

2023 SENATE INDUSTRY AND BUSINESS

SB 2092

2023 SENATE STANDING COMMITTEE MINUTES

Industry and Business Committee Fort Union Room, State Capitol

SB 2092
1/4/2023

Voluntary Liquidation of Credit Unions

11:01 Chairman D. Larsen called the meeting to order.

Members Present: Chairman D. Larsen, Vice Chairman Kessel, Senator Barta, Senator Boehm, Senator Klein.

Discussion Topics:

- Voluntary liquidation of credit unions
- Committee action

11:02 Lisa Kruse, Commissioner, North Dakota Financial Institutions testified in favor of SB 2092 #12290

11:19 Chairman D. Larsen closed the public hearing

Sen Kessel moved "DO PASS SB 2092"
Sen Barta Seconded "DO PASS SB 2092"

Roll Call Vote: DO PASS SB 2092

Senators	Vote
Senator Doug Larsen	Y
Senator Greg Kessel	Y
Senator Jeff Barta	Y
Senator Keith Boehm	Y
Senator Jerry Klein	Y

Motion carries 5-0-0.

Vice Chairman Kessel will carry

11:21 Chairman D. Larsen adjourned the meeting

Brenda Cook, Committee Clerk

REPORT OF STANDING COMMITTEE

SB 2092: Industry and Business Committee (Sen. Larsen, Chairman) recommends DO PASS (5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2092 was placed on the Eleventh order on the calendar. This bill does not affect workforce development.

2023 HOUSE INDUSTRY, BUSINESS AND LABOR

SB 2092

2023 HOUSE STANDING COMMITTEE MINUTES

Industry, Business and Labor Committee Room JW327C, State Capitol

SB 2092
3/1/2023

Relating to voluntary liquidation of credit unions.

Chairman Louser called meeting to order 2:07 PM

Members Present: Chairman Louser, Vice Chairman Ostlie, Representatives Boschee, Koppelman, Ruby, Schauer, Thomas, Tveit, Wagner, Warrey.

Members absent: Representatives Christy, Dakane, Johnson, Kasper.

Discussion Topics:

- Banks and credit unions
- Initiate an order
- Publish orders
- Voluntary liquidation changes
- Financial arena players
- Unclaimed property

In Favor:

Lise Kruse, Commissioner, ND Financial Institutions, testimony, and proposed amendment, #21414.

Neutral:

Rick Clayburgh, President & CEO, ND Bankers Association (no written testimony)

Representative Thomas moved to adopt the amendment.

Representative Warrey seconded.

Roll call vote:

Representatives	Vote
Representative Scott Louser	Y
Representative Mitch Ostlie	Y
Representative Josh Boschee	Y
Representative Josh Christy	AB
Representative Hamida Dakane	AB
Representative Jorin Johnson	AB
Representative Jim Kasper	AB
Representative Ben Koppelman	Y
Representative Dan Ruby	Y
Representative Austen Schauer	Y
Representative Paul J. Thomas	Y
Representative Bill Tveit	Y

House Industry, Business and Labor Committee

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Representative Scott Wagner	AB
Representative Jonathan Warrey	Y

Motion passed to adopt the amendment 9-0-5

Chairman Louser adjourned the meeting 2:27 PM

Diane Lillis, Committee Clerk

2023 HOUSE STANDING COMMITTEE MINUTES

Industry, Business and Labor Committee Room JW327C, State Capitol

SB 2092
3/7/2023

Relating to voluntary liquidation of credit unions.

Chairman Louser called meeting to order 11:03 AM

Members Present: Chairman Louser, Vice Chairman Ostlie, Representatives Boschee, Christy, Dakane, Johnson, Kasper, Koppelman, Ruby, Schauer, Thomas, Tveit, Wagner, Warrey.

Discussion Topics:

- Committee work

Lise Kruse, Commissioner, ND Financial Institutions, (no written testimony).

Representative Kasper moved adopt the amendment LC #23.8092.01001.
Representative Tveit seconded.

