

# MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

2082

2005 SENATE POLITICAL SUBDIVISIONS

SB 2082

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2082

Senate Political Subdivisions Committee

Conference Committee

Hearing Date January 14, 2005

Tape Number	Side A	Side B	Meter #
1	X		0 - 3964
Committee Clerk Signature <i>Shirley Long</i>			

Minutes:

**Senator Cook** called the committee to order. Roll call was taken. All committee members (6) in attendance.

**Senator Cook** opened the hearing on SB 2082 relating to the temporary certification of an abstracter to work in a county that has no certified abstracter; relating to the furnishing of limited abstracts upon request and the cancellation of an abstracter's certificate.

**Harold Bensch**, President of the Abstract Board of Examiners, introduced SB 2082 in favor of the bill. The board has been working with the attorney generals office in preparation of this bill. The reason for the bill is to broaden the authority of the board for measures that can be taken. It also expands what documents may be omitted upon request such as zoning and subdivision ordinances. In the past it had only allowed mineral rights and royalties and other mineral interests upon request. It also provides the board with a broader means of disciplining members. In the past all they could do was revoke their certificate of authority. This has broadened it out so that

after proper hearing we could suspend the license and also provides that we could in the case of a suspended certificate of authority allow someone else who holds a certificate of authority to go into the adjoining county or other county to provide the services while that certificate was under suspension. In the past once the certificate was revoked there was no way that anyone could come in and operate in that county.

**Senator Cook:** Has there been problems in the past?

**Harold Bensch:** Yes we have had problems in the past. It has been handled very well in the past. We have never had any serious discipline problems but we thought being we were going to change part of it we should give the board more power to do what they need to.

**Senator Cook:** Is there a time frame for how long a temporary abstractor may be able to serve.

**Harold Bensch:** That would be up to the board at the time of the hearing. They would set a time limit.

**Jim Horner,** Lobbyist for ND Land Title Association, testified in support of SB 2082. (see attachment #1)

**Senator Cook:** Would it be possible for an adjoining county to permanently serve a county without an abstractor?

**Jim Horner:** Under the present system, no they would not be able too permanently serve because they have to have the record of the county to get the permanent certificate. This only takes care of the consumers for the time frame of when the certificate is suspended.

**Senator Lee:** On page 2 could you explain line 2 and 3.

**Jim Horner:** When someone has a new abstract made they have three options. One would be leave everything off at no charge; two would be show in a short form at one dollar fifty per entry

and three; to show the whole thing at five dollars per entry. If the consumer is not concerned with the mineral ownership they can leave them off and it will be cheaper. An entry is every document that is recorded at the register of deeds office.

**Edward Erickson**, Attorney Generals Office, appeared to answer questions. The maximum length of time a temporary abstractor authority may not exceed such time as the board has determined an abstractor having a regular certificate of authority and certification of registration is able to engage in and carry on the business of an abstractor of real estate titles in the county, but the abstractor holding the temporary certificate may complete any work already engaged.

**Senator Triplett:** Does the attorney generals office assist the board in the disciplinary process?

**Edward Erickson:** Yes we represent the board. Some one from the litigation department would go after someone's license or discipline for some other reason. There is a full hearing process if needed.

**Steve Tomac**, Executive Director of North Dakota Farm Credit Council,. (See attachment #2) testified in support of the intent of SB 2082 but this bill does nothing to correct the service issues. In their opinion the bill does not go far enough. The burden should be on the abstractor and not the customer.

**Senator Dever:** What is a good time frame for turn around on an abstract

**Steve Tomac:** Two weeks. An interest rate lock has to be taken in to consideration for customer.

No further testimony for or against the bill.

**Senator Cook** closed the hearing on SB 2082

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2082

Senate Political Subdivisions Committee

Conference Committee

Hearing Date February 4, 2005

Tape Number	Side A	Side B	Meter #
2	X		183 - 1228
Committee Clerk Signature <i>Shirley Borg</i>			

Minutes: **Chairman Cook** opened the discussion on SB 2082 5 members present 1 absent

**Chairman Cook:** Committee if you recall this is the bill on the abstractors. We seem to have two sides to this issue, the abstractors and farm credit. He passed out a memo from Edward Erickson, Attorney General's Office, who has acted as a mediator between these two groups. (Attachment 1) He also passed out the amendments they agreed too. (Attachment #2).

