

**FIRST ENGROSSMENT**

**ENGROSSED HOUSE BILL NO. 1378**

Introduced by

Representative J. Johnson

1 A BILL for an Act to create and enact three new sections to chapter 47-10.2 of the North Dakota  
2 Century Code, relating to the payment of interest on escrow accounts for residential mortgages;  
3 to amend and reenact section 47-10.2-01 of the North Dakota Century Code, relating to  
4 definitions for escrow accounts; to provide a penalty; and to provide for application.

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

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

8 **47-10.2-01. Definitions.**

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

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

1       6. "Servicer" means a person or entity maintaining an escrow account for a residential  
2 mortgagee.

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

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

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

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

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

15       **Determining the acceptable interest rate.**

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

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

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

28       **Disclosure - Opt-out.**

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

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

4        **SECTION 5. APPLICATION.** This Act applies to an escrow account created after the  
5 effective date of this Act. For an existing escrow account, interest payments required by this Act  
6 must begin on January 1, 2026.