

**Sixty-seventh Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 5, 2021**

SENATE BILL NO. 2101
(Industry, Business and Labor Committee)
(At the request of the Department of Financial Institutions)

AN ACT to create and enact section 6-06-14.1 of the North Dakota Century Code, relating to credit union loans; to amend and reenact subsection 3 of section 6-01-01.1, sections 6-01-04.3, 6-01-09, and 6-01-17, subsection 1 of section 6-03-05, sections 6-03-11, 6-03-13.3, and 6-03-15.1, subsection 1 of section 6-03-47.2, sections 6-03-49.1, 6-05-15.4, and 6-06-06, subsection 4 of section 6-06-08, and sections 6-06-11 and 6-08-08.1 of the North Dakota Century Code, relating to the regulatory fund, assessment of civil money penalties, appointment of receivers, supervision and examinations, assessments, real estate loans, bank mergers, bank branches, bank investments, trust branches, credit union powers, credit union board notice, and sale or purchase of banking institutions or holding companies; to repeal section 6-06-14 of the North Dakota Century Code, relating to credit union loans; to provide a penalty; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 3 of section 6-01-01.1 of the North Dakota Century Code is amended and reenacted as follows:

3. Any cash balance in the financial institutions regulatory fund after all current biennium expenditures are met must be carried forward in the financial institutions regulatory fund for the next succeeding biennium. ~~The balance in this fund at the end of the current biennium, excluding fees collected for use in the next succeeding biennium, may not exceed twenty percent of the department's next succeeding biennial budget.~~

SECTION 2. AMENDMENT. Section 6-01-04.3 of the North Dakota Century Code is amended and reenacted as follows:

6-01-04.3. Assessment of civil money penalties.

1. The commissioner or the board may assess a civil money penalty against a financial institution, financial corporation, or credit union, or an officer, director, employee, agent, or person participating in the conduct of the affairs of the financial corporation, financial institution, or credit union upon finding one or more of the following:
 - a. Failure to comply with a permanent or temporary cease and desist order that has been voluntarily consented to or issued pursuant to section 6-01-04.2;
 - b. Failure to comply with a final order that has been voluntarily consented to or issued following formal proceedings under chapter 28-32;
 - c. Payment of dividends in violation of section 6-03-36;
 - d. Loans and leases to one borrower or concern which exceed the limitations set forth in sections 6-03-59 and 6-03-59.1;
 - e. Loans to directors, officers, and employees in violation of section 6-03-60;
 - f. The intentional filing of inaccurate or misleading call reports required by section 6-03-70 or 6-06-08;

- g. ~~Violations of loan limitations under subsection 1 of section 6-06-12 or North Dakota Administrative Code section 13-03-16-03, 13-03-16-05, or 13-03-16-08~~ title 12, chapter 7, Code of Federal Regulations, subchapter A, part 723, as amended February 5, 2019;
 - h. ~~Loans in violation of section 6-06-14 or subsection 2 of section 13-03-16-02 of the North Dakota Administrative Code or subsection 2 of section 13-03-16-05 of the North Dakota Administrative Code~~ 6-06-14.1; or
 - i. Failure to file notice of change of control under section 6-08-08.1.
2. The commissioner or the board commences administrative proceedings to assess civil money penalties by serving a complaint on the respondent stating the factual basis for the commissioner's or board's belief that a violation has occurred and the amount of civil penalties that the complaint seeks to impose. The complaint must contain a notice of an opportunity for an administrative hearing conducted under chapter 28-32. The date for the hearing must be set not less than thirty days after the date the complaint is served upon the respondent. If assessment of civil money penalties are proposed based on conditions described in subdivisions c through i of subsection 1, a complaint may not be filed unless the respondent has been provided with prior orders, examination reports, or other written communications, and has willfully refused to take corrective action that the respondent was capable of taking at the time.
 3. If the respondent fails to answer the complaint within twenty days of its service, the commissioner or board may enter an order imposing civil money penalties upon the respondent. If a hearing is held and the board concludes that the record so warrants, the board may enter an order imposing civil money penalties upon the respondent. The assessment order is effective and enforceable immediately upon service or upon a date specified in the order, and remains effective and enforceable until it is stayed, modified, terminated, or set aside by action of the board or a reviewing court.
 4. In determining the amount of civil penalty imposed, the commissioner or board shall consider whether good faith was exercised, and the gravity of the violation and any previous violations. The commissioner or board may not impose a civil money penalty in excess of ~~five~~ one hundred thousand dollars for each occurrence and one ~~hundred thousand~~ hundred thousand dollars per day for each day that the violation continues after service of an order. Any civil money penalties collected under this section must be paid to the department of financial institutions and deposited in the financial institutions regulatory fund.

