

Sixty-fifth
Legislative Assembly
of North Dakota

ENGROSSED SENATE BILL NO. 2212

Introduced by

Senators Casper, Campbell, Kreun

Representatives Kasper, Sanford, P. Anderson

1 A BILL for an Act to amend and reenact section 6-02-02, subsection 4 of section 6-03-02, and
2 section 6-05-01 of the North Dakota Century Code, relating to residency requirements of bank
3 directors.

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

5 **SECTION 1. AMENDMENT.** Section 6-02-02 of the North Dakota Century Code is amended
6 and reenacted as follows:

7 **6-02-02. Banking corporations - Who may form.**

8 An association for carrying on the business of banking under this title may be formed by any
9 number of natural persons, not less than three, at least two-thirds of whom must be residents of
10 this state or reside within one hundred miles of the main office of the association's banking
11 facility. They shall enter into articles of association which must specify in general terms the
12 object for which the association is formed and which may contain any other provisions, not
13 inconsistent with law, which the association may see fit to adopt for the regulation of its
14 business and the conduct of its affairs. These articles must be signed and acknowledged by the
15 persons uniting to form the association and must be filed in the office of the secretary of state.

16 **SECTION 2. AMENDMENT.** Subsection 4 of section 6-03-02 of the North Dakota Century
17 Code is amended and reenacted as follows:

18 4. Elect or appoint directors, such board to consist of any number of members, not less
19 than three nor more than twenty-five, a majority of whom must be residents of the
20 state of North Dakota or reside within one hundred miles of the main office of the
21 association's banking facility, and, by such board of directors, to appoint a president,
22 who must be a member of said board, and such other employees as may be required,
23 to define their duties, to require bonds of them and fix the penalty thereof, and to

1 dismiss such officers and employees, or any of them, and appoint others to fill their
2 places.

3 **SECTION 3. AMENDMENT.** Section 6-05-01 of the North Dakota Century Code is amended
4 and reenacted as follows:

5 **6-05-01. Who may form - Corporation has perpetual existence.**

6 Any number of persons, not less than nine, at least three of whom must be residents of this
7 state or reside within one hundred miles of the main office of the corporation, may associate
8 themselves and form a corporation for the purpose of transacting business as an annuity, safe
9 deposit, and trust company. Its existence shall be perpetual.

10 At the time and place stated, and through any sources of information at its command, the
11 board shall examine and consider all relevant factors, including whether the place where such
12 company is proposed to be located is in need of a further annuity, safe deposit, and trust
13 company, whether the proposed institution is adapted to the filling of such need, and whether
14 the proposed incorporators are possessed of such character, integrity, reputation, and financial
15 standing as shown by a detailed financial statement to be furnished by them, that their
16 connection with the company will be beneficial to the public welfare of the community in which
17 such company is proposed to be established. The board shall hear any reasons advanced by
18 the applicants why they should be permitted to organize the proposed institution and any
19 reasons advanced by any person why such institution should not be permitted to be organized.
20 At the termination of such hearing, the board shall make a brief statement in writing of its
21 conclusions, and if it finds that the proposed institution should not be permitted to organize, it
22 shall state briefly the reasons why. A copy of such conclusions either shall be endorsed upon or
23 attached to the organization certificate, together with the refusal or grant of permission to the
24 proposed incorporators to present the said organization certificate to the secretary of state. A
25 determination in favor of such organization must be joined in by a majority of the members of
26 the board.

27 Any banking association organized under chapter 6-02 may apply to the board for an order
28 authorizing the applicant to exercise fiduciary powers. If the determination of the board is in
29 favor of the applicant, the board shall make its order authorizing the applicant to engage in the
30 business of a trust company upon its showing full compliance with sections 6-05-03, 6-05-04,
31 and 6-05-05 except the capital stock of the banking association shall not be required to be

1 divided in shares of one hundred dollars each as provided by section 6-05-03. Sections 6-05-06
2 and 6-05-07 are not applicable to banking associations granted authority to engage in the
3 business of a trust company by the board. Thereafter, such banking association must be subject
4 to the jurisdiction of the board as to its trust company operations the same as trust companies
5 organized under chapter 6-05.

6 Any corporation organized and authorized to transact the business of fidelity insurance and
7 corporate suretyship prior to July 1, 1983, pursuant to the former sections 6-05-08 and 6-05-19
8 through 6-05-24 and sections 6-05-30 through 6-05-33 may continue to operate under the
9 provisions of those sections as they existed on June 30, 1983.