

# BANKS AND BANKING

## CHAPTER 68

### SENATE BILL NO. 2129

(Industry, Business and Labor Committee)

(At the request of the Department of Financial Institutions)

## BANK DIVIDENDS AND SURPLUS FUNDS

AN ACT to amend and reenact section 6-03-34 of the North Dakota Century Code, relating to bank dividends and surplus funds; and to declare an emergency.

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

**SECTION 1. AMENDMENT.** Section 6-03-34 of the North Dakota Century Code is amended and reenacted as follows:

**6-03-34. Surplus fund required - Dividends only out of earnings not required for surplus.** The board of directors of any association organized under this title may declare and pay ~~annual, semiannual, or quarterly~~ dividends out of the net profits of the association subject to the limitations of this chapter. Every such association, ~~quarterly, semiannually, or annually,~~ as its board of directors deems advisable, shall ascertain, set apart, and convert into a surplus fund at least fifty percent of its net earnings until such surplus fund equals one hundred percent of its common stock, and no dividend may be declared upon its stock except from the remaining fifty percent of its net earnings.

**SECTION 2. EMERGENCY.** This Act is declared to be an emergency measure.

Approved March 12, 2003

Filed March 12, 2003

**CHAPTER 69****HOUSE BILL NO. 1270**  
(Representatives Nottestad, Hanson)  
(Senator Wardner)**CREDIT UNION CREDIT COMMITTEE REPORTS**

AN ACT to amend and reenact section 6-06-14 of the North Dakota Century Code, relating to reports of credit committees of credit unions.

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

**SECTION 1. AMENDMENT.** Section 6-06-14 of the North Dakota Century Code is amended and reenacted as follows:

**6-06-14. Loans - How made - Security - Meetings and duties of credit committee - Preferential loans.** The credit committee has 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, except the foregoing provisions regarding monthly meetings do not apply to the North Dakota central credit union. Notice must be given to each member of the committee before any meeting is held. All applications for a loan must be made on a form approved by the committee and must 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 aggregate loans that may be made to a member or a group of members relying on a single income source without adequate security is 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 fifty thousand dollars. Security under this section includes 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 may be made unless it is approved by a majority of the entire committee; except that the credit committee may appoint and delegate to one or more loan officers the power to approve loans up to the limit established by the credit committee, or in excess of ~~such the~~ limit if ~~such the~~ 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 the loan officer within seven days of the date of the filing of the application therefor. All loans not approved by a loan officer must be acted upon by the credit committee. No~~ An individual shall have authority to may ~~not~~ disburse funds of the credit union for any loan ~~which that~~ has been approved by that individual in that individual's capacity as a loan officer. Not more than one member of the credit committee may be appointed as a loan officer. Every loan by a credit union to its directors, officers, managers, and committee members must be made on substantially the same terms, including interest rates and collateral, as those prevailing at the time for comparable transactions with other persons and must be in strict conformity with the credit union's rules and regulations.

Approved March 20, 2003  
Filed March 20, 2003

**CHAPTER 70****SENATE BILL NO. 2183**

(Senators Nelson, Klein)  
(Representatives Delzer, Eckre)

**CREDIT UNION RESERVE FUND DISTRIBUTION**

AN ACT to amend and reenact section 6-06-21 of the North Dakota Century Code, relating to maintaining a reserve fund for state-chartered credit unions.

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

**SECTION 1. AMENDMENT.** Section 6-06-21 of the North Dakota Century Code is amended and reenacted as follows:

**6-06-21. Reserve fund.** Every credit union, including corporate central credit unions, shall maintain a reserve fund in accordance with the rules of the national credit union administration to be used as a reserve against bad loans and other losses. This fund may not be distributed except upon ~~liquidation~~ prior approval of the state credit union board.

