

Sixty-eighth
Legislative Assembly
of North Dakota

ENGROSSED SENATE BILL NO. 2263

Introduced by

Senators Meyer, Lee

Representative Louser

1 A BILL for an Act to amend and reenact sections 47-10.2-01, 47-10.2-02, 47-10.2-03, and
2 47-10.2-05 of the North Dakota Century Code, relating to escrow accounts.

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

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

6 **47-10.2-01. Definitions.**

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

9 1. "Borrower" means the obligor under a residential mortgage held by a secondary-
10 mortgagee.

11 2. "~~Excess~~Surplus amount~~Servicer~~" means ~~from the annual escrow account analysis,~~
12 ~~any amount~~ received in an escrow account during a calendar year in excess of three
13 hundred dollars plus the amount necessary to pay real estate taxes, special
14 assessments, and insurance premiums during that calendar year ~~greater than or equal~~
15 ~~to fifty dollars, excluding any escrow cushion required by the servicer~~ a person or entity
16 maintaining an escrow account for a residential mortgagee.

17 3. "Secondary mortgagee" means a successor mortgagee not residing or domiciled in
18 this state who purchased the interest originally belonging to the mortgagee who
19 originated a loan, under which an escrow is required to assure payment of obligations
20 including property taxes, special assessments, and insurance premiums, if that loan is
21 secured by a first lien real estate mortgage or equivalent security interest in a dwelling
22 that the borrower uses as a principal place of residence in this state, not including a
23 mobile home.

1 4. "Servicer Surplus amount" means ~~a person or entity maintaining an escrow account for~~
2 ~~a secondary residential mortgagee~~ from the annual escrow account analysis, any
3 amount greater than or equal to fifty dollars, excluding any escrow cushion required by
4 the servicer.

5 **SECTION 2. AMENDMENT.** Section 47-10.2-02 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **47-10.2-02. Notice of ~~excess~~ surplus escrow payments.**

8 If an escrow account is maintained by the servicer of a secondary residential mortgage for a
9 secondary mortgagee, and the account contains an ~~excess~~ surplus amount, the servicer shall
10 provide written notice to the borrower, ~~on or before March first of the following year, of the~~
11 ~~escrow account status~~ within thirty calendar days following the end of the escrow account
12 computation year. The information provided to the borrower must include the balance in the
13 escrow account after the annual payment of taxes and special assessments.

14 **SECTION 3. AMENDMENT.** Section 47-10.2-03 of the North Dakota Century Code is
15 amended and reenacted as follows:

16 **47-10.2-03. ~~Application~~ Refunding of ~~excess~~ surplus escrow payments.**

17 Upon receipt ~~creation~~ of the written notice under section 47-10.2-02, the borrower may,
18 ~~within thirty days after the date of the notice, elect in a written request to the servicer one of the~~
19 ~~following options:~~

- 20 1. ~~Refund of all or part of the excess amount; or~~
21 2. ~~Retention of all or part of the excess amount in the escrow account.~~

22 ~~If the borrower does not advise the servicer in writing within the time provided in this section,~~
23 ~~the servicer may continue maintenance of the escrow account in the same manner until the~~
24 ~~next report to the borrower under sections 47-10.2-01 through 47-10.2-03. If the borrower~~
25 ~~advises the servicer of an election within the time prescribed in sections 47-10.2-01 through~~
26 ~~47-10.2-03, the servicer must comply with the borrower's election within thirty days of the~~
27 ~~election~~ the servicer shall refund any surplus amount to the borrower within thirty calendar days
28 following the end of the escrow account computation year. The notice required under section
29 47-10.2-02 must be included when surplus escrow funds are refunded under this section.

30 **SECTION 4. AMENDMENT.** Section 47-10.2-05 of the North Dakota Century Code is
31 amended and reenacted as follows:

1 **47-10.2-05. Annual escrow account statement.**

2 Each residential mortgagee, including any insurance company with articles of incorporation
3 filed under section 26.1-01-03 ~~or which is required to obtain a certificate of authority under~~
4 ~~section 26.1-01-05~~, intending to maintain an escrow account for the payment of taxes,
5 assessments, insurance premiums, and other charges upon the mortgagor's residence shall
6 furnish annually each mortgagor with a detailed statement showing all debits and credits to the
7 account.