, the sixth day of January,  
one thousand nine hundred and ninety-seven**

SENATE BILL NO. 2373  
(Senator Mathern)

AN ACT to create and enact a new chapter to title 30 of the North Dakota Century Code, relating to investment in community development corporations by banks.

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

**SECTION 1.** A new chapter to title 30 of the North Dakota Century Code is created and enacted as follows:

**Organization.**

1. To the extent permitted by federal law, any three or more banks may form a community development corporation by complying with the conditions prescribed in this chapter and subscribing and acknowledging a certificate specifying:
  - a. The name, the general nature of its business, and the principal place of transacting its business. The name must distinguish the corporation from all other corporations authorized to do business in the state, and must contain the words "community development corporation".
  - b. The period of its duration, which is perpetual.
  - c. The name and principal business address of each incorporator.
  - d. The names and addresses of those composing its board until the first election.
  - e. The highest amount of indebtedness or liability to which the corporation may be subject.
2. The certificate may contain any other lawful provision defining the powers and business of the corporation, its officers, directors, members, and stockholders.
3. One bank may hold no more than forty-nine percent of the stock in the corporation.

**Purposes.** This chapter is intended to allow all banks, including state-chartered banks, the right to form community development corporations, as defined by the federal office of the comptroller of the currency and the federal reserve. The purpose of the corporation is to assist communities in this state in economic development, housing, the creation of jobs for low and moderate income persons, and development of community facilities. A special emphasis is to be on rural communities.

**Incorporation.** Upon the filing of the articles of incorporation with the secretary of state, the secretary of state shall issue to the corporation over the great seal of the state a certificate that the articles containing the required documents have been filed in the secretary of state's office.

**Powers of investment corporations.** In furtherance of the purposes for which the corporation is organized, and in addition to the powers conferred by the general laws relating to business corporations, a corporation may:

1. Borrow money and otherwise incur indebtedness for any of the purposes of the corporation and issue its bonds, debentures, notes, or other evidences of indebtedness, whether secured or unsecured, therefor and secure the same by mortgage, pledge, deed of trust, or other lien on its property, franchises, rights, and privileges of every kind and nature or any part thereof.

2. Lend money to, and guarantee, endorse, or act as surety on the bonds, notes, contracts, or other obligations of, or otherwise assist financially, any person, and establish and regulate the terms with respect to any loans or financial assistance and the charges for interest and service connected with the loans or assistance.
3. Purchase, receive, hold, lease, or otherwise acquire, and sell, convey, mortgage, lease, pledge, or otherwise dispose of, upon the terms and conditions as the board of directors determines advisable, property, together with the rights and privileges incidental thereto and the use thereof, including any property acquired by the corporation from time to time in the satisfaction of debts or enforcement of obligations.
4. Acquire, by purchase or otherwise, the goodwill, business, rights, property, and other assets, or any part thereof, that may be in furtherance of the corporate purposes provided herein, and assume, undertake, guarantee, or pay the obligations, debts, and liabilities of any person; acquire improved or unimproved real estate for the purpose of constructing industrial plants or other business establishments or for the purpose of disposing of the real estate to others for the construction of industrial plants or other business establishments, and, in furtherance of the corporate purposes, acquire, construct, reconstruct, maintain, operate, sell, lease, or otherwise dispose of industrial plants or business establishments.
5. Acquire, subscribe for, own, hold, sell, or otherwise dispose of the stock, shares, membership interests, bonds, debentures, notes, or other securities and evidences of interest in, or indebtedness of, any person and, while the owner or holder thereof, to exercise all the rights, powers, and privileges of ownership, including the right to vote.
6. Cooperate with and avail itself of the facilities of the department of economic development and finance and any other similar governmental agencies; and cooperate with, assist, and otherwise encourage local organizations in the various communities of the state, the purpose of which are the promotion, assistance, and development of the business prosperity and economic welfare of the communities and of this state.

**Board of directors.**

1. All the corporate powers of the corporation must be exercised by a board of no fewer than fifteen elected directors who must be residents of this state. The number of directors and their term of office must be determined in the bylaws. If any vacancy occurs in the board of directors, the remaining directors may elect a person to fill the vacancy until the next annual meeting of the corporation.
2. The first board of directors shall adopt bylaws, which remain effective until amended or repealed by action of the board.
3. The first annual meeting must be held at a date to be fixed by the board of directors as soon as reasonably possible after a minimum of twenty-five percent of the capital stock of the corporation has been paid into its treasury. The annual meeting must be called in the manner provided by the bylaws.

**Earned surplus.** Each year, the corporation shall set apart all of its net earnings as retained earnings. The corporation shall hold part of the retained earnings as a reserve for bad debts. The corporation may use the rest of the retained earnings in the course of its business. The amount held as a reserve for bad debts must be at least the amount recommended by the firm of certified public accountants that the board of directors approves to audit the corporation's financial statements. The board shall establish procedures for investing funds held as a reserve for bad debts.

**Obligation limitation.** The total obligations of the corporation may not exceed twenty times the amount of the paid-in capital and surplus, not including earned surplus.

**Deposit of funds - Loans.** The corporation may not deposit any of its funds in any financial institution unless the institution has been designated as a depository by a vote of a majority of the

directors, exclusive of any director who is an officer or director of the depository so designated. The corporation may not receive money on deposit. No loans may be made directly or indirectly to any officer of the corporation or to any firm of which the officer is a member or officer.

**Preemptive right not authorized.** The holders of capital stock as such have no preemptive or preferential right to purchase or subscribe for any part of the unissued capital stock of the corporation of any class or for any new issue of stock of any class, whether now or hereafter authorized or issued, or to purchase or subscribe for any bonds or other obligations, whether or not convertible into stock of any class of the corporation, now or hereafter authorized or issued.

**Notes or obligations - Legal investments.** Notwithstanding any other statute, the notes or other interest-bearing obligations of a state development corporation, issued in accordance with this chapter and the articles of incorporation and the bylaws of the corporation, are legal investments for any bank that becomes a member of the corporation.

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President of the Senate

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Speaker of the House

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Secretary of the Senate

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Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Fifty-fifth Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2373.

Senate Vote:    Yeas    46        Nays    0        Absent    3

House Vote:    Yeas    83        Nays    13       Absent    1

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Secretary of the Senate

Received by the Governor at \_\_\_\_\_ M. on \_\_\_\_\_, 1997.

Approved at \_\_\_\_\_ M. on \_\_\_\_\_, 1997.

\_\_\_\_\_  
Governor

Filed in this office this \_\_\_\_\_ day of \_\_\_\_\_, 1997,

at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Secretary of State