

2025 HOUSE INDUSTRY, BUSINESS AND LABOR

HB 1378

2025 HOUSE STANDING COMMITTEE MINUTES

Industry, Business and Labor Committee Room JW327C, State Capitol

HB 1378
1/20/2025

A BILL for an Act to create and enact a new chapter to title 6 of the North Dakota Century Code, relating to mandating the payment of interest on escrow accounts for residential mortgages; to provide a penalty; and to provide for application.

9:00 a.m. Chairman Warrey called the meeting to order.

Members Present: Chairman Warrey, Vice Chairman Ostlie, Vice Chairman Johnson, Representatives Bahl, Brown, Christy, Finley-DeVille, Grindberg, Kasper, Koppelman, Ruby, Schatz, Schauer, Vollmer

Discussion Topics:

- Interest paid
- Monthly loan payment
- Mandates interest rate and penalty
- Out-of-state customers
- Association fees
- Institutional services/expense/fees
- Federal loan requirements
- Shortages in escrow accounts
- Notice of closing
- Small Bank financial burden

9:01 a.m. Representative Jorin Johnson, District 41, Fargo, ND, introduced and submitted testimony #30231.

9:09 a.m. Rick Clayburgh, President/CEO, ND Bankers Association, testified in opposition.

9:27 a.m. Alexis Baxley, President of the Independent Bankers Association, testified in opposition.

9:28 a.m. Dave Flohr, Executive Director, ND Housing Finance Agency, testified in opposition and submitted testimony #29948.

9:37 a.m. Lise Kruse, Commissioner, ND Financial Institutions, testified as neutral.

9:41 a.m. Chairman Warrey closed the hearing.

Diane Lillis, Committee Clerk



Testimony of David Flohr
House Industry Business and Labor Committee
HB 1378
January 20, 2025

Chairman Warrey and Members of the Committee,

I am Dave Flohr, Executive Director of the North Dakota Housing Finance Agency (NDHFA) testifying in opposition to HB 1378. NDHFA is a state agency that was created by an initiated measure in 1980. We sell mortgage revenue bonds exempt from federal income tax. Private investors purchase these bonds and NDHFA uses the sale proceeds to purchase mortgages from North Dakota private sector mortgage lenders, primarily for first-time homebuyers. NDHFA services the loans (mortgage payments, tax and insurance payments) on behalf of the first-time homebuyers.

NDHFA loans provide benefits to North Dakota homebuyers.

- Lower than market interest rate – in 2024 it was 1.25% below the market creating a **monthly mortgage payment savings of \$180**
- Downpayment assistance provided in 2024 - over \$8 million

As required by federal law, loan servicers are required to pay any shortages or deficiencies in escrow accounts due to increased property insurance or property tax. Servicers must pay these increased costs from their funds and recoup the funds over the next 12 months or longer from the borrower with no interest charge.

HB 1378 would require a loan servicer to pay interest on funds held in escrow accounts at a minimum of 0.5%. As a state agency NDHFA deposits funds at the Bank of North Dakota which currently pays 0.25%. This would result in additional cost to NDHFA beyond the amounts paid out as described above for shortages or deficiencies in an escrow account.

Also, there would be added administrative costs for adding notices and reports to the escrow account process as described in the bill. The bill also requires disclosure of this process (including the opt out provision) in a loan agreement that would need to be done at loan closing with a separate document adding to the recording costs for the borrower.

NDHFA already provides significant savings to North Dakota homebuyers and respectfully requests HB 1378 be given a do not pass by this committee. Thank you.



North Dakota House of Representatives

STATE CAPITOL
600 EAST BOULEVARD
BISMARCK, ND 58505-0360



Representative Jorin Johnson

District 41
1002 28th Street South, Suite C
Fargo, ND 58103-8736

jjohnson@ndlegis.gov

COMMITTEES:

Industry, Business and Labor
Government and Veterans Affairs

Good morning Chairman Warrey and fellow members of IBL. For the record, my name is Jorin Johnson, Representative of District 41 in S Fargo.

I'm here today to present House Bill 1378, to correct the inequity of homeowners providing interest free money to financial institutions via escrow accounts by requiring the interest earned be credited to the borrower.

You'll see on page 1, line 11 - "escrow account" means an account held by a lender or servicer used to collect and hold funds for the payment of property taxes, homeowner's insurance, and other related expenses associated with a residential mortgage.