Approved March 19, 2003

Filed March 19, 2003

## CHAPTER 71

### HOUSE BILL NO. 1355

(Representative Clark)

(Senator Espgaard)

## ESCROW ACCOUNT STATEMENTS

AN ACT to amend and reenact sections 6-03-13.6, 6-08-29, 7-02-15, and 47-10.2-05 of the North Dakota Century Code, relating to notice of mortgagee payment of interest on escrow account funds and statutory reference correction.

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

<sup>33</sup> **SECTION 1. AMENDMENT.** Section 6-03-13.6 of the North Dakota Century Code is amended and reenacted as follows:

**6-03-13.6. Branch conversions.** Notwithstanding section 6-03-13.1, any bank organized under chapter 6-02, any national bank doing business in this state, or a any bank established in this state by a any bank holding company doing business in this state as of January 1, 1995, may convert a branch of a federal savings and loan association located in this state which was in existence as of March 1, 1995, purchased by the bank between January 1, 1995, and August 1, 1996, into a facility of the bank to be maintained at the same branch location if the acquisition and conversion does not violate the deposit limitations provisions contained in sections ~~6-08-29~~ 6-08-30 and 6-08.3-03.1 and the acquisition and conversion of the branch is approved by the appropriate regulatory agencies.

**SECTION 2. AMENDMENT.** Section 6-08-29 of the North Dakota Century Code is amended and reenacted as follows:

**6-08-29. Interest on banking institution and credit union Annual escrow accounts related to mortgages on residences - Rate payable account statement.** ~~Before the mortgage is executed by the mortgagor, each~~ Each banking institution and credit union ~~intending to maintain that maintains~~ an escrow account for the payment of taxes, assessments, insurance premiums, and other charges upon the mortgagor's residence shall ~~notify the mortgagor whether the institution or credit union offers interest on the escrow account funds.~~ Each banking institution and credit union that maintains an escrow account shall annually furnish annually each mortgagor with a detailed statement showing all debits and credits to the escrow account and ~~the method used in computing the interest, if interest is offered.~~

**SECTION 3. AMENDMENT.** Section 7-02-15 of the North Dakota Century Code is amended and reenacted as follows:

**7-02-15. Interest on savings and loan association Annual escrow accounts related to mortgages on residences - Rate payable account statement.** ~~Before the mortgage is executed by the mortgagor, every~~ Each savings

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<sup>33</sup> Section 6-03-13.6 was also amended by section 2 of Senate Bill No. 2046, chapter 48.

and loan association ~~intending to maintain that maintains~~ an escrow account for the payment of taxes, assessments, insurance premiums, and other charges upon the mortgagor's residence shall ~~notify the mortgagor whether the association offers interest on the escrow account funds.~~ Each savings and loan association that ~~maintains an escrow account shall annually~~ annually furnish each mortgagor with a detailed statement showing all debits and credits to the escrow account ~~and the method used in computing the interest, if interest is offered.~~

**SECTION 4. AMENDMENT.** Section 47-10.2-05 of the North Dakota Century Code is amended and reenacted as follows:

**47-10.2-05. Interest on other Annual escrow accounts related to mortgages on residences - Rate payable account statement.** Before the mortgage is executed by the mortgagor, every Each residential mortgagee, including any insurance company ~~whose with~~ articles of incorporation ~~are~~ filed under section 26.1-01-03 or ~~who~~ which is required to obtain a certificate of authority under section 26.1-01-05, intending to maintain an escrow account for the payment of taxes, assessments, insurance premiums, and other charges upon the mortgagor's residence shall ~~notify the mortgagor whether it offers interest on the escrow account funds.~~ The mortgagee shall ~~annually~~ annually furnish each mortgagor with a detailed statement showing all debits and credits to the account ~~and the method used in computing the interest, if interest is offered.~~

Approved March 20, 2003

Filed March 20, 2003

**CHAPTER 72****SENATE BILL NO. 2191**

(Senator Espgaard)

(Representatives N. Johnson, Uglem)

**FINANCIAL INSTITUTION CUSTOMER  
IDENTIFICATION**

AN ACT to create and enact a new section to chapter 6-08 of the North Dakota Century Code, relating to retention of a copy of a customer's state-issued identification by a financial institution trust company or credit union.

