

2011 HOUSE INDUSTRY, BUSINESS AND LABOR

HB 1131

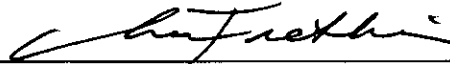
2011 HOUSE STANDING COMMITTEE MINUTES

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

HB 1131
January 12, 2011
12810

☐ Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Definition of market value, to amend relating to state credit union board member experience, clarification of regulated entities, civil money penalties, credit union board powers, prompt corrective actions relating to credit unions, use of electronic communications for credit union meetings, election or appointment of credit union committees, credit union supervision of loans, credit union mergers & provide a penalty.

Minutes:

Chairman Keiser: We will open the hearing on HB 1131.

Bob Entringer~Commissioner: (See attached testimony).

Chairman Keiser: Questions? The expansion from 3 to five years of experience, do we have people in that period being excluded and why exclude them?

Bob Entringer~Commissioner: The rationale was that you had to be in an executive position and if you had that much experience you were better suited to sit on the State Credit Union Board.

Chairman Keiser: Would that exclude any current members?

Bob Entringer~Commissioner: No.

Chairman Keiser: On the last page lines 14-17, if there is a merger the branches go with the corporate headquarters and don't become registered. Is that the same policy we have for banks?

Bob Entringer~Commissioner: It is. If you have two credit unions that are merging and they would desire to operate on that location they would have to make a separate application. If they also want that geographic field of membership they also have to apply for that. So right now you potentially have three applications for a merger. This would reduce it to two applications.

Chairman Keiser: Credit unions are formed on some rational basis whether it's a geographical region or it's a commonality in membership. By allowing credit unions to merge, do they have to maintain the physical position or the common membership in order for a merger to occur, or is this a way of circumventing that requirement?

Bob Entringer~Commissioner: A credit union either has to have a geographic location or a common bond. They can't have both fields of membership.

Chairman Keiser: But it is a way to end that requirement for existing members.

Bob Entringer~Commissioner: No, this says if you want that location you get it without having to apply for it.

Chairman Keiser: You are now saying they can merge. One with location and one with common membership could merge and those members would flow but you would not be able to expand.

Bob Entringer~Commissioner: That correct if the fields of membership differ in respect to geographic and common bond. If it's geographic for both credit unions, the credit union that will survive can apply for that existing field of membership. That's permitted under 60607.

Representative Sukut: Looking on page 7, line number 12, and we are talking about a credit union being able to invest. In that section are we talking about health plans or just invest?

Bob Entringer~Commissioner: What we are talking about is employee benefit plans such as a 401K. Typically the investments in those plans are not necessarily authorized for a credit union. In some of these plans the credit union actually makes the investment themselves. If it's not an authorized investment it is currently not permitted.

Representative Sukut: Getting to the back of this, when you are talking about creating a credit manager, one individual, that has the ability to rule on loans, is that a common practice with credit unions?

Bob Entringer~Commissioner: In larger ones it is. In smaller ones you would probably still have the credit committee.

Representative Sukut: In a larger situation you have one person who is overseeing the loans and making the decisions on the loans rather than a loan committee?

Bob Entringer~Commissioner: They will more than likely still have a loan committee but the credit manager is essentially responsible for the entire loan portfolio; more or less a senior loan officer type thing.

Representative N. Johnson: If you're a regional credit union and you merge with a something like a railroad employee credit union that maybe is located in, say Fargo, if those two are to merge, would one have to become a railroad or would one have to become an area?

Bob Entringer~Commissioner: In your example if that were to occur, more than likely they couldn't and likely wouldn't take the field of membership for the railroad. They might take the location but all they get at that point is the existing members of that credit union.

Vice Chairman Kasper: Going to page 7, line 12, we are talking about investment. Currently banks in ND invest in keyman life insurance policies where they make large single deposits and provide a benefit to the employee and institution. Does this section allow that to occur for credit unions as well or can they already do that?

Bob Entringer~Commissioner: This section would allow them to do the keyman life insurance policy. They currently can't.

Vice Chairman Kasper: Then it would be subject to the prudent rules that are currently in place for banks?

Bob Entringer~Commissioner: Yes.

Representative M. Nelson: On page 12, why is it ok to have any number of loan officers on the credit committee if they're appointed by a credit manager but not more than one if the credit committee is formed any other way?

Bob Entringer~Commissioner: Typically in your smaller credit union your credit committee is made up of volunteers. In a larger one, getting them to come in to act on loan requests is very difficult. This way the credit manager can appoint loan officers from the credit union to the credit committee which speeds things up.

Representative M. Nelson: What's the problem with loan officers serving on the credit committee in those smaller ones?