SECTION 3. AMENDMENT. Section 6-01-09 of the North Dakota Century Code is amended and reenacted as follows:

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

The commissioner shall exercise a constant supervision over the business affairs of all financial corporations, financial institutions, and credit unions, including all out-of-state branches of financial corporations, financial institutions, and credit unions. Either the commissioner or one or more examiners shall ~~visit~~ examine each financial institution ~~at least once each thirty-six months to examine its~~ assess the affairs of the institution and ascertain ~~its~~ the institution's financial condition. The commissioner shall inspect and verify the assets and liabilities of the institution and branches to ascertain with reasonable certainty that the value of the assets and the amounts of the liabilities are correctly carried on its books. The commissioner shall examine the validity of mortgages held by savings institutions and shall see that all of the mortgages are properly recorded. The commissioner shall investigate the method of operation and conduct of the corporations and institutions and their systems of accounting to ascertain whether the methods conform to the law and sound banking usage and principles. The commissioner shall inquire into and report any infringement of the laws governing those corporations and institutions, and for that purpose the commissioner may examine the officers, agents, and employees of the corporations and institutions and all persons doing business therewith.

The commissioner may examine, or cause to be examined, or review the books and records of any subsidiary corporation of a bank or credit union service organization of a credit union under the commissioner's supervision and may require the bank to provide information on the holding company that owns the bank. The commissioner may also examine, or cause to be examined, or review the books and records of any technology service provider that provides services to financial corporations, credit unions, and financial institutions under the commissioner's supervision, to evaluate that entity's risk management systems and controls and compliance with applicable laws that affect such services provided to financial corporations, credit unions, and financial institutions. The commissioner shall report the condition of the corporations and institutions, together with the commissioner's recommendations or suggestions in connection therewith, to the state banking board, state credit union board, or both, and the ~~board~~boards may take such action as the exigencies may demand.

SECTION 4. AMENDMENT. Section 6-01-17 of the North Dakota Century Code is amended and reenacted as follows:

6-01-17. ~~Yearly assessment~~Semiannual assessments of banks and interstate branches.

Every state banking association and banking institution under the jurisdiction and control of the commissioner and the commissioner's deputy examiners by this title, including the Bank of North Dakota and every branch of an out-of-state state bank, shall pay a ~~yearly assessment~~semiannual assessment. This assessment is to be determined by the state banking board as necessary to fund that portion of the department's budget relating to the regulation of state-chartered banks and branches of out-of-state state banks, including the authority to enter into cooperative fee sharing agreements and assessment of associated travel costs with other state bank supervisors. ~~Assessment fees may not be computed on the combined assets of the bank and its trust department for those banks and branches exercising trust powers.~~ Fees for the examination of ~~the~~a trust department must be computed in accordance with section 6-05-28. The assessment must be paid to the department of financial institutions within thirty days of each June thirtieth and December thirty-first. ~~Institutions and branches that have not been examined by the commissioner or the state banking board for three years prior to any assessment date shall not be required to pay the assessment.~~ If any such corporation or institution or branch is delinquent more than twenty days in making such payment, the board ~~may make an order suspending the functions~~may seek other administrative remedies of such delinquent corporation, institution, or branch until payment of the amount due. The commissioner may assess a penalty of ~~five dollars~~one percent of the outstanding assessment fee for each day that the assessment fee is delinquent. All fees and penalties under this section must be deposited with the state treasurer and deposited in the financial institutions regulatory fund.

