

**2019 SENATE INDUSTRY, BUSINESS AND LABOR**

**SB 2098**

# 2019 SENATE STANDING COMMITTEE MINUTES

## Industry, Business and Labor Committee Roosevelt Park Room, State Capitol

SB 2098  
1/8/2019  
Job # 30507

- Subcommittee  
 Conference Committee

Committee Clerk: Amy Crane
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### Explanation or reason for introduction of bill/resolution:

Relating to the Bank of North Dakota residential mortgage loan program; and to declare an emergency.

### Minutes:

Att #1 Todd Steinwand Att #2 Barry Haugen
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**Chairman Klein:** Opened the hearing on SB 2098. All members were present.

**Todd Steinwand, Chief Business Development Officer, Bank of North Dakota:** See attachment #1 for testimony in support of the bill.

**(03:09)Chairman Klein:** Definition of rural?

**Todd:** Definition of rural would be any area that doesn't have a bank providing mortgage service in that area.

**Senator Piepkorn:** Is this program something that we are able to offer in North Dakota because do have a Bank of North Dakota?

**Todd:** Yes, the real reason for it was it was very difficult for the small rural banks who maybe do one or two mortgages a year to stay in compliance, they said why wouldn't it make sense to consolidate this at the Bank of North Dakota, have them develop a program that would allow us to have that expertise to do that. That was really the impetus for doing it.

**Senator Piepkorn:** So it probably isn't available to similar communities in different states, because we have the central Bank of North Dakota?

**Todd:** Correct

**Chairman Klein:** We didn't pass this with a lot of controversy right? As a rural guy, I thought, and certainly because our banks suggested it was a good idea but do you want to just fill in the rest for us?

**Todd:** The big issue with the legislation at the time back in 2011 was the fact that, this whole thing about competing with the private sector. In competing with banks that are offering the

service. It was specifically resigned to say we're not trying to compete with that. We work really hard at the Bank of North Dakota. When I say it's a true public/private partnership, we work very hard not to do that. And what this allows is that, if this program wasn't available, the banks in rural areas would probably have to refer that customer to another bank that's doing it. And the reason they don't want to do that is, for us, we don't solicit the customer we just originate the loan service for them, we don't go after the checking account, we don't do anything like that. And not to say that other banks would do that but the real banks would want to have the opportunity so we want to take care of our customers and it makes sense to just have the Bank of North Dakota do it. That was the whole controversy about it but I can tell you that it really hasn't been an issue. We haven't had any issues competing with the private sector. And when we did the round table across the state, those rural banks really appreciated this program.

**(6:30)Rick Clayburgh, President/CEO of the North Dakota Bankers Association:** Testified in support of the bill. Back in 2008 when the subprime lending debacle occurred, the housing bubble burst and all of the issues that we had with taking those mortgages and securitizing them, the cause of a real issue and the economy collapsed. Congress came in and tried to address that issue, they didn't have too a lot of oversight and too many individuals except financial institutions who they regulated. And the subprime lending debacle is not caused by any North Dakota bank but the vast majority of all FDIC insured depository institutions, were involved in this subprime lending issue that caused our economic downturn. But with Congress's passage of Dodd-Frank, what they were trying to do was address that issue in the mortgage arena, and it virtually seized up mortgage lending in the rural areas across the country. But specifically here in North Dakota. Back starting in about late 2009 and 2010, the North Dakota Bankers Association was working with our members across the state trying to address the issue of how do we get mortgages back into the area. Bank of North Dakota was involved but it was back just before the 2011 session that the industry the two trade associations, actually approached the Bank of North Dakota about the possibility of creating this program. We worked closely with the president of the Bank of North Dakota, he sat in on these meetings, we had Bank of North Dakota staff sitting in on these meetings and we came up with this way to address it. Most of the controversy during the 2011 session was more the concern of a handful of legislators over that competition issue. We in the industry are certainly always concerned about that and we want to make sure that the bank continues to do what it does and being a wonderful tool to the institutions in the state. And I believe the leadership for many years at the bank has really focused on being that partner and not trying to be in that direct competition area. What this does, during that downturn, we did have a number of our larger institutions that provided this similar type of service into the rural areas but after the passage of Dodd-Frank and some of the issues that came with that, they were restricted from that as well and they pulled those services back. That was the reason that we stepped up to the Bank of North Dakota asking for their support. What SB 2098 does now is really bring this back to what we originally worked for and laid out back in the 2011 session. As I mentioned, our legislative committee of the North Dakota Bankers Association met with Eric this December, we are in full support of what's in this legislation and we ask that it receive a favorable recommendation from the committee.

