

2009 SENATE POLITICAL SUBDIVISIONS

SB 2191

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2191

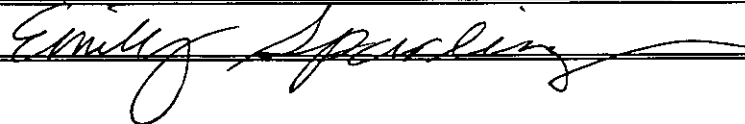
Senate Political Subdivisions Committee

Check here for Conference Committee

Hearing Date: 1/22/09

Recorder Job Number: 7514

Committee Clerk Signature



Minutes:

Chairman Andrist: Opened the meeting. The Clerk called the role.

Senator Anderson: Introduced SB 2191. Spoke in support. See attachment #1.

Vice Chairman Olafson: Is it possible to go further with the bill and actually garnish wages?

Senator Anderson: I don't know, that is a legal question. Many smaller communities don't have the money and they get stuck using public funds to pay for these properties.

Vice Chairman Olafson: The example I have in mind is of a person with a good paying job but not a lot of other property.

Senator Anderson: I would agree and refer to the e-mail attachment.

Chairman Andrist: Would the foreclosure process take years and be costly?

Senator Anderson: I am just talking about the actual cost of removing the building.

Chairman Andrist: Would it be a bill primarily utilized by small cities?

Senator Anderson: Not necessarily, this will affect large cities as well.

Senator Lee: What is the cost of demolition?

Senator Anderson: It depends on the contractor and what part of the state you are in.

Senator Lee: I am worried about garnishing wages muddying the waters and creating more problems. I like this bill as a first step and then find another way to get at someone's assets.

Representative Lee Kaldor: Represents District 20 and it in support of SB 2191. I am happy to be a co-sponsor on this legislation. I am concerned about meth houses that have had to be destroyed, this bill seems fit in many of those situations and seems very reasonable. I think this bill takes the cost away from the tax payers.

Chairman Andrist: It is my understanding that a property owner has the option to take down a property themselves, is that correct?

Representative Lee Kaldor: That is correct.

Senator Lee: What about landlords that own the property? We do not want to jeopardize the property of an innocent landlord. Can you remember what we did about that?

Representative Lee Kaldor: I do recall that discussion, I'm not sure how we disposed of it but it seems to me that we did attempt to find a way to provide support for the innocent landlord. I think there was a bill but it is not on the top of my mind.

Jerry Hjelmstad: ND League of Cities to support the bill. This is a concern in many of our cities. I want to give you a copy of the current law. See attachment #2.

There was no opposition to SB 2191

Chairman Andrist: Is there anyone opposed? Is there anyone neutral? Closed the hearing on SB 2191.

Vice Chairman Olafson: I move **Do Pass**

Senator Bakke: Second

Senator Lee: Would we want to know what the current statute is regarding innocent landlords and meth houses?

Senator Anderson: I don't see how a landlord could be responsible.

Jerry Hjelmstad: Notifications are sent out.

The Clerk called the roll on the motion to **Do Pass. Yes: 6, No: 0, Absent: 0.**

Senator Anderson will carry the bill.

Date: 1/22/09
Roll Call Vote #: #1

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2191

Senate Political Subdivisions Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do pass Do not pass Amendment

Motion Made By Olafson Seconded By Bakke

Senators	Yes	No	Senators	Yes	No
Chairman John M. Andrist	✓		Senator Arden C. Anderson	✓	
Vice Chairman Curtis Olafson	✓		Senator JoNell A. Bakke	✓	
Senator Judy Lee	✓		Senator Jim Dotzenrod	✓	

Total (Yes) 6 No 0

Absent 0

Floor Assignment Anderson

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

REPORT OF STANDING COMMITTEE (410)
January 22, 2009 11:15 a.m.

Module No: SR-13-0707
Carrier: Anderson
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2191: Political Subdivisions Committee (Sen. Andrist, Chairman) recommends DO PASS (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2191 was placed on the Eleventh order on the calendar.