Committee discussed the amendments.

**Senator Triplett** moved amendments by Mr. Erickson, Attorney Generals Office be passed.

**Senator Gary Lee** seconded the motion.

Roll call Vote: 5 Yes 0 No 1 Absent and not voting.

**Senator Triplett** made a motion for Do Pass as Amended.

**Senator Dever** seconded the motion.

Roll call vote: 5 Yes 0 No 01 Absent and not voting.

Carrier: **Senator Triplett**

February 4, 2005

JJB  
2-7-5

PROPOSED AMENDMENTS TO SENATE BILL NO. 2082

Page 2, line 23, after "business" insert "or unreasonable timeliness of service" and overstrike the second comma

Page 2, after line 31, insert "The board may inspect an abstractor's records to determine compliance with this chapter or rules adopted under this chapter. The board may adopt rules under chapter 28-32 addressing discipline of abstractors, including establishing standards for timeliness of service based on a presumed standard turnaround time of three weeks or less."

Page 3, line 14, after the underscored boldfaced period insert:

"1."

Page 3, line 21, remove "An abstractor"

Page 3, remove line 22

Page 3, line 23, replace "allowed under section 43-01-18 at rates determined by the board and the" with "The"

Page 4, after line 3, insert:

"2. The board may establish a fund to provide for additional expenses of an abstractor operating under a temporary certificate of authority. The fund may be paid for by an additional fee fixed by the board of no more than fifty dollars per year for each certificate of registration. The fund may not exceed five thousand dollars. The board may pay the expenses, including mileage, meals, and lodging, of an abstractor operating under a temporary certificate of authority at the rates established for state employees on official business."

Renumber accordingly

Date: 2-4-05  
Roll Call Vote #: 1

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. SB 2082

Senate Political Subdivisions Committee

Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken Amendments 58069.0101 Bill 0200

Motion Made By Senator Triplett Seconded By Senator Gary Lee

Senators	Yes	No	Senators	Yes	No
Senator Dwight Cook, Chairman	X				
Senator Nicholas P. Hacker, VC	X				
Senator Dick Dever	X				
Senator Gary A. Lee	X				
Senator April Fairfield	Absent				
Senator Constance Triplett	X				

Total Yes 5 No 0

Absent 1

Floor Assignment \_\_\_\_\_

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



Date: 2-4-05  
Roll Call Vote #: 2

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. SB 2082

Senate Political Subdivisions Committee

Check here for Conference Committee

Legislative Council Amendment Number 58069.0101

Action Taken Do Pass as Amended

Motion Made By senator Triplett Seconded By Senator Gary Lee

Senators	Yes	No	Senators	Yes	No
Senator Dwight Cook, Chairman	X				
Senator Nicholas P. Hacker, VC	X				
Senator Dick Dever	X				
Senator Gary A. Lee	X				
Senator April Fairfield	Absent				
Senator Constance Triplett	X				

Total Yes 5 No 0

Absent 1

Floor Assignment Senator Triplett

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

**REPORT OF STANDING COMMITTEE**

**SB 2082: Political Subdivisions Committee (Sen. Cook, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (5 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2082 was placed on the Sixth order on the calendar.**

Page 2, line 23, after "business" insert "or unreasonable timeliness of service" and overstrike the second comma

Page 2, after line 31, insert "The board may inspect an abstractor's records to determine compliance with this chapter or rules adopted under this chapter. The board may adopt rules under chapter 28-32 addressing discipline of abstractors, including establishing standards for timeliness of service based on a presumed standard turnaround time of three weeks or less."

Page 3, line 14, after the underscored boldfaced period insert:

"1."

Page 3, line 21, remove "An abstractor"

Page 3, remove line 22

Page 3, line 23, replace "allowed under section 43-01-18 at rates determined by the board and the" with "The"

Page 4, after line 3, insert:

"2. The board may establish a fund to provide for additional expenses of an abstractor operating under a temporary certificate of authority. The fund may be paid for by an additional fee fixed by the board of no more than fifty dollars per year for each certificate of registration. The fund may not exceed five thousand dollars. The board may pay the expenses, including mileage, meals, and lodging, of an abstractor operating under a temporary certificate of authority at the rates established for state employees on official business."

