

2009 HOUSE INDUSTRY, BUSINESS AND LABOR

HB 1155

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1155

House Industry, Business and Labor Committee

☐ Check here for Conference Committee

Hearing Date: January 14, 2009

Recorder Job Number: 6945

Committee Clerk Signature

Ellen R. Taney

Chairman Keiser: Opens the hearing on HB 1155 relating to the sale of real estate loans.

Tim Karsky~Commissioner, ND Department of Financial Institutions. See testimony attached.

Representative N Johnson: What this bill does?

Karsky: Most banks do not keep them on their desk. So they sell them to a third party, but they all have these standard writing agreement but not so much in North Dakota. With all the foreclosures going on nationwide, if this is accurate, you guaranteed it, and now the banks don't buy it back. We don't have the problem so much in North Dakota.

Representative N Johnson: Inaudible.

Karsky: When institutions are making \$55,000 a year, that better be accurate. Now they are cleaning it up. Now as a banker, the information I send you before you buy this better be accurate and if it's not, I going (inaudible).

Representative N Johnson: So it means that the organization that gives the loan now is then be made known now that they better check into that information.

Karsky: That's exactly right.

Chairman Keiser: So currently, if this passes, if the language is accurate, you can't be forced to take back the loan if that secondary market defaults. The problem stays there is doesn't come back to our bank.

Karsky: That's exactly right.

Representative Clark: Who is on the eventual person on the hook? Is that the buyer?

Karsky: Previously, those loans got paid by financial institutions. Eventually it's the final person.

Representative Gruchalla: Is this bill going to be the industry standard or are all states are going to move to this?

Karsky: Actually the language has been in there. Nobody had the push the guarantee. Now the secondary buyers they say you have to guarantee. Now these guarantees are becoming more prevalent and now that language has been in there you can't guarantee. We need to change that so we can sell these loans on the secondary market.

Vice Chairman Kasper: Does that mean stated income loans are pretty much done now?

Karsky: Go back to a down payment, like the old way.

Vice Chairman Kasper: Is that a result of federal action or each of the state changing their laws?

Karsky: That's really the result of the safe act from last July that was passed. States are going to have to enforce it.

Vice Chairman Kasper: On mortgages, is there anything in statue you are considering to require that when these loans get sold and resold and resold and resold, that the homeowner is notified?

Karsky: Every time and its federal law that a loan is sold, you have to notify.

Chairman Keiser: Does this apply to state chartered banks? This is bringing our state banks up to the same standard that the Federal banks are at?

Karsky: They have the (inaudible).

Representative Nottestad: I don't see them in the audience, are credit unions & home loans affected by this bill?

Karsky: For some reason that prohibition is not in the statute. Inaudible.

Marilyn Foss~General Counsel of the North Dakota Bankers Association. We also support this bill.

Chairman Keiser: Is there anyone here to testify in opposition of HB1155 or neutral. Seeing none, we will close the hearing of HB 1155. What are the wishes of the committee?

Representative Nottestad: Moves a Do Pass.

Representative Gruchalla: Second

Committee Roll Call was taken with 13 yeas, 0 no's & 0 absent to pass HB1155 and the carrier is Representative N Johnson.

Date: Jan 14 - 2009
Roll Call Vote # 1

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. _____

House House, Business & Labor Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken ☒ Do Pass ☐ Do Not Pass ☐ As Amended

Motion Made By Nottestad Seconded By Gruchalla

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser	<u>✓</u>		Representative Amerman	<u>✓</u>	
Vice Chairman <u>Kasper</u>	<u>✓</u>		Representative Boe	<u>✓</u>	
Representative Clark	<u>✓</u>		Representative Gruchalla	<u>✓</u>	
Representative N Johnson	<u>✓</u>		Representative Schneider	<u>✓</u>	
Representative Nottestad	<u>✓</u>		Representative Thorpe	<u>✓</u>	
Representative Ruby	<u>✓</u>				
Representative Sukut	<u>✓</u>				
Representative Vigesaa	<u>✓</u>				

Total (Yes) 13 No 0

Absent 0

Floor Assignment N. Johnson

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

REPORT OF STANDING COMMITTEE (410)
January 14, 2009 5:11 p.m.

Module No: HR-07-0350
Carrier: N. Johnson
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1155: Industry, Business and Labor Committee (Rep. Keiser, Chairman)
recommends **DO PASS** (13 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING).
HB 1155 was placed on the Eleventh order on the calendar.

2009 SENATE INDUSTRY, BUSINESS AND LABOR

HB 1155

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1155

Senate Industry, Business and Labor Committee

☐ Check here for Conference Committee

Hearing Date: February 16, 2009

Recorder Job Number: 9514

Committee Clerk Signature

Eva Liebelt

Minutes:

Timothy Karsky, Commissioner for the Department of Financial Institutions: I am here to urge your support of House Bill 1155. Written testimony attached.

Senator Andrist: Why should we let them make loans when they will sell them?