Bob Entringer~Commissioner: I'm not sure I understand the question.

Representative M. Nelson: What is the reason for not having more than one loan officer when they're not appointed by loan manager? What would be the problem for the smaller ones to have more than one loan officer?

Bob Entringer~Commissioner: There probably wouldn't be a problem. Smaller ones usually only have no more than 1 or 2.

Chairman Keiser: Could you tell us what powers this bill grants to credit unions that they don't currently have?

Bob Entringer~Commissioner: As far as powers it would be the investment section. They can offer the employee benefit plans. It would allow them to invest in bonds of the US, bonds of other states, and municipalities.

Representative Clark: How many credit unions there are in the state and is that number increasing or shrinking?

Bob Entringer~Commissioner: There are 28 and it is shrinking.

Chairman Keiser: The market shares are going up but the number are going down?

Bob Entringer~Commissioner: Correct.

Representative Nathe: In section 6 you talk about where they can deposit money. Would the Bank of North Dakota no authorize to receive these deposits?

Bob Entringer~Commissioner: They were not previously authorized to deposit in the Bank of North Dakota.

Representative Nathe: This will open that up?

Bob Entringer~Commissioner: Yes.

Chairman Keiser: Questions? Anyone else in support of HB 1131?

Greg Tschider~Represent Mid-America Credit Union Association, DBA Credit Union Association of the Dakotas. (See attached testimony).

Representative M. Nelson: Your last amendment to go to the 100% of market value, when is the market is determined?

Greg Tschider~Represent Mid-America Credit Union Association, DBA Credit Union Association of the Dakotas: It would be at the date you signed the loan document. I presume that would be the day of purchase after you drive it off the lot.

Chairman Keiser: Questions? Support? Opposition?

Don Forsborg: I agree with many of the points made by Mr. Tschider. First of all it is difficult for small institutions to continue to offer mortgages. In addition I would add that the regulatory burden adds significant costs and time in order to maintain all the other services you are providing. Many smaller institutions have to find different methods such as referrals which are often to larger institutions. One difference is business model. Banks have chosen their business model as for profit and thus continue to be income paying citizens and organizations for the communities etc. Credit unions are financial institutions providing many of the same services but they are not paying the income tax because they chose a different business model. If you are looking at the amendment, potentially you are looking at expanding their powers which gives them options. If you allow them to use some of those territorial charters that the larger institutions have, then you are expanding their territory to the entire state. We strongly oppose that.

Vice Chairman Kasper: Are any banks right now prohibited territorially in North Dakota?

Don Forsborg: No.

Chairman Keiser: Questions? Opposition?

Marilyn Foss: We oppose the amendment. Credit unions are entities of limitation because of their privileged tax status. They are supposed to be providing services only to their

members. To me this bill allows for evading the restriction on field of membership. We have addressed keeping us competitively the same as banks. Credit unions are not and were not intended to be the same as banks. They were intended to provide services of their members. If this goes into law, we would presume that credit unions may take advantage of the person property aspects that was mentioned earlier and why wouldn't they. There are substantial reasons to have essentially small differences in their lending authority. I would like to note that a reason the number of credit unions is shrinking is because the larger ones are absorbing the smaller ones.

Representative N. Johnson: You commented about the amendments. The original bill and the amendments proposed by Commissioner Entringer, do you have any difficulty with those?

Marilyn Foss: We are neutral on that subject.

Vice Chairman Kasper: Do the credit unions pay any type of business privilege tax or any other tax in lieu of income tax that would be similar to banks paying income tax?

Marilyn Foss: No, the credit unions don't even have to pay sales taxes. I do believe they are subject to property taxes.

Representative Clark: This bill deals with state regulated credit unions, do the federal credit unions have the option that this amendment would propose?

Marilyn Foss: I have not looked at the Federal Credit Union Act and Regulations. I'm not sure.

Chairman Keiser: Questions? Opposition? Could someone clarify those points?

Greg Tschider~Represent Mid-America Credit Union Association, DBA Credit Union Association of the Dakotas. Federally chartered credit unions do not have these restrictions. Basically under the federal regulations they are required to have policies as to how they will invest and those percentages. No federal law says it's 90%, 100%, etc

Representative Clark: This would make the state credit unions equal with the federal credit unions with the ability to lend then?

Greg Tschider~Represent Mid-America Credit Union Association, DBA Credit Union Association of the Dakotas. If the federal charter credit unions decide to limit their loans and investments to that of the state credit unions then it would be the same but they don't have those restrictions.

Chairman Keiser: What about taxes?

Greg Tschider~Represent Mid-America Credit Union Association, DBA Credit Union Association of the Dakotas. Federal charter credit unions do not pay sales tax. State charter credit unions pay sales tax. Be careful with the tax issue because a lot of banks don't pay corporate income tax either.

