

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION
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ROLL NUMBER

DESCRIPTION

1184

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Deanna Holbrook
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10/2/03
Date

2003 HOUSE INDUSTRY, BUSINESS AND LABOR

HB 1184

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Date

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 1184

House Industry, Business and Labor Committee

Conference Committee

Hearing Date 1/15/03

Tape Number	Side A	Side B	Meter #
2	x		52.8-end
3	x		0.00-16.5
Committee Clerk Signature <i>Judith Hammer</i>			

Minutes: Chairman Keiser opened the hearing on HB 1184.

Greg Meidinger, Investigator with Department of Financial Institutions. (See attached-prepared by Tim Karsky but presented at today's hearing by Glen Meidinger)

Klein: How will a three month notice help?

Meidinger: We're moving the deadline for applications up a month. We'll add a month on at the front end. We want the applications in by June 1, they'll expire on June 30.

Klein: Is this so complicated that it takes a two months for them to complete the applications?

Meidinger: It's not so complicated, we have a lot of information on file for renewals. But we deal with small companies in ND and large corporations from throughout the U.S. Some don't take the initiative to get them in on time.

Severson: What does the word "contumacy" mean?

Meidinger: Unwillingness to cooperate.

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Page 2
House Industry, Business and Labor Committee
Bill/Resolution Number HB 1184
Hearing Date 1/15/03

Johnson: Property taxes will give you a deduction if you pay early, have you considered a reduction for paying early?

Meldinger: We haven't looked at that option. But it might cause an increase in staff workload. e.

Nottestad: What percentage of renewal applicants don't get their requests in on time now?

Meldinger: I don't have exact figures but last year they were still coming in September and October.

Nottestad: Wouldn't it be better to increase the penalty, then notify them to cease and desist doing business in North Dakota if they don't have their applications in by July?

Meldinger: I'm not sure that \$50 is enough incentive to be timely, we want to stay consistent with other states.

Nottestad: I'm not sure being nice is going to have much effect. Having to close their doors might wake them up more than a penalty.

Ruby: Can you explain and give me a good reason or example that applies to p.3, line 16?

Meldinger: A collection agency in Fargo that was previously licensed generated a complaint this summer. We found out that a person operating the company had been charged with various felonies in other states. Since they weren't currently licensed, we didn't have the authority to go in and conduct an examination. We were able to remove this person through our laws. The company was violating the law because they weren't licensed. Under existing law, we could pull her out and tell them to cease and desist but we couldn't do a full exam.

Nottestad: If you had issued a cease and desist to them when they didn't renew, wouldn't that have given you more authority.?

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1/21/03
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House Industry, Business and Labor Committee
Bill/Resolution Number HB 1184
Hearing Date 1/15/03

Meldinger If they had violated an order, we could have gone into legal proceedings and taken them to court.

Kelser: Part of what you're hearing is that we have a law in place but it isn't being enforced. We're allowing entities and businesses to stay in operation when they are not holding proper license. As the oversight group, you have to take action.

Ruby: Is there another agency that would go in, getting records and determining damage based on complaints filed? Would this be broadening into another agencies authority? Like the States Attorney or Law Enforcement?

Meldinger: I'm not aware of any. There are a few cases where a States Attorney might get involved.

Thorpe: Who licenses "quick cash companies"? Banking commissioner or your department?

Meldinger: We do. They are required to post their license from our department on the wall near the counter where their loans are being made. They also have to post their certificate from the Secretary of State.

Tim Karsky, (Commissioner of Department of Financial Institutions) We are attempting to scrutinize renewals, check financial backgrounds. Moving the date up will be an advantage to our office and provide better service to our citizens. A \$5 fine is not cost efficient.

No one present to testify in opposition to HB 1184.

Chairman Kelser closed the hearing on HB 1184.

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Donna Ballman
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1/2/03
Date

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1184

House Industry, Business and Labor Committee

Conference Committee

Hearing Date 1/20/03

Tape Number	Side A	Side B	Meter #
2		x	17.5-27.0

Committee Clerk Signature *Judith Hamman*

Minutes: **CHAIRMAN KEISER** called for committee work on HB 1184.

