

2015 HOUSE INDUSTRY, BUSINESS AND LABOR

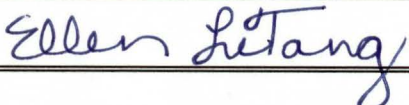
HB 1189

2015 HOUSE STANDING COMMITTEE MINUTES

Industry, Business and Labor Committee
Peace Garden Room, State Capitol

HB 1189
1/19/2015
22166

- Subcommittee
 Conference Committee



Explanation or reason for introduction of bill/resolution:

Methods to confirm or renew a check stop payment order under the Uniform Commercial code.

Minutes:

Attachment 1

Chairman Keiser: Opens the hearing on HB 1189.

Representative Karls~District 35~Introduces the bill.

Marilyn Foss~General Counsel for the ND Bankers Association: (See Attachment 1).

Representative Laning: In the bill it references a 6 month expiration date, does that mean a stop order expires at the end of 6 months and then a check can be negotiated?

Foss: Yes.

Representative Ruby: Could it include all types of media, like text as long as the bank receives that they would accept. Would this allow to verify on the bank site itself?

Foss: I do not know about texts because I have not seen how they backup texts. When you are talking about is real time, not all operate in real time.

Representative Ruby: There is 14 days to receive that confirmation, right?

Foss: Yes, there is 14 days for the stop payment but I don't know if all banks do this. The 6 months period Representative Laning asked about, this also conforms to the period of time before a check becomes stale, a bank is not required to pay a stale check but it may pay.

Representative Amerman: You have 6 months and you get another 6 months where you can renew. What do you do to make it permanent?

Foss: You renew it every 6 months to make it permanent.

Chairman Keiser: The reason that it was in writing, historically, was in the good old days, banks kept your signature on file. The submission in writing allowed them to verify the signature against your signature card. How will the bank know it will be a legitimate request? How with this law change, will we prevent the potential for people to abuse the system?

Foss: Banks dealing with customers are dealing over secured line system of the bank's web site. That is the protection that most banks rely on. If the bank has a question about it, the bank will call the customer.

Chairman Keiser: The 2nd part, the 6 months renewal period, the onerous responsibility is put on the customer versus the bank. Why shouldn't I as a customer, have the power and authority to say, "I've changed my mind, I can pay" versus the bank saying "well, we are going to treat it unless you contact us again".

Foss: I don't read the statute as precluding the customer from saying I've changed my mind, you can pay the check. That would be revoking a stop payment order.

Chairman Keiser: Rather than me doing it every 6 months, why can't I do it once and if I change my mind as a customer, I get to make that decision, not the bank?

Foss: It's a matter of practicality in how long is it reasonable for people to keep and have access to their records given the volume of transactions that go through the payment system. It is the customer who knows whether a stop payment matter has been resolved or not resolved rather than the bank. This is a uniform provision that is in effect every state in the United States.

Chairman Keiser: Anyone else here to testify in support of HB 1189, opposition, neutral? Seeing none, what are the wishes of the committee?

Representative Laning: Moves a Do Pass.

Representative Hanson: Second.

Roll call was taken on HB 1189 for a Do Pass on HB 1189 with 14 yes, 0 no, 1 absent and Representative Hanson is the carrier.

Date: Jan 19, 2015

Roll Call Vote: 1

2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1189

House Industry, Business & Labor Committee

Subcommittee Conference Committee

Amendment LC# or Description: _____

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations

Other Actions: Reconsider _____

Motion Made By Rep Laning Seconded By Rep Hanson

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser	x		Representative Lefor	x	
Vice Chairman Sukut	x		Representative Louser	x	
Representative Beadle	x		Representative Ruby	x	
Representative Becker	x		Representative Amerman	x	
Representative Devlin	x		Representative Boschee	x	
Representative Frantsvog	Ab		Representative Hanson	x	
Representative Kasper	x		Representative M Nelson	x	
Representative Laning	x				

Total (Yes) 14 No 0

Absent 1

Floor Assignment Rep Hanson

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

REPORT OF STANDING COMMITTEE

HB 1189: Industry, Business and Labor Committee (Rep. Keiser, Chairman)
recommends **DO PASS** (14 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING).
HB 1189 was placed on the Eleventh order on the calendar.

2015 SENATE INDUSTRY, BUSINESS AND LABOR

HB 1189


2015 SENATE STANDING COMMITTEE MINUTES

Industry, Business and Labor Committee
Roosevelt Park Room, State Capitol

HB 1189
3/16/2015
Job Number 24839

- Subcommittee
 Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to methods to confirm or renew check stop payment order under the Uniform Commercial Code

Minutes:

Attachments

Chairman Klein: Opened the hearing.

Representative Karen Karls: Introduced the bill as a request from some of the folks in the banking industry and credit union industry. The bill concerns what happens to you as a consumer when you stop payment on a check. This bill is meant to add to the convenience of that process. (:34-1:40)

Rick Clayburgh, President and CEO of the North Dakota Bankers Association: Written Testimony Attached (1). (1:43-3:25)

Senator Murphy: Why are most checks stopped?