**Chairman Klein:** So we're just making this process a lot easier than it's been. We're doing it now, but we're going to be able to do it better?

**Rick:** Correct, with some of the restrictions that are in place, it really doesn't allow all of the rural consumers to have the access to the type of mortgages that somebody would have in an urban area. We're trying to take all of the shackles off so we can treat consumers in all areas similarly.

**Senator Burckhard:** Why is this an emergency?

**Rick:** So that we can get started on this immediately.

**Chairman Klein:** So what you're saying is we can get going with the rural customers who are looking for help so we don't have to wait til summer.

**(11:15)Barry Haugen President of the Independent Community Banks of North Dakota:**  
See attachment # 2 for testimony in support of the bill.

**(13:54)Chairman Klein:** Closed the hearing on SB 2098.

**Senator Kreun:** I really applaud our system, our Bank of North Dakota, and our bankers groups for working together and servicing our citizens for the state of North Dakota in a very professional and helpful manner. And with that, I would recommend a Do Pass.

**Senator Roers:** Seconded.

**Chairman Klein:** I do recall this discussion back in the day. I think it went better in the Senate than it went in the House. I believe we had the hearing during the banker's day or something, and we had it over in the Brynhild and the room was full of folks and kind of fun.

**Senator Kreun:** I think it went to IBL on the House side too.

**Chairman Klein:** I believe you are correct.

**A Roll Call Vote Was Taken: 6 yeas, 0 nays, 0 absent.**

**Motion Carried.**

**Senator Roers will carry the bill.**

Date: 1/8  
Roll Call Vote #: 1

**2019 SENATE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. 2098**

Senate Industry, Business and Labor Committee

Subcommittee

Amendment LC# or Description: \_\_\_\_\_

Recommendation:  Adopt Amendment  
 Do Pass  Do Not Pass  Without Committee Recommendation  
 As Amended  Rerefer to Appropriations  
 Place on Consent Calendar  
Other Actions:  Reconsider  \_\_\_\_\_

Motion Made By Kreun Seconded By Roers

Senators	Yes	No	Senators	Yes	No
Chairman Klein	X		Senator Piepkorn	X	
Vice Chairman Vedaa	X				
Senator Burckhard	X				
Senator Kreun	X				
Senator Roers	X				

Total (Yes) 6 No 0

Absent 0

Floor Assignment Roers

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

**REPORT OF STANDING COMMITTEE**

**SB 2098: Industry, Business and Labor Committee (Sen. Klein, Chairman)** recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2098 was placed on the Eleventh order on the calendar.

**2019 HOUSE INDUSTRY, BUSINESS AND LABOR**

**SB 2098**

# 2019 HOUSE STANDING COMMITTEE MINUTES

## Industry, Business and Labor Committee Peace Garden Room, State Capitol

SB 2098  
3/5/2019  
Job #33184

- Subcommittee  
 Conference Committee

Committee Clerk: Ellen LeTang (by ReMae Kuehn)

### Explanation or reason for introduction of bill/resolution:

Relating to the Bank of North Dakota residential mortgage loan program; and to declare an emergency.

### Minutes:

Attachments #1-4

**Chairman Keiser:** Opens the hearing on SB 2098.

**Todd Steinwand~Chief Business Development Officer of the Bank of ND:**  
(Attachment 1)

**Lisa Carlson~BND Residential Real Estate Manager:** (Attachment 2)

(4:50)

**Rep Laning:** The BND is the originator of the loan?

**Lisa Carlson:** Yes.

**Rep Laning:** But it can only go to 85% at the present time?

**Lisa Carlson:** We can do 80% on the first mortgage. Then the subordinate lender, who referred the loan to us, can go another 15%. So we can finance up 95% of the appraised value.

**Rep D Ruby:** From 2001 to 2008 there was discussion about finding ways to fill the gap. In the rural it costs more to build a house than what it is worth once it is built. Why should the taxpayers take the risk? Then when the proposal came for the bank to originate loans, limiters were put in. I have a problem in doing that. There is no way to project how many defaults you may have.

**Lisa Carlson:** We would still be at the 80% loan to value. The one taking the risk would be the nonprofit.

**Rep D Ruby:** Why would they take that risk?

**Lisa Carlson:** They feel that is their mission to do that.

**Rep D Ruby:** The other things you are removing: the 30 years, the loan rate equal to the market rate, the rate of loan equal to the market, and may not exceed the amount established by the bank policy. Why are those areas being removed?