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

**SECTION 1.** A new section to chapter 6-08 of the North Dakota Century Code is created and enacted as follows:

**Documenting customer identity.** Notwithstanding any other provision of law, a financial institution, trust company, or credit union may make and retain a copy of any motor vehicle operator's license, permit, or nondriver's photo identification card used in connection with the process of verifying the identity of a customer or potential customer.

Approved March 26, 2003

Filed March 26, 2003

## CHAPTER 73

### HOUSE BILL NO. 1478

(Representatives Kasper, Keiser, Ruby, Tieman)  
(Senators Mutch, Tollefson)

## FINANCIAL INFORMATION PRIVACY

AN ACT to create and enact two new sections to chapter 6-08.1 of the North Dakota Century Code, relating to disclosure of financial information; and to amend and reenact sections 6-08.1-01 and 6-08.1-02 of the North Dakota Century Code, relating to financial institution customer privacy definitions and exceptions.

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

**SECTION 1. AMENDMENT.** Section 6-08.1-01 of the North Dakota Century Code is amended and reenacted as follows:

**6-08.1-01. Definitions.** As used in this chapter:

1. "Customer" means any person ~~who~~ that is a resident of or is domiciled in this state and which has transacted or is transacting business with, or has used or is using the services of, a financial institution, or for ~~whom~~ which a financial institution has acted as a fiduciary with respect to trust property.
2. "Customer information" means either of the following:
  - a. Any original or any copy of any records held by a financial institution pertaining to a customer's relationship with the financial institution.
  - b. Any information derived from a record described in this subsection.
3. "Financial institution" means any organization that is physically located in the state which is authorized to do business under state or federal laws relating to financial institutions, including, without limitation, a bank, including the Bank of North Dakota, a savings bank, a trust company, a savings and loan association, or a credit union.
4. "Financial institution regulatory agency" means any of the following:
  - a. The federal deposit insurance corporation.
  - b. The federal savings and loan insurance corporation.
  - c. The national credit union administration.
  - d. The federal reserve board.
  - e. The United States comptroller of the currency.
  - f. The department of financial institutions.

- g. The federal home loan bank board.
5. "Governmental agency" means any agency or department of this state, or any authorized officer, employee, or agent of an agency or department of this state.
  6. "Law enforcement agency" means any agency or department of this state or of any political subdivision of this state authorized by law to enforce the law and to conduct or engage in investigations or prosecutions for violations of law.
  7. ~~"Person" means any individual, partnership, corporation, limited liability company, association, trust, or other legal entity.~~

<sup>34</sup> **SECTION 2. AMENDMENT.** Section 6-08.1-02 of the North Dakota Century Code is amended and reenacted as follows:

**6-08.1-02. Exemptions.** This chapter does not apply to any of the following:

1. The disclosure of necessary customer information in the preparation, examination, handling, or maintenance of any customer information by any officer, employee, or agent of a financial institution having custody of such information or in the examination of such necessary information by an accountant engaged by the financial institution to perform an audit.
2. The disclosure of necessary customer information in the examination of any customer information by, or the furnishing of customer information to, any officer, employee, or agent of a financial institution regulatory agency solely for use in the exercise of that person's duties.
3. The publication of data derived from customer information ~~where~~ if the data cannot be identified to any particular customer or account.
4. Any acts required of the financial institution by the Internal Revenue Code.
5. Disclosures permitted under the Uniform Commercial Code concerning the dishonor of any negotiable instrument.
6. The exchange in the regular course of business of necessary customer credit information between a financial institution and other financial institutions or commercial entities, directly, or through a customer reporting agency.
7. The release by the industrial commission, in its capacity as the managing body of the Bank of North Dakota, of either of the following:
  - a. The name of any person who, either directly or indirectly, has obtained financing through the Bank of North Dakota.

