

**CHAPTER 6-09.7
FUEL PRODUCTION FACILITY LOAN GUARANTEE PROGRAM**

6-09.7-01. Guarantee loan program - Administration - Advisory board.

The Bank of North Dakota shall administer the state guarantee loan program as provided in this chapter. The advisory board of directors to the Bank of North Dakota appointed pursuant to chapter 6-09.1 shall act in an advisory capacity concerning the program.

6-09.7-02. (Effective through July 31, 2013) Powers and duties of the Bank of North Dakota.

The Bank of North Dakota may:

1. Guarantee the loan of money by eligible banks, credit unions, and savings and loan associations, upon such terms, conditions, and procedures as it may establish in accordance with the provisions of this chapter, to any qualified person to assist that person in constructing an agriculturally derived fuel production facility. The facility must use biomass for agriculturally derived fuel production.
2. Take, hold, and administer, on behalf of the state from any source, any property, or any interest in the property, and the income therefrom, either absolutely or in trust, for any purpose of the guarantee loan program; provided, that no guarantee obligation of the Bank is payable out of any moneys of the Bank except those made available to the Bank under this chapter.
3. Adopt standards governing the qualifications and financial needs of applicants; establish a method of application for the guaranteeing of loans that may be made by banks, credit unions, farm credit associations, and savings and loan associations; and adopt any other standards necessary to administer this chapter.

(Effective after July 31, 2013) Powers and duties of the Bank of North Dakota. The Bank of North Dakota may:

1. Guarantee the loan of money by eligible banks, credit unions, and savings and loan associations, upon such terms, conditions, and procedures as it may establish in accordance with the provisions of this chapter, to any qualified person to assist that person in constructing agriculturally derived fuel production facilities of a size to serve the community in or near which the facility is located. The facility must use grain-related and biomass farm products for agriculturally derived fuel production.
2. Take, hold, and administer, on behalf of the state from any source, any property, or any interest therein, and the income therefrom, either absolutely or in trust, for any purpose of the guarantee loan program; provided, that no guarantee obligation of the Bank is payable out of any moneys of the Bank except those made available to it under this chapter.
3. Adopt standards governing the qualifications and financial needs of applicants, and establish a method of application for the guaranteeing of loans which may be made by banks, credit unions, and savings and loan associations, and any other standards as may be necessary to administer properly this chapter.

6-09.7-03. (Effective through July 31, 2013) Extent of loan guarantee.

The extent of the loan guarantee under this chapter may not exceed twenty-five percent of the total loan. The maximum dollar amount of any guarantee on a single loan may not exceed twelve million five hundred thousand dollars. The extent of the value of all loan guarantees under this chapter may not, at any one time, exceed twenty-five million dollars.

(Effective after July 31, 2013) Extent of loan guarantee. The extent of the loan guarantee under this chapter may not exceed twenty-five percent of the total loan. The maximum dollar amount of any guarantee on a single loan may not exceed two million five hundred thousand dollars. The extent of the value of all loan guarantees under this chapter may not, at any one time, exceed ten million dollars.

6-09.7-04. Bank to prescribe the rate of interest on guaranteed loan.

Any loan guaranteed by the Bank of North Dakota must bear interest at a rate not in excess of the interest charged by the lender to other persons for similar types of loans not guaranteed by the Bank unless the Bank determines that a higher rate of interest is justified by special circumstances and would be consistent with the general objectives of this chapter.

6-09.7-05. (Effective through July 31, 2013) Establishment and maintenance of adequate guarantee funds - Use of strategic investment and improvements fund.

The Bank of North Dakota shall establish and at all times maintain an adequate guarantee reserve fund in a special account in the Bank. The Bank may request the director of the office of management and budget to transfer funds from the strategic investment and improvements fund created by section 15-08.1-08 to maintain twenty-five percent of the guarantee reserve fund balance. Transfers from the strategic investment and improvements fund may not exceed a total of six million two hundred fifty thousand dollars. Moneys in the guarantee reserve fund are available to reimburse lenders for guaranteed loans in default. The securities in which the moneys in the reserve fund may be invested must meet the same requirements as those authorized for investment under the state investment board. The income from such investments must be made available for the costs of administering the state guarantee loan program and income in excess of that required to pay the cost of administering the program shall be deposited in the reserve fund. The amount of reserves for all guaranteed loans must be determined by a formula which will assure, as determined by the Bank, an adequate amount of reserve.

(Effective after July 31, 2013) Establishment and maintenance of adequate guarantee funds - Use of strategic investment and improvements fund. The Bank of North Dakota shall establish and at all times maintain an adequate guarantee reserve fund in a special account in the Bank. The guarantee reserve fund must be maintained from the strategic investment and improvements fund created by section 15-08.1-08 and any moneys transferred from the lands and minerals trust to maintain the guarantee reserve fund are available to reimburse lenders for guaranteed loans in default. The securities in which the moneys in the reserve fund may be invested must meet the same requirements as those authorized for investment under the state investment board. The income from such investments must be made available for the costs of administering the state guarantee loan program and income in excess of that required to pay the cost of administering the program shall be deposited in the reserve fund. The amount of reserves for all guaranteed loans must be determined by a formula which will assure, as determined by the Bank, an adequate amount of reserve.

6-09.7-06. Procedure on default of guaranteed loan.

Whenever it appears to the satisfaction of the Bank of North Dakota that a guaranteed loan is in default, and the eligible lender has certified this fact to the Bank, the Bank shall reimburse the eligible lender making the loan from the reserve fund to the extent the loan was guaranteed by the fund. Whenever payment of the guaranteed principal balance of any guaranteed loan is demanded of the Bank, the note and accompanying evidence of the loan must be tendered to the Bank in manner and form to confer good title so that the loan may be collected by the Bank as it may determine according to law. No statute of limitations may be used as a defense against collection, through court proceedings, of any loan guaranteed under this chapter.

6-09.7-07. Fees for reasonable costs.

The Bank of North Dakota may charge reasonable fees for guaranteeing of loans under this chapter, and the fees must be available to defray costs of administering the state guarantee loan program. Fees in excess of the amount required to pay the cost of administering the program must be deposited in the reserve fund.

6-09.7-08. Limitation on additional state aid.

Repealed by S.L. 2011, ch. 82, § 4.

6-09.7-09. Agricultural real estate loans - Guarantee.

The Bank of North Dakota may guarantee the loan of money by banks, credit unions, lending institutions that are part of the farm credit system, and savings and loan associations in this state to eligible persons for the purchase of agricultural real estate or the restructuring of agricultural real estate loans, provided the transactions do not exceed a loan-to-value ratio of eighty percent and further provided that no single loan exceed four hundred thousand dollars. The Bank of North Dakota may have no more than eight million dollars in outstanding loan guarantees under this section. The Bank of North Dakota may establish additional terms, conditions, and procedures, as necessary to meet the requirements of this section.