**Lisa Carlson:** It allows us to make an exception to policy. There are circumstances where exceptions are warranted.

**Rep Richter:** It appears to me this is a last ditch effort that doesn't happen very often. Am I reading that correctly?

**Lisa Carlson:** Correct. It is designed for those places where people cannot go to a local lender and get regular secondary mortgage financing because there is no one in the area that can provide it to them. It's a relatively small percentage of everything in the state.

**Vice Chairman Lefor:** In the past 10 years, how many defaulted loans?

**Lisa Carlson:** I don't think we had any defaults on this program.

**Rep Louser:** It's still going to be policy to do the 80% loan to value?

**Lisa Carlson:** That's correct.

**Rep P Anderson:** In rural areas where you can't get comparable appraisals, do you think this program helps rural communities with people that want to move in?

**Lisa Carlson:** Absolutely.

**Rep P Anderson:** Are a lot of these on farms?

**Lisa Carlson:** Most are very rural.

**Chairman Keiser:** This goes back to the Dodd-Frank Act. When the act was passed, it put a lot of requirements on the origination of loans. The large banks had the attorneys and loan originators to assure that the requirements were met. A small bank didn't have the capacity to do the same. The Bank of North Dakota could step in and be the loan originator with the cooperation of the local bank. Despite the fact that you say the intention is to not go greater than 80%, we are striking that language. Why don't we leave that language in and then give the bank president the authority to make an exception?

**Lisa Carlson:** Our loan policy is written and approved by the Industrial Commission. There is oversight. It may slow down the process. We would get private mortgage insurance if it did go over 80% of the loan's value.

**Eric Hardmeyer~President of the BND:** The Bank of North Dakota has many more different programs and we have procedures in place to protect us. Not being in statute allows the flexibility to adapt with the changing market needs in rural areas. We are trying to even

the playing field for all North Dakotans. These loans only come to us from a referral of a local bank. We think we best understand the needs. We are in the business of risk.

**Vice Chairman Lefor:** The residential mortgage and loan process is one that gets you a lot of information. You are still have the flexibility to approve the loan or not.

(17:15)

**Eric Hardmeyer:** We have understood for years the appraisal gap issue.

**Rep D Ruby:** The concern at some point, further expansion of this could cross that line of the partnership you have with banks. I see it as a way of stepping further from the intention of the bank.

**Eric Hardmeyer:** We are serving a small niche. We don't want to step in a mature industry, just the underserved market. We have enough checks and balances to make sure we won't overstep our bounds.

**Rep Schauer:** Do you charge an origination fee?

**Eric Hardmeyer:** Yes. 1% origination fee. That is standard for the industry.

**Chairman Keiser:** The bill says "must provide." We are striking number one. The thirty years I don't have a problem with. That is a creative way to fund some of the loans. Number 3 means it could be less than the bank's market rate. That's a discount loan. The next page, number 4 is part of what we are talking about. But then we are striking number 5 which now we don't have to use the standards. But that is in our policy; but we just said we don't have to follow the policy. This is a little bit . . . I have trust that you are not going to abuse this but we are changing it significantly.

**Eric Hardmeyer:** We've had this program in place for eight years. We have demonstrated that we are serving a small niche. Yes, we are asking for your trust that we can underwrite loans within industry standards. We don't need it in law because we understand banking.

**Rep D Ruby:** Why do you need the emergency clause?

**Eric Hardmeyer:** It's a good change and we can do it effectively and as soon as we can.

**Rick Clayburgh~North Dakota Bankers Association:** (Attachment 3) Presented letter for Allen Wagner.

What occurred in 2011 is because of the regulatory reform of Dodd-Frank. During that process, mortgage lending in rural North Dakota ceased up. Prior to that our banks would offer mortgage products in some unique ways. Rural loans don't usually qualify for the secondary market because of the appraisal issue. It is difficult in a small community to get a traditional mortgage loan. The bank would offer a balloon note to the customer for maybe up to 10 years. The bank can't afford to extend their balance sheet too far. Dodd-Frank ruled that out and made it nearly impossible to do those types of qualified mortgage loans.

There have been some changes in Congress to allow banks of certain size to venture back into that area.

The industry is uniform in its support for this product. The total amount the Bank of North Dakota is involved in here in Burleigh/Morton County is less than a percent. This is not a major program but for those rural areas that are served by the community banks, it is important. It brings fairness and equity across the whole state. The NDBA is in unanimous support of this bill and the changes. Even though this is statutory change, the bank still has its policy that it operates.