2009 HOUSE POLITICAL SUBDIVISIONS

SB 2191

2009 HOUSE STANDING COMMITTEE MINUTES

Bill No. SB 2191

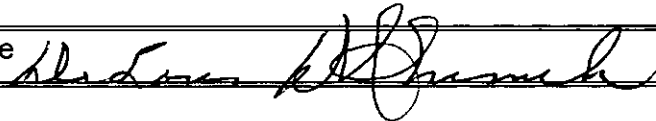
House Political Subdivisions Committee

Check here for Conference Committee

Hearing Date: March 5, 2009

Recorder Job Number: 10261, 10346, 10296

Committee Clerk Signature



Minutes:

Chairman Wrangham opened the hearing on SB 2191.

Senator Anderson: (see testimony #1).

Rep. Klemin: I have a question on part of this bill. The way I understand it you go through the removal process and the way this bill reads the lien on this property can go to any other property or later acquired. For example if a person had two properties and basically had a problem with just one of them would that be a unit?

Senator Anderson: Yes that is exactly what the law is now. There is no move to change that part. That is the same language that the county has.

Rep. Klemin: In the county language so if somebody acquires land in the county 30 years in the future this means a lien could be floating out there and tax this property that this person is acquiring?

Senator Anderson: I don't know what the statute of limitations is. I am sure whatever time limit is allowed is what would be used.

Rep. Koppelman: I am a little alarmed about the authority the counties have. Is there anything preventing a county or city or private individual for that matter; a he or she, to foreclosure, particularly if they have a lien, to enforce that lien. To go to court and garnish

wages or get a lien on some other property an individual owns. That is part of the legal process. Isn't that true? Doesn't this bill sort of seek to circumvent that and just allow it to happen?

Senator Anderson: You are asking me a question that requires more legal knowledge than I have. All I know is that because I worked with cities for a number of years are that when that property would be sold by the tax sale the first part of it goes to the taxes that would be put on it.

Chairman Wrangham: Asked if there is anyone else here that will not be able to come back after session.

Recess the hearing.

Job 10346

Chairman Wrangham: reopened the hearing on SB 2191.

Rep. Klemin: Introduced an amendment. I don't have anything to hand out to you but it is simple. It seems to me we should have a policy whether we should have energy conservation standards or not. I don't think we would have to know what those standards should be. We would leave that up to the state building code advisory committee to determine following their normal process. The amendment I would propose to this bill would be to make that statement so in line 6 stroke out the word standards, just leave the word the so it would be standards for energy conservation etc. On line 12 instead of saying be consistent with say be included in so what that would say were that standards for energy conservation etc. must be included in the state building code. That would not affect the ability of the local political subdivisions to determine what standards they want to have. All we would be doing is making a state policy to require energy conservation standards in the state building code. Then I think we would be in

a better position to prove to the federal government that purposes of those funds that we are moving forward on an energy conservation program. Right now this bill is nothing.

Rep. Koppelman: The standards must be whatever standards end up in local building codes. Am I correct about that? If that is true then we would be changing the affect of the bill if we just say the building code has to have standards. But there is no requirement that any local building reflect what the state building code does.

Rep. Klemin: That is true and that is under another section of law that currently allows the local political subdivisions to deviate from the state building code in order to meet their needs.

Rep. Koppelman: then if we were to adopt your amendment and pass this bill the scenario could be that a local entity could adopt the state building code except for energy standards whereas with this bill as presented to adhere to the state building code they would have to have those standards? See attachment #2.

Rep. Klemin: No my amendment would require something be in the state building code.

Rep. Koppelman: the promise we heard was that there will be standards in the state building code that deal with energy conservation if we can assume that is true then the affect of this bill would be that there would be standards there and that local entities would have to make any local entities consistent with whatever they put in the state.

