

Sixty-fifth
Legislative Assembly
of North Dakota

ENGROSSED SENATE BILL NO. 2276

Introduced by

Senators Wardner, Armstrong

1 A BILL for an Act to amend and reenact subsection 7 of section 10-33-21, section 10-33-100,
2 and subsection 4 of section 10-33-108, ~~and section 29-27-02~~ of the North Dakota Century
3 Code, relating to the prohibition of the diversion of restricted assets, and the priority of those
4 assets in a dissolution, ~~and judgments imposing fines or assessing costs.~~

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

6 **SECTION 1. AMENDMENT.** Subsection 7 of section 10-33-21 of the North Dakota Century
7 Code is amended and reenacted as follows:

8 7. A corporation may make contracts and incur liabilities, borrow money, issue its
9 securities, and secure any of its obligations by mortgage of or creation of a security
10 interest in all or any of its property, franchises, and income. ~~A corporation may not~~
11 ~~pledge as collateral, grant a security interest in, or borrow from assets received and~~
12 ~~held for a special use or purpose expressed or intended by the original donor.~~All
13 assets received by a corporation from donors for special use or purpose must be
14 designated as temporarily restricted or permanently restricted in accordance with the
15 applicable financial accounting standards board codification and disclosed on the
16 corporation's financial statements. A corporation may pledge as collateral, grant a
17 security interest in, or borrow from assets initially designated as temporarily restricted
18 only for purposes that are in accordance with the donor's restrictions. A corporation
19 may not pledge as collateral, grant a security interest in, or borrow from assets
20 designated as permanently restricted assets.

21 **SECTION 2. AMENDMENT.** Section 10-33-100 of the North Dakota Century Code is
22 amended and reenacted as follows:

1 **10-33-100. Procedure in dissolution.**

- 2 1. When a notice of intent to dissolve has been filed with the secretary of state, the
3 board, or the officers acting under the direction of the board, shall proceed as soon as
4 possible to collect or make provision for the collection of debts owing to the
5 corporation and to pay or make provision for the payment of debts, obligations, and
6 liabilities of the corporation according to their priorities.
- 7 2. Notwithstanding section 10-33-94, when a notice of intent to dissolve has been filed
8 with the secretary of state, the directors may sell, lease, transfer, or otherwise dispose
9 of all or substantially all of the property and assets of a dissolving corporation without
10 a vote of the members, subject to sections 10-33-95 and 10-33-122.
- 11 3. ~~Property, including money, remaining after the discharge of the debts, obligations, and~~
12 ~~liabilities of the corporation~~ must be distributed under section 10-33-105.

13 **SECTION 3. AMENDMENT.** Subsection 4 of section 10-33-108 of the North Dakota
14 Century Code is amended and reenacted as follows:

- 15 4. The assets of the corporation or the proceeds resulting from a sale, lease, transfer, or
16 other disposition must be applied in the following order of priority to the payment and
17 discharge of:
- 18 a. Assets received and held for a special use or purpose must be distributed
19 pursuant to subsection 2 of section 10-33-105;
- 20 b. The costs and expenses of the proceedings, including attorney's fees and
21 disbursements;
- 22 ~~b.c.~~ Debts, taxes, and assessments due the United States, this state and its
23 subdivisions, and other states and their subdivisions, in that order;
- 24 ~~d.e.~~ Claims duly proved and allowed to employees under title 65. Claims under this
25 subdivision may not be allowed if the corporation carried workforce safety and
26 insurance coverage, as provided by law, at the time the injury was sustained;
- 27 ~~d.e.~~ Claims, including the value of all compensation paid in any medium other than
28 money, duly proved and allowed to employees for services performed within
29 three months preceding the appointment of the receiver, if any; and
- 30 e.f. Other claims duly proved and allowed.

1 ~~SECTION 4. AMENDMENT.~~ Section 29-27-02 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 ~~29-27-02. Judgment for fine or costs.~~

4 ~~1.~~ If the judgment mentioned in section 29-27-01 imposes a fine or assesses costs and
5 the judgment has been docketed in the judgment docket by order of the district court,
6 the judgment is enforceable by execution in the same manner as provided for a
7 judgment for money in a civil action.

8 ~~2.~~ If the judgment mentioned in section 29-27-01 imposes a fine or assesses costs and
9 the judgment is by order of the municipal court, the judgment is enforceable by
10 execution in the same manner as provided for a judgment for money in a civil action.