

HOUSE BILL NO. 1127

Introduced by

Industry, Business and Labor Committee

(At the request of the Department of Financial Institutions)

1 A BILL for an Act to amend and reenact subsection 2 of section 13-03.1-06, subsection 2 of
2 section 13-03.1-07, sections 13-03.1-07.1, 13-04.1-03, 13-04.1-04, and 13-04.1-05,
3 subsection 3 of section 13-05-03, sections 13-05-05, 13-08-03, and 13-08-09, and
4 subsection 12 of section 13-08-12 of the North Dakota Century Code, relating to consumer
5 finance, money broker and collection agency licensee requirements and fees, and deferred
6 presentment service provider licensee requirements, fees, and renewal applications.

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

8 **SECTION 1. AMENDMENT.** Subsection 2 of section 13-03.1-06 of the North Dakota
9 Century Code is amended and reenacted as follows:

- 10 2. The administrator shall issue a license to operate a consumer finance loan
11 business if the administrator finds:
- 12 a. That the financial responsibility, financial condition, business experience,
13 character, and general fitness of the applicant must reasonably warrant the
14 belief that the business will be conducted lawfully and fairly. In determining
15 whether this qualification is met and for the purpose of investigating
16 compliance with this chapter, the administrator may review and consider the
17 relevant business records and the capital adequacy of the applicant and the
18 competence, experience, integrity, and financial ability of any person who is a
19 member, partner, director, officer, or twenty-five percent or more shareholder
20 of the applicant, and whether the applicant has filed the appropriate
21 registration with the North Dakota secretary of state if so required; and
 - 22 b. That the applicant has assets a net worth of at least twenty-five thousand
23 dollars for the operation of the business.

1 **SECTION 2. AMENDMENT.** Subsection 2 of section 13-03.1-07 of the North Dakota
2 Century Code is amended and reenacted as follows:

3 2. Each license must remain in effect until surrendered, revoked, or suspended;
4 provided, that on or before the ~~tenth~~ first day of June of each year the licensee
5 shall pay to the administrator the annual license fee for each license held, as a
6 license fee for the succeeding fiscal year.

7 **SECTION 3. AMENDMENT.** Section 13-03.1-07.1 of the North Dakota Century Code
8 is amended and reenacted as follows:

9 **13-03.1-07.1. Expiration and renewal of license.** All licenses required herein expire
10 on June thirtieth of each year and may be renewed. Renewals are effective the succeeding
11 July first. Applications for renewal must be submitted thirty days before the expiration of the
12 license and must be accompanied by the required annual fees, which are not subject to refund.
13 The form and content of renewal applications must be determined by the department of
14 financial institutions and a renewal application may be denied upon the same grounds as would
15 justify the denial of an initial application. When a licensee has been delinquent in renewing the
16 licensee's license, the department may charge an additional fee of fifty dollars for the renewal of
17 the license. A consumer finance license is not transferable. If the commissioner determines
18 that an ownership change has occurred in a sole proprietorship, partnership, limited liability
19 partnership, corporation, or limited liability corporation that was previously granted a consumer
20 finance license, the commissioner may require a new application from the purchaser. The
21 application must be filed within forty-five days from the date change of ownership is
22 consummated. The department shall act on the application within sixty days from the date the
23 application is received but may extend the review period for good cause. The consumer
24 finance license granted to the previous owner continues in effect to the new purchaser until the
25 application is either granted or denied.

26 **SECTION 4. AMENDMENT.** Section 13-04.1-03 of the North Dakota Century Code is
27 amended and reenacted as follows:

28 **13-04.1-03. Application for money broker license.** Every application for a money
29 broker license, or for a renewal thereof, must be made upon forms designed and furnished by
30 the department of financial institutions and must contain any information which the department
31 shall deem necessary and proper. The department may further require any application to

1 provide additional information which is not requested on the application form. The applicant
2 must register with the North Dakota secretary of state if so required.

3 **SECTION 5. AMENDMENT.** Section 13-04.1-04 of the North Dakota Century Code is
4 amended and reenacted as follows:

5 **13-04.1-04. Fee and bond to accompany application for money broker license.**

6 The application for license must be in writing, under oath, and in the form prescribed by the
7 commissioner. The application must give the location where the business is to be conducted
8 and must contain any further information the commissioner requires, including the names and
9 addresses of the partners, officers, directors, trustees, and the principal owners or members, as
10 will provide the basis for the investigation and findings contemplated by section 13-04.1-03. At
11 the time of making such application, the applicant shall include payment in the sum of four
12 hundred dollars, which is not subject to refund, as a fee for investigating the application, and the
13 sum of three hundred dollars for the annual license fee, and provide a surety bond in the sum of
14 twenty-five thousand dollars. In addition, the applicant must pay a fifty dollar annual fee for
15 each branch location within the state. Fees must be deposited in the financial institutions
16 regulatory fund.

