

2019 HOUSE INDUSTRY, BUSINESS AND LABOR

HB 1204

2019 HOUSE STANDING COMMITTEE MINUTES

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

HB 1204
1/16/2019
30936

- Subcommittee
 Conference Committee

Committee Clerk: Ellen LeTang

Explanation or reason for introduction of bill/resolution:

Collection agency payment by credit card relating to definitions applicable to collection agencies.

Minutes:

Attachment 1, 2

Chairman Keiser: Opens the hearing on HB 1204.

Rep Jason Dockter~District 7, Bismarck: Introduces HB 1204. If a person wants to pay a debt by credit card to a collection agency. The collection agency can charge a transaction fee of 2.5%

Rep Adams: Is the 2.5% to recoup the costs that the credit card company charges.

Rep Dockter: That's correct.

Rep Kasper: I thought the merchant had an agreement with the credit card company that they would not bill a client for the use of a credit card. Is that no longer applicable?

Rep Dockter: I don't have that answer.

Todd Kranda~Representing DCI Credit Services: Attachment 1.

7:20

Rep M Nelson: Are these collection agencies forbidden by the act from having an agreement with the merchants?

Todd Kranda: The Fair Debt Collection Practices Act actually indicates that there can be an agreement or permitted by law.

Rep M Nelson: Is there something in the act that forbids you from having an agreement with the merchant that the fees of the collection agency & merchant would forbid them from charging back from the merchant.

Todd Kranda: I don't believe, if there is a separate agreement with the merchant & the debtor, that agreement allows that, then you are in compliance with the fair debt collection practice act. There is a separate agreement in existence.

Rep Schauer: Certain circumstances, could you define that?

Todd Kranda: The circumstance by which a collection agency would, if this bill passes, be allowed up to a 2.5% fee. They would have to comply with that. A no cost payment option is available, it has to be disclosed of the no cost option & can't exceed more than 2.5%

Rep Schauer: So, I'm the debtor, is there an additional 2.5% or do I need an agreement from you to make that happen? How will I know I will be charged that extra 2.5%?

Todd Kranda: That is one of the key points, the advanced disclosure has to be clear to the debtor.

Chairman Keiser: Aren't we really being charged the 2.5%.

Todd Kranda: This is simply to recoup the cost & recovery.

Rep Kasper: How are the collection agencies compensated in collecting the debt?

Todd Kranda: I don't know the internal transactions with the merchant.

Chairman Keiser: The option to avoid we certainly don't want a check. So the option to avoid the credit card is cash.

Todd Kranda: Entities still collect other than a credit card.

Kim Granfor~Representing the ND Collectors Association: Attachment 2.

17:00

Rep Adams: When you get the collection, do you buy back the debt & it's your debt? How do you get most of your debt collections?

Kim Granfor: We get it on a contingency basis.

Rep Kasper: Can you share on a contingency, what the percent rate would be?

Kim Granfor: Yes, there isn't a standard range. There may be a tier level.

Rep Schauer: The person that owes the money, isn't this kicking the person down when they are already down?

Kim Granfor: I really don't feel that way. We do work with them with the fee.

Chairman Keiser: Anyone else here to testify in support of HB 1204, opposition, neutral?
Closes the hearing. What are the wishes of the committee?

Rep Adams: Moves a Do Pass.

Rep Laning: Second.

Vice Chairman Lefor: Adds to the discussion about convenience fee. We are closing a loophole. I support a do pass.

Roll call was taken for a Do Pass on HB 1204 with 13 yes, 1 no, 0 absent & Rep P Anderson is the carrier.

Date: Jan 16, 2019

Roll Call Vote #: 1

2019 HOUSE STANDING COMMITTEE
ROLL CALL VOTES

BILL/RESOLUTION NO. HB 1204

House _____ 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 Rep Adams Seconded By Rep Laning

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser	X		Rep O'Brien	X	
Vice Chairman Lefor	X		Rep Richter	X	
Rep Bosch	X		Rep Ruby	X	
Rep C Johnson	X		Rep Schauer	X	
Rep Kasper	X		Rep Adams	X	
Rep Laning	X		Rep P Anderson	X	
Rep Louser	X		Rep M Nelson		X

Total (Yes) 13 No 1

Absent 0

Floor Assignment Rep Anderson

REPORT OF STANDING COMMITTEE

HB 1204: Industry, Business and Labor Committee (Rep. Keiser, Chairman)
recommends **DO PASS** (13 YEAS, 1 NAYS, 0 ABSENT AND NOT VOTING).
HB 1204 was placed on the Eleventh order on the calendar.

