

**Fifty-ninth Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 4, 2005**

HOUSE BILL NO. 1127
(Industry, Business and Labor Committee)
(At the request of the Department of Financial Institutions)

AN ACT to amend and reenact subsection 2 of section 13-03.1-06, subsection 2 of section 13-03.1-07, sections 13-03.1-07.1, 13-04.1-03, 13-04.1-04, and 13-04.1-05, subsection 3 of section 13-05-03, sections 13-05-05, 13-08-03, and 13-08-09, and subsection 12 of section 13-08-12 of the North Dakota Century Code, relating to consumer finance, money broker and collection agency licensee requirements and fees, and deferred presentment service provider licensee requirements, fees, and renewal applications.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 2 of section 13-03.1-06 of the North Dakota Century Code is amended and reenacted as follows:

2. The administrator shall issue a license to operate a consumer finance loan business if the administrator finds:
 - a. That the financial responsibility, financial condition, business experience, character, and general fitness of the applicant must reasonably warrant the belief that the business will be conducted lawfully and fairly. In determining whether this qualification is met and for the purpose of investigating compliance with this chapter, the administrator may review and consider the relevant business records and the capital adequacy of the applicant and the competence, experience, integrity, and financial ability of any person who is a member, partner, director, officer, or twenty-five percent or more shareholder of the applicant, and whether the applicant has filed the appropriate registration with the North Dakota secretary of state if so required; and
 - b. That the applicant has ~~assets~~ a net worth of at least twenty-five thousand dollars for the operation of the business.

SECTION 2. AMENDMENT. Subsection 2 of section 13-03.1-07 of the North Dakota Century Code is amended and reenacted as follows:

2. Each license must remain in effect until surrendered, revoked, or suspended; provided, that on or before the ~~tenth~~ first day of June of each year the licensee shall pay to the administrator the annual license fee for each license held, as a license fee for the succeeding fiscal year.

SECTION 3. AMENDMENT. Section 13-03.1-07.1 of the North Dakota Century Code is amended and reenacted as follows:

13-03.1-07.1. Expiration and renewal of license. All licenses required herein expire on June thirtieth of each year and may be renewed. Renewals are effective the succeeding July first. Applications for renewal must be submitted thirty days before the expiration of the license and must be accompanied by the required annual fees, which are not subject to refund. The form and content of renewal applications must be determined by the department of financial institutions and a renewal application may be denied upon the same grounds as would justify the denial of an initial application. When a licensee has been delinquent in renewing the licensee's license, the department may charge an additional fee of fifty dollars for the renewal of the license. A consumer finance license is not transferable. If the commissioner determines that an ownership change has occurred in a sole

proprietorship, partnership, limited liability partnership, corporation, or limited liability corporation that was previously granted a consumer finance license, the commissioner may require a new application from the purchaser. The application must be filed within forty-five days from the date change of ownership is consummated. The department shall act on the application within sixty days from the date the application is received but may extend the review period for good cause. The consumer finance license granted to the previous owner continues in effect to the new purchaser until the application is either granted or denied.

SECTION 4. AMENDMENT. Section 13-04.1-03 of the North Dakota Century Code is amended and reenacted as follows:

13-04.1-03. Application for money broker license. Every application for a money broker license, or for a renewal thereof, must be made upon forms designed and furnished by the department of financial institutions and must contain any information which the department shall deem necessary and proper. The department may further require any application to provide additional information which is not requested on the application form. The applicant must register with the North Dakota secretary of state if so required.

SECTION 5. AMENDMENT. Section 13-04.1-04 of the North Dakota Century Code is amended and reenacted as follows:

13-04.1-04. Fee and bond to accompany application for money broker license. The application for license must be in writing, under oath, and in the form prescribed by the commissioner. The application must give the location where the business is to be conducted and must contain any further information the commissioner requires, including the names and addresses of the partners, officers, directors, trustees, and the principal owners or members, as will provide the basis for the investigation and findings contemplated by section 13-04.1-03. At the time of making such application, the applicant shall include payment in the sum of four hundred dollars, which is not subject to refund, as a fee for investigating the application, and the sum of three hundred dollars for the annual license fee, and provide a surety bond in the sum of twenty-five thousand dollars. In addition, the applicant must pay a fifty dollar annual fee for each branch location within the state. Fees must be deposited in the financial institutions regulatory fund.

SECTION 6. AMENDMENT. Section 13-04.1-05 of the North Dakota Century Code is amended and reenacted as follows:

13-04.1-05. Expiration and renewal of license. All licenses required herein expire on June thirtieth of each year and may be renewed. Renewals are effective the succeeding July first. Applications for renewal must be submitted thirty days before the expiration of the license and must be accompanied by the required annual fees, which are not subject to refund. The form and content of renewal applications must be determined by the department of financial institutions, and a renewal application may be denied upon the same grounds as would justify denial of an initial application. When a licensee has been delinquent in renewing the licensee's license, the department may charge an additional fee of fifty dollars for the renewal of such license. A money broker license is not transferable. If the commissioner determines that an ownership change has occurred in a sole proprietorship, partnership, limited liability partnership, corporation, or limited liability corporation that was previously granted a money broker license, the commissioner may require a new application from the purchaser. The application must be filed within forty-five days from the date change of ownership is consummated. The department shall act on the application within sixty days from the date the application is received but may extend the review period for good cause. The money broker license granted to the previous owner continues in effect to the new purchaser until the application is either granted or denied.