17 **SECTION 6. AMENDMENT.** Section 13-04.1-05 of the North Dakota Century Code is
18 amended and reenacted as follows:

19 **13-04.1-05. Expiration and renewal of license.** All licenses required herein expire on
20 June thirtieth of each year and may be renewed. Renewals are effective the succeeding July
21 first. Applications for renewal must be submitted thirty days before the expiration of the license
22 and must be accompanied by the required annual fees, which are not subject to refund. The
23 form and content of renewal applications must be determined by the department of financial
24 institutions, and a renewal application may be denied upon the same grounds as would justify
25 denial of an initial application. When a licensee has been delinquent in renewing the licensee's
26 license, the department may charge an additional fee of fifty dollars for the renewal of such
27 license. A money broker license is not transferable. If the commissioner determines that an
28 ownership change has occurred in a sole proprietorship, partnership, limited liability
29 partnership, corporation, or limited liability corporation that was previously granted a money
30 broker license, the commissioner may require a new application from the purchaser. The
31 application must be filed within forty-five days from the date change of ownership is

1 consummated. The department shall act on the application within sixty days from the date the
2 application is received but may extend the review period for good cause. The money broker
3 license granted to the previous owner continues in effect to the new purchaser until the
4 application is either granted or denied.

5 **SECTION 7. AMENDMENT.** Subsection 3 of section 13-05-03 of the North Dakota
6 Century Code is amended and reenacted as follows:

7 3. The names and addresses of the applicant and those associated with the
8 applicant. If the applicant is a corporation, the application must contain the names
9 of the officers of the corporation. If the applicant is a limited liability company, the
10 application must contain the names of the managers of the limited liability
11 company. The applicant must register with the North Dakota secretary of state if
12 so required.

13 **SECTION 8. AMENDMENT.** Section 13-05-05 of the North Dakota Century Code is
14 amended and reenacted as follows:

15 **13-05-05. Expiration and renewal of license.** All licenses required herein expire on
16 June thirtieth of each year and may be renewed. Applications for renewal must be submitted
17 thirty days before the expiration of the license and must be accompanied by the required annual
18 fees, which are not subject to refund. The form and content of renewal applications must be
19 determined by the department of financial institutions and a renewal application may be denied
20 upon the same grounds as would justify denial of an initial application. When a licensee has
21 been delinquent in renewing the licensee's license, the department may charge an additional
22 fee of fifty dollars for the renewal of the license. A collection agency license is not transferable.
23 If the commissioner determines that an ownership change has occurred in a sole proprietorship,
24 partnership, limited liability partnership, corporation, or limited liability corporation that was
25 previously granted a collection agency license, the commissioner may require a new application
26 from the purchaser. The application must be filed within forty-five days from the date change of
27 ownership is consummated. The department shall act on the application within sixty days from
28 the date the application is received but may extend the review period for good cause. The
29 collection agency license granted to the previous owner continues in effect to the new
30 purchaser until the application is either granted or denied.

1 **SECTION 9. AMENDMENT.** Section 13-08-03 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **13-08-03. Qualifications for license.** To qualify for a license, an applicant shall satisfy
4 the following requirements:

- 5 1. Each applicant shall maintain ~~unencumbered assets~~ a net worth of at least
6 twenty-five thousand dollars per licensed location, determined in accordance with
7 generally accepted accounting principles.
- 8 2. The financial responsibility, financial condition, business experience, character,
9 and general fitness of the applicant must reasonably warrant the belief that the
10 applicant's business will be conducted lawfully and fairly. In determining whether
11 this qualification is met and for the purpose of investigating compliance with this
12 chapter, the commissioner may review and consider the relevant business records
13 and the capital adequacy of the applicant and the competence, experience,
14 integrity, and financial ability of any person who is a member, partner, director,
15 officer, or twenty-five percent or more shareholder of the applicant, and whether
16 the applicant has filed the appropriate registration with the North Dakota secretary
17 of state, if so required.
- 18 3. Each applicant shall establish that neither the applicant nor any principal of the
19 applicant has been convicted of a felony. A deferred sentence or federal pretrial
20 diversion must be considered a conviction for purposes of this section.
- 21 4. Each applicant shall maintain a bond issued by a surety company authorized to do
22 business in this state, in the amount of twenty thousand dollars, and the
23 commissioner may require a larger bond if the commissioner determines the larger
24 bond is necessary based on the volume of the applicant's business.

25 **SECTION 10. AMENDMENT.** Section 13-08-09 of the North Dakota Century Code is
26 amended and reenacted as follows:

27 **13-08-09. Expiration of license - Renewal.** Licenses issued under this chapter expire
28 as of ~~July first~~ June thirtieth of each year. A license may be renewed for the ensuing
29 twelve-month period upon application ~~by the licensee establishing continued compliance with~~
30 ~~the requirements of this chapter~~ and the payment to the commissioner of the annual license
31 fee, which is not subject to refund, before July June first of each year. The form and content of

1 renewal applications must be determined by the department of financial institutions and a
2 renewal application may be denied upon the same grounds as would justify denial of an initial
3 application. When a licensee has been delinquent in renewing the licensee's license, the
4 department may charge an additional fee of fifty dollars for the renewal of such license.

5 **SECTION 11. AMENDMENT.** Subsection 12 of section 13-08-12 of the North Dakota
6 Century Code is amended and reenacted as follows:

7 12. A licensee may not renew a deferred presentment service transaction more than
8 once. A licensee's renewal fee may not exceed twenty percent of the amount
9 being renewed. The renewal fee must be paid in cash, money order, or cashier's
10 check. The total period of deferral, including the initial deferral and one renewal,
11 may not exceed forty-five days. An individual renewal period may not be less than
12 fifteen days. After forty-five days the renewed deferred presentment check must
13 be paid off in cash, money order, or ~~certified~~ cashier's check by the maker or must
14 be deposited by the licensee.