Vice Chairman Kasper: Credit unions pay sales tax. You are talking about the sales tax on like a vehicle. Credit unions don't pay that the customer does. Is there another tax on top of that?

Greg Tschider~Represent Mid-America Credit Union Association, DBA Credit Union Association of the Dakotas: Basically if they buy furniture, supplies, carpeting etc. they have to pay sales tax.

Vice Chairman Kasper: Are there any financial institution taxes?

Greg Tschider~Represent Mid-America Credit Union Association, DBA Credit Union Association of the Dakotas. No.

Rick Clayberg: I want to note on the issue of corporate income taxes, our banks do pay federal taxes. We pay a financial institution tax based on 7%. All banks in ND are subject to that.

Bob Entringer~Commissioner: The amendment dealing with real-estate lending, I don't believe federal credit unions are allowed to do that. I will double check.

Chairman Keiser: Opposition? Neutral? We will close the hearing on HB 1131.

2011 HOUSE STANDING COMMITTEE MINUTES

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

HB 1131
January 12, 2011
12833

☐ Conference Committee

Committee Clerk Signature

Ellen Letang

Explanation or reason for introduction of bill/resolution:

Definition of market value, to amend relating to state credit union board member experience, clarification of regulated entities, civil money penalties, credit union board powers, prompt corrective actions relating to credit unions, use of electronic communications for credit union meetings, election or appointment of credit union committees, credit union supervision of loans, credit union mergers & provide a penalty

Work Session Committee Minutes:

Chairman Keiser: Opens the hearing on HB 1131.

Representative Sukut: There were two sets of amendments that were set forward. One was purposed by the department and the other was by the Credit Union Association. We might take a look at the first one proposed by the department. They were clean ups and I don't know if they changed anything. **(reads the amendment)**.

Chairman Keiser: There were no objection to these amendment and they are basically technical in nature?

Representative Sukut: I don't think so.

Chairman Keiser: Do we have a motion to adopt these amendments.

Representative N Johnson: Moves to adopt the amendment purposed by the Department of Financial Institutions.

Representative Kreun: Second.

Voice vote taken, motion carried.

Chairman Keiser: Now we have the second set of amendment, which are the heart of this bill.

Representative Sukut: On page 6, line 29, the proposal on the amendment was instead of the 35% down payment on a home, putting it up to where you had 90% financed and 10% down payment.

Chairman Keiser: Discussion on that set of amendments?

Representative Clark: Moves that we adopt the amendments purposed to HB 1131 by Mid-America Credit Union Association of the Dakotas.

Representative Gruchalla: Second.

Representative M Nelson: I know the purpose of the amendment is to allow them to sell it in the secondary market at 90%, but the effect of changing this would also mean that they could do it potentially at 90% when they are keeping the paper. I would like to see this written in such a way that it is still at 65% if they keep the paper longer than 90 days. I think that we could get into a problem down the road with some union that is holding some paper that doesn't have enough value for them to sit on it.

Chairman Keiser: Further discussion? We could purpose an amendment to what they have here. Further discussion?

Roll call was taken to adopt the amendments purposed by the Mid-America Credit Union Association of the Dakota with 4 yeas, 10 nays, 0 absent, motion defeated.

Chairman Keiser: Any alternative amendments to that?

Representative M Nelson: I purpose in line 30, page 6, after the words "and to become a mortgage" to add the words "or 90% if sold within 90 days into the secondary market".

Chairman Keiser: That's a little bit tough because if you initiate the loan for 90%, you are not sure it would be sold.

Representative M Nelson: Will the secondary market not take it some times?

Chairman Keiser: I don't know that. What if you do initiate it for 90 and you don't sell it, then you are in violation. Either you allow them to do it or you don't.

Chairman Keiser: Is there a second?

Representative Boe: Second.

Roll call was taken for the amendment with 5 yeas, 9 nays, 0 absent, motion fails.

Vice Chairman Kasper: I wonder if Mr Tscheider could answer a question about this delima about 90% not being sold?

Greg Tscheider: It creates a potential problem. The reality is that if you are underwriting is done correctly, we don't get them returned, the only time we've seen mortgages return that there is a requirement that the debtor has made a couple of payments at the beginning. I've never seen underwriting turned down on a loan but anything is possible. If

that were to happen, I guess we are looking at the intent it would be 90% if we see it to fit in with what the other purpose is, I think we can live with that.

Vice Chairman Kasper: But, the what if? What if the underwriting was done properly, everything went smooth, it was 90%, you are at 90 days, and you have not sold the mortgage, what would happen?

Tscheider: The credit union would be in violation

Chairman Keiser: Further questions?

