

**1999 HOUSE INDUSTRY, BUSINESS AND LABOR**

**HB 1219**

1999 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1219

House Industry, Business and Labor Committee

Conference Committee

Hearing Date 1-19-99

Tape Number	Side A	Side B	Meter #
1	x		3149 - end
		x	0 - 544
Committee Clerk Signature <i>Lisa Horner</i>			

Minutes: Claus Lembke from the ND Assoc. Of Realtors introduced House Bill 1219, relating to license examination and continuing education requirements for title insurance agents. (See written testimony)

Rep. Klemin: Sponsor of HB 1219. (See written testimony)

Chairman Berg: Currently there is no continuing education for title insurance agents?

Rep. Klemin: Under current law there is no requirement for testing in order to get a license.

There are no requirements for continuing education for title insurance agents like there is for most other insurance agents.

Chairman Berg: To receive a title insurance license what would you need to do at this point?

Rep. Klemin: The underwriter should submit their name to the insurance department. There are some exemptions if you are an attorney or a licensed abstractor.

Chairman Berg: If you are not an attorney or a licensed abstractor, are you eligible to write title insurance?

Rep. Klemin: Yes. The purpose of this bill is mainly to get education to those persons who are not now receiving any type of continuing education, either as an attorney or a licensed abstractor. Both of those occupations do have separate departments for continuing education right now.

Rep. Keiser: The underwriter would probably have more rigid concerns than just the continued education before granting that the person could write the title insurance through them. Isn't that the case?

Rep. Klemin: As far as I'm aware it has been fairly lax lately. The underwriters have expressed concerns on bases that claims are rising.

Rep. Keiser: Is the underwriter who submits the name of the person to write title insurance absorbing the risk on the title policy?

Rep. Klemin: Not exactly. All of the agencies have indemnity agreements that goes back to the underwriter which says that if your staff screwed up the underwriter will have to provide the coverage for the claim, but the underwriter is going to come back against the local agency and collect under their indemnity agreement.

Jim Horner of ND Land Title Assoc. testified in support of HB 1219.

Rep. Thorpe: If you apply for title insurance, are there any requirements that need to be met?

Jim Horner: Yes, however you do not have to take the exam if you prove that you have had X number of hours training by the underwriter.

**End of side A, tape 1. Start side B.**

Laurie Wolf of ND Insurance Department testified in a neutral position on the bill.

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House Industry, Business and Labor Committee

Bill/Resolution Number Hb 1219

Hearing Date 1-19-99

Rep. Stefonowicz: Is there a more positive way to accomplish what you are doing?

Laurie Wolf: In 1983 the exemption was to exempt title insurance from exam. In 1986 when there was a continuing education requirement posed upon agents by law, it was exempt again by administrative rule that title insurance agents would not have to comply with continuing education requirements.

Chairman Berg closed the hearing.

1999 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1219 1-27-99

House Industry, Business and Labor Committee

Conference Committee

Hearing Date 1-27-99

Tape Number	Side A	Side B	Meter #
2		x	1486 - 2477
Committee Clerk Signature <i>Lisa Horner</i>			

Minutes: **HB 1219**

Chairman Berg opened the discussion of HB 1219.

There was a short discussion of title insurance and continuing education on title insurance.

Vice Chairman Kempenich made a motion for a Do Not Pass.

Rep. Klein second the motion.

The roll call vote was 14 yea, 1 nay.

The motion carries.

Vice Chairman Kempenich will carry the bill.

**FISCAL NOTE**

(Return original and 10 copies)

Bill/Resolution No.: HB 1219 Amendment to: \_\_\_\_\_

Requested by Legislative Council Date of Request: 1-11-99

- Please estimate the fiscal impact (in dollar amounts) of the above measure for state general or special funds, counties, cities, and school districts.

**Narrative:**

House Bill No. 1219 will have a negligible fiscal impact on the general fund, if any.

- State fiscal effect in dollar amounts:**

	1997-99 Biennium		1999-2001 Biennium		2001-03 Biennium	
	General Fund	Special Funds	General Fund	Special Funds	General Fund	Special Funds
Revenues:	0	0	0	0	0	0
Expenditures:	0	0	0	0	0	0


- What, if any, is the effect of this measure on the appropriation for your agency or department:

- For rest of 1997-99 biennium: None
- For the 1999-2001 biennium: None
- For the 2001-03 biennium: None

- County, City, and School District fiscal effect in dollar amounts:**

1997-99 Biennium			1999-2001 Biennium			2001-03 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
0	0	0	0	0	0	0	0	0

If additional space is needed, attach a supplemental sheet.

