

**Fifty-seventh Legislative Assembly of North Dakota  
In Regular Session Commencing Tuesday, January 9, 2001**

SENATE BILL NO. 2190  
(Senators Krebsbach, Watne)  
(Representative Keiser)

AN ACT to amend and reenact subsections 2 and 4 of section 6-08-16 and subsections 4 and 6 of section 6-08-16.2 of the North Dakota Century Code, relating to issuing a check or draft without sufficient funds or account and notice of dishonor.

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

**SECTION 1. AMENDMENT.** Subsections 2 and 4 of section 6-08-16 of the 1999 Supplement to the North Dakota Century Code are amended and reenacted as follows:

2. The grade of an offense under this section may be determined by individual or aggregate totals of insufficient funds checks, drafts, electronic funds transfer authorizations, or orders. The person is also liable for collection fees or costs, not in excess of ~~twenty~~ twenty-five dollars, which are recoverable by ~~civil action~~ by the holder, or its agent or representative, of the check, draft, electronic funds transfer authorization, or order. A collection agency shall reimburse the original holder of the check, draft, electronic funds transfer authorization, or order any additional charges assessed by the depository bank of the check, draft, electronic funds transfer authorization, or order not in excess of two dollars if recovered by the collection agency. A civil penalty is also recoverable by civil action by the holder, or its agent or representative, of the check, draft, electronic funds transfer authorization, or order. The civil penalty consists of payment to the holder, or its agent or representative, of the instrument of the lesser of one hundred dollars or three times the amount of the instrument. The court may order an individual convicted under this section to undergo an evaluation by a licensed gaming, alcohol, or drug addiction counselor.
  
4. A notice of dishonor may be mailed by the holder, or the holder's agent or representative, of the check upon dishonor. Proof of mailing may be made by return receipt or by an affidavit of mailing signed by the individual making the mailing. The notice must be in substantially the following form:

Notice of Dishonored Check

Date \_\_\_\_\_  
Name of Issuer \_\_\_\_\_  
Street Address \_\_\_\_\_  
City and State \_\_\_\_\_  
You are according to law notified that a check dated \_\_\_\_\_,  
\_\_\_\_\_, drawn on the \_\_\_\_\_ Bank  
of \_\_\_\_\_ in the amount of \_\_\_\_\_ has been returned  
unpaid with the notation the payment has been refused because of  
nonsufficient funds. Within ten days from the receipt of this  
notice, you must pay or tender to \_\_\_\_\_  
(Holder or Agent or Representative)  
sufficient moneys to pay such instrument in full and any collection  
fees or costs not in excess of ~~twenty~~ twenty-five dollars.

The notice of dishonor also may contain a recital of the penal provisions of this section and the possibility of a civil action to recover any collection fees or costs or civil penalty authorized by this section.

**SECTION 2. AMENDMENT.** Subsections 4 and 6 of section 6-08-16.2 of the 1999 Supplement to the North Dakota Century Code are amended and reenacted as follows:

4. A person who issues an instrument under subsection 2 or 3 also is liable for collection fees or costs, not in excess of ~~twenty~~ twenty-five dollars per instrument, which are recoverable by ~~civil action~~ by the holder of the instrument, or the holder's agent or representative. A civil penalty is also recoverable by civil action by the holder, or its agent or representative, of the instrument. The civil penalty consists of payment to the holder of the instrument of the lesser of one hundred dollars or three times the amount of the instrument.
6. A notice of dishonor may be mailed by the holder, or the holder's agent or representative, of the instrument upon dishonor. Proof of mailing may be made by return receipt or by an affidavit of mailing signed by the individual making the mailing. The notice must be in substantially the following form:

Notice of Dishonored Instrument

Date \_\_\_\_\_  
Name of Issuer \_\_\_\_\_  
Street Address \_\_\_\_\_  
City and State \_\_\_\_\_  
You are according to law notified that an instrument dated \_\_\_\_\_,  
\_\_\_\_\_, drawn on the \_\_\_\_\_ Bank of  
\_\_\_\_\_ in the amount of \_\_\_\_\_ has been  
returned unpaid with the notation the payment has been refused  
because (of nonsufficient funds) (the drawer does not have an  
account). Within ten days from the receipt of this notice,  
you must pay or tender to \_\_\_\_\_  
(Holder)  
sufficient moneys to pay such instrument in full and any collection  
fees or costs not in excess of ~~twenty~~ twenty-five dollars.

The notice may also contain a recital of the penal provisions of this section and the possibility of a civil action to recover any collection fees or costs authorized by this section.

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Speaker of the House

\_\_\_\_\_  
Secretary of the Senate

\_\_\_\_\_  
Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Fifty-seventh Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2190.

Senate Vote:    Yeas    45        Nays    4        Absent    0

House Vote:    Yeas    71        Nays    27       Absent    0

\_\_\_\_\_  
Secretary of the Senate

Received by the Governor at \_\_\_\_\_ M. on \_\_\_\_\_, 2001.

Approved at \_\_\_\_\_ M. on \_\_\_\_\_, 2001.

\_\_\_\_\_  
Governor

Filed in this office this \_\_\_\_\_ day of \_\_\_\_\_, 2001,  
at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Secretary of State