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<sup>34</sup> Section 6-08.1-02 was also amended by section 1 of House Bill No. 1104, chapter 74.

- b. The amount of any financing obtained either directly or indirectly through the Bank of North Dakota.
8. ~~AA~~ The disclosure of customer information in the examination, handling, or maintenance of any customer information by any governmental agency or law enforcement agency for purposes of verifying information necessary in the licensing process, provided prior consent is obtained from the licensee and customer.
9. Disclosure of customer information to a law enforcement agency or governmental agency pursuant to a search warrant or subpoena duces tecum issued in accordance with applicable statutes or the North Dakota Rules of Criminal Procedure.
10. Disclosure by a financial institution to the agriculture commissioner that it has given a customer notice of the availability of the North Dakota agricultural mediation service.
11. The disclosure by a financial institution to any financial institution or other entity that controls, is controlled by, or is under common control with the financial institution if the financial institution or other entity receiving the information complies with section 6-08.1-03.
12. A disclosure of customer information under section 502(e) of the federal Financial Services Modernization Act of 1999 [Pub. L. 106-102; 113 Stat. 1436; 15 U.S.C. 6802(e)]. A disclosure under this subsection must comply with the rules adopted under section 4 of this Act.

**SECTION 3.** A new section to chapter 6-08.1 of the North Dakota Century Code is created and enacted as follows:

**Joint marketing agreements - Consent.** A financial institution must have a customer's consent before the financial institution may disclose the customer's information to a nonaffiliated third party under a joint marketing agreement as provided under section 502(b)(2) of the federal Financial Services Modernization Act of 1999 [Pub. L. 106-102; 113 Stat. 1437; 15 U.S.C. 6802(b)(2)].

**SECTION 4.** A new section to chapter 6-08.1 of the North Dakota Century Code is created and enacted as follows:

**Rules.** The state banking board and the state credit union board shall adopt rules to implement subsection 12 of section 6-08.1-02. The rules must provide at least as much customer protection as would be provided in the case of disclosure of information under circumstances where there has been an opt-out election under title V of the federal Financial Services Modernization Act of 1999 [Pub. L. 106-102; 113 Stat. 1436].

Approved April 7, 2003  
Filed April 7, 2003

## CHAPTER 74

### HOUSE BILL NO. 1104 (Industry, Business and Labor Committee) (At the request of the Industrial Commission)

## BANK OF NORTH DAKOTA INFORMATION CONFIDENTIALITY

AN ACT to amend and reenact subsection 7 of section 6-08.1-02 of the North Dakota Century Code, relating to confidentiality of information in the Bank of North Dakota's possession.

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

<sup>35</sup> **SECTION 1. AMENDMENT.** Subsection 7 of section 6-08.1-02 of the North Dakota Century Code is amended and reenacted as follows:

7. The release by the industrial commission, in its capacity as the managing body of the Bank of North Dakota, ~~of either~~ of the following:
  - a. The name of any person who; ~~either directly or indirectly,~~ has obtained approval for direct or indirect financing or security, including a loan guarantee or a letter of credit, through the Bank of North Dakota primarily for purposes other than personal, family, or household purposes.
  - b. The amount of any financing ~~obtained either directly or indirectly through the Bank of North Dakota~~ or security referenced in subdivision a.
  - c. The amount of any net writeoff or loan forgiveness associated with the financing or security referenced in subdivision a which the industrial commission determines is uncollectible.

Approved March 7, 2003  
Filed March 7, 2003

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<sup>35</sup> Section 6-08.1-02 was also amended by section 2 of House Bill No. 1478, chapter 73.