Let's consider a 30-year \$100,000 mortgage at 7% for illustrative purposes. Anyone can do this with a quick internet search. Total interest paid is \$139,508; Total amount paid is \$239,508; monthly payment is \$665. Now that's just the loan. Let's say property taxes plus home insurance totals \$2,000/12 = \$166/month. Added to the monthly loan payment of \$665 = \$831 as the total monthly payment for the borrower. The bank sets aside the \$166 month to accumulate for the year and then pays the tax and insurance due at the end of the year. The lender has had use of the borrower's money throughout each one-year term.

In this example, a savings account paying $\frac{1}{2}$ of 1% would net just under \$6/year.

Given this is a home loan, many covering 30 years, a small number multiplied by a large number applies. Additionally, should the borrower elect to apply funds to the loan, the net effect would be to reduce the length of the loan.

This is made possible by allowing borrowers to earn interest from the funds provided for escrowing home mortgages.

Thank you for your time and consideration. I'll stand for any questions.

2025 HOUSE STANDING COMMITTEE MINUTES

Industry, Business and Labor Committee Room JW327C, State Capitol

HB1378
1/28/2025

A BILL for an Act to create and enact a new chapter to title 6 of the North Dakota Century Code, relating to mandating the payment of interest on escrow accounts for residential mortgages; to provide a penalty; and to provide for application.

9:30 a.m. Chairman Warrey opened the meeting.

Members Present: Chairman Warrey, Vice Chairman Ostlie, Vice Chairman Johnson, Representatives Bahl, Brown, Christy, Finley-DeVillie, Grindberg, Johnson, Kasper, Koppelman, D. Ruby, Schatz, Schauer, Vollmer

Member Absent: Representative Christy

Discussion Topics:

- Residential mortgages
- Escrow penalty
- Over charge escrow
- Interest in escrow accounts
- 15 States requirement
- Housing Finance

9:30 a.m. Representative Johnson proposed an amendment, testimony #32236.

9:38 a.m. Representative Ruby moved to adopt the amendment LC #25.1015.01002, #32236.

9:38 a.m. Representative Kasper seconded the motion.

Voice Vote.

Motion passed.

9:39 a.m. Representative Koppelman moved a Do Pass as amended.

9:39 a.m. Representative Kasper seconded the motion.

9:44 a.m. Representative Koppelman withdrew his motion.

9:44 a.m. Representative Koppelman moved a further amendment to exclude the ND Housing Finance Agency.

9:44 a.m. Representative D. Ruby seconded the motion.

Voice Vote

Motion passed.

9:46 a.m. Representative Bahl moved Do Pass as amended.

9:46 a.m. Representative Koppelman seconded the motion.

| Representatives | Vote |
|------------------------------------|-------------|
| Representative Jonathan Warrey | Y |
| Representative Mitch Ostlie | Y |
| Representative Landon Bahl | Y |
| Representative Collette Brown | Y |
| Representative Josh Christy | AB |
| Representative Lisa Finley-DeVille | Y |
| Representative Karen Grindberg | Y |
| Representative Jorin Johnson | Y |
| Representative Jim Kasper | Y |
| Representative Ben Koppelman | Y |
| Representative Dan Ruby | Y |
| Representative Mike Schatz | N |
| Representative Austin Schauer | Y |
| Representative Daniel R. Vollmer | N |

Motion passed 11-2-1.

9:51 a.m. Representative Johnson will carry the bill.

9:51 a.m. Chairman Warrey closed the hearing.

Diane Lillis, Committee Clerk

January 28, 2025

Sixty-ninth
Legislative Assembly
of North Dakota

PROPOSED AMENDMENTS TO

HOUSE BILL NO. 1378

Introduced by

Representative J. Johnson

JBJ 1-28-25
(alt 5)

1 A BILL ~~for an Act to create and enact a new chapter to title 6 of the North Dakota Century Code,~~
2 ~~relating to mandating the payment of interest on escrow accounts for residential mortgages; to~~
3 ~~provide a penalty; and to provide for application.~~ for an Act to create and enact three new
4 sections to chapter 47-10.2 of the North Dakota Century Code, relating to the payment of
5 interest on escrow accounts for residential mortgages; to amend and reenact section
6 47-10.2-01 of the North Dakota Century Code, relating to definitions for escrow accounts; to
7 provide a penalty; and to provide for application.

