

MEMORANDUM

DATE: February 1, 2023
TO: Senate Judiciary Committee
FROM: Lise Kruse, Commissioner, Chair of the State Banking Board and State Credit Union Board
SUBJECT: Testimony in Opposition of Senate Bill No. 2296

Chair Larson and members of the Senate Judiciary Committee, thank you for the opportunity to provide this testimony on Senate Bill No. 2296.

The Department of Financial Institutions is tasked with the oversight of banks, credit unions and several nonbank entities that provide financial services in North Dakota. The non-depository institutions include trust companies, collection agencies, payday lenders, money transmitters, debt settlement service providers, and all nonbank lenders (money brokers), and mortgage loan originators.

Financial fraud and scams have increased significantly in recent years. For example, financial exploitation of our elderly citizens is far too common with a national conservative estimate of 1 in 5 being victims with an average loss of \$120,000 a person. Our legislators have passed numerous laws to make sure our department and the State Banking and Credit Union Boards have the ability to protect our citizens. We are here to protect the rights of North Dakota depositors, borrowers, customers, and shareholders. When money is stolen from North Dakota citizens – our friends, families, and neighbors – our department and the Boards need to have the ability to step in. We need to remove bad actors from the financial industry, and defend our citizens and enforce the laws passed by our legislature to the fullest extent.

Unfortunately, Senate Bill No. 2296 would make it difficult for us to enforce the laws our legislature has put in place to protect our citizens from financial fraud. It appears that this Bill would give the bad actors a legal advantage when we make an effort to enforce laws applicable to the financial services industry. Our department, the State Banking Board, and the State Credit Union Board, each made up of industry professionals, would be prohibited from interpreting facts which are specific to their industries. An administrative law judge is unlikely to have this type of specialized knowledge. Banking law and financial regulations can be complex, and it is in everyone's best interest that these are applied fairly and consistently by industry experts.

Although we all favor individual liberty and freedom, this Bill tries to achieve this at the victims' expense. The Bill instructs the administrative law judge to exercise doubt in favor of the individual and against the agency. Agencies step in to enforce laws to protect the public from bad actors. Agencies are acting on behalf of citizens, enforcing laws passed by this legislative body. This Bill tips the legal scale in favor of bad actors at the expense of honest North Dakota citizens, therefore, we respectfully oppose Senate Bill No. 2296.