

2011 SENATE INDUSTRY, BUSINESS AND LABOR

SB 2078

2011 SENATE STANDING COMMITTEE MINUTES

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

SB 2078
1/10/11
12671

☐ Conference Committee

Committee Clerk Signature

Sam Lister

Explanation or reason for introduction of bill/resolution:

Relating to authority of the Bank of North Dakota to originate residential mortgage loans: and to declare an emergency.

Minutes:

No written testimony

Chairman Klein opened the hearing on SB 2078, also mentioning that the hearing on the bill would be re-scheduled but some of the people who wished to testify were available today. There is more information being gathered.

Bob Humann, Senior VP of Lending for the Bank of North Dakota: He requested more time to get prepared for the hearing of this bill. The President of the Bank of North Dakota wanted to be present in the hearing and had a conflict in his schedule because he was in appropriations. The Banking Association groups, North Dakota Bankers and Independent Community Bankers had sent out a survey to North Dakota banks, polling them to see if it would be OK to start this type of a program and had just gotten the responses back last week and were still digesting the numbers and need more time. The two executive directors of those groups are both out of town today. We are asking for a delay on this bill.

Chairman Klein: We will take as much testimony today to accommodate those who travelled to speak on this bill and then we will re-schedule it.

Marilyn Foss: General Council for the ND Bankers Association. We have been surveying our banks to see the level of interest they would have in working with the Bank of North Dakota on originating loans, particularly institutions that would have no active loan origination program. We do need time to analyze the results of the survey. We do support the request to continue the hearing.

There was no testimony in opposition and no neutral testimony offered.

Chairman Klein: Closed this hearing on SB 2078 and will re-convene it next week.

2011 SENATE STANDING COMMITTEE MINUTES

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

SB 2078
January 19, 2011
Job Number 13079

☐ Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to authority of the Bank of North Dakota

Minutes:

2 attached testimonies

Chairman Klein: Opened the hearing. We are here again to hear more on Senate Bill 2078.

Eric Hardmeyer, President and CEO of the Bank of North Dakota: Testimony Attached (1).

Chairman Klein: The agreement would be between you and the various banks, do you feel working it out between the groups involved will be enough?

Eric: I think it would be helpful to look at the amendment, which puts some parameters around the program. He discusses the amendment.

Senator Nodland: First you said that currently there are provisions that allow you to do FHA, VA and other loans but you are not using that?

Eric: We are purchasing loans from banks that are originating. So we are a secondary market.

Senator Nodland: What dollar amount are you looking at doing?

Eric: We don't know at this point. We would anticipate this being large, as communities continue to grow.

Senator Nodland: Asked if there rates would be competitive.

Eric: Stated that they would try to offer a fair market value.

Senator Nodland: Looking at your amendment it states that this where it is not available. Feels this is available.

Eric: That was my question when I saw the amendment. There are areas in the state where you cannot get a thirty year fixed mortgage. This will be based on referrals. They will not be seeking but they will come to them on a referral bases. That's the intent.

Senator Schneider: Is this a service that you would provide exclusively for North Dakota?

Eric: Just for North Dakota.

Rick Clayburgh, President and CEO of the North Dakota Bankers Association: In support with the proposed amendments. Much of this has to do with what happened nationally with the subprime lending. It has made it difficult for and cumbersome for smaller and rural banks being able to offer these services. There is a need and this comes at the request of the Bankers. We did a survey that showed there is a need in the rural areas.

Chairman Klein: Is this amendment a two step process, saying not reasonably available and also by referral.

Rick: First to address the concerns of the banks, loan origination and where there is good activity and competition. The property has to exist in that area where there are reasonable loan origination services. Second it is by referral.

Continued Discussion and Questions

Donald Forsberg, Executive Vice President of Independent Community Banks of North Dakota: Testimony Attached (2).

Mike Anderson, Executive Director of the North Dakota Housing and Finance Agency: One of their programs is the first home program and they produce about 1500 hundred loans a year totaling one hundred and sixty million dollars in mortgage principle. They do not originate loans, they rely on the private sector to make the loans and sell it to them. They struggle to keep a network of lenders across the state, so first time home buyers have access to their program. There product will be available through this service and so they are in support of this bill.

Chairman Klein: Closed the hearing.

Senator Nodland: Moved to adopt amendment.

Senator Murphy: Seconded the motion.

Roll Call Vote: Yes-7 No-0

Senator Nodland: Moved a do pass as amended.

Senator Murphy: Seconded the motion.

Roll Call Vote: Yes-7 No-0

Senator Nodland to carry the bill

Roll Call Vote: Yes-7 No-0

Senator Nodland to carry the bill

FISCAL NOTE
Requested by Legislative Council
03/30/2011

Amendment to: Engrossed
SB 2078

1A. State fiscal effect: *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2009-2011 Biennium		2011-2013 Biennium		2013-2015 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

1B. County, city, and school district fiscal effect: *Identify the fiscal effect on the appropriate political subdivision.*

2009-2011 Biennium			2011-2013 Biennium			2013-2015 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2A. Bill and fiscal impact summary: *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

BND proposes to originate home loans on real property. BND currently purchases mortgage loans originated by ND financial institutions. This change will allow BND to fill a need caused by a number of ND lenders doing less loan originations due to an increase in federal regulations.

B. Fiscal impact sections: *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

The proposed changes in legislation will not have a fiscal impact to the State of North Dakota. BND has the FTE's and expenses related to originating home mortgage loans in BND's budget.

3. State fiscal effect detail: *For information shown under state fiscal effect in 1A, please:*

A. Revenues: *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

NA

B. Expenditures: *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

NA

C. Appropriations: *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

NA

Name:	Bob Humann	Agency:	Bank of North Dakota
Phone Number:	701-328-5703	Date Prepared:	03/30/2011

FISCAL NOTE

Requested by Legislative Council
12/22/2010

Bill/Resolution No.: SB 2078

1A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2009-2011 Biennium		2011-2013 Biennium		2013-2015 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

1B. **County, city, and school district fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

2009-2011 Biennium			2011-2013 Biennium			2013-2015 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

BND proposes to originate home loans on real property. BND currently purchases mortgage loans originated by ND financial institutions. This change will allow BND to fill a need caused by a number of ND lenders doing less loan originations due to an increase in federal regulations.

