

Introduced by

Industry, Business and Labor Committee

(At the request of the Department of Financial Institutions)

1 A BILL for an Act to amend and reenact sections 6-01-09, 6-05-03, and 6-05-28, subsection 3 of
2 section 6-08.1-01, sections 13-04.1-04.1, 13-05-04.1, and 13-08-06, subsection 1 of section
3 13-09-10, and section 13-11-08 of the North Dakota Century Code, relating to the examination
4 of technology service providers, the capital requirement for trust companies, the examination of
5 trust companies, the definition of a financial institution, surety bond requirements for money
6 brokers and collection agencies, notice requirement for deferred presentment service providers,
7 fees for money transmitters, and reporting requirements for debt-settlement providers; and to
8 repeal sections 13-04.1-05.1, 13-05-05.2, 13-08-05.2, and 13-09-10.1 of the North Dakota
9 Century Code, relating to automatic renewal of license in 2009 for money brokers, automatic
10 renewal of license in 2014 for collection agencies, deferred presentment service providers, and
11 money transmitters.

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

13 **SECTION 1. AMENDMENT.** Section 6-01-09 of the North Dakota Century Code is amended
14 and reenacted as follows:

15 **6-01-09. Supervision and examination by commissioner of financial institutions.**

16 The commissioner shall exercise a constant supervision over the business affairs of all
17 financial corporations, financial institutions, and credit unions, including all out-of-state branches
18 of financial corporations, financial institutions, and credit unions. Either the commissioner or one
19 or more examiners shall visit each financial institution at least once each thirty-six months to
20 examine its affairs and ascertain its financial condition. The commissioner shall inspect and
21 verify the assets and liabilities of the institution and branches to ascertain with reasonable
22 certainty that the value of the assets and the amounts of the liabilities are correctly carried on its
23 books. The commissioner shall examine the validity of mortgages held by savings institutions
24 and shall see that all of the mortgages are properly recorded. The commissioner shall

1 investigate the method of operation and conduct of the corporations and institutions and their
2 systems of accounting to ascertain whether the methods conform to the law and sound banking
3 usage and principles. The commissioner shall inquire into and report any infringement of the
4 laws governing those corporations and institutions, and for that purpose the commissioner may
5 examine the officers, agents, and employees of the corporations and institutions and all persons
6 doing business therewith. The commissioner may examine, or cause to be examined, or review
7 the books and records of any subsidiary corporation of a bank under the commissioner's
8 supervision and may require the bank to provide information on the holding company that owns
9 the bank. The commissioner may also examine, or cause to be examined, or review the books
10 and records of any technology service provider that provides services to financial corporations,
11 credit unions, and financial institutions under the commissioner's supervision, to evaluate that
12 entity's risk management systems and controls and compliance with applicable laws that affect
13 such services provided to financial corporations, credit unions, and financial institutions. The
14 commissioner shall report the condition of the corporations and institutions, together with the
15 commissioner's recommendations or suggestions in connection therewith, to the state banking
16 board, and the board may take such action as the exigencies may demand.

17 **SECTION 2. AMENDMENT.** Section 6-05-03 of the North Dakota Century Code is amended
18 and reenacted as follows:

19 **6-05-03. Capital stock -- Amount -- Par value -- Paid-in capital required.**

20 The amount of capital stock of any such corporation may not be less than one hundred
21 ~~thousand~~million dollars, and the same must be divided into shares of one hundred dollars each.
22 ~~No such corporation is authorized to transact any business or exercise any powers as such until~~
23 ~~the aforesaid minimum amount of capital stock has been subscribed for, and not less than fifty~~
24 ~~thousand dollars thereof actually has been paid in, invested, and deposited as provided in this~~
25 ~~chapter~~with no less than five hundred thousand dollars of that amount in liquid assets. The state
26 banking board may require such additional capital, surplus, and undivided profits as it may
27 determine necessary to properly serve the area and to protect the public interests. The state
28 banking board shall take into consideration peer group ratios, or federal standards and
29 guidelines, when determining whether any additional capital is required.