Roll call vote:

Representatives	Vote
Representative Scott Louser	Y
Representative Mitch Ostlie	Y
Representative Josh Boschee	Y
Representative Josh Christy	Y
Representative Hamida Dakane	Y
Representative Jorin Johnson	Y
Representative Jim Kasper	Y
Representative Ben Koppelman	AB
Representative Dan Ruby	Y
Representative Austen Schauer	Y
Representative Paul J. Thomas	Y
Representative Bill Tveit	Y
Representative Scott Wagner	Y
Representative Jonathan Warrey	Y

Motion passed to adopt the amendment 13-0-1

Representative Warrey moved a do pass as twice amended.
Representative Schauer seconded.

Roll call vote:

Roll call vote: Representatives	Vote
Representative Scott Louser	Y

Representative Mitch Ostlie	Y
Representative Josh Boschee	Y
Representative Josh Christy	Y
Representative Hamida Dakane	Y
Representative Jorin Johnson	Y
Representative Jim Kasper	Y
Representative Ben Koppelman	AB
Representative Dan Ruby	Y
Representative Austen Schauer	Y
Representative Paul J. Thomas	Y
Representative Bill Tveit	Y
Representative Scott Wagner	Y
Representative Jonathan Warrey	Y

Motion passed 13-0-1

Representative Ostlie will carry the bill.

Chairman Louser adjourned the meeting 11:12 AM

Diane Lillis, Committee Clerk

March 7, 2023

AKA
3-7-23
(1-1)

PROPOSED AMENDMENTS TO SENATE BILL NO. 2092

Page 1, line 4, remove "and"

Page 1, line 5, after "unions" insert "; and to provide for a legislative management study"

Page 6, line 31, remove ", if"

Page 7, line 1, replace "any, due members who failed" with ". The board of directors of the credit union or the liquidating agent if appointed shall report money in the account of a member that failed"

Page 7, line 1, remove "in"

Page 7, remove lines 2 and 3

Page 7, line 4, replace "creditors who failed to cash" with an underscored comma

Page 7, line 4, after "checks" insert "not cashed"

Page 7, line 4, after "days" insert ", and any unpaid claims to the North Dakota department of trust lands unclaimed property division pursuant to chapter 47-30.2"

Page 7, remove lines 5 through 10

Page 7, after line 11, insert:

"SECTION 4. LEGISLATIVE MANAGEMENT STUDY. During the 2023-24 interim, the legislative management shall consider studying the comparative taxation between federal and state banks and credit unions in North Dakota. The study must include a review of federal and state law regarding the taxation of banks and credit unions, including a review of the exemptions under section 501(c)(14)(a) of the federal Internal Revenue Code [26 U.S.C. 501(c)(14)(a)] and section 122 of the federal Credit Union Act [12 U.S.C. 1768]. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-ninth legislative assembly."

Renumber accordingly

REPORT OF STANDING COMMITTEE

SB 2092: Industry, Business and Labor Committee (Rep. Louser, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2092 was placed on the Sixth order on the calendar.

Page 1, line 4, remove "and"

Page 1, line 5, after "unions" insert "; and to provide for a legislative management study"

Page 6, line 31, remove ". if"

Page 7, line 1, replace "any due members who failed" with ". The board of directors of the credit union or the liquidating agent if appointed shall report money in the account of a member that failed"

Page 7, line 1, remove "in"

Page 7, remove lines 2 and 3

Page 7, line 4, replace "creditors who failed to cash" with an underscored comma

Page 7, line 4, after "checks" insert "not cashed"

Page 7, line 4, after "days" insert ", and any unpaid claims to the North Dakota department of trust lands unclaimed property division pursuant to chapter 47-30.2"

Page 7, remove lines 5 through 10

Page 7, after line 11, insert:

"SECTION 4. LEGISLATIVE MANAGEMENT STUDY. During the 2023-24 interim, the legislative management shall consider studying the comparative taxation between federal and state banks and credit unions in North Dakota. The study must include a review of federal and state law regarding the taxation of banks and credit unions, including a review of the exemptions under section 501(c)(14)(a) of the federal Internal Revenue Code [26 U.S.C. 501(c)(14)(a)] and section 122 of the federal Credit Union Act [12 U.S.C. 1768]. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-ninth legislative assembly."