Signed 

Typed Name Chris Edison

Department Insurance Department

Phone Number 328-2440

Date Prepared: 1/13/99

Date: 1-27-99  
Roll Call Vote #: 1

1999 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 1219

House Industry, Business and Labor Committee

Subcommittee on \_\_\_\_\_  
or  
 Conference Committee

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

Action Taken do not pass

Motion Made By \_\_\_\_\_ Seconded By \_\_\_\_\_

Representatives	Yes	No	Representatives	Yes	No
Chair - Berg	/		Rep. Thorpe	/	
Vice Chair - Kempenich	/				
Rep. Brekke	/				
Rep. Eckstrom	/				
Rep. Froseth	/				
Rep. Glassheim	<del>/</del>	/			
Rep. Johnson	/				
Rep. Keiser	/				
Rep. Klein	/				
Rep. Koppang	/				
Rep. Lemieux	/				
Rep. Martinson	/				
Rep. Severson	/				
Rep. Stefonowicz	/				

Total (Yes) 14 No 1

Absent 0

Floor Assignment ~~Glassheim~~ Kempenich

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

REPORT OF STANDING COMMITTEE (410)  
January 27, 1999 4:38 p.m.

Module No: HR-17-1317  
Carrier: Kempenich  
Insert LC: . Title: .

**REPORT OF STANDING COMMITTEE**

HB 1219: Industry, Business and Labor Committee (Rep. Berg, Chairman) recommends **DO NOT PASS** (14 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). HB 1219 was placed on the Eleventh order on the calendar.



**1999 TESTIMONY**

**HB 1219**



# North Dakota ASSOCIATION of REALTORS®

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## 1998-99

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Testimony HB 1219  
House Industry, Business and Labor Committee  
January 19, 1999

Mr. Chairman, Members of the Industry, Business and Labor Committee:

My name is Claus Lembke and I represent the North Dakota Association of REALTORS®.

Our Legislative Committee looked at HB 1219 and we support this proposed legislation. We estimate that 95% of all residential property is sold with assistance from a REALTOR®. Virtually all these transactions require title insurance and the agent selling such insurance deals directly or indirectly with the client of the REALTOR®.

We have experienced continuing education requirements for real estate licensees since 1981. Our experience shows that continuing education benefits both the public and the industry. It has elevated the professionalism of our membership. Therefore we support and applaud Representative Klemin and others who support this legislation.



TESTIMONY OF REPRESENTATIVE LAWRENCE R. KLEMIN  
HOUSE INDUSTRY, BUSINESS AND LABOR COMMITTEE  
HOUSE BILL NO. 1219  
JANUARY 19, 1999

Mr. Chairman and Members of the House Industry, Business and Labor Committee, I am Lawrence Klemin, Representative from District 47 in Bismarck. I am the sponsor of House Bill 1219, which requires title insurance agents to demonstrate professional competence in order to obtain and keep an insurance agent license.

Title insurance began in the United States over 140 years ago to protect against defects in real property titles. This form of insurance was originally developed by attorneys and abstracters of title in the State of Pennsylvania and is an exclusively American invention. Title insurance is an insurance contract in which the insurer promises to reimburse the insured for losses incurred, together with any related legal expense, if the state of the title to real estate is other than as shown on the face of the policy. Title insurance can be very complex. There are many different types of title insurance policies containing numerous exclusions and exceptions. Title insurance differs from other forms of insurance in several respects. Unlike other types of insurance, which require payments of premiums on a regular basis in order to keep the policy in effect, title insurance is a one premium agreement. Title insurance is not directed at future risks, such as is fire insurance or life insurance, but rather, is directed at risks that are already in existence on the date the policy is issued. Life insurance assumes in its actuarial analysis for premium purposes that a claim will eventually be made. Title insurance seeks to identify risks and then to eliminate them before they occur. Known risks that cannot be eliminated are excepted from coverage in the policy. In general, however, title insurance is a process of risk elimination, rather than risk assumption.