Renumber accordingly

2005 HOUSE POLITICAL SUBDIVISIONS

SB 2082

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2082

House Political Subdivisions Committee

Conference Committee

Hearing Date March 10, 2005

Tape Number	Side A	Side B	Meter #
1	x		4.4 to 40.1
Committee Clerk Signature <i>Laura B. Fink</i>			

Minutes: **Rep. Devlin, Chairman** opened the hearing on SB 2082, a bill for an Act to create and enact a new section to chapter 43-01 of the North Dakota Century Code, relating to the temporary certification of an abstractor to work in a county that has no certified abstractor; and to amend and reenact sections 43-01-15.1 and 43-01-16 of the North Dakota Century Code, relating to the furnishing of limited abstracts upon request and the cancellation of an abstractor's certificate.

**Harold Bensch**, President of the Abstractor's Board of Examiner testified as to the need for the bill and in support of it.. A copy of his prepared remarks is attached.

**Rep. Ekstrom ( 6.7 )** the 'temporary' provision --how long do you envision that to be for somebody to get his act back together?

**Harold Bensch --** The board would have to have hearing -- the board would determine the time frame. The board would establish the time.

**Rep. Devlin, Chairman ( 7.2 )** What happens to the abstractor who takes 5 months and another takes 1 month -- does the board have the type of authority go against that type of case?

**Harold Bensch** -- If the board received a complaint -- we could go in and look at the work load that individual had and the circumstances-- what is causing the delay in getting the work done -- most of the plants in the state are a one person, one man shop and they take a vacation --

**Rep. Herbal, Vice Chairman ( 7.9 )** What are some common violations -- is there or has there been a problem which prompted this bill?

**Harold Bensch** -- we have had some complaints about the time frame, not doing what has been asked by the customer or arguing with the customer the way things ought to be done -- my way or the hi-way kind of thing that usually doesn't warrant the cancellation of a certificate -- with a proper hearing and all the evidence is in --- this allows the board to rule -

**Rep. N. Johnson ( 8.6 )** The abstracters -- they have all the records in their own offices ?

**Harold Bensch** -- yes

**Rep. N. Johnson** -- so if for some reason -- if an individual has been discipline and can do the work due to suspension ---how does someone come in an do the work if they don't have access to his records?

**Harold Bensch** - if I have or we send some in there who has a Certificate of Authority from the Board, Rep. Herbal, Vice Chairman can go in and us the county records -- Rep. Herbal, Vice Chairman doesn't need the someone else's private record -- using the County of Register of Deeds records, the deed records, the mortgage records, and misc records -- Rep. Herbal, Vice Chairman can do the work -- using the County Tract Indexes -- to do their searches.

**Rep. Ekstrom ( 10.2 )** How many title companies are physically in North Dakota ?

**Harold Bensch** -- in the 53 counties approximately 60.

**Rep. Wrangham ( 10.5 )** On top of page 2, 1 through 4 you request to omit zoning and subdivision plats --what does that entail -- what is that?

**Harold Bensch--** It would allow the abstracter to abbreviate -- we have been requested to include them by reference rather than copy them into the abstract -- in Stutsman County that is about 20 pages of text -- we would just make reference to that and where to find it instead of providing it verbatim. We are allowed to charge by the word -- but don't.

**Jim Horner** - a lobbyist for the North Dakota Land title Association testified before the committee. A copy of his prepared remarks is attached.

**Rep. Koppelman ( 14.8 )** Is the support of the Association for this bill unanimous or is there some opposition to it?

**Jim Horner** -- yes it is.

**Steve Tomac** , Executive Director of the North Dakota Farm Credit Council testified before the committee. A copy of his prepared remarks is attached.

**Rep. Koppelman ( 21.4 )** If there are busy times - slow times -- what are the parameters for turning ut timely work?

**Steve Tomac** -- There are a number of variables in that and we understand that -- certainly if you are a one person shop -- your expected turn around time may vary -- that language in the bill is the presumed standard that the board will use in setting their rules ( three weeks or less ) -- will that be the standard for residential loans -- from Farm Credit's standpoint when our customers come to us in a rising interest rate market which we have right now they want to do a rate lock -- they have little empathy or sympathy for an abstracter that only operates a one person shop and refuses to invest in back-up personnel to qualify and train those -- they probably have little

empathy for all the other variables because they are looking at dollars and cents -- its a gray area so you can understand the three weeks versus one week, or two or three days. If we do that do we reward good performance or allow poor performance.