Renumber accordingly

2023 CONFERENCE COMMITTEE

SB 2092

2023 SENATE STANDING COMMITTEE MINUTES

Industry and Business Committee Fort Union Room, State Capitol

SB 2092
4/14/2023
Conference Committee

A bill relating to voluntary liquidation of credit unions; and relating to the removal of officers, directors and employees of financial corporations or institutions; relating to voluntary liquidation of credit unions.
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8:30 AM Chairman Barta called the conference committee to order.
Members present: Chairman Barta, Senator Larsen, Senator Klein, Representative Ostlie, Representative Warrey, Representative Wagner.

Discussion Topics:

- Proposed amendment 23.8092.01002
- Conference committee decision

8:42 AM Committee discussion on SB 2092.

8:46 AM Senator Klein moved that the House recede from House amendments and further amend with LC 23.8092.01002.

8:46 AM Representative Warrey seconded the motion.

Roll call vote: 6-0-0 Motion passed.

Chairman Barta is the Senate bill carrier.

Representative Ostlie is the House bill carrier.

8:48 AM Chairman Barta closed the conference committee meeting.

Brenda Cook, Committee Clerk

April 14, 2023

1801
4/14

PROPOSED AMENDMENTS TO SENATE BILL NO. 2092

That the House recede from its amendments as printed on pages 967 and 968 of the Senate Journal and pages 1149 and 1150 of the House Journal and that Senate Bill No. 2092 be amended as follows:

Page 6, line 31, remove "if"

Page 7, line 1, replace "any, due members who failed" with ". The board of directors of the credit union or the liquidating agent if appointed shall report money in the account of a member who failed"

Page 7, line 1, remove "in"

Page 7, remove lines 2 and 3

Page 7, line 4, replace "creditors who failed to cash" with an underscored comma

Page 7, line 4, after "checks" insert "not cashed"

Page 7, line 4, after "days" insert ", and any unpaid claims to the unclaimed property division of the board of university and school lands pursuant to chapter 47-30.2"

Page 7, remove lines 5 through 10

Renumber accordingly

**2023 SENATE CONFERENCE COMMITTEE
ROLL CALL VOTES**

BILL/RESOLUTION NO. SB 2092
Senate Industry and Business Committee

- Action Taken**
- SENATE accede to House Amendments**
 - SENATE accede to House Amendments and further amend**
 - HOUSE recede from House amendments**
 - HOUSE recede from House amendments and amend as follows**
 - Unable to agree**, recommends that the committee be discharged and a new committee be appointed

Motion Made by: Klein Seconded by: Warrey

Senators		4-14		Yes	No	Representatives		4-14		Yes	No
Barta		X		X		Ostlie		X		X	
Larsen		X		X		Warrey		X		X	
Klein		X		X		Wagner		X		X	
Total Senate Vote						Total Rep. Vote					

Vote Count Yes: 6 No: 0 Absent: 0

Senate Carrier Barta House Carrier Ostlie

LC Number 23.8092 . 01002 of amendment

LC Number 23.8092 . 03000 of engrossment

Emergency clause added or deleted

Statement of purpose of amendment

Insert LC: 23.8092.01002
Senate Carrier: Barta
House Carrier: Ostlie

REPORT OF CONFERENCE COMMITTEE

SB 2092: Your conference committee (Sens. Barta, Larsen, Klein and Reps. Ostlie, Warrey, Wagner) recommends that the **HOUSE RECEDE** from the House amendments as printed on SJ pages 967-968, adopt amendments as follows, and place SB 2092 on the Seventh order:

That the House recede from its amendments as printed on pages 967 and 968 of the Senate Journal and pages 1149 and 1150 of the House Journal and that Senate Bill No. 2092 be amended as follows:

Page 6, line 31, remove ".if"

Page 7, line 1, replace "any due members who failed" with ". The board of directors of the credit union or the liquidating agent if appointed shall report money in the account of a member who failed"

Page 7, line 1, remove "in"

Page 7, remove lines 2 and 3

Page 7, line 4, replace "creditors who failed to cash" with an underscored comma

Page 7, line 4, after "checks" insert "not cashed"

Page 7, line 4, after "days" insert ", and any unpaid claims to the unclaimed property division of the board of university and school lands pursuant to chapter 47-30.2"

Page 7, remove lines 5 through 10

Renumber accordingly

SB 2092 was placed on the Seventh order of business on the calendar.