Roll call vote was taken on amendment with 5 yeas, 9 nays, 0 absent, motion failed.

Chairman Keiser: What are the wishes of the committee?

Representative N Johnson: Move for a Do Pass as Amendment 01001.

Representative Sukut: Second.

Roll call was taken for a Do Pass as Amended on HB 1131 with 14 yeas, 0 nays, 0 absent and Representative Sukut is the carrier.

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1131

Page 7, line 13, replace underscored comma with underscored period

Page 7, remove line 14

Page 9, line 10, after “requirement” insert an underscored period, and remove “as defined by the state credit”

Page 9, remove line 11

Page 9, line 13, after “requirement” insert an underscored period

Page 9, remove line 14

Page 9, line 16, after “requirement” insert an underscored period, and remove “as required by”

Page 9, remove line 17

Page 9, line 19, remove “as defined by the state”

Page 9, line 20, remove “credit union board by rule”

Page 9, line 26, after “The” insert “board or”

Page 9, line 28, remove “as determined by state credit union board rule”

Page 9, line 29, remove the overstrike over “~~board~~”, and after “~~board~~” insert “or”

Renumber accordingly

Date: Jun 12, 2011

Roll Call Vote # 1

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 1131

House House Industry, Business and Labor Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: ☐ Do Pass ☐ Do Not Pass ☐ Amended ☒ Adopt Amendment

Motion Made By Rep Johnson Seconded By Rep Kreun

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser			Representative Amerman		
Vice Chairman Kasper			Representative Boe		
Representative Clark			Representative Gruchalla		
Representative Frantsvog			Representative M Nelson		
Representative N Johnson					
Representative Kreun					
Representative Nathe					
Representative Ruby					
Representative Sukut					
Representative Vigesaa					

Total Yes _____ No _____

Absent _____

Floor Assignment _____

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

voice vote
motion carried

language
clean

Date: Jan 12, 2011

Roll Call Vote # 2

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 1131

House House Industry, Business and Labor Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: ☐ Do Pass ☐ Do Not Pass ☐ Amended ☒ Adopt Amendment

Motion Made By Rep Clark Seconded By Rep Gruchalla

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser		✓	Representative Amerman	✓	
Vice Chairman Kasper		✓	Representative Boe	✓	
Representative Clark	✓		Representative Gruchalla	✓	
Representative Frantsvog		✓	Representative M Nelson		✓
Representative N Johnson		✓			
Representative Kreun		✓			
Representative Nathe		✓			
Representative Ruby		✓			
Representative Sukut		✓			
Representative Vigesaa		✓			

Total Yes 4 No 10

Absent 0

Floor Assignment _____

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

mid-America Credit Union Association

defeated

Date: Jan 12-2011

Roll Call Vote # 3

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 1131

House House Industry, Business and Labor Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: ☐ Do Pass ☐ Do Not Pass ☐ Amended ☒ Adopt Amendment

Motion Made By Rep Nelson Seconded By Rep Boe

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser		✓	Representative Amerman	✓	
Vice Chairman Kasper	✓		Representative Boe	✓	
Representative Clark		✓	Representative Gruchalla	✓	
Representative Frantsvog		✓	Representative M Nelson	✓	
Representative N Johnson		✓			
Representative Kreun		✓			
Representative Nathe		✓			
Representative Ruby		✓			
Representative Sukut		✓			
Representative Vigesaa		✓			

Total Yes 5 No 9

Absent 0

Floor Assignment Amendment fails

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

starting 29
p 6, line 30

65, 90%

mortgage 90 days
of secondary market.

January 12, 2011

✓K
1/13/11

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1131

Page 7, line 13, remove the underscored comma

Page 7, line 14, remove "subject to the rules of the state credit union board"

Page 9, line 10, remove "as defined by the state credit"

Page 9, line 11, remove "union board by rule"

Page 9, line 16, remove "as required by"

Page 9, line 17, remove "the state credit union board by rule"

Page 9, line 19, remove "as defined by the state"

Page 9, line 20, remove "credit union board by rule"

Page 9, line 26, after "The" insert "board or"

Page 9, line 28, remove "as determined by state credit union board rule"

Page 9, line 29, remove the overstrike over "~~board~~" and insert immediately thereafter "or"

Renumber accordingly

Date: Jan 12-2011

Roll Call Vote # 4

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 1131

House House Industry, Business and Labor Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 11.8684.0/001 title 02000

Action Taken: ☒ Do Pass ☐ Do Not Pass ☒ Amended ☐ Adopt Amendment

Motion Made By Rep Johnson Seconded By Rep Sukut

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser	✓		Representative Amerman	✓	
Vice Chairman Kasper	✓		Representative Boe	✓	
Representative Clark	✓		Representative Gruchalla	✓	
Representative Frantsvog	✓		Representative M Nelson	✓	
Representative N Johnson	✓				
Representative Kreun	✓				
Representative Nathe	✓				
Representative Ruby	✓				
Representative Sukut	✓				
Representative Vigesaa	✓				

Total Yes 14 No 0

Absent 0

Floor Assignment Rep Sukut

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

REPORT OF STANDING COMMITTEE

HB 1131: Industry, Business and Labor Committee (Rep. Keiser, Chairman)
recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends
DO PASS (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1131 was placed
on the Sixth order on the calendar.