## CHAPTER 75

### SENATE BILL NO. 2267

(Senators Trenbeath, Espegard)  
(Representatives Dosch, Tieman)

### INTERSTATE BANKING

AN ACT to create and enact a new subsection to section 6-08.4-01 and a new section to chapter 6-08.4 of the North Dakota Century Code, relating to banking definitions and branch restrictions; and to amend and reenact sections 6-08.4-02, 6-08.4-03, 6-08.4-05, and 6-08.4-06 of the North Dakota Century Code, relating to approval by federal regulatory authorities, authority of a bank to branch interstate, notice and filing requirements, and powers of banks operating through interstate branches.

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

**SECTION 1.** A new subsection to section 6-08.4-01 of the North Dakota Century Code is created and enacted as follows:

"Transaction" means a bank's establishment, operation, and, as applicable, retention of a bank branch office in a state other than its home state, whether de novo, by acquisition of a separate branch office, or through a merger of a North Dakota bank with another bank.

**SECTION 2.** A new section to chapter 6-08.4 of the North Dakota Century Code is created and enacted as follows:

**Reciprocity required.** To the extent a state imposes a restriction on the ability of a North Dakota bank to establish, acquire, or retain a branch in that state, that restriction must apply to the establishment, acquisition, or retention of a branch in this state by the out-of-state bank.

**SECTION 3. AMENDMENT.** Section 6-08.4-02 of the North Dakota Century Code is amended and reenacted as follows:

**6-08.4-02. Interstate mergers branches.** ~~Effective May 31, 1997~~ Subject to section 6-08.4-06, the responsible federal regulatory authority may approve a ~~merger~~ transaction under the Federal Deposit Insurance Act [Pub. L. 81-967; 64 Stat. 87; 12 U.S.C. 1811 et seq.] ~~between a North Dakota bank and an out-of-state bank.~~

**SECTION 4. AMENDMENT.** Section 6-08.4-03 of the North Dakota Century Code is amended and reenacted as follows:

**6-08.4-03. Authority of state banks to establish interstate branches by merger.** Notwithstanding section 6-08.4-02, ~~effective May 31, 1997,~~ a North Dakota state-chartered bank, with approval of the board, may establish, ~~maintain~~ acquire, retain, and operate one or more branches in a state other than this state ~~pursuant to an interstate merger in which the North Dakota state-chartered bank is the resulting bank.~~ An application must be filed with the board at the time an application is filed with the responsible federal regulatory authority. The North Dakota state-chartered bank must also comply with section 6-03-11 or 6-03-13.3, as applicable. The board may approve the ~~interstate merger~~ transaction if the board finds that:

1. The proposed ~~interstate merger~~ transaction will not be detrimental to the safety and soundness of the ~~resulting~~ North Dakota state-chartered bank;
2. Any new officers and directors are qualified, and possess appropriate experience and financial responsibility ~~to direct and manage the resulting North Dakota state-chartered bank~~; and
3. The proposed ~~merger~~ transaction is consistent with the convenience and needs of the communities to be served by the ~~resulting~~ bank in this state and is otherwise in the public interest.

**SECTION 5. AMENDMENT.** Section 6-08.4-05 of the North Dakota Century Code is amended and reenacted as follows:

**6-08.4-05. Notice and filing requirements.** Any out-of-state bank that ~~will be the resulting bank pursuant to an interstate merger involving a North Dakota bank~~ proposes a transaction for a branch in this state must notify and submit a copy of its ~~interstate merger~~ transaction application to the board of ~~the proposed merger~~ not later than the date on which it files the application with the responsible federal regulatory authority.

**SECTION 6. AMENDMENT.** Section 6-08.4-06 of the North Dakota Century Code is amended and reenacted as follows:

**6-08.4-06. Powers.**

1. An out-of-state state-chartered bank that establishes, acquires, and ~~maintains~~ retains one or more branches in this state under this chapter may conduct any activities at the branch or branches that are authorized under the laws for North Dakota state banks, except to the extent those activities may be prohibited by the laws, rules, or orders of the home state applicable to the out-of-state state-chartered bank.
2. A North Dakota state-chartered bank may conduct any activities at any branch outside this state which are permissible for an out-of-state state-chartered bank where the branch is located, except to the extent those activities are expressly prohibited by North Dakota law, rule, or order.

