

DEBTOR AND CREDITOR RELATIONSHIP

CHAPTER 148

S. B. No. 256
(Doherty, Unruh, Wenstrom)

INSTALLMENT BANK LOAN CHARGES

AN ACT

To amend and reenact section 13-04-01 of the North Dakota Century Code, relating to installment bank loan charges.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

Section 1. Amendment.) Section 13-04-01 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

13-04-01. Installment Bank Loan Charges.) Any bank organized under the laws of this state and under the jurisdiction and supervision of the state banking board, or any national banking association doing business in the state, making any loan of money not exceeding eight thousand dollars repayable in installments, may make a charge for such loan computed at a rate not exceeding six dollars per one hundred dollars per annum upon the total amount of the loan from the date thereof until the stated maturity date of the final installment thereof, which shall not exceed seven years and thirty-two days from the date of the loan, notwithstanding that such loan is required to be repaid in installments or that the loan is secured by mortgage, pledge, or other collateral, except that this chapter shall not apply to loans secured by realty. Any charge authorized by this chapter may be deducted in advance from the proceeds of such loan or may be included in the principal amount of the note or other instrument evidencing said loan and the aggregate amount thereof be payable in installments.

The minimum charge for any loan hereunder may be fifteen dollars.

Approved March 5, 1969.

CHAPTER 149

S. B. No. 215

(Kautzmann, Stroup, Decker, Wenstrom)

(Meschke, G. Larson)

REGULATION OF COLLECTION AGENCIES

AN ACT

Providing for the regulation of collection agencies; administration; requiring license for such agencies; providing for fees and bonds therefor; prescribing manner of applying for collection agency license; powers of department of banking and financial institutions; providing for records and funds to be kept; revocation and suspension of license; and prescribing penalties.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

Section 1. Administration.) The department of banking and financial institutions shall use its facilities to administer and enforce this Act. Any person or persons delegated to administer this Act shall not have financial interests directly or indirectly in any business which is subject to this Act.

Section 2. Collection Agency License Required to Collect Claims.) Except as otherwise herein provided, no person other than a collection agency licensed and authorized under this Act shall advertise or solicit either in print, by letter, in person, or otherwise, the right to collect or receive payment of any claim for another or sell or give away collection letters as demand forms in the state of North Dakota. As used in this Act, the term "collection agency" does not include attorneys at law, licensed real estate brokers, banks, trust companies, building and loan associations, abstract companies doing an escrow business, creditors collecting their own debts, individuals or firms who purchase or take accounts receivable for collateral purposes, individuals employed in the capacity

of credit man upon the staff of an employer not engaged in the business of a collection agency, or any public officer, receiver or trustee acting under the order of a court.

Section 3. Application for Collection Agency License.) Every application for collection agency license, or for a renewal thereof, shall be made upon blanks furnished by the department of banking and financial institutions and shall contain the following information:

1. The full name and proposed business name of the applicant.
2. The address where the business is to be conducted.
3. The names and addresses of the applicant and those associated with him. If the applicant is a corporation, the application shall contain the names of the officers of the corporation.
4. Such additional information which the department of banking and financial institutions shall require.

Section 4. Fee and Bond to Accompany Application for Collection Agency License.) The application shall be accompanied by the annual license fee for a collection agency license, which is fixed at fifty dollars. If the collection agency directly solicits, collects and handles money owed, the application shall be accompanied by a surety bond in the sum of five thousand dollars.

Section 5. Expiration and Renewal of License.) All licenses required herein shall expire on June 30th of each year and shall be renewed on the succeeding first day of July upon payment of required annual fees. When a licensee has been delinquent in renewing his license, the department of banking and financial institutions may charge an additional fee of five dollars for the renewal of such license.

Section 6. Powers of the Department of Banking and Financial Institutions.) Insofar as consistent with other provisions of law, the department of banking and financial institutions shall have the power to:

1. Determine the qualifications of all applicants based

- on financial responsibility, character and fitness and issue license if approved.
2. Conduct investigations and have authority to make an examination of any licensee or his place of business, including all records of such business, and to subpoena witnesses any time they have reason to believe such is necessary.
 3. Establish codes of ethical conduct for licensees.
 4. Adopt any and all rules and regulations necessary to carry out the purpose of this Act.

Section 7. Manner in Which Records and Funds To Be Kept by Collection Agency.) Every collection agency licensed under this Act shall keep a record of all sums collected by it, and of all disbursements made by it for a period of six years from the date of last entry thereon. No collection agency, or any employees thereof, shall intentionally make any false entry in any such collection agency record or intentionally mutilate, destroy, or otherwise dispose of any such record within the time limit provided in this section. No licensee under this Act may commingle the money of collection agency customers with other than collection funds and shall maintain a separate bank account for such customer's funds and shall keep such funds in the bank account until disbursed to the customer.

Section 8. Revocation of License—Suspension of License—Surrender of License—Pre-Existing Contracts.)

1. The department of banking and financial institutions may, if they have reason to believe that grounds for revocation of a license exists, send by registered or certified mail to the licensee, a notice of hearing stating the contemplated action and in general the grounds thereof and setting the time and place for a hearing thereon. Such hearing shall not be held less than ten nor more than thirty days from the date of mailing such notice. Within ten days after such hearing, the department of banking and financial institutions shall issue a written order either dismissing the charges or suspending or revoking the license and their grounds therefor.

A copy of such written order shall be sent to the licensee. A license may be revoked for one or more of the following reasons:

- a. The licensee has failed to pay the annual license fee; or
 - b. The licensee either knowingly or without the exercise of due care to prevent the same has violated any provision of this Act or any regulation or order lawfully made pursuant to and within the authority of this Act; or
 - c. Any fact or condition existing at the time of the original application for such license which clearly would have warranted the department of banking and financial institutions in refusing originally to issue such license.
2. If the department of banking and financial institutions finds that probable cause for revocation of any license exists and that enforcement of the Act requires immediate suspension of such license pending investigation they may, upon written notice, enter an order suspending such license for a period not exceeding thirty days, pending the holding of a hearing as prescribed in this Act.
 3. Any licensee may surrender his license by delivering it to the department of banking and financial institutions with written notice of its surrender, but such surrender shall not affect his civil or criminal liability for acts committed prior thereto.

Section 9. Remedies not Exclusive.) The remedies provided for in this Act are in addition to and not exclusive of any other remedies provided by law.

Section 10. Penalty.) Any person violating any of the provisions of this chapter is guilty of a misdemeanor and shall be punished by a fine of not more than five hundred dollars or imprisonment of not more than one year or both such fine and imprisonment.

Approved March 14, 1969.