

**SENATE BILL NO. 2164
with House Amendments**

Fifty-seventh
Legislative Assembly
of North Dakota

SENATE BILL NO. 2164

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 amend and reenact sections 1-03-04 and 6-01-01, subsections 1 and 2 of
2 section 6-01-01.1, subsections 5 and 8 of section 6-01-02, subsection 1 of section 6-01-04.1,
3 subsection 1 of section 6-01-04.2, subsection 4 of section 6-01-10, section 6-01-13,
4 subsection 1 of section 6-01-15, section 6-01-17.2, subsection 2 of section 6-02-01, sections
5 6-03-11, 6-03-13.5, 6-03-70, and 6-05-02, subsection 2 of section 6-05-04, subsections 1 and 3
6 of section 6-05-15.4, subsection 2 of section 6-05-15.5, section 6-05-28, subsection 1 of
7 section 6-06-08, sections 6-06-08.2 and 6-06-08.3, subsection 2 of section 6-06-35,
8 section 6-06-36, subsection 4 of section 6-08.1-01, section 6-08.2-02, subsection 3 of
9 section 6-08.3-01, section 6-09-29, subsection 4 of section 6-09-35, section 6-10-06,
10 sections 7-01-03, 7-01-09, and 7-01-11, subsection 2 of section 7-01-12, section 7-01-14,
11 subsection 5 of section 7-02-01, subsections 1, 9, and 10 of section 7-02-08, sections 7-03-01,
12 7-03-03, 7-03-04, and 7-03-05, subsection 4 of section 7-03-07, sections 7-04-20, 7-05-01,
13 7-05-02, 7-05-03, 7-05-04, 7-05-05, 7-05-06, 7-05-07, 7-06-01, 7-06-02, 7-06-03, 7-06-04,
14 7-06-05, 7-06-07, 7-07-02, 7-07-03, 7-07-05, 7-07-06, 7-07-07, 7-07-08, 7-07-12, 7-08-01,
15 7-08-03, and 7-08-05, subsection 2 of section 10-04-05, subsection 2 of section 12.1-06.1-01,
16 subsection 1 of 13-03.1-01, subsection 1 of 13-03.1-11, sections 13-04.1-01, 13-04.1-03,
17 13-04.1-05, 13-04.1-06, 13-04.1-08, 13-04.1-10, 13-04.1-11, 13-04.1-13, 13-05-01, 13-05-03,
18 13-05-05, and 13-05-06, subsection 1 of section 13-05-06.1, sections 13-05-08, 13-05-08.1,
19 and 23-21.1-03, subsection 2 of section 51-17-02, subsection 1 of section 54-06-04,
20 subsection 16 of section 54-11-01, and section 54-11-07 of the North Dakota Century Code,
21 relating to the name of the department of banking and financial institutions; and to provide for
22 legislative council correction of statutory references.

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

2 **SECTION 1. AMENDMENT.** Section 1-03-04 of the North Dakota Century Code is
3 amended and reenacted as follows:

4 **1-03-04. Business days.** All days other than those mentioned in sections 1-03-01,
5 1-03-02, and 1-03-02.1 are to be deemed business days for all purposes. However, any bank
6 may remain closed on any one business day of each week, as it may from time to time elect.
7 Any day upon which a bank is so closed shall be, with respect to such bank, a holiday and not
8 a business day. Any act authorized, required, or permitted to be performed at or by or with
9 respect to such bank on such day, may be performed on the next succeeding business day,
10 and no liability or loss of rights shall result from such delay.

11 Notice of intention on the part of any bank to remain closed on a business day of the
12 week shall be posted in a conspicuous place in the lobby of the bank at least ten days prior to
13 the establishment of such practice and similar notice shall be given when a bank elects to
14 change the day of the week on which it remains closed. Any state bank establishing the
15 practice, as hereinbefore provided, of closing one day a week shall give ten days' notice in
16 writing to the commissioner of ~~banking and~~ financial institutions, in addition to posting the notice
17 in the lobby. However, any bank may elect to remain closed on a business day of the week
18 without any prior notice in the event of the following emergencies: any act of God, death of an
19 officer, or a robbery.

20 **SECTION 2. AMENDMENT.** Section 6-01-01 of the 1999 Supplement to the North
21 Dakota Century Code is amended and reenacted as follows:

22 **6-01-01. Management and control - State department of ~~banking and~~ financial**
23 **institutions.** The state department of ~~banking and~~ financial institutions is under the
24 supervision of the state banking board, state credit union board, and a chief officer designated
25 as the commissioner of ~~banking and~~ financial institutions, and known as the state examiner.
26 Whenever the term state examiner is used in this code, it means the commissioner of ~~banking~~
27 ~~and~~ financial institutions. The state department of ~~banking and~~ financial institutions has charge
28 of the execution of all laws relating to state banks, trust companies, credit unions, building and
29 loan associations, mutual investment corporations, mutual savings corporations, banking
30 institutions, and other financial corporations, exclusive of the Bank of North Dakota.

1 **SECTION 3. AMENDMENT.** Subsections 1 and 2 of section 6-01-01.1 of the 1999
2 Supplement to the North Dakota Century Code are amended and reenacted as follows:

- 3 1. There is hereby created a special fund designated as the financial institutions
4 regulatory fund. The amounts received under the following chapters, and any
5 other moneys received by the department of ~~banking and~~ financial institutions,
6 must be deposited into this fund: chapters 6-01, 6-03, 6-05, 6-06, 6-10, 7-05,
7 13-03.1, 13-04.1, 13-05, and 51-17.
- 8 2. All moneys deposited in the financial institutions regulatory fund are reserved for
9 use by the department of ~~banking and~~ financial institutions to defray the expenses
10 of the department in the discharge of its administrative and regulatory powers and
11 duties as prescribed by law, subject to the applicable laws relating to the
12 appropriation of state funds and to the deposit and expenditure of state moneys.
13 The department of ~~banking and~~ financial institutions is responsible for the proper
14 expenditures of these moneys as provided by law.

15 **SECTION 4. AMENDMENT.** Subsections 5 and 8 of section 6-01-02 of the 1999
16 Supplement to the North Dakota Century Code are amended and reenacted as follows:

- 17 5. "Banking department" means the state department of ~~banking and~~ financial
18 institutions.
- 19 8. "Commissioner" means the commissioner of ~~banking and~~ financial institutions.

20 **SECTION 5. AMENDMENT.** Subsection 1 of section 6-01-04.1 of the 1999
21 Supplement to the North Dakota Century Code is amended and reenacted as follows:

- 22 1. The department of ~~banking and~~ financial institutions or the board may issue and
23 serve upon any officer, director, or employee of a financial corporation or institution
24 subject to its jurisdiction and upon the financial corporation or institution involved, a
25 complaint stating the basis for the board's or the department's belief that the
26 officer, director, or employee is engaging, or has engaged, in any of the following
27 conduct:
- 28 a. Violating any law, regulation, board order, or written agreement with the
29 board;
- 30 b. Engaging or participating in any unsafe or unsound practice; or

- 1 c. Performing any act of commission or omission or practice which is a breach
2 of trust or a breach of fiduciary duty.

3 **SECTION 6. AMENDMENT.** Subsection 1 of section 6-01-04.2 of the North Dakota
4 Century Code is amended and reenacted as follows:

- 5 1. The department of ~~banking and~~ financial institutions or the board may issue and
6 serve upon a financial corporation or institution subject to its jurisdiction a
7 complaint stating the factual basis for the ~~department~~ department's or board's
8 belief that the financial corporation or institution is engaging in any of the following
9 conduct:
10 a. An unsafe or unsound practice.
11 b. A violation in the past or on a continuing basis of any law, regulation, board
12 order or written agreement entered into with the board.

13 **SECTION 7. AMENDMENT.** Subsection 4 of section 6-01-10 of the 1999 Supplement
14 to the North Dakota Century Code is amended and reenacted as follows:

- 15 4. The biennial reports of the state banking board and the state credit union board
16 shall be published in the form of a combined biennial report of the department of
17 ~~banking and~~ financial institutions. The biennial report of the department shall be
18 submitted to the governor and the secretary of state in accordance with section
19 54-06-04. The biennial report of the department must include all other biennial
20 reports which the commissioner or the boards are required by law to submit to the
21 governor and the office of management and budget.

22 **SECTION 8. AMENDMENT.** Section 6-01-13 of the 1999 Supplement to the North
23 Dakota Century Code is amended and reenacted as follows:

- 24 **6-01-13. Commissioner - Appointment of deputies.** The commissioner may appoint,
25 remove, and assign appropriate titles to such deputy examiners and such other employees as
26 in ~~his~~ the commissioner's judgment may be necessary for the proper discharge of the business
27 of the department of ~~banking and~~ financial institutions. The commissioner may select and
28 designate one of said deputy examiners to be chief deputy examiner and to act during the
29 absence or disability of the commissioner, and in such cases the deputy examiner so
30 designated has charge of the office and shall administer its affairs. ~~He~~ The chief deputy
31 examiner shall perform such duties as may be prescribed by the commissioner.

1 **SECTION 9. AMENDMENT.** Subsection 1 of section 6-01-15 of the North Dakota
2 Century Code is amended and reenacted as follows:

3 1. No officer or employee of this department may have any interest, directly or
4 indirectly, in any corporation or institution within the jurisdiction of the department
5 of ~~banking and~~ financial institutions, nor in any corporation or institution engaged
6 wholly or in part in the writing or issuing of bonds of or for any such corporation or
7 institution or any officer or employee thereof. Provided, however, this prohibition
8 does not apply to membership in a state-chartered credit union or savings and loan
9 association.

10 **SECTION 10. AMENDMENT.** Section 6-01-17.2 of the 1999 Supplement to the North
11 Dakota Century Code is amended and reenacted as follows:

12 **6-01-17.2. Additional assessment of banks and interstate branches.** Where the
13 commissioner determines that more than one visit, inspection, or examination is necessary to
14 promote the safety and soundness of a state banking association or a branch of an out-of-state
15 state bank during a twelve-month period, the state banking association or branch shall pay to
16 the state treasurer a fee for the time used by the commissioner or other person designated by
17 the commissioner in supervising, filing, and corresponding in connection with each additional
18 visit, inspection, or examination and report of examination and for time used by each deputy
19 examiner, or other person in making and otherwise preparing and typing the reports of
20 examination herein provided for. Fees for the visit, inspection, or examination must be charged
21 by the department of ~~banking and~~ financial institutions at an hourly rate to be set by the
22 commissioner, sufficient to cover all reasonable expenses of the department associated with
23 the visit, inspection, or examination provided for by this section. A state banking association or
24 branch of an out-of-state state bank shall pay such assessment or fee within ten days of
25 receiving a billing from the commissioner. Fees must be deposited in the financial institutions
26 regulatory fund. The state treasurer shall report the payments of fees to the commissioner, and
27 if any corporation or institution or branch is delinquent more than twenty days in making the
28 payment, the board may make an order suspending the functions of the delinquent corporation
29 or institution or branch until payment of the amount due. The commissioner may assess a
30 penalty of five dollars a day additional for the delay. The state banking board may waive or

1 postpone the collection of this special assessment if the assessment would place an undue
2 burden on the state banking association or branch.

3 **SECTION 11. AMENDMENT.** Subsection 2 of section 6-02-01 of the 1999
4 Supplement to the North Dakota Century Code is amended and reenacted as follows:

5 2. If any firm or corporation organized prior to July 1, 1931, has been granted a
6 charter permitting it to use any word, words, or title contrary to the intent of this
7 section, and by reason of its rights under such charter this section may not be
8 enforced against it during the life of such charter, no renewal charter may be
9 granted to such person, firm, or corporation permitting the continuance of the use
10 of such word, words, or title contrary to or in violation of this section. Any person,
11 firm, or corporation which, by reason of an existing charter right under any law or
12 statute in effect prior to July 1, 1931, may be held by the courts not to be affected
13 by this section and which therefore refuses to comply with this section, during the
14 period of noncompliance, shall prominently and continuously display in plain,
15 legible, and clearly discernible lettering on all of its signs, stationery, circulars, and
16 advertising, and in all of its printed or written matter, the following words and
17 language: "NOT UNDER THE SUPERVISION OF THE STATE BANKING BOARD
18 OR THE COMMISSIONER OF ~~BANKING AND~~ FINANCIAL INSTITUTIONS".
19 Such language must be displayed as prominently thereon as is other matter
20 therein.

