

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1427

2005 HOUSE AGRICULTURE

HB 1427

2005 HOUSE STANDING COMMITTEE MINUTES

MINE

BILL/RESOLUTION NO. HB 1427

House Agriculture Committee

☐ Conference Committee

Hearing Date 1---28---05

Tape Number	Side A	Side B	Meter #
ONE	A		0 TO 7
Committee Clerk Signature			

Minutes:

CHAIRMAN NICHOLAS: Committee Members, we will open on HB 1427. Committee Members, what are your wishes on HB 1427?

I will entertain a motion of 1427.

REPRESENTATIVE FROELICH MADE A MOTION FOR A DO PASS.

REPRESENTATIVE KREIDT: SECONDED THE MOTION.

CHAIR ASKED FOR DISCUSSION.

THE CLERK TOOK THE ROLL.

THERE WERE 8 YES

1 NO

4 ABSENT

REPRESENTATIVE HEADLAND CARRIED THE BILL

CLOSED ON HB 1427

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1427

House Agriculture Committee

☐ Conference Committee

Hearing Date 1---28---05

Tape Number	Side A	Side B	Meter #
ONE	A		0 TO 7
Committee Clerk Signature <i>Edward D. Wilson</i>			

Minutes:

MADAM CHAIR WOMAN KINGSBURY: Committee Members we will re-open on HB 1427. Committee Members what are your wishes on HB 1427?

REPRESENTATIVE FROELICH MADE A MOTION FOR A DO PASS.

REPRESENTATIVE KREIDT SECONDED THE MOTION.

THE CLERK WILL TAKE THE ROLL.

THERE WERE 8 YES

1 NO

4 ABSENT

REPRESENTATIVE HEADLAND WILL CARRY THE BILL.

CLOSED

2nd

HB 1427

Date: 1-28-05
Roll Call Vote #:2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO.House HOUSE AGRICULTURE COMMITTEE

Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken

DO PASS

Motion Made By

FROELICH

Seconded By

KREIDT

Representatives	Yes	No	Representatives	Yes	No
REP. EUGENE NICHOLAS CHAIRMAN		✓	REP. TRACY BOE	✓	
REP. JOYCE KINGSBURY VICE CHAIRMAN	✓		REP. ROD FROELICH	✓	
REP. WESLEY BELTER			REP. PHILLIP MUELLER	⓪	✓
REP. M. BRANDENBURG	✓		REP. KENTON ONSTAD		
REP. CHUCK DAMSCHEN					
REP. CHAIG HEADLAND	✓				
REP. GARY KREIDT	✓				
REP. GERALD UGLEM	✓				
REP. JOHN WALL	✓				

Total (Yes)

9

No

1

Absent

34

Floor Assignment

HEADLAND ✓

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

REPORT OF STANDING COMMITTEE (410)
January 28, 2005 12:43 p.m.

Module No: HR-19-1330
Carrier: Headland
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1427: Agriculture Committee (Rep. Nicholas, Chairman) recommends DO PASS
(8 YEAS, 1 NAY, 4 ABSENT AND NOT VOTING). HB 1427 was placed on the
Eleventh order on the calendar.

2005 SENATE AGRICULTURE

HB 1427

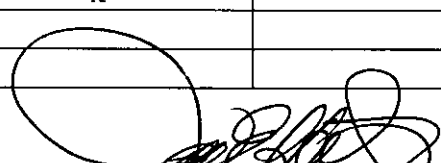
2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1427

Senate Agriculture Committee

☐ Conference Committee

Hearing Date March 10, 2005

Tape Number	Side A	Side B	Meter #
1	x		1419 - 2854
Committee Clerk Signature 			

Minutes:

Chairman Flakoll opened the hearing on HB 1427, a bill relating to limitations on waiver of state law protections for agricultural liens. All members were present.

Representative Weisz introduced the bill. It is a simple bill that says that any lender, whether they are in or out of state, that takes a priority lien has to abide by North Dakota law relative to liens. There was a recent court case decision where an out of state lender was permitted to use the law of their state of domicile and were not required to terminate a lien upon payment of the loan, they can hold the lien open for future costs, according to the law in their state. In North Dakota if a loan is paid, a lender has 30 days to terminate the lien. This bill says regardless of what you agree to when you sign a contract, you cannot sign away your rights relative to liens according to North Dakota law. People doing business in North Dakota tend to expect North Dakota law applies. North Dakota banks should be on equal footing with out of state institutions.