B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

The proposed changes in legislation will not have a fiscal impact to the State of North Dakota. BND has the FTE's and expenses related to originating home mortgage loans in BND's budget.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

NA

B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

NA

C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

NA

Name:	Bob Humann	Agency:	Bank of North Dakota
Phone Number:	701-328-5703	Date Prepared:	12/30/2010

PROPOSED AMENDMENT TO S.B. 2078

Page 1, line 7, after "property" insert "located in areas where residential mortgage loan origination services are not reasonably available and by referral from a local financial institution."

Renumber accordingly

Date: 1/19
Roll Call Vote # 1

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2078

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 Murphy

Senators	Yes	No	Senators	Yes	No
Chairman Jerry Klein	✓		Senator Mac Schneider	✓	
VC George L. Nodland	✓		Senator Murphy	✓	
Senator John Andrist	✓				
Senator Lonnie J. Laffen	✓				
Senator Oley Larsen	✓				

Total (Yes) 7 No 0

Absent 0

Floor Assignment _____

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

Date:

Roll Call Vote #

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2078

Senate Industry, Business and Labor

☐ 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 Murphy

[illegible]

Total (Yes) 7 No 0

Absent ☐

Floor Assignment Senator Nodland

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

REPORT OF STANDING COMMITTEE

SB 2078: 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). SB 2078 was placed on the Sixth order on the calendar.

Page 1, line 7, after "property" insert "located in areas in which residential mortgage loan origination services are not reasonably available and by referral from a local financial institution"

Renumber accordingly

2011 HOUSE INDUSTRY, BUSINESS AND LABOR

SB 2078

2011 HOUSE STANDING COMMITTEE MINUTES

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

SB 2078
March 2, 2011
14858

☐ Conference Committee

Committee Clerk Signature

Ellen LeTang

Explanation or reason for introduction of bill/resolution:

Authority of the Bank of North Dakota to originate residential mortgage loans and declare an emergency.

Minutes:

Chairman Keiser: Opens the hearing on SB 2078.

Eric Hardmeyer~President and CEO Bank of North Dakota: (See attached testimony 1).

Representative Ruby: Would they be required to check with other larger banks or refer it to you first?

Eric Hardmeyer: The way we would visualize this is that it would be a direct referral from that bank. We wouldn't necessarily be looking for them to take it to another bank because they would have concerns about taking their client going to another bank who is a competitor of theirs. We will never compete with that bank for the rest of the business; we are there to partner with the private sector.

Representative Ruby: Don't you see that the ability for them to make sure that their customer doesn't go to a different bank and uses you to keep them from going to another bank?

Eric Hardmeyer: I'm not sure I understand your point.

Representative Ruby: If they have a customer, there is a request for a loan and they don't want to take on that level of risk, rather than say they don't want to do it, they refer them to you. You assisted them in keeping that person away from their competitor.

Eric Hardmeyer: We have assisted them in helping them meet their clients' needs is the way I would look at that.

Representative Ruby: I don't know if the competitor would agree.

Representative Frantsvog: You would be expecting the local financial institutions to come to you not you go to them?

Eric Hardmeyer: That's correct.

Representative Boe: Would you envision a risky portfolio if you are taking the referrals they don't want?

Eric Hardmeyer: We have underwriting standards and criteria. I suppose there would be a little more risk.

Vice Chairman Kasper: Would it be your bank's intent to hold these mortgages or would you package and sell them?

Eric Hardmeyer: Hold and service them.

Vice Chairman Kasper: Would you envision some type of profit sharing arrangement with the banks that are going to be involved?

Eric Hardmeyer: The mortgage industry is very disciplined in terms of what you can and can't pay. What we would envision is that there could be a fee that the bank could earn for taking on part of the application process. Once that is turned over to the BND for us to originate and process, it's our loan, we would service, and I would not anticipate an ongoing fee. That is not the way the secondary market works right now when we buy loans from banks. We pay a price for it up front and then that's the end of it. There is a service release fee that's paid.

Vice Chairman Kasper: You don't see where they would be participating in the loan with you?

Eric Hardmeyer: That is the way we are visualizing it.

Representative Clark: What's to prevent the local bank from making the loan and you buying it from them?

Eric Hardmeyer: It is and we are doing some of that but the problem is that there is so much regulation around it that the banks say we don't want any part of that anymore. They have some liability associated in taking the application, providing the disclosures, doing all the paper work and they are subject to audits and exams. They are saying enough, we are not going to do that. That's the genesis of this bill.

Representative Clark: Can't they get around all that regulation by selling it to you?

Eric Hardmeyer: No, they are subject to examinations and disclosures.

Representative Nathe: Do you know what other states are doing?

Eric Hardmeyer: This is an ongoing issue throughout the country. I'm not sure how it's being absorbed.

Representative Nathe: This looks like it's helping western North Dakota more than the eastern part of North Dakota, am I correct?

Eric Hardmeyer: Not really, we've had inquiries from other banks from every corner of the state that are interest in this program.

Representative Nathe: Don't you think that will impact the west more than the east?

Eric Hardmeyer: Potentially.

Representative Kreun: Is there a high demand for this at this point in time?

Eric Hardmeyer: We would anticipate that it could be as large as 10-15 million dollars a year.

Representative Kreun: It is all over the state as you indicated. Would it not be in their best interest to form a group where they have one particular bank be the expert in those kinds of loans and share/enjoy profits together in their own group, would they be able to do that?

Eric Hardmeyer: I suppose they could. Those banks are accustomed to working with us already and we are an extension of that bank. They look at us as their partner and don't fear us.

Representative Kreun: I'm glad of that but in most cases, I would rather not have a state own operation in my business. Makes sense for a group to form and distribute profits in our own group.

Eric Hardmeyer: The secondary market is very active and banks don't like to carry a 30 year fixed mortgage. It's a very competitive interest rate environment.

Representative Kreun: With that group, wouldn't they be able to sell that off?

Eric Hardmeyer: They certainly can. What they don't have is a critical mass of loans to do that. These are the banks that have come to us and asked for our help. We didn't seek this out.