2019 SENATE INDUSTRY, BUSINESS AND LABOR

HB 1204

2019 SENATE STANDING COMMITTEE MINUTES

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

HB 1204
2/27/2019
Job #32906

- Subcommittee
 Conference Committee

Committee Clerk: Amy Crane

Explanation or reason for introduction of bill/resolution:

Relating to collection agency payment by credit card; relating to definitions applicable to collection agencies.

Minutes:

Att. #1-2

Chairman Klein: Opened the hearing on HB 1204. All members were present.

Representative Dockter, District 7: testified in support of the bill. Introduced the bill. Anyone that has to work with a debt collection agency and chooses to pay off their debt with a credit card, it allows the debt collection agency to recoup up to 2.5% of the transaction fee that they get charge for the credit card. It's not making them, but if people choose the option to pay with credit card, there's a service fee associated with that.

Chairman Klein: People do obviously pay their debt with a credit card, so after doing that you are able to recoup that up to 2.5%

Representative Dockter: Correct. These debt collection agencies are small businesses and they're just trying to recoup some of their costs.

Senator Piepkorn: There are some businesses that just don't accept credit cards, so isn't that also an option for one of these businesses?

Representative Dockter: Yes, they have that option. That's why in the bill it says if the person CHOOSES to pay with a credit card then the debt collection agency can recoup some of their fees up to 2.5%.

Chairman Klein: Well when the collection agency comes to your door, the options are limited.

Representative Dockter: That's correct. There was a process to get you into that situation, they don't just appear at your door and demand money.

Senator Piepkorn: What's a typical collection amount?

Representative Dockter: They are usually in about the 3% range, give or take. I think there are some regulations that they only can charge a certain amount, it just depends. You shop around as a small business owner to find the best option.

Senator Piepkorn: What's the typical amount that one of these collection agencies would be out to collect?

Representative Dockter: I cannot answer that. Someone from the industry likely can though.

Chairman Klein: It just varies. 2.5% of \$10 is a lot different than 2.5% of \$50.

Representative Greg Lefor, District 37: I've worked in the debt collection industry for over 30 years. In answer to some of the questions that have been asked, a \$10,000 account typically will not pay by credit card. This has been brought about by consumer demand. Collection agencies are normally a little averse to taking credit cards because over time, if your average account size, anywhere from \$600-\$800, they will do that. With the millennial generation they just want all electronic. In the bill, part of it is that on each telephone call, collection agencies are required by state statute and federal rules, on each telephone call, if you accept a credit card payment, you have to inform them that there are non-charge options available. The 2.5% would not make the collection agency whole, it's an option we would be able to provide to the consumer but it is not going to be a cost neutral type of situation.

(7:50) Craig Enderle, President/Owner, DCI Credit Services: see attachment #1 for testimony in support of the bill.

Senator Burckhard: FDCPA?

Craig: The Fair Debt Collections Practices Act.

Chairman Klein: Where is DCI located?

Craig: We have three locations in Dickinson, Fargo, and Bismarck.

Senator Piepkorn: Out of the \$700 that you're collecting for, what do you make out of that? is it a standard fee?

Craig: We have over 1,000 clients and the fees are different on every client. It just depends on the customer, different contract for each. We do a lot of healthcare and the rates in that market, back in 2002, were probably somewhere between upper 20-30% rates at that time. And now it's not a big surprise to see a 10%. Our business has become so competitive that it's difficult to do and that's not gonna get any better any time soon.

Todd D. Kranda, DCI Credit Services, North Dakota Collectors Association: see attachment #2 for testimony in support of the bill.

Senator Piepkorn: Is there a fee on a bank debit card?

Todd: My understanding is there would be.

Senator Piepkorn: That's something that just comes out of the individuals checking account?

Todd: I believe that's a transaction that works directly as I understand those.

Lise Kruse, Department of Financial Institutions: neutral testimony. We allow this as is, they are allowed to recoup some of these fees at this point, because our statute is unclear, we have had these parameters in place because we don't want there to be an excess revenue stream here, so we settled at a lower amount. Some of these entities end up with \$100,000 in fees, so we recognize that and we also recognize that the consumers want another option as well. So the bill as presented was looked at by our department and we agree with it.

