

1999 HOUSE INDUSTRY, BUSINESS AND LABOR

HB 1164

1999 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 1164

House Industry, Business, and Labor Committee

Conference Committee

Hearing Date January 11, 1999

Tape Number	Side A	Side B	Meter #
1	x		35-50
Committee Clerk Signature <i>Lisa Horner</i>			

Minutes:

CHAIRMAN BERG OPENED THE HEARING ON HB 1164; A BILL RELATING TO THE HANDLING OF FUNDS BY REAL ESTATE BROKERS.

DENNIS SCHULTZ, Secretary of the North Dakota Real Estate Commission introduced HB 1164.

He appeared to discuss changes to HB 1164. The current statute holds that every broker that maintains a real estate license in the State of North Dakota must maintain a real estate trust account which is simply an account set up by the broker to handle funds not his own that come into his possession. It is not of any value for many of these brokers to maintain these accounts when no money is going into them - yet they are charged a fee and required to keep this account. We have proposed that in thosed instances where they are not actively using the account, that they can apply to the State Commission for an exemption. The second feature references that

only \$100 of the broker's own funds can be held in the accounts to pay the fees. Oftentimes banks are requiring more. We have increased that from \$100 to \$500 to take care of that matter.

REP. JOHNSON questioned the ability to apply for the exemption - is it noted in the bill?

SCHULTZ noted that it is covered in a Rules and Regulations area.

CHAIRMAN BERG mentioned that a lot of earnest money is redirected and he can understand why people would choose not to have these accounts.

REP. GLASSHEIM referred back to REP. JOHNSON to the note of "If you don't have it, you're not required." It seems like if that's what you want, you should say that in the law.

SCHULTZ said that they would have no problem amending it that way.

CLAUSE LEMBKE, Representing the North Dakota Association of Realtors testified in support of HB 1164. He noted that there are 1,100 members statewide that are part of a volunteer trade association. They monitor all the actions of the members and they are very comfortable in supporting the bill.

CHAIRMAN BERG pointed out that the main issue is the section allowing them not to have a trust account.

LEMBKE said that he does agree, but it probably would be wise to make at least a statement in there to accommodate this.

CHAIRMAN BERG further asked that if someone was not going to keep the trust account, that they would need some type of approval.

LEMBKE said yes, otherwise there is no control over it.

CHAIRMAN BERG CLOSED THE HEARING ON HB 1164.

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House Transportation Committee

Bill/Resolution Number Hb 1164

Hearing Date January 11, 1999

GENERAL DISCUSSION TOOK PLACE ABOUT AMENDMENTS TO HB 1164.

CHAIRMAN BERG, REPS. KEISER AND STEFONOWICZ, AND DENNIS SCHULZ

PARTICIPATED.

January 12, 1999

COMMITTEE ACTION

REP. KEISER moved a DO PASS on HB 1164. REP. KLEIN seconded the motion. The motion carried.

ROLL CALL - 13 YEA, 0 NAE, 2 ABSENT AND NOT VOTING

FLOOR ASSIGNMENT - REP. KEISER

1999 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1164 1-12-99

House Industry, Business and Labor Committee

Conference Committee

Hearing Date 1-12-99

Tape Number	Side A	Side B	Meter #
1		x	4106 - 4430
Committee Clerk Signature <i>Lisa Horner</i>			

Minutes: Chairman Berg opened the discussion of HB 1164.

Rep. Keiser made a motion to adopt the amendments.

Rep. Klein second the motion.

The voice vote was 15 yea. 0 nay, the motion carries.

Rep. Keiser made a motion for a Do pass as Amended.

Rep. Klein second the motion.

The roll call was 13 yea, 0 nay, 2 absent, the motion carries.

Rep. Keiser will carry the bill.

PROPOSED AMENDMENTS TO HB 1164

Page 2, line 2, after “account” insert “if the broker applies for and receives a waiver from the real estate commission”

Renumber accordingly

Date: 1-12-99  
 Roll Call Vote #: 1

**1999 HOUSE STANDING COMMITTEE ROLL CALL VOTES**  
**BILL/RESOLUTION NO. 1164**

House Industry, Business and Labor Committee

Subcommittee on \_\_\_\_\_  
 or  
 Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken do pass

Motion Made By Keiser Seconded By Klein

Representatives	Yes	No	Representatives	Yes	No
Chair - Berg	/		Rep. Thorpe		
Vice Chair - Kempenich	/				
Rep. Brekke	/				
Rep. Eckstrom	/				
Rep. Froseth	/				
Rep. Glassheim	/				
Rep. Johnson	/				
Rep. Keiser	/				
Rep. Klein	/				
Rep. Koppang	/				
Rep. Lemieux	/				
Rep. Martinson	/				
Rep. Severson	/				
Rep. Stefonowicz	/				

Total (Yes) 13 No 0

Absent 2

Floor Assignment Keiser

If the vote is on an amendment, briefly indicate intent:

**REPORT OF STANDING COMMITTEE**

**HB 1164: Industry, Business and Labor Committee (Rep. Berg, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (13 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). HB 1164 was placed on the Sixth order on the calendar.