**Rep. Koppelman ( 24.5 )** a grammatical thing on your written testimony, ---

**Steve Tomac** -- yes you are right -- we are aware of it.

**Rep. Kaldor ( 25.0 )** regarding that language -- that whole -- line 4 down to line 6 -- is it unusual for us to put into code -- a standard for timeliness of service based on a presumed standard for turn around --like three weeks --

**Steve Tomac** it is unusual -- if I may explain the history -- why this was put in there -- I was surprised when I met with the abstracters in a December meeting -- I understood there are abstracters in the state that didn't have fax machines -- which speaks to the investment that some of the smaller shops are willing to invest back into the shop -- and two, we found they have no standard for turn around times.

**Rep. Wrangham ( 28.1 )** Referring again to the section permitting the omitting the zoning and subdivision ordinances - is that -- do you support that part of the bill? Is there extra work for you when you get an abstract from another county and it refers only to the zoning ordinance by reference?

**Rep. Wrangham ( 28.3 )** That is a very good question but I don't see it as a problem -- we did support that amendment --

**Harold Bensch -- ( returned to answer questions )**

**Rep. Dietrich ( 29.9 )** good back to page 3 line 6 - 3 to 1 --- would that be onerous on abstracters if we changed it from three to one week -- turn around?

**Harold Bensch** -- I would say yes - sir because it is going to depend on how many abstracts Farm Credit is going to bring in ( at one time ) how many loans is Farm credit processing in my county at one time and how many abstracts are involved in each loan -- two abstracts -- ten abstracts--- when were the abstracts last brought up to date -- we have a lot of estate problems where granddad homesteaded and had several loans or maybe they bought the land from Farm Credit after the dirty thirties -- in the forties took out a mortgage and mortgage got paid off -- they leased it for oil -- they sold the minerals -- you are talking about 30 or 40 entries per abstract --if we get ten abstract and they are all different entries -- you can't do it in two or three days.

**Rep. Dietrich ( 31.4 )** you mentioned estates -- if you had five siblings scattered across the nation --

**Harold Bensch** -- it depends where the abstracts are -- in my plant for instance -- a lot of times there is a missed communication -- we had a gentleman bring an abstract -- he said it is a cash sale -- so we tool the priority work the people said they need done in a week or two weeks --he gave us no time frame to get the work done -- Farm Credit called us and said that loan is closing in 15 days -- when are we going to get the abstract -- we thought it was an you and I type sale -- to me a cash sale is I am paying you the cash --there is no lender involved. We did work it out with the local Farm Credit people. Mr. Tomac alluded to have an abstracter or person on stand by -- well you just don't go out on the street and hire an abstracter or an abstract typist to do the work.

**Rep. Koppelman ( 34.8 )** I don't think this is as onerous as it sounds-- do you agree?

**Harold Bensch** -- In our conversations with Mr. Tomac -- it seems he wants one size fits all --

I don't think that works in any business.



Page 6  
House Political Subdivisions Committee  
Bill/Resolution Number SB 2082  
Hearing Date March 10, 2005

**Rep. Koppelman** ( 36.5 ) Again -- you write the rules not Mr. Tomac. My hope is that if we rewrite the language here that you folks can agree on it.

**Harold Bensch** -- I thought that had all been worked out when we amended the bill in ( in the Senate ). We normally try to get them out in two or three days.