21 **SECTION 12. AMENDMENT.** Section 6-03-11 of the 1999 Supplement to the North
22 Dakota Century Code is amended and reenacted as follows:

23 **6-03-11. Conversion, consolidation, or merger.** Any two or more banking
24 institutions as defined in section 6-01-02 upon making application to the state banking board
25 may consolidate or merge if authorized by the board into one banking institution under the
26 charter of either existing banking institution on such terms and conditions as lawfully may be
27 agreed upon by a majority of the board of directors of each banking institution proposing to
28 consolidate or merge subject to rules adopted by the state banking board. Before becoming
29 final, such consolidation or merger must be ratified and confirmed by the vote of the
30 shareholders of each such banking institution owning at least two-thirds of its capital stock
31 outstanding, at a meeting to be held on the call of the directors. Notice of such meeting and of

1 the purpose thereof must be given to each shareholder of record by registered or certified mail
2 at least ten days prior to the meeting. The shareholders may unanimously waive such notice
3 and may consent to such meeting and consolidation or merger in writing. The capital stock and
4 surplus of such consolidated banking institution must not be less than that required under this
5 title for the organization of a banking institution of the class of the largest consolidating banking
6 institution. Immediately after the consolidation or merger a full report thereof including a
7 statement of the assets and liabilities of the consolidated banking institution must be made to
8 the commissioner by the surviving banking institution. Any banking institution may without
9 approval by any state authority convert into or merge or consolidate with a national banking
10 association as provided by federal law. A national bank proposing to merge into a
11 state-chartered bank shall grant the commissioner discretionary authority to conduct an
12 examination. The commissioner shall set fees for such examination at an hourly rate sufficient
13 to cover all reasonable expenses of the department of ~~banking and~~ financial institutions
14 associated with the examination. Fees must be collected by the commissioner, transferred to
15 the state treasurer, and deposited in the financial institutions' regulatory fund.

16 **SECTION 13. AMENDMENT.** Section 6-03-13.5 of the 1999 Supplement to the North
17 Dakota Century Code is amended and reenacted as follows:

18 **6-03-13.5. National bank, federal savings association, or state savings and loan**
19 **association conversion to state bank.** A national bank, federal savings association, or state
20 savings and loan association located in this state which follows the procedure prescribed by
21 federal law to convert into a state bank, must be granted a state charter if it meets the
22 provisions of the North Dakota Century Code for the incorporation and chartering of a new state
23 bank. Any requirement that shares must be paid in cash may be satisfied by the exchange of
24 shares of the converted state bank for those of the converting national bank, federal savings
25 association, or state savings and loan association, which may be valued at no more than their
26 fair cash market value. The procedure for incorporation of a state bank may be modified by the
27 board to the extent made necessary by the difference between an ordinary incorporation and a
28 conversion and no public hearing need be held on a conversion application. A national bank,
29 federal savings association, or state savings and loan association proposing to convert into a
30 state-chartered bank shall grant the commissioner discretionary authority to conduct an
31 examination. The commissioner shall set fees for the examination at an hourly rate sufficient to

1 cover all reasonable expenses of the department of ~~banking and~~ financial institutions
2 associated with the examination. Fees must be collected by the commissioner, transferred to
3 the state treasurer, and deposited in the financial institutions regulatory fund.

4 **SECTION 14. AMENDMENT.** Section 6-03-70 of the 1999 Supplement to the North
5 Dakota Century Code is amended and reenacted as follows:

6 **6-03-70. Reports - Regular and special - Publication - Penalty.** Every state banking
7 association shall respond to calls each year, the number to be determined by the
8 commissioner. The commissioner shall prescribe the forms for such reports which must be the
9 same forms as those for similar reports called by the federal deposit insurance corporation.
10 The reports must exhibit in detail, under appropriate headings, the resources and liabilities of
11 the association at the close of business on a past day specified by the commissioner, which
12 must be the same day on which similar reports are required by the federal deposit insurance
13 corporation. Each report must be verified by the oath of the president or the cashier and
14 attested as correct by at least two of the directors and must be transmitted to the commissioner
15 within thirty days after receipt of the request for the same. The commissioner may request an
16 amended call for reports filed in error and may require republication of the call report containing
17 material errors. At the discretion of the commissioner, a call may be complied with by
18 submission of a photocopy of the call report submitted to the federal deposit insurance
19 corporation or federal reserve bank or a printout retrieved from computer facilities in the
20 department of ~~banking and~~ financial institutions and connected to those of the federal deposit
21 insurance corporation. The commissioner may call for a special report from any association
22 whenever in the commissioner's judgment the same is necessary to obtain complete
23 knowledge of the condition of the association. Every association which fails to make and
24 transmit any report required by this section shall forfeit and pay to the state treasurer for
25 deposit in the financial institutions regulatory fund a penalty of two hundred dollars for each
26 delinquency. The commissioner may waive the penalty for reports filed late, not exceeding
27 three business days beyond the due date required by this section.

28 **SECTION 15. AMENDMENT.** Section 6-05-02 of the North Dakota Century Code is
29 amended and reenacted as follows:

30 **6-05-02. Compliance with chapter required - Penalty for noncompliance.** No
31 person, firm, company, copartnership, or corporation, either domestic or foreign, not organized

1 under this chapter nor subject to its provisions, except only national banking corporations, state
2 banks authorized under this chapter, and the Bank of North Dakota, may make use of or
3 display in connection with its business, in signs, letterheads, advertising, or in any other way,
4 such words as "trust", "trust company", or any other word or words of like import, nor may any
5 person or concern do or perform anything in the nature of the business of a trust company until
6 and unless such business is regularly organized and authorized under this chapter. If any firm
7 or corporation organized prior to July 1, 1931, has been granted a charter permitting it to use
8 any word, words, or title contrary to the intent of this section, and by reason of its rights under
9 such charter, the provisions of this section may not be enforced against it during the life of such
10 charter. However, no renewal charter may be granted to such person, firm, or corporation
11 permitting the continuance of the use of such word, words, or title contrary to or in violation of
12 this section. Any person, firm, or corporation which, by reason of an existing charter right under
13 any law or statute in effect prior to July 1, 1931, may be held by the courts not to be affected by
14 this section and which therefore refuses to comply with the provisions of this section, during the
15 period of noncompliance, shall display, prominently and continuously in plain, legible, and
16 clearly discernible lettering on all of its signs, stationery, circulars, and advertising, and in all of
17 its printed or written matter the following words and language: "NOT UNDER THE
18 SUPERVISION OF THE STATE BANKING BOARD OR THE COMMISSIONER OF ~~BANKING~~
19 ~~AND~~ FINANCIAL INSTITUTIONS", and such language must be displayed thereon as
20 prominently as any other matter therein. Any person, firm, company, copartnership, or
21 corporation, domestic or foreign, violating any provision of this section, shall forfeit to the state
22 one hundred dollars for every day or part thereof during which such violation continues. In an
23 action brought by the commissioner or any aggrieved person, the court may issue an injunction
24 restraining such person, firm, company, copartnership, or corporation from further using such
25 words, terms, or phrases in violation of this section or from further transacting business in such
26 a way or manner as to lead the public to believe that its business is in whole or in part of the
27 nature of a trust company, or that it is under the supervision of the state banking board or the
28 commissioner.

29 **SECTION 16. AMENDMENT.** Subsection 2 of section 6-05-04 of the 1999
30 Supplement to the North Dakota Century Code is amended and reenacted as follows:

- 1 2. Bonds of other states which have the approval of the commissioner of ~~banking and~~
2 financial institutions;

3 **SECTION 17. AMENDMENT.** Subsections 1 and 3 of section 6-05-15.4 of the 1999
4 Supplement to the North Dakota Century Code are amended and reenacted as follows:

- 5 1. A trust company may establish and maintain for itself and its operating subsidiary
6 organizations one or more offices or places of business within this state,
7 throughout the United States, in foreign countries, or in dependencies or insular
8 possessions of the United States upon written application to the department of
9 ~~banking and~~ financial institutions for approval from the state banking board. The
10 application must include the information specified by the board.
- 11 3. Within ten business days after receipt of the application by the department of
12 ~~banking and~~ financial institutions, the commissioner shall determine if the
13 application is complete and shall notify the trust company of the determination. If
14 within the ten business days the commissioner determines the application is
15 incomplete, the commissioner shall request the additional information necessary to
16 complete the application. Within ten days after receipt of the additional
17 information, the commissioner shall notify the trust company by mail of the
18 commissioner's determination of completeness. Within sixty days after the date for
19 the mailing of a notice of completeness by the commissioner, the state banking
20 board either shall approve the application or shall notify the trust company that a
21 hearing on the application will be required.

22 **SECTION 18. AMENDMENT.** Subsection 2 of section 6-05-15.5 of the 1999
23 Supplement to the North Dakota Century Code is amended and reenacted as follows:

- 24 2. A trust company that desires to establish or acquire an operating subsidiary must
25 submit a written notification to the department of ~~banking and~~ financial institutions
26 not less than thirty days before the trust company's investment in the subsidiary
27 organization is made. The notification must include the information specified by
28 the state banking board.

29 **SECTION 19. AMENDMENT.** Section 6-05-28 of the 1999 Supplement to the North
30 Dakota Century Code is amended and reenacted as follows:

1 **6-05-28. Examination by commissioner - Fees - Power over business, officers,**
2 **and employees.** The commissioner shall make a full, true, complete, and accurate
3 examination and investigation of the affairs of each corporation doing business under this
4 chapter as often as the commissioner deems necessary. Such examination must be made
5 without previous notice to the corporation to be examined. Fees for such examinations must be
6 charged by the department of ~~banking and~~ financial institutions at an hourly rate to be set by
7 the commissioner, sufficient to cover all reasonable expenses of the department associated
8 with the examinations provided for by this section. Fees must be paid to the state treasurer
9 and deposited in the financial institutions regulatory fund. The commissioner, in the
10 commissioner's discretion, may accept, in lieu of any examination authorized or required by this
11 title to be conducted by the department of ~~banking and~~ financial institutions, the examination
12 that may have been made of such institution within a reasonable period by the federal reserve
13 bank or federal deposit insurance corporation, if a copy of such examination is furnished to the
14 commissioner. The commissioner shall assume and exercise over each such corporation and
15 its business, officers, directors, and employees all the power and authority conferred upon the
16 commissioner over ~~banking and other~~ financial or moneyed corporations or associations.

17 **SECTION 20. AMENDMENT.** Subsection 1 of section 6-06-08 of the 1999
18 Supplement to the North Dakota Century Code is amended and reenacted as follows:

19 1. Credit unions and the permanent loan funds of credit unions, if any, are under the
20 supervision of the commissioner. Credit unions shall report to the commissioner
21 when called by the commissioner, and at least twice each year. The commissioner
22 shall prescribe the forms for the reports. The reports must be received by the
23 commissioner within thirty days of the call. At the discretion of the commissioner,
24 a call may be complied with by submission of a photocopy of the call report
25 submitted to the national credit union administration, or a printout retrieved from
26 computer facilities in the department of ~~banking and~~ financial institutions and
27 connected to those of the national credit union administration. The commissioner
28 may call for special reports from any credit union whenever in the commissioner's
29 judgment it is necessary to obtain complete knowledge of the condition of the
30 credit union. Every credit union that fails to make and transmit any report required
31 in pursuance of this section shall forfeit and pay to the state a penalty of two

1 hundred dollars for delinquency. The commissioner may waive the penalty for
2 reports filed late, not exceeding three business days beyond the due date required
3 by this section.

