

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION
SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

108

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SFN 2053 (2/85) 5M



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2001 HOUSE INDUSTRY, BUSINESS AND LABOR

HB 1081

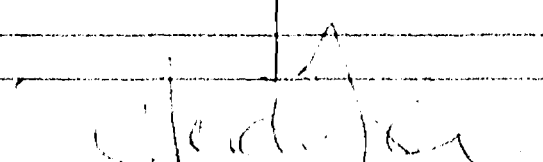
2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 1081

House Industry, Business and Labor Committee

Conference Committee

Hearing Date Jan. 10, 2001

| Tape Number | Side A | Side B | Meter # |
|---|--------|--------|-----------------------------|
| 1 | X | X | .00 - 11:31 & 7:00-18:60 |
| | | | |
| | | | |
| Committee Clerk Signature  | | | |

Minutes: Chairman R. Berg, Vice-Chair G. Kelsner, Rep. M. Ekstrom, Rep. R. Froelich, Rep. G. Froseth, Rep. R. Jensen, Rep. N. Johnson, Rep. J. Kasper, Rep. M. Klein, Rep. Koppang, Rep. D. Lemieux, Rep. B. Pietsch, Rep. D. Ruby, Rep. D. Severson, Rep. E. Thorpe.

Chairman Berg: We will call the IBI committee to order. We will start with HB 1081.

Gary D. Preszler: Commissioner, Dept. Of Banking & Financial Institutions, Support of HB 1081. See attached testimony.

Chairman Berg: Brought up issue of computer leasing incident in Fargo. If there is anyone whom is a third party offering to lease anything that is not the retailer, that person would need to be licensed under this section, with the change.

Preszler: That's correct and the referred to Fargo incident brought it up, the lessor in this case felt that he was outside of the scope of the law and we said our practice has been to require licensing. We decided then to come and receive direction from you, the Legislature.

Chairman Berg: Would you mind explaining the cost of the money brokers license and that process.

Preszler: The money broker license is a license that runs from July 1 through June 30, and has an annual license fee of \$200 and a one time investigation fee of \$300 for the initial application. The money broker is also to provide a surety bond in the amount of \$25,000 to buy protection for their activities.

Chairman Berg: Any other questions Mr. Preszler? .

Rep. Klein: Does this tie in with advancing money on a paycheck?

Preszler: No it is a totally separate issue.

Chairman Berg: Typically someone who would be leasing would be some of these companies that have furniture and appliances, lease-to-owns, retail stores. These would be licensed under this section because they are leases or would it change that?

Preszler: No, they are already accepted now the retailer is providing leases with their own property like a rent-to-own type store. We are after someone who's only business is to broker a lease. Typically a lessee will come in and say they are interested in buying a tractor or computer and negotiate the purchase price and the lessee will then handle the arrangements and will find someone to buy the lease. The lessee will then get a commission or will take a servicing discount on that financing.

Rep Jensen: What is the cost of to get the \$25,000 surety bond?

Preszler: It depends on the individual's financial standings, I don't currently have those rates.

Rep Jensen: \$100 per year, \$500 per year?

Preszler: \$200-\$400 for a \$25,000 loan.

Rep Thorpe: \$25,000 Bond, is that sufficient to protect a lessee?

Preszler: In some cases, based on a level of activity, it could be sufficient to handle an individual type claim.

Chairman Berg: Are there any more questions?

Rep Lemieux: Who exactly are we protecting with this bill?

Preszler: We provide protection to the individuals who obtain loans who may have made some type of application fee payments on a loan or mortgage and there was no commitment. The biggest abuse that we have with money brokers on license activity, is where there is solicitations to find a loan and they'll do that for an upfront fee and there is absolutely no intention of finding the loan. The scam becomes people being victimized by the fact that they pay an application fee and they don't get a loan.

Rep Froseth: Farm machine dealerships, do they operate under a broker license or do they operate under a franchise license or would this affect them?

Preszler: No, they are selling their own equipment or financing.

Rep Kasper: How many complaints have you had in this area in the last year?

Preszler: Specifically we've had one instance in Fargo and we've also had two other companies that were unlicensed to try and get them licensed. Three instances in the past year.

Rep Kasper: Is that typical, two or three a year?