There being no further testimony either for nor against SB 2082, **Rep.Devlin, Chairman** closed the hearing. ( 40.1 )

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2082 b

House Political Subdivisions Committee

Conference Committee

Hearing Date March 11, 2005

Tape Number	Side A	Side B	Meter #
1	x		13.3 to 17.1
Committee Clerk Signature <i>Louise B. P. ...</i>			

Minutes: **Rep. Devlin, Chairman** opening the discussion for action on SB 2082 stated that we didn't get to the action on this bill yesterday simply due to time but the he knew of no problems ( concerns ) with the bill. **Rep. Dietrich ( 16.4 )** moved a 'Do Pass' motion for SB 2082. **Rep. Maragos ( 16.5 )** seconded the motion. On a roll call vote the motion carried **11 ayes 0 nays 1 absent**. **Rep. Dietrich** was designated to carry SB2082 on the floor. End of record ( 17.1 )

Date: March 2005  
Roll Call Vote:

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. SB 2082

House POLITICAL SUBDIVISIONS Committee

Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken Do Pass

Motion Made By Rep. Dietrich Seconded By Rep. Maragos

Representatives	Yes	No	Representatives	Yes	No
Rep. Devlin, Chairman	✓		Rep. Ekstrom	✓	
Rep. Herbel, Vice Chairman	✓		Rep. Kaldor	✓	
Rep. Dietrich	✓		Rep. Zaiser	✓	
Rep. Johnson	✓				
Rep. Koppelman	✓				
Rep. Kretschmar	✓				
Rep. Maragos	✓				
Rep. Pietsch	✓				
Rep. Wrangham	A				

Total (Yes) 11 No 0

Absent 1

Floor Assignment Rep. Dietrich

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

**REPORT OF STANDING COMMITTEE (410)**  
March 14, 2005 9:08 a.m.

**Module No: HR-46-4822**  
**Carrier: Dietrich**  
**Insert LC: . Title: .**

**REPORT OF STANDING COMMITTEE**

**SB 2082, as engrossed: Political Subdivisions Committee (Rep. Devlin, Chairman)**  
recommends **DO PASS** (11 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING).  
Engrossed SB 2082 was placed on the Fourteenth order on the calendar.

**2005 TESTIMONY**

SB 2082

TESTIMONY OF JAMES HORNER, LOBBYIST FOR THE NORTH DAKOTA LAND TITLE ASSOCIATION AS TO SENATE BILL 2082. DATED JANUARY 14, 2005.

Chairman Cook and members of the committee.

The North Dakota Land Title Association at a meeting held in December voted in favor of the support and passage of the senate bill as presented.

As an association we felt that this bill would give the Board of Examiners the necessary powers to take the actions needed in case there are problems that arise in our profession.

It appears that the Board had the power to suspend licenses before this. However with the fact that most abstract companies are the only one in their county it would be difficult to revoke any license for a temporary period or whatever is decided by the Board. This would address the power to grant a temporary certificate to whoever the Board would feel qualified.

The North Dakota Land Title Association does not want any reputation that comes from or is associated with a certain company not providing the necessary services. We think these would be few in number, however, if there is one company not providing the service, than it is one to many. The abstracter may have felt in the past the Board was not able to do anything. This would change that feeling. Getting suspended for any period of time and having someone else provide the service and keep the income would be severe.

This legislation would enable the Board to make us a stronger association for the benefit of all of the customers in the State of North Dakota. A vast majority of the abstracters do provide the needed service, however, there may be one and like I said before, the Association feels that is 1 to many.

We ask for a do pass vote on this bill.

Thank You

  
James Horner



# **North Dakota Farm Credit Council**

AgCountry FCS • FCS of Grand Forks • FCS of Mandan • FCS of North Dakota

Testimony by Steve Tomac  
Executive Director, NDFCC

SB 2082

January 14, 2005

Good Morning Chairman Cook and members of the Senate Political Subdivisions Committee. For the record my name is Steve Tomac the Executive Director of the North Dakota Farm Credit Council. The NDFCC is made up of the four (4) Farm Credit Associations in North Dakota. We have a combined customer base of about 18,000 farmers who borrow \$2.3 billion. We are here because we have a large investment in North Dakota and abstracters play an important role in our business.

The NDFCC supports the intent of SB 2082 which gives the Abstracter Board broader disciplinary powers. During the past couple of years we have become aware of the situations our customers have found themselves in while at the mercy of those that hold a monopoly in rural North Dakota. While the majority of the abstracters are very service oriented and come close to a two week turnaround, a few make it bad for the rest. For example, on Tuesday of this week one of our loan officers reported that he called a county abstracter to give them a heads up on an abstract that was coming and he was told it would be around Easter before it would be ready. Regardless of the reason, this type of turnaround is unacceptable. With the restrictive abstract plant law that the North Dakota abstracters enjoy comes the responsibility to provide service.