4 **SECTION 21. AMENDMENT.** Section 6-06-08.2 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **6-06-08.2. Failing institution - Emergency powers - Hearing - Order - Appeal.**

7 Whenever the state credit union board determines that a merger or acquisition of any of the
8 credit unions under its supervision is necessary because the institution's equity is impaired, it is
9 conducting its business in an unsafe, unsound, or unauthorized manner, or it is endangering
10 the interests of shareholders, creditors or the public, whether or not the institution is insolvent,
11 the state credit union board may, without a hearing, declare an emergency and declare that the
12 institution is a failing institution. Upon such declaration the state credit union board may
13 authorize the commissioner of ~~banking and~~ financial institutions to immediately take possession
14 of the institution. The board is authorized to do all things necessary to continue service to the
15 affected community including any merger or acquisition under this chapter or otherwise.

16 An institution which is the subject of such a board declaration may ask for a hearing
17 before the state credit union board within five days after service of the state credit union board's
18 declaration upon it. The application for a hearing must be granted and the hearing must be
19 held not later than ten days after the application is filed. A complete record of the hearing must
20 be established and maintained. On the basis of the hearing, the board shall enter a final order.
21 The institution may appeal the order to the district court of the county in which the credit union
22 is located within ten days after the order is served upon it. The appeal is governed by chapter
23 28-32 except that the board has ten days after service of the notice of appeal to certify the
24 record, and the district court shall hear the appeal as expeditiously as possible.

25 **SECTION 22. AMENDMENT.** Section 6-06-08.3 of the 1999 Supplement to the North
26 Dakota Century Code is amended and reenacted as follows:

27 **6-06-08.3. Examination of credit union computer servicers.** The commissioner
28 may conduct an examination or inspect the records and operation of any computer servicer
29 providing data processing services for any credit union under the department of ~~banking and~~
30 financial institutions' jurisdiction.

1 **SECTION 23. AMENDMENT.** Subsection 2 of section 6-06-35 of the 1999
2 Supplement to the North Dakota Century Code is amended and reenacted as follows:

3 2. a. A federal credit union, organized under the laws of the United States may be
4 converted into a state credit union by (1) complying with all federal
5 requirements requisite to enabling it to convert to a state credit union or to
6 cease being a federal credit union, (2) filing with the state credit union board
7 proof of such compliance, satisfactory to the commissioner, (3) filing with the
8 commissioner an organization certificate and bylaws, both in triplicate, as
9 required by section 6-06-02, and (4) granting discretionary authority to the
10 commissioner to conduct an examination prior to the conversion date. The
11 commissioner shall set fees for such examination at an hourly rate sufficient
12 to cover all reasonable expenses of the department of ~~banking and~~ financial
13 institutions associated with the examination. Fees must be collected by the
14 commissioner, transferred to the state treasurer, and deposited in the
15 financial institutions' regulatory fund.

16 b. When the commissioner has been satisfied that all of such requirements, and
17 all other requirements of the North Dakota law have been complied with, the
18 commissioner shall notify the applicants and the state credit union board of
19 that fact, and the board shall instruct the secretary of state to issue a charter
20 in accordance with section 6-06-02. Upon issuance of the charter, the federal
21 credit union shall become a state credit union and ceases to be a federal
22 credit union. The state credit union is vested with all of the assets and shall
23 continue responsible for all of the obligations of the federal credit union to the
24 same extent as though the conversion had not taken place.

25 **SECTION 24. AMENDMENT.** Section 6-06-36 of the 1999 Supplement to the North
26 Dakota Century Code is amended and reenacted as follows:

27 **6-06-36. Merger.** Any credit union chartered under this chapter or under act of
28 Congress may merge under rules and regulations established by the state credit union board.
29 A federal credit union proposing to merge into a state-chartered credit union shall grant the
30 commissioner discretionary authority to conduct an examination. The commissioner shall set
31 fees for such examination at an hourly rate sufficient to cover all reasonable expenses of the

1 department of ~~banking and~~ financial institutions associated with the examination. Fees must be
2 collected by the commissioner, transferred to the state treasurer, and deposited in the financial
3 institutions' regulatory fund. The secretary of state shall charge a fee of fifty dollars for all
4 services in connection with a merger authorized by the state credit union board, including filing
5 of a certificate of organization or bylaws, and issuing or canceling charters.

6 **SECTION 25. AMENDMENT.** Subsection 4 of section 6-08.1-01 of the 1999
7 Supplement to the North Dakota Century Code is amended and reenacted as follows:

- 8 4. "Financial institution regulatory agency" means any of the following:
- 9 a. The federal deposit insurance corporation.
 - 10 b. The federal savings and loan insurance corporation.
 - 11 c. The national credit union administration.
 - 12 d. The federal reserve board.
 - 13 e. The United States comptroller of the currency.
 - 14 f. The department of ~~banking and~~ financial institutions.
 - 15 g. The federal home loan bank board.

16 **SECTION 26. AMENDMENT.** Section 6-08.2-02 of the North Dakota Century Code is
17 amended and reenacted as follows:

18 **6-08.2-02. Presentment of plan of acquiring entity to the state department of**
19 **~~banking and~~ financial institutions.** Prior to any acquisition under this chapter, the acquiring
20 entity must present a plan to the state department of ~~banking and~~ financial institutions. The
21 plan must provide that the acquiring entity commits itself to the condition that it capitalize each
22 bank to be acquired in this state according to the applicable banking laws of this state and the
23 requirements of the federal deposit insurance corporation or any applicable federal banking
24 laws.

25 **SECTION 27. AMENDMENT.** Subsection 3 of section 6-08.3-01 of the 1999
26 Supplement to the North Dakota Century Code is amended and reenacted as follows:

- 27 3. "Commissioner" means the commissioner of ~~banking and~~ financial institutions.

28 **SECTION 28. AMENDMENT.** Section 6-09-29 of the 1999 Supplement to the North
29 Dakota Century Code is amended and reenacted as follows:

30 **6-09-29. Examinations and audit reports.** The state auditor shall contract with an
31 independent certified public accounting firm for an annual audit of the Bank of North Dakota in

1 accordance with generally accepted government auditing standards. The state auditor shall
2 audit annually or contract for an annual audit of the separate programs and funds administered
3 by the Bank of North Dakota. On request of the state auditor, the industrial commission shall
4 assist the state auditor in the auditing firm selection process, but the selection of the auditing
5 firm is the state auditor's responsibility. The auditor selected shall prepare an audit report that
6 includes financial statements presented in accordance with the audit and accounting guide for
7 banks and savings institutions issued by the American institute of certified public accountants.
8 The auditor also shall prepare audited financial statements for inclusion in the comprehensive
9 annual financial report for the state. The state auditor may conduct performance audits of the
10 Bank of North Dakota, including the separate programs and funds administered by the Bank.
11 The auditor shall report the results of the audit to the industrial commission and to the
12 legislative assembly. The Bank of North Dakota or its separate programs and funds shall pay
13 the costs of the audit. The department of ~~banking and~~ financial institutions, through the
14 commissioner, shall examine the Bank of North Dakota at least once each twenty-four months
15 and conduct any investigation of the Bank which may be necessary. The commissioner shall
16 report the examination results, and the results of any necessary investigation, to the industrial
17 commission as soon as practicable and to the legislative assembly. The department of ~~banking~~
18 ~~and~~ financial institutions shall charge a fee for any examination or investigation at an hourly
19 rate to be set by the commissioner, sufficient to cover all reasonable expenses of the
20 department associated with the examinations and investigations provided for by this section.

21 **SECTION 29. AMENDMENT.** Subsection 4 of section 6-09-35 of the North Dakota
22 Century Code is amended and reenacted as follows:

23 4. Information obtained from the state department of ~~banking and~~ financial institutions
24 which would not be available from that agency under section 6-01-07.1.

25 **SECTION 30. AMENDMENT.** Section 6-10-06 of the 1999 Supplement to the North
26 Dakota Century Code is amended and reenacted as follows:

27 **6-10-06. Duty of commissioner.** The commissioner may make an examination of the
28 business of such licensee, and such applicant shall pay an examination fee. Fees for such
29 examinations must be charged by the department of ~~banking and~~ financial institutions at an
30 hourly rate to be set by the commissioner, sufficient to cover all reasonable expenses of the

1 department associated with the examinations provided for by this section. Fees must be paid
2 to the state treasurer and deposited in the financial institutions regulatory fund.

3 **SECTION 31. AMENDMENT.** Section 7-01-03 of the North Dakota Century Code is
4 amended and reenacted as follows:

5 **7-01-03. Articles of incorporation - Contents.** Whenever any number of persons,
6 not less than nine, desires to incorporate a building and loan association, having for their object
7 the conduct and operation of such an association as defined in this title, they shall prepare and
8 file articles of incorporation to that effect in the manner specified in this title. Unless otherwise
9 provided herein the general law governing profit corporations applies to such association. The
10 articles of incorporation must include the following:

- 11 1. The name of the association. The name must not be the same as, nor too closely
12 resemble, that in use by any existing corporation established under the laws of this
13 state. The words, "building and loan association" or "savings and loan
14 association" must form a part of the name, and only corporations and associations
15 organized under this chapter are entitled to use a name embodying either of said
16 combinations of words. Any association in existence on July 1, 1931, may
17 continue and renew its charter in the name under which it was then operating. Any
18 corporation or association organized or operating under this chapter is authorized
19 to change its name to embody the words "savings and loan association".
- 20 2. The principal office, or place of business of the association, which must be within
21 this state.
- 22 3. The territory in which such association proposes to operate.
- 23 4. The amount of its authorized capital shares and the number of shares into which
24 the same must be divided. Such capital must be divided into shares having a par
25 value of fifty dollars, one hundred dollars, or two hundred dollars.
- 26 5. A provision that such association is organized under this chapter for the purpose
27 herein expressed.
- 28 6. The name, residence, and occupation of, and a statement of the number of the
29 shares subscribed and the amount of cash paid upon such shares by, each of the
30 persons who subscribed and acknowledged the said articles, a majority of whom
31 must be citizens of this state and who thereafter must be called incorporators.

1 7. The term of corporate existence, which may not exceed twenty years but which
2 may be extended as provided in this chapter.

3 8. The number of directors of the association.

4 Immediately upon the preparation of such articles of incorporation, and before the same are
5 filed in the office of the secretary of state, four copies thereof must be filed in the office of the
6 commissioner of ~~banking and~~ financial institutions for the use of the state banking board.

7 **SECTION 32. AMENDMENT.** Section 7-01-09 of the North Dakota Century Code is
8 amended and reenacted as follows:

9 **7-01-09. Issuance of certificate by state banking board - Filing of articles.** If the
10 state banking board is satisfied from its investigation that a certificate should issue, it, within
11 sixty days after the articles of incorporation and bylaws have been presented to it, shall instruct
12 the commissioner of ~~banking and~~ financial institutions to issue, under ~~his~~ the commissioner's
13 hand and official seal, a certificate reciting in substance: that the articles of incorporation and
14 bylaws have been filed in ~~his~~ the commissioner's office; that said articles and bylaws conform
15 to all the requirements of this title; that the board has approved the same; that the incorporators
16 are fit and proper persons to conduct the business of a building and loan association as defined
17 in this title; that there is a reasonable need for the existence of said building and loan
18 association; and that the public convenience and advantage will be promoted thereby. Such
19 certificate must be made in quadruplicate and attached to each copy of the articles of
20 incorporation, one of which must be retained by the commissioner, and the other three must be
21 returned to the incorporators who forthwith shall file one copy thereof in the office of the
22 secretary of state, one in the office of the register of deeds of the county in which the principal
23 place of business of said association is located, and the other must be retained by the
24 association. Immediately upon the receipt of said certified copy, the secretary of state shall
25 issue a certificate of incorporation, whereupon the incorporation of the association is deemed
26 complete.

