

**Senate Industry and Business Committee
Hearing on SB 2356**

Testimony from North Land Title Association

Nick Hacker – Legislative Chair

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Chairman Barta and Members of the Committee, my name is Nick Hacker with the North Dakota Land Title Association. Our members provide real estate abstracting, title and closing services to homeowners and lenders across the state.

Senate Bill 2225 strengthens real property rights including the right to convey or sell your property without condition from the government. This bill is an important step to try to address an ongoing issue that our industry and buyers and sellers face when attempting to record a deed after the sale of property.

Under NDCC 57-02-39, the county has the right to require property owners to plat property, which is described using metes and bounds legal descriptions, especially if the precise location of the land may not be easily ascertained. This bill does not take that right away, it simply does not allow that right to be exercised for the purpose of rejecting the recording of the deed.

We are a race recording state and rights are established when notice of ownership is created. Notice of ownership occurs when the deed is recorded. When the deed is not recorded because the property now needs to be platted, significant risk to the new owner occurs. For instance, if the seller has a new lien filed against them, that lien now attaches to the buyer's real estate after the buyer paid the seller for the property received a signed warranty deed but such deed has not been recorded. That means the buyer's property is encumbered by the sellers' liens occurring after they purchase the property.

The liens the purchaser is subject can include; new mortgages of the seller, federal tax liens, state tax liens, construction liens, child support liens, and bankruptcy claims. When a title company is used and title insurance is purchased, the title company takes on this risk. However, title companies are not always used during the sale of property.

The enforcement of NDCC 57-02-39 is often times exercised even when the property being sold using the same metes and bounds description as that used when the seller purchased the property. That means the property already has a tax identification and is being taxed, so there should be no reason for rejection of the deed which forces consumers to incur the cost of surveying and platting along with unnecessary delays to closing their transaction. These delays can be substantial in rural North Dakota and take several months.

Senate Bill 2356 provides North Dakotans with certainty that when they purchase property, they can obtain the protection of public notice by timely getting their deed recorded. Please support this bill with a Do Pass vote.