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

9 ~~— **SECTION 1.** A new chapter to title 6 of the North Dakota Century Code is created and~~
10 ~~enacted as follows:~~

11 ~~— **Definitions.**~~

12 ~~— 1. "Borrower" means a person that holds a residential mortgage loan and has an escrow~~
13 ~~account with a lender for the purpose of paying property taxes, insurance, or other~~
14 ~~related expenses.~~

15 ~~— 2. "Escrow account" means an account held by a lender or servicer used to collect and~~
16 ~~hold funds for the payment of property taxes, homeowner's insurance, and other~~
17 ~~related expenses associated with a residential mortgage.~~

18 ~~— 3. "Escrow funds" means money placed into an escrow account by a borrower for the~~
19 ~~payment of obligations such as property taxes, homeowner's insurance, and other~~
20 ~~expenses associated with home ownership.~~

Jan 2015

1 — ~~4. "Interest rate" means the percentage rate paid by the lender on funds held in escrow~~
2 ~~accounts.~~

3 — ~~5. "Lender" means a bank, mortgage company, or other financial institution that services~~
4 ~~residential mortgage loans and holds escrow accounts. A lender shall pay interest on~~
5 ~~funds held in an escrow account that maintains a minimum average balance of five~~
6 ~~hundred dollars. The escrow account must have been in existence for a minimum of~~
7 ~~three months before the interest may be credited. Only active accounts are eligible for~~
8 ~~accumulation of interest.~~

9 — **Determining the acceptable interest rate.**

10 — ~~1. The interest rate paid on escrow funds must be based on prevailing market rates for a~~
11 ~~saving or similar deposit account. At minimum, all interest paid under this chapter must~~
12 ~~be set at one-half percent annually. If the lender adjusts the interest rate, the change~~
13 ~~must be consistent with changes in market rates for comparable deposit products. A~~
14 ~~rate change may not disproportionately favor the lender. An adjustment to the interest~~
15 ~~rate must be communicated to the borrower at least thirty days before the new rate is~~
16 ~~applied.~~

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

22 — **Compliance and enforcement – Penalty.**

23 — ~~1. The department of financial institutions shall enforce this chapter.~~

24 — ~~2. A lender holding an escrow account shall submit an annual report to the department~~
25 ~~detailing the amount of interest credited to escrow accounts, including information on~~
26 ~~the rates applied and the number of borrowers affected.~~

27 — ~~3. A lender that fails to pay interest on eligible escrow accounts is subject to a civil~~
28 ~~penalty determined by the department and suspension of business operations within~~
29 ~~the state until compliance is achieved.~~

JB 305

1 ~~4. If a lender fails to credit interest to an escrow account, the borrower is entitled to~~
2 ~~receive the unpaid interest, plus an additional penalty interest rate, not to exceed ten~~
3 ~~percent of the unpaid interest, for each year of nonpayment.~~

4 ~~**Disclosure -- Opt-out.**~~

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

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

10 ~~**SECTION 2. APPLICATION.** This Act applies to an escrow account created after the~~
11 ~~effective date of this Act. For an existing escrow account, interest payments required by this Act~~
12 ~~must begin on January 1, 2026.~~

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

15 **47-10.2-01. Definitions.**

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

18 1. "Borrower" means the obligor under a residential mortgage held by a mortgagee.

19 2. "Escrow account" means an account held by a lender or servicer used to collect and
20 hold funds for the payment of property taxes, homeowner's insurance, and other
21 related expenses associated with a residential mortgage.

1 3. "Escrow funds" means money placed into an escrow account by a borrower for the
2 payment of obligations such as property taxes, homeowner's insurance, and other
3 expenses associated with home ownership.

4 4. "Interest rate" means the percentage rate paid by the lender on funds held in escrow
5 accounts.

6 5. "Lender" means a bank, mortgage company, credit union, or other financial institution
7 that services residential mortgage loans and holds escrow accounts. The term does
8 not include North Dakota housing finance agency.

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

7/2/15 4:05

1 **3.7.** "Surplus amount" means from the annual escrow account analysis, any amount
2 greater than or equal to fifty dollars, excluding any escrow cushion required by the
3 servicer.

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

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

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

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

13 **Determining the acceptable interest rate.**

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

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

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

26 **Disclosure - Opt-out.**

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

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

Am 585

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

**REPORT OF STANDING COMMITTEE
HB 1378**

Industry, Business and Labor Committee (Rep. Warrey, Chairman) recommends **AMENDMENTS** ([25.1015.01005](#)) and when so amended, recommends **DO PASS** (11 YEAS, 2 NAYS, 1 ABSENT AND NOT VOTING). HB 1378 was placed on the Sixth order on the calendar.