Senator Flakoll asked if an out of state institution has a borrower sign off on a contract that states any legal recourse must happen in a state other than North Dakota, that is non binding.

Representative Weisz said that is correct regardless of what you may sign. It is typical to sign a contract to waive those rights but this bill would say you can't waive your rights as far as a priority lien is concerned. It is North Dakota that gives them the right to file the lien. It gives out of state banks a leg up on North Dakota banks, why would we want to do that.

Senator Seymour asked for a specific example, a car deal or something.

Representative Weisz said there was an actual court case that involved AgServices of America, based in Iowa. In Iowa you don't have to terminate a lien if the lender thinks there may be future costs. This only involves agricultural priority liens, it would not involve car loans.

Senator Taylor said it would still be up to the North Dakota farmer to be aware of this change in North Dakota law, they will still sign a waiver and they won't know that their North Dakota rights are not waived.

Representative Weisz said the majority won't know. But if they ran into a situation where a finance company would not terminate a lien, they would find out real quick. Whoever they are refinancing with will know the law, the outside firms will know it too and know they can't push it. (meter 2020)

Senator Klein asked if this is just for agriculture.

Representative Weisz said it is strictly agricultural priority liens.

Senator Urlacher asked if this would affect John Deere financing equipment out of state, will there be some hesitancy in financing within our state.

Representative Weisz said no for two reasons. This does not affect the security of their lien.

Also, most John Deere liens would not be priority agricultural liens, they are usually standard liens. An agricultural priority lien is also called a suppliers lien. John Deere normally would finance equipment with a standard lien, a security lien. In his experience, John Deere has no problem following North Dakota law anyway.

Senator Seymour asked for an example of a priority lien. (meter 2248)

Representative Weisz said a priority lien is also called a suppliers lien. When a business sells fertilizer or chemical to a farmer, no matter when the lien is filed, it takes priority over all other liens. This would apply to fuel as well. If the bank has a lien on everything a farmer has and then the farmer goes out and charges some fertilizer and the fertilizer dealer files a lien 3 months after the bank filed its lien, the fertilizer dealer's lien would take priority because it is for supplies. There is a gray area and there is a whole lot of dispute because some of these outfits are coming in and are getting under the guise of priority liens but they are actually offering operating financing but because they are also selling the farmer a little chemical directly they put it all under the umbrella of the priority lien. Most banks are not thrilled with this development. A priority lien is for inputs.

Senator Seymour asked if this bill will hurt opportunities for farmers.

Representative Weisz said no. One reason these firms come to North Dakota is because North Dakota law allows them to use the priority liens in this manner. This bill does not address that part of North Dakota law, you can't terminate a lien until the loan is paid. We have a very good law protecting suppliers in North Dakota and that is one of the reasons they are coming to North Dakota, it is very lucrative, and the bill won't change that. The bill will assure they are all

playing on the same field as the in state operations and will keep the farmers under North Dakota law.

Senator Flakoll said rather than a farmer finding an attorney in the same state as the finance company, the finance company will have to come to North Dakota to pursue a claim.

Representative Weisz said that is correct.

Chairman Flakoll closed the hearing on HB 1427.

Senator Klein moved a do pass on HB 1427.

Senator Urlacher seconded the motion.

The motion passed on a roll call vote 6-0-0.

Senator Urlacher will carry the bill.

Date:

Roll Call Vote #

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO.

Senate Agriculture

Committee



Legislative Council Amendment Number

Action Taken

Motion Made By

Seconded By

[illegible]

Total

(Yes)

No

Absent

Floor Assignment

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

REPORT OF STANDING COMMITTEE (410)
March 10, 2005 9:44 a.m.

Module No: SR-44-4603
Carrier: Urlacher
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1427: Agriculture Committee (Sen. Flakoll, Chairman) recommends DO PASS
(6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1427 was placed on the
Fourteenth order on the calendar.