SECTION 5. AMENDMENT. Subsection 1 of section 6-03-05 of the North Dakota Century Code is amended and reenacted as follows:

1. Before any real estate loan equal to or more than ~~two~~four hundred ~~fifty~~ thousand dollars is made, an appraisal must be conducted by a licensed or certified appraiser if required by the federal Financial Reform, Recovery, and Enforcement Act of 1989 [Pub. L. 101-73; 103 Stat. 512; 12 U.S.C. 3332 et seq.].

SECTION 6. AMENDMENT. Section 6-03-11 of the North Dakota Century Code is amended and reenacted as follows:

6-03-11. Conversion, consolidation, or merger.

Any two or more banking institutions upon making application to the commissioner or the state banking board may consolidate or merge if authorized by the commissioner or board into one banking institution under the charter of either existing banking institution on such terms and conditions as lawfully may be agreed upon by a majority of the board of directors of each banking institution proposing to consolidate or merge subject to rules adopted by the state banking board. Before becoming final, such consolidation or merger must be ratified and confirmed by the vote of the shareholders of each such banking institution owning at least two-thirds of its capital stock outstanding

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

SECTION 7. AMENDMENT. Section 6-03-13.3 of the North Dakota Century Code is amended and reenacted as follows:

6-03-13.3. Facts considered for approval.

1. Whenever any bank desires to maintain and operate a facility separate and apart from its banking house, pursuant to section 6-03-13.1, or to move a facility previously established to another location, it shall apply to the commissioner or the comptroller of the currency, as the case may be, for such authority and provide the commissioner with such relevant information as the commissioner may reasonably request. In determining whether to approve the application for such facility, the commissioner shall take into consideration ~~the following facts:~~
 4. a. The convenience, needs, and welfare of the people of the community and area served; and
 2. b. The financial strength of the bank in relation to the cost of establishing and maintaining such separate facility.
3. ~~Whether other banks will be seriously injured by the approval of the application.~~

~~When considering an application for relocating an existing facility to another location within the same corporate city limits, the commissioner may consider only subsection 2 as a factor for approval.~~

2. Upon approval by the commissioner or state banking board of a merger application under section 6-03-11, the former main office and facilities of the banking institutions being merged will become facilities of the surviving banking institution and the banking institution is not required to file an application under this section.
3. If the commissioner's decision with respect to an application is unfavorable, the applicant bank may appeal the decision to the state banking board by filing a notice of appeal with the commissioner within twenty days after the commissioner has notified the applicant bank of the decision.

~~If an interested party files a protest with respect to an application, the matter will be referred to and decided by the state banking board.~~

SECTION 8. AMENDMENT. Section 6-03-15.1 of the North Dakota Century Code is amended and reenacted as follows:

6-03-15.1. Temporary relocation of bank operations.

In the event of an emergency or other temporary relocation, a bank ~~may apply to~~ shall notify the commissioner to relocate its main banking house or facility until the former location is repaired to allow

bank operations to resume. No notice or public hearing need be held to act upon the temporary relocation request. The bank shall give the commissioner notice of the bank's decision to relocate promptly and in any case within three days in the event of an emergency, and at least thirty days prior for other temporary relocations. The notice must describe the bank's actions and the expected duration of the bank's relocation. Unless extended by the commissioner, a bank's authority to change the bank's location under this section may not exceed sixty days. Notice of the bank's intention to temporarily relocate must be provided to customers at least ten days before the relocation.

