

Introduced by

Industry, Business and Labor Committee

(At the request of the Department of Financial Institutions)

1 A BILL for an Act to create and enact two new sections to chapter 13-05, two new sections to
2 chapter 13-08, two new sections to chapter 13-09, and a new section to chapter 13-11 of the
3 North Dakota Century Code, relating to a six-month extension of a collection agency license, a
4 deferred presentment service provider license, and a money transmitter license during the 2014
5 calendar year, and the confidentiality of information submitted or received by the commissioner
6 or commissioner's designee to a nationwide multistate licensing system; and to amend and
7 reenact sections 13-05-03, 13-05-05, 13-08-04, and 13-08-09, subsection 6 of section
8 13-08-12, and sections 13-09-07, 13-09-10, and 13-11-03 of the North Dakota Century Code,
9 relating to collection agency license applications, the expiration and renewal of a collection
10 agency license, deferred presentment service provider license applications, the expiration and
11 renewal of a deferred presentment service provider license, deferred presentment service
12 transaction procedures, money transmitter license applications, the expiration and renewal of a
13 money transmitter license, and debt-settlement provider license applications.

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

15 **SECTION 1. AMENDMENT.** Section 13-05-03 of the North Dakota Century Code is
16 amended and reenacted as follows:

17 **13-05-03. Application for a collection agency license.**

18 Every

19 1. Each application for a collection agency license, or for a renewal thereof, must be
20 made upon forms furnished by the department of financial institutions in the form
21 prescribed by the commissioner and must contain the following information:

22 1-a. The full name and proposed business name of the applicant.

23 2-b. The address where the business is to be conducted.

- 1 3.c. The names and addresses of the applicant and those associated with the
2 applicant. If the applicant is a corporation, the application must contain the
3 names of the officers of the corporation. If the applicant is a limited liability
4 company, the application must contain the names of the managers of the limited
5 liability company. The applicant must register with the North Dakota secretary of
6 state if so required.
- 7 4.d. Such additional information which the department of financial institutions shall
8 require.
- 9 2. To fulfill the purposes of this chapter, the commissioner may establish relationships or
10 contracts with a nationwide multistate licensing system and registry or other entities
11 designated by a nationwide multistate licensing system and registry to collect and
12 maintain records and process transaction fees or other fees related to licensees or
13 other persons subject to the chapter. The applicant shall pay directly to such
14 nationwide multistate licensing system any additional fee relating to participation in
15 such nationwide multistate licensing system.
- 16 3. In connection with an application for licensing as a collection agency, or any license
17 renewals, the applicant shall furnish to the nationwide multistate licensing system
18 information concerning the applicant's identity, which may include:
- 19 a. Fingerprints for submission to the federal bureau of investigation, and any
20 governmental agency or entity authorized to receive such information for a state,
21 national, and international criminal history background check;
- 22 b. Personal history and experience in a form prescribed by the nationwide multistate
23 licensing system, including the submission of authorization for the nationwide
24 multistate licensing system and the commissioner to obtain:
- 25 (1) An independent credit report obtained from a consumer reporting agency
26 described in section 603(p) of the Fair Credit Reporting Act; and
- 27 (2) Information related to any administrative, civil, or criminal findings by any
28 governmental jurisdiction; and
- 29 c. Any other documents, information, or evidence the commissioner deems relevant
30 to the application regardless of the location, possession, control, or custody of
31 such documents, information, or evidence.

1 4. For the purposes of this section and in order to reduce the points of contact which the
2 federal bureau of investigation may have to maintain for purposes of subsection 3, the
3 commissioner may use the nationwide multistate licensing system and registry as a
4 channeling agent for requesting information from and distributing information to the
5 department of justice or any governmental agency.

6 5. For the purposes of this section and in order to reduce the points of contact which the
7 commissioner may have to maintain for purposes of subsection 3, the commissioner
8 may use the nationwide multistate licensing system and registry as a channeling agent
9 for requesting and distributing information to and from any source so directed by the
10 commissioner.

