

N.D.A.G. Letter to Juelson (May 27, 1986)

May 27, 1986

Mr. John A. Juelson
Hillsboro City Attorney
Berg and Juelson
P.O. Box 207
Caledonia Avenue
Hillsboro, ND 58045

Dear Mr. Juelson:

Thank you for your letter of May 9, 1986, inquiring as to the restrictions on a city in assessing a late payment charge on money due on an account. We assume your inquiry concerns a creditor who did not intend to extend any credit beyond thirty (30) days and who did not anticipate the late payment of the obligation.

N.D.C.C. §13-01-14 does provide that creditors may charge, receive, and collect a late payment charge on money due on an account from thirty (30) days after the obligation of the debtor to pay has been incurred. The late payment charge provided for by this statute may not exceed one and three-fourths (1.75) percent per month. Cities are not specifically excepted from this provision.

Prior to July 1, 1985, this statute specifically exempted residential utility bills from its coverage. However, this exception was eliminated by the 1985 Legislative Assembly. 1985 N.D. Sess. Laws 184.

Based upon the clear and unambiguous words of the statute as well as the legislative history surrounding the current status of N.D.C.C. §13-01-14, it is my opinion that a city which assesses a late payment charge on money due on account pursuant to N.D.C.C. §13-01-14 is limited to a late payment charge which may not exceed one and three-fourths (1.75) percent per month.

Sincerely,

Nicholas J. Spaeth

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