Rep. Conrad: the building code is in affect everywhere but where the political subdivision has their law so if it was out in the country the state building code would go with them. So this just says where the code dwells in the proposed bill has energy conservation in it.

Rep. Zaiser: It validates what the state is promising to do and they can't put it in the code anyway.

Rep. Hatlestad: If I understand that correctly that if I lived in an area that currently doesn't have a building code you fall under a state building code. But if you live in an area chooses to

take part of that code out they can do it. What if you live in an area that the governing board chooses?

Rep. Conrad: That is the incentive for all people if they want to exempt that they can do that through the county, township and cities.

Rep. Klemin: If you could look at the other bill 2254 and go to page 2 line 22-25 that is the existing law that requires the governing body of the political subdivision to enforce the building codes. It says the state can amend the state building codes to conform to local needs. So that is the existing policy. Then the amendment I was proposing for 2352 just requires energy conservation standards are in the state building code. This is not to preclude the local, city and township from taking another look and deciding to put their own stipulation but if they don't they will have to do it under that section.

Chairman Wrangham: I have to admit I was under the wrong impression. I was under the understanding that they could adopt other building codes, but they had to be at least as strict as the state building code. But they can pass a state building code that is less restrictive.

Rep. Klemin: they either have to enforce the state building code or they can amend parts or all of it.

Rep. Koppelman: that chapter, if you look at 21.202 so this is 21.203 that this bill deals with so it is the next section that says under scope it says the powers and authority granted by this chapter shall be in addition to other local building or zoning requirements of political subdivisions may adopt more stringent or additional requirements.

Chairman Wrangham: We will table this discussion.

Hearing closed.

Job #10296

Chairman Wrangham with the schedule change we will keep an open mind about accepting testimony later.

Senator Anderson: Let the record show that the county sections should be the same.

Opposition: None

Neutral: None

Hearing closed.

2009 HOUSE STANDING COMMITTEE MINUTES

Bill No. SB 2191

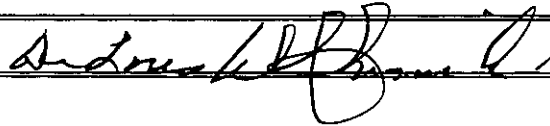
House Political Subdivisions Committee

Check here for Conference Committee

Hearing Date: March 19, 2009

Recorder Job Number: 11249

Committee Clerk Signature



Minutes:

Chairman Wrangham reopened the hearing on SB 2191.

Rep. Koppelman: I really struggle with this bill and this concept. We were told the county can already do this. The county typically collects the property tax but when we are saying that the city has a lien for the amount of an obligation on any property owned by that property owner. I think the example that was used in the hearing was condemned property and that kind of thing. I can understand if there is an issue with a particular piece of property and they assess a tax lien on that property or cost that the city incurs, but then to search the tax rolls and to say Dwight Wrangham owns some property over here on the other end of the county; we are going to attach that too. It seems to me that is what the courts are for. If you or I have a judgment against someone based on a piece of property we can't just automatically have it attached to all their assets. There is a procedure for that. A court will decide this. I don't like it being automatic like that.

Rep. Conrad: We have had difficulty with a couple of people and it was terrible. They had rats and it was a public health issue. There was no way to get it demolished by the city. I think it is a good idea. I think it would be good to be able to do that. Attach it to the property if they live within the city. I don't think they can go to another part of the county.

Rep. Koppelman: It says the city can have a lien on all property owned or later acquired by the owner in the county. So it is a real reach. My thought would be Rep. Conrad is yes it is owed and there are problems collecting that so if that is the case the city would have the same right as you or I would if you or I would if we had a judgment and that is to go to the sheriff or have an attorney do the execution as well.

Rep. Klemin: The subsection 1 is the same language we supposedly added to this bill for the city except on line 20; it should say all real property. So if we did add real property on line 20 that would be similar to what the county already has.