REP. KASPER stated that no further information is available than what was presented during the hearing on 1/15/03.

(see attached testimony from **TIM KARSKY**, Commissioner for the Dept. of Financial Institutions). The intent of this legislation is to move the date back for license renewal to allow more time, increasing a late fee from \$5 to \$50, to allow the Dept. to examine unlicensed businesses and individuals that are conducting businesses illegally and give more regulatory power to the commission. Another important and key feature of this bill is that the Dept. will be allowed to deny a renewal application on the same grounds it would justify the denial of an initial application. This constitutes a standardization of procedures.

CHAIRMAN KEISER asked for a motion. **REP. KASPER** moved a Do Pass. **REP.**

SEVERSON seconded the motion.

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Page 2
House Industry, Business and Labor Committee
Bill/Resolution Number 1184
Hearing Date 1/20/03

During further discussion, **REP. EKSTROM** commented on the "cease and desist" intent.

CHAIRMAN KEISER agreed that it appears to be an enforcement issue rather than a fee problem. A roll call vote was taken on the motion. **Motion carried 13-0-1.**

REP. KASPER will carry this bill on the floor.

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Dorinda H. [Signature]
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1/21/03
Date

FISCAL NOTE

Requested by Legislative Council
01/08/2003

REVISION

Bill/Resolution No.: HB 1184

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.

	2001-2003 Biennium		2003-2005 Biennium		2005-2007 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$0	\$0	\$2,125	\$0	\$975
Expenditures	\$0	\$0	\$0	\$0	\$0	\$0
Appropriations	\$0	\$0	\$0	\$0	\$0	\$0

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

2001-2003 Biennium			2003-2005 Biennium			2005-2007 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0

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

This bill allows the Department of Financial Institutions to approve or deny a consumer finance or collection agency renewal application on the same grounds as would justify approval or denial of an original application. The bill also increase the penalty for not submitting renewal applications in a timely manner from \$5.00 to \$50.00. This bill also allows the Department to subpoena information from a collection agency while conducting a investigation.

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 increase in a penalty for submitting renewal applications in a timely manner from \$5.00 to \$50.00 an incentive for timely filing. The cost of collecting a \$5.00 penalty is more than the \$5.00 enforced.

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.

No increases in Expenditures.

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1/8/03
Date

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.

No increases in Appropriations.

Name:	Joan Becker	Agency:	Department of Financial Institutions
Phone Number:	328-9958	Date Prepared:	01/06/2003

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Operator's Signature

10/2/03
Date

FISCAL NOTE
 Requested by Legislative Council
 01/03/2003

Bill/Resolution No.: HB 1184

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.

	2001-2003 Biennium		2003-2005 Biennium		2005-2007 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$125	\$0	\$2,250	\$0	\$1,100
Expenditures	\$0	\$0	\$0	\$0	\$0	\$0
Appropriations	\$0	\$0	\$0	\$0	\$0	\$0

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

2001-2003 Biennium			2003-2005 Biennium			2005-2007 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0

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

This bill allows the Department of Financial Institutions to approve or deny a consumer finance or collection agency renewal application on the same grounds as would justify approval or denial of an original application. The bill also increase the penalty for not submitting renewal applications in a timely manner from \$5.00 to \$50.00. This bill also allows the Department to subpoena information from a collection agency while conducting a investigation.

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 increase in a penalty for submitting renewal applications in a timely manner from \$5.00 to \$50.00 an incentive for timely filing. The cost of collecting a \$5.00 penalty is more than the \$5.00 enforced.

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.

No increases in 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.

No increases in Appropriations.

