

2009 HOUSE INDUSTRY, BUSINESS AND LABOR

HB 1421

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1421

House Industry, Business and Labor Committee

☐ Check here for Conference Committee

Hearing Date: January 28, 2009

Recorder Job Number: 8014

Committee Clerk Signature

Ellen LeTang

Chairman Keiser: Opened the hearing on HB 1421 relating to fees for deferred presentment services & provide a penalty.

Representative Thorpe: Introduces HB1421. A group talked to me about the industry of payday lending and wondered why we needed it in North Dakota? Why we did this legislation in the past as we did to bring this industry in? At the time we were told this was for emergency type of loan. They felt that it was a little beyond what you would consider just emergency.

They wanted me to put in a bill that would basically abolish the industry. For an industry I had no knowledge of, I then asked what else I could do? You could sponsor a bill that would reduce their charges for the loan and the total amount they could loan out.

Chairman Keiser: Could I summarize, for payday loans it would reduce the fee from 20% to 15%, aggregate amount to be loaned at any one time would be \$600 to \$300, the limit of a single transaction would go from \$500 to \$250, and for renewals would go from 20% to 15% of the amount of the original loan. Is this right?

Representative Thorpe: Yes.

Vice Chairman Kasper: Are there any problems with the limits the way they are?

Representative Thorpe: I was not apprised of any problems.

Chairman Keiser: Were these military related individuals?

Representative Thorpe: They were senior citizens.

Anyone here to testify in opposition of HB 1421.

Ken Tupa~Represent the North Dakota Pawnbrokers Association. See testimony attachment.

Representative Thorpe: What do these people charge for initiating these loans?

Tupa: The only other fee besides the 20% fee would be a transaction fee for verification which is a real-time database.

Chairman Keiser: Who charges the provider?

Tupa: The data base vendor.

Jim Basset~Operate the Silver Dollar Pawnshop and President of North Dakota Pawnbrokers Association. We are opposed and we ask for a Do Not Pass recommendation. He informs the committee how to apply for a payday loan and the type of people who apply for these loans.

Representative Thorpe: When you are in the lending business, I'm sure you have collection services, how does this industry the collections of loans?

Basset: In the state statue, there was a \$20 collection fee per year. As it turned out in the beginning, there were quite a few uncollectable checks and \$20 just didn't cut it. Last session put into effect a \$20 fee for each nonsufficient check. Since the data base came in, our loan volume dropped substantially and our NSF dropped too. I happen to use a collection agency and they are under the guideline that they can't charge over \$20.

Representative Amerman: As President of the North Dakota Pawnbroker Association, do you monitor those businesses?

Basset: Our organization is to promote and enhance our pawn brokering or payday loaning.

The North Dakota Department of Financial Institutions is in charge of auditing every two years.

Todd Kranda~Presenting on behalf of Lisa Ferguson who is employed by Check Into Cash.

See testimony attachment.

Brandy Otte~Consumer. Explains why dropping to \$250 is not enough money. I'm against this bill.

Anyone to testify in the neutral position.

Tim Karsky~Commissioner for the Department of Financial Institutions. We regulate 79 payday companies in North Dakota at this time. The law that you passed in 2001 does require internet providers of payday lenders to be licensed in our state. I don't have the staff or resources to go after everyone, but we have three internet lenders out of twenty some thousand lenders, that are licensed in North Dakota. Those internet lenders that are licensed have to use the data base that we set up in 2005. Explains how an internet lenders work. The data base work very well. People do go to the internet lenders when they get close to the \$600 and they pay a lot high price. There is about approximately 3.4 million transactions a year in North Dakota. The average customer uses the service about 5.6 times a year.

Representative Amerman: How has the industry grown?

Karsky: We origionally projected 40 to 50 lenders and it has grown to 75 to 80.

Representative Nottestad: One of the statement, you may not like or agree with them, but bringing them under the banking commissioner is a must because of the alternatives. Has that changed in anyway?

Karsky: Probably not.

Representative Vigesaa: Are payday loans reported to credit bureaus and if they are, are they considered a negative effect?

Karsky: It's up to each individual licensing, but on the whole, most of them do not.

What are the wishes of the committee?

Vice Chairman Kasper: Moves a Do Not Pass on HB 1421.

Representative Vigesaa: Second.

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House Industry, Business and Labor Committee

Bill/Resolution No. 1421

Hearing Date: January 28, 2009

Voting roll call was taken on HB142 for a Do Not Pass with 11 yea's, 1 nay, 1 absent with

Representative Gruchalla as the carrier.

Date: Jun 28-2009
Roll Call Vote # _____

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 1421

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 Kasper Seconded By Vigesaa

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser	7		Representative Amerman	7	
Vice Chairman Kasper	7		Representative Boe		
Representative Clark	7		Representative Gruchalla	7	
Representative N Johnson	7		Representative Schneider	7	
Representative Nottestad	7		Representative Thorpe		7
Representative Ruby	7				
Representative Sukut	7				
Representative Vigesaa	7				

Total (Yes) 11 No 1

Absent 0

Floor Assignment Gruchalla

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

REPORT OF STANDING COMMITTEE (410)
January 28, 2009 1:10 p.m.

Module No: HR-17-1089
Carrier: Gruchalla
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1421: Industry, Business and Labor Committee (Rep. Keiser, Chairman)
recommends **DO NOT PASS** (11 YEAS, 1 NAY, 1 ABSENT AND NOT VOTING).
HB 1421 was placed on the Eleventh order on the calendar.