Page 7, line 13, remove the underscored comma

Page 7, line 14, remove "subject to the rules of the state credit union board"

Page 9, line 10, remove "as defined by the state credit"

Page 9, line 11, remove "union board by rule"

Page 9, line 16, remove "as required by"

Page 9, line 17, remove "the state credit union board by rule"

Page 9, line 19, remove "as defined by the state"

Page 9, line 20, remove "credit union board by rule"

Page 9, line 26, after "The" insert "board or"

Page 9, line 28, remove "as determined by state credit union board rule"

Page 9, line 29, remove the overstrike over "~~board~~" and insert immediately thereafter "or"

Renumber accordingly

2011 SENATE INDUSTRY, BUSINESS AND LABOR

HB 1131

2011 SENATE STANDING COMMITTEE MINUTES

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

HB 1131
March 8, 2011
Job # 15106

☐ Conference Committee

Committee Clerk Signature

Eva Lubett

Explanation or reason for introduction of bill/resolution:

Relates to proposed changes the Department has for state-chartered credit unions.

Minutes:

Testimony Attached

Bob Entringer: Commissioner for Financial Institutions (Attachment #1). Testify in support of Engrossed HB 1131

Senator Nodland: Section 10 loans to insiders say that most of this is done to be similar with your regulations with banks in ND. He said loans to insiders.....isn't it more difficult for regulation as pertaining to that than other members?

Bob Entringer: What I was referring to specifically, the merger where two credit unions merged.....they don't have to apply for a branch location at the credit union that is being merged out of existence. You are right; the banks have a much stricter regulation to most insiders.

Senator Nodland: In your summary, is this to bring credit unions closer to bank regulations? You're getting specifics with your loan value and appraisals with mortgage loans and with other transactions. Is that the purpose?

Bob Entringer: Not necessarily to bring them closer to banks, but to tighten up some of the areas where we saw weaknesses in our enforcement capabilities.

Senator Klein: This isn't something they instigated....."said we need to work, would you please make it more difficult for us to do business"?

Bob Entringer: They wanted us to make it more difficult for them. No, we did work with the credit union league and there were some changes they requested and we made some of the changes for them.

Senator Klein: We might hear from them.

Greg Tschider: Mid America Credit Union Association. Some of the offensive comments in here are really not something that was caused by the state one way or another. Some is

caused by federal regulation....the well capitalized language we are stuck with because of the wisdom of congress.

Senator Klein: That big financial bill that they passed a summer before....whether you are a bank or credit union, everybody can under the umbrella of that particular law?

Greg Tschider: That is correct. There were many varieties of laws, we had the credit card thing changed, we are not fighting about interchange fees, and the list goes on. They had some good concepts, but didn't see there were two sides to every story and a front and back on things. We are now starting to see what can happen with some of this and I think we are going to see out costs go up. A lot of this was the results of people who weren't handling their money properly, bouncing checks, who wanted overdraft fees, overdraft opportunities, which resulted in fee. Now if you are going to basically take that away from financial institutions that were the revenue strains that will have to be made up. In regards to Engrossed HB 1131 the credit unions do support this bill. We had the opportunity to work with the department; many of the changes are the results of the new federal regulations, and some the department wanted just for enforcement purposes.

Senator Nodland: Do you think this will eventually do the same as it does with all the industries and lose some credit unions and see more mergers?

Greg Tschider: We are going to see less credit union, we are going to see fewer banks. I don't know how the small financial institutes are going to make it. The regulation burden is becoming almost prohibitive. Don't know where the cutoff pointis it 50 or 60 million for banks and credit unions? An opinion.....we got all caught up in the fact that we talked about too big to fail. These "too big to fail institutions" are even bigger and as a result of all this regulation, we have made it much harder for the smaller institutions to survive. So what is the benefit?

Senator Klein: Anyone else in support of Engrossed HB 1131?

Senator Klein: Opposition for HB 1131?

Senator Klein: Close the hearing.

Senator Nodland: I move Do Pass on HB 1131

Senator Laffen: Second motion

Senator Klein: Discussion? Clerk will take roll call vote for Engrossed HB 1131.

