

Fifty-seventh  
Legislative Assembly  
of North Dakota

## ENGROSSED SENATE BILL NO. 2190

Introduced by

Senators Krebsbach, Watne

Representative Keiser

1 A BILL for an Act to amend and reenact subsections 2 and 4 of section 6-08-16 and  
2 subsections 4 and 6 of section 6-08-16.2 of the North Dakota Century Code, relating to issuing  
3 a check or draft without sufficient funds or account and notice of dishonor.

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

5 **SECTION 1. AMENDMENT.** Subsections 2 and 4 of section 6-08-16 of the 1999  
6 Supplement to the North Dakota Century Code are amended and reenacted as follows:

7 2. The grade of an offense under this section may be determined by individual or  
8 aggregate totals of insufficient funds checks, drafts, electronic funds transfer  
9 authorizations, or orders. The person is also liable for collection fees or costs, not  
10 in excess of ~~twenty~~ twenty-five dollars, which are recoverable by ~~civil action~~ by the  
11 holder, or its agent or representative, of the check, draft, electronic funds transfer  
12 authorization, or order. A collection agency shall reimburse the original holder of  
13 the check, draft, electronic funds transfer authorization, or order any additional  
14 charges assessed by the depository bank of the check, draft, electronic funds  
15 transfer authorization, or order not in excess of two dollars if recovered by the  
16 collection agency. A civil penalty is also recoverable by civil action by the holder,  
17 or its agent or representative, of the check, draft, electronic funds transfer  
18 authorization, or order. The civil penalty consists of payment to the holder, or its  
19 agent or representative, of the instrument of the lesser of one hundred dollars or  
20 three times the amount of the instrument. The court may order an individual  
21 convicted under this section to undergo an evaluation by a licensed gaming,  
22 alcohol, or drug addiction counselor.

23 4. A notice of dishonor may be mailed by the holder, or the holder's agent or  
24 representative, of the check upon dishonor. Proof of mailing may be made by

return receipt or by an affidavit of mailing signed by the individual making the mailing. The notice must be in substantially the following form:

Notice of Dishonored Check

Date \_\_\_\_\_

Name of Issuer \_\_\_\_\_

Street Address \_\_\_\_\_

City and State \_\_\_\_\_

You are according to law notified that a check dated \_\_\_\_\_,

\_\_\_\_\_, drawn on the \_\_\_\_\_ Bank

of \_\_\_\_\_ in the amount of \_\_\_\_\_ has been returned

unpaid with the notation the payment has been refused because of

nonsufficient funds. Within ten days from the receipt of this

notice, you must pay or tender to \_\_\_\_\_

(Holder or Agent or Representative)

sufficient moneys to pay such instrument in full and any collection

fees or costs not in excess of ~~twenty~~ twenty-five dollars.

The notice of dishonor also may contain a recital of the penal provisions of this section and the possibility of a civil action to recover any collection fees or costs or civil penalty authorized by this section.

**SECTION 2. AMENDMENT.** Subsections 4 and 6 of section 6-08-16.2 of the 1999

Supplement to the North Dakota Century Code are amended and reenacted as follows:

4. A person who issues an instrument under subsection 2 or 3 also is liable for collection fees or costs, not in excess of ~~twenty~~ twenty-five dollars per instrument, which are recoverable by ~~civil action by~~ the holder of the instrument, or the holder's agent or representative. A civil penalty is also recoverable by civil action by the holder, or its agent or representative, of the instrument. The civil penalty consists of payment to the holder of the instrument of the lesser of one hundred dollars or three times the amount of the instrument.
6. A notice of dishonor may be mailed by the holder, or the holder's agent or representative, of the instrument upon dishonor. Proof of mailing may be made by

return receipt or by an affidavit of mailing signed by the individual making the mailing. The notice must be in substantially the following form:

Notice of Dishonored Instrument

Date \_\_\_\_\_

Name of Issuer \_\_\_\_\_

Street Address \_\_\_\_\_

City and State \_\_\_\_\_

You are according to law notified that an instrument dated \_\_\_\_\_,

\_\_\_\_\_, drawn on the \_\_\_\_\_ Bank of

\_\_\_\_\_ in the amount of \_\_\_\_\_ has been

returned unpaid with the notation the payment has been refused

because (of nonsufficient funds) (the drawer does not have an

account). Within ten days from the receipt of this notice,

you must pay or tender to \_\_\_\_\_

(Holder)

sufficient moneys to pay such instrument in full and any collection

fees or costs not in excess of ~~twenty~~ twenty-five dollars.

The notice may also contain a recital of the penal provisions of this section and the possibility of a civil action to recover any collection fees or costs authorized by this section.