Approved March 21, 2003  
Filed March 21, 2003

## CHAPTER 76

### HOUSE BILL NO. 1116

(Industry, Business and Labor Committee)  
(At the request of the Bank of North Dakota)

## TRUST PREFERRED SECURITIES TRANSACTIONS

AN ACT to create and enact a new subdivision to subsection 1 of section 6-09-15 of the North Dakota Century Code, relating to trust preferred securities transactions; to amend and reenact subsection 1 of section 6-09-15 of the North Dakota Century Code, relating to authority of the Bank of North Dakota to guarantee loans; and to provide an expiration date.

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

<sup>36</sup> **SECTION 1. AMENDMENT.** Subsection 1 of section 6-09-15 of the North Dakota Century Code is amended and reenacted as follows:

1. Make, purchase, guarantee, or hold loans:
  - a. To state or federally chartered lending agencies or institutions, or any other financial institutions.
  - b. To holders of Bank of North Dakota certificates of deposit and savings accounts up to ninety percent of the value of the certificates and savings accounts offered as security.
  - c. To actual farmers who are residents of this state, if the loans are secured by recorded mortgages giving the Bank of North Dakota a first lien on real estate in North Dakota in amounts not to exceed eighty percent of the value of the security.
  - d. That are insured or guaranteed in whole or in part by the United States, its agencies, or instrumentalities.
  - e. That are eligible to be guaranteed under chapter 15-62.1. Loans made pursuant to this subdivision may provide for interest that remains unpaid at the end of any period specified in the loan to be added to the principal amount of the debt and thereafter accumulate interest.
  - f. To individuals or bank holding companies for the purpose of purchasing or refinancing the purchase of bank stock of a bank located in the state.
  - g. To nonprofit organizations that are exempt from federal taxation under section 501(c)(3) of the Internal Revenue Code [26 U.S.C.

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<sup>36</sup> Section 6-09-15 was also amended by section 2 of House Bill No. 1116, chapter 76, and section 1 of Senate Bill No. 2335, chapter 77.

501(c)(3)], the proceeds of the loans to be used for construction, reconstruction, repair, renovation, maintenance, and associated costs on property under the control of the parks and recreation department.

- h. Under Public Law No. 99-198 [99 Stat. 1534; 7 U.S.C. 1932 et seq.], as amended through December 31, 1996, to nonprofit corporations for the purpose of relending loan funds to rural businesses.
- i. Under title 7, Code of Federal Regulations, part 1948, subpart C; part 1951, subparts F and R; and part 1955, subparts A, B, and C, as amended through December 31, 1996, to finance businesses and community development projects in rural areas.
- j. Obtained as security pledged for or originated in the restructuring of any other loan properly originated or participated in by the Bank.
- k. To instrumentalities of this state.
- l. As otherwise provided by this chapter or other statutes.
- m. If the Bank is participating in the loan and the Bank deems it is in the best interests of the Bank to do so, it may purchase the remaining portion of the loan from a participating lender that is closed by regulatory action, or from the receiver of the participating lender's assets.

<sup>37</sup> **SECTION 2.** A new subdivision to subsection 1 of section 6-09-15 of the North Dakota Century Code is created and enacted as follows:

To an investment company created for completing a trust preferred securities transaction for the benefit of a financial institution located in this state.

**SECTION 3. EXPIRATION DATE.** Section 1 of this Act is effective through July 31, 2007, and after that date is ineffective.

Approved April 21, 2003

Filed April 21, 2003

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<sup>37</sup> Section 6-09-15 was also amended by section 1 of Senate Bill No. 2335, chapter 77, and section 1 of House Bill No. 1116, chapter 76.

