

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION
SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1117

2007 HOUSE INDUSTRY, BUSINESS AND LABOR

HB 1117

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1117

House Industry, Business and Labor Committee

Check here for Conference Committee

Hearing Date: January 17, 2007

Recorder Job Number: 1248

Committee Clerk Signature

Stephanie N. Thomas

Minutes:

Chair Keiser opened the hearing on HB 1117.

Timothy Karsky, Department of Financial Institutions: See written testimony #1.

Rep. Dosch: Can you give me some examples of consumer finance companies that are currently operating in the state?

Tim: The big one would be like Wells Fargo. I think we have 37 consumer finance companies, and 22 of them are located in the state.

Rep. Kasper: Page 5, line 11, #7 mortgage servicing company, is there any place in statute, or in this bill that can protect the consumer from a mortgage servicing company?

Tim: The mortgage servicing company is supposed to honor that mortgage as originally made by the license lender with our department. So, the original lender that was a bank or credit union, you're probably regulated. As a mortgage company you're licensed under the mediocre section, so they should fall back to the procedures as outlined in the original mortgage.

Rep. Keiser: We've got the three tiers of financial institutions, payday loans, the finance companies, and then standard banking procedures. In the finance side, what kinds of loans are these finance companies activating?

Tim: The law sets out that consumer finance companies can make a loan from 0 to \$35,000.

So, \$35,000 is the maximum under consumer finance companies.

Rep. Dosch: I move a do pass.

Rep. Ruby: Second.

Roll call vote was taken. 13 Yeas, 0 Nays, 1 Absent, Carrier: Rep. Dosch

Hearing Closed.

FISCAL NOTE
 Requested by Legislative Council
 01/02/2007

Bill/Resolution No.: HB 1117

1A. State fiscal effect: *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2005-2007 Biennium		2007-2009 Biennium		2009-2011 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$0	\$0	\$0	\$0	\$0
Expenditures	\$0	\$0	\$0	\$0	\$0	\$0
Appropriations	\$0	\$0	\$0	\$0	\$0	\$0

1B. County, city, and school district fiscal effect: *Identify the fiscal effect on the appropriate political subdivision.*

2005-2007 Biennium			2007-2009 Biennium			2009-2011 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2A. Bill and fiscal impact summary: *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

This bill has on fiscal impact.

B. Fiscal impact sections: *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

N/A

3. State fiscal effect detail: *For information shown under state fiscal effect in 1A, please:*

A. Revenues: *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

N/A

B. Expenditures: *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

N/A

C. Appropriations: *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

N/A

Name:	Joan M Becker	Agency:	DFI
Phone Number:	328-9958	Date Prepared:	01/02/2007

Date: 1-19-07
Roll Call Vote #: _____

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1117

House Industry Business & Labor Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By Rep Dosch Seconded By Rep Ruby

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser	X		Rep. Amerman	X	
Vice Chairman Johnson	X		Rep. Boe	X	
Rep. Clark	X		Rep. Gruchalla	X	
Rep. Dietrich	X		Rep. Thorpe	X	
Rep. Dosch	X		Rep. Zaiser		
Rep. Kasper	X				
Rep. Nottestad	X				
Rep. Ruby	X				
Rep. Vigesaa	X				

Total Yes 13 No 0

Absent 1

Floor Assignment Rep Dosch

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

REPORT OF STANDING COMMITTEE

HB 1117: Industry, Business and Labor Committee (Rep. Keiser, Chairman)
recommends **DO PASS** (13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING).
HB 1117 was placed on the Eleventh order on the calendar.

2007 SENATE INDUSTRY, BUSINESS AND LABOR

HB 1117

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1117

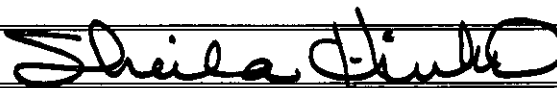
Senate Industry, Business and Labor Committee

Check here for Conference Committee

Hearing Date: **February 21, 2007**

Recorder Job Number: **3597 @ 9:47m**

Committee Clerk Signature



Money broker, collection agency, licenses:

Tim Karsky – ND Dept of Financial Institutions - In Favor

TESTIMONY # 1 *Covered testimony*

Added an amendment, goes over testimony about the bill. Went over each section of the bill and charges on each. Definitions covered. Shared new language for different format.

S Hacker: We are making a lot of changes. What's the problem, what's going on?

Tim K: This definition of "Mortgage Servicing Companies," right now the interpretation of the Attorney General's office, is servicing 3rd party debt, that would include a mortgage servicing company, most companies need a debt collection license. Currently they do not need to be licensed by the department.

S Hacker: Does it affect private mortgages? Hard money – investor type mortgages?

Tim K: Anyone that makes a mortgage in the state and closes that loan, has to be licensed with us.

S Klein: In reference to Section # 8, what is the debt collection process? When you talk about the reference to be challenged, can you give us more light on this?

Tim K: We have attorney we are taking action against and go through the hearing process to say that ;you're people aren't exempt. After consulting with the Attorney General's office it's a

50-50 bet that we could win or lose, so we thought it was simpler to change the language and clarify what our practice has been all along. We're not going to spend the money unless we're going to win.

S Klein: So after August 1, you can win?

Tim K: I think that would help us clarify our position. We're not going to go out there, we'll state our position.

S Klein: Is this a lot of housekeeping here?

Tim K: Yes. Now it lays out the language and makes it easier to find. Tells what exemptions, who the law is, what a creditor is, what a debtor is, it was all in there just hard to find.