Rick Clayburgh: Stop payment would be, you write a check to somebody in a commercial transaction and you are not comfortable with what has occurred and you call the bank and ask to have the payment stopped. It is you as the drawee on the check saying, I don't want you to honor the check, telling the bank to stop it or you may of heard from your visa company that your credit card statement had not been received and you had written a check and it got lost in the mail so you put a stop payment on it and you issue a new check.

Chairman Klein: Do we as a legislature set the fee for a stop payment or is that up to the local bank?

Rick Clayburgh: That is a contractual relationship between the parties.

Jeff Olson, Representing the Credit Unions of North and South Dakota: In support of the bill. It is really a consumer friendly bill and it's a reminder that they have to renew this every six months if that check is not discovered ore destroyed.

Senate Industry, Business and Labor Committee

HB 1189

March 16, 2015

Page 2

Chairman Klein: Closed the hearing.

Senator Sinner: Moved a do pass.

Senator Campbell: Seconded the motion.

Roll Call Vote: Yes-7 No-0 Absent-0

Senator Sinner will carry the bill.

**2015 SENATE STANDING COMMITTEE
 ROLL CALL VOTES
 HB 1189**

Senate Industry, Business and Labor Committee

Subcommittee

Amendment LC# or Description: _____

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar
 Other Actions: Reconsider _____

Motion Made By Senator Sinner Seconded By Senator Campbell

Senators	Yes	No	Senators	Yes	No
Chairman Klein	x		Senator Murphy	x	
Vice Chairman Campbell	x		Senator Sinner	x	
Senator Burckhard	x				
Senator Miller	x				
Senator Poolman	x				

Total (Yes) 7 No 0

Absent 0

Floor Assignment Senator Sinner

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

REPORT OF STANDING COMMITTEE

HB 1189: Industry, Business and Labor Committee (Sen. Klein, Chairman) recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1189 was placed on the Fourteenth order on the calendar.

2015 TESTIMONY

HB 1189

Jan 19, 2015

TESTIMONY OF MARILYN FOSS, NORTH DAKOTA BANKERS ASSOCIATION, IN FAVOR OF HB 1189

Mr. Chairman, members of the Committee, I am Marilyn Foss, General Counsel for the North Dakota Bankers Association. I am here to ask you to give a Do Pass to HB 1189 which amends section 41-04 -34(2) of the North Dakota Century Code to replace the word "writing" with the word "record".

I asked Representative Karls to sponsor this change in order make this statute more "consumer friendly" to the bankers and bank customers who look it at the law in order to be they are doing whatever it is that is required to make a stop payment order effective. Basically, the law allows oral stop payment orders to be given to a bank, but requires the oral stop payment order to be confirmed by a "writing".

Nowadays, some customers still use a traditional written document for the confirmation, but in many or perhaps, most cases, bank customers use email to confirm a stop payment order. Several months ago I had a bank compliance officer ask me if email is sufficient. (The banker had looked up the statute, had seen the word, "writing", and also knew that Minnesota had changed the language to "record".) The banker wanted to know in order to know whether the bank should honor the email confirmation or tell the customer to do a letter. I told this banker that an email should be sufficient because there are other statutes that validate electronic business and bank transactions. BUT, it seemed to me that bankers and customers who use this statute will be better served if the statute itself is made clear about electronic confirmation without a need for legal analysis.

By substituting the word "record" for "writing" bankers will understand an email is ok without having to call a lawyer. We think that is a good thing and hope you will also think so.

TESTIMONY OF Rick Clayburgh, NORTH DAKOTA BANKERS ASSOCIATION, IN FAVOR OF HB 1189

Mr. Chairman, members of the Senate IBL Committee, I am Rick Clayburgh, President and CEO of the North Dakota Bankers Association. I am here to ask you to give a Do Pass to HB 1189 which amends section 41-04 -34(2) of the North Dakota Century Code to replace the word "writing" with the word "record".

We asked Representative Karls to sponsor this change in order make this statute more "consumer friendly" to the bankers and bank customers who check the statute in order to ensure they are doing whatever it is that is required to make a stop payment order effective. As it now stands, the statute allows an oral stop payment orders to be given to a bank or credit union, but requires the oral stop payment order to be confirmed by a "writing".

Certainly there are bank customers who still use a traditional written document for the confirmation, but increasingly, bank customers prefer to use email to confirm a stop payment order. Several months ago I had a bank compliance officer ask me if an email confirmation is sufficient. The banker wasn't sure because, having checked the statute, the banker noted use of the word, "writing". This banker also knew that Minnesota had changed the statutory language to "record". The banker wanted to know in order to know whether the bank should honor the email confirmation or tell the customer to send a letter. I told this banker that an email should be sufficient because there are other statutes that validate electronic business and bank transactions. BUT, it seemed to me that bankers and customers who use this statute will be better served if the statute itself is made clear about electronic confirmation without a need for legal analysis.

By substituting the word "record" for "writing" bankers will understand an email is ok without having to call a lawyer. We think that is a good thing, the House of Representatives

concluded it is a good thing and we ask you to also endorse this change with a strong Do Pass for the bill.