Preszler: No, there are a lot of others that are involved in a loan type process and we probably average four or five applications a week from money brokers.

Chairman Berg: Anyone else wish to testify on House Bill 1081? If not we'll close the hearing on House Bill 1081.

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House Industry, Business and Labor Committee

Bill/Resolution Number 1081

Hearing Date Jun 1, 2001

Chairman Berg: (7.00 B) Lets return to HB 1081. Ninety percent of the leases that are done out there are done on cars, computers, and equipment and those are exempt from this lease deal. 90-95% of the people are exempt from being a money broker for leasing. The problem is when someone leases what they weren't authorized to sell. I don't have a problem with this bill, the fact that 90% of the leases that are done out there are done apart from this is not what this bill addresses.

Rep Froseth: They don't look to have a profound effect on it, they have a revenue fiscal note of income as \$1,000.

Rep Keiser: I find that it may have a profound impact and support using money brokers. The wording on line 8 is terrible.

Rep Klein: I move do pass.

Rep Severson: I second.

Chairman Berg: Any further discussion? By getting the brokers license they are doing some due diligence on the individual company behind them.

Rep Keiser: The one thing they didn't do here is, they have a graduating bonding requirement based on volume

Chairman Berg: In this day and age we should do away with bonding.

Rep Severson: How can the bonding issue be handled?

Chairman Berg: By statute. Now we have a motion before us for a Do Pass on HB 1081.

Clerk please take roll vote. Motion carries. Carried by Rep Froelich.

FISCAL NOTE

Requested by Legislative Council
12/14/2000

Bill/Resolution No.: HB 1081

Amendment to:

1A. State fiscal effect: *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

| | 1999-2001 Biennium | | 2001-2003 Biennium | | 2003-2005 Biennium | |
|-----------------------|--------------------|-------------|--------------------|-------------|--------------------|-------------|
| | General Fund | Other Funds | General Fund | Other Funds | General Fund | Other Funds |
| Revenues | | \$1,000 | | \$1,000 | | \$1,000 |
| Expenditures | | \$0 | | \$0 | | \$0 |
| Appropriations | | \$0 | | \$0 | | \$0 |

1B. County, city, and school district fiscal effect: *Identify the fiscal effect on the appropriate political subdivision.*

| 1999-2001 Biennium | | | 2001-2003 Biennium | | | 2003-2005 Biennium | | |
|--------------------|--------|------------------|--------------------|--------|------------------|--------------------|--------|------------------|
| Counties | Cities | School Districts | Counties | Cities | School Districts | Counties | Cities | School Districts |
| | | | | | | | | |

2. Narrative: *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

HB 1081 has very little fiscal impact on the Department of Banking and Financial Institutions. The purpose of the amendment is to clarify the current statute and remove any confusion of who is required to be licensed as a money broker.

3. State fiscal effect detail: *For information shown under state fiscal effect in 1A, please:*

A. Revenues: *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

The revenue amount is based on the possibility that a few lease companies who previously chose not to obtain a license, due to an ambiguity with the law, may now become licensed by the department. However, we do not expect this legislation to impact many companies, and do not expect it to result in a substantial increase in the number of licenses issued.

B. Expenditures: *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

Due to the expectation that very few or no additional licenses will be issued as a result of this amendment, the department does not anticipate any additional expenditures.

C. Appropriations: *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

Due to the minimal impact of this amendment, the department will not need to request any additional appropriation.

| | | | |
|----------------------|-----------------|-----------------------|------------------------------------|
| Name: | Gary D. Prezler | Agency: | Banking and Financial Institutions |
| Phone Number: | 328-9933 | Date Prepared: | 12/20/2000 |

Date: 1-10-01
Roll Call Vote #: 1

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1081

House Industry, Business and Labor Committee

Subcommittee on _____
or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By Rep Klein Seconded By Rep Severson

| Representatives | Yes | No | Representatives | Yes | No |
|-----------------------------|-----|----|-----------------------|-----|----|
| Chairman- Rick Berg | ✓ | | Rep. Jim Kasper | ✓ | |
| Vice-Chairman George Keiser | ✓ | | Rep. Matthew M. Klein | ✓ | |
| Rep. Mary Ekstorm | ✓ | | Rep. Myron Koppang | ✓ | |
| Rep. Rod Froelich | ✓ | | Rep. Doug Lemieux | ✓ | |
| Rep. Glen Froseth | ✓ | | Rep. Bill Pietsch | ✓ | |
| Rep. Roxanne Jensen | ✓ | | Rep. Dan Ruby | ✓ | |
| Rep. Nancy Johnson | ✓ | | Rep. Dale C. Severson | ✓ | |
| | | | Rep. Elwood Thorpe | ✓ | |
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Total (Yes) 13 No 0