We support the intent of the bill, but we do have some concerns that we hope the committee will address.

On page 2, lines 6-8 the new language requires a written and signed complaint alleging a violation before the board can bring a disciplinary action. This puts our potential customers and/or loan officers in the uncomfortable position of being compliance officer(s). Obviously in any community, whistle blowing can have devastating effects on a business especially if there aren't insurances of confidentiality. We suggest a different approach. Rather than put the burden of compliance on the customer, let the board set up a monitoring system in which the

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abstracter makes a monthly report to the board on any jobs that take over two weeks. This shifts the primary compliance back to the abstracters themselves.

Page 2, line 16 adds the board's administrative rules to the violations of this chapter. Part of the frustration we have at Farm Credit is that to this date the only administrative rules that abstracters have are on continuing education. In our recent discussions with the North Dakota Land Title Assn it was pointed out that abstracters do not even have professional standards on turn around time because they can't agree on what is reasonable. While we understand that the turnaround time for jobs may vary with the number of entries and the number of abstracts, we also understand that it may vary because of the number of people, the size of the office and the investment made into the plant.

Page 3, lines 21-24 adds new language that gives the board authority to allow the temporary abstracter to charge fees in excess of those presently permitted. This is absurd. The board disciplines an abstracter by requiring the customers to pay extra for a temporary abstracter. Why should the customer be fined? We suggest that sentence be stricken.

Mr. Chairman and members of the Political Subdivisions Committee, the NDFCC supports the intent of SB 2082 but this bill does nothing to correct the service issues that we have aired with the NDLTA. In our opinion this bill does not go far enough. A board that cannot agree on professional standards is not going to find the courage to do more than slap the wrist of its members who abuse their public service charge.

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[www.farmcreditnd.com](http://www.farmcreditnd.com)



**MEMORANDUM**

**To: Senator Cook**  
**From: Edward Erickson, Assistant Attorney General**  
**Re: SB 2082—Abstracter's Bill**  
**Date: February 2, 2005**

---

The Board of Abstract Examiners and Farm Credit have agreed on a set of amendments to Senate Bill No. 2082.

The amendments accomplish two items. First, a presumed standard turn around time of three weeks or less is established. The Board may require an abstracter who exceeds that timeframe to explain the delay. The Board may then take appropriate disciplinary action if the explanation is not sufficient. The Board will develop administrative rules to provide guidance on this standard. It had been the Board's intent to establish timeliness standards under the new authority granted by this bill, but Farm Credit wanted a standard to be included in the bill.

Second, the amendments remove authority for the Board to set a higher fee for an abstracter working under a temporary certificate of authority, and create a fund paid for by all abstracters to help defray the temporary abstracter's extra expenses. The Board initially recognized that the statutory rates do not allow for additional expenses involved with work in a different county, and sought authority to raise the rates to compensate the temporary abstracter for these costs. The Board believes that it will be difficult to recruit a temporary abstracter if the extra expenses cannot be compensated. Farm Credit pointed out that this would penalize the customers for discipline taken against a wayward abstracter. The compromise will allow the Board to create a fund to pay the temporary abstracter for these extra expenses, while allowing the temporary abstracter to bill the statutory rates to the customers.

The Board and Farm Credit discussed numerous approaches to these issues, and we believe that this set of amendments will be effective and efficient while avoiding constitutional issues or unwise and unfair policy choices. If you have any questions, please feel free to contact me at 328-3536 or Rod Lindstrom, the Board's Executive Secretary, at 947-2446.

**Erickson, Edward E.**

---

**From:** Steve Tomac [stomac@farmcredit.com]  
**Sent:** Wednesday, February 02, 2005 1:01 PM  
**To:** Erickson, Edward E.  
**Subject:** RE: 2082 latest amendments

Edward,

We can live with the proposed amendments.

Steve

---

**From:** Erickson, Edward E. [mailto:eerickso@state.nd.us]  
**Sent:** Wednesday, February 02, 2005 8:09 AM  
**To:** Steve Tomac  
**Subject:** 2082 latest amendments

Steve--

The Board agrees to these amendments. If you agree to them, I can send them to Sen. Cook today.