Clerk: 6-0-1

Senator Klein: Passes. Carrier Senator Nodland.

Senator Klein: Adjourned

Date: 3/8/11
Roll Call Vote # 1

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1131

Senate Industry, Business and Labor Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken: ☒ Do Pass ☐ Do Not Pass ☐ Amended ☐ Adopt Amendment

☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Senator Nodland Seconded By Senator Laffin

[illegible]

Total (Yes) 6 No 0

Absent 1

Floor Assignment Senator Nodland

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

REPORT OF STANDING COMMITTEE

HB 1131, as engrossed: Industry, Business and Labor Committee (Sen. Klein, Chairman) recommends DO PASS (6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). Engrossed HB 1131 was placed on the Fourteenth order on the calendar.

2011 TESTIMONY

HB 1131



State of North Dakota

DEPARTMENT
of FINANCIAL
INSTITUTIONS

Timothy J. Karsky
Commissioner

Robert J. Entringer
Assistant Commissioner

Douglas D. Grenz
Chief Examiner - Banks

Corey J. Krebs
Chief Examiner - Credit Unions

CSBS ACCREDITED 1993
NASCUS ACCREDITED 2000

MEMORANDUM

DATE: January 12, 2011
TO: House Industry, Business and Labor Committee
FROM: Robert J. Entringer, Commissioner
SUBJECT: Testimony in Support of House Bill No. 1131

Chairman Keiser and members of the House Industry, Business and Labor Committee, thank you for the opportunity to provide my testimony in support of House Bill No. 1131.

Chairman Keiser and members of the Committee, House Bill No. 1131 relates to proposed changes the Department has for state-chartered credit unions.

Section 1 of the Bill adds a new definition for the term "market value"; this definition mirrors the definition found in Chapter 24-01 of the North Dakota Century Code and will relate to a changes found later in the Bill in Section 6.

Section 2 extends the experience level for a member of the State Credit Union Board to five years experience and allows a person from a state-chartered credit union to serve on the State Credit Union Board in the position currently reserved for an individual from a federally-chartered credit union.

Sections 3 and 4 make it clear that these particular Sections of the North Dakota Century Code are applicable to a credit union and allow an individual removed from a financial institution, financial corporation, or credit union to request termination of a Final Order after a period of not less than three years.

Section 5 also makes it clear that the Department may assess a civil money penalty against a credit union and adds additional types of regulatory violations related to member business loan limits which may be subject to civil money penalties for a credit union.

Section 6 makes it clear that credit unions can deposit money in corporate credit unions, credit unions, financial institutions, as well as the Bank of North Dakota. As you will note on page 6, line 30, the definition of market value discussed under Section 1 is used here; this Section allows a credit union to invest in notes and bonds secured by mortgages or deeds of trust on real estate if it does not exceed 65% of the market value of the

property mortgaged. Market value is used because there was no definition for actual cash value and this makes it clear as to what market value is. This Section also allows a credit union to invest in investments or products which are otherwise prohibited if these investments are directly to a benefit plan for credit union employees and enables the State Credit Union Board to draft rules regarding these investments. We are proposing amendments to remove the language on page 7 line 14 regarding the administrative rules. Finally, the Section amends the requirement for a credit union to conduct an appraisal of real estate acquired under debts previously contracted within 60 days of transfer to Other Real Estate Owned. Additionally, this appraisal must be conducted either by a state licensed individual if the property has a recorded value in excess of \$100,000, and also allows the credit union to obtain a market evaluation performed by a qualified individual who is independent of the transaction if the transaction value is less than \$100,000.

Section 7 will change the Section of the North Dakota Century Code dealing with prompt corrective action and brings it in line with the current federal regulations. This Section also gives the Commissioner and the State Credit Union Board similar authorities as those available to a federal regulator for a federally-chartered credit union. We are including in our

proposed amendments to add on line 26, page 9 the board after commissioner and to remove the language on page 9, line 28 "as determined by state credit union board rule".

Section 8 allows for the credit union to utilize electronic communication in voting as it seems to be a fairly common practice with today's technology.

Section 9 allows for someone in senior management of a credit union, other than the President, to serve as the Credit Manager. The proposed changes also make it clear that non-elected Credit Committees are permissible.

Section 10 makes it clear that the duties assigned to the Credit Committee are the responsibility of the Credit Manager if a Credit Committee does not exist. The proposed amendments to this Section also make it clear that loans to insiders must be current and made on the same terms, including fee structures, as loans made to other members.

Section 11 eliminates the need for multiple applications during the merger process outlined in Section 6-06-36 of the North Dakota Century Code, and results in the automatic establishment of a branch location in a merger transaction. This amendment is similar to what the Department allows with respect to bank mergers.

