

Sixty-ninth  
Legislative Assembly  
of North Dakota

## PROPOSED AMENDMENTS TO

### 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:~~for an Act to create and enact three new  
4 sections to chapter 47-10.2 of the North Dakota Century Code, relating to the payment of  
5 interest on escrow accounts for residential mortgages; to amend and reenact section  
6 47-10.2-01 of the North Dakota Century Code, relating to definitions for escrow accounts; to  
7 provide a penalty; and to provide for application.

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

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

11 ~~— **Definitions:**~~

12 ~~— 1. "Borrower" means a person that holds a residential mortgage loan and has an escrow~~  
13 ~~account with a lender for the purpose of paying property taxes, insurance, or other~~  
14 ~~related expenses.~~

15 ~~— 2. "Escrow account" means an account held by a lender or servicer used to collect and~~  
16 ~~hold funds for the payment of property taxes, homeowner's insurance, and other~~  
17 ~~related expenses associated with a residential mortgage.~~

18 ~~— 3. "Escrow funds" means money placed into an escrow account by a borrower for the~~  
19 ~~payment of obligations such as property taxes, homeowner's insurance, and other~~  
20 ~~expenses associated with home ownership.~~

1 ~~4. "Interest rate" means the percentage rate paid by the lender on funds held in escrow~~  
2 ~~accounts.~~

3 ~~5. "Lender" means a bank, mortgage company, or other financial institution that services~~  
4 ~~residential mortgage loans and holds escrow accounts. A lender shall pay interest on~~  
5 ~~funds held in an escrow account that maintains a minimum average balance of five~~  
6 ~~hundred dollars. The escrow account must have been in existence for a minimum of~~  
7 ~~three months before the interest may be credited. Only active accounts are eligible for~~  
8 ~~accumulation of interest.~~

9 ~~**Determining the acceptable interest rate.**~~

10 ~~1. The interest rate paid on escrow funds must be based on prevailing market rates for a~~  
11 ~~saving or similar deposit account. At minimum, all interest paid under this chapter must~~  
12 ~~be set at one-half percent annually. If the lender adjusts the interest rate, the change~~  
13 ~~must be consistent with changes in market rates for comparable deposit products. A~~  
14 ~~rate change may not disproportionately favor the lender. An adjustment to the interest~~  
15 ~~rate must be communicated to the borrower at least thirty days before the new rate is~~  
16 ~~applied.~~

17 ~~2. A lender holding an escrow account shall use a transparent and clear formula for~~  
18 ~~determining the escrow account interest rate and clearly disclose the interest rate~~  
19 ~~applied to escrow accounts in a loan agreement. If a lender offers multiple types of~~  
20 ~~deposit accounts with different interest rates, the borrower must be informed of the~~  
21 ~~type of deposit product tied to the borrower's escrow account.~~

22 ~~**Compliance and enforcement - Penalty.**~~

23 ~~1. The department of financial institutions shall enforce this chapter.~~

24 ~~2. A lender holding an escrow account shall submit an annual report to the department~~  
25 ~~detailing the amount of interest credited to escrow accounts, including information on~~  
26 ~~the rates applied and the number of borrowers affected.~~

27 ~~3. A lender that fails to pay interest on eligible escrow accounts is subject to a civil~~  
28 ~~penalty determined by the department and suspension of business operations within~~  
29 ~~the state until compliance is achieved.~~

1 ~~4. If a lender fails to credit interest to an escrow account, the borrower is entitled to~~  
2 ~~receive the unpaid interest, plus an additional penalty interest rate, not to exceed ten~~  
3 ~~percent of the unpaid interest, for each year of nonpayment.~~

4 ~~**Disclosure – Opt-out.**~~

5 ~~1. A lender shall state in the mortgage agreement and in periodic statements how escrow~~  
6 ~~funds are managed, including details on the interest rate and how interest is credited.~~

7 ~~2. A borrower may opt-out of the interest payment provision only if the borrower's~~  
8 ~~mortgage agreement explicitly allows the borrower to opt-out and the borrower agrees~~  
9 ~~to forfeit the interest in exchange for a reduced mortgage rate or other benefit.~~

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

13 **SECTION 1. AMENDMENT.** Section 47-10.2-01 of the North Dakota Century Code is  
14 amended and reenacted as follows:

15 **47-10.2-01. Definitions.**

16 In sections 47-10.2-01 through 47-10.2-03, unless the context or subject matter otherwise  
17 requires:

- 18 1. "Borrower" means the obligor under a residential mortgage held by a mortgagee.
- 19 2. "Escrow account" means an account held by a lender or servicer used to collect and  
20 hold funds for the payment of property taxes, homeowner's insurance, and other  
21 related expenses associated with a residential mortgage.
- 22 3. "Escrow funds" means money placed into an escrow account by a borrower for the  
23 payment of obligations such as property taxes, homeowner's insurance, and other  
24 expenses associated with home ownership.
- 25 4. "Interest rate" means the percentage rate paid by the lender on funds held in escrow  
26 accounts.
- 27 5. "Lender" means a bank, mortgage company, credit union, or other financial institution  
28 that services residential mortgage loans and holds escrow accounts. The term does  
29 not include the North Dakota housing finance agency.
- 30 6. "Servicer" means a person or entity maintaining an escrow account for a residential  
31 mortgagee.

1 ~~3.7.~~ "Surplus amount" means from the annual escrow account analysis, any amount  
2 greater than or equal to fifty dollars, excluding any escrow cushion required by the  
3 servicer.

4 **SECTION 2.** A new section to chapter 47-10.2 of the North Dakota Century Code is created  
5 and enacted as follows:

6 **Lender's obligation to pay interest on escrow accounts.**

7 A lender shall pay interest on funds held in an escrow account that maintains a minimum  
8 average balance of five hundred dollars. The escrow account must have been in existence for a  
9 minimum of three months before the interest may be credited. Only active accounts are eligible  
10 for accumulation of interest.

11 **SECTION 3.** A new section to chapter 47-10.2 of the North Dakota Century Code is created  
12 and enacted as follows:

13 **Determining the acceptable interest rate.**

14 1. The interest rate paid on escrow funds must be based on prevailing market rates for a  
15 saving or similar deposit account. At minimum, all interest paid under this chapter must  
16 be set at one-half percent annually. If the lender adjusts the interest rate, the change  
17 must be consistent with changes in market rates for comparable deposit products. A  
18 rate change may not disproportionately favor the lender.

19 2. A lender holding an escrow account shall use a transparent and clear formula for  
20 determining the escrow account interest rate and clearly disclose the interest rate  
21 applied to escrow accounts in a loan agreement. If a lender offers multiple types of  
22 deposit accounts with different interest rates, the borrower must be informed of the  
23 type of deposit product tied to the borrower's escrow account.

24 **SECTION 4.** A new section to chapter 47-10.2 of the North Dakota Century Code is created  
25 and enacted as follows:

26 **Disclosure - Opt-out.**

27 1. A lender shall state in the mortgage agreement and in periodic statements how escrow  
28 funds are managed, including details on the interest rate and how interest is credited.

29 2. A borrower may opt-out of the interest payment provision only if the borrower's  
30 mortgage agreement explicitly allows the borrower to opt-out and the borrower agrees  
31 to forfeit the interest in exchange for a reduced mortgage rate or other benefit.

1 | **SECTION 5. 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.