TESTIMONY

SB 2092



MEMORANDUM

DATE: January 4, 2023

TO: Senate Industry and Business

FROM: Lise Kruse, Commissioner

SUBJECT: Testimony in Support of Senate Bill No. 2092

Chairman Larsen and members of the Senate Industry and Business Committee, thank you for the opportunity to testify in support of Senate Bill No. 2092.

Mr. Chairman and members of the Committee, Senate Bill No. 2092 includes the creation of 6-07.2, amendment to section 6-01-04.1, and the repeal of chapter 6-06.1 of the North Dakota Century Code relating to financial institutions. I would like to note that prior to filing this Bill, the department met with various staff and committee members of the North Dakota Bankers Association, Independent Community Banks of North Dakota, and the Dakota Credit Union Association, and had discussions with

several bankers and credit union officials to review our proposed legislation. Input from these stakeholders was considered and is reflected in this Bill.

Section 1 of the Bill would amend section 6-01-04.1, which addresses the removal of officers, directors, and employees of financial corporations or institutions. To ensure the safety of our financial system, the Department has the ability to take action against bad actors. When fraud or violations of law are occurring, the Department can issue an order against the perpetrator; however, it goes into effect upon service. Since law enforcement may not immediately be able to locate the individual, especially if the individual is outside of North Dakota, the individual can effectively avoid action against them simply by evading service. The federal banking regulators have this same authority, and their orders are effective upon issuance. We are proposing copying our federal counterparts and making orders effective upon issuance so that orders are effective immediately, thereby alerting North Dakota citizens of these bad actors. The individual or entity must still be served, and the appeals process will not start until service. In this way, the individual is afforded their due process rights under North Dakota Century Code 28-32. The Department would also have more control over how and when an order is served, which would be less disruptive for a local community financial institution.

Section 1 also clarifies how and when a previously issued order is made final. It removes inconsistencies between the reasons an order can be initially issued and the reasons an order can be made final. It also clarifies that an order can be final if a person is convicted of or pleading to a lesser charge.

Section 2 is the creation of a new section to chapter 6-07.2. Voluntary liquidation of credit unions was addressed in a stand-alone chapter, and it made more sense to include this in the same chapter as bank voluntary liquidations. The language has been modernized to correspond with current practices, including requirements by our federal counterpart.

Section 3 repeals chapter 6-06.1 regarding voluntary liquidation of credit unions since this was moved to a section in chapter 6-07.2.

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



MEMORANDUM

DATE: March 1, 2023

TO: House Industry, Business and Labor Committee

FROM: Lise Kruse, Commissioner

SUBJECT: Testimony in Support of Senate Bill No. 2092

Chairman Louser and members of the House Industry, Business and Labor Committee, thank you for the opportunity to testify in support of Senate Bill No. 2092.

Mr. Chairman and members of the Committee, Senate Bill No. 2092 includes the creation of 6-07.2, amendment to section 6-01-04.1, and the repeal of chapter 6-06.1 of the North Dakota Century Code relating to financial institutions. I would like to note that prior to filing this Bill, the department met with various staff and committee members of the North Dakota Bankers Association, Independent Community Banks of North Dakota, and the Dakota Credit Union Association, and had discussions with

several bankers and credit union officials to review our proposed legislation. Input from these stakeholders was considered and is reflected in this Bill.

Section 1 of the Bill would amend section 6-01-04.1, which addresses the removal of officers, directors, and employees of financial corporations or institutions. To ensure the safety of our financial system, the Department has the ability to take action against bad actors. When fraud or violations of law are occurring, the Department can issue an order against the perpetrator; however, it goes into effect upon service. Since law enforcement may not immediately be able to locate the individual, especially if the individual is outside of North Dakota, the individual can effectively avoid action against them simply by evading service. The federal banking regulators have this same authority, and their orders are effective upon issuance. We are proposing copying our federal counterparts and making orders effective upon issuance so that orders are effective immediately, thereby alerting North Dakota citizens of these bad actors. The individual or entity must still be served, and the appeals process will not start until service. In this way, the individual is afforded their due process rights under North Dakota Century Code 28-32. The Department would also have more control over how and when an order is served, which would be less disruptive for a local community financial institution.

Section 1 also clarifies how and when a previously issued order is made final. It removes inconsistencies between the reasons an order can be initially issued and the reasons an order can be made final. It also clarifies that an order can be final if a person is convicted of or pleading to a lesser charge.