25.1015.01002
Title.

Prepared by the Legislative Council
staff for Representative J. Johnson
January 25, 2025

Sixty-ninth
Legislative Assembly
of North Dakota

PROPOSED AMENDMENTS TO

HOUSE BILL NO. 1378

Introduced by

Representative J. Johnson

1 A BILL ~~for an Act to create and enact a new chapter to title 6 of the North Dakota Century Code,~~
2 ~~relating to mandating the payment of interest on escrow accounts for residential mortgages; to~~
3 ~~provide a penalty; and to provide for application.~~ for an Act to create and enact three new
4 sections to chapter 47-10.2 of the North Dakota Century Code, relating to the payment of
5 interest on escrow accounts for residential mortgages; to amend and reenact section
6 47-10.2-01 of the North Dakota Century Code, relating to definitions for escrow accounts; to
7 provide a penalty; and to provide for application.

8 BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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13 ~~account with a lender for the purpose of paying property taxes, insurance, or other~~
14 ~~related expenses.~~
15 ~~— 2. "Escrow account" means an account held by a lender or servicer used to collect and~~
16 ~~hold funds for the payment of property taxes, homeowner's insurance, and other~~
17 ~~related expenses associated with a residential mortgage.~~
18 ~~— 3. "Escrow funds" means money placed into an escrow account by a borrower for the~~
19 ~~payment of obligations such as property taxes, homeowner's insurance, and other~~
20 ~~expenses associated with home ownership.~~

1 ~~4. "Interest rate" means the percentage rate paid by the lender on funds held in escrow~~
2 ~~accounts.~~

3 ~~5. "Lender" means a bank, mortgage company, or other financial institution that services~~
4 ~~residential mortgage loans and holds escrow accounts. A lender shall pay interest on~~
5 ~~funds held in an escrow account that maintains a minimum average balance of five~~
6 ~~hundred dollars. The escrow account must have been in existence for a minimum of~~
7 ~~three months before the interest may be credited. Only active accounts are eligible for~~
8 ~~accumulation of interest.~~

9 ~~— Determining the acceptable interest rate.~~

10 ~~1. The interest rate paid on escrow funds must be based on prevailing market rates for a~~
11 ~~saving or similar deposit account. At minimum, all interest paid under this chapter must~~
12 ~~be set at one-half percent annually. If the lender adjusts the interest rate, the change~~
13 ~~must be consistent with changes in market rates for comparable deposit products. A~~
14 ~~rate change may not disproportionately favor the lender. An adjustment to the interest~~
15 ~~rate must be communicated to the borrower at least thirty days before the new rate is~~
16 ~~applied.~~

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

22 ~~— Compliance and enforcement – Penalty.~~

23 ~~1. The department of financial institutions shall enforce this chapter.~~

24 ~~2. A lender holding an escrow account shall submit an annual report to the department~~
25 ~~detailing the amount of interest credited to escrow accounts, including information on~~
26 ~~the rates applied and the number of borrowers affected.~~

27 ~~3. A lender that fails to pay interest on eligible escrow accounts is subject to a civil~~
28 ~~penalty determined by the department and suspension of business operations within~~
29 ~~the state until compliance is achieved.~~

~~4. If a lender fails to credit interest to an escrow account, the borrower is entitled to receive the unpaid interest, plus an additional penalty interest rate, not to exceed ten percent of the unpaid interest, for each year of nonpayment.~~

~~**Disclosure -- Opt-out.**~~

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

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

~~**SECTION 2. APPLICATION.** This Act applies to an escrow account created after the effective date of this Act. For an existing escrow account, interest payments required by this Act must begin on January 1, 2026.~~

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

47-10.2-01. Definitions.

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

1. "Borrower" means the obligor under a residential mortgage held by a mortgagee.
2. "Escrow account" means an account held by a lender or servicer used to collect and hold funds for the payment of property taxes, homeowner's insurance, and other related expenses associated with a residential mortgage.
3. "Escrow funds" means money placed into an escrow account by a borrower for the payment of obligations such as property taxes, homeowner's insurance, and other expenses associated with home ownership.
4. "Interest rate" means the percentage rate paid by the lender on funds held in escrow accounts.
5. "Lender" means a bank, mortgage company, credit union, or other financial institution that services residential mortgage loans and holds escrow accounts.
6. "Servicer" means a person or entity maintaining an escrow account for a residential mortgagee.

1 ~~3-7.~~ "Surplus amount" means from the annual escrow account analysis, any amount
2 greater than or equal to fifty dollars, excluding any escrow cushion required by the
3 servicer.

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

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

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

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

13 **Determining the acceptable interest rate.**

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

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

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

26 **Disclosure - Opt-out.**

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

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

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