

**2017 SENATE INDUSTRY, BUSINESS AND LABOR**

**SB 2105**

# 2017 SENATE STANDING COMMITTEE MINUTES

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

SB 2105  
1/10/2017  
Job Number 26715

☐ Subcommittee  
☐ Conference Committee

Committee Clerk Signature

*Eva Liebelt*

## Explanation or reason for introduction of bill/resolution:

Exemption to Insurance Producer Records

## Minutes:

Attachment #1

**Chairman Klein:** Called the committee back to order.

**Jeff Ubben, Deputy Commissioner/General Counsel, North Dakota Insurance Department:** Written Testimony, see attachment 1. (:19-2:55)

**Senator Roers:** Asked if Jeff Ubben could expand on the open records concerns.

**Jeff Ubben:** Obviously the principal of open records is so that we know what our government is doing and citizens have access to that. The only thing we are sacrificing here to close this loophole is a narrow exception to the open records law, meaning somebody could not contact the insurance department and find out what an insurance producers home address is. I consider that to be a very narrow exception and hopefully one that doesn't cause this committee a whole lot of heartburn to enact.

**Chairman Klein:** Asked for support and opposition. The hearing was closed.

**Senator Campbell:** Asked if it was really needed.

**Chairman Klein:** Said that it has been an issue amongst some of the agents. That's what we are trying to address, where do we draw that line anymore with personal information and concerns. We are in a different society then we once were.

**Senator Poolman:** Stated that if this was a concern under insurance licenses, wouldn't it be true under Securities, ESPB, under all these other government entities. She wondered if they would see many others coming to ask for these exemptions or do they already exist for those people.

**Chairman Klein:** Said he thought it was going to happen eventually as these issues continue to evolve and this is an opportunity to be able to put as little information as possible out on

their own web site at the council. The more information we put out there the more concerns we have.

**Senator Burckhard moved a do pass.**

**Senator Campbell seconded the motion.**

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

**Senator Klein will carry the bill.**

**2017 SENATE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. 2105**

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 Burckhard Seconded By Senator Campbell

Senators	Yes	No	Senators	Yes	No
Chairman Klein	x		Senator Marcellais	x	
Vice Chairman Campbell	x				
Senator Roers	x				
Senator Burckhard	x				
Senator Casper	x				
Senator Poolman	x				

Total (Yes) 7 No 0

Absent 0

Floor Assignment Senator Klein

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

**REPORT OF STANDING COMMITTEE**

**SB 2105: Industry, Business and Labor Committee (Sen. Klein, Chairman)** recommends  
**DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2105 was placed  
on the Eleventh order on the calendar.

**2017 HOUSE INDUSTRY, BUSINESS AND LABOR**

**SB 2105**

# 2017 HOUSE STANDING COMMITTEE MINUTES

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

**SB 2105**

2/14/2017

28328

☐ Subcommittee

☐ Conference Committee



## Explanation or reason for introduction of bill/resolution:

Exemption of insurance producer records.

## Minutes:

Attachment 1, 2

**Chairman Keiser:** Opens the hearing of SB 2105.

**Jeff Uban~Deputy Commissioner/General Counsel-ND Insurance Dept:** Attachment 1.

**3:00**

**Rep Laning:** My insurance producer, are you one level above an insurance broker in this case?

**Uban:** Insurance producers includes agents & consultants; they are all level.

**Rep Laning:** What do you do in the case where the insurance broker works out of his home.

**Uban:** If they have that listed as their home address only, they would not get the record. If their home address is also their business address & have it listed as a business, then would get the record. We think that if you are using you home as a business, you agree to a lesser sense of privacy. We think that makes sense to let that be disclosed.

**Rep Louser:** Are you aware of any other license professionals in ND that being offered similar?

**Uban:** None can come to mind that I know of but I could be wrong.

**Rep Kasper:** Does this apply to a security department's information of a home address of a security license agent?

**Uban:** No, it does not, just information received by the Insurance Commissioner.

**Rep Kasper:** Would the department object if this were amended to apply the home address of the securities department has?

**Uban:** No, we wouldn't object to that.

**Norbert Mayor~ND Association of Insurance & Financial Advisors:** For the reasons given, we support this bill.

**Kristi Schlosser Carlson ~ Representing Farmer's Union:** Attachment 2.

8:50

**Chairman Keiser:** On you copy, the very first line, I think it should read subsection 2 not 1.

**Kristi Schlosser Carlson:** Yes.

**Chairman Keiser:** We will correct that.

**Pat Ward ~ Representing the Association of ND Insurers:** We support the original & the amendment presented by the Farmer's Union. One other example that Kristi provided, it also happens in auto cases where there is a 3<sup>rd</sup> party complaint. We stand in support.

