

## **CHAPTER 15-03 INVESTMENT OF FUNDS**

### **15-03-01. Permanent funds - State treasurer.**

All moneys belonging to the permanent funds of the common schools and other public institutions derived from the sale of any of the lands described in section 15-01-02 or from any other source must be paid over to the state treasurer and are subject to the order of the board of university and school lands. Such moneys must be paid over on the order of the board for investment as provided in this chapter whenever the board requires the same.

#### **15-03-01.1. Creation of maintenance fund.**

There is created a special fund designated as the state lands maintenance fund, which is funded by the trust fund assets under the control of the board of university and school lands. All expenses paid out of the state lands maintenance fund are subject to legislative appropriation.

#### **15-03-01.2. Payment of salaries and expenses from maintenance fund - Vouchers and warrants.**

All administrative salaries and operating expenses of the office of the commissioner of university and school lands must be paid from the state lands maintenance fund upon itemized vouchers in duplicate, approved by the commissioner, setting forth the accounts covered, one copy to be retained in the commissioner's office and the other to be filed with the office of management and budget, and warrants for the payment drawn by the office of management and budget upon the fund.

#### **15-03-01.3. Apportionment of maintenance fund balances quarterly.**

Repealed by S.L. 2003, ch. 129, § 10.

### **15-03-02. Proceeds from trust fund assets.**

All proceeds from the sale and management of any assets under the control of the board of university and school lands must be deposited in the trust fund for which the assets were granted or earned and are pledged specifically for the maintenance of the institution for which such assets were granted or earned. The cost of administering a trust fund may be paid out of the fund, in accordance with section 1 of article IX of the Constitution of North Dakota.

### **15-03-03. State treasurer to have custody of certain school funds.**

Repealed by S.L. 1987, ch. 189, § 7.

### **15-03-04. Legal investments.**

Subject to the provisions of section 15-03-05, the board of university and school lands shall apply the prudent investor rule in investing the permanent funds under its control. The "prudent investor rule" means that in making investments the board shall exercise the same judgment and care, under the circumstances then prevailing and limitations of North Dakota and federal law, that an institutional investor of ordinary prudence, discretion, and intelligence exercises in the management of large investments entrusted to it, not in regard to speculation but in regard to the permanent disposition of funds, considering probable safety of capital as well as probable investment returns. Notwithstanding any investments made before July 1, 1997, the board may not use any funds entrusted to it to purchase, as sole owner, commercial or residential real property in North Dakota without prior approval of the legislative assembly or the budget section if the legislative assembly is not in session. Any request considered by the budget section must comply with section 54-35-02.9. The board may also lend securities held by the permanent funds, including the authority to pledge a security interest in the securities in the possession of a custodian agent. These securities must be collateralized as directed by the board.

#### **15-03-04.1. Loan pool account.**

There is hereby created in the Bank of North Dakota a loan pool account. The board of university and school lands may purchase first mortgage farm loans made in accordance with this chapter from the Bank of North Dakota. All purchased farm loans must be managed and serviced by the Bank of North Dakota. The loans must be credited to the loan pool account and the investments, repayments, interest, and income must be credited to the various land department trust funds in the proportion that each participates therein. The loan pool account shall consist of current loans whenever possible. The board may authorize the Bank of North Dakota to renegotiate the mortgages in the loan pool account, including debt restructuring and reamortization, so long as the renegotiation is consistent with sound banking practices and the rules, regulations, and guidelines of the board. In the event foreclosures are necessary, the Bank of North Dakota shall handle foreclosures in accordance with standard banking practices and proceeds must be properly credited to the loan pool account and income accounts. The Bank of North Dakota shall charge such fee for the management of each loan as the Bank of North Dakota and the board of university and school lands shall agree. Such fee may only be deducted from interest payments received on loans. Loans purchased by the board of university and school lands may have originated in the Bank of North Dakota or other financial institutions. The Bank of North Dakota shall certify that all loans purchased by the board of university and school lands are first mortgages and that there are no prior judgments, mortgages, liens, or other encumbrances against the security for such first mortgages.

#### **15-03-04.2. Board authority over farm loans.**

The board of university and school lands has authority to promulgate policies, rules, and regulations for the purchase of first mortgage farm loans. The board shall set such terms, conditions, interest rates, and other guidelines as it may desire commensurate with its fiduciary responsibilities.

#### **15-03-04.3. Loan pool account - Management by Bank of North Dakota.**

Subject to this chapter, the Bank of North Dakota, in accordance with standard banking practices, shall manage all loans in the loan pool account and execute all instruments on behalf of the board of university and school lands that pertain to real estate mortgages in the loan pool account, including reamortization agreements, satisfactions, and partial releases. The Bank of North Dakota shall also act as agent for the board and shall execute all instruments, including reamortization agreements, satisfactions, and partial releases, that pertain to mortgages previously issued by the board. All instruments must be executed in the same manner as specified in section 6-09-26. This section is self-executing and no assignment, power of attorney, or other instrument of transfer is necessary to establish the authority of the Bank of North Dakota to act on behalf of the board of university and school lands under this section.