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

13 **13-05-05. Expiration and renewal of license.**

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

30 **SECTION 3.** A new section to chapter 13-05 of the North Dakota Century Code is created
31 and enacted as follows:

1 **Automatic six-month extension of license during 2014 calendar year.**

2 All current licensees who have made payment of a fee in accordance with sections
3 13-05-04 and 13-05-05, for a collection agency license effective after July 1, 2013, shall be
4 granted an extension of its current license until December 31, 2014. If at any time prior to
5 December 31, 2014, a licensee's license expires or otherwise terminates under this chapter, the
6 applicant shall be required to pay licensing fees in accordance with section 13-05-04, and that
7 license will expire on December 31, 2014.

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

10 **Confidentiality.**

11 To promote more effective regulation and reduce regulatory burden through supervisory
12 information sharing, the commissioner or commissioner's designee may furnish information to
13 or receive information from a nationwide multistate licensing system for the purpose of
14 regulation of the financial services industry. Information furnished by the commissioner to any
15 third party which is confidential or privileged in the commissioner's possession remains
16 confidential or privileged in the possession of the third party. Information received by the
17 commissioner from any third party which is confidential or privileged in the third party's
18 possession remains confidential or privileged in the commissioner's possession.

19 **SECTION 5. AMENDMENT.** Section 13-08-04 of the North Dakota Century Code is
20 amended and reenacted as follows:

21 **13-08-04. Application for license.**

- 22 1. Each application for a license must be in the form prescribed by the commissioner and
23 must include:
- 24 4.a. The legal name of the applicant, residence of the applicant, business address of
25 the applicant, and address at which deferred presentment service is provided if
26 different from the business address and, if the applicant is a partnership,
27 association, or corporation, the name and address of every member, officer, and
28 director;
- 29 2.b. The location at which the registered office of the applicant is located; and
- 30 3.c. Other data and information the commissioner may require with respect to the
31 applicant and the applicant's directors, officers, members, and shareholders.

- 1 2. To fulfill the purposes of this chapter, the commissioner may establish relationships or
2 contracts with a nationwide multistate licensing system and registry or other entities
3 designated by a nationwide multistate licensing system and registry to collect and
4 maintain records and process transaction fees or other fees related to licensees or
5 other persons subject to the chapter. The applicant shall pay directly to such
6 nationwide multistate licensing system any additional fee relating to participation in
7 such nationwide multistate licensing system.
- 8 3. In connection with an application for licensing as a deferred presentment service
9 provider, or any license renewals, the applicant shall furnish to the nationwide
10 multistate licensing system information concerning the applicant's identity, which may
11 include:
- 12 a. Fingerprints for submission to the federal bureau of investigation and any
13 governmental agency or entity authorized to receive such information for a state,
14 national, and international criminal history background check;
- 15 b. Personal history and experience in a form prescribed by the nationwide multistate
16 licensing system, including the submission of authorization for the nationwide
17 multistate licensing system and the commissioner to obtain:
- 18 (1) An independent credit report obtained from a consumer reporting agency
19 described in section 603(p) of the Fair Credit Reporting Act; and
- 20 (2) Information related to any administrative, civil, or criminal findings by any
21 governmental jurisdiction; and
- 22 c. Any other documents, information, or evidence the commissioner deems relevant
23 to the application regardless of the location, possession, control, or custody of
24 such documents, information, or evidence.
- 25 4. For the purposes of this section and in order to reduce the points of contact which the
26 federal bureau of investigation may have to maintain for purposes of subsection 3, the
27 commissioner may use the nationwide multistate licensing system and registry as a
28 channeling agent for requesting information from and distributing information to the
29 department of justice or any governmental agency.
- 30 5. For the purposes of this section and in order to reduce the points of contact which the
31 commissioner may have to maintain for purposes of subsection 3, the commissioner

1 may use the nationwide multistate licensing system and registry as a channeling agent
2 for requesting and distributing information to and from any source so directed by the
3 commissioner.