Representative Frantsvog: The amendment that was added to the bill seems to make it more restrictive to the types of mortgage loans you can get involved in. Is the Bank of North Dakota still interested in getting involved as you may have been originally?

Eric Hardmeyer: We realized that we would have to frame this issue, realizing we would come back, work with the trade associations and craft policy and procedures that would frame this a little bit more. The idea of this being a referral, that fits right in on how we approach anything. Yes, that part we have no issue with.

Chairman Keiser: Some of the small state chartered banks are finding it difficult to operate in this arena because of those regulations. They can't afford the overhead costs

associated with this. Their solution has been to go to the Bank of North Dakota, they would be our partner, then they could sell the loans and they could maintain our customers. The other side, we have gone through the expense of creating this expertise, we have it and are paying for it. What if we were to amend the bill and say the large banks could come to you and sell all their loans through you and use your services? We now have leveled the playing field so they don't have to pay for all these services. What we are doing is subsidizing the small banks. There is a problem with this bill; it created an unlevel playing field in terms of commitment of dollars and resources in the private sector.

Eric Hardmeyer: We are in this because we have seen large banks retract from this. We are not going to come after their customers. We have been invited and asked to help so we are trying to assist with the problem, not trying to create one.

Representative Gruchalla: This falls within your realm of the business plan for the bank. Is this the road you want to go down, the 30 years, is that a good investment for the BND?

Eric Hardmeyer: We are a big bank; there is a percentage for us to invest in and we have the ability to turn the spigot off. At this point, the Federal Government took away our student loans that we have been providing for 40 to 50 years, so there is a hundred million dollars of loans that we don't make anymore. We have the capacity, appetite and the capability to hedge and lock in a spread through various hedging tools.

Representative Gruchalla: I take it that's a yes.

Representative Nathe: My main concern is that the bank is overstepping into the private sector by competing with private banks.

Eric Hardmeyer: Those two clauses came at their request. I don't see this as an issue.

Chairman Keiser: Anyone else here to testify in support of SB 2078?

Rick Clayburgh~North Dakota Banker's Association: We are in support of amended SB 2078. NDDBA has been trying to address this mortgage issue crisis for almost two years. With the regulatory pressures that occurred with the subprime meltdown, Obama administration said that 96% of the entire subprime lending that occurred, occurred outside the FDIC insured institutions. It was the shadow and congress' reaction has pulled in the banking industry as well to the detriment of the consumer. FHA or HUD said that if anyone was going to be involved in that chain in dealing with that customer, they must be a FHA approved lender. That's an expensive process and a bank in the state may be doing only 3 or 4 mortgages a year, it makes it very difficult. In that situation, state banks said in order to keep us from being written up, they backed out of the market because of the regulatory pressure. We had 8-10 banks that said that we can't do this anymore and we are leaving the mortgage market. All of those pressures created a situation that there is a vacuum in parts of the state where there is no mortgage lending occurring and it's more visible in the western part of the state. Even in rural Grand Forks, it took my brother a year to get the financing because they couldn't get an appraiser in order to do underwriting. The association and our board of directors represent the largest and smallest banks. They have had the opportunity to see this and we have talked these issues through. We see the

BND as a partner and a member that works along with other member banks in the state. The word reasonable, it leaves you as the legislature to say, we like what this concept is but we are going to give it to the bank. The bank will determine what is or isn't reasonably available. It's their interpretation to determine that and start offering the programs. If we don't like it and we will step forward and say to BND, this is not an area that you should be in. What we say in the amendment, the property that the mortgage is going to be placed on, that property must also be in that area that is not served. We see this as an important tool as we are trying to address mortgage needs of customers of North Dakota, it's the small rural areas and no one is filling that need.

Chairman Keiser: You mentioned it's hard to get an appraiser, that has nothing to do with this bill. There is a moral hazard potentially in this approach, in the rural areas we do have problem in financing. This issue is that the underwriting that strong and it can't find standard financing. So it goes through the Bank of North Dakota and say we can take a little more risk, the minute they say that, they get a portfolio that is riskier.

Rick Clayburgh: There are two parts to answer that situation. The Bank of North Dakota has two groups that oversee it, the industrial commission and the legislature. I don't think that the bank will create a portfolio that would pull them down. They have good leadership in place. The questions about the competition and is a concern to our organization and I'm sure Mr Forsberg will address that. I do know that if you hear from one of your local bankers that you have a problem, he is going to call us and he is also going to talk to you. You have the ability as a legislature to do something. The Industrial Commission is going to say that the leadership and control of the BND is close to the citizens of the state, there is good oversight.

Chairman Keiser: Just so you know, I have heard from a local bank about this issue and they are not happy.

Representative Vigesaa: You have large banks, how do they feel?

Rick Clayburgh: Wells Fargo and US Bank have representation on our board and they have not expressed opposition or support at this time to the amended bill. I have not had anyone call me asking "what are you doing?". Banks have respect for Eric and what they are doing. We just don't know what future leadership will be. Our legislative committee and our board have looked at this issue, we have polled our membership and they support this issue with ample time to look at this issue.

Representative Vigesaa: Could a large bank, because they don't want to take anymore on because they have reached an upper limit, possibly refer their customers to this program.

Rick Clayburgh: Unless that institution is located in the area of the state that does not have reasonable loan origination services in place, I would say no to that.

Representative Nathe: You mentioned about conditions changing, leadership changes in the state and that the federal has clamped down on everything but may loosen up down the road. What is your reaction if we would put a sunset clause on this bill?

Rick Clayburgh: The bank would have to answer that. From our standpoint, we are trying to address the current market in what's happening out there. It would give the opportunity to review the legislation in progress and see how it's working. They may build it and no one will come. Our membership has reached out to BND for asking for assistance.

Representative Nathe: Who makes that call, BND?

Rick Clayburgh: Yes, that's how statutory process works in North Dakota.

Donald Forsberg~Executive Vice President of Independent Community Banks of North Dakota: (See attached testimony 2).

Representative Clark: If small credit unions in one of these rural areas want to refer a loan to the BND, would you support that?

Donald Forsberg: Absolutely, this bill allows that and they have the same problems we have.

