

SENATE BILL NO. 2416

Introduced by

Senator Kelsh

1 A BILL for an Act to amend and reenact sections 65-04-26 and 65-04-26.1 of the North Dakota
2 Century Code, relating to discharge in bankruptcy of workers' compensation premiums and
3 penalties.

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

5 **SECTION 1. AMENDMENT.** Section 65-04-26 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **65-04-26. Lien priority and filing - Remedies available in action for delinquent**
8 **premiums - Exemptions restricted.** The claim of the bureau in ~~bankruptcy~~, probate,
9 insolvency, and receivership proceedings for premiums in default and penalties is a lien with the
10 same priority as prior income tax liens, except that this lien is not enforceable against a
11 purchaser (including a lien creditor) of real estate or personal property for valuable
12 consideration without notice. Notice of this lien must be filed in the place and manner provided
13 for in section 57-38-49. A certificate of the bureau that premiums and penalties are due for the
14 period stated in the certificate is prima facie evidence of this fact. In any action brought for the
15 recovery of premiums in default and penalties, the remedies of garnishment or attachment, or
16 both, are available. No exemptions except absolute exemptions under section 28-22-02 may
17 be allowed against any levy under execution pursuant to judgment recovered in the action.

18 **SECTION 2. AMENDMENT.** Section 65-04-26.1 of the North Dakota Century Code is
19 amended and reenacted as follows:

20 **65-04-26.1. Corporate officer personal liability.**

21 1. An officer or director of a corporation, or manager or governor of a limited liability
22 company, or employee of a corporation or limited liability company having twenty
23 percent stock ownership who has control of or supervision over the filing of and
24 responsibility for filing premium reports or making payment of premiums or

- 1 reimbursements under this title and who fails to file the reports or to make
2 payments as required, is personally liable for premiums under this chapter and
3 reimbursement under section 65-05-07.2, including interest, penalties, and costs if
4 the corporation or limited liability company does not pay to the bureau those
5 amounts for which the corporation or limited liability company is liable.
- 6 2. The personal liability of any person as provided in this section survives dissolution,
7 reorganization, ~~bankruptcy~~, receivership, or assignment for the benefit of creditors.
8 For the purposes of this section, all wages paid by the corporation or limited liability
9 company must be considered earned from any person determined to be personally
10 liable.
- 11 3. After review of the evidence in the employer's file, the bureau shall determine
12 personal liability under this section. The bureau shall provide, by registered mail,
13 notice of liability to a person determined to be personally liable under this section.
14 A person determined to be liable may request reconsideration or rehearing by the
15 bureau of that determination. The bureau's determination of personal liability is
16 final and is not reviewable in any court unless the person requests reconsideration
17 or rehearing of the determination. The request must be in writing and must be
18 served on the bureau within thirty days from the date of mailing of the notice.
19 Thereafter, a hearing must be held pursuant to chapter 28-32.