Chairman Klein: So what I'm hearing is it's a practice that has been going on already and we just want to codify it and make sure everyone knows all of the rules?

Lise: Yes, exactly.

Chairman Klein: Closed the hearing on HB 1204.

Senator Burckhard: Moved a Do Pass.

Senator Roers: Seconded.

Chairman Klein: any discussion?

Senator Piepkorn: I wish there was somebody here in opposition to explain what effect this could have on someone who is in debt and who is subject to credit collection. Obviously they are in some kind of stressful situation. Somebody from human services, or something just so we can tell what effect this might really have. Is this perpetuating a debt similar to payday lending?

Chairman Klein: I don't know the answer to that. but I do know that folks are running behind out there in a lot of areas and debt is what we accumulate. But I also heard that as we go through this and we have collection agencies following us we're providing another option.

Senator Piepkorn: That's the way the legislature is set up, we have several people representing the pro argument, but in situations like this there is nobody to speak for the opposition.

Vice Chairman Vedaa: To address it, I've used these companies to collect debt, and I know that they usually don't get the collection on the first call. But I could see after all this time where the 2.5%, that's a big chunk out of the bottom line.

Senate Industry, Business and Labor Committee

HB 1204

2/27/19

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Chairman Klein: As a business person, this is the cost of doing business when somebody doesn't pay their bill. Bad debt is bad debt.

A Roll Call Vote Was Taken: 6 yeas, 0 nays, 0 absent.

Motion carried.

Senator Burckhard will carry the bill.

**2019 SENATE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 1204**

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 Burckhard Seconded By Roers

Senators	Yes	No	Senators	Yes	No
Chairman Klein	X		Senator Piepkorn	X	
Vice Chairman Vedaa	X				
Senator Burckhard	X				
Senator Kreun	X				
Senator Roers	X				

Total (Yes) 6 No 0

Absent 0

Floor Assignment Burckhard

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

REPORT OF STANDING COMMITTEE

HB 1204: Industry, Business and Labor Committee (Sen. Klein, Chairman) recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1204 was placed on the Fourteenth order on the calendar.

2019 TESTIMONY

HB 1204

**Testimony before the
House Industry Business & Labor Committee
in support of
HB 1204**

- January 16, 2019 -

Chairman Keiser, Industry Business & Labor Committee members, for the record my name is Todd D. Kranda and I am an attorney with the Kelsch Ruff Kranda Nagle & Ludwig Law Firm in Mandan. I appear before you today as a lobbyist on behalf of DCI Credit Services Inc. to express support for HB 1204.

HB 1204 is a bill that codifies and allows a collection agency business to recover a portion of the transaction fee incurred with the use of credit card payment by a debtor. HB 1204 allows a transaction fee of up to 2.5% to be assessed when payments are made by a credit card, provided that advance disclosure and notice is given to the debtor and there exists a non-fee method for payment by the debtor.

This legislation is limited to collection agency businesses because unlike other businesses collection agencies are regulated by the Fair Debt Collection Practices Act (FDCPA) which requires an agreement or specific law to allow a transaction fee for recovery of extra charges with a credit card payment. Other businesses not regulated by the FDCPA are able to manage the cost by either charging a fee or increasing the cost of their service or product.

Collection agencies are also regulated and licensed by the ND Department of Financial Institutions. A meeting was held with DFI prior to the introduction of HB 1204 to discuss the parameters of this specific transaction fee legislation. The parameters as discussed included that the fee be reasonable, that the fee is optional, that advance notification be given and that a non-fee payment method be available, all of which provisions are incorporated into HB 1204.

In conclusion, DCI Credit Services Inc supports **HB 1204** and encourages a **Do Pass** recommendation to allow a partial cost recovery to occur when credit card transactions are used for payments to collection agencies for outstanding debts by a debtor.

Thank you and I would be willing to try to answer any questions.



North Dakota Collectors Association

an association of collection specialists

Attachment 2
Page 1

TESTIMONY IN SUPPORT OF
HB 1204
HOUSE IBL COMMITTEE
JANUARY 16, 2019

Chairman Keiser and members of the House IBL Committee, my name is Kim Granfor, and I am representing the North Dakota Collectors Association. Our membership in the Association includes 11 collection agencies in ND. In addition, we are affiliated with ACA International. ACA International contributes to the success of its members and the positive reputation of the credit and collection industry through education, advocacy and services.