27 **SECTION 33. AMENDMENT.** Section 7-01-11 of the North Dakota Century Code is
28 amended and reenacted as follows:

29 **7-01-11. Consolidation authorized.** Any building and loan association, with the
30 consent and approval of the commissioner of ~~banking and~~ financial institutions, may
31 consolidate with or be taken over by any other association upon such terms as may be

1 authorized by the respective boards of directors of such associations after being authorized to
2 enter into such consolidation by a majority vote of their respective shareholders at any regular
3 or special meeting. This section must be construed to include any association taken over by
4 the commissioner whether in process of liquidation or otherwise.

5 **SECTION 34. AMENDMENT.** Subsection 2 of section 7-01-12 of the North Dakota
6 Century Code is amended and reenacted as follows:

7 2. A copy of the minutes of such meeting of the shareholders verified by the affidavit
8 of the president or vice president and the secretary of the meeting must be filed
9 within ten days after said meeting in the office of the commissioner of ~~banking and~~
10 financial institutions. Such verified copy of the minutes of such meeting when so
11 filed is presumptive evidence of the holding and of the action of such meeting; and

12 **SECTION 35. AMENDMENT.** Section 7-01-14 of the 1999 Supplement to the North
13 Dakota Century Code is amended and reenacted as follows:

14 **7-01-14. State savings and loan association conversion to state bank.** A state
15 savings and loan association located in this state which follows the procedure prescribed by the
16 board to convert into a state bank, must be granted a state charter if it meets the provisions of
17 the North Dakota Century Code for the incorporation and chartering of a new state bank. Any
18 requirement that shares must be paid in cash may be satisfied by the exchange of shares of
19 the converted state bank for those of the converting state savings and loan association, which
20 may be valued at no more than their fair cash market value. The procedure for incorporation of
21 a state bank may be modified by the board to the extent made necessary by the difference
22 between an ordinary incorporation and a conversion and no public hearing need be held on a
23 conversion application. A state savings and loan association proposing to convert into a
24 state-chartered bank shall grant the commissioner discretionary authority to conduct an
25 examination. The commissioner shall set fees for the examination at an hourly rate sufficient to
26 cover all reasonable expenses of the department of ~~banking and~~ financial institutions
27 associated with the examination. Fees must be collected by the commissioner, transferred to
28 the state treasurer, and deposited in the financial institutions regulatory fund.

29 **SECTION 36. AMENDMENT.** Subsection 5 of section 7-02-01 of the North Dakota
30 Century Code is amended and reenacted as follows:

1 5. To acquire, hold, encumber, and convey such real estate and personal property as
2 may be necessary for the transaction of its business, or to enforce or protect its
3 securities, but not over two percent of the assets of any association may be
4 invested in its home office, lot, and building, and furniture and fixtures; provided,
5 however, that ten percent of the assets of any association may be invested in its
6 home office, lot, building, and furniture and fixtures, when authorized by a vote of
7 two-thirds of its directors and the written approval of the commissioner of ~~banking~~
8 and financial institutions.

9 **SECTION 37. AMENDMENT.** Subsections 1, 9, and 10 of section 7-02-08 of the North
10 Dakota Century Code are amended and reenacted as follows:

- 11 1. To borrow money when deemed necessary, and to issue its promissory notes
12 therefor, and to pledge its assets as security for such notes, but the assets and
13 securities of an association must not be pledged or hypothecated to secure its
14 borrowed money in an amount exceeding twenty-five percent of its assets without
15 the consent of the commissioner of ~~banking and~~ financial institutions.
- 16 9. To loan its idle funds to other domestic building and loan associations when
17 authorized by a vote of two-thirds of its directors and the written approval of the
18 commissioner of ~~banking and~~ financial institutions.
- 19 10. To invest its idle funds in bonds and other obligations of the United States; in
20 bonds and other obligations of foreign countries when first approved by the
21 commissioner of ~~banking and~~ financial institutions; in bonds or evidences of debt of
22 this state or any political subdivision thereof; in bonds or evidences of debt of any
23 other state in the Union; or in bonds or evidences of debt of any county, city, or
24 school district having a population according to the last state or federal census of
25 ten thousand or more inhabitants, in any such other state of the Union.

26 **SECTION 38. AMENDMENT.** Section 7-03-01 of the North Dakota Century Code is
27 amended and reenacted as follows:

28 **7-03-01. Directors and officers - Election - Qualification - Duties - Meetings.** The
29 conduct and management of the affairs and business of such association is vested in a board
30 of directors which must consist of an uneven number of members, not less than five nor more
31 than eleven. The incorporators of the association shall possess the qualifications of directors

1 and shall serve as directors until the first meeting of the shareholders, and until their
2 successors are elected and qualified. The directors thereafter must be elected by the
3 shareholders of the association in accordance with the provisions of this title and the bylaws of
4 the association. No person is eligible to election as a director or an officer unless ~~he~~ that
5 person is the owner in good faith and in ~~his~~ that person's own right on the books of the
6 association of shares upon which at least two hundred dollars have been paid. The directors
7 shall hold their office for not less than one year nor more than three years, and if the term of
8 office is for a longer period than one year, the bylaws must provide that the terms of an equal
9 number thereof, as nearly as possible, expire each year. Each director, when appointed or
10 elected, shall take an oath that ~~he~~ the director, so far as the duty devolves upon ~~him~~ the
11 director, diligently and honestly will administer the affairs of such association, that ~~he~~ the
12 director will not knowingly or willingly violate or permit to be violated, any of the provisions of
13 this title; that ~~he~~ the director is a bona fide owner of the number of shares required by this
14 section to become a director, standing in ~~his~~ the director's own name on the books of the
15 association, and that said shares are not hypothecated nor in any way pledged as security for
16 any debt. Such oath, subscribed by the director making it and certified by the officer before
17 whom it was taken, must be filed in the office of the commissioner of ~~banking and~~ financial
18 institutions as a part of the qualification of such director. Meetings of the board of directors
19 must be held at least once each month. Any person elected to be a director who, after such
20 election, hypothecates, pledges, or ceases to be the owner in ~~his~~ that person's own right of the
21 necessary qualifying shares thereupon shall vacate ~~his~~ that person's office. The board of
22 directors, when authorized to do so by the bylaws, may elect the officers or any of them and fill
23 vacancies until the next annual meeting of the shareholders.

24 **SECTION 39. AMENDMENT.** Section 7-03-03 of the North Dakota Century Code is
25 amended and reenacted as follows:

26 **7-03-03. Removal of directors, officers, or employees by commissioner.** Any
27 director, officer, or employee of any association found by the commissioner of ~~banking and~~
28 financial institutions to be incompetent or dishonest may be removed by ~~him~~ the commissioner
29 from such office or position upon the failure of the board of directors to act.

30 **SECTION 40. AMENDMENT.** Section 7-03-04 of the North Dakota Century Code is
31 amended and reenacted as follows:

1 **7-03-04. Agents and solicitors - Licenses and revocation thereof.** No person
2 receiving compensation from a building and loan association may act as solicitor or agent for
3 the sale of the shares of stock, shares of membership, certificates, or other securities or forms
4 of investment issued by such association, except shares issued in connection with and not
5 exceeding the amount of any loan as made, until ~~he~~ that person first has procured a license
6 therefor from the commissioner of ~~banking and~~ financial institutions. No license, however, may
7 be required by any officer or director of such association. To obtain such license there must be
8 filed with the commissioner a duplicate of the authorization or appointment issued to such
9 person, together with a request from a licensed association that a license be issued to ~~him~~ that
10 person to act as an agent or solicitor for it, accompanied by a fee of two dollars. All such
11 licenses expire by limitation on the thirty-first day of December succeeding their issue, and may
12 be renewed from time to time for an additional period of one year upon a request therefor from
13 the association originally applying and upon payment of a renewal fee of two dollars. Any such
14 license may be revoked at any time, on the application of the association for whom it was
15 issued, or may be revoked by the commissioner for cause. The commissioner shall keep an
16 alphabetical list of the names of persons to whom such licenses are issued with the date of
17 issue and renewal, and the name of the association for whom such licensee is authorized to
18 act. All such licenses must be issued under rules and regulations to be prescribed by the state
19 banking board.

20 **SECTION 41. AMENDMENT.** Section 7-03-05 of the North Dakota Century Code is
21 amended and reenacted as follows:

22 **7-03-05. Bonds of directors, officers, agents, and employees.** Every officer,
23 director, employee, or agent handling or having the custody or charge of funds, securities,
24 books, or records belonging to a building and loan association, before entering upon the
25 discharge of ~~his~~ that person's duties, shall give a good and sufficient bond in such sum and
26 upon such conditions as may be required by the board of directors in keeping with rules and
27 regulations relative thereto established by the commissioner of ~~banking and~~ financial
28 institutions. All such bonds must be approved by the board of directors of such association and
29 are subject to the approval of the commissioner. In lieu of individual bonds, a blanket bond
30 covering all active officers and employees of such association may be executed, subject to the
31 provisions as to approval of surety, amount, and form specified herein. The board of directors,

1 at its discretion, may require any other bond or bonds in addition to the bond herein required.
2 Officers of an association who do not handle the association's funds or securities are not
3 required to give bond. Bonds must be executed in duplicate-original, one of which must be filed
4 with the commissioner and the other must be retained by an officer or custodian of the
5 association. All directors and officers of such association, on being reelected to office, and all
6 agents and employees, upon their reappointment, shall renew their bonds.

7 **SECTION 42. AMENDMENT.** Subsection 4 of section 7-03-07 of the North Dakota
8 Century Code is amended and reenacted as follows:

9 4. Having the custody or control of its books, willfully refuses or fails to make any
10 proper entry in the books of such association as required by law, or to exhibit or
11 allow the same to be inspected and extracts to be taken therefrom by the
12 commissioner of ~~banking and~~ financial institutions, ~~his~~ the commissioner's chief
13 deputy, or any of ~~his~~ the commissioner's examiners,

14 **SECTION 43. AMENDMENT.** Section 7-04-20 of the North Dakota Century Code is
15 amended and reenacted as follows:

16 **7-04-20. Reduction of liability to shareholders.** Whenever the losses of any
17 association resulting from depreciation in value of its securities or otherwise exceed its reserve,
18 undivided profits, and current earnings so that the estimated value of its assets is less than the
19 total amount due its members, the commissioner of ~~banking and~~ financial institutions, upon
20 petition of such building and loan association, may order a reduction of its liability to
21 shareholders in such manner as to distribute the loss equitably among such shareholders. If
22 thereafter such association realizes from such assets a greater amount than was fixed in the
23 order of reduction, such excess must be divided among shareholders whose credits were so
24 reduced, but to the extent of such reduction only.

25 **SECTION 44. AMENDMENT.** Section 7-05-01 of the 1999 Supplement to the North
26 Dakota Century Code is amended and reenacted as follows:

27 **7-05-01. Examination and fees therefor.** The commissioner of ~~banking and~~ financial
28 institutions, at least once each year or oftener if the commissioner deems it necessary or
29 expedient, shall examine into the affairs of all domestic associations doing business in this
30 state. Whenever persons holding ten percent or more of the subscribed shares of any
31 association file a written application with the commissioner requesting the commissioner to

1 make an examination of any such association, the commissioner shall make such examination
2 forthwith. Upon the completion of any examination of any association made by the
3 commissioner or under the direction of the commissioner, the association so examined shall
4 pay to the state treasurer a fee. Fees for such examination must be charged by the department
5 of ~~banking and~~ financial institutions at an hourly rate to be set by the commissioner, sufficient to
6 cover all reasonable expenses of the department associated with the examinations provided for
7 by this section. The commissioner shall report such payment to the state banking board, and if
8 any such association is delinquent more than twenty days in making such payment, the state
9 banking board may make an order suspending the functions of such association until payment
10 of the amount due. The commissioner may assess a penalty of five dollars additional for each
11 day of delay in payment. In lieu of the examinations herein required, the commissioner may
12 accept any examination made by a federal home loan bank, the federal home loan bank board,
13 or by the federal savings and loan insurance corporation. The commissioner may in ~~his or her~~
14 the commissioner's discretion conduct a joint examination with said described federal agencies.
15 Fees and penalties under this section must be paid to the state treasurer and deposited in the
16 financial institutions regulatory fund.

