

**Sixty-eighth Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 3, 2023**

SENATE BILL NO. 2325
(Senators Lee, Barta, J. Roers)
(Representatives Beltz, Boschee, Schreiber-Beck)

AN ACT to create and enact a new section to chapter 10-04 of the North Dakota Century Code, relating to the restitution assistance fund for victims of securities violations; to provide a continuing appropriation; and to provide for application.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 10-04 of the North Dakota Century Code is created and enacted as follows:

Restitution assistance fund - Continuing appropriation.

1. As used in this section:
 - a. "Claimant" means an individual who meets the definition of eligible adult under section 10-04-08.5 and files an application for restitution assistance under this section. The term includes the named party, the executor of a named party, the heirs and assignees of a named party, or any other individual with lawful authority to act for or on behalf of the named party in a restitution award in a final order.
 - b. "Final order" means an order issued by the commissioner under this chapter or a final order issued by the court in a legal action initiated by the commissioner under this chapter.
 - c. "Securities violation" means a violation of any provision of this chapter, or any rule or order issued by the commissioner under this chapter.
 - d. "Victim" means an individual who meets the definition of an eligible adult under section 10-04-08.5 and is awarded restitution in a final order.
2. A special fund is established in the state treasury and is designated as the restitution assistance fund for eligible adult victims. The commissioner shall deposit up to one million dollars per biennium from the department's revenue into the fund. The moneys in the fund are appropriated on a continuing basis to the commissioner to provide restitution assistance for victims who have not received full restitution from a final order before the application for restitution assistance is due.
3. An individual is eligible for restitution assistance if the individual:
 - a. Is a resident of the state who is a victim of a securities violation committed in this state or other jurisdiction, including a foreign country, if the jurisdiction does not offer assistance substantially similar to the assistance offered under this section.
 - b. Is a nonresident who is a victim of a securities violation committed in this state if the nonresident's home state offers residents of this state substantially similar assistance as offered under this section.
 - c. Submits an application, in the manner prescribed by the commissioner, for restitution assistance within two years of the date of the final order, except the commissioner may grant an extension of time for submission of an application for restitution assistance upon a showing of good cause by the claimant.

4. The commissioner may award the lesser of fifty thousand dollars or fifty percent of the amount of unpaid restitution awarded in the final order to a claimant. An award of restitution assistance may be made only to one claimant per victim. The commissioner may waive any limitations on payment upon a showing of good cause.
5. The commissioner may not award restitution assistance if:
 - a. The victim sustained the monetary injury as a result of:
 - (1) Participating or assisting in a securities violation; or
 - (2) Attempting or committing a securities violation; or
 - b. The victim profited or would have profited from a securities violation.
6. A claimant convicted of any crime deemed relevant by the commissioner in connection to a claim made under this section shall forfeit any restitution assistance awarded to the claimant.
7. The commissioner may bring a civil action to recover funds awarded to a claimant convicted of any crime deemed relevant by the commissioner in connection with a claim under this section.
8. If the commissioner overturns a final order or a final order is overturned on appeal after restitution assistance has been made to a claimant, the commissioner may issue an order to recover the restitution assistance.
9. The department is subrogated to the rights of the claimant awarded restitution assistance. The subrogation rights are against the individual ordered to pay restitution to the victim for the securities violation. In addition, the commissioner is entitled to a lien in the amount of the award on a recovery made by or on behalf of the victim. The commissioner may recover the amount in a separate action or intervene in an action brought by or on behalf of the victim.
10. A claimant shall refund to the commissioner any amount of restitution received if the combined total of the restitution assistance exceeds the restitution awarded in the final order. Any moneys recovered by the commissioner under subsections 7, 8, and 9 must be returned to the fund.
11. The commissioner may suspend payment of claims or prorate payment of claims until such a time the commissioner determines a sufficient balance has been restored to the fund if payment of restitution assistance would result in a fund balance below one hundred thousand dollars.
12. Restitution assistance awarded by the commissioner under this section is not subject to execution, attachment, garnishment, or other process, except those executions, attachments, garnishments, or other processes brought by or on behalf of the state.
13. The commissioner may adopt rules pursuant to chapter 28-32 to carry out this section.

SECTION 2. APPLICATION. Restitution assistance awards may be made under this Act only to victims awarded restitution in a final order issued on or after the effective date of this Act.

President of the Senate

Speaker of the House

Secretary of the Senate

Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Sixty-eighth Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2325.

Senate Vote: Yeas 43 Nays 1 Absent 3

House Vote: Yeas 49 Nays 39 Absent 6

Secretary of the Senate

Received by the Governor at _____ M. on _____, 2023.

Approved at _____ M. on _____, 2023.

Governor

Filed in this office this _____ day of _____, 2023,

at _____ o'clock _____ M.

Secretary of State