SECTION 9. AMENDMENT. Subsection 1 of section 6-03-47.2 of the North Dakota Century Code is amended and reenacted as follows:

1. Bonds, notes, or debentures of any corporation rated at "A" or higher by a nationally recognized rating service approved by the commissioner, provided that the lesser of the book value or face value of the investments at the time of purchase may not exceed for any one corporation twenty-five percent of the unimpaired capital and surplus of the banking association that have been rated in one of the four highest rating categories by a nationally recognized statistical rating organization registered with the securities and exchange commission. In the case of different ratings from different rating organizations, the lower rating applies. If a nationally recognized statistical rating organization has not rated the security, the bank shall determine that the security is the credit equivalent of a security rated in the four highest rating categories by a nationally recognized statistical rating organization. This includes documentation demonstrating that the issuer of the security has an adequate capacity to meet financial commitments under the security for the projected life of the asset or exposure and the issuer has adequate capacity to meet financial commitments if the risk of default by the obligor is low and the full and timely repayment of principal and interest is expected. The aggregate par value of investments issued by any one corporation may not exceed twenty-five percent of unimpaired capital and surplus at the time of purchase.

SECTION 10. AMENDMENT. Section 6-03-49.1 of the North Dakota Century Code is amended and reenacted as follows:

6-03-49.1. Bank investment in service corporation - Service corporation services and activities.

1. Subject to the approval of the state banking board, any bank may invest not more than in a service corporation and provide services and activities through the service corporation, if:
 - a. The service corporation is a United States corporation and is organized as a bank service corporation having its principal place of business in the United States.
 - b. The investment in stocks, bonds, debentures, or other obligations does not exceed ten percent of paid-in and unimpaired capital and unimpaired surplus in stocks, bonds, debentures, or other obligations of any North Dakota corporation organized as a bank service corporation having its principal place of business in the state and in each corporation.
 - c. The service corporation is operated exclusively for the purpose of providing for such bank and one or more other banks, bank services which the banks would otherwise be required or permitted to provide for on an individual bank basis. The term bank services in this section includes services such as check:
 - (1) Check and deposit sorting and posting, computation.
 - (2) Computation and posting of interest and other credits and charges, preparation.
 - (3) Preparation and mailing of checks, statements, notices, and similar items, or any.

- (4) Any other clerical, bookkeeping, accounting, statistical, or similar functions performed by a bank.
 - (5) Owning and administering a credit card program for customers of banks.
 - (6) Engaging in activities incidental to banking services.
 - (7) Other activities that further or facilitate the corporate purposes of a bank or subsidiaries of a bank, if the services may be lawfully performed by both its national bank shareholders under the laws of the United States and its state bank shareholders under the laws of this state.
2. ~~Payment for rent earned, goods sold and delivered, or services rendered prior to the making of the payment is not an investment under this subsection. A bank service corporation may be chartered under the laws of this state with shareholders limited to state and national banks located within the state and corporations that are organized as associations of state and national banks located within the state to provide all the services, except deposit taking, that all the banks that are its shareholders can offer directly to their own customers at any place in the state where they can offer their services, including owning and administering a credit card program for customers of banks and engaging in activities incidental to banking services and other activities that further or facilitate the corporate purposes of a bank or subsidiaries of a bank, so long as such services may be lawfully performed by both its national bank shareholders under the laws of the United States and its state bank shareholders under the laws of this state not accept deposits.~~

SECTION 11. AMENDMENT. Section 6-05-15.4 of the North Dakota Century Code is amended and reenacted as follows:

6-05-15.4. Multiple offices or places of business - Application to state banking board - Hearing.

