

SALES AND EXCHANGES

CHAPTER 490

HOUSE BILL NO. 1161
(Agriculture Committee)

(At the request of the Public Service Commission)

AUCTION LICENSES, BONDS, AND CONTRACTS

AN ACT to create and enact a new section to chapter 51-05.1 of the North Dakota Century Code, relating to buyer's premiums; and to amend and reenact section 51-05.1-01.1, subdivision h of subsection 1 of section 51-05.1-03, and section 51-05.1-04.1 of the North Dakota Century Code, relating to auctioneers' and clerks' licenses, fees, bonds, and written contracts.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 51-05.1-01.1 of the North Dakota Century Code is amended and reenacted as follows:

51-05.1-01.1. Auctioneer's license - Clerk's license - Fees - Bonds. Application for an annual auctioneer's or clerk's license must be in writing, verified, and must show the name, residence, and address of the applicant. An application must be filed at least ten days prior to the first auction sale the applicant is to conduct or clerk. Application for renewal of an annual license must be on forms designated by the commission. The fee for the annual license or renewal is thirty-five dollars and must accompany the application. The name and license number must appear on all advertising of sales conducted by an auctioneer or clerk.

~~When filing an application an auctioneer or clerk shall file a corporate surety bond of three thousand dollars for an auctioneer and ten thousand dollars for a clerk with the state of North Dakota as obligee. Before a license is issued to any auctioneer or auction clerk, the applicant shall file a corporate surety bond with the commission. This bond must provide annual coverage of not less than five thousand dollars for an auctioneer or ten thousand dollars for an auction clerk, must run to the state of North Dakota, and must be for the benefit of any person injured by the licensee's improper conduct. Bonds may not be canceled on less than sixty days written notice to the commission. When a licensee states that it is bonded, the size of the bond must be stated.~~

SECTION 2. AMENDMENT. Subdivision h of subsection 1 of section 51-05.1-03 of the North Dakota Century Code is amended and reenacted as follows:

h. Violated any provisions of this chapter or chapter 41-02, 51-12, or 51-15, or rule or regulation promulgated by the commission.

SECTION 3. AMENDMENT. Section 51-05.1-04.1 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

51-05.1-04.1. Written contracts. An auctioneer may not sell the property of another at auction without a prior written contract with the seller which sets forth the terms and conditions upon which the auctioneer will sell the property. ~~The contract must identify the property, commission rate, any restrictions on sale,~~

~~whether the auctioneer is authorized to purchase at the sale, and payment of sale expenses and proceeds. The auctioneer shall retain a copy of each contract for two years after the auction. A similar contract governing the activities of the auction clerk is required between the auction clerk and the seller. The licensee must retain a copy of each contract for at least two years after the auction. This section does not apply to consignment sales where the value of the seller's property is less than five hundred dollars or to livestock markets. The contract must contain:~~

1. The licensee's name, trade or business name, state license number, business address, and business telephone number.
2. A general description of the property to be sold at auction, any restrictions, and a statement identifying whether or not the licensee is authorized to purchase at the auction.
3. A description of the services to be provided and the consideration for the services. The description must state which party is responsible for advertising and other expenses.
4. The date or dates when the items will be sold at auction.
5. A disclosure of the amount of bond that the licensee has on file with the commission and the commission's address and phone number.

SECTION 4. A new section to chapter 51-05.1 of the North Dakota Century Code is created and enacted as follows:

Buyer's premium. A successful bidder may not be required to pay an amount in excess of the successful bid and governmental fees and taxes, unless before bidding the bidder has signed a statement which clearly describes the additional amount and states how the actual amount due will be determined.

Approved April 7, 1993
Filed April 8, 1993

CHAPTER 491

HOUSE BILL NO. 1150
(Industry, Business and Labor Committee)
(At the request of the Department of Banking and Financial
Institutions)

RETAIL INSTALLMENT CONTRACT PREPAYMENT

AN ACT to amend and reenact subdivision a of subsection 1 of section 51-13-05 of the North Dakota Century Code, relating to prepayment of retail installment contracts.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subdivision a of subsection 1 of section 51-13-05 of the North Dakota Century Code is amended and reenacted as follows:

- a. The refund must be at least the finance charge paid in excess of that computed under the ~~actuarial~~ simple interest method, using the annual percentage rate disclosed under federal law to the nearest one-fourth of one percent.

Approved March 15, 1993
Filed March 16, 1993

CHAPTER 492

HOUSE BILL NO. 1419
(Representatives Maragos, Mahoney, Froseth)
(Senators Maxson, W. Stenehjem)

HOME SOLICITATION SALES EXCEPTIONS

AN ACT to create and enact two new subsections to section 51-18-08 of the North Dakota Century Code, relating to exceptions to home solicitation sales regulations; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Two new subsections to section 51-18-08 of the 1991 Supplement to the North Dakota Century Code are created and enacted as follows:

Sales when the seller provides that the consumer may receive a full refund for the return of undamaged and unused goods if the consumer requests a refund no later than fifteen days after the date the consumer receives the goods and if the seller provides the refund within thirty days after the date the seller receives the returned goods from the consumer. The return and refund privilege must be disclosed to the consumer orally and in writing with delivery of the goods.

Sales when the seller provides that the consumer may receive a full refund for a cancellation of services if the consumer requests a refund no later than fifteen days after the date the consumer receives the services and if the seller provides the refund within thirty days after the consumer cancels the order for the purchase of services not performed or provides a proportional refund for any services not yet performed for the consumer. The return and refund privilege must be disclosed to the consumer orally and in writing with delivery of the services.

SECTION 2. EMERGENCY. This Act is declared to be an emergency measure.

Approved April 1, 1993
Filed April 2, 1993