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Dannan G. Ball
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10/2/03
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Name:	Joan Becker	Agency:	Department of Financial Institutions
Phone Number:	328-9958	Date Prepared:	01/06/2003

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Date: 1/20/03
Roll Call Vote #:

2003 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1184

House Industry, Business & Labor Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By Kasper Seconded By Severson

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser	✓		Rep.Boe	✓	
Rep. Severson, Vice-Chair	✓		Rep. Ekstrom	✓	
Rep. Dosch	✓		Rep. Thorpe	✓	
Rep. Froseth	✓		Rep. Zaiser		
Rep. Johnson	✓				
Rep. Kasper	✓				
Rep. Klein	✓				
Rep. Nottlestad	✓				
Rep. Ruby	✓				
Rep. Tieman	✓				

Total (Yes) 13 No 0

Absent 1

Floor Assignment Kasper

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

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Deanna Holm 1/21/03
Operator's Signature Date

REPORT OF STANDING COMMITTEE (410)
January 21, 2003 1:56 p.m.

Module No: HR-11-0861
Carrier: Kasper
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE
HB 1184: Industry, Business and Labor Committee (Rep. Keiser, Chairman)
recommends **DO PASS** (13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING).
HB 1184 was placed on the Eleventh order on the calendar.

(2) DESK, (3) COMM

Page No. 1

HR-11-0861

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2003 SENATE FINANCE AND TAXATION

HB 1184

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10/2/03
Date

2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB1184

Senate Finance and Taxation Committee

Conference Committee

Hearing Date March 5, 2003

Tape Number	Side A	Side B	Meter #
1	X		2700-3435

Committee Clerk Signature *Mary Kay Wilson*

Minutes:

Senator Urlacher opened the hearing on HB1184. All committee members are present. This bill relates to consumer finance license renewals and subpoena powers for collection agency information.

Tim Karsky, Commissioner for Department of Financial Institutions (mtr #2730) - Testified in support of HB1184. The department is responsible for licensing and regulation of banks, credit unions, and various consumer licensing. The consumer licensing consists of 42 consumer finance companies, 259 collection agencies, 295 money brokers, 12 sale-of-check companies and 59 deferred presentment service providers. This bill proposes to allow the department to deny a renewal application on the same ground as would deny an initial application. And require all entities to have the renewal applications submitted 30 days before expiration. Increase the penalty if the license is not renewed before expiration and give the department subpoena power for collection agency information. Gave further testimony as to the procedure in place at this time

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Page 2
Senate Finance and Taxation Committee
Bill/Resolution Number HB1184
Hearing Date March 5, 2003

for renewing licenses, the number of licenses that are renewed each year and the effective dates and how this bill would effect the departments ability to enforce license renewal. Written testimony is attached. Urges a favorable consideration by the committee.

Senator Urlacher (mtr #3252) - Questioned if there is any objection to the subpoena power in the bill.


Mr. Karsky (mtr #3266) - The subpoena power is a big part of the bill. Also stated that the increase in fees reflect the actual cost incurred by the department to enforce.

Senator Urlacher (mtr #3326) - Given no further testimony, closed the hearing on HB1184

Senator Tollefson moves a Do Pass. Second by Senator Nichols.

Roll call vote 6 yea, 0 nay, 0 absent. Carrier is Senator Seymour.

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REPORT OF STANDING COMMITTEE (410)
March 5, 2003 12:04 p.m.

Module No: SR-30-3047
Carrier: Seymour
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE
HB 1184: Finance and Taxation Committee (Sen. Urlacher, Chairman) recommends DO
PASS (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1184 was placed on the
Fourteenth order on the calendar.

(2) DESK, (3) COMM

Page No. 1

SR-30-3047

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10/2/03
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2003 TESTIMONY

HB 1184

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10/2/03
Date

1/15/2003


House Bill No. 1184

Good morning Chairman Keiser and members of the House Industry, Business and Labor Committee, my name is Tim Karsky and I am the Commissioner for the Department of Financial Institutions. I am here to urge your support for House Bill No. 1184.