**Chairman Keiser:** Anyone else here to testify in support of SB 2105, opposition, neutral?  
Closes the hearing on SB 2105.

**Chairman Keiser:** We will get the amendments drafted. Rep Kasper, will meet with the financial securities & see if it's alright with them?

# 2017 HOUSE STANDING COMMITTEE MINUTES

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

SB 2105  
2/15/2017  
28527

- ☐ Subcommittee  
☐ Conference Committee

*Eden Letour*

### Explanation or reason for introduction of bill/resolution:

Exemption of insurance producer records.

### Minutes:

Attachment 1

**Chairman Keiser:** Opens the hearing of SB 2105.

**Rep Kasper:** With Dennis working with Karen Tyler to draft the amendment for the securities department.

**Dennis Pathroff~HIBL Law Intern:** Attachment 1. This 1<sup>st</sup> four just deal with the title of the bill to conform with the style & grammar of the legislative council. The 1<sup>st</sup> section of the amendment, that deals with the new substantive change. We wanted to mirror the language regarding insurance producer records. Working with the securities commissioner, we came up with some language to basically mirror what the insurance producer was on the original bill.

Section 2 amendment deals with amendment language that you have already seen provided by the Farmer's Union on Monday. Any questions?

**Chairman Keiser:** We have the amendment before us, what are your wishes?

**Rep Kasper:** Moves the adoption of the amendment.

**Rep Louser:** Second.

**Chairman Keiser:** Further discussion?

**Voice vote – Motion carried.**

**Chairman Keiser:** Committee, what are your wishes?

**Rep Laning:** Moves a Do Pass as Amended.

**Rep Bosch:** Second.

**Chairman Keiser:** Further discussion?

**Roll call was taken for a Do Pass as Amended on SB 2105 with 13 yes, 0 no, 1 absent  
& Rep Kasper is the carrier.**

February 16, 2017

JBW  
2/16/17  
142

PROPOSED AMENDMENTS TO SENATE BILL NO. 2105

Page 1, line 1, after the second "to" insert "chapter 10-04 and a new section to"

Page 1, line 2, after "of" insert "agent or investment adviser representatives and"

Page 1, line 2, after "records" insert "; and to amend and reenact subsection 2 of section 26.1-02-30 of the North Dakota Century Code, relating to exemption of personal, financial, or health records"

Page 1, after line 3, insert:

"**SECTION 1.** A new section to chapter 10-04 of the North Dakota Century Code is created and enacted as follows:

**Agent or investment adviser representative records - Exempt record.**

The home address of an agent or investment adviser representative received by the commissioner is an exempt record as defined in section 44-04-17.1.

**SECTION 2. AMENDMENT.** Subsection 2 of section 26.1-02-30 of the North Dakota Century Code is amended and reenacted as follows:

2. As used in this section, "personal, financial, or health information" means information ~~collected from or on behalf of an individual requesting consumer assistance which~~that would reveal:
  - a. ~~The~~An individual's personal health condition, disease, or injury;
  - b. The existence, nature, source, or amount of ~~the~~an individual's personal income;
  - c. The existence, nature, source, or amount of ~~the~~an individual's personal expenses;
  - d. Records of or relating to ~~the~~an individual's personal financial transactions of any kind;
  - e. The existence, identification, nature, or value of ~~the~~an individual's personal assets, liabilities, or net worth;
  - f. A history of ~~the~~an individual's personal medical diagnosis or treatment;
  - g. The existence, identification, nature, value, or content of ~~the~~an individual's coverage or status under any insurance policy;
  - h. ~~The~~An individual's personal contractual rights or obligations; or
  - i. Any social security number, date of birth, file number, bank account number, or other number used for identification of ~~the~~an individual or any account in which ~~the~~an individual has a personal financial interest."