Title insurance and title insurance rates are regulated by the Insurance Commissioner. Title insurance agents are also regulated, but the regulation is minimal. Unlike most other insurance agents, title insurance agents are not required to pass a test in order to be licensed. Also, unlike most other insurance agents, title insurance agents are not subject to any continuing education requirements. House Bill 1219 changes this. Section 1 of the bill eliminates the exemption from testing for title insurance agents. This applies only to new agents and would not affect existing agents who already hold licenses. Section 2 of the bill on page 2, lines 19 and 20, enacts a requirement for continuing education for title insurance agents. The law currently requires other insurance agents to take 15 hours per year in continuing education. However, existing law also allows the Insurance Commissioner to reduce the number of hours required for persons with licenses limited to a single line of insurance. My discussions with the Insurance Department indicate that the Commissioner will likely require 6 hours per year of continuing education for title insurance agents, which is the same number of hours required by the Board of Abstracters Examiners for licensed abstracters of title. Section 3 of the bill makes the changes effective January 1, 2000, in order to correspond to the current reporting requirements for other insurance agents.

Many occupations and professions in North Dakota now require a person to pass a written examination in order to obtain a license. Of those occupations and professions, many also now have requirements for continuing education in order to maintain that license in good standing. The public needs to be assured that persons in licensed occupations and professions are competent. This is also good for consumer protection reasons. Attached to my testimony is a nonexhaustive list of the many licensed occupations in North Dakota that now have continuing education requirements. All of these, as far as I am aware, also have testing requirements for licensure. In addition to the occupations and professions on this list, there are bills pending in the Legislature this year that would extend continuing education requirements to additional occupations. For example, the House recently passed a bill that requires continuing education for nursing home administrators.

The exemptions for title insurance agents began years ago when title insurance was used little in North Dakota. However, due to federal requirements for many loan programs and due to the requirements of out-of-state mortgage investors, almost all residential home loans now require title insurance. Many commercial real estate loans also require title insurance. There are also owner's policies and leasehold policies, in addition to loan policies. With the increasing use of this insurance in North Dakota, the number of title insurance agents has also increased.

Attached to my testimony are statistics received from the Insurance Department concerning the volume of title insurance in 1997, the most recent year reported. 1997 was a slow year as far as real estate transactions go. 1998, in contrast, had a much higher level of volume due to low mortgage loan rates and refinancing activities. Yet in 1997, the total amount of title insurance premiums reported was over \$2 million. Due to the low rates charged for title insurance, these premiums translate into over \$1 billion in risk insured in 1997 alone. 1998 premiums are likely to exceed \$3 million with a commensurate increase in the amount of risk insured. Some of this title insurance volume is coming from agents who are neither required by law to be tested in order to be licensed, nor are they required to maintain any professional competence concerning the product they are selling. There are also title insurance agents in North Dakota who are licensed attorneys or abstracters of title. These professions already require continuing education, which should qualify under the provisions of this bill. This bill is really directed towards those agents who now have no such requirements.

I have spoken to several title insurance underwriters and to the owners of title companies in North Dakota. All agree that it is time to bring North Dakota up to date with regard to title insurance agents. This should also result in greater consumer protection for our citizens. I urge you to give favorable consideration to this bill.

## ATTACHMENT NO. 1

Company	1997 Premium Volume	Number of Agents Appointed *	Number of Agencies Appointed
American Pioneer Title Insurance Company	0	1	1
Attorneys' Title Insurance Fund, Inc.	0	125	0
Chicago Title Insurance Company	\$ 641,796	11	1
Commonwealth Land Title Insurance Company	107,080	3	1
Fidelity National Title Insurance Company	175,243	132	0
First American Title Insurance Company	435,118	33	4
Investors Title Insurance Company	0	0	0
Lawyers Title Insurance Corporation	94,280	5	1
National Title Insurance of New York, Inc.	0	0	0
Old Republic National Title Insurance Company	439,698	30	0
Stewart Title Guaranty Company	306,971	7	2
Ticor Title Insurance Company	65,035	9	0
Total	\$2,265,221	356	10

\* This number is larger than the number of licenses because some licensees hold multiple appointments.

## OCCUPATIONS AND PROFESSIONS WITH CONTINUING EDUCATION REQUIREMENTS

Insurance agents for life, accident, health,  
property and casualty insurance

Peace officers

Lawyers

Judges

Abstracters of title

Accountants

Barbers

Podiatrists

Chiropractors

Electricians

Funeral service practitioners

Pharmacists

Physicians and surgeons

Plumbers

Dental hygienists

Real estate brokers and agents

Massage therapists

Physical therapists

Dentists

Private investigators

Hearing aid dealers

Athletic trainers

Social workers

Environmental health practitioners

Dieticians

Nutritionists

Addiction counselors

Guidance counselors

Clinical laboratory personnel