4 **SECTION 6. AMENDMENT.** Section 13-08-09 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **13-08-09. Expiration of license - Renewal.**

7 Licenses issued under this chapter expire as of ~~June thirtieth~~December thirty-first of each
8 year. A license may be renewed for the ensuing twelve-month period upon application and the
9 payment to the commissioner of the annual license fee, which is not subject to refund, before
10 ~~June~~December first of each year. The form and content of renewal applications must be
11 determined by the department of financial institutions and a renewal application may be denied
12 upon the same grounds as would justify denial of an initial application. When a licensee has
13 been delinquent in renewing the licensee's license, the department may charge an additional
14 fee of fifty dollars for the renewal of such license.

15 **SECTION 7. AMENDMENT.** Subsection 6 of section 13-08-12 of the North Dakota Century
16 Code is amended and reenacted as follows:

17 6. Each deferred presentment service transaction, including a renewal, must be
18 documented by a written agreement signed or similarly authenticated by the customer.
19 The original agreement must contain the name of the licensee; the transaction date;
20 the amount of the obligation; a statement of the total amount of fees charged,
21 expressed as a dollar amount and as an annual percentage rate; the name and
22 signature of the individual who signs the agreement on behalf of the licensee; the
23 name and address of the check maker; the transaction number assigned by the
24 database; the date of negotiation of the check; the signature of the check maker; a
25 statement that a licensee may not renew a transaction more than once; a statement
26 that the renewal fee may not exceed twenty percent of the amount being renewed; a
27 statement that the maximum term of the transaction, including ~~a statement that~~ the
28 renewal, may not exceed sixty businesscalendar days; a statement that the term of the
29 renewal period may not be less than fifteen businesscalendar days; and a statement
30 containing the right of rescission printed immediately above the signature line of the
31 written agreement in a minimum of ten-point font and providing a space for the check

1 maker to initial that the notice to the right of rescission was received. The original
2 agreement may not include a hold harmless clause; a confession of judgment clause;
3 any assignment of or order for payment of wages or other compensation for services;
4 a provision in which the check maker agrees not to assert any claim or defense arising
5 out of the agreement; a waiver of any provision of this chapter; any representation
6 from the check maker as to the sufficiency of funds regarding any past deferred
7 presentment service transactions; or any statement regarding criminal prosecution
8 with respect to the agreement. A renewal agreement must be contained in a separate
9 section, as part of the original written agreement or in other form as approved by the
10 commissioner. The renewal agreement must restate the original transaction date, the
11 renewal transaction date, the amount of the check paid to the check maker, the fee
12 charged in dollars, and the maturity date. The agreement must authorize the licensee
13 to defer presentment or negotiation of the check, or electronic debit of the customer's
14 account, until a specified date. The maker of a check may redeem the check from the
15 licensee at any time before the negotiation or presentment of the check by making
16 payment to the licensee. A customer agreeing to an electronic deferred presentment
17 service transaction may repay the obligation at any time before the agreed-upon date.
18 A customer may rescind any transaction by the close of the business day following the
19 day on which the customer receives payment from the licensee at no cost. If a
20 customer agreeing to an electronic deferred presentment service transaction rescinds
21 the transaction, the licensee must facilitate the repayment of the funds through the
22 same electronic means the licensee used to deliver the funds to the customer.

23 **SECTION 8.** A new section to chapter 13-08 of the North Dakota Century Code is created
24 and enacted as follows:

25 **Automatic six-month extension of license during 2014 calendar year.**

26 All current licensees who have made payment of a fee in accordance with section 13-08-05,
27 for a deferred presentment service provider license effective after July 1, 2013, shall be granted
28 an extension of their current license until December 31, 2014. If at any time prior to
29 December 31, 2014, a licensee's license expires or otherwise terminates under this chapter, the
30 applicant shall be required to pay licensing fees in accordance with section 13-08-05, and that
31 license will expire on December 31, 2014.

