

MICROFILM DIVIDER

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



ROLL NUMBER

DESCRIPTION

1141

2005 HOUSE INDUSTRY, BUSINESS AND LABOR

HB 1141

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1141

House Industry, Business and Labor Committee

☐ Conference Committee

Hearing Date 1-10-05

Tape Number

1

Side A

x

Side B

Meter #

15.7-23.5

Committee Clerk Signature



Minutes:

Chairman Keiser: Opened the hearing on HB 1141. All committee members were present.

Bob Entringer, Asst. Commission, Dept. of Financial Institution: Appeared in support of HB 1141, and provided written testimony. (SEE ATTACHED TESTIMONY.)

Representative Dosch: What is the fee to become licensed?

Bob Entringer: The annual fee is \$300.00, there is a \$450.00 investigation fee on the initial application.

Representative Ekstrom: Made a motion for a **DO PASS** on HB 1141.

Representative Boe: **SECOND** the motion on HB 1141.

Motion carried. **VOTE 14-YES 0-NO 0-Absent.**

Meeting adjourned.

Roll Call Vote #: Date: H10-05
1

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1141

House

INDUSTRY, BUSINESS AND LABOR

Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken

Do Pass

Motion Made By

Rep. Ekstrom

Seconded By

Rep. Boe

Representatives	Yes	No	Representatives	Yes	No
G. Keiser-Chairman	X		Rep. B. Amerman	X	
N. Johnson-Vice Chairman	X		Rep. T. Boe	X	
Rep. D. Clark	X		Rep. M. Ekstrom	X	
Rep. D. Dietrich	X		Rep. E. Thorpe	X	
Rep. M. Dosch	X				
Rep. G. Froseth	X				
Rep. J. Kasper	X				
Rep. D. Nottestad	X				
Rep. D. Ruby	X				
Rep. D. Vigesaa	X				

Total (Yes)

14

No

0

Absent

-0-

Floor Assignment

Rep. Vigesaa

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

REPORT OF STANDING COMMITTEE (410)
January 10, 2005 12:34 p.m.

Module No: HR-05-0215
Carrier: Vigesaa
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1141: Industry, Business and Labor Committee (Rep. Keiser, Chairman)
recommends **DO PASS** (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING).
HB 1141 was placed on the Eleventh order on the calendar.

2005 SENATE INDUSTRY, BUSINESS AND LABOR

HB 1141

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1141

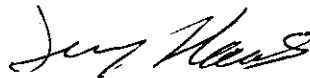
Senate Industry, Business and Labor Committee

☐ Conference Committee

Hearing Date March 14, 2005

Tape Number	Side A	Side B	Meter #
1		X	3,515-3970

Committee Clerk Signature



Minutes: **Chairman Mutch** opened the hearing on HB 1141. All Senators were present with the exception of Senator Espgaard.

Bob Entringer, Assistant Commissioner for the Department of Financial Institutions, appeared in support of the bill. See written testimony.

No one appeared in opposition to the bill.

Chairman Mutch closed the hearing on HB 1141.

Action taken:

Senator Heitkamp moved a Do Pass recommendation for HB 1141. Seconded by Senator Klein.

The vote was 6-0-1. **Senator Heitkamp** is the carrier of the bill.

Date: 3-14-05
Roll Call Vote #: 1

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1141

Senate Industry, Business, and Labor

Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken

Dofass

Motion Made By

Heitkamp

Seconded By

Klein

Senators	Yes	No	Senators	Yes	No
Chairman Mutch	X		Senator Fairfield	X	
Senator Klein	X		Senator Heitkamp	X	
Senator Krebsbach	X				
Senator Espegard	A				
Senator Nething	X				

Total (Yes)

6

No

0

Absent

1

Floor Assignment

Heitkamp

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

REPORT OF STANDING COMMITTEE (410)
March 15, 2005 1:07 p.m.

Module No: SR-47-5013
Carrier: Heltkamp
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1141: Industry, Business and Labor Committee (Sen. Mutch, Chairman) recommends
DO PASS (6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1141 was placed
on the Fourteenth order on the calendar.

2005 TESTIMONY

HB 1141

1-10-2005

TESTIMONY FOR HOUSE BILL NO. 1141

House Industry Business and Labor Committee

Testimony of Robert J. Entringer, Assistant Commissioner, Department of Financial Institutions in support of House Bill No. 1141.

Chairman Keiser and members of the House Industry Business and Labor Committee, I am Bob Entringer, Assistant Commissioner of the Department of Financial Institutions. I am here to urge your support of House Bill No. 1141.

House Bill No. 1141 changes the exemption from licensing as a collection agency for attorneys to exempt only those attorneys which are licensed to practice in North Dakota. Additionally, the list of exempt entities is expanded to include credit unions, state, and federal agencies.

