

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 generally accepted accounting principles and disclosed on the corporation's  
16 financial statements. A corporation may pledge as collateral, grant a security interest  
17 in, or borrow from assets initially designated as temporarily restricted only for  
18 purposes that are in accordance with the donor's restrictions. A corporation may not  
19 pledge as collateral, grant a security interest in, or borrow from assets designated as  
20 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.