17 **SECTION 45. AMENDMENT.** Section 7-05-02 of the North Dakota Century Code is
18 amended and reenacted as follows:

19 **7-05-02. Powers of commissioner.** The commissioner of ~~banking and~~ financial
20 institutions has power to prescribe for and supervise a uniform system of reports for all
21 associations and has access to and may compel the production of all books, papers, securities,
22 and moneys of any association under examination. ~~He~~ The commissioner has power to
23 administer oaths to and examine the officers, employees, agents, and shareholders of such
24 association relative to its business and affairs.

25 **SECTION 46. AMENDMENT.** Section 7-05-03 of the North Dakota Century Code is
26 amended and reenacted as follows:

27 **7-05-03. Building and loan associations.** The commissioner of ~~banking and~~ financial
28 institutions shall keep and preserve in permanent form a full record of the proceedings of the
29 commissioner, including a concise statement of each association examined, and the
30 commissioner shall report to the state banking board as provided by section 6-01-10.

1 **SECTION 47. AMENDMENT.** Section 7-05-04 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **7-05-04. Reports confidential - Exceptions - Penalty.** Information obtained in the
4 course of an examination by the commissioner of ~~banking and~~ financial institutions is
5 confidential information. However, the above provision does not apply when the public duty of
6 such officer requires ~~him~~ the commissioner to report upon or take official action regarding the
7 condition of an association that ~~he~~ the commissioner has examined. This section must not be
8 construed to prevent the said officer from fully disclosing to any federal agency any information
9 which such commissioner may have in ~~his~~ the commissioner's office pertaining to such
10 associations. Nothing in this section prevents the proper exchange of information relating to
11 building and loan associations and the business thereof with the representatives of building and
12 loan departments of other states, but in no case may the private business or affairs of any
13 individual association or company be disclosed. This section must not be construed to prevent
14 the said officer from fully disclosing to the federal home loan bank board at Washington, D.C.,
15 or to the federal home loan bank of this district, or to any other federal agency, any information
16 which such commissioner may have in ~~his~~ the commissioner's office pertaining to such
17 associations. It is a class C felony for the commissioner, ~~his~~ the commissioner's deputy, or any
18 of ~~his~~ the commissioner's employees to willfully make a false report as to the condition of any
19 association.

20 **SECTION 48. AMENDMENT.** Section 7-05-05 of the North Dakota Century Code is
21 amended and reenacted as follows:

22 **7-05-05. Annual statement - Filing - Publication.** Every association authorized to do
23 business in this state, annually on the thirty-first day of December or within thirty days
24 thereafter, shall file with the commissioner of ~~banking and~~ financial institutions a full and
25 detailed report, in writing, of the affairs and business of the association for the fiscal year
26 ending on December thirty-first, showing its financial condition at the end of said year. The
27 report must be in such form and must contain such information as may be prescribed by the
28 commissioner. It must be sworn to by the secretary of the association, and its correctness
29 must be attested by at least three directors or by an auditing committee appointed by the board
30 of directors. Such report, in such form as the commissioner may require, must be published
31 once in a newspaper published in the city in which the association is located, or if no

1 newspaper is published therein, in the one published nearest thereto in the same county. Proof
2 of such publication must be furnished at such times and in such manner as may be required by
3 the commissioner.

4 **SECTION 49. AMENDMENT.** Section 7-05-06 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **7-05-06. Report to commissioner.** Every association shall make a report of its
7 condition to the commissioner of ~~banking and~~ financial institutions whenever requested by ~~him~~
8 the commissioner to do so, and such report may be in addition to the report required under
9 section 7-05-05. Such report must be in the form prescribed by the commissioner and must be
10 verified by the oath or affirmation of the president, vice president, or secretary of the
11 association and attested by at least two of the directors who shall sign such report. The report
12 must exhibit in detail, under appropriate headings, the resources and liabilities of the
13 association at the close of business on any past day specified by the commissioner, and must
14 be transmitted to the commissioner within fifteen days after the receipt of a request therefor
15 from ~~him~~ the commissioner.

16 **SECTION 50. AMENDMENT.** Section 7-05-07 of the North Dakota Century Code is
17 amended and reenacted as follows:

18 **7-05-07. Communications from commissioner.** Each official communication
19 directed by the commissioner of ~~banking and~~ financial institutions or one of ~~his~~ the
20 commissioner's examiners or deputies to a building and loan association, or an officer thereof,
21 relating to an investigation or examination conducted by the commissioner or containing
22 suggestions or recommendations as to the conduct of the business of the association must be
23 submitted by the officer receiving it to the board of directors at the next meeting of the board
24 and noted in the minutes of the meeting of such board.

25 **SECTION 51. AMENDMENT.** Section 7-06-01 of the North Dakota Century Code is
26 amended and reenacted as follows:

27 **7-06-01. Voluntary liquidation and settlement.** Any domestic association doing
28 business in this state may go into liquidation, with the consent of the commissioner of ~~banking~~
29 ~~and~~ financial institutions, if the shareholders deem it advisable. Such liquidation must be
30 initiated by a resolution declaring that such association intends to go into liquidation and to
31 discontinue business as a building and loan association, and such resolution requires a

1 two-thirds affirmative vote of the shareholders at any regular meeting, or at a special meeting
2 called for the purpose of liquidation. A copy of the resolution, certified by the president and
3 secretary of the association and under the seal thereof, must be transmitted to the
4 commissioner within ten days after the adoption thereof. Thereupon, the commissioner may
5 issue ~~his~~ the commissioner's certificate reciting that such association is in liquidation. After the
6 issuance of such certificate, it is unlawful for the association to issue shares or to loan or
7 advance its money to shareholders or to any person or persons. All of the income and receipts
8 of the association, in excess of the actual expense of managing the same, must be applied
9 thereafter to pay off the indebtedness of the association. Any moneys not required for payment
10 of indebtedness must be paid pro rata on the shares in the association upon which no loans
11 have been made. The board of directors of an association in liquidation may adopt such rules
12 and make such orders as are just and equitable for the sale and disposition of all property held
13 by the association and for the division of its assets. An association in liquidation is subject to
14 examination by and is under the supervision of the commissioner.

15 **SECTION 52. AMENDMENT.** Section 7-06-02 of the North Dakota Century Code is
16 amended and reenacted as follows:

17 **7-06-02. Duties of commissioner when association operates unlawfully or is**
18 **insolvent.** Whenever the commissioner of ~~banking and~~ financial institutions, from any
19 examination made by ~~him~~ the commissioner or from any report made to ~~him~~ the commissioner
20 or to the shareholders, finds that any association operating under this title is violating the
21 provisions of its charter or of this title, or is conducting its business in an unsafe or unauthorized
22 manner, ~~he~~ the commissioner, by an order addressed to the association so offending, shall
23 direct a discontinuance of such violations or unsafe practices and a conformity to all
24 requirements of the law. If such association refuses or neglects to comply with such order
25 within the time specified therein, or if it appears to the commissioner that the association is in
26 an unsafe condition, or is conducting its business in an unsafe manner such as to render its
27 further proceeding hazardous to the public or to those having funds in its custody, or if ~~he~~ the
28 commissioner finds that its assets are impaired to such an extent that after providing for all
29 liabilities other than to shareholders, they do not exceed in volume the dues or principal
30 payments paid in by shareholders and accredited to or on account of all classes of shares
31 issued and outstanding, ~~he~~ the commissioner, in order to prevent waste and diversion of

1 assets, shall assume and take charge of the affairs and business of such association, and
2 possession of all its books, records, and assets of every description, and ~~he~~ the commissioner
3 shall hold and retain the possession thereof pending the further proceedings as specified in this
4 chapter.

5 **SECTION 53. AMENDMENT.** Section 7-06-03 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **7-06-03. Refusal of association to deliver assets to commissioner.** Should the
8 board of directors, secretary, or person in charge of any association refuse to permit the
9 commissioner of ~~banking and~~ financial institutions to take possession of the association and its
10 books, assets, and records as provided in section 7-06-02, the commissioner shall
11 communicate such fact to the attorney general. It then is the duty of the attorney general
12 immediately to institute such proceedings as may be necessary to place the commissioner in
13 immediate possession of the property of such association.

14 **SECTION 54. AMENDMENT.** Section 7-06-04 of the North Dakota Century Code is
15 amended and reenacted as follows:

16 **7-06-04. Commissioner's duties upon taking over association.** Immediately upon
17 securing possession of the effects of an association as provided in this chapter, the
18 commissioner of ~~banking and~~ financial institutions shall prepare a full and true statement of the
19 affairs and condition of such association, and shall include in such statement an itemized list of
20 its assets and liabilities. ~~He~~ The commissioner shall proceed to receive and collect all debts,
21 dues, and claims belonging to the association, and shall pay the immediate and reasonable
22 expenses of ~~his~~ the commissioner's trust. When the condition of the association has been
23 ascertained fully, if it appears that its affairs are in fact in an unsound condition, the
24 commissioner at once shall notify the board of directors of the association of ~~his~~ the
25 commissioner's decision, in writing, and shall give the directors twenty days in which to restore
26 the affairs of the association to a sound condition. During such period, the commissioner shall
27 remain in charge of the books, records, and assets of every description of the association, and
28 shall attend personally, or be represented, at all meetings of the directors or shareholders. ~~He~~
29 The commissioner shall suggest such steps as ~~he~~ the commissioner may deem necessary to
30 restore such association to a sound condition, and if it is not restored to a sound condition
31 within the twenty-day period herein limited, ~~he~~ the commissioner shall report the facts to the

1 attorney general. Thereupon it is the duty of the attorney general immediately to institute
2 proceedings in the district court of the county in which such association has its principal place
3 of business for the appointment of the commissioner as receiver.

4 **SECTION 55. AMENDMENT.** Section 7-06-05 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **7-06-05. Duty and authority of receiver.** The commissioner of ~~banking and~~ financial
7 institutions as such receiver, after having furnished a good and sufficient surety bond in an
8 amount to be set by the court, shall proceed to liquidate the association's affairs. ~~He~~ The
9 commissioner is authorized to collect all moneys due such association and to do and perform
10 all acts necessary to conserve its assets and business. ~~He~~ The commissioner has general
11 power and authority, except as otherwise limited by this chapter, to do any and all acts and to
12 take any and all steps which ~~he~~ the commissioner deems necessary or desirable for the
13 protection of the property and assets of such association, the speedy and economical
14 liquidation of its assets and affairs, and the payment of its creditors, or for the reopening and
15 resumption of business by the association where that is practicable or desirable. ~~He~~ The
16 commissioner may institute, either in ~~his~~ the commissioner's name as receiver or in the name
17 of the association, such legal proceedings as ~~he~~ the commissioner deems expedient for the
18 purposes set forth in this title.

19 **SECTION 56. AMENDMENT.** Section 7-06-07 of the North Dakota Century Code is
20 amended and reenacted as follows:

21 **7-06-07. Receivership where association insured under federal act.** If the
22 association is an insured association within the provisions of the National Housing Act as now
23 or hereafter amended, a signed and sealed copy of each order and certificate of the
24 commissioner of ~~banking and~~ financial institutions mentioned in sections 7-06-02, 7-06-03, and
25 7-06-04 must be sent promptly by the commissioner by registered or certified mail to the federal
26 savings and loan insurance corporation, Washington, D.C., and if the association has such
27 insurance protection, the federal savings and loan insurance corporation is empowered, at its
28 option, to act as receiver or coreceiver in the liquidation of the affairs of the association, and, if
29 it desires, must be appointed as such receiver or as coreceiver with the commissioner. If it
30 serves as receiver or coreceiver, it has all the rights, privileges, and powers granted to the
31 commissioner as receiver, and also has all the rights, privileges, and powers conferred upon it

1 by federal statutes now or hereafter enacted. It may advance money and make loans on the
2 security of assets in liquidation or may purchase such assets or any part thereof at public or
3 private sale, and it may bid for and purchase at any receiver's sale, and otherwise may liquidate
4 or sell any part of the assets of the association of which it is receiver or coreceiver. In the event
5 of purchase of any of such assets by said federal savings and loan insurance corporation, it
6 shall bid and pay a fair and reasonable price therefor.