The reason for the change regarding the exemption for attorneys is that frequently we find through the complaint investigation process that although a collection letter is on the letterhead of a law firm, the letters are many times signed by an individual who is not an attorney but rather works as a collector for the firm. The Fair Debt Collection Practices Act includes in the definition of a "debt collector" an attorney or law firm whose efforts to collect consumer debts on behalf of its clients *regularly* include activities traditionally associated with debt collection, such as sending demand letters

or making collection telephone calls to the consumer. The emphasis supplied on the word regularly is crucial in that if a law firm's practice is limited to legal activities such as prosecuting lawsuits to reduce a debt to a judgment that would not constitute debt collection. Many times we find that law firms employ collectors and in fact the firms' primary business is debt collection. It has been our position to require licensing when we find such firms which regularly collect debts. This change will make it clear that attorneys who are not licensed to practice in ND are not exempt from licensing as a collection agency. For the record the exemption of attorneys licensed to practice in North Dakota does not extend to the staff of a law firm collecting debts unless those individuals are licensed to practice law in North Dakota.

The second portion of the bill adds to the exempt list of entities credit unions, state and federal agencies. We are adding credit unions as an exempt entity as we had an instance where we could not allow a credit union to service loans in North Dakota as they were not included in the list of exempt entities. Further in the process of drafting the legislation our attorney was contacted by another assistant attorney general wondering whether his client needed to be licensed as a collection agency. It is neither



our desire nor our intent to license state or federal agencies and therefore we are adding these to the list of exempt entities.

Chairman Keiser and members of the Committee, I would urge your favorable consideration of House Bill No. 1141, and I would be happy to answer any questions you may have.

Thank you.



3-14-2005

TESTIMONY FOR HOUSE BILL NO. 1141

Senate Industry Business and Labor Committee

Testimony of Robert J. Entringer, Assistant Commissioner, Department of Financial Institutions in support of House Bill No. 1141.

Chairman Mutch and members of the Senate Industry Business and Labor Committee, I am Bob Entringer, Assistant Commissioner of the Department of Financial Institutions. I am here to urge your support of House Bill No. 1141.

House Bill No. 1141 changes the exemption from licensing as a collection agency for attorneys to exempt only those attorneys which are licensed to practice in North Dakota. Additionally, the list of exempt entities is expanded to include credit unions, state, and federal agencies.

The reason for the change regarding the exemption for attorneys is frequently we find through the complaint investigation process that although a collection letter is on the letterhead of a law firm, the letters are many times signed by an individual who is not an attorney but rather works as a collector for the firm. The Fair Debt Collection Practices Act includes in the definition of a "debt collector" an attorney or law firm whose efforts to collect consumer debts on behalf of its clients *regularly* include activities traditionally associated with debt collection, such as sending demand letters

or making collection telephone calls to the consumer. The emphasis supplied on the word regularly is crucial in that if a law firm's practice is limited to legal activities such as prosecuting lawsuits to reduce a debt to a judgment that would not constitute debt collection. Many times we find that law firms employ collectors and in fact the firms' primary business is debt collection. It has been our position to require licensing when we find such firms which regularly collect debts. This change will make it clear that attorneys who are not licensed to practice in ND are not exempt from licensing as a collection agency. For the record the exemption of attorneys licensed to practice in North Dakota does not extend to the staff of a law firm collecting debts unless those individuals are licensed to practice law in North Dakota.

The second portion of the bill adds to the exempt list of entities credit unions, state and federal agencies. We are adding credit unions as an exempt entity as we had an instance where we could not allow a credit union to service loans in North Dakota as they were not included in the list of exempt entities. Further in the process of drafting the legislation our attorney was contacted by another assistant attorney general wondering whether his client needed to be licensed as a collection agency. It is neither

our desire nor our intent to license state or federal agencies and therefore we are adding these to the list of exempt entities.

Chairman Mutch and members of the Committee, I would urge your favorable consideration of House Bill No. 1141, and I would be happy to answer any questions you may have.

Thank you.

Section 803(6) defines "debt collector" as a party "who uses any instrumentality of interstate commerce or the mails in . . . collection of . . . debts owed . . . another."

1. Examples. The term includes:

- Employees of a debt collection business, including a corporation, partnership, or other entity whose business is the collection of debts owed another.
- A firm that regularly collects overdue rent on behalf of real estate owners, or periodic assessments on behalf of condominium associations, because it "regularly collects . . . debts owed or due another."
- A party based in the United States who collects debts owed by consumers residing outside the United States, because he "uses . . . the mails" in the collection business. The residence of the debtor is irrelevant.
- A firm that collects debts in its own name for a creditor solely by mechanical techniques, such as (1) placing phone calls with pre-recorded messages and recording consumer responses, or (2) making computer-generated mailings.
- An attorney or law firm whose efforts to collect consumer debts on behalf of its clients regularly include activities traditionally associated with debt collection, such as sending demand letters (dunning notices) or making collection telephone calls to the consumer. However, an attorney is not considered to be a debt collector simply because he responds to an inquiry from the consumer following the filing of a lawsuit.

2. Exclusions. The term does not include:

- Any person who collects debts (or attempts to do so) only in isolated instances, because the definition includes only those who "regularly" collect debts.
- A credit card issuer that collects its cardholder's account, even when the account is based upon purchases from participating merchants, because the issuer is collecting its own debts, not those "owed or due another."
- An attorney whose practice is limited to legal activities (e.g., the filing and prosecution of lawsuits to reduce debts to judgment).