## CHAPTER 77

### SENATE BILL NO. 2335

(Senators Grindberg, Espegard, Holmberg)

## VENTURE CAPITAL INVESTMENTS

AN ACT to create and enact a new subdivision to subsection 4 of section 6-09-15, a new section to chapter 6-09, and a new subsection to section 10-30.5-04 of the North Dakota Century Code, relating to powers of the Bank of North Dakota and powers of the North Dakota development fund, incorporated; to provide an expiration date; and to declare an emergency.

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

<sup>38</sup> **SECTION 1.** A new subdivision to subsection 4 of section 6-09-15 of the North Dakota Century Code is created and enacted as follows:

In North Dakota alternative and venture capital investments and early-stage capital funds including the North Dakota development fund, incorporated, not to exceed five million dollars, for the purpose of providing funds for investment in North Dakota alternative and venture capital investments and early-stage capital funds.

**SECTION 2.** A new section to chapter 6-09 of the North Dakota Century Code is created and enacted as follows:

**Reimbursement of Bank losses.** The Bank of North Dakota shall request from the industrial commission a transfer from the student loan trust fund to reimburse the Bank for any losses incurred from investments in North Dakota alternative and venture capital investments and early-stage capital funds including the North Dakota development fund, incorporated. Any gains from investments in North Dakota alternative and venture capital investments and early-stage capital funds, including the North Dakota development fund, incorporated, must first be applied to offset any losses reimbursed by the student loan trust fund under this section. Once the student loan trust fund has been made whole, the Bank of North Dakota and the trust fund shall share any additional revenue on a mutually agreed formula as determined by the industrial commission.

**SECTION 3.** A new subsection to section 10-30.5-04 of the North Dakota Century Code is created and enacted as follows:

Borrow funds not to exceed five million dollars from the Bank of North Dakota for the purpose of investing in North Dakota alternative and venture capital investments and early-stage capital funds.

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<sup>38</sup> Section 6-09-15 was also amended by section 2 of House Bill No. 1116, chapter 76, and section 1 of House Bill No. 1116, chapter 76.

**SECTION 4. EXPIRATION DATE.** Sections 1 and 3 of this Act are effective through July 31, 2007, and after that date are ineffective.

**SECTION 5. EMERGENCY.** This Act is declared to be an emergency measure.

Approved May 2, 2003

Filed May 2, 2003

**CHAPTER 78****HOUSE BILL NO. 1118**

(Agriculture Committee)

(At the request of the Bank of North Dakota)

**BEGINNING FARMERS AND AG PACE FUND  
TRANSFERS**

AN ACT to amend and reenact section 6-09-15.5 of the North Dakota Century Code, relating to the transfer of funds between the beginning farmers loan fund and the agriculture partnership in assisting community expansion fund.

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

**SECTION 1. AMENDMENT.** Section 6-09-15.5 of the North Dakota Century Code is amended and reenacted as follows:

**6-09-15.5. Bank loans to beginning farmers - Revolving loan fund - Requirements.**

1. A revolving loan fund must be maintained in the Bank of North Dakota for the purpose of making or participating in loans to North Dakota beginning farmers for the purchase of agricultural real estate, equipment, and livestock. All moneys transferred into the fund, interest upon moneys in the fund, and payments to the fund of principal and interest on loans made from the fund are appropriated for the purpose of providing loans and to supplement the interest rate on loans to beginning farmers made by the Bank of North Dakota under subdivision c of subsection 1 of section 6-09-15 and in accordance with this section.
2. The revolving loan fund and loans made from the fund must be administered and supervised by the Bank of North Dakota. The Bank may deduct a service fee for administering the fund from interest payments received on loans. An application for a loan from the fund must be made to the Bank and, upon approval, a loan must be made from the fund in accordance with this section.
3. A loan made from the fund may not exceed eighty percent of the appraised value of the agricultural collateral, with the actual percentage to be determined by the Bank. The Bank may do all things and acts and may establish additional terms and conditions necessary to make a loan under this section. A loan made from the fund must have a first security interest.
4. A loan made from the fund must have the interest rate fixed at one percent below the Bank's then current base rate for the first five years with a maximum rate of six percent per year and variable at one percent below the Bank's then current base rate for the second five years. During the second five years, the variable rate must be adjusted annually on the anniversary date. The rate during the remaining term of the loan floats at the Bank's base rate as in effect from time to time.