Mr. Chairman and members of the Committee thank you for the opportunity to provide this testimony, and I would be happy to answer any questions the Committee may have.

TESTIMONY IN REGARDS TO HOUSE BILL NO. 1131

GREG TSCHIDER, MID-AMERICA CREDIT UNION
ASSOCIATION, DBA CREDIT UNION ASSOCIATION
OF THE DAKOTAS

Mr. Chairman and Members of the House Industry, Business, and Labor Committee, I am Greg Tschider and I represent the Mid-America Credit Union Association, dba Credit Union Association of the Dakotas.

AMENDMENT TO SECTION 6-06-06(5)(d) N.D.C.C.

Credit Unions do not object to House Bill No. 1131 if the Bill is amended to include the amendments submitted by the Credit Union Association to the Committee.

The first two amendments arose due to a concern of the Department of Financial Institutions concerning larger state chartered credit unions providing mortgages services to small state chartered credit unions. It is no surprise to anyone that the amount of regulations pertaining to mortgages and the requirements of secondary market providers have exploded. Small credit unions desire to provide home mortgages to their members, however, because of their limited staff, it is impossible for many small credit unions to stay-on-top of all the applicable regulations. In addition, some secondary market buyers of mortgages are not interested in a business relationship with small credit unions. Therefore, some large credit unions have been providing mortgage services to assist the small

credit unions. The problem is that the Department of Financial Institutions is concerned that this is a violation of (d) in Section 6-06-06 which only permits a credit union to invest in loans that are secured by mortgages with a loan to value ratio of not more than 65%.

The majority of mortgages are 80 to 90% loan to value. Although the credit union providing the mortgage services holds the mortgage for only a short time – no more than ninety (90) days – the Department is concerned that this is a violation of present North Dakota law.

Therefore, it is submitted that amendments to subsection (d) occur to increase the loan to value ratio to 90% and to clarify that the present joint mortgage procedures between small and large credit unions are acceptable and necessary to provide members in small credit unions mortgage services.

AMENDMENT TO SECTION 6-06-06(5)(e).

The purpose of this amendment is to permit state chartered credit unions to invest in loans that are secured by personal property (such as vehicles) at a loan to value ratio of 100% as opposed to the existing 90% rule. This will permit state chartered credit unions to be competitive in the market place. All financial institutions determine credit risk of the debtor before a loan is granted or purchased. If a debtor has an 800 Beacon score and desires a 100% loan secured by a vehicle, that debtor is credit worthy and the state chartered credit union should be able to invest in such a loan.

DEPARTMENT OF FINANCIAL INSTITUTION. These amendments have been presented to the Department of Financial Institutions and the Department has no objection.

BANKS AND FEDERALLY CHARTERED CREDIT UNIONS DO NOT HAVE ANY SUCH RESTRICTIONS ON LOAN TO VALUE RATIOS.

PROPOSED AMENDMENT TO H.B. 1131
(Sponsored by Mid-America Credit Union Association)
(dba Credit Union Association of the Dakotas)

Page 6, line 29, replace "sixty-five" with "ninety"

Page 7, line 2, after "board." insert "Nothing contained herein shall prohibit a credit union from purchasing a note or bond secured by a mortgage or deed of trust in which the credit union makes the final underwriting decision and the credit union thereafter assigns the note or bond to a third party within ninety days after the loan is closed."

Page 7, line 4, replace "ninety" with "one hundred"

Renumber accordingly

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1131

Page 7, line 13, replace underscored comma with underscored period

Page 7, remove line 14

Page 9, line 10, after "requirement" insert an underscored period, and remove "as defined by the state credit"

Page 9, remove line 11

Page 9, line 13, after "requirement" insert an underscored period

Page 9, remove line 14

Page 9, line 16, after "requirement" insert an underscored period, and remove "as required by"

Page 9, remove line 17

Page 9, line 19, remove "as defined by the state"

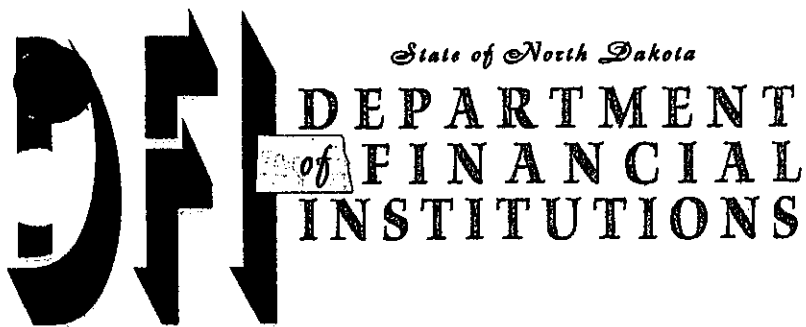
Page 9, line 20, remove "credit union board by rule"

