

**1999 HOUSE FINANCE AND TAXATION**  
**HB 1393**

1999 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1393

House Finance and Taxation Committee

Conference Committee

Hearing Date January 26, 1999

Tape Number	Side A	Side B	Meter #
1	x		42.2
Committee Clerk Signature <i>Jamie Stein</i>			

Minutes:

REP. BELTER Opened the hearing.

JIM SCHLOSSER, REPRESENTING THE NORTH DAKOTA BANKERS ASSN., Testified in support of the bill. See written testimony.

JACK MCDONALD, INDEPENDENT COMMUNITY BANKS OF NORTH DAKOTA,

Testified in support of the bill. This bill is particularly important to the independent community banks, the majority are the smaller banks in the rural areas and do a lot of agricultural lending.

CHARLES MCKAY, FARM CREDIT SERVICES, Testified in support of the bill.

With no further testimony, the hearing was closed.

COMMITTEE ACTION 1-26-99, Tape #2, Side A, Meter #48.9

REP. RENNER Made a motion for a DO PASS

REP. RENNERFELDT Second the motion. MOTION CARRIED.

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House Finance and Taxation Committee  
Bill/Resolution Number Hb 1393  
Hearing Date January 26, 1999

MOTION CARRIED WITH 14 Yes 0 No 1 Absent

REP. RENNER Was given the floor assignment.

Please type or use black pen to complete

Date 1-26-99

Roll call vote # 1

1999 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. HB 1393

House HOUSE FINANCE & TAX Committee

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

Conference Committee

} Identify or check where appropriate

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

Action Taken Do Pass

Motion Made By Rep. Renner Seconded By Rep. Rennerfeldt

Representatives	Yes	No	Representatives	Yes	No
BELTER	✓		WINRICH	✓	
RENNERFELDT	✓				
CLARK	✓				
FROELICH	A				
GRANDE	✓				
GROSZ	✓				
HERBEL	✓				
KROEBER	✓				
MICKELSON	✓				
NICHOLAS	✓				
RENNER	✓				
SCHMIDT	✓				
WARNER	✓				
WIKENHEISER	✓				

Total 14 0  
(Yes) (No)

Absent 1

Floor Assignment Rep. Renner

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

DO NOT USE HIGHLIGHTER ON ANY FORMS

REPORT OF STANDING COMMITTEE (410)  
January 26, 1999 3:39 p.m.

Module No: HR-16-1232  
Carrier: Renner  
Insert LC: . Title: .

**REPORT OF STANDING COMMITTEE**

**HB 1393: Finance and Taxation Committee (Rep. Belter, Chairman) recommends DO PASS (14 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING).** HB 1393 was placed on the Eleventh order on the calendar.

**1999 SENATE INDUSTRY, BUSINESS AND LABOR**

**HB 1393**

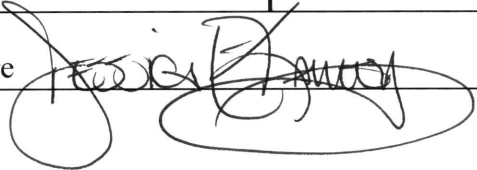
1999 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HOUSE BILL 1393

Senate Industry, Business and Labor

Conference Committee

Hearing Date March 8, 1999

Tape Number	Side A	Side B	Meter #
1		x	0 to 1200
Committee Clerk Signature 			

Minutes:

SENATOR MUTCH: open the hearing on HOUSE BILL 1393

REPRESENTATIVE BRENNER: introduced HOUSE BILL 1393 to eliminate financing statements and make the bank more user friendly

SENATOR MUTCH: any questions

JIM SCHLOSSER: terminating financing statements under the UCC, see testimony

SENATOR SAND: financial statement is a mortgage or a lien, correct

JIM SCHLOSSER: correct, financing statement is noticed to the world that someone has agreed to make an arrangement to the lender that secures the loan.

SENATOR SAND: so this does secure the loan

JIM SCHLOSSER: correct

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Senate Industry, Business and Labor

Bill/Resolution Number Hb1393

Hearing Date MARCH 8, 1999

SENATOR SAND: fee for filing and fee for terminating and fees that have to be filed every year

and if SENATOR KLEIN: doesn't have to file again, he will save 20 dollars, correct

JIM SCHLOSSER: correct

SENATOR SAND: this is consumer friendly beyond consumer friendly, it will save them money

JIM SCHLOSSER: saving of fees for filing and saving of fees for termination it will also secure these fees

SENATOR SAND: thank you

SENATOR MUTCH: do they still have to have a request (garbled)

SENATOR THOMPSON: is there some separate document that they would have to sign to receive the loan.

JIM SCHLOSSER: most financial institutions have this form that they can fill out to stop the termination papers from being filed.