Page 1, line 6, after "Exempt" insert "record"

Renumber accordingly

2/2

Date: Feb 15, 2017

Roll Call Vote #: 1

2017 HOUSE STANDING COMMITTEE

ROLL CALL VOTES  
BILL/RESOLUTION NO. HB 2105

House \_\_\_\_\_ Industry, Business and Labor \_\_\_\_\_ Committee

☐ Subcommittee

Amendment LC# or  
Description:

17.8037.01001

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 Rep Kasper Seconded By Rep Louser

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser			Rep Laning		
Vice Chairman Sukut			Rep Lefor		
Rep Beadle			Rep Louser		
Rep R Becker			Rep O'Brien		
Rep Bosch			Rep Ruby		
Rep C Johnson			Rep Boschee		
Rep Kasper			Rep Dobervich		

Total (Yes) \_\_\_\_\_ No \_\_\_\_\_

Absent \_\_\_\_\_

Floor

Assignment

Voice vote ~ Motion carried

Date: Feb 15, 2017Roll Call Vote #: 2

**2017 HOUSE STANDING COMMITTEE**  
**ROLL CALL VOTES**  
**BILL/RESOLUTION NO. HB 2105**

House \_\_\_\_\_ Industry, Business and Labor \_\_\_\_\_ Committee

☐ SubcommitteeAmendment 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 Rep Laning Seconded By Rep Bosch

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser	X		Rep Laning	X	
Vice Chairman Sukut	X		Rep Lefor	X	
Rep Beadle	X		Rep Louser	X	
Rep R Becker	X		Rep O'Brien	X	
Rep Bosch	X		Rep Ruby	X	
Rep C Johnson	X		Rep Boschee	Ab	
Rep Kasper	X		Rep Dobervich	X	

Total (Yes) 13 No 0Absent 1Floor  
Assignment Rep Kasper

**REPORT OF STANDING COMMITTEE**

**SB 2105: Industry, Business and Labor Committee (Rep. Keiser, Chairman)**  
recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends  
**DO PASS** (13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2105 was placed  
on the Sixth order on the calendar.

Page 1, line 1, after the second "to" insert "chapter 10-04 and a new section to"

Page 1, line 2, after "of" insert "agent or investment adviser representatives and"

Page 1, line 2, after "records" insert "; and to amend and reenact subsection 2 of section  
26.1-02-30 of the North Dakota Century Code, relating to exemption of personal,  
financial, or health records"

Page 1, after line 3, insert:

"**SECTION 1.** A new section to chapter 10-04 of the North Dakota Century  
Code is created and enacted as follows:

**Agent or investment adviser representative records - Exempt record.**

The home address of an agent or investment adviser representative received  
by the commissioner is an exempt record as defined in section 44-04-17.1.

**SECTION 2. AMENDMENT.** Subsection 2 of section 26.1-02-30 of the North  
Dakota Century Code is amended and reenacted as follows:

2. As used in this section, "personal, financial, or health information" means  
information ~~collected from or on behalf of an individual requesting  
consumer assistance which that~~ would reveal:
  - a. ~~The~~An individual's personal health condition, disease, or injury;
  - b. The existence, nature, source, or amount of ~~the~~an individual's  
personal income;
  - c. The existence, nature, source, or amount of ~~the~~an individual's  
personal expenses;
  - d. Records of or relating to ~~the~~an individual's personal financial  
transactions of any kind;
  - e. The existence, identification, nature, or value of ~~the~~an individual's  
personal assets, liabilities, or net worth;
  - f. A history of ~~the~~an individual's personal medical diagnosis or  
treatment;
  - g. The existence, identification, nature, value, or content of ~~the~~an  
individual's coverage or status under any insurance policy;
  - h. ~~The~~An individual's personal contractual rights or obligations; or
  - i. Any social security number, date of birth, file number, bank account  
number, or other number used for identification of ~~the~~an individual or  
any account in which ~~the~~an individual has a personal financial  
interest."

Page 1, line 6, after "**Exempt**" insert "**record**"

Renumber accordingly

2017 TESTIMONY

SB 2105

## SENATE BILL NO. 2105

**Presented by:** Jeff Ubben  
Deputy Commissioner/General Counsel  
North Dakota Insurance Department

**Before:** Senate Industry, Business, and Labor Committee  
Senator Jerry Klein, Chairman

**Date:** January 10, 2017

## TESTIMONY

Good Morning Chairman Klein and members of the committee. My name is Jeff Ubben and I am Deputy Insurance Commissioner and General Counsel for the North Dakota Insurance Department.

Senate Bill No. 2105 was introduced at the request of the Insurance Commissioner. The need for this bill came to light when former Insurance Commissioner Adam Hamm was fielding questions from insurance agents after a presentation in Fargo in October 2015. One agent asked why the Insurance Department had been giving out his contact information as he had been receiving a large amount of mail from entities trying to sell him continuing education credits. The answer to this question is that a producer's home address is not an exempt record under the open records law, meaning the Insurance Department must provide the insurance producer's home address under the law if someone asks for it.