**Rep Schauer:** If the bank has its policy, why not include them.

**Rick Clayburgh:** The issue of having it in policy and allowing the bank to operate and manage risk, BND doesn't have the political pressures from the legislature and elected officials. It is allowed to operate like a bank.

**Rep D Ruby:** Mr. Wagner's letter talks about more than a 30-year term. You talked about a balloon, how often is it done? Are they fixed rate or variable?

**Rick Clayburgh:** We are seeing more of 35-year amortizations. The cost of home ownership is increasing. The young families, they are more interested in a lower payment and so they will amortize the loan out to 30 years and then extended. A bank offering a balloon payment would offer a 3-year on a 30-year amortization. They determine what the loan payment would be on a 30-year. That is what the payment would be for a 3-year period. At the end of 3 years it would balloon and they would renegotiate it.

**Rep D Ruby:** Is it generally fixed?

**Rick Clayburgh:** The balloon payment is fixed for the 3 or 5-year period?

**Rep D Ruby:** Under the 35-year one?

**Rick Clayburgh:** I don't know the specifics if they are fixed or variable. Generally, a 30-year rate would be fixed.

**Rep D Ruby:** This is removing all the requirements. Is there no concern from the banks that it would be a run away at some point?

**Rick Clayburgh:** This change doesn't mean that the bank won't follow its policy. This is such a very small percentage of total mortgage activity. If the bank starts to flex itself, the trade associations will talk to them or bring it to a legislative committee.

**Rep P Anderson:** The example given based on the statute we have now; they were able to come up with the \$65,000. So that family would have been able to build the house and stay in the community.

**Rick Clayburgh:** Everyone is unique. To come up with a \$65,000 down payment, I consider that fairly rare for most home buyers in a rural community. Homes that might be on a farm,

the borrower would use land to pay for building the home. That has changed under Dodd-Frank and with other underwriting requirements. Even though there is other collateral being used instead of the residence, they still must look at the residence in its underwriting. If normal underwriting for that residence would not be allowed, then they would be able to proceed in using the agricultural property.

**Rep P Anderson:** The appraisal gap is the problem. If we keep the 80% of appraisal in here, it is not going to help by getting rid of what is in the statute.

**Rick Clayburgh:** In a rural community, people want to put down roots and live in a newer home. You cannot build anywhere in North Dakota that you don't have problems because of the appraisal gap.

**Chairman Keiser:** The major problem is in new construction. I still have trouble because we are striking "must be established by bank policy", but we follow bank policy.

**Rick Clayburgh:** I will let Todd answer that. Association policy allows the ability to be flexible.

**Todd Steinwand:** If you have 80% of statute, we follow the law. We will not go above 80%. All we are asking in private mortgage industry is they have the ability to adjust based on the individual. With this legislation we are trying to remove specific language so we have the flexibility to offer rural residents the same program and the same opportunities as those people living in rural areas. That is the reason we want it out of statute.

**Rep P Anderson:** If you have a situation where you want to go to 85%, you could charge more interest if you are accepting more risk?

**Todd Steinwand:** It is possible to do it. It gets very technical. If we would go above 80%, there is private mortgage insurance. We would underwrite this very similar to the private industry.

**Rep Bosch:** Are there other loans in the bank's portfolio where the legislature dictates what the terms are?

**Todd Steinwand:** Yes, there are. We have other legislation within our farm financial that we are asking for changes for more flexibility.

**Rep Bosch:** Is it the rule or the exception?

**Todd Steinwand:** Over the years we have been given more flexibility. There is less language in statute. When testifying even in a neutral position, we ask for the flexibility and leave it out of statute.

**Barry Haugen~President of the Independent Community Banks of ND (ICBND):**  
(Attachment 4)

(48:00)

**Rep D Ruby:** This is asking for flexibility. The feds were not flexible at all. How involved is your organization in asking them for more flexibility?

**Barry Haugen:** We have been in DC a lot. We are working on the regulatory agencies. In scenarios where they are not so complex, they still require some resource to help the customer.

**Rep Schauer:** When you refer the customer to the Bank of North Dakota, are you out of the picture?

**Barry Haugen:** The short answer is “no.” Generally, these are customers that we have a long standing relationship with. It is mostly in the agriculture area. We want to keep those customers. I would have to ask Lisa if that local institution can retain the servicing.

**Lisa Carlson:** They don’t retain the servicing; but they do continue to help us through the process.

**Barry Haugen:** They are not set up for that. They act as a conduit for the documentation, getting appropriate information, and bringing in tax returns.