Chairman Wrangham: I think this is a huge difference than what is intended by the county. The county for instance has many parcels of land registered to one owner. I think this was put into law so that if there was a problem on one parcel they could encumber the other parcels.

Here we talked about in the city where it is just their home and a business. In Berthold when a business goes under all they have is their tar paper shack to live in and maybe should be torn down too. But the old garage there where the fellow use to change oil and the tires is dilapidated so if they have to go in and tear it down; now his home is also subject so I think there are plenty of remedies for dilapidated housing so perhaps if the property is worthless, which would be the only time this would apply, that they would have to attach some other value to the cost of tearing it down. Maybe it is something that the public should bear the cost of. It is a public nuisance and it is for the public health and safety and welfare that it is demolished.

Rep. Conrad: In that situation the city would be able to say whenever you would be able to sell this property you will pay the fee before you sell the property so then you will have to pay it off. In many small towns this is what is going on. People just walk away and everyone who is left there in town has to live with a dilapidated property. That is affecting everyone else.

Rep. Kilichowski: I can give you a couple of examples that happened in Walsh County in Grafton. This property was just off of main street and the people just decided that I won't pay my taxes for five years and let the city have it and they will clean everything up. They did and these people could have taken the money out of their pay cash fund and paid for the demolish and it would not

Rep. Conrad: these people that are living there have not remedy except to make that property worthless and they have spent their time and money.

Chairman Wrangham: There are always both spectrums to the situation.

Rep. Klemin: regardless of how the vote turns out on this **bill I would like to propose an amendment; on line 20 that we insert the word real before the word property. Seconded By Rep. Koppelman. Voice Vote Carried.**

Rep. Koppelman: I think this is the right kind of policy to make or not. We are taking the city and giving it automatic lien rights to the entire county on property owned by and individual. It is not the same as the county having the right, which it currently has under law in the county. To me it would be similar to the county saying we have a right to lien on any property in the state that this person owns. You are taking one political subdivision on one level and expanding it to the next largest and I am not sure that is good policy either.

Motion Made By Rep. Conrad to amend it to change county to city on line 21. Seconded by Rep. Koppelman: Voice Vote carried.

Rep. Corey Mock: what about line 22?

Chairman Wrangham: We have the bill as amended.

Do Pass As Amended Motion Made By Rep. Kilichowski: Seconded by Rep. Nancy

Johnson

Vote: 10 Yes 3 No 0 Absent Carrier: Rep. Kilichowski

 **Hearing closed.**



March 19, 2009

VR
3/19/09

PROPOSED AMENDMENTS TO SENATE BILL NO. 2191

Page 1, line 20, after "all" insert "real"

Page 1, line 21, replace "county" with "city"

Renumber accordingly

Date: 3-19-09
Roll Call Vote #: _____

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2191

HOUSE POLITICAL SUBS COMMITTEE

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken DP DNP DP AS AMEND DNP AS AMEND

Motion Made By Rep. Klemin Seconded By Rep. Koppelman

Representatives	Yes	No	Representatives	Yes	No
Ch. Wrangham			Rep. Conrad		
Vice Chair Rep. Headland			Rep. Kelsh		
Rep. Hatlestad			Rep. Kilichowski		
Rep. N. Johnson			Rep. Mock		
Rep. Klemin			Rep. Zaiser		
Rep. Koppelman					
Rep. Kretschmar					
Rep. Pietsch					

Total (Yes) _____ No _____

Absent _____

Floor Carrier: _____

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

*Line 20, add real before Property.
Voice Vote
carried!*

Date: 3-19-09
Roll Call Vote #: 2

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2197

HOUSE POLITICAL SUBS COMMITTEE

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken DP DNP DP AS AMEND DNP AS AMEND