CLOSE

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. **HB 1117 B**

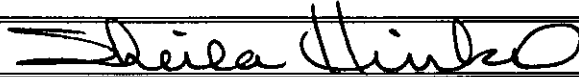
Senate Industry, Business and Labor Committee

Check here for Conference Committee

Hearing Date: **February 26, 2007**

Recorder Job Number: **3832**

Committee Clerk Signature



Money Broker, collection agency licenses:

S Klein: S Hacker, you had a question on the interest rates; S Potter, you had a question on who could be a collection agent.

S Potter: Yes, I did, and it's been answered for me.

S Hacker moves a DO PASS

Second by S Wanzek

Roll Call on a DO PASS on HB 1117 7 – 0 Passed

Carrier: S Klein

CLOSED

Date: 2-26-07

Roll Call Vote: _____

2007 SENATE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. HB 1117

Senate INDUSTRY BUSINESS & LABOR Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken DO PASS

Motion Made By Hacker Seconded By Wanzek

Senators	Yes	No	Senators	Yes	No
Chairman Klein, Jerry	✓		Senator Behm, Arthur	✓	
Senator Hacker, Nick VC	✓		Senator Heitkamp, Joel	✓	
Senator Andrist, John	✓		Senator Potter, Tracy	✓	
Senator Wanzek, Terry	✓				

Total Yes 7 No 0

Absent 0

Floor Assignment Klein

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

REPORT OF STANDING COMMITTEE

HB 1117: Industry, Business and Labor Committee (Sen. Klein, Chairman) recommends DO PASS (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1117 was placed on the Fourteenth order on the calendar.

2007 TESTIMONY

HB 1117

1-17-2007

TESTIMONY FOR HOUSE BILL NO. 1117

House Industry, Business and Labor Committee

Testimony of Timothy J. Karsky, Commissioner, Department of Financial Institutions in support of House Bill No. 1117

Chairman Keiser and members of the House Industry, Business and Labor Committee, my name is Tim Karsky, Commissioner for the North Dakota Department of Financial Institutions. I am here today to testify and urge your support in favor of House Bill No. 1117.

Mr. Chairman and members of the Committee, House Bill No. 1117 contains several amendments to the Consumer Finance Act, the Money Broker Act, and the Collection Agency Act found in Title 13 of the North Dakota Century Code.

Mr. Chairman, Section 1 of the Bill, contains an amendment that adds a new section to 13-03.1. This Section mirrors the exact language that is found in the money broker section found under 13-04.1-09. The Department feels that the applicants and lenders should be accountable for making these types of statements or doing fraudulent practices. This amendment will make this chapter consistent with the other consumer license laws.

Section 2 of the bill states that a person may not take any type of fee in advance before the funding of the loan or lease, unless the person is

licensed under this Chapter. This same language is found in the money broker section again and would now be made applicable to consumer finance companies.

Section 3 of the bill will grant the Department the ability to issue cease and desist orders against consumer finance companies. Currently the Department has this ability when regulating money brokers, collection agencies, money transmitters, and deferred presentment service providers. For some reason this section was never added to consumer finance companies and the Department feels it is needed. Currently the Department could cite a violation of law but could not take any other type of action to achieve compliance unless it was done through a court of law and the applicants were convicted of a felony under 13-03.1-18.

Section 4 of the bill deals with amendments to the money broker section found under 13-04.1. The first portion of section 4 deals with definitions pertaining to the money broker code and the Department feels this will clarify what a money broker is and does. The language deleted in 13-04.1-02 is used in the definitions for money broker and money brokering activity.

Section 6 of the bill takes the exemptions that were currently found under 13-04.1-02 and lists them numerically.

Section 7 of the bill deals with Chapter 13-05, entitled Collection Agencies. Again, the Department defines certain terms as used in the chapter to clarify what is a collection agency, who is the commissioner, and what communication means between a debtor and a collection agency. Further, the Department has defined what a creditor is, what a debt is, what is debt collection, and also defines a mortgage servicing company. Most of the language used in the definitions comes from Section 13-05-02, and that language was deleted and incorporated in the numerical definitions above.

The Department also added language in Section 8 of the bill which states a person engages in debt collection in North Dakota if the debtor resides in North Dakota. This issue has been challenged at times whether or not a collection agency license is needed if the debtor has subsequently moved to North Dakota. This will clarify that if the debtor currently resides in North Dakota, an agency must be licensed to collect that debt.

Section 9 of the bill is basically a housekeeping amendment, as Section 13-05-02.3 if approved would be a new section and would need to be added so a collection agency attempting to collect child support payments as defined in 14-09-09.10 would remain consistent with the old law.

Section 10 of the bill contains entities which are exempt from licensing as a collection agency. These exemptions were previously in 13-

05-02 and are now set out in numerical order. Number 1 contains some new language which also clarifies how attorneys are exempt under the law. As indicated, attorneys at law who are licensed to practice in the State of North Dakota are exempt, and this language was also in 13-05-02. This language is found on page 5 of the current bill in lines 22 and 23. However, the Department has added language which will clarify that the exemption for attorneys does not carry forward to persons either employed by the attorney or acting on behalf of the attorney. This would include the attorney's staff that signs collection agency letters and otherwise communicates with debtors to collect debts. Furthermore number 10, mortgage servicing companies, is also new language and is found under the definitions on page 5 of the bill under number 7.

Mr. Chairman and members of the Committee, as you can see, much of the language has been taken from various sections of old law and put in a different format for clarity reasons. The Department feels these amendments will help clarify certain terms as used in the industry and will give guidance to these individual licensees.

Mr. Chairman and members of the Committee, I would ask for your support of House Bill No. 1117, and would be happy to answer any questions. Thank you.

2-21-2007

TESTIMONY FOR HOUSE BILL NO. 1117

Senate House Industry, Business and Labor Committee

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