**Rep Schauer:** Are there fees involved on your end also?

**Barry Haugen:** No, it is the 1% origination.

**Chairman Keiser:** On page 2, we are striking the 80% for the Bank of North Dakota. But we haven’t talked about the fact that we are also striking the combined value to exceed 95%. The local institution could go up as well. Correct?

**Barry Haugen:** That’s correct.

**Chairman Keiser:** In terms of a local bank as a partner bringing a deal to the Bank of North Dakota, do they stay in control of their percent of participation? Can you tell the BND that you want a larger percentage?

**Lisa Carlson:** No, we get 100%. They get reimbursed for any help that they gave us in doing the loan application.

**Todd Steinwand:** The local financial institution could ask the Bank of North Dakota to finance 50% of the first mortgage and do an origination for that amount. They could take a second mortgage. There would be two separate loans.

**Rep D Ruby:** Would they take a secondary position on that property with the existing of 85% and they take their 15%.

**Todd Steinwand:** We would have the 1<sup>st</sup> position. They would take a 2<sup>nd</sup> position or they can determine how to structure that loan. It could be other collateral.

**Jeff Olson~Credit Union Association of the Dakotas:** We are in massive support of SB 2098. In western North Dakota there are a lot of areas not getting the service. The North Dakota financial institutions did not cause the financial collapse. We are trying to recover from the collateral damage. The community banks and credit unions are shrinking in numbers but growing in assets. Since 2010 we have been losing an average of three credit unions a year. That is due to the collateral damage of the regulatory environment. The larger banks are not moving in to these market places. The program is working. We appreciate the Bank of North Dakota stepping up and we are in full support.

**Chairman Keiser:** With the passage of this bill, are those loans going to be marketable on a secondary market?

**Todd Steinwand:** Some of them may. Most of them we try to sell on the secondary market. There may be certain circumstances that may not meet it.

**Chairman Keiser:** If we are going to not follow the guideline in statute, it is unlikely they will be of value on the secondary market.

**Todd Steinwand:** They could be. Some we could keep in our books. It gives us the flexibility to do both.

**Opposition:** None

**Neutral:** None

**Chairman Keiser:** Closed the hearing.

**Rep Laning:** Moved a Do Pass.

**Rep Bosch:** Second.

**Chairman Keiser:** Further discussion.

**Rep D Ruby:** I'm going to resist the motion. What they have been doing is working. The provisions in law are there for a reason. Some of the regulatory requirements that necessitated this bill are improving. There is less need for the bank to be involved with this.

**Rep P Anderson:** There is an appraisal gap. I think this is the reason people are moving back to some of the rural communities. There aren't appraisals. They can't get on the secondary market. They can't buy the house so they don't move. We need to be as flexible as we can to get people building homes in rural North Dakota.

**Rep D Ruby:** This is for the newer homes. We resisted and didn't want the taxpayers to take the risk. If the banks don't want to take the risk, why should the taxpayers take the risk?

**Rep Richter:** I'm going to support the bill. I see this program giving the opportunity to build new homes in small communities where it is needed.

**Chairman Keiser:** This came out of a financial crisis. Difficult decisions were made. I'm going to support the bill but feel we should keep these in code. I like code versus rule because you can't change code.

Household debt is going up at a very fast rate in the country. This is a crisis in the making. This legislation extends household debt.

**A Roll Call vote was taken: Yes 8, No 1, Absent 5.**

**Do Pass** carries.

**Representative Laning** will carry the bill.

Date: March 5, 2019

Roll Call Vote #: 1

**2019 HOUSE STANDING COMMITTEE  
ROLL CALL VOTES**

BILL/RESOLUTION NO. SB 2098

House Industry, Business and Labor Committee

Subcommittee

Amendment LC# or  
Description: \_\_\_\_\_

**Recommendation**

- Adopt Amendment
- Do Pass     Do Not Pass     Without Committee Recommendation
- As Amended     Rerefer to Appropriations
- Place on Consent Calendar

**Other Actions**

- Reconsider     \_\_\_\_\_

Motion Made by Rep. Laning      Seconded By Rep. Bosch

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser	X		Rep O'Brien	AB	
Vice Chairman Lefor	AB		Rep Richter	X	
Rep Bosch	X		Rep D Ruby		X
Rep C Johnson	X		Rep Schauer	X	
Rep Kasper	AB		Rep Adams	X	
Rep Laning	X		Rep P Anderson	X	
Rep Louser	AB		Rep M Nelson	AB	

Total (Yes) 8      No 1

Absent 5

Floor Assignment Rep. Laning

**REPORT OF STANDING COMMITTEE**

**SB 2098: Industry, Business and Labor Committee (Rep. Keiser, Chairman)**  
recommends **DO PASS** (8 YEAS, 1 NAYS, 5 ABSENT AND NOT VOTING).  
SB 2098 was placed on the Fourteenth order on the calendar.

