

**Fifty-eighth Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 7, 2003**

HOUSE BILL NO. 1184
(Industry, Business and Labor Committee)
(At the request of the Department of Financial Institutions)

AN ACT to create and enact a new section to chapter 13-03.1 and a new section to chapter 13-05 of the North Dakota Century Code, relating to consumer finance license renewals and subpoena powers for collection agency information; and to amend and reenact sections 13-04.1-05 and 13-05-05 of the North Dakota Century Code, relating to money broker and collection agency license renewals and renewal late fees.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 13-03.1 of the North Dakota Century Code is created and enacted as follows:

Expiration and renewal of license. All licenses required herein expire on June thirtieth of each year and may be renewed. Renewals are effective the succeeding July first. Applications for renewal must be submitted thirty days before the expiration of the license and must be accompanied by the required annual fees. The form and content of renewal applications must be determined by the department of financial institutions and a renewal application may be denied upon the same grounds as would justify the denial of an initial application. When a licensee has been delinquent in renewing the licensee's license, the department may charge an additional fee of fifty dollars for the renewal of the license. A consumer finance license is not transferable. If the commissioner determines that an ownership change has occurred in a sole proprietorship, partnership, limited liability partnership, corporation, or limited liability corporation that was previously granted a consumer finance license, the commissioner may require a new application from the purchaser. The application must be filed within forty-five days from the date change of ownership is consummated. The department shall act on the application within sixty days from the date the application is received but may extend the review period for good cause. The consumer finance license granted to the previous owner continues in effect to the new purchaser until the application is either granted or denied.

SECTION 2. AMENDMENT. Section 13-04.1-05 of the North Dakota Century Code is amended and reenacted as follows:

13-04.1-05. Expiration and renewal of license. All licenses required herein expire on June thirtieth of each year and may be renewed. Renewals are effective the succeeding July first. Applications for renewal must be submitted ~~on or before the preceding thirtieth of June~~ thirty days before the expiration of the license and must be accompanied by the required annual fees. The form and content of renewal applications must be determined by the department of financial institutions, and a renewal application may be denied upon the same grounds as would justify denial of an initial application. When a licensee has been delinquent in renewing the licensee's license, the department may charge an additional fee of ~~five~~ fifty dollars for the renewal of such license. A money broker license is not transferable. If the commissioner determines that an ownership change has occurred in a sole proprietorship, partnership, limited liability partnership, corporation, or limited liability corporation that was previously granted a money broker license, the commissioner may require a new application from the purchaser. The application must be filed within forty-five days from the date change of ownership is consummated. The department shall act on the application within sixty days from the date the application is received but may extend the review period for good cause. The money broker license granted to the previous owner continues in effect to the new purchaser until the application is either granted or denied.

SECTION 3. AMENDMENT. Section 13-05-05 of the North Dakota Century Code is amended and reenacted as follows:

13-05-05. Expiration and renewal of license. All licenses required herein expire on June thirtieth of each year and ~~must~~ may be renewed ~~on the succeeding first day of July upon payment of required annual fees. The department of financial institutions may charge an additional fee of five dollars for the renewal of a license after June thirtieth.~~ Applications for renewal must be submitted thirty days before the expiration of the license and must be accompanied by the required annual fees. The form and content of renewal applications must be determined by the department of financial institutions and a renewal application may be denied upon the same grounds as would justify denial of an initial application. When a licensee has been delinquent in renewing the licensee's license, the department may charge an additional fee of fifty dollars for the renewal of the license. A collection agency license is not transferable. If the commissioner determines that an ownership change has occurred in a sole proprietorship, partnership, limited liability partnership, corporation, or limited liability corporation that was previously granted a collection agency license, the commissioner may require a new application from the purchaser. The application must be filed within forty-five days from the date change of ownership is consummated. The department shall act on the application within sixty days from the date the application is received but may extend the review period for good cause. The collection agency license granted to the previous owner continues in effect to the new purchaser until the application is either granted or denied.

SECTION 4. A new section to chapter 13-05 of the North Dakota Century Code is created and enacted as follows:

Investigations and subpoenas.

1. The department of financial institutions may:
 - a. Make such public or private investigation within or outside this state as it deems necessary to determine whether a person has violated or is about to violate a provision of this chapter or a rule or order under this chapter, or to aid in the enforcement of this chapter or in the adopting of rules and forms under this chapter.
 - b. Require or permit a person to file a statement in writing, under oath or otherwise as the department determines, as to all the facts and circumstances concerning the matter to be investigated.
 - c. Publish information concerning a violation of this chapter or a rule or order under this chapter.
2. For the purpose of an investigation or proceeding under this chapter, the department of financial institutions may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of books, papers, correspondence, memoranda, agreements, or other documents or records which the department deems relevant or material to the inquiry.
3. In case of contumacy by, or refusal to obey a subpoena issued to, a person, the district court, upon application by the department of financial institutions, may issue to the person an order requiring the person to appear before the department, there to produce documentary evidence if so ordered or to give evidence touching the matter under investigation or in question. Failure to obey the order of the court may be punished by the court as a contempt of court.
4. A person is not excused from attending and testifying or from producing a document or record before the department of financial institutions, or in obedience of the subpoena of the department or in a proceeding instituted by the department, on the grounds that the testimony or evidence, documentary or otherwise, required of the person may tend to incriminate the person or subject the person to a penalty or forfeiture; but an individual may

not be prosecuted or subjected to a penalty or forfeiture for or on account of a transaction, matter, or thing concerning which the person is compelled, after claiming the privilege against self-incrimination, to testify or produce evidence, documentary or otherwise, except that the individual testifying is not exempt from prosecution and punishment for perjury or contempt committed in testifying.

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Fifty-eighth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1184.

House Vote: Yeas 88 Nays 2 Absent 4

Senate Vote: Yeas 46 Nays 0 Absent 1

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 2003.

Approved at _____ M. on _____, 2003.

Governor

Filed in this office this _____ day of _____, 2003,

at _____ o'clock _____ M.

Secretary of State