7 **SECTION 57. AMENDMENT.** Section 7-07-02 of the North Dakota Century Code is
8 amended and reenacted as follows:

9 **7-07-02. Instruments to be filed.** Any foreign corporation as defined in this title,
10 before doing business within this state, shall file in the office of the secretary of state and in the
11 office of the commissioner of ~~banking and~~ financial institutions a duly authenticated copy of its
12 charter, articles of incorporation, or articles of agreement, a copy of its bylaws and other rules
13 and regulations showing the method of conducting its business, and also a statement verified
14 by oath of the president and secretary of such corporation, or by oath of its managing officials if
15 it is other than a corporation, showing:

- 16 1. The name of the corporation and the location of its principal office or place of
17 business without this state, and the location of the place of business or principal
18 office within this state.
- 19 2. The names and residences of the officers, trustees, or directors.
- 20 3. The amount of paid-in capital stock or outstanding shares.
- 21 4. The amount invested in the state of North Dakota.
- 22 5. The names, addresses, and the total cash credits of all of its stockholders,
23 shareholders, investors, and customers who reside in the state of North Dakota.

24 A similar statement must be filed annually thereafter as of December thirty-first with the
25 commissioner within twenty days after December thirty-first of each year.

26 The corporation shall file, at the same time and in the same offices, a certificate signed
27 by its president, vice president, or other acting head, and its secretary, if there is one, certifying:
28 that the corporation has consented to all the license laws and other laws of the state of North
29 Dakota relative to foreign corporations; that it has consented to be sued in the courts in this
30 state upon all claims for relief arising against it in this state; that service of process in any action
31 or proceeding brought against it may be made upon the secretary of state of North Dakota; and

1 that service of process, when so made upon the secretary of state, is valid service on the
2 corporation.

3 **SECTION 58. AMENDMENT.** Section 7-07-03 of the 1999 Supplement to the North
4 Dakota Century Code is amended and reenacted as follows:

5 **7-07-03. Securities to be deposited - Surety bond.** A foreign corporation before
6 doing business in this state shall deposit with the Bank of North Dakota, any federal reserve
7 bank, or any other custodian approved by the commissioner one hundred thousand dollars in
8 cash or bonds of the United States, bonds of any state of the United States, bonds of any
9 county or municipal corporation in the state of North Dakota, or mortgages which are first liens
10 on improved and productive real estate located within this state worth at least twice the amount
11 of the liens. Such securities must be approved in advance by the commissioner of ~~banking and~~
12 financial institutions. The commissioner has authority to require such foreign corporation to
13 deposit additional securities and to order a change in any of the securities so deposited, at any
14 time. Such deposit must be held as security for all claims of residents of this state against such
15 foreign corporation, and is liable for all judgments or decrees against such corporation. Said
16 securities may not be released until all its obligations to residents of this state have been fully
17 performed and discharged. Such foreign corporation may collect and use the interest on any
18 securities so deposited as long as it fulfills its obligations and complies with the provisions of
19 this title. It also may exchange them for other securities of equal value, if such exchange is
20 approved by the commissioner. Any foreign corporation, in lieu of the deposit of securities as
21 herein provided, may deposit with the commissioner a surety company bond, satisfactory to
22 ~~him~~ the commissioner, in the sum of one hundred thousand dollars, which must be conditioned
23 for the payment of any judgment entered against such foreign corporation by any court of
24 competent jurisdiction in this state, in favor of any resident of this state. Such judgment creditor
25 has the right to bring suit on such bond in ~~his~~ the creditor's own name in the county in which
26 such judgment is rendered, and any resident of this state having a claim against such foreign
27 corporation may bring suit in ~~his~~ that person's own name against the surety company by joining
28 such surety company and such foreign building and loan corporation as parties defendant.

29 **SECTION 59. AMENDMENT.** Section 7-07-05 of the North Dakota Century Code is
30 amended and reenacted as follows:

1 **7-07-05. Certificate to do business.** Whenever a foreign corporation has complied
2 with the provisions of this chapter, it shall furnish to the commissioner of ~~banking and~~ financial
3 institutions a full and complete statement of its financial affairs duly sworn to by its president
4 and secretary, or by its officers holding like position. The commissioner immediately shall
5 make an examination, either in person or by ~~his~~ the commissioner's duly authorized
6 representative, of the corporation's assets and records to determine whether or not its financial
7 status meets the requirements of this title. The foreign corporation shall pay the same fees for
8 such examination as are provided in section 7-05-01. The commissioner, if ~~he~~ the
9 commissioner is satisfied that such foreign corporation is in sound financial condition, that it is
10 conducting its business in accordance with the laws of this state, and that it is safe, reliable,
11 and entitled to public confidence, shall issue a certificate of authority to do business in this state
12 to such foreign corporation upon the payment by it of the fees provided for in this chapter.
13 Such certificate must be for one year and must be renewed each year. The commissioner, in
14 ~~his~~ the commissioner's discretion, may accept a report of an examination of the affairs of such
15 foreign corporation made under lawful authority by a supervising officer of the jurisdiction in
16 which the association or corporation is organized or chartered.

17 **SECTION 60. AMENDMENT.** Section 7-07-06 of the North Dakota Century Code is
18 amended and reenacted as follows:

19 **7-07-06. Fees to be paid.** All foreign building and loan corporations shall pay to the
20 commissioner of ~~banking and~~ financial institutions the following fees, which must be paid to the
21 state treasurer by ~~him~~ the commissioner as hereinbefore provided: for filing each application
22 for admission to do business in this state, five hundred dollars; for each certificate of authority
23 and annual renewal of the same, two hundred dollars.

24 **SECTION 61. AMENDMENT.** Section 7-07-07 of the North Dakota Century Code is
25 amended and reenacted as follows:

26 **7-07-07. Certificate may be revoked.** Should the commissioner of ~~banking and~~
27 financial institutions find upon examination that a foreign corporation or association to which a
28 certificate has been granted does not conduct its business in accordance with law, or that the
29 affairs of such foreign corporation are in an unsound condition, or if such foreign corporation
30 refuses to permit examination to be made, ~~he~~ the commissioner may revoke its certificate of
31 authority. Upon such revocation, ~~he~~ the commissioner shall mail a notice thereof to the home

1 office of such foreign corporation, and shall cause a similar notice to be published once in a
2 newspaper published in the city of Bismarck, North Dakota. After publication of said notice, it is
3 unlawful for any agent of such foreign corporation to transact any business in this state except
4 to receive payments to apply on loan contracts then in effect.

5 **SECTION 62. AMENDMENT.** Section 7-07-08 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **7-07-08. Examinations.** Every foreign building and loan corporation doing business in
8 this state is subject to the same examinations as a domestic association. The expense of all
9 such examinations must be paid by the corporation or association examined upon bills
10 approved by the commissioner of ~~banking and~~ financial institutions, and such expense shall
11 include only necessary traveling expenses of the examiners and a sum of not to exceed
12 twenty-five dollars per day for each examiner for each day actually required to make the
13 examination. Such corporations need not be examined more often than once each year, and
14 the commissioner may accept the result of any similar examination made and certified by the
15 constituted authority of any foreign jurisdiction having laws of supervision similar to those of this
16 state.

17 **SECTION 63. AMENDMENT.** Section 7-07-12 of the 1999 Supplement to the North
18 Dakota Century Code is amended and reenacted as follows:

19 **7-07-12. Unsatisfied judgments - Sale of securities.** If any resident of this state
20 recovers judgment against a foreign corporation and such judgment is not satisfied within thirty
21 days after the entry thereof, the judgment creditor or ~~his~~ the creditor's attorney may prepare
22 and file with the commissioner of ~~banking and~~ financial institutions an affidavit setting forth the
23 fact of the recovery of the judgment, that the same has remained unpaid for thirty days, and
24 that no proceedings are pending for the vacation of such judgment or for an appeal therefrom,
25 together with the petition of such creditor for the sale of the securities of the judgment debtor on
26 deposit with the Bank of North Dakota, any federal reserve bank, or any other custodian
27 approved by the commissioner sufficient to satisfy said judgment. The judgment creditor or ~~his~~
28 the creditor's attorney shall serve a copy of such affidavit and petition on the foreign corporation
29 by registered or certified mail addressed to its principal office or place of business, and proof of
30 such mailing must be filed with the commissioner. Unless such foreign corporation furnishes to
31 the commissioner satisfactory proof of the payment of the judgment within ten days after the

1 filing of the affidavit and petition herein mentioned, the commissioner, or a designated agent,
2 shall issue an order for the sale of the securities of such corporation, at current market prices,
3 to pay the judgment in full, together with five percent thereon to cover ~~his~~ the commissioner's
4 services and expenses. After a sale of securities as herein provided, such foreign corporation
5 shall transact no new business in this state until the deficiency of securities caused by such
6 sale has been made good by further deposit.

7 **SECTION 64. AMENDMENT.** Section 7-08-01 of the North Dakota Century Code is
8 amended and reenacted as follows:

9 **7-08-01. Operation without authority prohibited - Penalty.** No association or
10 corporation, whether foreign or domestic, may do business or attempt to do business as
11 defined in this title without first complying with its provisions and without having received a
12 certificate of authority to do business from the commissioner of ~~banking and~~ financial
13 institutions as provided in this title. Any association or corporation violating any of the
14 provisions of this title is guilty of a class C felony.

15 **SECTION 65. AMENDMENT.** Section 7-08-03 of the North Dakota Century Code is
16 amended and reenacted as follows:

17 **7-08-03. Evidence of corporate existence or capacity.** The certificate issued by the
18 secretary of state in accordance with this title, or a certificate issued by the commissioner of
19 ~~banking and~~ financial institutions setting forth that any domestic association or foreign
20 corporation has fully complied with the provisions of this title and is lawfully authorized to
21 transact business in this state, must be admitted in evidence in all courts in this state, and is
22 prima facie evidence of the corporate character and capacity of such association or corporation
23 and of its right to transact business in this state except in actions prosecuted by the state in the
24 nature of quo warranto.

25 **SECTION 66. AMENDMENT.** Section 7-08-05 of the North Dakota Century Code is
26 amended and reenacted as follows:

27 **7-08-05. Penalties - How recovered.** All penalties provided for in this title, to which
28 any association or corporation, either domestic or foreign, or any individual, may become
29 subject, shall be recovered on complaint of the commissioner of ~~banking and~~ financial
30 institutions in any court of competent jurisdiction, and all penalties so recovered must be paid
31 into the state treasury.

1 **SECTION 67. AMENDMENT.** Subsection 2 of section 10-04-05 of the North Dakota
2 Century Code is amended and reenacted as follows:

3 2. Securities issued by and representing an interest in or a debt of, or guaranteed by,
4 a national bank or a national bank and trust company or bank or credit or loan or
5 savings association or savings and loan association or credit union organized
6 pursuant to an act of Congress and supervised by the United States, or any
7 agency thereof, or issued or guaranteed as to both principal and interest by an
8 international bank of which the United States is a member, or issued by and
9 representing an interest in or a debt of, or guaranteed by, a state bank, trust
10 company, savings bank, savings institution, or credit union organized and
11 supervised under the laws of any state, and securities of any person subject to
12 examination by the commissioner of ~~banking and~~ financial institutions of North
13 Dakota.

14 **SECTION 68. AMENDMENT.** Subsection 2 of section 12.1-06.1-01 of the North
15 Dakota Century Code is amended and reenacted as follows:

16 2. For the purposes of sections 12.1-06.1-02 through 12.1-06.1-07, unless the
17 context otherwise requires:

18 a. "Control" means the possession of a sufficient interest to permit substantial
19 direction over the affairs of an enterprise.

20 b. "Enterprise" means any corporation, limited liability company, association,
21 labor union, or other legal entity or any group of persons associated in fact
22 although not a legal entity.