SENATOR THOMPSON: and that will be explained to them

SENATOR SAND: assume they pay the debt, they are clear and if the correct papers are not filed they have unclaimed debt again. `

JIM SCHLOSSER: don't believe that their will be a surprise because the separation paper was on file during the last session

JACK MACDONALD: see written testimony

SENATOR MUTCH: any questions

GALEN DEBEY: support this bill

SENATOR MUTCH: anyone else

CHARLES MCKAY: support the bill



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Senate Industry, Business and Labor

Bill/Resolution Number Hb1393

Hearing Date MARCH 8, 1999

MOTION: close the hearing on 1393

Senator Klein motioned for a do pass committee recommendation on HB1393. Senator Mathern seconded his motion. The motion carried with a 7-0-0 vote.

Senator Klein will carry the bill.

Date: 3/08  
Roll Call Vote #: 1  
SRH14236

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES  
HOUSE BILL/RESOLUTION NO. 1393

Senate INDUSTRY, BUSINESS AND LABOR COMMITTEE Committee

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

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

Action Taken DO PASS

Motion Made By KLEIN Seconded By MATHERN

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

Total (Yes) 7 No 0

Absent 0

Floor Assignment KLEIN

REPORT OF STANDING COMMITTEE (410)  
March 8, 1999 1:38 p.m.

Module No: SR-41-4236  
Carrier: Klein  
Insert LC: . Title: .

**REPORT OF STANDING COMMITTEE**

**HB 1393: Industry, Business and Labor Committee (Sen. Mutch, Chairman)** recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1393 was placed on the Fourteenth order on the calendar.

**1999 TESTIMONY**

**HB 1393**

HB 1393  
House Finance & Taxation Committee  
Comments of Jim Schlosser, North Dakota Bankers Association

HB 1393 deals with termination statement requirements under the UCC when a borrower has a continuing relationship with a lender. Before the 1997 legislative session, section 41-09-43 NDCC provided that a secured lender, when there is no outstanding secured obligation, was required to file a termination statement within 10 days after demand by a borrower or face a penalty. Termination statements are not filed very often when the borrower has a long relationship with a lender and obtains an operating line of credit each spring.

<sup>SB 2022</sup>  
In 1997, ~~HB 1463~~ offered an amendment to the UCC that required a termination statement to be filed within 60 days of payment, even if there is no demand by the debtor (borrower). In 1997, lenders explained that requiring a termination statement results in additional costs and inconvenience for the borrower so the bill was amended to include language which is on page 2, lines 2 and 3 of the bill, ". . . and the debtor has not required in writing that the filing be continued, . . ." Many lenders understood this provision to mean that the lender could obtain a written request from the borrow at any time and a termination statement need not be filed if there was a continuing relationship and an annual operating line of credit. However, lawyers have interpreted the entire sentence as requiring a written request each year for a filing to be continued.

Borrowers (many times husband and wife) are asking why they need to sign a written request each year that a termination statement need not be filed when there is no outstanding secured obligation. There are times when borrowers are not able to stop by to sign a written request and the lender must file a termination statement within 60 days, which results in the signing of a new financing statement, a search and filing of the financing statement each year. **The amendment on page 2, lines 4-6 of the bill simply provides that a written request for a filing to be continued may be made at any time and be effective under section 41-09-43.** A new written request would not have to be signed by the borrowers each year, which would save time and expense on the part of both the lender and the borrower.

If the borrower has made full payment on the operating line and is looking for financing elsewhere, a request may be made for a termination statement to be filed and the secured party must file under current law the same within 10 days or pay a penalty.

March 8, 1999

**SENATE INDUSTRY, BUSINESS & LABOR COMMITTEE**  
**HB 1393**

**CHAIRMAN MUTCH AND COMMITTEE MEMBERS:**

My name is Jack McDonald. I'm appearing today on behalf of The Independent Community Banks of North Dakota. We support **HB 1393** and urge that you give it a DO PASS.

You handled the problem of termination of financing statements last session by amending this section to allow consumer debtors to request that a bank continue a financing statement rather than incur the paperwork and expense of renewing the statement each year. This is of special importance to farmers, who satisfy and then renew their operating loans each year.

However, legal questions have arisen whether this request can be made at anytime, particularly when the loan is granted, or if it can only be made at the time a loan is satisfied.

This bill settles that debate by saying "anytime." That's what we thought the intent of the law was all along.

Therefore, we respectfully request your **FAVORABLE CONSIDERATION** of this bill. If you have any questions, I'll be happy to answer them. THANK YOU FOR YOUR TIME AND CONSIDERATION.

HB 1393  
Senate Industry, Business & Labor Committee  
Comments of Jim Schlosser, North Dakota Bankers Association

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In 1997, SB 2272 offered an amendment to the UCC that required a termination statement to be filed within 60 days of payment, even if there is no demand by the debtor (borrower). In 1997, lenders explained that requiring a termination statement results in additional costs and inconvenience for the borrower so the bill was amended to include language which is on page 2, lines 2 and 3 of the bill, “. . . and the debtor has not required in writing that the filing be continued, . . .” Many lenders understood this provision to mean that the lender could obtain a written request from the borrow at any time and a termination statement need not be filed if there was a continuing relationship and an annual operating line of credit. However, lawyers have interpreted the entire sentence as requiring a written request each year for a filing to be continued.

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