Claus Lembke~North Dakota Realtors: It does meet an unmet need and it provides more choices for our consumers. We support this bill.

Michael Anderson~Executive Director of the North Dakota Housing Finance Agency: (Unable to attend the hearing but gave written testimony for the record).

Chairman Keiser: Anyone else here to testify in support, in opposition, in the neutral position to SB 2078? Closes the hearing.

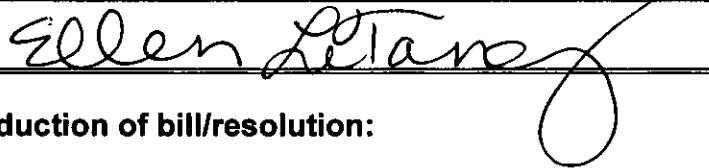
2011 HOUSE STANDING COMMITTEE MINUTES

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

SB 2078
March 28, 2011
16055

☐ Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Authority of the Bank of North Dakota to originate residential mortgage loans and declare an emergency.

Work Session Committee Minutes:

Chairman Keiser: Opens the work session on SB 2078.

Chairman Keiser: (See amendment 11.8068.02003). This is the bill that would enable the BND to initiate residential mortgage loans. The heart of the bill is Section 1, number 2, at a minimum the program must provide. (Reads amendment).

Representative N Johnson: What would happen if the one bank that know we don't want to but never plans to initiates loans?

Chairman Keiser: Then the BND will not be able to go in there. (Continues to read amendment).

Representative M Nelson: For a VA loans but the federal guarantee comes in and protects the bank to 80% on a VA loan it seems a little bit restrictive.

Chairman Keiser: I don't see it that way, they will do whatever is the best deal. This is putting the BND in competition with the private sector banks.

Bob Humann~BND: (inaudible).

Representative M Nelson: How would you interpret the local bank for protesting?

Bob Humann: We haven't worked those mechanics out, whatever is available in their back yard. A lot of consumers requests are being taken care of by credit unions who are doing the loans too. I don't know how far we would expand the territory to count as competition? What we had planned on doing was working with the North Dakota and the Independent Bankers Association in trying to define these rules so we could make everyone comfortable.

Chairman Keiser: We did have a lengthy discussion about this issue of what is the area that would be covered by this restriction. If a bank is doing it's part of their business trade area. It intrigues me that the high percentage of Ag loans come to Wells Fargo, comes from the 35 mile radius around Mandan.

Representative Ruby: Why is it that the bank has to opt out of the service area?

Chairman Keiser: This is the language that was developed that the bank would notify all of the banks in the state.

Representative Nathe: On 2-A, per year or biennium?

Chairman Keiser: Biennium.

Representative Vigesaa: On page 2 on the amendment, is that how it's currently done for the first homebuyers and sells it to the housing financing agency?

Bob Humann: The BND put the first homebuyers' package together and they sell it off to the North Dakota housing. North Dakota housing pools those loans together and they issue bond on a periodic bases. In this case, we would be helping a North Dakota lender that no longer has a loan origination person for home loans on their side, we would help them put that loan together and that would get sold over the North Dakota housing. We are just taking the place of them not having that person at a local level is what the law would end up doing.

Representative Vigesaa: No change really, that's how the programs works?

Bob Humann: That's right.

Representative Vigesaa: In those particular loans, the housing finance agency contributes a 3% for a down payment, but usually those first time homebuyer loans are much less than a 20% down situation, would the first time homebuyer have to comply and have 20% for the first time homebuyer?

Bob Humann: No, the only thing down is a conventional loan. This first time homebuyer would stay at 3% for a down payment.

Chairman Keiser: This over simplifies it, but the bottom line is, we are allowing the BND to be a bank that can originate home loans.

Bob Humann: That's correct. We are not trying to take this business away from North Dakota banks to make money, we are doing this because they have come and asked us to help them.

Chairman Keiser: You will make money because you will have enough volume.

Bob Humann: Hopefully.

Vice Chairman Kasper: The bill does not stipulate fee or commissions splits. How do you envision the originating bank or is there no payment and discounted fees to the borrower?

Bob Humann: Didn't we provide you with those numbers.

Chairman Keiser: They will not lose the customer.

Bob Humann: That's correct. This is why those banks come to us is because they are afraid that if they can't provide this service, they will lose the loan to another bank in that business.

Vice Chairman Kasper: The bill says that if anybody objects they can't do it anyway.

Bob Humann: That's how things have been changed just to get this approved and to make it go to make a trial program for the first biennium.

Representative Clark: Do you have the staff to handle this additional business?

Bob Humann: No, we are going to add 2 people.

Representative M Nelson: Can your bank run at that low level?

Bob Humann: There is a good change that we will max that 8 million out but we will start out small, see the programs works, the demand, come back the next biennium with the numbers, and see where we go from there.

Representative Sukut: I have an example here to address the gap. Suppose we have a home being built at 300,000, appraised at 200,000, the BND could loan up to 80% which is 160,000. If the buyer was able to put 20% down, that would be 60,000; you still have a gap of 80,000. Who covers the gap?

Chairman Keiser: You will not pass this bill if you design this program for gap financing. What you will have is this will become the central depository for gap financing and when that markets goes down the road, we own the gap.

Representative M Nelson: Doesn't the local bank financing the gap, because of the second mortgage, cannot exceed a combined loan to value of 95%. Wouldn't value be the appraised value?

Chairman Keiser: Again, this is not a bill by design to handle gap financing.

Representative M Nelson: You said the local bank.

Chairman Keiser: A small gap but not a significant gap.

Representative Kreun: On 2A, where it says rural residential, does that mean outside incorporated cities or does it include within the city limits. Rural is outside the city limits to me but maybe I'm interpreting this wrong.

Chairman Keiser: It was added because the problem was defined as a rural issue. The banks have to agree that are serving that area.

Chairman Keiser: What are the wishes of the committee?

Vice Chairman Kasper: Moves the adoption of the amend 02003.

Representative Sukut: Second.

Chairman Keiser: Further discussion? Let's take a roll call vote.

Roll call was taken on amendment 11.8068.02003, motion carries.

Chairman Keiser: The amendment carries. We have SB 2078 before us as amended, what are the wishes of the committee?