<<AMENDMENTS TO 2082.doc>>

--Edward

Edward E. Erickson  
Assistant Attorney General  
State of North Dakota  
Office of Attorney General  
State Capitol  
600 E. Boulevard Ave., Dept. 125  
Bismarck, ND 58505-0040  
(701) 328-3536  
(701) 328-2226 (fax)  
(800) 366-6888 (TTY)  
eerickso@state.nd.us

**Erickson, Edward E.**

---

**From:** Sue Cosgriff [scosgriff@rrtitle.com]  
**Sent:** Wednesday, February 02, 2005 8:03 AM  
**To:** Erickson, Edward E.  
**Subject:** RE: 2082--latest try

The Board of Abstract Examiners agree with these changes.

Thank you for your assistance in this matter

Sue Cosgriff

-----Original Message-----

**From:** Erickson, Edward E. [mailto:eerickso@state.nd.us]  
**Sent:** Tuesday, February 01, 2005 5:21 PM  
**To:** Sue Cosgriff  
**Subject:** 2082--latest try

Steve said that he could agree to this language. Call me tomorrow morning and we can discuss his comments.

<<AMENDMENTS TO 2082.doc>>

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PROPOSED AMENDMENTS TO SENATE BILL NO. 2082

Page 2, line 23, after "business" insert "or unreasonable timeliness of service",  
overstrike the first "or"

Page 2, line 25, after "43-01-15.1" insert ". The board may inspect an  
abstractor's records to determine compliance with this chapter or rules  
adopted pursuant to this chapter. The board may promulgate rules under  
chapter 28-32 addressing these issues, including establishing standards  
for timeliness of service based on a presumed standard turn around time  
of three weeks or less"

Page 3, line 14, after "county." Insert a page break and "1."

Page 3, line 21, remove ". An abstractor"

Page 3, remove line 22

Page 3, line 23, remove "allowed under section 43-01-18 at rates determined by  
the board"

Page 4, after line 3 insert::

"2. The board may establish a fund to provide for additional expenses  
of an abstractor operating under a temporary certificate of authority.  
The fund may be paid for by an additional fee fixed by the board of  
no more than fifty dollars per year for each certificate of registration.  
The fund may not exceed five thousand dollars. The board may  
pay the expenses, including mileage, meals and lodging, of an  
abstractor operating under a temporary certificate of authority at the  
rates established for state employees on official business."

Renumber accordingly

1-20-05  
passed out



# ***North Dakota Farm Credit Council***

**AgCountry FCS • FCS of Grand Forks • FCS of Mandan • FCS of North Dakota**

January 19, 2005

Senator Dwight C. Cook, Chairman  
Political Subdivisions Committee  
North Dakota State Senate  
600 E. Boulevard Avenue  
Bismarck, North Dakota 58505

**RE: SB 2082**

Dear Chairman Cook and Committee Members:

Following are the proposed changes that Farm Credit suggested on SB 2082:

On page 2, line 7: remove the words "written and signed"

On page 2, lines 16-31: add a separate section for the following violation: "A finding by the board that the holder is guilty of habitual slowness in the time it takes to finish the work requested. Until the board adopts an administrative rule that sets the standard(s) on the length of time it should take an abstractor to complete different categories of work requests, a period of two weeks will be used as the standard to determine whether an abstractor is guilty of habitual slowness."

On page 3, line 21: remove "An abstractor"

On page 3, remove line 22

On page 3, line 23: remove "allowed under section 43-01-18 at rates determined by the board and"

Thank you for hearing our testimony on SB 2082.

Respectfully,

Steve Tomac  
Executive Director

March 10, 2005

Testimony of James Horner, Lobbyist for the North Dakota Land Title Association on Senate Bill 2082.

Chairman Devlin and Members of the Committee.

For the record my name is Jim Horner and I am the lobbyist for the North Dakota Land Title Association. The association is in favor of the passage of Senate Bill 2082. All of the members of the Association are governed by the Board of Examiners who issue the licenses and certificates of Authority for all companies. The certificate is the license for the company to prepare abstracts of title.

The Board also has the right to revoke certificates dues to various reasons which are determined by the Board. They have had the right to revoke certificates of authority in the past.