1. A trust company may establish and maintain for itself and its operating subsidiary organizations one or more offices or places of business within this state, throughout the United States, in foreign countries, or in dependencies or insular possessions of the United States upon written application to the department of financial institutions ~~for approval from the state banking board.~~ Additional branches in the United States may be approved by the commissioner, while all other branches must be approved by the state banking board. The application must include the information specified by the board.
2. Notice of the application to establish and maintain an office or place of business must be published as required by the state banking board.
3. ~~Within ten business days after receipt of the application by the department of financial institutions, the~~The commissioner shall determine if the application is complete and shall notify the trust company of the determination. If ~~within the ten business days~~ the commissioner determines the application is incomplete, the commissioner shall request the additional information necessary to complete the application. ~~Within ten days after receipt of the additional information, the commissioner shall notify the trust company by mail of the commissioner's determination of completeness. Within sixty days after the date for the mailing of a notice of completeness by the commissioner, the~~The commissioner or state banking board either shall approve the application or shall notify the trust company that a hearing on the application will be required.
4. Any hearing required by the commissioner or state banking board must be commenced and concluded by issuance of the an order of the board ~~within ninety days after the date for the mailing of a notice of completeness by the commissioner. If the hearing is not concluded within this ninety-day period, the application is deemed approved by the board.~~

5. The commissioner or state banking board may disapprove the application if ~~it finds, after a hearing~~the commissioner or board find:
 - a. The establishment and maintenance of the office or place of business will jeopardize the solvency of the trust company; or
 - b. The operation of more than one office or place of business by the trust company will place the company in an unsafe and unsound condition.
6. If a North Dakota chartered trust company desires to move a branch previously established to another location, the trust company shall apply to the commissioner for such authority and provide the commissioner with such relevant information as the commissioner may reasonably request.

SECTION 12. AMENDMENT. Section 6-06-06 of the North Dakota Century Code is amended and reenacted as follows:

6-06-06. Powers of credit unions.

A credit union has the following powers:

1. To receive the savings of its members either as payment on shares or as deposits, including the right to conduct Christmas clubs, vacation clubs, and other such thrift organizations within its membership.
2. To make loans to members.
3. To make loans to a cooperative society or other organization having membership in the credit union.
4. To deposit its moneys in financial institutions, trust companies, credit unions, corporate central credit unions, and the Bank of North Dakota authorized to receive deposits.
5. To invest in the following:
 - a. In bonds of the United States without limitation in securities issued as direct obligations by the United States government or any agency thereof and in any trust established for investing directly or collectively in such securities.
 - b. In bonds or evidences of debt of this state or in bonds of states of the United States.
 - c. In bonds or certificates of indebtedness of any county, city, or school district in this state, issued pursuant to authority of law, but not to exceed thirty percent of the assets of any credit union may be invested in such bonds or certificates of indebtedness.
 - d. In notes or bonds secured by mortgage or deed of trust upon unencumbered, improved real estate in this state, if such investment does not exceed sixty-five percent of the market value of the property mortgaged, and fire and tornado insurance policies are maintained and deposited as collateral to such mortgage, subject to such restriction and regulations as may be imposed by the state credit union board.
 - e. In notes or bonds secured by a security interest or lien upon unencumbered personal property, if the investment does not exceed ninety percent of the market value of the property secured.
 - f. In first lien, public utility, industrial, corporation, or association bonds, notes, or other evidences of debt issued by corporations located in the United States of America to the extent authorized by the state credit union board.

- g. Subject to rules of the state credit union board, in shares of investment companies registered under the Investment Companies Act of 1940 and which invest only in investments otherwise permissible under this section.
 - h. In investments or insurance products or in loans to the credit union employee associated with the investment or insurance product which are otherwise prohibited by this section if the investments are directly related to a benefit plan for credit union employees.
- 6. To borrow money as limited in this chapter.
 - 7. Subject to such regulations as the state credit union board may prescribe, insurance obtained under title 1 of the National Housing Act must be deemed adequate security.
 - 8. To sue and be sued.
 - 9. A credit union may invest in a credit union office building, including the lot, piece, or parcel of land on which the same is located, and in furniture and fixtures, to the extent authorized by regulations issued by the state credit union board.
 - 10. a. Every state credit union has the power to purchase, hold, and convey other real estate as herein provided, and not otherwise:
 - a- (1) Such as is mortgaged to it in good faith by way of security for loans, or for debts previously contracted.
 - b- (2) Such as is conveyed to it in good faith in satisfaction of debts previously contracted in the course of its dealings.
 - e- (3) Such as it purchases at sales under judgments, decrees, or mortgages held by the credit union, or purchases to secure debts due to it.