As the entity charged with regulating insurance producers in North Dakota, the Insurance Department maintains a file for every insurance producer licensed in North Dakota. This record often includes the producer's home address. The Insurance Department often receives requests for contact information for insurance producers from outside parties and we are required by law to provide it.

The Department believes an individual has an increased expectation of privacy in their home and in their home address. Indeed, this concept is an accepted principal in the American legal system.

There are other positive aspects to exempting an insurance producer's home address. In the event a disgruntled customer contacts the Department and asks for the home address of a particular insurance producer, the Department would not have to provide the disgruntled customer the insurance producer's home address.

The potential also exists for cybercriminals to request the home addresses of insurance producers from the Department. If the cybercriminal were to obtain the home address of an individual, it would give the cybercriminal an additional important piece of a person's private information that could be used by the cybercriminal to aid them in their attempts to commit cyber crimes.

In conclusion, passing this bill would provide positive benefits to insurance producers across North Dakota at the cost of only a very narrow exemption to the open records laws. Therefore, I respectfully request a "do pass" recommendation from this committee on Senate Bill No. 2105 and am happy to take any questions.

**SENATE BILL NO. 2105**

**Presented by:** Jeff Ubben  
Deputy Commissioner/General Counsel  
North Dakota Insurance Department

**Before:** House Industry, Business, and Labor Committee  
Representative George Keiser, Chairman

**Date:** February 14, 2017

**TESTIMONY**

Good Morning Chairman Keiser and members of the committee. My name is Jeff Ubben and I am Deputy Insurance Commissioner and General Counsel for the North Dakota Insurance Department.

Senate Bill No. 2105 was introduced at the request of the Insurance Commissioner. The need for this bill came to light when former Insurance Commissioner Adam Hamm was fielding questions from insurance agents after a presentation in Fargo in October 2015. One agent asked why the Insurance Department had been giving out his contact information as he had been receiving a large amount of mail from entities trying to sell him continuing education credits. The answer to this question is that a producer's home address is not an exempt record under the open records law, meaning the Insurance Department must provide the insurance producer's home address under the law if someone asks for it.

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The Department believes an individual has an increased expectation of privacy in their home and in their home address. Indeed, this concept is an accepted principal in the American legal system.

There are other positive aspects to exempting an insurance producer's home address. In the event a disgruntled customer contacts the Department and asks for the home address of a particular insurance producer, the Department would not have to provide the disgruntled customer the insurance producer's home address.

The potential also exists for cybercriminals to request the home addresses of insurance producers from the Department. If the cybercriminal were to obtain the home address of an individual, it would give the cybercriminal an additional important piece of a person's private information that could be used by the cybercriminal to aid them in their attempts to commit cyber crimes.

In conclusion, passing this bill would provide positive benefits to insurance producers across North Dakota at the cost of only a very narrow exemption to the open records laws. Therefore, I respectfully request a "do pass" recommendation from this committee on Senate Bill No. 2105 and am happy to take any questions.

Feb 14, 2017

SB 2105

2

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**From:** Kristi Carlson <kcarlson@ndfu.org>  
**Sent:** Tuesday, February 14, 2017 11:20 AM  
**To:** NDLA, H IBL -  
**Subject:** SB2105 Amendment Testimony

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**CAUTION:** This email originated from an outside source. Do not click links or open attachments unless you know they are safe.

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Here are the written notes from my testimony in SB2105, which particularly focus on the amendment I asked of the committee:

I represent Farmers Union Mutual Insurance Company and Farmers Union Service Association. We support SB 2105 as presented, and also ask for an amendment to provide protection to individuals' personal, financial, and health records.

When a person makes a request of the Insurance Department for consumer assistance, that person's personal, financial, and health information is exempt from open records under 26.1-02-30. In some cases, that "request" is a complaint from an insured against her insurance company after she filed a claim because of her unhappiness with how the insurance company handled her claim, the insurance company's settlement offer, etc. Other times, though, the consumer making the request is a third party claimant — that is, a person (e.g., neighbor) making a claim against the insured's policy. Under the current statute, if the third party claimant files a complaint with the Department, *his* private information is exempt from open records, but the *insured's* is not. This amendment provides the same protection to the insured's private information, which is much more certain to be in the insurance company's files.

