

Written Testimony in Support of SB 2122:  
The Uniform Commercial Real Estate Receivership Act

Senator Barta and Members of the Committee,

For the record, I am Rick Clayburgh, President and CEO of the North Dakota Banker's Association. The NDBA supports the enactment of Senate Bill 2122, the Uniform Commercial Real Estate Receivership Act (UCRERA). In short, SB 2122 seeks to establish a comprehensive legal framework governing receiverships in real estate matters.

Receivership is a judicial proceeding in which a neutral third party (the receiver) is appointed by a court to manage, preserve or liquidate the assets or business of a debtor for the benefit of creditors. Receiverships can be a powerful tool for banks because they are generally cost-effective and expedite the sale of assets. Real estate receiverships play a crucial role in resolving distressed property situations, protecting asset value, and ensuring equitable outcomes for all stakeholders.

North Dakota's existing statutory framework provides minimal guidance regarding receiverships; instead, it provides that individual court orders control the authority and powers of receivers in each case. This causes many of the aspects of receivership to be unclear and unpredictable for the parties involved.

SB 2122 directly addresses these challenges by adopting a uniform and modernized legal framework for the appointment, powers, and duties of receivers in commercial real estate matters. Specifically, this bill would achieve the following:

1. **Streamlined Receivership Processes:** By standardizing procedures for the appointment and operation of receivers, UCRERA reduces delays and uncertainties in managing distressed properties. This allows banks to resolve problem loans more efficiently.
2. **Enhanced Protection of Collateral Value:** The Act ensures that receivers are empowered to preserve and maximize the value of real estate assets. This benefits banks by safeguarding the collateral securing their loans, minimizing losses, and optimizing recovery outcomes.
3. **Legal Consistency Across Jurisdictions:** For banks operating in multiple states, UCRERA's uniform provisions eliminate the complexity of navigating varying state laws. This simplifies compliance and enhances operational efficiency.
4. **Reduced Litigation Risks:** Clear guidelines on the rights and responsibilities of all parties involved in receiverships reduce the likelihood of disputes and litigation. This promotes smoother and less costly resolutions for banks and other stakeholders.
5. **Improved Borrower Relationships:** A transparent and standardized process helps banks maintain positive relationships with borrowers by demonstrating fairness and consistency in handling distressed assets.