

January 28, 2011

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1080

Page 1, line 4, remove ", subsection 4 of"

Page 1, line 5, remove "section 13-05-01.1,"

Page 1, line 5, after "sections" insert "13-05-01.1,"

Page 1, line 7, replace "definition" with "the definitions"

Page 1, line 7, after "creditor" insert "and insolvent"

Page 1, line 22, remove the overstrike over "shall"

Page 1, line 22, remove "may"

Page 2, replace lines 11 through 16 with:

**"SECTION 2. AMENDMENT.** Section 13-05-01.1 of the North Dakota Century Code is amended and reenacted as follows:

**13-05-01.1. Definitions.**

As used in this chapter, unless the context or subject matter otherwise requires:

1. "Collection agency" means a person or entity who, in the ordinary course of business, engages in debt collection.
2. "Commissioner" means the commissioner of financial institutions.
3. "Communication" means the conveyance or receipt of information regarding or facilitating the collection of a debt, directly or indirectly, to or from any person through any medium.
4. "Creditor" means a person who offers or extends credit creating a debt or to whom a debt is owed, but that term does not include a person to the extent that that person receives an assignment or transfer of a debt in default solely for the purpose of facilitating collection of that debt for another.
5. "Debt" means an obligation or alleged obligation to pay money arising out of a transaction, whether or not the obligation has been reduced to a judgment.
6. "Debt collection" means the act of collecting or attempting to collect, directly or indirectly, debts owed or due or asserted to be owed or due another. As used in this chapter, this term also includes solicitation of debts for the purpose of collection and accepting assignment of debts for the purpose of collection.
7. "Insolvent" means the point at which a licensed entity's liabilities exceed the entity's tangible assets. For the purpose of this definition, tangible

assets only include assets that have a physical existence and are capable of being assigned a value.

8. "Mortgage servicing company" means a company performing the required duties of a mortgage seller, such as collecting payments, releasing the lien on full payment, and confirming that taxes are paid and insurance is in force."

Page 2, line 26, after "site" insert ", but does not include a virtual office. As used in this chapter, "virtual office" means a remote location from which employees can work under the full control and monitoring of the collection agency through telecommunications and computer links. Records may not be maintained at a virtual office and a virtual office may not be held open to the public as a place of business"

Page 4, remove lines 23 through 28

Page 5, line 9, remove "The commissioner may promulgate rules or regulations with respect to the"

Page 5, replace lines 10 and 11 with "If the net worth of a licensee falls below the minimum net worth as set forth in subsection 1, the licensee shall provide a plan, subject to the approval of the commissioner, to increase the licensee's net worth to an amount in conformance with this section. Submission of a plan under this section must be made within twenty business days of a notice from the commissioner that the licensee is not in compliance with subsection 1. If the licensee does not submit a plan under this section, fails to comply with an approved plan, or has repeated violations of subsection 1, the commissioner may revoke the license."

Page 5, line 15, replace "ten" with "twenty business"

Page 6, line 19, remove "or has collected accounts but"

Page 6, remove line 20

Page 6, line 21, remove "rule"

Page 6, line 21, remove "when"

Page 7, line 17, after "twenty" insert "business"

Page 10, line 4, remove "attorneys."

Page 10, line 4, remove the second underscored comma

Page 10, line 17, remove "and willfully"

Page 11, line 5, after "ten" insert "business"

Page 12, line 13, after "twenty" insert "business"

Renumber accordingly