Tim: They don't want to keep them on their books. When the loans that are 15 to 30 year loans come off the books they are able to make other loans available.

Chairman Klein: So what we are doing is making sure are banks still have that capability now to be able to sell them on that secondary market.

Tim: This only applies to residential mortgage loans and their just going to guarantee that their information is accurate and if from reason they are not accurate those secondary lenders are going to come back to your bank and say this isn't right under the guarantee provision you are going to buy this loan back at your institution.

Chairman Klein: We had that it was there it was a little fuzzy.

Tim: I will be really honest, nobody ever looked at some of those agreements and now that this has all come to light, some of these agreements are coming back and they're telling the banks they have to buy them back.

Senator Potter: What's left in this section when we add this exception what's the meaning of it if you have this exception in there. What else are you regulating?

Tim: The one thing that this would not apply to is a Commercial Business Loan. We still aren't going to let the banks guarantee. This is only going to apply to residential loans.

Senator Potter: The point is, this is an ongoing practice this currently the way things are they are making these guarantees, state laws prevents them from doing that so we need to change state law.

Tim: That's correct and if we don't get it changed, we're under the obligation in my department to say you can't do that and we're going to dry up the residential real estate and the market is going to hurt.

Senator Potter: Isn't this time sensitive, shouldn't we have an emergency clause on this?

Marilyn Foss, North Dakota Bankers Association: I think this is good legislation for the banks of North Dakota. We have a total of ninety six chartered banks and eight one is state chartered.

Jack McDonald, Independent Community Banks: In support of House Bill 1155.

Chairman Klein: We will close the hearing.

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1155

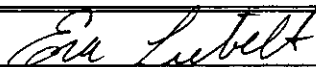
Senate Industry, Business and Labor Committee

☐ Check here for Conference Committee

Hearing Date: February 16, 2009

Recorder Job Number: 9517

Committee Clerk Signature



Minutes:

Chairman Klein: We have the emergency clause. Do we need any other discussion?

Senator Wanzek: Motion to move the amendments on House Bill 1155.

Senator Horne: Moved to second.

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

Senator Nodland: Motion to do pass as amended.

Senator Wanzek: Second.

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

Floor Assignment: Senator Nodland.

February 16, 2009

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1155

Page 1, line 2, after "loans" insert "; and to declare an emergency"

Page 1, after line 10, insert:

"SECTION 2. EMERGENCY. This Act is declared to be an emergency
measure."

Renumber accordingly

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Date: 2/16/09Roll Call Vote #: 2

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1155

Senate

Committee

Industry, Business and Labor

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken

☒ Pass☐ Do Not Pass☒ AmendedMotion Made By Senator Nodland Seconded By Senator Wanzek

Senator	Yes	No	Senator	Yes	No
Senator Jerry Klein - Chairman	✓		Senator Arthur H. Behm	✓	
Senator Terry Wanzek - V.Chair	✓		Senator Robert M. Horne	✓	
Senator John M. Andrist	✓		Senator Tracy Potter	✓	
Senator George Nodland	✓				

Total (Yes) 7 No 0Absent 0Floor Assignment Senator Nodland

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

REPORT OF STANDING COMMITTEE

HB 1155: Industry, Business and Labor Committee (Sen. Klein, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1155 was placed on the Sixth order on the calendar.

Page 1, line 2, after "loans" insert "; and to declare an emergency"

Page 1, after line 10, insert:

"SECTION 2. EMERGENCY. This Act is declared to be an emergency measure."

Renumber accordingly

2009 TESTIMONY

HB 1155

1-14-2009

TESTIMONY FOR HOUSE BILL NO. 1155

House Industry, Business and Labor Committee

Testimony of Timothy J. Karsky, Commissioner, Department of Financial Institutions in support of House Bill No. 1155

*Same given
to Senate.*

Chairman Keiser and members of the House Industry, Business and Labor Committee, my name is Tim Karsky, Commissioner for the North Dakota Department of Financial Institutions. I am here today to testify and urge your support in favor of House Bill No. 1155.

Mr. Chairman and members of the Committee, House Bill No. 1155 contains one amendment to Section 6-03-06 of the North Dakota Century Code regarding the sale of real estate loans.

Currently, this Section states that in selling or disposing of loans made upon real estate, no association has the power to guaranty the payment of collection thereof, and any such guaranty made in violation of this provision is not binding on the association but is upon the officer or other person making the same. The Department has amended this Section to add "except as necessary to sell residential mortgage loans on the secondary market".

Mr. Chairman and members of the Committee, it is no secret that there has been a collapse on the residential mortgage housing market and that all sellers and buyers are looking at all agreements made in connection

with these loans. One of the standard conditions in the contract language for the sale of real estate loans on the secondary market is that the lender guarantees all the information is accurate and they have done the appropriate due diligence before making the loan. This guaranty and language is in these agreements and, therefore, we need to amend this Section of the Code.

Mr. Chairman and members of the Committee I would urge your support of House Bill No. 1155, and would answer any questions that the Committee may have.

Thank you.