23 c. "Financial institution" means any bank, trust company, savings and loan
24 association, credit union, or money lender under the jurisdiction of the state
25 department of ~~banking and~~ financial institutions or its commissioner, or the
26 state banking board, or the state credit union board.

27 d. "Illegal transportation or disposal of radioactive waste material or hazardous
28 waste" means the transportation or disposal into a nonhazardous waste
29 landfill or the intentional and unlawful dumping into or on any land or water of
30 radioactive waste material in violation of section 23-20.2-09 or rules adopted
31 pursuant to that section which were in effect on January 1, 1997, or

- 1 hazardous waste in willful violation of chapter 23-20.3 or the rules adopted
2 pursuant to that chapter which were in effect on January 1, 1997, except for
3 the handling of conditionally exempt small quantities of hazardous waste as
4 referenced in section 33-24-02-05 of the North Dakota Administrative Code.
- 5 e. "Pattern of racketeering activity" requires at least two acts of racketeering
6 activity, one of which occurred after July 8, 1987, and the last of which
7 occurred within ten years, excluding any period of imprisonment, after the
8 commission of a prior act of racketeering activity.
- 9 f. "Racketeering" means any act including any criminal attempt, facilitation,
10 solicitation, or conspiracy, committed for financial gain, which is chargeable or
11 indictable under the laws of the state in which the act occurred and, if the act
12 occurred in a state other than this state, would be chargeable or indictable
13 under the laws of this state had the act occurred in this state and punishable
14 by imprisonment for more than one year, regardless of whether such act is
15 charged or indicted, involving:
- 16 (1) Homicide.
 - 17 (2) Robbery.
 - 18 (3) Kidnapping.
 - 19 (4) Forgery.
 - 20 (5) Theft.
 - 21 (6) Bribery.
 - 22 (7) Gambling.
 - 23 (8) Usury.
 - 24 (9) Extortion.
 - 25 (10) Unlawful delivery of controlled substances.
 - 26 (11) Trafficking in explosives, weapons, or stolen property.
 - 27 (12) Leading a criminal association.
 - 28 (13) Obstructing or hindering criminal investigations or prosecutions.
 - 29 (14) Asserting false claims including, but not limited to, false claims asserted
30 through fraud or arson.
 - 31 (15) Fraud.

1 of this chapter, in accordance with chapter 28-32. Any hearing held and any orders issued
2 pursuant to this chapter must be in accordance with chapter 28-32. In addition to those powers
3 set forth in chapter 28-32, the department has additional powers as set forth in this chapter.

4 **SECTION 72. AMENDMENT.** Section 13-04.1-03 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **13-04.1-03. Application for money broker license.** Every application for a money
7 broker license, or for a renewal thereof, must be made upon forms designed and furnished by
8 the department of ~~banking and~~ financial institutions and must contain any information which the
9 department shall deem necessary and proper. The department may further require any
10 application to provide additional information which is not requested on the application form.

11 **SECTION 73. AMENDMENT.** Section 13-04.1-05 of the 1999 Supplement to the North
12 Dakota Century Code is amended and reenacted as follows:

13 **13-04.1-05. Expiration and renewal of license.** All licenses required herein expire on
14 June thirtieth of each year and may be renewed. Renewals are effective the succeeding July
15 first. Applications for renewal must be submitted on or before the preceding thirtieth of June
16 and must be accompanied by the required annual fees. The form and content of renewal
17 applications must be determined by the department of ~~banking and~~ financial institutions, and a
18 renewal application may be denied upon the same grounds as would justify denial of an initial
19 application. When a licensee has been delinquent in renewing the licensee's license, the
20 department may charge an additional fee of five dollars for the renewal of such license. A
21 money broker license is not transferable. If the commissioner determines that an ownership
22 change has occurred in a sole proprietorship, partnership, limited liability partnership,
23 corporation, or limited liability corporation that was previously granted a money broker license,
24 the commissioner may require a new application from the purchaser. The application must be
25 filed within forty-five days from the date change of ownership is consummated. The
26 department shall act on the application within sixty days from the date the application is
27 received but may extend the review period for good cause. The money broker license granted
28 to the previous owner continues in effect to the new purchaser until the application is either
29 granted or denied.

30 **SECTION 74. AMENDMENT.** Section 13-04.1-06 of the North Dakota Century Code is
31 amended and reenacted as follows:

1 **13-04.1-06. Powers of the department of ~~banking and~~ financial institutions.**

2 Insofar as consistent with the provisions of law, the department of ~~banking and~~ financial
3 institutions has the power to:

- 4 1. Determine the qualifications of all applicants based on financial responsibility,
5 character and fitness, and issue license if approved.
6 2. Establish codes of ethical conduct for licensees.

7 **SECTION 75. AMENDMENT.** Section 13-04.1-08 of the North Dakota Century Code is
8 amended and reenacted as follows:

9 **13-04.1-08. Revocation of license - Suspension of license - Surrender of license.**

- 10 1. The department of ~~banking and~~ financial institutions may, if it has reason to believe
11 that grounds for revocation of a license exist, send by registered or certified mail to
12 the licensee, a notice of hearing stating the contemplated action and in general the
13 grounds thereof and setting the time and place for a hearing thereon. Such
14 hearing must be held in accordance with chapter 28-32 as must any appeal
15 therefrom.
16 2. If the department of ~~banking and~~ financial institutions finds that probable cause for
17 revocation of any license exists and that enforcement of the chapter requires
18 immediate suspension of such license pending investigation, it may, upon written
19 notice, enter an order suspending such license for a period not exceeding thirty
20 days, pending the holding of a hearing as prescribed in this chapter.
21 3. Any licensee may surrender the licensee's license by delivering it to the
22 department of ~~banking and~~ financial institutions with written notice of its surrender,
23 but such surrender does not affect the licensee's civil or criminal liability for acts
24 committed prior thereto.

25 **SECTION 76. AMENDMENT.** Section 13-04.1-10 of the North Dakota Century Code is
26 amended and reenacted as follows:

27 **13-04.1-10. Orders and injunctions.** Whenever it appears to the department of
28 ~~banking and~~ financial institutions either upon complaint or otherwise, that any person has
29 engaged in, is engaging in, or is about to engage in any act or practice or transaction which is
30 prohibited by this chapter, or by any order of the department issued pursuant to any section of

1 this chapter or which is declared to be illegal in this chapter, the department may, in its
2 discretion:

- 3 1. Issue any order, including cease and desist, stop, and suspension orders, which it
4 deems necessary or appropriate in the public interest or for the protection of the
5 public; provided, however, that any person aggrieved by an order issued pursuant
6 to this subsection may request a hearing before the department if such request is
7 made within ten days after receipt of the order. Such hearing must be held in
8 accordance with chapter 28-32 as must any appeal therefrom.
- 9 2. Apply to the district court of any county in this state for an injunction restraining
10 such person and the agents, employees, partners, officers, and directors of such
11 person from continuing such act, practice, or transaction of engaging therein or
12 doing any acts in furtherance thereof, and for such other and further relief as the
13 facts may warrant. In any proceeding for an injunction, the department may apply
14 for and on due showing be entitled to have issued the court's subpoena requiring
15 the appearance forthwith of any defendants and their agents, employees, partners,
16 officers, or directors, and the production of such documents, books, and records as
17 may appear necessary for the hearing upon the petition for an injunction. Upon
18 proof of any of the offenses described in this section, the court may grant such
19 injunction as the facts may warrant. The court may not require the department to
20 post a bond.

21 **SECTION 77. AMENDMENT.** Section 13-04.1-11 of the North Dakota Century Code is
22 amended and reenacted as follows:

23 **13-04.1-11. Investigations and subpoenas.**

- 24 1. The department of ~~banking and~~ financial institutions in its discretion:
 - 25 a. May make such public or private investigation within or outside this state as it
26 deems necessary to determine whether any person has violated or is about to
27 violate any provision of this chapter or any rule or order hereunder, or to aid in
28 the enforcement of this chapter or in the prescribing of rules and forms
29 hereunder. The licensee shall pay an investigation fee and must be charged
30 by the department of ~~banking and~~ financial institutions at an hourly rate to be
31 set by the commissioner, sufficient to cover all reasonable expenses of the

- 1 department associated with the visitation provided for by this section. Fees
2 must be paid to the state treasurer and deposited in the financial institutions
3 regulatory fund.
- 4 b. May require or permit any person to file a statement in writing, under oath or
5 otherwise as the department determines, as to all the facts and
6 circumstances concerning the matter to be investigated.
- 7 c. May publish information concerning any violation of this chapter or any rule or
8 order hereunder.
- 9 2. For the purpose of any investigation or proceeding under this chapter, the
10 department of ~~banking and~~ financial institutions may administer oaths and
11 affirmations, subpoena witnesses, compel their attendance, take evidence, and
12 require the production of any books, papers, correspondence, memoranda,
13 agreements, or other documents or records which the department deems relevant
14 or material to the inquiry.
- 15 3. In case of contumacy by, or refusal to obey a subpoena issued to, any person, the
16 district court, upon application by the department of ~~banking and~~ financial
17 institutions, may issue to the person an order requiring such person to appear
18 before the department, there to produce documentary evidence if so ordered or to
19 give evidence touching the matter under investigation or in question. Failure to
20 obey the order of the court may be punished by the court as a contempt of court.
- 21 4. No person is excused from attending and testifying or from producing any
22 document or record before the department of ~~banking and~~ financial institutions, or
23 in obedience to the subpoena of the department, or in any proceeding instituted by
24 the department, on the ground that the testimony or evidence (documentary or
25 otherwise) required of such person may tend to incriminate such person or subject
26 such person to a penalty forfeiture; but no individual may be prosecuted or
27 subjected to any penalty or forfeiture for or on account of any transaction, matter,
28 or thing concerning which such person is compelled, after claiming the privilege
29 against self-incrimination, to testify or produce evidence (documentary or
30 otherwise), except that the individual testifying is not exempt from prosecution and
31 punishment for perjury or contempt committed in testifying.

1 **SECTION 78. AMENDMENT.** Section 13-04.1-13 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **13-04.1-13. Penalty.** Any person violating any of the provisions of this chapter or any
4 rule or order of the department of ~~banking and~~ financial institutions made pursuant to the
5 provisions of this chapter or who engages in any act, practice, or transaction declared by any
6 provision of this chapter to be unlawful is guilty of a class C felony.

7 **SECTION 79. AMENDMENT.** Section 13-05-01 of the North Dakota Century Code is
8 amended and reenacted as follows:

9 **13-05-01. Administration.** The department of ~~banking and~~ financial institutions shall
10 use its facilities to administer and enforce this chapter. Any person or persons delegated to
11 administer this chapter may not have financial interests directly or indirectly in any business
12 which is subject to this chapter.

13 **SECTION 80. AMENDMENT.** Section 13-05-03 of the North Dakota Century Code is
14 amended and reenacted as follows:

15 **13-05-03. Application for a collection agency license.** Every application for a
16 collection agency license, or for a renewal thereof, must be made upon blanks furnished by the
17 department of ~~banking and~~ financial institutions and must contain the following information:

- 18 1. The full name and proposed business name of the applicant.
- 19 2. The address where the business is to be conducted.
- 20 3. The names and addresses of the applicant and those associated with the
21 applicant. If the applicant is a corporation, the application must contain the names
22 of the officers of the corporation. If the applicant is a limited liability company, the
23 application must contain the names of the managers of the limited liability
24 company.
- 25 4. Such additional information which the department of ~~banking and~~ financial
26 institutions shall require.

27 **SECTION 81. AMENDMENT.** Section 13-05-05 of the 1999 Supplement to the North
28 Dakota Century Code is amended and reenacted as follows:

29 **13-05-05. Expiration and renewal of license.** All licenses required herein expire on
30 June thirtieth of each year and must be renewed on the succeeding first day of July upon
31 payment of required annual fees. The department of ~~banking and~~ financial institutions may

1 charge an additional fee of five dollars for the renewal of a license after June thirtieth. A
2 collection agency license is not transferable. If the commissioner determines that an ownership
3 change has occurred in a sole proprietorship, partnership, limited liability partnership,
4 corporation, or limited liability corporation that was previously granted a collection agency
5 license, the commissioner may require a new application from the purchaser. The application
6 must be filed within forty-five days from the date change of ownership is consummated. The
7 department shall act on the application within sixty days from the date the application is
8 received but may extend the review period for good cause. The collection agency license
9 granted to the previous owner continues in effect to the new purchaser until the application is
10 either granted or denied.