**2019 TESTIMONY**

**SB 2098**

**TESTIMONY, SENATE INDUSTRY, BUSINESS AND LABOR COMMITTEE  
JANUARY 8, 2019  
SENATE BILL 2098**

**TODD STEINWAND, CHIEF BUSINESS DEVELOPMENT OFFICER  
BANK OF NORTH DAKOTA**

Mr. Chairman and members of the Committee:

I am Todd Steinwand, Chief Business Development Officer at the Bank of North Dakota. My role today is to provide testimony regarding proposed changes to Bank of North Dakota's Residential Mortgage Origination program.

In 2011 the legislature passed Senate Bill 2078 which authorized Bank of North Dakota (BND) to establish a residential mortgage origination program where BND was authorized to originate residential real estate mortgages in rural areas where private sector secondary mortgage services were not available but had an expiration date of July 31, 2013. In 2013 this program was further amended in SB 2064 which removed the expiration date, removed provisions that limited the amount of the program and maximum mortgage amount and expanded the program to allow credit unions to participate.

The need for this program became apparent after the 2008 financial crisis/recession. This crisis occurred in large part due to a residential real estate bubble that burst. This then led to a significant increase in regulation surrounding residential lending. The effect of the increased regulatory burden caused many of the smaller community banks to discontinue those services. For the most part they felt that they did not want to take on the increased cost associated with the new regulations, did not have the staffing expertise to keep up with compliance and did not have sufficient deal flow.

The purpose of the legislation was to provide residents in rural areas access to a mortgage loan to purchase or refinance a home. It is a partnership where the local rural financial institution who is unable to provide residential mortgage services refers their customer to BND to originate and service the loan. Since inception in mid 2011 BND has originated 133 loans totaling \$20.5 million under this program.

The current legislation lists very specific terms for this program in Section 6-09-44 2.d of the North Dakota Century Code

1. Maximum loan amount is determined by Bank Policy
2. Term of the loan may not exceed 30 years.
3. The rate of the loan must be equal to the Bank's market rate
4. The maximum loan to value may not exceed 80% of appraised value, however, a local financial institution or credit union may take a second mortgage that does not exceed a combined loan to value of 95%
5. Standard credit underwriting and documentation applies.

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1/8/19  
Attach #1  
pg 1

BND reviewed this program and consulted with financial institutions across the state in 2018 and is recommending that the specific terms mentioned above be removed from statute. This will allow the bank to administer the program and offer terms that are driven by the private market and make sense for our rural markets. With this change all rural residents of ND will have access to the same terms as residents living in an urban area. These changes are supported by both banking associations and the credit unions.

Mr. Chairman, thank you for your consideration of this request. I am happy to answer and questions you may have. Also, in attendance is Lisa Carlson, who administers this program for BND and is willing to provide some specific examples if needed.

SB 2098 1/8/19 Attach. # 1 pg 2

January 8, 2019

SENATE INDUSTRY, BUSINESS AND LABOR COMMITTEE  
SB 2098

Good morning Mr. Chairman and members of the Senate Industry, Business and Labor Committee. For the record, my name is Barry Haugen and I am President of the Independent Community Banks of North Dakota (ICBND). Our membership totals 59 independent community banks throughout North Dakota.

We support Senate Bill 2098 and recommend that the committee give this bill a do pass recommendation. The independent community banks across our state depend greatly on the various programs provided by the Bank of North Dakota. Partnering with the Bank of North Dakota allows our community banks to provide added solutions to their customers. The Bank of North Dakota Residential Mortgage Loan Program is a prime example and we believe the changes in this bill provide additional flexibility to loan terms that will ultimately benefit the customers of our member banks.

Following the financial crisis over a decade ago, residential real estate mortgage lending became even more complex and compliance driven than it already was due to additional regulatory burden brought on by federal regulation, namely Dodd-Frank.

Many of our member banks reacted by discontinuing their residential real estate lending, which was in most cases already a small part of their portfolio. Many of these community banks just simply didn't have the size or scale to be expert in the area of residential mortgage lending under the new rules. Neither staffing, nor the loan volume, justified having an expert staff specialized in this service line, or incurring the increased compliance risk.