5. The maximum term of a real estate loan is twenty-five years. The maximum term of a farm equipment or livestock loan is seven years.
6. The industrial commission shall contract with a certified public accounting firm to audit the fund as necessary. The cost of the audit, and any other actual costs incurred by the Bank on behalf of the fund, must be paid for by the fund.
7. The Bank shall adopt policies to implement this section.
8. Notwithstanding any other provision of law, the Bank may transfer any unobligated funds between funds that have been appropriated by the legislative assembly for interest buydown in the beginning farmers loan fund and the agriculture partnership in assisting community expansion fund.

Approved March 12, 2003  
Filed March 12, 2003

**CHAPTER 79****SENATE BILL NO. 2360**

(Senator Nething)  
(Representative Timm)

**TRUCKDRIVER TRAINING STUDENT LOANS**

AN ACT to create and enact a new section to chapter 6-09 of the North Dakota Century Code, relating to a loan program to assist students in truckdriver training programs; and to provide an expiration date.

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

**SECTION 1.** A new section to chapter 6-09 of the North Dakota Century Code is created and enacted as follows:

**Truckdriver training programs - Loans to students.**

1. The Bank of North Dakota shall administer a loan program to assist residents of this state during the period in which the residents are enrolled as students in a truckdriver training program offered in this state. The maximum amount allowable per loan is seven thousand five hundred dollars, less any amount received by the student in the form of employer matching grants, financial aid, third-party training program dollars, income, unemployment insurance benefits, or workers' compensation benefits, during the period of the truckdriver training program.
2. The Bank of North Dakota shall provide a schedule for repayment of any loan provided under subsection 1. The schedule must require that the student begin repayment no later than sixty days after completion of or withdrawal from the truckdriver training program and that the loan be repaid in full within sixty months of the first payment.

**SECTION 2. EXPIRATION DATE.** This Act is effective through June 30, 2007, and after that date is ineffective.

Approved April 11, 2003  
Filed April 14, 2003

**CHAPTER 80****HOUSE BILL NO. 1321**

(Representatives Koppelman, Belter, Nelson, Nicholas)  
(Senators G. Lee, Taylor)

**AGRICULTURAL REAL ESTATE LOAN GUARANTEES**

AN ACT to create and enact a new section to chapter 6-09.7 of the North Dakota Century Code, relating to Bank of North Dakota agricultural real estate loan guarantees; and to provide an expiration date.

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

**SECTION 1.** A new section to chapter 6-09.7 of the North Dakota Century Code is created and enacted as follows:

**Agricultural real estate loans - Guarantee.** The Bank of North Dakota may guarantee the loan of money by banks, credit unions, lending institutions that are part of the farm credit system, and savings and loan associations in this state to eligible persons for the purchase of agricultural real estate or the restructuring of agricultural real estate loans, provided the transactions do not exceed a loan to value ratio of eighty percent and further provided that no single loan exceed four hundred thousand dollars. The Bank of North Dakota may have no more than five million dollars in outstanding loan guarantees under this section. The Bank of North Dakota may establish additional terms, conditions, and procedures, as necessary to meet the requirements of this section.

**SECTION 2. EXPIRATION DATE.** This Act is effective through July 31, 2007, and after that date is ineffective.

Approved April 9, 2003

Filed April 9, 2003