Absent 0

Floor Assignment Rep Froelich

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

REPORT OF STANDING COMMITTEE (410)
January 10, 2001 1:37 p.m.

Module No: HR-02-0866
Carrier: Froelich
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1081: Industry, Business and Labor Committee (Rep. Berg, Chairman) recommends DO PASS (15 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1081 was placed on the Eleventh order on the calendar.

2001 SENATE INDUSTRY, BUSINESS AND LABOR

HB 1081

2001 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1081

Senate Industry, Business and Labor Committee

Conference Committee

Hearing Date February 13, 2001

| Tape Number | Side A | Side B | Meter # |
|---|--------|--------|--------------|
| 1 | x | | 7.4 to 11.9 |
| | x | | 18.1 to 20.9 |
| Committee Clerk Signature <i>Doris E. Perry</i> | | | |

Minutes:

The meeting was called to order. All committee members present. Hearing was opened on HB 1081 relating to money broker licenses.

Tim Karsky, testifying for Gary Preszler, Commissioner, Department of Banking and Financial Institutions in support of this bill. Written testimony attached.

Senator Mutch: What is the problem?

T Karsky: Because of the word "consumer" on the lease some feel exempt from licensing.

No opposing testimony. Hearing closed.

Senator Espegard: Motion: Do Pass **Senator Mathern**: Second

Roll call vote: 7 yes; 0 no. Motion carried. Floor assignment **Senator Espegard**.

REPORT OF STANDING COMMITTEE (410)
February 13, 2001 1:35 p.m.

Module No: SR-26-3205
Carrier: Espegard
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1081: Industry, Business and Labor Committee (Sen. Mutch, Chairman) recommends DO PASS (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1081 was placed on the Fourteenth order on the calendar.

2001 TESTIMONY

HB 1081

TESTIMONY FOR HOUSE BILL NO. 1081

House Industry, Business, and Labor Committee

Testimony of Gary D. Preszler, Commissioner, Department of Banking and Financial Institutions in support of House Bill No. 1081.

The Department of Banking and Financial Institutions is charged with the examination and supervision responsibility for 94 state-chartered banks and 42 state-chartered credit unions, along with the licensing responsibilities for collection agencies, money brokers, small loan companies, and sale of check providers. Currently we have approximately 280 licensed money brokers.

House Bill No. 1081 eliminates an ambiguity as to entities requiring a money broker license. The ambiguity, beginning on Line 8, currently provides licensing for consumer leases for persons or businesses desirous of obtaining funds for any purposes. The question is how can a business be a lessee of a consumer lease. The Federal Reserve Board's definition of a "consumer lease" is "property used primarily for personal, family, or household purposes". This definition is similar to the definition found under Chapter 41-02.1, The Uniform Commercial Code. The conflict then is evident as to what is a consumer lease for "businesses" and a lease used "for any purposes".

Additionally, the current language creates confusion when property is used by the lessee for both personal, family, and household purposes, and for use in a small business. An example is computer equipment used in the home where a business is also operated out of the home.

The Department's past practice has been to consider leases synonymous with loans and loan brokering as leases are a form of financing. Of the 280 licensed money brokers, at least four are involved in lease brokering.

For state law, the proper construction should be to include lease brokering activity in a broad sense at the beginning of the Section and then to exclude those types of leases that you want excepted from the licensing requirement as noted beginning on line 18. Currently excluded from the money brokering license requirements are those "retail sellers" or "manufacturers providing lease financing for their own property", and "leases on any real property".

The Department stands in support of House Bill No. 1081 and requests a favorable "Do Pass" from the Committee.

TESTIMONY FOR HOUSE BILL NO. 1081

Senate Industry, Business, and Labor Committee

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