1 **SECTION 9.** A new section to chapter 13-08 of the North Dakota Century Code is created
2 and enacted as follows:

3 **Confidentiality.**

4 To promote more effective regulation and reduce regulatory burden through supervisory
5 information sharing, the commissioner or commissioner's designee may furnish information to
6 or receive information from a nationwide multistate licensing system for the purpose of
7 regulation of the financial services industry. Information furnished by the commissioner to any
8 third party which is confidential or privileged in the commissioner's possession remains
9 confidential or privileged in the possession of the third party. Information received by the
10 commissioner from any third party which is confidential or privileged in the third party's
11 possession remains confidential or privileged in the commissioner's possession.

12 **SECTION 10. AMENDMENT.** Section 13-09-07 of the North Dakota Century Code is
13 amended and reenacted as follows:

14 **13-09-07. Application for license.**

15 1. Each application for a license under this chapter must be ~~made in writing, and in a~~the
16 form prescribed by the commissioner. Each application must state or contain:

17 1.a. For all applicants:

18 a.(1) The exact name of the applicant, the applicant's principal address, any
19 fictitious or trade name used by the applicant in the conduct of its business,
20 and the location of the applicant's business records.

21 b.(2) The history of the applicant's criminal convictions and material litigation for
22 the five-year period before the date of the application.

23 e.(3) A description of the activities conducted by the applicant and a history of
24 operations.

25 d.(4) A description of the business activities in which the applicant seeks to be
26 engaged in the state.

27 e.(5) A list identifying the applicant's proposed authorized delegates in the state,
28 if any, at the time of the filing of the license application.

29 f.(6) A sample authorized delegate contract, if applicable.

30 g.(7) A sample form of payment instrument, if applicable.

1 exchange commission for the prior three years in lieu of the applicant's
2 financial statements. If the applicant is a wholly owned subsidiary of a
3 corporation having its principal place of business outside the United States,
4 similar documentation filed with the parent corporation's non-United States
5 regulator may be submitted to satisfy this provision.

6 ~~h.(8)~~ Copies of all filings, if any, made by the applicant with the United States
7 securities and exchange commission, or with a similar regulator in a country
8 other than the United States, within the year preceding the date of filing of
9 the application.

10 ~~3.c.~~ If the applicant is not a corporation, the applicant must also provide:

11 ~~a.(1)~~ The name, business and residence address, personal financial statement,
12 and employment history, for the past five years, of each principal of the
13 applicant and the name, business and residence address, and employment
14 history for the past five years of any other person or persons who will be in
15 charge of the applicant's activities to be licensed under this chapter;

16 ~~b.(2)~~ The place and date of the applicant's registration or qualification to do
17 business in this state;

18 ~~e.(3)~~ The history of criminal convictions and material litigation for the five-year
19 period before the date of the application for each individual having any
20 ownership interest in the applicant and each individual who exercises
21 supervisory responsibility with respect to the applicant's activities; and

22 ~~d.(4)~~ Copies of the applicant's audited financial statements including balance
23 sheet, statement of income or loss, and statement of changes in financial
24 position for the current year and, if available, for the immediately preceding
25 two-year period.

26 ~~4.d.~~ For good cause shown, the commissioner may waive any requirement of this
27 section with respect to any license application or to permit a license applicant to
28 submit substituted information in its license application in lieu of the information
29 required by this section.

30 2. To fulfill the purposes of this chapter, the commissioner may establish relationships or
31 contracts with a nationwide multistate licensing system and registry or other entities

1 designated by a nationwide multistate licensing system and registry to collect and
2 maintain records and process transaction fees or other fees related to licensees or
3 other persons subject to the chapter. The applicant shall pay directly to such
4 nationwide multistate licensing system any additional fee relating to participation in
5 such nationwide multistate licensing system.