HB 1204 is asking for a 2.5% transaction fee when a collection agency accepts payment via a credit or debit card. Currently the state law is silent on this issue. We had met with the Department of Financial Institutions about this, and they were not opposed to this as long as a no cost alternatives are provided to the consumer. We are not seeking to make money on transaction fees. We simply want to cover some of our costs.

Through the years consumer payments to collection agencies have gone from checks and money orders to credit/debit cards. The cost to the agencies is zero for the checks/money orders, but collection agencies pay a fee to accept credit/debit cards. Currently the agency that I manager, HSI, pays an average of 3.5% plus 30 cents per transaction. Other agencies have informed me that their fees are around 2.5% to 3.5% plus a per transaction fee. In order to assure that we do not make a profit on convenience fees we are willing to accept 2.5%.

When a consumer asks to pay by CC/DC we inform them of the transaction fee, but we offer them other payment alternatives that have no fee associated with it, such as ACH, mail in a check or money order or pay in cash.

I request that you give a favorable Do Pass recommendation to HB1204.

Testimony before the Senate Industry Business & Labor Committee in support of HB 1204

Chairman Klein, Industry Business & Labor Committee members, for the record, my name is Craig Enderle, President and owner of DCI Credit Services. I appear before you today to express my support for HB 1204.

HB 1204 would authorize a collection agency to recover 2.5 percent of the transaction fee incurred with the use of a credit or debit card, provided that advance disclosure is given to the consumer. In addition, HB 1204 requires a collection agency to provide a no cost payment alternative to the consumer during each communication.

Presently, there is no State law in place to allow such a fee. Over the years the North Dakota Department of Financial Institutions has maintained that collection agencies could charge a reasonable fee to recoup our costs for card transactions. We held a meeting with DFI in December 2018, they felt a 2.5 percent fee was reasonable.

This legislation is limited to collection agencies because unlike other North Dakota businesses, we are regulated by the FDCPA. Any other business in North Dakota would be allowed to either charge a fee or increase the cost of their product.

The FDCPA was passed into law on September 20, 1977. Since that time, payment processing has changed significantly. Consumer demand for our agency to offer credit/debit cards increases every year. By allowing collection agencies to recoup our costs, we will have the ability to continue offering this payment method to consumers.

For the above reasons, I strongly request that you give a favorable do pass recommendation to HB 1204.

**Testimony before the
Senate Industry Business & Labor Committee
in support of
HB 1204**

- February 27, 2019 -

Chairman Klein, Industry Business & Labor Committee members, for the record my name is Todd D. Kranda and I am an attorney with the Kelsch Ruff Kranda Nagle & Ludwig Law Firm in Mandan. I appear before you today as a lobbyist on behalf of DCI Credit Services Inc. and the North Dakota Collectors Association to express support for HB 1204.

HB 1204 is a bill that codifies and allows a collection agency business to recover a portion of the transaction fee incurred with the use of credit card payment by a debtor. HB 1204 allows a transaction fee of up to 2.5% to be assessed when payments are made by a credit card, provided that advance disclosure and notice is given to the debtor and there exists a non-fee method for payment by the debtor.

This legislation is limited to collection agency businesses because unlike other businesses collection agencies are regulated by the Fair Debt Collection Practices Act (FDCPA) which requires an agreement or specific law to allow a transaction fee for recovery of extra charges with a credit card payment. Other businesses not regulated by the FDCPA are able to manage the cost by either charging a fee or increasing the cost of their service or product.

Collection agencies are also regulated and licensed by the ND Department of Financial Institutions. A meeting was held with DFI prior to the introduction of HB 1204 to discuss the parameters of this specific transaction fee legislation. The parameters as discussed included that the fee be reasonable, that the fee is optional, that advance notification be given and that a non-fee payment method be available, all of which provisions are incorporated into HB 1204.

In conclusion, DCI Credit Services Inc and the ND Collectors Association supports **HB 1204** and encourages a **Do Pass** recommendation to allow a partial cost recovery to occur when credit card transactions are used for payments to collection agencies for outstanding debts by a debtor. Thank you and I would be willing to try to answer any questions.