

HOUSE BILL NO. 1213

Introduced by

Representatives Clark, Herbel

Senator Watne

1 A BILL for an Act to create and enact two new sections to chapter 26.1-26.6 of the North
2 Dakota Century Code, relating to the bail bond forfeiture and exoneration; and to amend and
3 reenact sections 26.1-26.6-08 and 26.1-26.6-09 of the North Dakota Century Code, relating to
4 fees for bail bondsmen and bail bond forfeiture.

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

6 **SECTION 1. AMENDMENT.** Section 26.1-26.6-08 of the North Dakota Century Code
7 is amended and reenacted as follows:

8 **26.1-26.6-08. Maximum commission or fee.** A professional bondsman may not
9 charge a premium; or commission; or fee in an amount more than ~~ten~~ fifteen percent of the
10 amount of bail furnished by the bondsman, or ~~fifty~~ seventy-five dollars, whichever is greater.
11 Reasonable additional fees may be assessed for incidental expenses including long-distance
12 telephone calls, mileage, and the handling of collateral.

13 **SECTION 2.** A new section to chapter 26.1-26.6 of the North Dakota Century Code is
14 created and enacted as follows:

15 **Forfeiture of indemnitor's collateral.** The forfeiture of collateral for breach of contract
16 may be a term of the contract entered by the indemnitor at the time the bond is posted.

17 **SECTION 3. AMENDMENT.** Section 26.1-26.6-09 of the North Dakota Century Code
18 is amended and reenacted as follows:

19 **26.1-26.6-09. Failure to appear.** If a defendant fails to appear for a scheduled court
20 appearance, the clerk of court ~~will~~ shall notify the bondsman within five business days. A
21 failure to notify the bondsman within the five business days exonerates the bond. The
22 bondsman must be provided a period of not less than ninety days to locate and surrender the
23 defendant before forfeiture of the bond. After ninety days, forfeiture is at the discretion of the
24 court; however, the bondsman may petition for a continuance. The consideration of a

1 continuance must be based on the amount of effort and time the bondsman has exerted in the
2 apprehension of the defendant and the progress made. If the bondsman returns the defendant
3 to the jurisdiction of the court, the bondsman may petition the court for a return of the forfeiture,
4 less five percent for court costs. If the defendant is found in the custody of another jurisdiction,
5 the court shall continue the bond until the release of the defendant from custody, allowing
6 reasonable time to transport the defendant back to the proper authorities, at the bondsman's
7 expense, or the court may exonerate the bond. The bonding agency may transport the
8 defendant from the detaining facility to the facility from which the defendant was bonded upon
9 completion of the defendant's sentence and the presentation of the bond to authorities.

10 **SECTION 4.** A new section to chapter 26.1-26.6 of the North Dakota Century Code is
11 created and enacted as follows:

12 **Exoneration of bail bond.** A bail bond is exonerated with the dismissal of charges, a
13 finding of guilty, a plea of guilty, a finding of not guilty, or the return of the defendant to custody.
14 Continuance of the bond during the presentencing stage may be accomplished with the
15 notification and written approval of the bondsman. Written notification of an exoneration must
16 be provided to the bonding agency by mail within a period of not more than two weeks.