6 3. In connection with an application for licensing as a money transmitter, or any license
7 renewals, the applicant shall furnish to the nationwide multistate licensing system
8 information concerning the applicant's identity, which may include:

9 a. Fingerprints for submission to the federal bureau of investigation, and any
10 governmental agency or entity authorized to receive such information for a state,
11 national, and international criminal history background check;

12 b. Personal history and experience in a form prescribed by the nationwide multistate
13 licensing system, including the submission of authorization for the nationwide
14 multistate licensing system and the commissioner to obtain:

15 (1) An independent credit report obtained from a consumer reporting agency
16 described in section 603(p) of the Fair Credit Reporting Act; and

17 (2) Information related to any administrative, civil, or criminal findings by any
18 governmental jurisdiction; and

19 c. Any other documents, information, or evidence the commissioner deems relevant
20 to the application regardless of the location, possession, control, or custody of
21 such documents, information, or evidence.

22 4. For the purposes of this section and in order to reduce the points of contact which the
23 federal bureau of investigation may have to maintain for purposes of subsection 3, the
24 commissioner may use the nationwide multistate licensing system and registry as a
25 channeling agent for requesting information from and distributing information to the
26 department of justice or any governmental agency.

27 5. For the purposes of this section and in order to reduce the points of contact which the
28 commissioner may have to maintain for purposes of subsection 3, the commissioner
29 may use the nationwide multistate licensing system and registry as a channeling agent
30 for requesting and distributing information to and from any source so directed by the
31 commissioner.

1 **SECTION 11. AMENDMENT.** Section 13-09-10 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **13-09-10. Renewal of license and annual report.**

- 4 1. A licensee under this chapter shall pay an annual renewal fee of four hundred fifty
5 dollars which is not subject to refund.
- 6 2. The renewal fee must be accompanied by a report, in a form prescribed by the
7 commissioner, which must include:
- 8 a. A copy of its most recent audited consolidated annual financial statement
9 including balance sheet, statement of income or loss, statement of changes in
10 shareholder's equity, and statement of changes in financial position, or, in the
11 case of a licensee that is a wholly owned subsidiary of another corporation, the
12 consolidated audited annual financial statement of the parent corporation may be
13 filed in lieu of the licensee's audited annual financial statement;
- 14 b. For the most recent quarter for which data is available before the date of the filing
15 of the renewal application, but in no event more than one hundred twenty days
16 before the renewal date, the licensee must provide the number of payment
17 instruments sold by the licensee in the state, the dollar amount of those
18 instruments, and the dollar amount of those instruments currently outstanding;
- 19 c. Any material changes to any of the information submitted by the licensee on its
20 original application which have not previously been reported to the commissioner
21 on any other report required to be filed under this chapter;
- 22 d. A list of the licensee's permissible investments; and
- 23 e. A list of the locations, if any, within this state at which business regulated by this
24 chapter is being conducted by either the licensee or its authorized delegates.
- 25 3. All licenses issued pursuant to this chapter expire on ~~June thirtieth~~December thirty-first
26 of each year. Applications for renewal must be submitted thirty days before expiration
27 of the license. A licensee that has not filed a renewal report or paid its renewal fee by
28 ~~June thirtieth~~December thirty-first and has not been granted an extension of time to do
29 so by the commissioner must have its license suspended. The licensee in such case
30 has thirty days after its license is suspended in which to file a renewal report and pay
31 the renewal fee, plus fifty dollars for each business day after suspension that the

1 commissioner does not receive the renewal report and the renewal fee. For good
2 cause, the commissioner may grant an extension of the renewal date or reduce or
3 suspend the fifty dollars per day late filing fee.

4 **SECTION 12.** A new section to chapter 13-09 of the North Dakota Century Code is created
5 and enacted as follows:

6 **Automatic six-month extension of license during 2014 calendar year.**

7 All current licensees who have made payment of a fee in accordance with sections
8 13-09-08 and 13-09-10, for a money transmitter license effective after July 1, 2013, shall be
9 granted an extension of their current license until December 31, 2014. If at any time prior to
10 December 31, 2014, a licensee's license expires or otherwise terminates under this chapter, the
11 applicant shall be required to pay licensing fees in accordance with section 13-09-08, and that
12 license will expire on December 31, 2014.

