

**Fifty-ninth Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 4, 2005**

HOUSE BILL NO. 1140
(Industry, Business and Labor Committee)
(At the request of the Department of Financial Institutions)

AN ACT to amend and reenact subsection 1 of section 6-02-01 and section 6-05-02 of the North Dakota Century Code, relating to use of terms for bank, annuity, safe deposit, surety, and trust company regulation purposes.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 1 of section 6-02-01 of the North Dakota Century Code is amended and reenacted as follows:

1. No person, firm, company, copartnership, or corporation, either domestic or foreign, not organized under this chapter or authorized to take on banking powers under this section, except national banking corporations, banks organized under the laws of another state, domestic or foreign bank holding companies, their affiliates, and the Bank of North Dakota, may make use of or display in connection with its business, in signs, letterheads, advertising, or in any other way, such words as "bank", "banker", or "banking", or any other word or words of like import, nor may any person or concern do or perform anything in the nature of the business of a bank until and unless such business is regularly organized or authorized under this chapter.

SECTION 2. AMENDMENT. Section 6-05-02 of the North Dakota Century Code is amended and reenacted as follows:

6-05-02. Compliance with chapter required - Penalty for noncompliance. No person, firm, company, copartnership, or corporation, either domestic or foreign, not organized under this chapter nor subject to its provisions, except only national banking corporations, state banks authorized under this chapter, state banks or trust companies authorized to engage in trust activities under the laws of another state, their affiliates, and the Bank of North Dakota, may make use of or display in connection with its business, in signs, letterheads, advertising, or in any other way, such words as "trust", "trust company", or any other word or words of like import, nor may any person or concern do or perform anything in the nature of the business of a trust company until and unless such business is regularly organized and authorized under this chapter. If any firm or corporation organized prior to July 1, 1931, has been granted a charter permitting it to use any word, words, or title contrary to the intent of this section, and by reason of its rights under such charter, the provisions of this section may not be enforced against it during the life of such charter. However, no renewal charter may be granted to such person, firm, or corporation permitting the continuance of the use of such word, words, or title contrary to or in violation of this section. Any person, firm, or corporation which, by reason of an existing charter right under any law or statute in effect prior to July 1, 1931, may be held by the courts not to be affected by this section and which therefore refuses to comply with the provisions of this section, during the period of noncompliance, shall display, prominently and continuously in plain, legible, and clearly discernible lettering on all of its signs, stationery, circulars, and advertising, and in all of its printed or written matter the following words and language: "NOT UNDER THE SUPERVISION OF THE STATE BANKING BOARD OR THE COMMISSIONER OF FINANCIAL INSTITUTIONS", and such language must be displayed thereon as prominently as any other matter therein. Any person, firm, company, copartnership, or corporation, domestic or foreign, violating any provision of this section, shall forfeit to the state one hundred dollars for every day or part thereof during which such violation continues. In an action brought by the commissioner or any aggrieved person, the court may issue an injunction restraining such person, firm, company, copartnership, or corporation from further using such words, terms, or phrases in violation of this section or from further transacting business in such a way or

manner as to lead the public to believe that its business is in whole or in part of the nature of a trust company, or that it is under the supervision of the state banking board or the commissioner.

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Fifty-ninth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1140.

House Vote: Yeas 90 Nays 1 Absent 3

Senate Vote: Yeas 47 Nays 0 Absent 0

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 2005.

Approved at _____ M. on _____, 2005.

Governor

Filed in this office this _____ day of _____, 2005,

at _____ o'clock _____ M.

Secretary of State