30 **SECTION 3. AMENDMENT.** Section 6-05-28 of the North Dakota Century Code is amended
31 and reenacted as follows:

1 **6-05-28. Examination by commissioner - Fees - Power over business, officers, and**
2 **employees.**

3 The commissioner shall make a full, true, complete, and accurate examination and
4 investigation of the affairs of each corporation doing business under this chapter as often as the
5 commissioner deems necessary. Such examination ~~must~~may be made without previous notice
6 to the corporation to be examined. Fees for such examinations must be charged by the
7 department of financial institutions at an hourly rate to be set by the commissioner, sufficient to
8 cover all reasonable expenses of the department associated with the examinations provided for
9 by this section. Fees must be paid to the department of financial institutions and deposited in
10 the financial institutions regulatory fund. The commissioner, in the commissioner's discretion,
11 may accept, in lieu of any examination authorized or required by this title to be conducted by the
12 department of financial institutions, the examination that may have been made of such
13 institution within a reasonable period by the federal reserve bank or federal deposit insurance
14 corporation, if a copy of such examination is furnished to the commissioner. The commissioner
15 shall assume and exercise over each such corporation and its business, officers, directors, and
16 employees all the power and authority conferred upon the commissioner over financial or
17 moneyed corporations or associations.

18 **SECTION 4. AMENDMENT.** Subsection 3 of section 6-08.1-01 of the North Dakota Century
19 Code is amended and reenacted as follows:

20 3. "Financial institution" means any organization ~~that is physically located in the state~~
21 ~~which is~~ authorized to do business under state or federal laws relating to financial
22 institutions, including, without limitation, a bank, including the Bank of North Dakota, a
23 savings bank, a trust company, a savings and loan association, or a credit union.

24 **SECTION 5. AMENDMENT.** Section 13-04.1-04.1 of the North Dakota Century Code is
25 amended and reenacted as follows:

26 **13-04.1-04.1. Surety bond required.**

- 27 1. Each licensee shall maintain a surety bond in an amount not less than ~~twenty-five~~fifty
28 thousand dollars. The surety bond must be in a form prescribed by the commissioner.
- 29 2. When an action is commenced on a licensee's bond, the commissioner may require
30 the filing of a new bond.

- 1 3. Immediately upon recovery upon any action on the bond, the licensee shall file a new
2 bond.

3 **SECTION 6. AMENDMENT.** Section 13-05-04.1 of the North Dakota Century Code is
4 amended and reenacted as follows:

5 **13-05-04.1. Surety bond required.**

- 6 1. Each licensee shall maintain a surety bond in the amount of ~~twenty~~twenty-five thousand
7 dollars.
8 2. The surety bond must be in a form as prescribed by the commissioner.
9 3. When an action is commenced on a licensee's bond, the commissioner may require
10 the filing of a new bond.
11 4. Immediately upon recovery upon any action on the bond, the licensee shall file a new
12 bond.

13 **SECTION 7. AMENDMENT.** Section 13-08-06 of the North Dakota Century Code is
14 amended and reenacted as follows:

15 **13-08-06. Issuance of license - Posting.**

- 16 1. Upon receipt of a complete application, the commissioner shall determine whether the
17 qualifications prescribed under this chapter are satisfied. If the commissioner
18 determines the qualifications are satisfied and approves the documents, the
19 commissioner shall issue to the applicant a license to engage in the deferred
20 presentment service business.
21 2. A licensee shall keep ~~the license~~a notice conspicuously posted in the place of
22 business of the licensee; and shall provide the same notice to its customers in this
23 state ~~of the license number under which it is operating. This notice must include the~~
24 license number and instructions for customers to look up the licensee on the
25 nationwide multistate licensing system for license verification.
26 3. A license issued under this section is effective through the remainder of the fiscal year
27 ending ~~June thirtieth~~December thirty-first after the license's date of issuance unless
28 earlier surrendered, suspended, or revoked under this chapter.

29 **SECTION 8. AMENDMENT.** Subsection 1 of section 13-09-10 of the North Dakota Century
30 Code is amended and reenacted as follows:

- 1 1. A licensee under this chapter shall pay an annual renewal fee of ~~four hundred fifty~~
2 dollars, which is not subject to refund. The fee must equal five hundred dollars or
3 one-fourth of one percent of the money transmission dollar volume in North Dakota for
4 the twelve months ending June thirtieth, whichever is greater. The fee may not exceed
5 two thousand five hundred dollars.

6 **SECTION 9. AMENDMENT.** Section 13-11-08 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 **13-11-08. Records - Annual reports.**

- 9 1. Every licensee shall maintain records in conformity with generally accepted accounting
10 principles and practices in a manner that will enable the commissioner to determine
11 whether the licensee is complying with this chapter. The records of a licensee may be
12 maintained electronically provided all records can be reproduced upon request of the
13 commissioner and within the required statutory time frame outlined in this section.
14 2. Before ~~August~~January first of each year, the parent company of each licensee shall file
15 with the commissioner a composite annual report in the form prescribed by the
16 commissioner relating to services provided by licensees.

17 **SECTION 10. REPEAL.** Sections 13-04.1-05.1, 13-05-05.2, 13-08-05.2, and 13-09-10.1 of
18 the North Dakota Century Code are repealed.