13 **SECTION 13.** A new section to chapter 13-09 of the North Dakota Century Code is created
14 and enacted as follows:

15 **Confidentiality.**

16 To promote more effective regulation and reduce regulatory burden through supervisory
17 information sharing, the commissioner or commissioner's designee may furnish information to
18 or receive information from a nationwide multistate licensing system for the purpose of
19 regulation of the financial services industry. Information furnished by the commissioner to any
20 third party which is confidential or privileged in the commissioner's possession remains
21 confidential or privileged in the possession of the third party. Information received by the
22 commissioner from any third party which is confidential or privileged in the third party's
23 possession remains confidential or privileged in the commissioner's possession.

24 **SECTION 14. AMENDMENT.** Section 13-11-03 of the North Dakota Century Code is
25 amended and reenacted as follows:

26 **13-11-03. Application for license.**

27 1. Every application for a debt-settlement provider license, or for a renewal thereof, must
28 be made ~~upon forms designed and furnished~~ in the form prescribed by the
29 commissioner and must contain any information which the commissioner determines
30 necessary and proper. The commissioner may require any ~~application~~ applicant to

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

3 2. To fulfill the purposes of this chapter, the commissioner may establish relationships or
4 contracts with a nationwide multistate licensing system and registry or other entities
5 designated by a nationwide multistate licensing system and registry to collect and
6 maintain records and process transaction fees or other fees related to licensees or
7 other persons subject to the chapter. The applicant shall pay directly to such
8 nationwide multistate licensing system any additional fee relating to participation in
9 such nationwide multistate licensing system.

10 3. In connection with an application for licensing as a debt-settlement provider, or any
11 license renewals, the applicant shall furnish to the nationwide multistate licensing
12 system information concerning the applicant's identity, which may include:

- 13 a. Fingerprints for submission to the federal bureau of investigation, and any
14 governmental agency or entity authorized to receive such information for a state,
15 national, and international criminal history background check;
16 b. Personal history and experience in a form prescribed by the nationwide multistate
17 licensing system, including the submission of authorization for the nationwide
18 multistate licensing system and the commissioner to obtain:
19 (1) An independent credit report obtained from a consumer reporting agency
20 described in section 603(p) of the Fair Credit Reporting Act; and
21 (2) Information related to any administrative, civil, or criminal findings by any
22 governmental jurisdiction; and
23 c. Any other documents, information, or evidence the commissioner deems relevant
24 to the application regardless of the location, possession, control, or custody of
25 such documents, information, or evidence.

26 4. For the purposes of this section and in order to reduce the points of contact which the
27 federal bureau of investigation may have to maintain for purposes of subsection 3, the
28 commissioner may use the nationwide multistate licensing system and registry as a
29 channeling agent for requesting information from and distributing information to the
30 department of justice or any governmental agency.

1 5. For the purposes of this section and in order to reduce the points of contact which the
2 commissioner may have to maintain for purposes of subsection 3, the commissioner
3 may use the nationwide multistate licensing system and registry as a channeling agent
4 for requesting and distributing information to and from any source so directed by the
5 commissioner.

6 **SECTION 15.** A new section to chapter 13-11 of the North Dakota Century Code is created
7 and enacted as follows:

8 **Confidentiality.**

9 To promote more effective regulation and reduce regulatory burden through supervisory
10 information sharing, the commissioner or commissioner's designee may furnish information to
11 or receive information from a nationwide multistate licensing system for the purpose of
12 regulation of the financial services industry. Information furnished by the commissioner to any
13 third party which is confidential or privileged in the commissioner's possession remains
14 confidential or privileged in the possession of the third party. Information received by the
15 commissioner from any third party which is confidential or privileged in the third party's
16 possession remains confidential or privileged in the commissioner's possession.