~~Within sixty days of the~~

- b. Upon transfer to other real estate owned, a current appraisal must be conducted by a state-licensed an individual who is independent of the transaction ~~for all real estate recorded at or above one hundred thousand dollars or through a market evaluation performed by a qualified individual who is independent of the transaction for all real estate recorded below one hundred thousand dollars.~~ Except as otherwise provided by chapter 10-06.1, a state credit union may hold possession of any real estate acquired after July 1, 1991, under mortgage, or title and possession of any real estate purchased to satisfy indebtedness, for a period not to exceed five years. ~~Except as otherwise provided by chapter 10-06.1, real estate acquired before July 1, 1991, may be held for a period not exceeding five years from July 1, 1991.~~ The commissioner may extend the real estate holding period up to an additional five years upon formal request by a credit union if the credit union has made a good-faith attempt to dispose of the real estate within the five-year period, or disposal within the five-year period would be detrimental to the credit union. Within thirty days after receipt of an adverse decision, the credit union may appeal that decision to the state credit union board.
- c. Notwithstanding other sections of this chapter, a credit union may apply to the commissioner for authority to exchange its interest in real property acquired in satisfaction of a debt previously contracted for an interest in an entity that would dispose of the real property. If the commissioner's decision with respect to an application is unfavorable, the applicant credit union may appeal the decision to the state credit union board by filing a notice of appeal with the commissioner within twenty business days after the commissioner has notified the applicant credit union of the decision.

11. Subject to authorization by the state credit union board, acting by order or rule, a state credit union has the same powers as a federal credit union and may engage in any activity in which a credit union could engage if the credit union were federally chartered.
12. To exercise any incidental power necessary or requisite to enable the credit union to carry out effectively the business for which it is incorporated or as determined by the board by order or rule.

SECTION 13. AMENDMENT. Subsection 4 of section 6-06-08 of the North Dakota Century Code is amended and reenacted as follows:

4. Every state credit union, ~~including any "corporate central" or "corporate" credit union,~~ placed under the jurisdiction and control of the state credit union board and the commissioner by the provisions of this title shall pay a ~~yearly~~yearly semiannual assessment. This assessment is to be determined by the state credit union board as necessary to fund that portion of the department's budget relating to the regulation of state-chartered credit unions. The assessment must be paid to the state treasurer within thirty days of each June thirtieth ~~and December thirty-first.~~ Credit unions that have not been examined by the commissioner or the state credit union board for three years prior to any assessment date are not required to pay the assessment. The state treasurer shall report the payments of fees to the commissioner, and if any credit union is delinquent more than twenty days in making payment, the board may ~~make an order suspending the functions of the delinquent credit union~~seek other administrative remedies until payment of the amount due. The commissioner may assess a penalty of ~~five dollars~~one percent of the outstanding assessment fee for each day that the penalty is delinquent. ~~The examination fee for any "corporate central" or "corporate" credit union shall be charged by the department at an hourly rate to be set by the commissioner, sufficient to cover all reasonable expenses of the department associated with the examination.~~ All fees and penalties under this section must be paid to the state treasurer and deposited in the financial institutions regulatory fund.

SECTION 14. AMENDMENT. Section 6-06-11 of the North Dakota Century Code is amended and reenacted as follows:

6-06-11. Annual meetings - Election of directors - Election or appointment of committees.

