

2009 SENATE INDUSTRY, BUSINESS AND LABOR

SB 2105

## 2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2105

Senate Industry, Business and Labor Committee

Check here for Conference Committee

Hearing Date: January 14, 2009

Recorder Job Number: 6975

Committee Clerk Signature

Minutes:

Chairman Klein: Called the meeting back to order. We will hear Senate Bill 2105.

Timothy J. Karsky, Commissioner, Department of Financial Institutions. (Testimony Attached).

Senator Wanzek: Isn't there anything in statue dealing with contractual agreements that you were working to use, in the example that you gave?

Timothy Karsky: Under the laws it has to be pretty pacific that has to be a violation of an order. So we would like to add order or written agreement.

Senator Wanzek: I am looking at the written agreement as being between you....

Timothy Karsky: That's exactly what it is. It's an agreement that they're not going to do certain things and they're going to abide by the law.

Senator Potter: I am wondering if you're doing more than you need to in this. You have statues and administrative rules that you passed, orders which I presume are specified in statue in what you can do. What puts any kind of fence around a written agreement?

Timothy Karsky: First of all to do a cease and assist order, there is a due process. We would have to have a complaint issued against the license and they would have a right to an administrative hearing. If we win that administrative hearing then we can issue the order. So this would save time and money.

Senator Potter: The written agreement is not between you and the person you are going after, it's between two other parties?

Timothy Karsky: No, it might be a collection agency we are going after. If we can't get these words added, we just wouldn't do written agreements. We would always go after them with a cease and assist order.

Chairman Klein: Anyone in opposition? We will close the hearing on 2105.

Motion to Pass: Senator Wanzek Seconded by Senator Horne

Roll Call Vote: Yes 7 No 0 Absent 0

Floor Assignment: Senator Klein

Date: 1/14/09  
Roll Call Vote #: 1

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 2105

Senate

Committee

Industry, Business and Labor

Check here for Conference Committee

Legislative Council Amendment Number 2105

Action Taken  Pass  Do Not Pass  Amended

Motion Made By Senator Wanzek Seconded By Senator Horne

Senator	Yes	No	Senator	Yes	No
Senator Jerry Klein - Chairman	✓		Senator Arthur H. Behm	✓	
Senator Terry Wanzek - V.Chair	✓		Senator Robert M. Horne	✓	
Senator John M. Andrist	✓		Senator Tracy Potter	✓	
Senator George Nodland	✓				

Total (Yes) 7 No 0

Absent 0

Floor Assignment Senator Klein

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

**REPORT OF STANDING COMMITTEE (410)**  
January 14, 2009 1:03 p.m.

**Module No: SR-07-0295**  
**Carrier: Klein**  
**Insert LC: . Title: .**

**REPORT OF STANDING COMMITTEE**

**SB 2105: Industry, Business and Labor Committee (Sen. Klein, Chairman) recommends DO PASS (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2105 was placed on the Eleventh order on the calendar.**

2009 HOUSE INDUSTRY, BUSINESS AND LABOR

SB 2105

## 2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2105

House Industry, Business and Labor Committee

Check here for Conference Committee

Hearing Date: March 4, 2009

Recorder Job Number: 10116

Committee Clerk Signature

*Ellen LeTang*

**Chairman Keiser:** Opened the hearing on SB 2105 relating to enforcement actions for money brokers, collection agencies, deferred presentment services providers & money transmitters and to provide a penalty.

**Tim Karsky~Commissioner, Department of Financial Institutions.** See testimony attachment.

**Vice Chairman Kasper:** What is the written agreement entail?

**Karsky:** About five or seven years ago there was a collection agency in Fargo out of Florida that went after old hospital accounts and they were way beyond the statute of limitations. We received hundreds of complaints. We went after them for not being licensed in the state and it was an error due to industry publication said that they didn't need to be licensed. You said ok and we are going to go ahead and enter an agreement that you are not going to go after any accounts over seven years, you are going to follow some of these laws and we enter to a penalty that they pay to the Village Family Service Center and we had to go through the cease and desist aspect of it. That was a letter of written agreement spelled out but it's not through the form of court or hearing process and they agreed to abide that.

**Vice Chairman Kasper:** The written agreement simply gives them the opportunity understand what the state law is and they will abide by it?

**Karsky:** That's correct and a lot of time when we start the formal procedures for cease and desist action the industry comes back and says, hey, could we enter into this agreement and we will abide by this, but we don't done want to go through the formal process. If we can't enforce that written agreement, we are just not going to do that, we are going to take the harsh action. So, that's why we would like to be able to add these words.

**Jack McDonald~Independent Banks of North Dakota.** We fully support the procedures that Mr. Karsky and the Department of Financial Institutions have following this area and urge support of this bill.

**Chairman Keiser:** Is there anyone in opposition of SB 2105, neutral? Closed the hearing and what are the wishes of the committee?

**Representative N Johnson:** Moves a Do Pass on SB 2105.

**Representative Thorpe:** Second.

**Voting roll call was taken on SB 2105 for a Do Pass with 12 ayes, 0 nays, 1 absent and Representative Gruchalla is the carrier.**



Date: Mar 4 - 2009

Roll Call Vote # 1

### 2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 2105

House House, Business & Labor Committee

Check here for Conference Committee

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

Action Taken  Do Pass  Do Not Pass  As Amended

Motion Made By Johnson Seconded By Thorpe

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser	1		Representative Amerman	1	
Vice Chairman Kasper	1		Representative Boe		
Representative Clark	1		Representative Gruchalla	1	
Representative N Johnson	1		Representative Schneider	1	
Representative Nottestad	1		Representative Thorpe	1	
Representative Ruby	1				
Representative Sukut	1				
Representative Vigasaa	1				

Total (Yes) 12 No 0

Absent 1

Floor Assignment Gruchalla

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

**REPORT OF STANDING COMMITTEE**

**SB 2105: Industry, Business and Labor Committee (Rep. Kelser, Chairman) recommends DO PASS (12 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2105 was placed on the Fourteenth order on the calendar.**

2009 TESTIMONY

SB 2105

*Same to  
given to  
House  
3-4-09.*

1-14-2009

TESTIMONY FOR SENATE BILL NO. 2105

Senate Industry, Business and Labor Committee

Testimony of Timothy J. Karsky, Commissioner, Department of Financial Institutions in support of Senate Bill No. 2105

Chairman Klein and members of the Senate 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 Senate Bill No. 2105.

Mr. Chairman and members of the Committee, Senate Bill No. 2105 contains four amendments that add the words "written agreement" to the various areas that the Department may issue a civil money penalty. Over the past several years the Department has entered into what we call a "written agreement" between the entities that we license to achieve compliance with laws and regulations. In several instances these entities have violated the "written agreement" and the Department was not able to access a civil money penalty because the licensed entities argued that this was not a cease and desist order; therefore, the Department would like to add the words "written agreement" so that in case of future violations of a "written agreement" the Department would be able to access a civil money penalty.

This would apply to the money broker and collection agency licences, deferred presentment service providers, and money transmitters.

Mr. Chairman and members of the Committee, I'd be happy to answer any questions that you have concerning Senate Bill No. 2105.

Thank you.