Representative Frantsvog: Moves a Do Pass as Amended.

Representative Nathe: Second.

Representative Ruby: I'm going to resist the motion, I don't like the precedence it is setting, the provisions, defined areas, opt in provision, and I don't think it's the roll of the BND to be originating the loans.

Vice Chairman Kasper: When you think of the BND, there are no banks have come forward to oppose it. We have something unique; maybe this is a new field to plow.

Representative Sukut: I had a conversation with a local banker in Williston, they supported it, to me the fact that it has a sunset clause in it and in two years we can evaluate it to see if it works or not, I will support it.

Representative Ruby: It's good that it has a sunset clause, it's going on from here on out, it's only going to expand and there will be proposals to make gap financing. I'm not going to change my mind on the opposition of this.

Chairman Keiser: Further discussion? We worked really hard on these amendments, we tried to find a solution of what may be is a problem. I do appreciate the sunset provision and we can look at this in the future. I do agree with Representative Ruby once you put this in place is that you do have a program. What I do support strongly is that we did put some constraints on the way the loan is done. With the expansion out west, we have some real problems and we have to begin to find some solutions. I hate the precedence it sets, there is only on bank in the US, that is the BND, and sometimes you have to take the risk.

Chairman Keiser: Further discussion?

Roll call was taken for a Do Pass as Amended on SB 2078 with 12 yeas, 1 nay, 1 absent and Representative Frantsvog is the carrier.

VR
3/28/11
1082

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2078

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact a new section to chapter 6-09 of the North Dakota Century Code, relating to residential mortgages originated by the Bank of North Dakota; to provide an effective date; to provide an expiration date; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 6-09 of the North Dakota Century Code is created and enacted as follows:

Residential mortgages.

1. The Bank may establish a residential mortgage loan program under which the Bank may originate residential mortgages if private sector mortgage loan services are not reasonably available. Under this program a local financial institution may assist the Bank in taking a loan application, gathering required documents, ordering required legal documents, and maintaining contact with the borrower.
2. If the Bank establishes a program under this section, at a minimum the program must provide:
 - a. The Bank originate no more than eight million dollars in conventional rural residential mortgages;
 - b. An applicant must be referred to the Bank by a local financial institution and the Bank may not have received from any other local financial institution an objection to the Bank's program;
 - c. The loan application must be for an owner-occupied primary residence;
 - d. The Bank provide all regulatory disclosures, process and underwrite the loan, prepare closing documents, and disburse the loan; and
 - e. The terms of the loan originated by the Bank must provide:
 - (1) The amount of the loan may not exceed two hundred thousand dollars;
 - (2) The term of the loan may not exceed thirty years;
 - (3) The rate of the loan must be equal to the Bank's market rate;
 - (4) The maximum loan to value may not exceed eighty percent of appraised value; however, a local financial institution may take a second mortgage that does not exceed a combined loan to value of ninety-five percent; and

202

(5) Standard credit underwriting and documentation applies.

3. The Bank may sell eligible first-time home buyer loans to the North Dakota housing finance agency.

SECTION 2. EFFECTIVE DATE. This Act becomes effective July 1, 2011.

SECTION 3. EXPIRATION DATE. This Act is effective through July 31, 2013, and after that date is ineffective.

SECTION 4. EMERGENCY. This Act is declared to be an emergency measure."

Renumber accordingly

Date: March 28, 2011

Roll Call Vote # 1

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 2078

House House Industry, Business and Labor Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 11.8068.02003

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

Motion Made By Rep Kasper Seconded By Rep Sukut

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

Total Yes 11 No 2

Absent 1

Floor Assignment _____

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

Date: March 28, 2011

Roll Call Vote # 2

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 2078

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 Frantsvog Seconded By Rep Nathe

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

Total Yes 12 No 1

Absent 1

Floor Assignment Rep Frantsvog

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

REPORT OF STANDING COMMITTEE

SB 2078, as engrossed: Industry, Business and Labor Committee (Rep. Keiser, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (12 YEAS, 1 NAYS, 1 ABSENT AND NOT VOTING). Engrossed SB 2078 was placed on the Sixth order on the calendar.

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact a new section to chapter 6-09 of the North Dakota Century Code, relating to residential mortgages originated by the Bank of North Dakota; to provide an effective date; to provide an expiration date; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 6-09 of the North Dakota Century Code is created and enacted as follows:

Residential mortgages.

1. The Bank may establish a residential mortgage loan program under which the Bank may originate residential mortgages if private sector mortgage loan services are not reasonably available. Under this program a local financial institution may assist the Bank in taking a loan application, gathering required documents, ordering required legal documents, and maintaining contact with the borrower.
2. If the Bank establishes a program under this section, at a minimum the program must provide:
 - a. The Bank originate no more than eight million dollars in conventional rural residential mortgages;
 - b. An applicant must be referred to the Bank by a local financial institution and the Bank may not have received from any other local financial institution an objection to the Bank's program;
 - c. The loan application must be for an owner-occupied primary residence;
 - d. The Bank provide all regulatory disclosures, process and underwrite the loan, prepare closing documents, and disburse the loan; and
 - e. The terms of the loan originated by the Bank must provide:
 - (1) The amount of the loan may not exceed two hundred thousand dollars;
 - (2) The term of the loan may not exceed thirty years;
 - (3) The rate of the loan must be equal to the Bank's market rate;
 - (4) The maximum loan to value may not exceed eighty percent of appraised value; however, a local financial institution may take a second mortgage that does not exceed a combined loan to value of ninety-five percent; and
 - (5) Standard credit underwriting and documentation applies.
3. The Bank may sell eligible first-time home buyer loans to the North Dakota housing finance agency.

SECTION 2. EFFECTIVE DATE. This Act becomes effective July 1, 2011.

SECTION 3. EXPIRATION DATE. This Act is effective through July 31, 2013, and after that date is ineffective.

SECTION 4. EMERGENCY. This Act is declared to be an emergency measure."