Page 2, line 1, after "transactions" insert "and who has applied for and received a waiver from the real estate commission"

Renumber accordingly



**1999 SENATE INDUSTRY, BUSINESS AND LABOR**

**HB 1164**

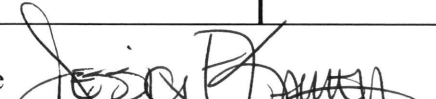
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1999 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB1164

Senate Industry, Business and Labor Committee

Conference Committee

Hearing Date February 12, 1999

Tape Number	Side A	Side B	Meter #
2	x		2100-2800
Committee Clerk Signature 			

Minutes:

Senator Mutch opened the hearing on HB1164. All senators were present.

Dennis Schulz testified in support of HB1164. His testimony is included.

Clause Lembke testified in support of HB1164. Senator Sand asked him if the dealer gets the interest. Mr. Lembke said that the interest will be divided among all parties that are involved.

Senator Mutch closed the hearing on HB1164.

Senator Thompson motioned for a do pass committee recommendation on HB1164. Senator

Krebsbach seconded the motion. The motion carried with a 6-0-1 vote.

Senator Thompson will carry the bill.

Date:  
Roll Call Vote #:

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 1164

Senate INDUSTRY, BUSINESS AND LABOR COMMITTEE Committee

Subcommittee on \_\_\_\_\_

or

Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken DO PASS

Motion Made By THOMPSON Seconded By KREBSBACH

Senators	Yes	No	Senators	Yes	No
Senator Mutch	X				
Senator Sand	X				
Senator Krebsbach	X				
Senator Klein					
Senator Mathern	X				
Senator Heitkamp	X				
Senator Thompson	X				

Total (Yes) 6 No 0

Absent 1

Floor Assignment THOMPSON

REPORT OF STANDING COMMITTEE (410)  
March 31, 1999 4:35 p.m.

Module No: SR-58-6143  
Carrier: Thompson  
Insert LC: . Title: .

**REPORT OF STANDING COMMITTEE**

**HB 1164: Industry, Business and Labor Committee (Sen. Mutch, Chairman)** recommends **DO PASS** (6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1164 was placed on the Fourteenth order on the calendar.

**1999 TESTIMONY**

**HB 1164**

HOUSE BILL 1164

TESTIMONY BEFORE THE SENATE INDUSTRY,  
BUSINESS AND LABOR COMMITTEE  
FEBRUARY 10, 1999

BY: DENNIS SCHULZ, SECRETARY TREASURER  
NORTH DAKOTA REAL ESTATE COMMISSION

House Bill 1164 relates to the handling of funds by real estate brokers. The current statute requires that every licensed real estate broker shall, at all times, maintain a trust account in a designated federally insured financial institution in which the broker shall deposit all funds not the broker's own coming into the broker's possession in accordance with rules adopted by the commission.

During the past several years the commission has conducted numerous audits of real estate broker's real estate trust accounts. We have found that a significant number of brokers have conducted few, if any, real estate sales during the past few years. However, they continue to hold an active broker's license for a variety of reasons. Because they maintain an active license they are required by statute to maintain a trust account. Due to the lack of activity in their trust account they oftentimes are assessed bank service charges for maintaining the account.

*last purpose*  
The purpose of House Bill 1164 is to allow a broker to apply for an exemption and receive a waiver from maintaining a trust account under circumstances whereby the broker does not accept trust funds. However, the bill further provides that if the broker does not maintain a trust account and then later receives trust funds in a real estate brokerage transaction, the broker will then be required to open a designated trust account and deposit any trust funds not his own coming into the broker's possession.

*2nd*  
The second feature of this bill pertains to the dollar amount of the broker's own personal funds that can be held in the trust account earmarked to cover service charges

related to the trust account. We have found in our audits that financial institutions sometimes require a minimum balance of \$500.00 to be retained in the broker's trust account. For this reason, we are proposing increasing the dollar amount of the broker's personal funds be increased from \$100.00 to \$500.00.

We ask that you please give favorable consideration to the passage of House Bill 1164.