1. The organization meeting of the members of a credit union shall be the first annual meeting. At its annual meeting, its members shall elect a board of directors of not less than five members and a credit committee of not less than three members, unless the bylaws of the credit union provide that the credit union may not have a credit committee. A supervisory committee of not less than three members must be elected at the annual meeting, unless the bylaws of the credit union provide that the supervisory committee members be appointed by the board of directors of the credit union or the bylaws provide that the credit union may not have a supervisory committee. In the event the bylaws do not provide for a supervisory committee, then the duties and powers of a supervisory committee, as described in section 6-06-15, are the responsibility of the board of directors. The directors and committee members if any, shall hold office for such terms, respectively, as provided by the bylaws of the credit union and until their successors qualify. A record of the names and addresses of the officers and members of the board and committees must be filed with the commissioner within ten days after their election or appointment. Notice of any change in membership on the board or committees by appointment to fill an unexpired term or otherwise must be filed with the commissioner within ten days of such change. The notice requirement is satisfied if the national credit union association's call report profile is updated within the ten-day reporting requirement.
2. If the bylaws of the credit union provide for a credit committee, then pursuant to the provisions of the bylaws, the board of directors may appoint or the members may elect a credit committee which consists of an odd number of members of the credit union, but which may not include more than one loan officer. The method used must be set forth in the bylaws.

3. If the credit committee is dispensed with in the bylaws, a credit manager, under the general supervision of the board of directors, may be empowered to approve or disapprove loans subject to the policies and conditions prescribed by the board of directors. The president or other qualified senior management official may serve as the credit manager. If a credit manager is provided in lieu of an elected credit committee, the credit manager may appoint one or more loan officers with the power to approve or disapprove loans, and may establish an internal credit committee comprised of designated credit union staff with the power to approve or disapprove loans, subject to such limitations or conditions as the credit manager and board of directors prescribes.

SECTION 15. AMENDMENT. Section 6-08-08.1 of the North Dakota Century Code is amended and reenacted as follows:

6-08-08.1. Sale or purchase of associations, banking institutions, or holding companies - Notification to commissioner - Hearing.

1. No person, acting directly or indirectly or through or in concert with one or more other persons, may purchase or otherwise acquire control of an association or banking institution unless the state banking board or commissioner has been given prior written notice by application of the proposed disposition or acquisition. The written application must include such information as the state banking board shall specify. The transaction may not be consummated before the board or commissioner has granted approval.
2. The applicant shall publish notice of the application as required by the board by rule.
3. ~~Within ten business days after the date the application is received, the~~The commissioner shall determine if the application is complete and notify the applicant ~~by mail~~ of the determination. If the commissioner determines the application is incomplete, the commissioner ~~will, within the ten business days, shall~~ request additional information deemed necessary to complete the application. ~~Within ten business days after the receipt of the additional information, the commissioner will notify the applicant by mail of the commissioner's determination of completeness. Within sixty days, or the next regularly scheduled meeting of the board, after the mailing of a notice of completeness by the commissioner, the board must either approve or disapprove the application.~~
4. ~~The~~ if not approved by the commissioner, the commissioner shall submit the application to the board. The board may approve or disapprove anythe application if the board determines that:
 - a. The character, reputation, general fitness, financial standing, and responsibility of the persons proposed as new stockholders, directors, or officers is such that the interests of the other stockholders, depositors, and creditors of the institution and the public generally will be jeopardized by the change in control and management.
 - b. The qualifications of management do not include adequate experience with financial institutions or other approved related experience.
5. Within three business days after the board's decision to disapprove an application, the board shall notify the applicant in writing of the disapproval. The notice must provide a statement of the basis for the disapproval.
6. Within twenty days after receipt of the notice of disapproval, the applicant may request a hearing on the disapproval. The board must conduct a hearing, if requested, under the provisions of chapter 28-32. At the conclusion of the hearing, the board shall by order approve or disapprove the application on the basis of the record at the hearing.
7. For purposes of this section, "control" means ownership or control, directly, indirectly, or through the actions of one or more persons of the power to vote twenty-five percent or more of any class of voting securities of an association, banking institution, controlling bank holding

company, or the direct or indirect power to control in any manner the election of a majority of the directors of an association or banking institution, or to direct the management or policies of an association or banking institution, whether by individuals, corporations, limited liability companies, partnerships, trusts, or other entities or organizations of any type.