But community banking is relationship banking and our members still sought to provide solutions to their customers for their residential real estate mortgage needs. Given this need, and at the request of the industry, Bank of North Dakota developed this referral program that offers the community banker a tool so they can still satisfy the needs of that customer. For my member banks, this means their customers will be working with a proven, non-threatening partner.

The changes outlined in this bill, just add more flexibility to that tool. The dynamics of real estate mortgage situations in rural North Dakota vary greatly and each situation is unique. You can imagine that a real estate transaction in Fessenden, Velva, Minot and Fargo, and the needs of those borrowers, can vary greatly.

We believe this bill improves an already valuable program and request the committee place a "do pass" recommendation to Senate Bill 2098.

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1/8/19  
A Haugen  
#2  
pg 1

**TESTIMONY, HOUSE INDUSTRY, BUSINESS AND LABOR COMMITTEE**

**MARCH 5, 2019**  
**SENATE BILL 2098**

**TODD STEINWAND, CHIEF BUSINESS DEVELOPMENT OFFICER**  
**BANK OF NORTH DAKOTA**

Mr. Chairman and members of the Committee:

I am Todd Steinwand, Chief Business Development Officer at the Bank of North Dakota. My role today is to provide testimony regarding proposed changes to Bank of North Dakota's Residential Mortgage Origination program.

In 2011 the legislature passed Senate Bill 2078 which authorized Bank of North Dakota (BND) to establish a residential mortgage origination program where BND was authorized to originate residential real estate mortgages in rural areas where private sector secondary mortgage services were not available. The original legislation had an expiration date of July 31, 2013. In 2013 this program was further amended in SB 2064 which removed the expiration date, removed provisions that limited the amount of the program and maximum mortgage amount and expanded the program to allow credit unions to participate.

The need for this program became apparent after the 2008 financial crisis/recession. This crisis occurred in large part due to a residential real estate bubble that burst. This then led to a significant increase in regulation surrounding residential lending. The effect of the increased regulatory burden caused many of the smaller community banks to discontinue those services. For the most part they felt that they did not want to take on the increased cost associated with the new regulations, did not have the staffing expertise to keep up with compliance and did not have sufficient deal flow.

The purpose of the legislation was to provide residents in rural areas access to a mortgage loan to purchase or refinance a home. It is a partnership where the local rural financial institution who is unable to provide residential mortgage services refers their customer to BND to originate and service the loan. It is not meant to compete with the private mortgage industry. Since inception in mid-2011 BND has originated 133 loans totaling \$20.5 million under this program. By contrast in Burleigh and Morton from the 2016 to 2018 there were 16,918 residential real estate loans financed for a total loan amount of \$4.5 billion.

The current legislation lists very specific terms for this program in Section 6-09-44 2.d of the North Dakota Century Code

1. Maximum loan amount is determined by Bank Policy
2. Term of the loan may not exceed 30 years.
3. The rate of the loan must be equal to the Bank's market rate
4. The maximum loan to value may not exceed 80% of appraised value, however, a local financial institution or credit union may take a second mortgage that does not exceed a combined loan to value of 95%
5. Standard credit underwriting and documentation applies.

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BND reviewed this program and consulted with financial institutions across the state in 2018 and is recommending that the specific terms mentioned above be removed from statute. This will allow the bank to administer the program and offer terms that are driven by the private market and make sense for our rural markets. With this change all rural residents of ND will have access to the same terms as residents living in an urban area. These changes are supported by both banking associations and the credit unions.

I would now ask that Lisa Carlson, BND's Residential Real Estate Manager, provide you with a real-life example of how this legislation will help our rural residents.

Mr. Chairman, thank you for your consideration of this request. I am happy to answer and questions you may have.

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Good morning, My name is Lisa Carlson and I am the Residential Real Estate Manager at BND.