#### **15-03-05. One-half of permanent funds to be invested in farm loans - Exception.**

At least one-half of the whole amount of the several permanent funds, as computed by the commissioner of university and school lands at the end of each fiscal year, must be invested in first mortgages on farmlands and rangelands in this state if there is a sufficient demand for investment in farm loans. First mortgage loans on farmlands and rangelands must be made only in accordance with the provisions of this chapter.

#### **15-03-05.1. Calculation of fund income - Coal development trust fund.**

Repealed by S.L. 2017, ch. 403, § 2.

#### **15-03-05.2. Distribution of fund income.**

Repealed by S.L. 2009, ch. 153, § 8.

#### **15-03-06. Farm loans - Procedure in negotiating and completing loans.**

Repealed by S.L. 1977, ch. 138, § 12.

**15-03-07. Limitations on farm loans.**

Farm loans secured by a first mortgage may be made only upon farmland and rangeland in this state, and only to persons or other legal entities who are actual residents of this state and who are actively engaged in the business of farming or ranching.

**15-03-08. Warrant for amount of loan - Payable to state land commissioner - Disbursement.**

Repealed by S.L. 1977, ch. 138, § 12.

**15-03-09. Term, interest, payment of farm loans.**

Repealed by S.L. 1977, ch. 138, § 12.

**15-03-10. Assignment of mortgage - Regulations governing - Execution.**

Repealed by S.L. 1977, ch. 138, § 12.

**15-03-11. Satisfaction of mortgages.**

Repealed by S.L. 1977, ch. 138, § 12.

**15-03-12. Foreclosure of mortgages.**

Mortgages acquired by the state under the provisions of this chapter may be foreclosed either by action or advertisement in the manner provided by the laws of this state. An action to foreclose a mortgage must be brought and prosecuted in the name of the state.

**15-03-13. Redemption after foreclosure.**

When a mortgage acquired under the provisions of this chapter has been foreclosed, the mortgagor or a redemptioner may redeem the property from the purchaser within one year after the sale, in the following manner:

1. By paying the purchaser the amount of that person's purchase with interest at the rate provided in the mortgage;
2. By paying the amount of any insurance premiums, assessments, taxes, utilities, or other items which the purchaser has paid thereon after the purchase, and the interest thereon at the same rate; and
3. If the purchaser is also a creditor having a lien prior to that of the redemptioner, other than the mortgage under which the purchase was made, by paying the amount of the lien with interest.

**15-03-14. Conveyance of mortgaged land to state - Effect.**

When a mortgage held by the state as security for the investment of permanent school funds of the state is in default and the foreclosure thereof is deemed advisable, the Bank of North Dakota, acting on behalf of the board of university and school lands, may accept from the owner of the record title of the land covered by the mortgage a deed conveying the land to the state. Such deed transfers and extinguishes all title, interest, and right of redemption of the grantor but does not extinguish the mortgage lien on the land. Such lien may be foreclosed subsequently in the manner provided by law. The deed may be recorded in the office of the recorder of the county wherein the land is situated, and the mortgage held by the state may be released and satisfied. A deed of conveyance from the date of its execution has the same legal effect for all purposes as a sheriff's deed would have if the mortgage involved had been foreclosed.

**15-03-14.1. Quieting title to certain state lands.**

Repealed by omission from this code.

**15-03-15. Meeting to consider investments and approval of farm loans - Notice - Vote required.**

Repealed by S.L. 1995, ch. 163, § 5.

**15-03-16. Continuing appropriation for investments.**

There is appropriated annually the amounts necessary to pay costs related to investments controlled by the board of university and school lands, including management, trustee, consulting, custodial, and performance measurement fees; expenses associated with money manager searches and onsite audits and reviews of investment managers; expenses associated with building repairs, maintenance, and renovations; and payments in lieu of taxes for the building and grounds. Each payment must be made from the trust fund for which the cost was incurred.

**15-03-17. Redemption of bonds by political subdivisions.**

The board of university and school lands shall allow any county, city, park district, township, or school district to redeem, at any time after two years from the date of issue, at par with accrued interest, any bonds issued by it which the state has purchased and holds as an investment of any of the permanent school funds of the state.

**15-03-18. Commissioner to maintain records of investments.**

The commissioner of university and school lands shall keep a complete record of all investments of the board.

**15-03-19. Board authorizing drawing of warrant upon investment of permanent funds - Record of warrant.**

Repealed by S.L. 1987, ch. 189, § 7.

**15-03-20. Reducing or canceling interest due on contracts and mortgages.**

Repealed by S.L. 1977, ch. 138, § 12.

**15-03-21. State treasurer - Duty to collect - Report to board - Duty of attorney general.**

Repealed by S.L. 1987, ch. 189, § 7.