8. The following acquisitions of voting securities of a North Dakota state chartered bank, which would otherwise require submission of an application under this section, are not subject to the application requirements if the acquiring person notifies the commissioner within ninety days after the acquisition and provides any relevant information requested by the commissioner: acquisition of voting securities through inheritance; acquisition of voting securities as a bona fide gift; and acquisition of voting securities in satisfaction of a debt previously contracted in good faith. This subsection does not limit the authority of the commissioner to require a party to submit a written application to the board under subsection 1.

SECTION 16. Section 6-06-14.1 of the North Dakota Century Code is created and enacted as follows:

6-06-14.1. Loans - How made - Security - Meetings and duties of loan administration - Preferential loans.

1. The duty of loan administration falls to the credit committee if the bylaws establish a credit committee, or to the credit manager appointed by the board of directors if the bylaws do not provide for a credit committee. At a minimum, loan administration must include:
 - a. Oversight over all loans.
 - b. Performance of loan-related duties as often as necessary, and in the case of a credit committee, a meeting at least once each month. Each member of the credit committee must receive prior notice of the time and location of a meeting.
 - c. Loan applications, notes, security instruments, and all other loan documentation necessary to execute the transaction on forms approved by the committee or credit manager which set forth the purpose for which the loan is desired, the security, if any, which is offered, and such other data as the committee or credit manager may require.
 - d. Documentation that the loan complies with board of directors-approved loan policies, including policy limits on the maximum unsecured loans to one borrower and the limit on maximum total loans to a borrower.
 - e. Documented approval or denial of the loan by the majority of the entire credit committee or by the credit manager, except that the credit committee or credit manager may appoint and delegate to one or more loan officers the power to approve loans up to the limit established by the board of directors.
 - f. Sufficient segregation of duties to limit risk or error if possible. At a minimum, an individual may not disburse funds of the credit union for any loan that has been approved by that individual in that individual's capacity as a loan officer.
2. Not more than one member of the credit committee may be appointed as a loan officer, unless credit union bylaws provide for a board of directors-appointed credit manager and the credit committee is made up of credit union employees appointed by the credit manager.
3. Every loan by a credit union to, or guaranteed by, its directors, officers, managers, and committee members must:
 - a. Be current as outlined on the terms of the loan agreement.
 - b. Be made on substantially the same terms, including interest rates, fee structure, and collateral, as those prevailing at the time for comparable transactions with other persons.

- c. Be written in strict conformity with the credit union's policies, rules, and regulations.
- 4. An exception may be made for a loan otherwise prohibited by this section if the loan is directly related to a retirement investment benefit plan for credit union employees.

SECTION 17. REPEAL. Section 6-06-14 of the North Dakota Century Code is repealed.

SECTION 18. EMERGENCY. This Act is declared to be an emergency measure.

President of the Senate

Speaker of the House

Secretary of the Senate

Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Sixty-seventh Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2101 and that two-thirds of the members-elect of the Senate voted in favor of said law.

Vote: Yeas 47 Nays 0 Absent 0

President of the Senate

Secretary of the Senate

This certifies that two-thirds of the members-elect of the House of Representatives voted in favor of said law.

Vote: Yeas 92 Nays 1 Absent 1

Speaker of the House

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 2021.

Approved at _____ M. on _____, 2021.

Governor

Filed in this office this _____ day of _____, 2021,

at _____ o'clock _____ M.

Secretary of State