Renumber accordingly

2011 TESTIMONY

SB 2078

**TESTIMONY TO THE
SENATE INDUSTRY, BUSINESS AND LABOR COMMITTEE**

JANUARY 19, 2011

ERIC HARDMEYER – PRESIDENT AND CEO

BANK OF NORTH DAKOTA

I am here today to testify in support of Senate Bill 2078. This bill provides the authority for the Bank of North Dakota (BND) to originate conventional (non-guaranteed) residential mortgages. BND already has authority to originate certain types of residential loans. Section 6-09-15 of the Century Code which deals with BND powers, allows BND to make loans "That are insured or guaranteed in whole or in part by the United States, its agencies or instrumentalities. Currently this provision allows BND to make FHA, VA, and USDA guaranteed mortgages.

The mortgage industry is not new to BND, we have been active for many years providing a secondary market for residential mortgages originated by North Dakota financial institutions. As of year-end 2010, BND had a residential loan portfolio totaling approximately \$472 million. This constitutes nearly 5,000 loans purchased from ND financial institutions. In 2010 alone, we purchased over 600 home loans totaling \$93 million.

This proposed authority is intended to fill a specific need developing in North Dakota. As you are aware the current financial crisis has largely been attributed to over building in the housing sector. As we have all heard there are many reasons for this as well as many examples of egregious behavior. The result has been a definite shift to increased regulation and oversight in the financial industry particularly as it relates to mortgage financing.

As frequently happens, Congress along with regulators in their attempt to fix the problem, over shoots or uses a one-size fits all mentality. Consequently, North Dakota banks have felt the effects of this increased regulatory burden. In some cases this has forced them to restrict their activity for fear of non-compliance, or because they simply cannot cost justify staffing for an expertise that has limited use.

This comes at a particularly challenging time in our states development. In many areas of the state, we are seeing a resurgence of population because of energy development and a strong agricultural economy. It is these areas where we seek to fill the gap. The request for help has come from many of the banks in these rural areas. We believe that this service fits within our mission as the economic development bank for North Dakota and it fills a need for our correspondent bank customers.

To help better understand this need and to ensure that we are not expanding our authority beyond our traditional practice, we have sought the support of both the North Dakota Bankers Association and the Independent Community Banks of North Dakota. We have worked with both associations to survey their members to determine both the need and the concerns they may have of BND providing this origination service.

The results of this survey indicates that there is overall support for BND to provide this service, though there is a concern that given BND's size and capacity and a philosophical shift, BND could overstep the boundaries of a state owned bank and provide unnecessary and unwelcome competition.

We understand their concern and should this bill pass, we are committed to working with both associations and the governing boards of BND to develop parameters that allow BND to provide this service without infringing upon the private sector.

In recent developments involving both associations, we understand that they will be offering an amendment to further frame this provision. We support the proposed amendment.

BANK OF NORTH DAKOTA LOAN ORIGINATIONS

	YEAR TO DATE 31-Dec-10		YEAR TO DATE 31-Dec-09	
	###	\$\$\$	###	\$\$\$
BUSINESS DEVELOPMENT/SMALL BUSINESS	16	2,503,495	14	1,567,523
BANK PARTICIPATIONS - COMMERCIAL	280	423,999,513	303	472,062,563
SMALL BUSINESS MAIN STREET	3	582,971	0	0
PACE	14	4,987,140	19	7,236,064
FLEX PACE	55	13,964,818	36	6,826,675
BIOFUELS PACE	8	926,850	8	2,461,249
MATCH	0	0	0	0
BANK STOCK	23	58,003,911	26	57,545,866
STATE INSTITUTION	7	117,386,250	7	202,281,300
RURAL DEVELOPMENT (COMMERCIAL)	3	14,408,636	4	9,628,954
CERTIFICATE OF DEPOSIT	2	32,753	2	35,760
NEW VENTURE CAPITAL PROGRAM	3	450,000	7	413,900
TOTAL COMMERCIAL LOANS	414	637,246,335	426	760,039,854
FARM OPERATING	26	4,458,225	17	3,225,200
FAMILY FARM	10	1,592,684	2	55,779
FARM & RANCH	148	148,726,735	179	147,680,153
ENVEST	1	598,500	1	12,500
ESTABLISHED FARMER	22	7,922,319	2	350,000
BEGINNING FARMER REAL ESTATE	64	13,657,387	71	12,884,030
AG PACE	17	875,550	17	917,354
AG PACE - DISASTER	1	25,000	2	50,000
FARM SERVICE AGENCY	7	2,693,344	5	1,753,284
LIVESTOCK WASTE MANAGEMENT	1	100,000	6	386,443
FARM DISASTER RELIEF	24	6,000,800	10	1,584,605
TOTAL AGRICULTURAL LOANS	321	186,650,544	312	168,899,348
FEDERAL HOUSING ADMINISTRATION	486	71,310,763	424	57,676,144
VETERANS ADMINISTRATION	100	17,745,920	72	10,352,766
USDA	9	1,340,076	0	0
SPECIAL RURAL PROGRAM	18	2,513,100	0	0
CONVENTIONAL	2	478,000	0	0
TOTAL RESIDENTIAL LOANS	615	93,387,859	496	68,028,910
SUBSIDIZED STAFFORD LOANS	18,777	32,873,775	31,378	56,873,847
UNSUBSIDIZED STAFFORD LOANS	24,374	48,365,242	42,402	82,468,851
PURCHASED STUDENT LOANS	3,587	11,256,219	1,956	6,492,629
PLUS LOANS	298	1,053,861	609	1,936,387
GRAD PLUS	68	348,011	88	567,458
CONSOLIDATION LOANS	0	0	0	0
DEAL LOANS	23,159	86,557,997	18,338	62,694,855
DEAL CONSOLIDATION	369	8,838,690	341	8,391,955
TOTAL STUDENT LOANS	70,632	189,293,795	95,112	219,225,982
TOTAL BANK OF NORTH DAKOTA LOANS	71,982	1,106,578,533	96,346	1,216,194,094
ADMINISTERED LOAN PROGRAMS				
FANNIE MAE	8	1,108,620	0	0
BEGINNING ENTR. LOAN GUARANTEE	26	993,466	31	1,453,680
COMMUNITY WATER FACILITY LOAN PROGRAM	1	400,000	2	1,894,067
DEVELOPMENTALLY DISABLED FACILITY	0	0	0	0
LONG-TERM CARE FACILITY LOAN FUND	0	0	0	0
ST LAND DEPT LOAN POOL	21	6,903,400	46	11,883,715
BEGINNING FARMER CHATTEL	63	2,258,990	63	2,423,427
FARM REAL ESTATE LOAN GUARANTEE	0	0	1	225,000
LIVESTOCK LOAN GUARANTEE	0	0	3	1,565,768
FIRST TIME FARMER	0	0	0	0
HEALTH INFORMATION TECHNOLOGY	8	2,791,118	0	0
TOTAL ADMINISTERED LOANS	127	14,455,594	146	19,445,657