Motion Made By Rep. Conrad Seconded By Rep. Koppelman

Representatives	Yes	No	Representatives	Yes	No
Ch. Wrangham			Rep. Conrad		
Vice Chair Rep. Headland			Rep. Kelsh		
Rep. Hatlestad			Rep. Kilichowski		
Rep. N. Johnson			Rep. Mock		
Rep. Klemin			Rep. Zaiser		
Rep. Koppelman					
Rep. Kretschmar					
Rep. Pietsch					

Total (Yes) _____ No _____

Absent _____

Floor Carrier: _____

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

*Line 21 County to City.
Voice Vote Carried!*

Date: 3-19-09
Roll Call Vote #: 3

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2191

HOUSE POLITICAL SUBS COMMITTEE

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken DP DNP DP AS AMEND DNP AS AMEND

Motion Made By Rep. Kilichowski ^{#2} Seconded By Rep. Johnson

Representatives	Yes	No	Representatives	Yes	No
Ch. Wrangham		✓	Rep. Conrad	✓	
Vice Chair Rep. Headland		✓	Rep. Kelsh	✓	
Rep. Hatlestad	✓		Rep. Kilichowski	✓	
Rep. N. Johnson	✓		Rep. Mock	✓	
Rep. Klemin	✓		Rep. Zaiser	✓	
Rep. Koppelman		✓			
Rep. Kretschmar	✓				
Rep. Pietsch	✓				

Total (Yes) 10 No 3

Absent 0

Floor Carrier: Rep. Kilichowski

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

REPORT OF STANDING COMMITTEE

SB 2191: Political Subdivisions Committee (Rep. Wrangham, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (10 YEAS, 3 NAYS, 0 ABSENT AND NOT VOTING). SB 2191 was placed on the Sixth order on the calendar.

Page 1, line 20, after "all" insert "real"

Page 1, line 21, replace "county" with "city"

Renumber accordingly

2009 TESTIMONY

SB 2191

1/22/09 Testimony before the Senate's Political Subdivisions Committee on Senate Bill 2191
Senator Arden Anderson, District 25 - Wahpeton

In the interest of public health, North Dakota cities and counties have an obligation to the public to cause removal of unfit buildings in their jurisdiction. This is accomplished through proper notices to a property's owner who is then allowed a time period to effect the removal.

Many times the owner ignores the legal notices and does not remove buildings following the legal deadline. When this occurs, cities and counties contract to have the building razed and disposed of properly. The owner is billed for the cost.

If the property owner does not pay the bill in the time period allowed by law, the amount is attached to the property through a tax lien.

If an owner does not pay property taxes for 3 years, the property is forfeited to the county.

If the tax lien procedure was conducted by a county, current state law then allows that county to transfer the tax lien to any other real property the owner has title to in that county.

Current state law does not provide for cities to follow the same route to recover unfit building removal costs paid by public funds; once the owner forfeits property in a city, the lien dies.

Senate Bill 2191 adds language to state law putting cities on the same level as counties--to transfer "unfit building removal" tax liens from forfeited city property to any other real property the owner has title to. This seems like the right thing to do and I urge a "Do Pass" recommendation for Senate Bill 2191.

For the committee's information, I am also attaching a copy of an email from Steven Lies who serves as City Attorney 14 cities in Southeastern North Dakota.

Anderson, Arden

From: Steven Lies [slies@liesandbullis.com]
Sent: Tuesday, January 20, 2009 4:59 PM
To: Anderson, Arden

Arden,

I am sorry not to be able to appear at the hearing tomorrow re Senate Bill 2191. Unfortunately, awhile back I schedule a trip for my wife and self to sunny Mexico.

Cities are finding themselves with more dilapidated buildings to deal with all the time. As you know I'm city attorney for 14 North Dakota cities. This is not an item in their budgets.

Last year one of my smallest cities followed the procedures that culminated in the city's demolishing and disposing of the waste.

The owner refuse to do it or reimburse the city, they've put a lien on that property, but that lot not worth their cost. The owner has several other properties within the city, including his residence.

Enacting SB 2191 would go a long ways towards getting property owners of multiple properties to take care of their problem properties.