Page 9, line 26, after "The" insert "board or"

Page 9, line 28, remove "as determined by state credit union board rule"

Page 9, line 29, remove the overstrike over "~~board~~", and after "~~board~~" insert "or"

Renumber accordingly



Timothy J. Karsky
Commissioner

Robert J. Entringer

Assistant Commissioner

Douglas D. Grenz

Chief Examiner - Banks

Corey J. Krebs

Chief Examiner - Credit Unions

CSBS ACCREDITED 1993
NASCUS ACCREDITED 2000

MEMORANDUM

DATE: March 8, 2011

TO: Senate Industry, Business and Labor Committee

FROM: Robert J. Entringer, Commissioner

SUBJECT: Testimony in Support of Engrossed House Bill No. 1131

Chairman Klein and members of the Senate Industry, Business and Labor Committee, thank you for the opportunity to provide my testimony in support of Engrossed House Bill No. 1131.

Mr. Chairman and members of the Committee, Engrossed House Bill No. 1131 relates to proposed changes the Department has for state-chartered credit unions.

Section 1 of the Bill adds a new definition for the term "market value"; this definition mirrors the definition found in Chapter 24-01 of the North Dakota Century Code and will relate to a changes found in Section 6 of the Bill.

Section 2 extends the experience level for a member of the State Credit Union Board to five years experience and allows a person from a state-chartered credit union to serve on the State Credit Union Board in the position currently reserved for an individual from a federally-chartered credit union.

Sections 3 and 4 make it clear that sections 6-01-04.1 and 6-01-04.2 of the North Dakota Century Code are applicable to a credit union. Section 3 of the Bill provides that an Order to suspend or remove an employee must contain the term of the suspension or removal, and further, it allows an individual removed from a financial institution, financial corporation, or credit union to request termination of a final Order after a period of not less than three years (if applicable).

Section 5 also makes it clear that the Department may assess a civil money penalty against a credit union and adds additional types of regulatory violations related to member business loan limits which may be subject to civil money penalties.

Section 6 provides that credit unions may deposit money in corporate credit unions, credit unions, financial institutions, as well as the Bank of North Dakota. As you will note on page 6, line 30, the definition of market value discussed under Section 1 is used here; this Section allows a credit

union to invest in notes and bonds secured by mortgages or deeds of trust on real estate if it does not exceed 65% of the market value of the property mortgaged. In addition on page 7, line 5, market value is again used as and allows a credit union to invest in notes or bonds secured by a security interest or lien upon unencumbered personal property, if the investment does not exceed ninety percent of the market value of the property secured. Market value is used because there was no definition for actual cash value. This section, along with the definitions found under section 1, makes clear the meaning and applicability of market value. This Section also allows a credit union to invest in investments or products which are otherwise prohibited, if the investments are directly related to a benefit plan for credit union employees. Finally, the Section provides that a credit union must conduct an appraisal of real estate acquired under debts previously contracted within 60 days of transfer to Other Real Estate Owned. Additionally, this appraisal must be conducted either by a state licensed individual if the property has a recorded value in excess of \$100,000, or a qualified individual who is independent of the transaction if the transaction value is less than \$100,000.

Section 7 amends section 6-06-08.4 of the North Dakota Century Code dealing with prompt corrective action and brings it in line with the

current federal regulations. This Section also gives the Commissioner and the State Credit Union Board similar authorities as those available to a federal regulator for a federally-chartered credit union. Finally, Section 7 provides a process by which the Credit Union Board and the Commissioner may monitor the net worth of a credit union, and require a credit union to increase its net worth as necessary.

Section 8 allows for the credit union to utilize electronic communication in voting as it seems to be a fairly common practice with today's technology.

Section 9 allows for someone in senior management of a credit union, other than the President, to serve as the Credit Manager. The proposed changes also make it clear that non-elected Credit Committees are permissible.

Section 10 makes it clear that the duties assigned to the Credit Committee are the responsibility of the Credit Manager if a Credit Committee does not exist. The proposed amendments to this Section also make it clear that loans to insiders must be current and made on the same terms, including fee structures, as loans made to other members.

Section 11 eliminates the need for multiple applications during the merger process outlined in Section 6-06-36 of the North Dakota Century

Code, and results in the automatic establishment of a branch location in a merger transaction. This amendment is similar to what the Department allows with respect to bank mergers.

Mr. Chairman and members of the Committee thank you for the opportunity to provide this testimony, and I would be happy to answer any questions the Committee may have.