**TESTIMONY OF DONALD FORSBERG, EVP
INDEPENDENT COMMUNITY BANKS OF NORTH DAKOTA
PRESENTED TO THE SENATE INDUSTRY BUSINESS AND LABOR
COMMITTEE FOR SENATE BILL 2078**

As of January 19, 2011

Good morning Chairman Klein and members of the Senate Industry, Business and Labor Committee. For the record my name is Donald Forsberg and I am the Executive Vice President of Independent Community Banks of North Dakota. Independent Community Banks of North Dakota is the state banking association which exclusively represents community banks throughout North Dakota.

I am here today to testify in support of Senate Bill 2078 as amended by the proposed amendment by the North Dakota Bankers Association.

We greatly appreciate the Bank of North Dakota responding to request from some of our members to help provide residential mortgage services for customers and citizens of our institutions and communities. While ICBND and its membership would ideally operate in a "free market" environment to provide residential real estate mortgages for our customers, the reality is that federal regulations intended to protect consumers are also having the unintended effect of driving some financial institutions out of the real estate mortgage lending business. This is primarily true in rural areas and smaller communities where there is often only one financial institution. Financial institutions are facing prohibitive costs for software, education, training, staffing, internal compliance, external audits, and regulatory compliance audits.

Financial institutions also face significant hurdles in meeting secondary market criteria for mortgage loans which an institution chooses not to hold on its books. The criteria from many organizations offering access to the secondary market may include having comparable property appraisal comparison requirements within a specific timeframe and proximity of the property

that cannot be met because too few properties change hands in these rural areas or small communities. Then there are issues with appraisal reports valuing properties in small communities or rural areas at less than the cost to build these homes. Loans not meeting secondary market criteria are often referred to as nonconforming loans and a local institution offering such loans is likely to hold these loans on its books since they want to support their local communities and customers. However, as I stated earlier in my testimony the regulatory environment continues to swell with added requirements, tougher examinations, higher costs and the end result is fewer financial institutions offering mortgages. As an example the financial reform bill passed in 2010 known as the Dodd/Frank bill contains 2,400 pages with over 240 regulations to be written and a whole new agency called the Consumer Finance Protection Bureau which is still being organized and is charged with reviewing and writing new consumer regulations or redrafting/changing old ones many of which will only continue to add to the compliance burden and costs.

I also want to call to your attention that there are a number of community banks and larger institutions who continue to prepare and offer residential mortgages and do so for other financial institutions, however, these mortgages usually are sold to the secondary market since they meet their criteria. In addition, there are various state, federal and nonprofit assistance for some of rural or small community properties (like first time homebuyers or those below a certain income level) but the need appears to exceed the criteria and resources available and there are homebuyers who do not qualify for these programs either.

Meeting the housing needs in North Dakota is one of the critical building blocks for economic growth. We appreciate the statements by the Eric Hardmeyer, CEO of Bank of North Dakota in their commitment to include representation from ICBND to draft policies for implementation of this program as well as his comments in not wanting to compete directly with financial institutions to meet these housing needs.

In summary, it is federal regulations which are driving smaller financial institutions out of the mortgage business and these same rural areas and small communities in which these institutions are located are facing the critical housing needs because of demand, few similar sales of like

properties, fewest appraisers, lowest property values and a resulting far greater percentage of nonconforming loans. While we still firmly believe the “free enterprise” system should fill this need and we commit to continue to work to reduce and simplify federal regulations which are currently impeding the free enterprise system, the reality is the regulatory environment makes it prohibitive for our smaller members to continue to offer real estate mortgage loans and therefore we do support the Senate bill 2078 with the proposed amendment.

**TESTIMONY TO THE
HOUSE INDUSTRY, BUSINESS AND LABOR COMMITTEE**

MARCH 2, 2011

ENGROSSED SENATE BILL 2078

**ERIC HARDMEYER – PRESIDENT AND CEO
BANK OF NORTH DAKOTA**

I am here today to testify in support of Senate Bill 2078. This bill provides the authority for the Bank of North Dakota (BND) to originate conventional (non-guaranteed) residential mortgages. BND already has authority to originate certain types of residential loans. Section 6-09-15 of the Century Code allows BND to make loans... "That are insured or guaranteed in whole or in part by the United States, its agencies or instrumentalities. Currently, this provision allows BND to make FHA, VA, and USDA guaranteed mortgages.

The mortgage industry is not new to BND, we have been active for many years providing a secondary market for residential mortgages originated by North Dakota financial institutions. As of year-end 2010, BND had a residential loan portfolio totaling approximately \$472 million. This constitutes nearly 5,000 loans purchased from ND financial institutions. In 2010 alone, we purchased over 600 residential loans totaling \$93 million.

This proposed authority is intended to fill a specific need developing in North Dakota. As you are aware the current financial crisis has largely been attributed to over building in the housing sector, and as we have all heard there are many reasons for this as well as many examples of egregious behavior. The result has been a definite shift towards increased regulation and oversight in the financial industry, particularly as it relates to mortgage financing.

As frequently happens, Congress along with regulators in their attempt to fix the problem over shoots or uses a one-size fits all mentality. Consequently, North Dakota banks have felt the effects of this increased regulatory burden. In some cases this has forced them to restrict their activity for fear of non-compliance, or because they simply cannot cost justify staffing for an expertise that has limited use.

This comes at a particularly challenging time in our states development. In many areas of the state, we are seeing a resurgence of population because of energy development and a strong agricultural economy. It is these areas where we seek to fill the gap. The request for help has come from many of the banks in these rural areas. We believe that this service fits within our mission as the economic development bank for North Dakota and it fills a need for our correspondent bank customers.

