

HOUSE BILL NO. 1204

Introduced by

Representative Dockter

1 A BILL for an Act to create and enact a new section to chapter 13-05 of the North Dakota
2 Century Code, relating to collection agency payment by credit card; and to amend and reenact
3 section 13-05-01.1 of the North Dakota Century Code, relating to definitions applicable to
4 collection agencies.

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

6 **SECTION 1. AMENDMENT.** Section 13-05-01.1 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 **13-05-01.1. Definitions.**

9 As used in this chapter, unless the context or subject matter otherwise requires:

- 10 1. "Collection agency" means a person ~~or entity who~~that, in the ordinary course of
11 business, engages in debt collection.
- 12 2. "Commissioner" means the commissioner of financial institutions.
- 13 3. "Communication" means the conveyance or receipt of information regarding or
14 facilitating the collection of a debt, directly or indirectly, to or from any person through
15 any medium.
- 16 4. "Credit card payment" means a payment made by a payment card which incurs a
17 credit card interchange fee to the collection agency, regardless of the type of payment
18 card used.
- 19 5. "Creditor" means a person who~~that~~ offers or extends credit creating a debt or to
20 ~~whom~~which a debt is owed, ~~but that~~. The term does not include a person to the extent
21 ~~that~~ that person receives an assignment or transfer of a debt in default solely for the
22 purpose of facilitating collection of that debt.

1 ~~5-6.~~ "Debt" means an obligation or alleged obligation to pay money arising out of a
2 transaction, regardless of whether ~~or not~~ the obligation has been reduced to a
3 judgment.

4 ~~6-7.~~ "Debt collection" means the act of collecting or attempting to collect, directly or
5 indirectly, debts owed or due or asserted to be owed or due another. ~~As used in this~~
6 ~~chapter, this~~The term also includes solicitation of debts for the purpose of collection
7 and accepting assignment of debts for the purpose of collection.

8 ~~7-8.~~ "Insolvent" means the point at which a licensed entity's liabilities exceed the entity's
9 tangible assets. ~~For the purpose of this definition, tangible assets, which~~ only include
10 assets that have a physical existence and are capable of being assigned a value.

11 ~~8-9.~~ "Mortgage servicing company" means a company performing the required duties of a
12 mortgage seller, such as collecting payments, releasing the lien on full payment, and
13 confirming that taxes are paid and insurance is in force.

14 **SECTION 2.** A new section to chapter 13-05 of the North Dakota Century Code is created
15 and enacted as follows:

16 **Credit card payment.**

17 A collection agency may collect or attempt to collect, in addition to the principal amount of a
18 claim, a transaction fee for processing a credit card payment in an amount that does not exceed
19 two and one-half percent of the payment amount if:

- 20 1. The transaction fee is not prohibited under section 13-05-02.2;
21 2. A no-cost payment option is available to the debtor; and
22 3. The collection agency discloses the no-cost option to the debtor at the same time and
23 in the same manner as the debtor's credit card information is taken.