The Department of Financial Institutions is responsible for the licensing and regulation of banks, credit unions and various consumer licensees. The consumer licensees consist of 42 consumer finance companies, 257 collection agencies, 280 money brokers, 12 sale of check companies and 58 deferred presentment service providers. House Bill No. 1184 proposes to allow the Department to deny a renewal application on the same grounds as would justify the denial of an initial application, require all licensees to have their renewal applications submitted thirty days before expiration, increase the penalty for not renewing a license by the statutory deadline and gives the Department subpoena powers for collection agency information.

All 6/9 licenses the Department currently has issued expire on June 30th and must be renewed on or before that date. The Department sends renewal applications to all licensees at least two months prior to their expiration. Even with this amount of time given, many licensees do not submit their renewal applications to the Department by June 30th. If the Department has not received all renewal applications by the statutory deadline, it is extremely difficult for the Department to have all licenses current by July 1st of each year. Therefore, the Department is proposing to have all renewal applications due 30 days prior to their expiration, or by June 1st. This will allow the Department ample time to review the renewal applications and ensure all licensees are renewed by the statutory deadline. In turn, the Department will send the renewal applications to licensees one month sooner than we do currently.

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Operator's signature

1/15/03
Date

The review of renewal applications encompasses many of the same aspects of reviewing a new application. However, the Department does not have the authority to deny a consumer finance or collection agency renewal application on the same grounds as would justify the denial of an initial application. The money broker act and deferred presentment service provider act currently do provide the Department with this authority. By granting the Department this ability, we will remain more consistent with our laws and will also ensure all new applications and renewal applications are being reviewed in the same context and are being approved or denied on the same merits.

The Department currently charges all licensees a five-dollar late penalty for not renewing their license by the statutory deadline. The amount of this late fee is not sufficient in relation to the amount of time the Department will take to contact current licensees via telephone or written correspondence requesting additional information or following up on previous letters we may have sent regarding their renewal applications. By increasing the penalty for not renewing on time, the Department is hoping to provide more incentive to submit renewal applications in a timely manner, which will allow the Department to expedite the renewal process and ensure all licensees remain current.

A large part of the Department's duties encompass issues not related to the licensees I have referenced. The Department is also responsible for investigating companies and persons who are illegally operating in the state of North Dakota. These companies or persons may be from in state or out of state and may not be aware of the laws or may be choosing to ignore the laws. In either case, the Department needs to take the necessary steps to ensure companies and individuals such as this either become licensed or are stopped from conducting business in the state. The money broker act currently gives the Department the authority to conduct

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investigations of any person located in state or out of state to determine whether that person has violated or is about to violate any provision of that chapter. In conducting these investigations, the Department is granted the ability to subpoena information and records, which are relevant or material to the case. The Department is proposing to add the same language to the collection agency act to aid in gathering information during investigations. Without this authority it may be difficult to carry out an investigation to the extent needed to ensure all companies and individuals are operating in the state within the parameters of our laws.

A member of the Department's staff met with the North Dakota Collection Agency Association in November of 2002 and reviewed this proposed legislation. Representatives from various licensed collection agencies across North Dakota attended the meeting. The members of the association agreed with the increase of the late penalty for renewing an application and also with the need to set a deadline for submitting the applications thirty days prior to their expiration. The members felt this might expedite the renewal process and aid the Department in getting all licenses renewed by the statutory deadline. The members also supported the Department's ability to subpoena information while conducting investigations of collection agencies. They felt if they are abiding by the laws and taking the necessary steps to be licensed, the Department should have the ability to make sure all collection agencies and individuals operating in the state are abiding by the same laws. We did not meet with the other licensees as we are not aware of a North Dakota association for consumer finance companies or money brokers.

Mr. Chairman, thank you for the opportunity to provide testimony on this bill and I urge favorable consideration by the committee. If you or any members of the committee have any questions I would be happy to try to answer them.

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Operator's Signature

10/2/03
Date

3-5-03

TESTIMONY FOR HOUSE BILL NO. 1184

Good morning Chairman Urlacher and members of the Senate Finance and Taxation Committee, my name is Tim Karsky and I am the Commissioner for the Department of Financial Institutions. I am here to urge your support for House Bill No. 1184.