Most abstract companies, which are the holders of the certificate of authority, are the only company that has a license in a county. There are several counties that have more than one, however, the vast majority of the counties in the state have only 1 company.

This presented a problem to the board when revoking a certificate. If that is done, who can do the abstracting in that county for its residents and customers. This bill would authorize the Board to issue a temporary certificate of authority when necessary to get the work done for the company that has been suspended. To be able to get the certificate on a full time basis the company would have to be in possession of a copy of all of the records of the county recorder.

The holder of the temporary certificate would not have to meet this qualification for the temporary time period, and could use the county records for the time period of the temporary certificate. If they want to get a permanent certificate, they would then need to acquire possession of all of the records of the county recorder.

As an association, we know that our association is only as strong and good as our weakest association member. The association cannot do anything about any member that does not provide service or charges in excess of the legally allowed fees. This is an action that is the duty of the Board of Examiners, and we need a strong Board of Examiners.

The North Dakota Land Title Association, (the abstracters in the State of North Dakota) strongly feel that Senate Bill 2082 will strengthen our association and be better for all customers.

On behalf of the North Dakota Land Title Association we thank you and ask for a do pass vote from this committee on this measure.

Thank You



Jim Horner, Lobbyist, North Dakota Land Title Association

## Senate Bill 2082

Chairman Devlin, members of the Political Subdivisions Committee, my name is Harold Bensch, and I am President of the Abstractor's Board of Examiners.

The Board has worked with Mr. Erickson of the State Attorney Generals Office to draft this legislation and the board has presented this legislation to the North Dakota Land Title Association and it has their approval, in addition the bill was amended, by the lobbyist for Farm Credit Services

The purpose of this legislation is to give the Board broader powers when dealing with complaints brought against the Abstractor's in the state. It allows the board to go into a title plant to inspect and investigate the allegations against the abstractor.

The current statute only provides for revocation of a certificate of authority by the Board for violations of the statutes. This would leave a county without an abstractor with a certificate of authority and no provisions for anyone else to do the work in that county

This legislation gives the board the power to fine, suspend or revoke a certificate of authority, for violations of Section 43-01-16.

It also gives the Board the authority to appoint a holder of a certificate of authority to work in a county where an abstractor is unable to perform his duties on a temporary basis. It would allow the individual to compile abstracts without having to meet the plant requirements of Section 43-01 NDCC. In addition to the ability to grant a temporary certificate of authority, this allows the Abstractor's Board of Examiners the latitude to insure there are abstracting services, in the event of a suspension, cancellation or emergency situation.



# **North Dakota Farm Credit Council**

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Testimony by Steve Tomac  
Executive Director, NDFCC

SB 2082

March 10, 2005

Good Morning Chairman Devlin and members of the House Political Subdivisions Committee. For the record my name is Steve Tomac the Executive Director of the North Dakota Farm Credit Council. The NDFCC is made up of the four (4) Farm Credit Associations in North Dakota. We have a combined customer base of about 18,000 farmers who borrow \$2.3 billion. We are here because we have a large investment in North Dakota and abstracters play an important role in our business.

The NDFCC supports the intent of SB 2082 which gives the Abstracter Board broader disciplinary powers. We appreciate the amendments that the Senate made to the original bill and the Engrossed Bill addresses most of our concerns. However, we would ask the Committee to change one thing. On page 3, line 6, the bill speaks to a presumed standard turnaround time of three weeks or less. The Committee should know that Farm Credit had reluctantly agreed to the three week standard prior to the debate of HB 1483. During the debate on HB 1483 abstracters testified that the turn-around time for an abstract update is 2-3 business days. Furthermore, since the debate on HB 1483, we have experienced remarkable turn-around time on abstract updates which would support the abstracter's testimony. Therefore, we would ask that the Committee change the three weeks to one week, or perhaps 10 days. Standards should be based on good performance, not poor performance. And based on the abstracters testimony, and recent performance, good performance would be closer to one week.

Mr. Chairman and members of the Committee, the NDFCC supports the intent of the bill and we hope that the Committee agrees that a one week turnaround time is reasonable and adopts the attached amendment.

Independently owned and operated associations serving North Dakota and northwest and west central Minnesota.

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Amendment to Engrossed Bill SB 2082

On page 3, line 6 of the Engrossed Bill: change "three" to "one".

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