SECTION 7. AMENDMENT. Subsection 3 of section 13-05-03 of the North Dakota Century Code is amended and reenacted as follows:

3. The names and addresses of the applicant and those associated with the applicant. If the applicant is a corporation, the application must contain the names of the officers of the

corporation. If the applicant is a limited liability company, the application must contain the names of the managers of the limited liability company. The applicant must register with the North Dakota secretary of state if so required.

SECTION 8. AMENDMENT. Section 13-05-05 of the North Dakota Century Code is amended and reenacted as follows:

13-05-05. Expiration and renewal of license. All licenses required herein expire on June thirtieth of each year and may be renewed. Applications for renewal must be submitted thirty days before the expiration of the license and must be accompanied by the required annual fees, which are not subject to refund. The form and content of renewal applications must be determined by the department of financial institutions and a renewal application may be denied upon the same grounds as would justify denial of an initial application. When a licensee has been delinquent in renewing the licensee's license, the department may charge an additional fee of fifty dollars for the renewal of the license. A collection agency license is not transferable. If the commissioner determines that an ownership change has occurred in a sole proprietorship, partnership, limited liability partnership, corporation, or limited liability corporation that was previously granted a collection agency license, the commissioner may require a new application from the purchaser. The application must be filed within forty-five days from the date change of ownership is consummated. The department shall act on the application within sixty days from the date the application is received but may extend the review period for good cause. The collection agency license granted to the previous owner continues in effect to the new purchaser until the application is either granted or denied.

SECTION 9. AMENDMENT. Section 13-08-03 of the North Dakota Century Code is amended and reenacted as follows:

13-08-03. Qualifications for license. To qualify for a license, an applicant shall satisfy the following requirements:

1. Each applicant shall maintain ~~unencumbered assets~~ a net worth of at least twenty-five thousand dollars per licensed location, determined in accordance with generally accepted accounting principles.
2. The financial responsibility, financial condition, business experience, character, and general fitness of the applicant must reasonably warrant the belief that the applicant's business will be conducted lawfully and fairly. In determining whether this qualification is met and for the purpose of investigating compliance with this chapter, the commissioner may review and consider the relevant business records and the capital adequacy of the applicant and the competence, experience, integrity, and financial ability of any person who is a member, partner, director, officer, or twenty-five percent or more shareholder of the applicant, and whether the applicant has filed the appropriate registration with the North Dakota secretary of state, if so required.
3. Each applicant shall establish that neither the applicant nor any principal of the applicant has been convicted of a felony. A deferred sentence or federal pretrial diversion must be considered a conviction for purposes of this section.
4. Each applicant shall maintain a bond issued by a surety company authorized to do business in this state, in the amount of twenty thousand dollars, and the commissioner may require a larger bond if the commissioner determines the larger bond is necessary based on the volume of the applicant's business.

SECTION 10. AMENDMENT. Section 13-08-09 of the North Dakota Century Code is amended and reenacted as follows:

13-08-09. Expiration of license - Renewal. Licenses issued under this chapter expire as of ~~July first~~ June thirtieth of each year. A license may be renewed for the ensuing twelve-month period upon application ~~by the licensee establishing continued compliance with the requirements of this~~

~~chapter~~ and the payment to the commissioner of the annual license fee, which is not subject to refund, before ~~July~~ June first of each year. The form and content of renewal applications must be determined by the department of financial institutions and a renewal application may be denied upon the same grounds as would justify denial of an initial application. When a licensee has been delinquent in renewing the licensee's license, the department may charge an additional fee of fifty dollars for the renewal of such license.

SECTION 11. AMENDMENT. Subsection 12 of section 13-08-12 of the North Dakota Century Code is amended and reenacted as follows:

12. A licensee may not renew a deferred presentment service transaction more than once. A licensee's renewal fee may not exceed twenty percent of the amount being renewed. The renewal fee must be paid in cash, money order, or cashier's check. The total period of deferral, including the initial deferral and one renewal, may not exceed forty-five days. An individual renewal period may not be less than fifteen days. After forty-five days the renewed deferred presentment check must be paid off in cash, money order, or ~~certified~~ cashier's check by the maker or must be deposited by the licensee.

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Fifty-ninth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1127.

House Vote: Yeas 91 Nays 0 Absent 3

Senate Vote: Yeas 45 Nays 0 Absent 2

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 2005.

Approved at _____ M. on _____, 2005.

Governor

Filed in this office this _____ day of _____, 2005,

at _____ o'clock _____ M.

Secretary of State