One common concern voiced by our borrowers and the lenders with which we do business, is appraisal gap. It is not uncommon for the cost of construction to be higher than the appraisal or market value, especially in the less densely populated rural areas of North Dakota. The current legislation that authorizes BND to originate residential real estate loans in many of those rural areas contains language that limits our ability to help bridge that gap by limiting the CLTV to 95%. There are non-profits in ND (Lewis & Clark Development Group) willing to exceed the 95% combined loan to value (CLTV) cap with appraisal gap financing in instances where the appraisal does not support the purchase price or more significantly, the cost of construction. Currently, although we can help with an 80% first mortgage, the subordinate lender can only provide another 15% of the appraised value which may not be enough to cover the cost of construction in many rural areas of ND. Here's a recent example. We recently originated a loan with a construction cost of approximately \$265,000. The appraisal however, came in with a market value of \$210,000. BND could finance 80% of that or \$168,000. Lewis & Clark Community Works was willing to finance up to 120% of the appraised value which would have provided the borrower with subordinate financing of \$84,000 requiring the borrower to provide approximately \$13,000 cash "out of pocket". Instead, because BND was limited by legislation to 95% CLTV, Community Works was only allowed to provide a loan amount of \$31,500 requiring the borrower to bring over \$65,000 to closing. In this case the borrower had the cash and we were able to close the transaction, however that is not a typical outcome. Sometimes the borrower will have to withdraw from a retirement account or borrow against another asset, resulting in another payment, to make up the difference

I believe that with these proposed changes BND will be better able to fulfill our mission and allow those living in less densely populated rural areas of ND the same opportunities to own and adequately finance a home as those living in more populated urban areas of the state.

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3/5/19



205 Main Street • PO Box 565 • Turtle Lake, ND 58575  
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### Letter in Support of Senate Bill NO.2098

To: North Dakota House of Representative  
Industry, Business and Labor Committee

The bill being presented before the industry by the Business and Labor Committee does create changes for the Bank of North Dakota residential mortgage program. I believe the changes suggested in Bill No. 2098 will support and strengthen the programs ability to help rural families receive better primary home funded loans. The Bank of Turtle Lake has referred customers to use this program for rural primary residence loans. Here are examples of how this program helps rural farm families:

1. They will receive a longer-term option for their loans which would lower the monthly payment.
2. The down payment through this program is lower, but the changes with this bill will make the down payment more flexible making it easier for individuals or families to afford rural properties.
3. Locking a rate with terms similar to other mortgage loans that are given for residential properties.
4. Providing a peace of mind that our rural customers get with that fixed rate financing on their home.
5. Customers will be supported by the efficient, friendly staff at the Bank of North Dakota. The Bank of Turtle Lake has always heard great things from the customers that were referred to the Bank of North Dakota program.

The Bank of North Dakota program has the full support of the Bank of Turtle Lake. The results of the efforts from our state-owned bank to help fulfill the dream of home ownership for rural North Dakota residence is greatly appreciated.

Sincerely,

Allen Wagner, Bank of Turtle Lake President



[btln.turtlelake.bank](http://btln.turtlelake.bank)



H4  
SB 2098  
3/5/19

March 5, 2019

HOUSE INDUSTRY, BUSINESS AND LABOR COMMITTEE  
SB 2098

Good morning Mr. Chairman and members of the House Industry, Business and Labor Committee. For the record, my name is Barry Haugen and I am President of the Independent Community Banks of North Dakota (ICBND). Our membership totals 60 independent community banks throughout North Dakota.

*We support Senate Bill 2098 and recommend that the committee give this bill a do pass recommendation.* The independent community banks across our state depend greatly on the various programs provided by the Bank of North Dakota. Partnering with the Bank of North Dakota allows our community banks to provide added solutions to their customers. The Bank of North Dakota Residential Mortgage Loan Program is a prime example and we believe the changes in this bill provide additional flexibility to loan terms that will ultimately benefit the customers of our member banks.

Following the financial crisis over a decade ago, residential real estate mortgage lending became even more complex and compliance driven than it already was due to additional regulatory burden brought on by federal regulation, namely Dodd-Frank.

Many of our member banks reacted by discontinuing their residential real estate lending, which was in most cases already a small part of their portfolio. Many of these community banks just *simply didn't have the size or scale to be expert in the area of residential mortgage lending* under the new rules. Neither staffing, nor the loan volume, justified having an expert staff specialized in this service line, or incurring the increased compliance risk.

But community banking is relationship banking and our members still sought to provide solutions to their customers for their residential real estate mortgage needs. Given this need, and at the request of the industry, Bank of North Dakota developed this referral program that offers the community banker a tool so they can still satisfy the needs of that customer. For my member banks, this means their customers will be working with a proven, non-threatening partner.

The changes outlined in this bill just add more flexibility to that tool. The dynamics of real estate mortgage situations in rural North Dakota vary greatly and each situation is unique. You can imagine the needs of those borrowers, can vary greatly.

We believe this bill improves an already valuable program and respectfully request the committee place a "do pass" recommendation to Senate Bill 2098.