

HOUSE BILL NO. 1100

Introduced by

Industry, Business and Labor Committee

(At the request of the Department of Banking and Financial Institutions)

1 A BILL for an Act to create and enact a new section to chapter 6-01 of the North Dakota
2 Century Code, relating to the authority of the state banking board or commissioner to take
3 corrective action concerning undercapitalized state banks.

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

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

7 **Prompt correction action.** The commissioner or the board may enter a temporary
8 cease and desist order if the commissioner or the board finds that a state bank is
9 undercapitalized, significantly undercapitalized, or critically undercapitalized. For the purpose
10 of this section, undercapitalized, significantly undercapitalized, and critically undercapitalized
11 have the same definition as found in title 12, Code of Federal Regulations, part 325,
12 section 103. The temporary cease and desist order may require an undercapitalized state bank
13 to take prompt corrective action as the commissioner or board determines reasonable to bring
14 the bank to an adequately capitalized condition, including the submission and implementation of
15 an acceptable capital restoration plan. For a significantly or critically undercapitalized state
16 bank, the commissioner or board may issue a temporary cease and desist order appointing a
17 receiver, or with the consent of the federal deposit insurance corporation appoint a conservator
18 or take such other action as may be better to resolve the problems of the state bank consistent
19 with section 38 of the Federal Deposit Insurance Act of 1991 [Pub. L. 102-242; 105 Stat. 2253;
20 12 U.S.C. 1831(o) et seq.]. A temporary cease and desist order is effective immediately upon
21 service on the state bank and remains in effect for no longer than ninety days or until the
22 conclusion of a permanent cease and desist proceeding pursuant to section 6-01-04.2,
23 whichever is sooner. A temporary cease and desist order may be issued without an opportunity
24 for hearing. The state bank upon which such an order is served may apply to the district court

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Legislative Assembly

- 1 of the county in which the state bank is located for an order enjoining the operation of the
- 2 temporary cease and desist order. The application for injunction and procedure upon
- 3 application must comply with the requirements of section 6-07-14.