To help better understand this need and to ensure that we are not expanding our authority beyond our traditional practice, we have sought the support of both the North Dakota Bankers Association and the Independent Community Banks of North Dakota. We have worked with both associations to survey their members to determine both the need and the concerns they may have of BND providing this origination service.

The results of this survey indicate that there is overall support for BND to provide this service. However, there is a concern that given BND's size and capacity and a philosophical shift, BND could overstep the boundaries of established practices and provide unnecessary and unwelcome competition.

We understand their concern and should this bill pass, we are committed to working with both associations and the governing boards of BND to develop parameters that allow BND to provide this service without infringing upon the private sector.

TESTIMONY OF DONALD FORSBERG, EVP
INDEPENDENT COMMUNITY BANKS OF NORTH DAKOTA
PRESENTED TO THE HOUSE INDUSTRY BUSINESS AND LABOR
COMMITTEE FOR SENATE BILL 2078

As of March 8, 2011

Good afternoon Chairman Keiser and members of the House Industry, Business and Labor Committee. For the record my name is Donald Forsberg and I am the Executive Vice President of Independent Community Banks of North Dakota. Independent Community Banks of North Dakota is the state banking association which exclusively represents community banks throughout North Dakota.

I am here today to testify in support of Senate Bill 2078. We greatly appreciate the Bank of North Dakota responding to requests from some of our members to help provide residential mortgage services for customers and citizens of our institutions and communities. While ICBND and its membership would ideally operate in a "free market" environment to provide residential real estate mortgages for our customers, the reality is that federal regulations intended to protect consumers are also having the unintended effect of driving some financial institutions out of the real estate mortgage lending business. This is primarily true in rural areas and smaller communities where there is often only one financial institution. Financial institutions are facing prohibitive costs for software, education, training, staffing, internal compliance, external audits, and regulatory compliance audits.

Financial institutions also face significant hurdles in meeting secondary market criteria for mortgage loans which an institution chooses not to hold on its books. The criteria from many organizations offering access to the secondary market may include having comparable property appraisal comparison requirements within a specific timeframe and proximity of the property that cannot be met because too few properties change hands in these rural areas or small communities. There are also issues with appraisal reports valuing properties in small communities or rural areas at less than the cost to build these homes. Loans not meeting secondary market criteria are often referred to as nonconforming loans and a local institution offering such loans is likely to hold these loans on its books since they want to support their local

communities and customers. However, as I stated earlier in my testimony the regulatory environment continues to swell with added requirements, tougher examinations, higher costs and the end result is fewer financial institutions offering mortgages. As an example the financial reform bill passed in 2010 known as the Dodd/Frank bill contains 2,400 pages with over 240 regulations to be written and a whole new agency called the Consumer Finance Protection Bureau which is still being organized and is charged with reviewing and writing new consumer regulations or redrafting/changing old ones many of which will only continue to add to the compliance burden and costs.

I also want to call to your attention that there are a number of community banks and larger institutions who continue to prepare and offer residential mortgages and do so for other financial institutions, however, these mortgages usually are sold to the secondary market since they meet their criteria. In addition, there are various state, federal and nonprofit assistance for some of rural or small community properties (like first time homebuyers or those below a certain income level) but the need appears to exceed the criteria and resources available and there are homebuyers who do not qualify for these programs.

Meeting the housing needs in North Dakota is one of the critical building blocks for economic growth. We appreciate the statements by the Eric Hardmeyer, CEO of Bank of North Dakota in their commitment to include representation from ICBND to draft policies for implementation of this program as well as his comments in not wanting to compete directly with financial institutions to meet these housing needs.

In summary, it is federal regulations which are driving smaller financial institutions out of the mortgage business and these same rural areas and small communities in which these institutions are located are facing the critical housing needs because of demand, few similar sales of like properties, fewest appraisers, lowest property values and a resulting far greater percentage of nonconforming loans. While we still firmly believe the "free enterprise" system should fill this need and we commit to continue to work to reduce and simplify federal regulations which are currently impeding the free enterprise system, the reality is the regulatory environment makes it prohibitive for our smaller members to continue to offer real estate mortgage loans and therefore we do support the Senate bill 2078.



Testimony 3

Michael A. Anderson Executive Director

INDUSTRIAL COMMISSION

Jack Dalrymple Governor

Wayne Stenehjem Attorney General

Doug Goehring Agriculture Commissioner

SB 2078

March 3, 2011

**North Dakota Housing Finance Agency
Division of the State Industrial Commission
Testimony by Michael Anderson, Executive Director
House Industry, Business and Labor Committee**

Chairman Keiser and members of the House Industry, Business and Labor Committee:

My name is Mike Anderson. I am the executive director of the North Dakota Housing Finance Agency (NDHFA). I was unable to attend the entire committee hearing on Senate Bill 2078 but wanted to share with you NDHFA's support for the legislation.

NDHFA's FirstHome™ program would benefit from the passage of this bill. This program for first-time homebuyers has an annual production of about 1,300 to 1,500 loans totaling \$125 to \$175 million.

Under NDCC 54-17, we cannot originate single-family loans and, thus, rely on private sector lenders to make those loans and sell them to us. Because we have to require eligibility processing and underwriting in addition to the standard mortgage loan processes, there is an additional degree of difficulty in originating these loans.

Over the years we have struggled to reach eligible families in rural areas of the state with this program. The aforementioned additional processes add to the issues you heard during the committee hearing.

We have explored ways to overcome this situation including allowing the creation of correspondent relationships with other financial institutions and even offering to assist them with the paperwork and underwriting. But all this has been met with very minimal success and we eventually abandoned.

Today with expanding regulation and tightening credit standards more and more lenders are backing away from offering mortgage products, including our FirstHome loans. I characterized this as transforming rural areas from being underserved to not being served. My concern is that as that happens, more people will turn to online mortgage origination services which inherently bring greater risks to our North Dakota families.

We anticipate that under this new authority the Bank of North Dakota will become a participating lender under the FirstHome program and will enhance our ability to reach our rural first-time buyers customers.