I brought this concern to the Department, and they agreed that this was just an oversight when the statute was originally drafted, and that the authors hadn't contemplated the situation of a third party claimant. Since the session had begun at that point, there wasn't a chance to draft a bill, so the Commissioner suggested amending SB 2105.

I ask for a do pass of SB 2105 with the amendment.

Thanks, and let me know if you have questions!

Kristi Schlosser Carlson  
North Dakota Farmers Union  
General Counsel  
[kcarlson@ndfu.org](mailto:kcarlson@ndfu.org)  
w. 701-952-1109  
c. 701-251-8027

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SENATE BILL NO. 2105

A BILL for an Act to amend and reenact subsection 1 of section 26.1-02-30 relating to exemption of personal, financial, or health records and to create and enact a new section to chapter 26.1-26 of the North Dakota Century Code, relating to exemption of insurance producer records.

**SECTION 1. AMENDMENT.** Subsection 2 of section 26.1-02-30 of the North Dakota Century Code is amended and reenacted as follows:

**Consumer assistance records - Exempt.**

1. Personal, financial, or health information related to requests for consumer assistance received by the commissioner is an exempt record as defined in section 44-04-17.1.
2. As used in this section, "personal, financial, or health information" means information ~~collected from or on behalf of an individual requesting consumer assistance~~ which would reveal:
  - a. ~~The~~ An individual's personal health condition, disease, or injury;
  - b. The existence, nature, source, or amount of ~~the~~ an individual's personal income;
  - c. The existence, nature, source, or amount of ~~the~~ an individual's personal expenses;
  - d. Records of or relating to ~~the~~ an individual's personal financial transactions of any kind;
  - e. The existence, identification, nature, or value of ~~the~~ an individual's personal assets, liabilities, or net worth;
  - f. A history of ~~the~~ an individual's personal medical diagnosis or treatment;
  - g. The existence, identification, nature, value, or content of ~~the~~ an individual's coverage or status under any insurance policy;
  - h. ~~The~~ An individual's personal contractual rights or obligations; or
  - i. Any social security number, date of birth, file number, bank account number, or other number used for identification of ~~the~~ an individual or any account in which ~~the~~ an individual has a personal financial interest.
3. The name of a regulated entity that is the subject of a complaint or inquiry; is not "personal, financial, or health information"; and is not subject to the restrictions in this section.

**SECTION 2.** A new section to chapter 26.1-26 of the North Dakota Century Code is created and enacted as follows:

**Insurance producer records - Exempt.**

The home address of any licensed insurance producer or insurance consultant received by the commissioner is an exempt record as defined in section 44 - 04 - 17.1.

**PROPOSED AMENDMENT TO SENATE BILL NO. 2105**

Page 1, line 1, after "enact" remove "a"

Page 1, line 1, replace "section" with "sections"

Page 1, line 1, replace "chapter" with "chapters 10-04 and"

Page 1, line 2, after "of" insert "agent or investment advisor representative and"

Page 1, line 2, after "records" insert "; and to amend and reenact subsection 2 of 26.1-02-30 of the North Dakota Century Code, relating to exemption of personal, financial, or health records

Page 1, after line 3 insert the following:

**SECTION 1.** A new section to chapter 10-04 of the North Dakota Century Code is created and enacted as follows:

**Agent or investment advisor representative records - Exempt.**

The home address of any agent or investment advisor representative received by the commissioner is an exempt record as defined in section 44-04-17.1

**SECTION 2. AMENDMENT.** Subsection 2 of section 26.1-02-30 of the North Dakota Century Code is amended and reenacted as follows:

2. As used in this section, "personal, financial, or health information" means information ~~collected from or on behalf of an individual requesting consumer assistance which would reveal:~~
- a. ~~The~~ An individual's personal health condition, disease, or injury;
  - b. The existence, nature, source, or amount of ~~the~~ an individual's personal income;
  - c. The existence, nature, source, or amount of ~~the~~ an individual's personal expenses;
  - d. Records of or relating to ~~the~~ an individual's personal financial transactions of any kind;
  - e. The existence, identification, nature, or value of ~~the~~ an individual's personal assets, liabilities, or net worth;
  - f. A history of ~~the~~ an individual's personal medical diagnosis or treatment;
  - g. The existence, identification, nature, value, or content of ~~the~~ an individual's coverage or status under any insurance policy;
  - h. ~~The~~ An individual's personal contractual rights or obligations; or
  - i. Any social security number, date of birth, file number, bank account number, or other number used for identification of ~~the~~ an individual or any account in which ~~the~~ an individual has a personal financial interest.

Renumber accordingly