Section 2 is the creation of a new section to chapter 6-07.2. Voluntary liquidation of credit unions was addressed in a stand-alone chapter, and it made more sense to include this in the same chapter as bank voluntary liquidations. The language has been modernized to correspond with current practices, including requirements by our federal counterpart. This section includes an amendment, which I am attaching to this testimony. We were unaware of outdated language in this statute related to unclaimed property. The Department of Trust Lands reviewed our amendment, and it should now be up to date.

Section 3 repeals chapter 6-06.1 regarding voluntary liquidation of credit unions since this was moved to a section in chapter 6-07.2.

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

PROPOSED AMENDMENTS TO SENATE BILL NO. 2092

Page 6, line 31, replace “, if” with a period

Page 7, line 1, replace “any, due members” with “Members”

Page 7, line 1, remove “in”

Page 7, line 2, remove all

Page 7, line 3, replace “escheat or abandoned property laws, and of” with “, any”

Page 7, line 3, remove “if any, due members or”

Page 7, line 4, replace “creditors who failed to cash” with “and”

Page 7, line 4, after “checks” insert “not cashed”

Page 7 Line 4, remove the period

Page 7, line 5, replace all with “shall be reported to the North Dakota department of trust lands unclaimed property division pursuant to subsection 47-30.2.”

Page 7, line 6, remove all

Page 7, line 7, remove all

Page 7, line 8, remove all

Page 7, line 9, remove all

Page 7, line 10, remove all

1 union administration. Further liquidation of credit union assets or distributions to
2 shareholders after notice requires written approval from the commissioner.

3 13. With the written approval of the commissioner, a partial distribution of the credit
4 union's assets may be made to its members from cash funds available on
5 authorization by its board of directors or by a duly authorized liquidating agent whose
6 appointment specifically includes the authority. Partial distributions cannot exceed the
7 national credit union share insurance limit.

8 14. When all assets of the credit union have been converted to cash or found to be
9 worthless and all loans and debts owing to it have been collected, sold, or found to be
10 uncollectible and all obligations of the credit union have been paid, with the exception
11 of amounts due its members:

- 12 a. The books must be closed and the pro rata distribution to members computed.
13 This computation must be based on the total amount in each member's share
14 accounts as of the date the board of directors voted to voluntarily liquidate.
- 15 b. The amount of gain or loss must be entered in each member's share account and
16 should be entered in the member's passbook or statement of account.
- 17 c. Promptly, funds must be distributed to each member. The funds must be mailed
18 to such members at their last-known addresses, electronically transmitted to the
19 members designated account, or handed to them in person.
- 20 d. The passbooks or written confirmations submitted by members to verify balances
21 must be retained with the credit union records.
- 22 e. Unclaimed share accounts subject to the escheat or abandoned property laws of
23 the state or the state of the members' residence must be paid to the state as
24 required by such laws.
- 25 f. The commissioner must be promptly notified of the date final distribution of
26 assets to the members is started.
- 27 g. In the event of a loss on members share accounts, a claim must be submitted by
28 the board of directors or the liquidating agent if appointed, to the national credit
29 union administration, private share insurance if available, and bonding company.

30 15. Within one hundred twenty days after the final distribution to members is started, the
31 credit union shall furnish to the commissioner's office a schedule of unpaid claims, if,

1 ~~any, due members~~Members who failed to surrender their passbooks or confirm their
balances in
2 ~~writing during liquidation whose accounts are not payable to the state under applicable~~
3 ~~escheat or abandoned property laws, and of any unpaid claims, if any, due members or~~
4 ~~creditors who failed to cash and final distribution checks not cashed~~ within one hundred
twenty days.
5 ~~This schedule must be accompanied by a certified check or money order payable to~~shall
be reported to the North Dakota department of trust lands unclaimed property division
pursuant to subsection 47-30.2.
6 ~~the state treasurer in the exact amount of the total of these unpaid claims. The state~~
7 ~~treasurer shall deposit the funds in a special account where they will be held for the~~
8 ~~account of the individuals named on the schedule. Each individual or any authorized~~
9 ~~person on the individual's behalf may submit to the state treasurer a written claim for~~
10 ~~the amount of funds held for the individual.~~

11 **SECTION 3. REPEAL.** Chapter 6-06.1 of the North Dakota Century Code is repealed.