

**OPINION  
60-158**

July 14, 1960           (OPINION)

NURSING HOMES

RE:   Loans - Terms and Conditions

You have requested an interpretation of Senate Bill No. 290, Chapter 345, as passed by the 1959 session of the Legislative Assembly and approved by the Governor. In particular, you would like the opinion of this office as to the meaning and effect of the provisions of Section 3 of Chapter 345 which purport to limit the size of loans which may ". . . . be made by The Bank of North Dakota to nonprofit corporations to be used in the construction or reconstruction in this state of nursing homes, homes for the aged and infirm, or combination nursing homes and homes for the aged and infirm."

There can be no doubt that the maximum loan which may be made to any one applicant is \$100,000.00. In those instances where the applicant proposes to construct a brand new facility at a total cost, including the cost of acquisition of a suitable site, of less than \$300,000.00, Section 3 of Chapter 345 of the 1959 Session Laws plainly provides that the loan which the Bank may make shall not exceed one-third of the cost of the construction, including the cost of the site.

Careful reading of the measure sufficiently shows the intention to authorize acquisition of existing buildings and conversion of same to the functions of the bill. If this were not so there could be no "reconstruction" activity under the provisions of this Act when the same becomes effective. It is reasonable to expect that the applicant nonprofit corporation and the administrative agencies responsible for operations under this measure will exercise sound judgement in acquiring, reconstructing, and financing existing structures. If a case should arise in which the interested parties and agencies are able to acquire and use a ready-built residential or commercial building for any one or more of the purposes of the new statute at reasonable cost and according to proper standards, it would be my opinion that the size of the Bank of North Dakota loan which could be made in such case could not exceed the sum of \$100,000.00 or one-third of the cost of acquisition and reconstruction, including in the cost of acquisition the cost of the site, whichever sum would be the lesser.

It would further be my opinion that the cost figures on which loans are based should be reasonable and fair. Section 3 provides for a "cost or value basis." This provision suggests that excessive or inflated cost figures might be rejected in favor of reasonable dollar value amounts. In arriving at an acceptable value basis it would be proper to give substantial weight to considerations such as adaptability of the existing structure and serviceability of the reconstructed facility, bearing in mind the special purposes intended to be achieved.

LESLIE R. BURGUM

Attorney General