

# DEBTOR AND CREDITOR RELATIONSHIP

## CHAPTER 137

HOUSE BILL NO. 1536  
(Representatives Bateman, DeWitz, Meyer)  
(Senators Kelsh, Marks)

### MARSHALING FUNDS

AN ACT to amend and reenact section 13-01-04 of the North Dakota Century Code, relating to the rights of creditors and marshaling funds.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 13-01-04 of the North Dakota Century Code is amended and reenacted as follows:

13-01-04. Marshaling funds - Rights of creditors. When a creditor is entitled to resort to each of several funds for the satisfaction of ~~his~~ the creditor's claim and another person has an interest in, or is entitled as a creditor to resort to, some but not all of them, the latter may require the former to seek satisfaction from those funds to which the latter has no such claim so far as it can be done without impairing the right of the former to complete satisfaction and without doing injustice to third persons. This section does not apply to execution sales of real estate mortgage foreclosures.

Approved April 3, 1991  
Filed April 4, 1991

## CHAPTER 138

HOUSE BILL NO. 1565  
(Larson)**LATE PAYMENT CHARGE DISCLOSURE**

AN ACT to amend and reenact section 13-01-15 of the North Dakota Century Code, relating to statements to be furnished by a creditor before imposing late payment charges on accounts receivable.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 13-01-15 of the North Dakota Century Code is amended and reenacted as follows:

13-01-15. Periodic statement to be furnished to debtor. A creditor may charge the late payment charge provided for in section 13-01-14 only if ~~he~~ the creditor promptly supplies the debtor with a statement as of the end of each monthly period, or other regular period agreed upon by the creditor and the debtor, in which there is any unpaid balance. Such statement shall recite the following:

1. The percentage amount of the late payment charge which will be charged beginning thirty days after the obligation is incurred.
2. The unpaid balance at the end of the period.
3. An identification of any amount debited to the debtor's account during the period.
4. The payments made by the debtor to the creditor during the period.
5. The amount of the late payment charge.
- ~~6. A legend to the effect that the debtor may at any time pay the total unpaid balance.~~

The items need not be stated in the sequence or order set forth above. Additional items may be included to explain the computations made in determining the amount to be paid by the debtor.

Approved March 19, 1991  
Filed March 19, 1991

## CHAPTER 139

SENATE BILL NO. 2406  
(Senators Krebsbach, Langley)  
(Representatives Martinson, Whalen)

### INSURANCE IN CONNECTION WITH LOANS

AN ACT to amend and reenact subsections 1 and 3 of section 13-03.1-17 of the North Dakota Century Code, relating to insurance, insurance policies, and existing insurance.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsections 1 and 3 of section 13-03.1-17 of the 1989 Supplement to the North Dakota Century Code are amended and reenacted as follows:

1. The following types of insurance may be written in connection with loans made by licensees under this chapter, however, nothing in this chapter limits the right of a licensee and a borrower to enter into a transaction involving the purchase of insurance or other products by the borrower from or through the licensee if the purchase is voluntary on the part of the borrower, is not a condition to the making of the loan, and if the insurance purchase is related to and written in connection with the making of a loan under this chapter:
  - a. In the case of motor vehicles having a book value of more than five hundred dollars, fire, theft, and windstorm, and fifty dollars or more deductible collision; and in the case of all motor vehicles, bodily injury liability and property damage liability. If neither liability or property damage insurance is written, but other insurance is written covering a motor vehicle, the borrower shall sign the following statement: "This contract does not provide for motor vehicle liability and property insurance".
  - b. Fire and extended coverage insurance upon property.
  - c. Life (on one or more borrowers) and accident and health insurance or any of them may be written, upon or in connection with, any loan in any amount not exceeding the total amount to be repaid under the loan contract, and for a term not extending beyond the final maturity date of the loan contract; provided, that in the event of a renewal or prepayment of a contract or loan, this type of insurance must be canceled and a refund of the unearned premium must be credited or paid the borrower.
3. The insurance premium for ~~such~~ any insurance related to and written in connection with the making of a loan under this chapter may be collected from the borrower or included in the loan contract at the

time the loan is made. No insurance premiums or charges, other than for credit life and accident and health insurance, may be included in a loan contract having a maturity of more than thirty-six months and fifteen days unless no charges are computed on such premiums or charges. Any insurance related to and written in connection with the making of a loan under this chapter may not exceed the term of the loan or any extensions of the term.

Approved March 14, 1991  
Filed March 15, 1991

## CHAPTER 140

HOUSE BILL NO. 1155  
(Committee on Industry, Business and Labor)  
(At the request of the Department of Banking  
and Financial Institutions)

### COLLECTION AGENCY BRANCH OFFICES

AN ACT to create and enact a new section to chapter 13-05 of the North Dakota Century Code, relating to collection agency branch offices; and to amend and reenact section 13-05-04 of the North Dakota Century Code, relating to an annual fee for collection agency branch offices.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 13-05 of the North Dakota Century Code is created and enacted as follows:

Branch offices. A collection agency licensed under this chapter is permitted to operate and maintain branch offices provided the collection agency license was issued in a North Dakota location. Branch offices are permitted without limitations or restrictions as to number or geographic location. The commissioner may grant approval for each branch office which must be submitted by an application. When used in this chapter, "branch office" means a location other than the location where the collection agency license was granted and where a collection agency collects or receives payments within a building site.

SECTION 2. AMENDMENT. Section 13-05-04 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

13-05-04. Fee and bond to accompany application for collection agency license. The application for a collection agency license must be in writing, under oath, and in the form prescribed by the commissioner. The application must give the location where the business is to be conducted and must contain any further information the commissioner requires, including the names and addresses of the partners, officers, directors, trustees, and the principal owners or members as will provide the basis for the investigation and findings contemplated by section 13-05-03. At the time of making such application, the applicant shall include payment in the sum of three hundred dollars, which is not subject to refund, as a fee for investigating the application, and the sum of two hundred dollars for the annual license fee, and provide a surety bond in the sum of twenty thousand dollars. In addition, the applicant shall pay a fifty dollar annual fee for each branch location. Fees must be deposited in the financial institutions regulatory fund.

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