Sixty-sixth Legislative Assembly of North Dakota

HOUSE BILL NO. 1204

Introduced by

Representative Dockter

- 1 A BILL for an Act to create and enact a new section to chapter 13-05 of the North Dakota
- 2 Century Code, relating to collection agency payment by credit card; and to amend and reenact
- 3 section 13-05-01.1 of the North Dakota Century Code, relating to definitions applicable to
- 4 collection agencies.

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BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

- 6 **SECTION 1. AMENDMENT.** Section 13-05-01.1 of the North Dakota Century Code is 7 amended and reenacted as follows:
- 8 **13-05-01.1. Definitions.**
- As used in this chapter, unless the context or subject matter otherwise requires:
- "Collection agency" means a person or entity whothat, in the ordinary course of
 business, engages in debt collection.
- 12 2. "Commissioner" means the commissioner of financial institutions.
- "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. "Credit card payment" means a payment made by a payment card which incurs a
 credit card interchange fee to the collection agency, regardless of the type of payment
 card used.
- "Creditor" means a person who that offers or extends credit creating a debt or to
 whom which a debt is owed, but that. The 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.

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- 5.6. "Debt" means an obligation or alleged obligation to pay money arising out of a transaction, regardless of whether or not the obligation has been reduced to a judgment.
 6.7. "Debt collection" means the act of collecting or attempting to collect, directly or
- 6-7. "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 The term also includes solicitation of debts for the purpose of collection
 and accepting assignment of debts for the purpose of collection.
- 8 7.8. "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, which only include assets that have a physical existence and are capable of being assigned a value.
- 11 8.9. "Mortgage servicing company" means a company performing the required duties of a 12 mortgage seller, such as collecting payments, releasing the lien on full payment, and 13 confirming that taxes are paid and insurance is in force.
- SECTION 2. A new section to chapter 13-05 of the North Dakota Century Code is created and enacted as follows:

16 <u>Credit card payment.</u>

- A collection agency may collect or attempt to collect, in addition to the principal amount of a

 claim, a transaction fee for processing a credit card payment in an amount that does not exceed

 two and one-half percent of the payment amount if:
- 20 <u>1. The transaction fee is not prohibited under section 13-05-02.2;</u>
- 21 <u>2. A no-cost payment option is available to the debtor; and</u>
- 22 3. The collection agency discloses the no-cost option to the debtor at the same time and in the same manner as the debtor's credit card information is taken.