The Department of Financial Institutions is responsible for the licensing and regulation of banks, credit unions and various consumer licensees. The consumer licensees consist of 42 consumer finance companies, 259 collection agencies, 295 money brokers, 12 sale of check companies and 59 deferred presentment service providers. House Bill No. 1184 proposes to allow the Department to deny a renewal application on the same grounds as would justify the denial of an initial application, require all licensees to have their renewal applications submitted thirty days before expiration, increase the penalty for not renewing a license by the statutory deadline and gives the Department subpoena powers for collection agency information.

All 667 licenses the Department currently has issued expire on June 30th and must be renewed on or before that date. The Department sends renewal applications to all licensees at least two months prior to their expiration. Even with this amount of time given, many licensees do not submit their renewal applications to the Department by June 30th. If the Department has not received all renewal applications by the statutory deadline, it is extremely difficult for the Department to have all licenses current by July 1st of each year. Therefore, the Department is proposing to have all renewal applications due 30 days prior to their expiration, or by June 1st. This will allow the Department ample time to review the renewal applications and ensure all licensees are renewed by the statutory deadline. In turn, the Department will send the renewal applications to licensees one month sooner than we do currently.

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Date

The review of renewal applications encompasses many of the same aspects of reviewing a new application. However, the Department does not have the authority to deny a consumer finance or collection agency renewal application on the same grounds as would justify the denial of an initial application. The money broker act and deferred presentment service provider act currently do provide the Department with this authority. By granting the Department this ability, we will remain more consistent with our laws and will also ensure all new applications and renewal applications are being reviewed in the same context and are being approved or denied on the same merits.

The Department currently charges all licensees a five-dollar late penalty for not renewing their license by the statutory deadline. The amount of this late fee is not sufficient in relation to the amount of time the Department will take to contact current licensees via telephone or written correspondence requesting additional information or following up on previous letters we may have sent regarding their renewal applications. By increasing the penalty for not renewing on time, the Department is hoping to provide more incentive to submit renewal applications in a timely manner, which will allow the Department to expedite the renewal process and ensure all licensees remain current.

A large part of the Department's duties encompass issues not related to the licensees I have referenced. The Department is also responsible for investigating companies and persons who are illegally operating in the state of North Dakota. These companies or persons may be from in state or out of state and may not be aware of the laws or may be choosing to ignore the laws. In either case, the Department needs to take the necessary steps to ensure companies and individuals such as this either become licensed or are stopped from conducting business in the state. The money broker act currently gives the Department the authority to conduct

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Dorena Haldrup
Operator's Signature

10/2/03
Date

investigations of any person located in state or out of state to determine whether that person has violated or is about to violate any provision of that chapter. In conducting these investigations, the Department is granted the ability to subpoena information and records, which are relevant or material to the case. The Department is proposing to add the same language to the collection agency act to aid in gathering information during investigations. Without this authority it may be difficult to carry out an investigation to the extent needed to ensure all companies and individuals are operating in the state within the parameters of our laws.

A member of the Department's staff met with the North Dakota Collection Agency Association in November of 2002 and reviewed this proposed legislation. Representatives from various licensed collection agencies across North Dakota attended the meeting. The members of the association agreed with the increase of the late penalty for renewing an application and also with the need to set a deadline for submitting the applications thirty days prior to their expiration. The members felt this might expedite the renewal process and aid the Department in getting all licenses renewed by the statutory deadline. The members also supported the Department's ability to subpoena information while conducting investigations of collection agencies. They felt if they are abiding by the laws and taking the necessary steps to be licensed, the Department should have the ability to make sure all collection agencies and individuals operating in the state are abiding by the same laws. We did not meet with the other licensees as we are not aware of a North Dakota association for consumer finance companies or money brokers.

Mr. Chairman, thank you for the opportunity to provide testimony on this bill, and I urge favorable consideration by the Committee. If you or any members of the Committee have any questions, I would be happy to try to answer them.