2009 TESTIMONY

HB 1421

Testimony on HB 1421

January 28, 2009

House IBL Committee

Chairman Keiser and members of House Industry Business and Labor Committee, good morning. My name is Ken Tupa. I represent the North Dakota Pawnbrokers Association.

I am here this morning to testify before your committee and ask you for a Do Not Pass recommendation on HB 1421.

HB 1421 will not eliminate or reduce the demand for short-term credit. Reducing fee and advance amounts will not enhance consumer protections in ND. HB 1421 will only limit access to this short-term credit option and send consumers to unlicensed and unregulated providers (like the internet) where there may be no limits, higher fees, and constant rollovers.

The North Dakota Pawnbrokers Association organized in 2001 to support responsible regulation of deferred presentment services, commonly known as payday advances or loans. In 2001, the ND Pawnbrokers Association initiated legislation to license and regulate payday advance providers and services in ND to provide strict rules for enforcement with strong consumer protections. We feel the law governing our providers is one of the best in the nation where state laws can vary from little or no regulation at all with no limits on advance amounts and fees or the number of renewals.

The current ND law provides for comprehensive licensing, oversight and consumer protection provisions. Lenders are required to be licensed, undergo background checks, post bonds, be subject to intensive examinations, adhere to all terms and conditions of the statutes, and suffer substantial penalties, including forfeiture of license, for violations of respective statutes.

Our ND law limits the total advance amount to \$500. Limits the fee to 20%. Limits the consumer to one renewal of the advance. Provides a 3-day “cooling-off” period between advances. Requires verification of each advance via a real-time database with oversight by the DFI to enforce all of these provisions.

Payday advances are intended to meet short term credit needs of the consumer to cover unexpected expenses, like car repairs, medical care, or household emergencies. These advances offer a convenient, less costly solution to consumers with short term credit options. Traditional financial institutions do not generally make unsecured advances or loans for small amounts.

Customers choosing a payday advance are making a short-term decision for a fixed period of time (two weeks), not a long-term credit decision. The fee charged is a cost effective alternative to NSF check and overdraft fees, late payment fees for credit cards, or late and reconnect fees for utilities and a variety of other emergencies.

Chairman Keiser and members of the committee: NDPA opposes HB 1421 and the limit it would impose on customers’ options for short-term credit. NDPA initiated and have always supported regulation of the DPS industry, with strong consumer protections. We brought a comprehensive law to this committee and the Legislature in 2001 and supported implementing the verification database in 2005 for the additional benefit and protection of the consumer and the provider. HB 1421 would only further restrict access to credit and instead direct the demand to unregulated and higher-cost providers without the strong consumer protections we have in ND.



Written Testimony RE: Opposition to HB 1421

By: Lisa Ferguson

Representing: The Community Financial Services Association of America (CFSA)

Submitted To: House Business and Labor Committee

The Honorable George J. Keiser, Chairman

Date: January 28, 2009

Thank you for the opportunity to provide written testimony to be entered into the record of today's hearing. My name is Lisa Ferguson. I am employed by Check Into Cash, which has two payday advance locations in North Dakota, and I am submitting testimony on behalf of CFSA, the payday advance industry's national trade association. CFSA promotes responsible industry practices through mandatory Best Practices standards for members; and supports state legislation that preserves working families' access to small denomination short-term credit while ensuring them substantive consumer protections. To that end, our members have supported responsible legislation in the 34 states that regulate payday advance, including North Dakota.

For the record, our business offers Dakotans deferred presentment services, or payday advances, which are small, unsecured cash advances for people who need money between paydays. It's one of few options available today for many consumers who need small dollar, short-term credit. Our customers must have a steady income and personal checking account in order to get an advance. They are typically middle-income, educated young families. They are like millions of Americans, who choose payday advance as a cheaper alternative to bounced check or overdraft protection fees and late bill payment penalties—also more desirable than asking family for money or pledging collateral for a small loan. Payday advance customers are overwhelmingly satisfied with the service, a fact confirmed by state regulators across the country, who report very few complaints from their citizens who use our service. I believe we can count North Dakota in that category.

We would like to point out that North Dakota already has one of the strictest, most consumer-friendly payday advance laws in the country. The state already imposes a three-day “cooling off” period between advances—the longest required in the nation. Additionally, North Dakota requires lenders to use an industry-wide database, which prevents lenders from making an advance to a customer who already has the maximum \$600 outstanding. Only seven other states require the use of a database. These requirements are in addition to limits on fees, the dollar amount of the advance and rollovers, as well as a prohibition on criminal prosecution against customers who cannot repay.

CFSA supports balanced regulation that appropriately protects consumers and their access to credit. But we respectfully submit that HB 1421 does nothing to make current law stronger. Instead, it restricts consumers’ access to a much needed credit option. The demand Dakotans have for short-term credit will not go away if you cut their allowable loan amount in half. Your constituents will simply be forced into more expensive, less desirable and even unregulated credit alternatives.

Across the country CFSA has demonstrated our commitment to work constructively with policymakers and stakeholders to promote state regulation that is right for their citizens. We will continue to do so in North Dakota. In these tough financial times, however, families are finding their access to traditional forms of credit limited or cut-off entirely. We cannot, therefore, support limiting our customers’ options even further by reducing the amount they can borrow. As such, we must respectfully oppose HB 1421.

Thank you for your consideration of our position.