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March 28, 2019

Dear Collection Agency Licensee:

This letter is being addressed to all companies currently licensed as collection agencies by the North Dakota Department of Financial Institutions. The purpose of this letter is to inform you of substantive changes being adopted in 2019 that will have a direct impact on the regulation of collection agencies in North Dakota. Included in these changes are legislative amendments adopted in the 2019 legislative session (Senate Bill 2093 and House Bill 1204). Changes referenced in this letter will take effect on August 1, 2019. As always, the Department strongly recommends that each regulated entity review all laws which are applicable to the areas in which they practice, and if need be, consult a professional that can ensure compliance with both Federal and State law. A full version of Senate Bill 2093 can be reviewed at the following link:

<https://www.legis.nd.gov/assembly/66-2019/documents/19-8053-02000.pdf>

A full version of House Bill 1204 can be reviewed at the following link:

<https://www.legis.nd.gov/assembly/66-2019/documents/19-0543-03000.pdf>

As it relates to collection agencies, the primary statutory change included within Senate Bill 2093 relates to the surety bond requirement. The collection agency surety bond requirement addressed in section 13-05-04.1 of the North Dakota Century Code is in the amount of \$20,000. All surety bonds are currently maintained electronically within NMLS. Effective August 1, 2019, Senate Bill 2093 will raise this amount to \$50,000. Each existing licensee will have until no later than December 31, 2019, to increase their North Dakota bond amount to \$50,000 within NMLS. The December 31, 2019, date corresponds with the annual license renewal within NMLS. **Note:** Contact your surety bond producer to inform them of the change so the producer can initiate the Surety Bond Rider Process in NMLS. Visit the ESB for NMLS Licensees page of the NMLS Resource Center for more information about the Electronic Surety Bond process.

House Bill 1204 adds a definition for “credit card payment” which means a payment made by a payment card which incurs a credit card interchange fee to the collection agency, regardless of the type of payment card used. House Bill 1204 further adds a new section to chapter 13-05 of the North Dakota Century Code stating a collection agency may collect or attempt to collect, in addition to the principal amount of a claim, a transaction fee for processing a credit card payment in an amount that does not exceed two and one-half percent (2.5%) of the payment amount if:

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

Additionally, the Department is extending its license application background check and credit reporting requirements. Effective August 1, 2019, the Department will require all persons meeting the NMLS definition of a control person, as well as branch managers, to complete these requirements. This will not be retroactive and will only apply to new applications and newly appointed individuals to an existing licensee on or after August 1, 2019.

Once again, the purpose of this letter is to address the substantive changes affecting North Dakota collection agencies in 2019. The license checklists within NMLS will be updated on August 1, 2019, to reflect these changes.

Sincerely,

Chris Ludwig
Examination/Investigation Supervisor

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