Thank, you

Steven J. Lies
Lies & Bullis, Attorneys at Law
PO Box 275
Wahpeton, ND 58074-0275
701-642-8055 (phone)

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57-28-28. County lien for costs of improvement to distressed property forfeited in tax foreclosure.

1. If property sold by the county under this chapter is sold for less than the total amount of the taxes due and the costs to improve salability of the property which were incurred by the county in cleanup, repairs, demolition, or other action necessary because of damage, neglect, or waste by the prior owner, those costs incurred by the county to improve salability which were not recovered by the county from the sale constitute a lien on any real property owned, or later acquired, in the county by that prior owner.
2. The county auditor shall extend and enter upon the tax list of real estate then in the hands of the county treasurer, opposite the description of real estate designated by the board of county commissioners which belongs to the prior owner, the year for which an obligation to the county exists under this section and the amount of that obligation. The entry must be made without regard to any prior payment of real estate taxes on those properties and the treasurer may not thereafter issue any receipt in full for real estate taxes on those properties without making collection at the same time of the obligation under this section. A taxpayer holding a specific superior lien on those properties ahead of a lien under this section is entitled to tax receipts without regard to nonpayment of obligations under this section.

#1

**3/05/09 Testimony before the House Political Subdivisions Committee
on Senate Bill 2191**

Senator Arden Anderson, District 25 - Wahpeton

In the interest of public health, North Dakota cities and counties have an obligation to the public to cause removal of unfit buildings in their jurisdiction. This is accomplished through proper notices to a property's owner who is then allowed a time period to effect the removal.

Many times the owner ignores the legal notices and does not remove buildings following the legal deadline. When this occurs, cities and counties contract to have the building razed and disposed of properly. The owner is billed for the cost.

If the property owner does not pay the bill in the time period allowed by law, the amount is attached to the property through a tax lien.

If an owner does not pay property taxes for 3 years, the property is forfeited to the county.

If the tax lien procedure was conducted by a county, current state law then allows that county to transfer the tax lien to any other real property the owner has title to in that county.

Current state law does not provide for cities to follow the same route to recover unfit building removal costs (paid by public funds)---once the owner forfeits property in a city, the lien dies.

Senate Bill 2191 adds language to state law putting cities on the same level as counties---to transfer "unfit building removal" tax liens from forfeited city property to any other real property the owner has title to. This seems like the right thing to do and I urge a "Do Pass" recommendation for Senate Bill 2191.

For the committee's information, I am also attaching a copy of an email from Steven Lies who serves as City Attorney 14 cities in Southeastern North Dakota.

#2

Westlaw

NDCC, 57-28-28

Page 1

West's North Dakota Century Code Annotated Currentness

Title 57. Taxation

Chapter 57-28. Rights of County When Lands Not Redeemed

→ § 57-28-28. County lien for costs of improvement to distressed property forfeited in tax foreclosure

1. If property sold by the county under this chapter is sold for less than the total amount of the taxes due and the costs to improve salability of the property which were incurred by the county in cleanup, repairs, demolition, or other action necessary because of damage, neglect, or waste by the prior owner, those costs incurred by the county to improve salability which were not recovered by the county from the sale constitute a lien on any real property owned, or later acquired, in the county by that prior owner.

2. The county auditor shall extend and enter upon the tax list of real estate then in the hands of the county treasurer, opposite the description of real estate designated by the board of county commissioners which belongs to the prior owner, the year for which an obligation to the county exists under this section and the amount of that obligation. The entry must be made without regard to any prior payment of real estate taxes on those properties and the treasurer may not thereafter issue any receipt in full for real estate taxes on those properties without making collection at the same time of the obligation under this section. A taxpayer holding a specific superior lien on those properties ahead of a lien under this section is entitled to tax receipts without regard to nonpayment of obligations under this section.

CREDIT(S)

S.L. 2001, ch. 518, § 2.

Current through the 2008 general election

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