

HOUSE BILL NO. 1378

Introduced by

Representative J. Johnson

1 A BILL for an Act to create and enact a new chapter to title 6 of the North Dakota Century Code,
2 relating to mandating the payment of interest on escrow accounts for residential mortgages; to
3 provide a penalty; and to provide for application.

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

5 **SECTION 1.** A new chapter to title 6 of the North Dakota Century Code is created and
6 enacted as follows:

7 **Definitions.**

- 8 1. "Borrower" means a person that holds a residential mortgage loan and has an escrow
9 account with a lender for the purpose of paying property taxes, insurance, or other
10 related expenses.
- 11 2. "Escrow account" means an account held by a lender or servicer used to collect and
12 hold funds for the payment of property taxes, homeowner's insurance, and other
13 related expenses associated with a residential mortgage.
- 14 3. "Escrow funds" means money placed into an escrow account by a borrower for the
15 payment of obligations such as property taxes, homeowner's insurance, and other
16 expenses associated with home ownership.
- 17 4. "Interest rate" means the percentage rate paid by the lender on funds held in escrow
18 accounts.
- 19 5. "Lender" means a bank, mortgage company, or other financial institution that services
20 residential mortgage loans and holds escrow accounts. A lender shall pay interest on
21 funds held in an escrow account that maintains a minimum average balance of five
22 hundred dollars. The escrow account must have been in existence for a minimum of
23 three months before the interest may be credited. Only active accounts are eligible for
24 accumulation of interest.

1 **Determining the acceptable interest rate.**

- 2 1. The interest rate paid on escrow funds must be based on prevailing market rates for a
3 saving or similar deposit account. At minimum, all interest paid under this chapter must
4 be set at one-half percent annually. If the lender adjusts the interest rate, the change
5 must be consistent with changes in market rates for comparable deposit products. A
6 rate change may not disproportionately favor the lender. An adjustment to the interest
7 rate must be communicated to the borrower at least thirty days before the new rate is
8 applied.
- 9 2. A lender holding an escrow account shall use a transparent and clear formula for
10 determining the escrow account interest rate and clearly disclose the interest rate
11 applied to escrow accounts in a loan agreement. If a lender offers multiple types of
12 deposit accounts with different interest rates, the borrower must be informed of the
13 type of deposit product tied to the borrower's escrow account.

14 **Compliance and enforcement - Penalty.**

- 15 1. The department of financial institutions shall enforce this chapter.
- 16 2. A lender holding an escrow account shall submit an annual report to the department
17 detailing the amount of interest credited to escrow accounts, including information on
18 the rates applied and the number of borrowers affected.
- 19 3. A lender that fails to pay interest on eligible escrow accounts is subject to a civil
20 penalty determined by the department and suspension of business operations within
21 the state until compliance is achieved.
- 22 4. If a lender fails to credit interest to an escrow account, the borrower is entitled to
23 receive the unpaid interest, plus an additional penalty interest rate, not to exceed ten
24 percent of the unpaid interest, for each year of nonpayment.

25 **Disclosure - Opt-out.**

- 26 1. A lender shall state in the mortgage agreement and in periodic statements how escrow
27 funds are managed, including details on the interest rate and how interest is credited.
- 28 2. A borrower may opt-out of the interest payment provision only if the borrower's
29 mortgage agreement explicitly allows the borrower to opt-out and the borrower agrees
30 to forfeit the interest in exchange for a reduced mortgage rate or other benefit.

1 **SECTION 2. APPLICATION.** This Act applies to an escrow account created after the
2 effective date of this Act. For an existing escrow account, interest payments required by this Act
3 must begin on January 1, 2026.