11 **SECTION 82. AMENDMENT.** Section 13-05-06 of the North Dakota Century Code is
12 amended and reenacted as follows:

13 **13-05-06. Powers of the department of ~~banking and~~ financial institutions.** Insofar
14 as consistent with other provisions of law, the department of ~~banking and~~ financial institutions
15 has the power to:

- 16 1. Determine the qualifications of all applicants based on financial responsibility,
17 character, and fitness and issue license if approved.
- 18 2. Conduct investigations and make an examination of any licensee or licensee's
19 place of business, including all records of such business, and to subpoena
20 witnesses any time they have reason to believe such is necessary. The licensee
21 shall pay an examination or visitation fee and must be charged by the department
22 of ~~banking and~~ financial institutions at an hourly rate to be set by the
23 commissioner, sufficient to cover all reasonable expenses of the department
24 associated with the examination or visitation provided for by this section. Fees
25 must be paid to the state treasurer and deposited in the financial institutions
26 regulatory fund.
- 27 3. Establish codes of ethical conduct for licensees.
- 28 4. Adopt any and all rules and regulations necessary to carry out the purpose of this
29 chapter.
- 30 5. Issue and serve upon any person, or licensed collection agency, an order to cease
31 and desist to take corrective action when the department has reason to believe the

1 person or agency is violating, has violated, or is about to violate the provisions of
2 this chapter. An interested party may appeal issuance of a cease and desist order
3 under the provisions of chapter 28-32 by filing written notice of appeal within
4 twenty days after service of the order.

5 6. Impose civil money penalties against persons or agencies willfully violating an
6 order to cease and desist in an amount not to exceed five hundred dollars for each
7 violation. An interested party may appeal the assessment of a civil money penalty
8 under the provisions of chapter 28-32 by filing written notice of appeal within
9 twenty days after service of the assessment of civil money penalties. Any civil
10 money penalties collected under this section must be paid to the state treasurer
11 and deposited in the financial institutions regulatory fund.

12 **SECTION 83. AMENDMENT.** Subsection 1 of section 13-05-06.1 of the North Dakota
13 Century Code is amended and reenacted as follows:

14 1. The commissioner of ~~banking and~~ financial institutions may issue and serve upon
15 any collection agency officer or employee and upon the collection agency involved,
16 a complaint stating the basis for the commissioner's belief that the officer or
17 employee is willfully engaging or has willfully engaged in any of the following
18 conduct:
19 a. Violating any law, rule, order, or written agreement with the commissioner;
20 b. Engaging in any harassment or abuse, the making of false or misleading
21 representations, or engaging in unfair practices involving collection activity; or
22 c. Performing any act of commission or omission or practice which is a breach
23 of trust or a breach of fiduciary duty.

24 **SECTION 84. AMENDMENT.** Section 13-05-08 of the North Dakota Century Code is
25 amended and reenacted as follows:

26 **13-05-08. Revocation of license - Suspension of license - Surrender of license -**
27 **Preexisting contracts.**

28 1. The department of ~~banking and~~ financial institutions may, if it has reason to believe
29 that grounds for revocation of a license exist, send by registered or certified mail to
30 the licensee, a notice of hearing stating the contemplated action and in general the
31 grounds thereof and setting the time and place for a hearing thereon. Such

- 1 hearing may not be held less than ten nor more than thirty days from the date of
2 mailing such notice. Within ten days after such hearing, the department of ~~banking~~
3 ~~and~~ financial institutions shall issue a written order either dismissing the charges or
4 suspending or revoking the license and the grounds therefor. A copy of such
5 written order must be sent to the licensee. A license may be revoked for one or
6 more of the following reasons:
- 7 a. The licensee has failed to pay the annual license fee.
 - 8 b. The licensee, either knowingly or without the exercise of due care to prevent
9 the same, has violated any provision of this chapter or any regulation or order
10 lawfully made pursuant to and within the authority of this chapter.
 - 11 c. Any fact or condition existing at the time of the original application for such
12 license which clearly would have warranted the department of ~~banking and~~
13 financial institutions in refusing originally to issue such license.
- 14 2. If the department of ~~banking and~~ financial institutions finds that probable cause for
15 revocation of any license exists and that enforcement of the chapter requires
16 immediate suspension of such license pending investigation, it may, upon written
17 notice, enter an order suspending such license for a period not exceeding thirty
18 days, pending the holding of a hearing as prescribed in this chapter.
- 19 3. Any licensee may surrender the licensee's license by delivering it to the
20 department of ~~banking and~~ financial institutions with written notice of its surrender,
21 but such surrender does not affect the licensee's civil or criminal liability for acts
22 committed prior thereto.

23 **SECTION 85. AMENDMENT.** Section 13-05-08.1 of the North Dakota Century Code is
24 amended and reenacted as follows:

25 **13-05-08.1. Biennial report.** The commissioner of ~~banking and~~ financial institutions
26 shall submit a biennial report to the governor and the secretary of state in accordance with
27 section 54-06-04.

28 **SECTION 86. AMENDMENT.** Section 23-21.1-03 of the 1999 Supplement to the North
29 Dakota Century Code is amended and reenacted as follows:

30 **23-21.1-03. Creation of perpetual care fund.** Any organization subject to this chapter
31 which is organized or commences business in this state and desires to operate as a perpetual

1 care cemetery, before selling or disposing of any interment space or lots, shall establish a
2 minimum perpetual care and maintenance guarantee fund of twenty-five thousand dollars in
3 cash, except that the minimum perpetual care and maintenance guarantee fund for
4 organizations in operation on July 1, 1963, must be five thousand dollars. The perpetual care
5 and maintenance guarantee fund must be permanently set aside in trust to be administered
6 under the jurisdiction of the district court of the county wherein the cemetery is located. The
7 district court shall have jurisdiction over the approval of trustees, reports and accounting of
8 trustees, amount of surety bond required, and investment of funds as provided by chapter
9 59-04 relating to the administration of trust estates. Only the income from such fund may be
10 used for the care and maintenance of the cemetery for which it was established. All such
11 organizations shall submit at least annually, to the district court, such reports as are required.
12 The clerks of each of the district courts shall transmit copies of all reports, and rules and
13 regulations enacted by the organization, to the state department of health and the
14 commissioner of ~~banking and~~ financial institutions.

15 To continue to operate as a perpetual care cemetery, any such organization shall set
16 aside and deposit in the perpetual care fund not less than the following amounts for lots of
17 interment space thereafter sold or disposed of:

- 18 1. A minimum of twenty percent of the gross selling price with a minimum of twenty
19 dollars for each adult space, whichever is the greater.
- 20 2. A minimum of twenty percent of the gross selling price for each child's space with a
21 minimum of five dollars for each space up to forty-two inches [1006.8 millimeters]
22 in length or ten dollars for each space up to sixty inches [1524 millimeters] in
23 length, whichever is the greater.
- 24 3. A minimum of twenty percent of the gross selling price with a minimum of one
25 hundred dollars for each space or crypt in a mausoleum, whichever is the greater,
26 except a mausoleum located in a cemetery covered by a perpetual care fund
27 which consists of at least twenty percent of the proceeds received by the cemetery
28 from the sale of cemetery lots, in which event, the perpetual care fund for the
29 public or community mausoleum itself shall contain a minimum of twenty percent of
30 the cost of the construction of such public or community mausoleum.

- 1 4. A minimum of twenty percent of the gross selling price with a minimum of ten
2 dollars for each inurnment niche in a columbarium, except a columbarium located
3 in a cemetery covered by a perpetual care fund which consists of at least twenty
4 percent of the proceeds received by the cemetery from the sale of cemetery lots, in
5 which event, the perpetual care fund for the public or community columbarium
6 itself shall contain a minimum of twenty percent of the cost of the construction of
7 such public or community columbarium.
- 8 5. A minimum of twenty percent of the gross selling price with a minimum of one
9 hundred dollars, whichever is the greater, for each interment space in crypt
10 gardens or any other structure or device by whatever name, established or
11 constructed wholly or partially above the natural surface of the ground, for the
12 interment of any dead human body.

13 There is no required perpetual care fund deposit on spaces provided without charge for
14 paupers and infants.

15 **SECTION 87. AMENDMENT.** Subsection 2 of section 51-17-02 of the North Dakota
16 Century Code is amended and reenacted as follows:

- 17 2. "Commissioner" means the commissioner of ~~banking and~~ financial institutions.

18 **SECTION 88. AMENDMENT.** Subsection 1 of section 54-06-04 of the 1999
19 Supplement to the North Dakota Century Code is amended and reenacted as follows:

- 20 1. The following executive and administrative officers and departments shall submit
21 to the governor and the secretary of state reports covering their operations for the
22 two preceding fiscal years, except as otherwise provided by law, not later than the
23 first day of December each year after the regular session of the legislative
24 assembly:
- 25 a. Secretary of state.
 - 26 b. State auditor.
 - 27 c. Insurance commissioner.
 - 28 d. Attorney general.
 - 29 e. Agriculture commissioner.
 - 30 f. Superintendent of public instruction.
 - 31 g. State tax commissioner.

- 1 h. Public service commission.
- 2 i. Department of corrections and rehabilitation.
- 3 j. Department of transportation.
- 4 k. State department of health.
- 5 l. Department of human services.
- 6 m. Workers compensation bureau.
- 7 n. Office of management and budget.
- 8 o. State treasurer.
- 9 p. Commissioner of labor.
- 10 q. Department of ~~banking and~~ financial institutions.
- 11 r. Department of economic development and finance.
- 12 s. Game and fish department.
- 13 t. Industrial commission.
- 14 u. Job service North Dakota.
- 15 v. Board of university and school lands.

16 **SECTION 89. AMENDMENT.** Subsection 16 of section 54-11-01 of the 1999
17 Supplement to the North Dakota Century Code is amended and reenacted as follows:

- 18 16. Keep books of the state treasurer open at all times for the inspection of the
19 governor, the state auditor, the commissioner of ~~banking and~~ financial institutions,
20 the office of management and budget, and any committee appointed to examine
21 them by either house of the legislative assembly.

22 **SECTION 90. AMENDMENT.** Section 54-11-07 of the 1999 Supplement to the North
23 Dakota Century Code is amended and reenacted as follows:

24 **54-11-07. Suspension of treasurer by governor - Appointment.** When a certificate
25 is made to the governor by the state auditor under section 54-11-06, the governor, with the
26 state auditor and the commissioner of ~~banking and~~ financial institutions, shall examine the
27 books, papers, and all matters connected with the office of the state treasurer so suspended. If
28 it appears to the governor, state auditor, and commissioner of ~~banking and~~ financial institutions
29 on examination that the state treasurer has embezzled or converted to the treasurer's own use
30 the public moneys, or has been negligent in keeping the books, or in taking care of public
31 moneys, the governor on the certificate of the state auditor and the commissioner of ~~banking~~

1 ~~and~~ financial institutions to that effect may remove the state treasurer and appoint another
2 person to fill the place of the suspended state treasurer. The person so appointed shall enter
3 upon the office of state treasurer as provided by law. The governor shall report the removal of
4 the state treasurer to the next succeeding legislative assembly. The state treasurer so
5 appointed shall hold office until the suspended state treasurer is reinstated or a successor is
6 elected and qualified.

7 **SECTION 91. LEGISLATIVE COUNCIL CORRECTION OF STATUTORY**

8 **REFERENCES.** The legislative council may replace appropriate references to the "department
9 of banking and financial institutions" in any measure enacted by the fifty-seventh legislative
10 assembly with references to the "department of financial institutions", as appropriate.